

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 87354**

This is to certify that: COLE INC
C/O KEN COLE
9240 BIGFOOT RD
MELBA, ID 83641

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-3110	WR/DECREED	7/31/1957	5.390 cfs	1777.5 af	N/A	395.0	GROUND WATER
63-3394	WR/DECREED	12/3/1963	1.640 cfs	845.8 af	N/A	395.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-3110	NO	YES	NO	NO	NO	NO
63-3394	NO	YES	NO	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-3110	63-3110	5.390 cfs	1777.5 af	N/A	395.0	N/A	N/A	N/A	N/A	N/A
63-3394	63-3394	1.640 cfs	845.8 af	N/A	395.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		7.030 cfs	1777.6 af	N/A	395.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 24th day of February, 2023.

SCOTT STORMS, Water Rights Supervisor

SUPPORT DATA

IN FILE # 63-3110

SCANNED

MAR 01 2023

Transfer No. 87354

WATER RIGHT NO. 63-3110**As Modified by Transfer No. 87354**

In accordance with the approval of Transfer No. 87354, Water Right No. 63-3110 is now described as follows:

Right Holder: COLE INC
C/O KEN COLE
9240 BIGFOOT RD
MELBA, ID 83641

Priority Date: 7/31/1957

Source: GROUND WATER

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
DOMESTIC	01/01	to 12/31	0.040 cfs	
IRRIGATION	03/01	to 11/15	5.390 cfs	1777.5 af
			5.390 cfs	1777.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SWNE	Sec 9	Twp 01N Rge 02W CANYON County
GROUND WATER	NWNNW	Sec 9	Twp 01N Rge 02W CANYON County
GROUND WATER	SWNW	Sec 9	Twp 01N Rge 02W CANYON County
GROUND WATER	SWSE	Sec 9	Twp 01N Rge 02W CANYON County
GROUND WATER	SESW	Sec 9	Twp 01N Rge 02W CANYON County
GROUND WATER	SWSW	Sec 9	Twp 01N Rge 02W CANYON County

PLACE OF USE: DOMESTIC

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	02W	16		X															

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	02W	4											38.0						38.0
01N	02W	9						40.0	40.0			37.0	40.0	40.0			40.0		237.0
01N	02W	16		40.0			40.0	40.0											120.0

POU Total Acres: 395.0

CONDITIONS OF APPROVAL

1. Rights 63-3110 and 63-3394 when combined shall not exceed a total diversion rate of 7.03 cfs, a total annual maximum diversion volume of 1,777.6 af at the field headgate, and the irrigation of 395 acres.

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WATER RIGHT NO. 63-3110
As Modified by Transfer No. 87354

CONDITIONS OF APPROVAL

2. Diversion of water from the additional well authorized under Transfer 87354 located in SWNE, Sec. 09, T01N, R02W shall not exceed a maximum diversion rate of 5.57 cfs.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day.
5. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-3394**As Modified by Transfer No. 87354**

In accordance with the approval of Transfer No. 87354, Water Right No. 63-3394 is now described as follows:

Right Holder: COLE INC
C/O KEN COLE
9240 BIGFOOT RD
MELBA, ID 83641

Priority Date: 12/3/1963

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/01	to 11/15	1.640 cfs	845.8 af
			1.640 cfs	845.8 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SWNE	Sec 9	Twp 01N Rge 02W CANYON County
GROUND WATER	NWNW	Sec 9	Twp 01N Rge 02W CANYON County
GROUND WATER	SWNW	Sec 9	Twp 01N Rge 02W CANYON County
GROUND WATER	SWSE	Sec 9	Twp 01N Rge 02W CANYON County
GROUND WATER	SESW	Sec 9	Twp 01N Rge 02W CANYON County
GROUND WATER	SWSW	Sec 9	Twp 01N Rge 02W CANYON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	02W	4											38.0						38.0
01N	02W	9						40.0	40.0			37.0	40.0	40.0			40.0		237.0
01N	02W	16		40.0			40.0	40.0											120.0

POU Total Acres: 395.0

CONDITIONS OF APPROVAL

1. Rights 63-3110 and 63-3394 when combined shall not exceed a total diversion rate of 7.03 cfs, a total annual maximum diversion volume of 1,777.6 af at the field headgate, and the irrigation of 395 acres.
2. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
3. Diversion of water from the additional well authorized under Transfer 87354 located in SWNE, Sec. 09, T01N, R02W shall not exceed a maximum diversion rate of 5.57 cfs.

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WATER RIGHT NO. 63-3394
As Modified by Transfer No. 87354

CONDITIONS OF APPROVAL

4. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
6. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Transfer No. 87354

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RECEIVED
DEC 14 2022

change ☐ Own

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6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Pumping through mainline to sprinkler irrigation. Does not require a measuring or lockable device.

- b. Who owns the property at the point(s) of diversion? Kenneth Cole / Cole Farms
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

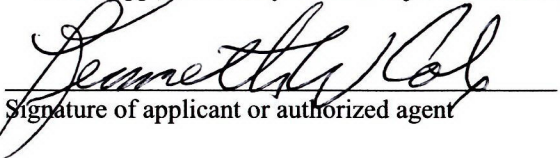
If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a [Lessor Designation](#) form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an [IRS Form W-9](#).
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** – ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and ¼ ¼ of section information. You may create a map at idwr.idaho.gov, *Water Rights, Water Right Transfers, File a Transfer Application, Step 2C*.

8. **SIGNATURE** – The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.


Signature of applicant or authorized agent

Kenneth W Cole Pres.
Print name and title if applicable

12-12-22
Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

9. **FEE** – ☒ The application filing fee provided in Idaho Code § 42-221.O, must be submitted with the application for transfer. Applications for changes pursuant to Idaho Code § 42-221.O.8. require a filing fee of \$50 per water right. All other application fees are based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The [Fee Schedule](#) is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the [Application for Transfer Instructions](#).

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments.

Received by 

Date

12/14/2022

Fee paid \$900⁰⁰

Date

12/14/2022

Received by 

Receipt #

W050925

Preliminary review by _____

Date _____

Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐

Name on W-9 _____

W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

12/2/2022

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	COLE INC C/O KEN COLE 9240 BIGFOOT RD MELBA, ID 83641 (208) 495-1260

Status: Active

Tributary

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	11/15	1.640 CFS	845.8 AF
	Total Diversion		1.640 CFS	845.8 AF

GROUND WATER	SWSE	Sec. 9, Twp 01N, Rge 02W, CANYON County
GROUND WATER	SESW	Sec. 9, Twp 01N, Rge 02W, CANYON County
GROUND WATER	SWSW	Sec. 4, Twp 01N, Rge 02W, CANYON County
GROUND WATER	SWSW	Sec. 9, Twp 01N, Rge 02W, CANYON County
GROUND WATER	SWNW	Sec. 9, Twp 01N, Rge 02W, CANYON County
GROUND WATER	NWNW	Sec. 9, Twp 01N, Rge 02W, CANYON County

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
01N	02W	4											38.0						38.0
01N	02W	9						40.0	40.0			37.0	40.0	40.0			40.0		237.0
01N	02W	16		40.0			40.0	40.0											120.0

POU Total Acres: 395.0

1. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
2. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

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IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

12/2/2022

4. E60 Right Nos. 63-3110 and 63-3394 are limited to a total combined diversion rate of 7.03 cfs, a total combined annual diversion volume of 1777.6 AF and the irrigation of 395 acres.

Comments:

1 mciscell 1/22/2009 Quantity
Changed Volume to 845.8 afy. per SM Booths request. Previous value was calculated incorrectly.

Dates and Other Information:

Decreed Date: 2/6/2009
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Owner Name Connector: OR
Water District Number: NWD
Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>	<u>Water Rights</u>
7.030	1,777.6	395.0	63-3110 ,63-3394

SubCase:

N/A

Water Supply Bank:

N/A

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

12/9/2022

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 63-3110

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	COLE INC C/O KEN COLE 9240 BIGFOOT RD MELBA, ID 83641 2084951260
Original Owner	NORMAN R COLE 210 FAY LN NAMPA, ID 83686 2084661680

Priority Date: 07/31/1957

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	11/15	5.39 CFS	1777.5 AFA
DOMESTIC	01/01	12/31	0.04 CFS	
Total Diversion			5.39 CFS	1777.5 AFA

Location of Point(s) of Diversion:

GROUND WATER	SWSW	Sec. 04	Township 01N	Range 02W	CANYON County
GROUND WATER	NWNW	Sec. 09	Township 01N	Range 02W	CANYON County
GROUND WATER	SWNW	Sec. 09	Township 01N	Range 02W	CANYON County
GROUND WATER	SWSW	Sec. 09	Township 01N	Range 02W	CANYON County
GROUND WATER	SESW	Sec. 09	Township 01N	Range 02W	CANYON County
GROUND WATER	SWSE	Sec. 09	Township 01N	Range 02W	CANYON County

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Place(s) of use:

Place of Use Legal Description: IRRIGATION CANYON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
01N	02W	4		SWSW	38									
		9		NWNW	40		SWNW	40						
				NWSW	37		SWSW	40		SESW	40			
				SWSE	40									
		16		NWNE	40									
				NENW	40		NWNW	40						

Place of Use Legal Description: DOMESTIC CANYON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
01N	02W	16		NWNE										

Total Acres: 395

Conditions of Approval:

1. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
4. E60 Right Nos. 63-3110 and 63-3394 are limited to a total combined diversion rate of 7.03 cfs, a total combined annual diversion volume of 1777.5 AF. and the irrigation of 395 acres.
5. N12 The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day.

Dates:

Licensed Date:

Decreed Date: 02/06/2009

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

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Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number: NWD

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 395

Combined Volume Limit: 1777.6

Combined Rate Limit: 7.03

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

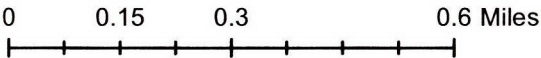
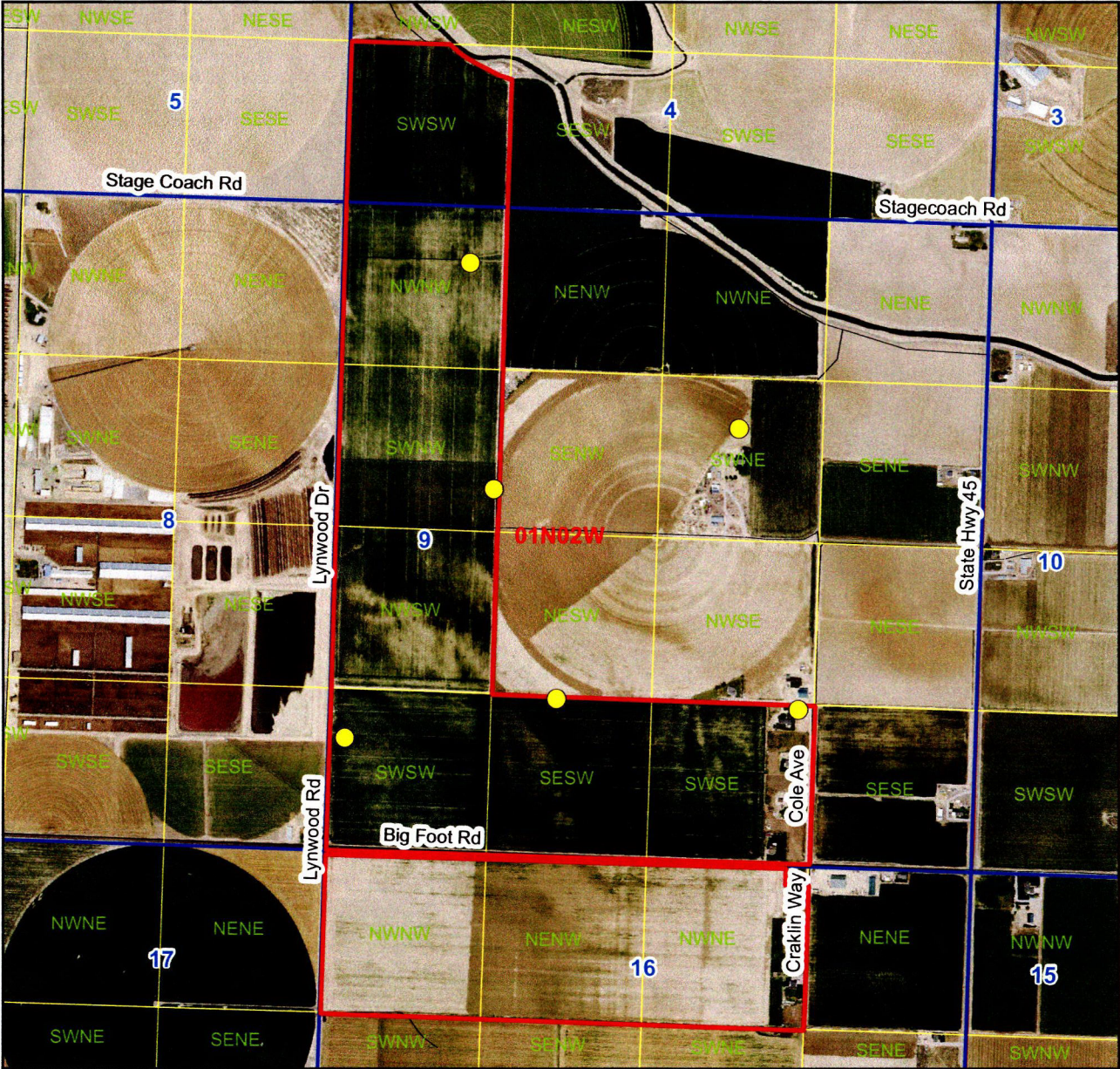
Mitigation Plan: False

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87354

State of Idaho
Department of Water Resources
Proposed Point of Diversion Change
Water Rights Nos. 63-3110 and 63-3394



63_3394 POD Change

Place_of_Use



IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082

Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

February 28, 2023

COLE INC
C/O KEN COLE
9240 BIGFOOT RD
MELBA ID 83641

Re: Transfer No: 87354
Water Right No(s): 63-3110, 63-3394

Transfer Approval Notice

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of

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the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 334-2190.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lynne Evans', with a stylized, cursive script.

Lynne Evans
Administrative Assistant I

Enclosure

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CERTIFICATE OF SERVICE

I hereby certify that on February 28, 2023, I served a true and correct copy of the foregoing PRELIMINARY ORDER (Approved Transfer) by U.S. Mail, postage prepaid, to the following:

Re: Transfer No.: 87354
Water Right No(s): 63-3110, 63-3394

COLE INC
C/O KEN COLE
9240 BIGFOOT RD
MELBA ID 83641



Lynne Evans
Administrative Assistant I

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EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

REVIEW CHECKLIST TRANSFER -- OR -- EXCHANGE (Workflow) (maybe Workflow)

Application # 87354 Reviewer _____ Date _____

Acceptable Filing (TP Memo #24 Sect. 3) ☒ Y ☐ N If "N" 30-day Deficiency Ltr Sent _____ (date & initial)

Initial Review & Abbreviated Data Entry AB 12/21/22 (date & initial) Supervisor Notes ☐ Y ☐ N

Right(s) in Water Bank ☐ Y ☒ N, Notify S.O. _____ (date) - WSB App Attachment _____

COMMENT LETTERS ☐ Y ☐ N

Water District # _____ (Required even if No Legal Notice Required)

Other(s): list here or see attached _____

ADVERTISING ☐ Y ☐ N If "N" Save Legal Notice Not Required DB Comment in Workflow & Memo _____

Legal Notice Required - Saved as Legal Notice Remarks in Workflow ☐ Y *uncheck "Currently in Data Entry" flag

Statewide ads ☐ Y ☐ N ("Y" only if any single right > 10 cfs, 1000 af storage)

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline _____

☐ Y ☐ N

Protested

Affidavit received/published correctly

If Y: _____

If N: _____

Scan protest

Re-advertised & published correctly

REVIEW MEMO -- DRAFT APPROVAL -- APPROVAL COVER LETTER

Drilling fee upgrade ☐ Paid ☐ WC & WR File Documented (Request, CAN NOT hold xFer if unpaid).

Review Memo Completed ☐ (See Review Memo Template N:/WRProcessing/Transfers/Review Memo Template).

Data Entry, Conditions, & ArcMap Data Entry Completed _____

E'folder w/ Draft Approval _____
(applicant last name + application #)

NOTE FOR CLERICAL STAFF APPROVAL COVER LETTER

Add WSB paragraph to approval cover letter (see N:WRFormLetters/Water Bank Paragraph) ☐ Y ☐ N

OPTIONAL PAGE -- CONDITIONS & NOTES

GROUNDWATER:

WD 161 (Non-de minimis uses) - R05
 ≤ 0.24 cfs/5 acres - No MD
 > 0.24 cfs/5 acres - 214

~~WD~~

< 0.24 cfs/5 acres - No MD
 ≥ 0.24 cfs/5 acres - 01M or 01Q (ref. MD flowchart)

No water measurement districts in Western Region at this time.

DRILLING PERMIT - 046 (new well)

SURFACE WATER:

WD - R05
 ≤ 0.20 cfs - R02, 01P or No MD (ref. MD flowchart)
 > 0.20 cfs - R43

~~WD~~, SPRINGS/SINK, INACTIVE WD & REST OF STATE

< 0.24 cfs/5 acres - No MD
 ≥ 0.24 cfs/5 acres - 01M or 01Q

STANDARD SEASON _____ to _____ (use X61 if extended season)

STANDARD VOLUME _____ af/ac

CONSUMPTIVE USE VOLUME _____ af/ac

USES:

STORAGE - 18C-18B/R40-123-220-219-221-222-259-937-938	POWER - 17H-17K (+uses)-025-106
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)	MUNICIPAL
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)	Restricted area - 022-075 RAFN - 007-109-X64
Volume only - R58/R59/R60/R61	Irr., GW supp to SW - 102
Supplemental - 943 & WB7	
Storage - R70	
STOCKWATER - R37 (all BLM/USFS)	DOMESTIC
MINING - 054-106	Surface water - WB5 (Boise above Star Bridge)
FISH PROP - 029 (70's basins only)-007-122-106	>1 in restricted area - 070-071-075(no parks/common areas, etc)
HEAT/COOL - R07 (injection well)	Irr use listed separate - WB5
FIRE PROT. - 077-218	
DAIRY - 082 (zoning if a concern)-106-WD8	

MISC CONDITIONS/REMARKS:

T07 - 1 yr to develop
 T08 - comply or rescind
 WD8 - land application of waste water
 01Q - used instead of 01M when there's another meas. condition outside a WD

Protested - 020-X19
 Water Quality - 106-R07

X27 - Number of acres/season in ppu
 X35 - Combined limits of multiple rts

X49 - measure p/d's (source chg'd to orig trib)
 X51 - 2+ yrs to develop
 X53 - Use ltd to orig. source availability
 X54 - forfeited ac/rate (used rarely)
 205 - use when quantity reduced by xFer approval
 X55 - (transfer shrinks total water to less ac)
 004 - no right-of-way
 X58 - pending claim (statutory or AJ b/u claim)
 X61 - extended irr season
 X63 - replaced C12 through C17 - ultimately C18 placed on rts to cover issue. If C18 on rts replace with T19 and remove X63.

Apply one to chg'd & unchg'd rts that are subject to SRBA:

T09 - on-going SRBA (no Dir Rpt yet)
 T19 - replaces C18 (if at Directors Report or Partial Decree stage)
 T20 - use only on unchg'd rts not subject to SRBA

NOTES:

MEMORANDUM

TO: Transfer No. 87354
FROM: Clint Lindow
DATE: 2/23/2023
RE: Evaluation of Application

The transfer proposes replacing a point of diversion (POD) for water right nos. 63-3394 & 63-3110 located in T01N R02W Sec. 04 SWSW with a new well located in T01N R02W S09 SWNE. Per conversation with the IDWR well inspector at the western regional office, the well POD described on the right as located in T01N R02W Sec. 4 SWSW never existed, therefore, no well abandonment and decommissioning is required.

The site is located in Melba, ID, approximately .35 miles west of State Highway 45.

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.

Summary of Information Submitted

Authority to File:

Cole Incorporated is the water right owner of record. The application was signed by Kenneth Cole and per the Idaho Secretary of State business report, Kenneth Cole is an authorized agent of the company. According to Department of Water Resources parcel information, the property the water rights are appurtenant to is owned by Cole Incorporated.

Water Right Validity:

The decree for water right 63-3394 and 63-3110 were both issued on February 06, 2009. Beneficial use confirmed by department aerial imagery, landsat images, google earth images, or other evidence. Evidence of beneficial use does not need to be added to the file, it is an IDWR product available to other staff.

Injury to Other Water Rights:

Other water rights should not be impacted by the proposed transfer. The quantity of water used for this right will not change as a result. The purpose of this transfer is simply to move the point of diversion to a new well site on the applicant's property.

Enlargement of Use:

Enlargement does not appear to be an issue. The proposed changes will not result in an increase of diversion rate or number of acres irrigated. Enlargement does not appear to be an issue.

Local Public Interest:

This application proposes a change consistent with the local public interest.

SCANNED

MAR 01 2023

Beneficial Use/Conservation of Water Resources:

The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Summary

The application for transfer of water right was filed by Kenneth Cole for Cole Inc on December 14, 2022. Kenneth Cole is an authorized agent for Cole Inc. The purpose of this transfer is to change a Point of Diversion. Applicant is adding a new well located in T01N R02W S09 SWNE.

Discussion

An email was received on January 20, 2023, from Kenneth Cole explaining that he was replacing the well located in T01N R02W S04 SWSW with new well in T01N 02W S09 SWNE changing the POD. Upon further conversation with the IDWR well drilling inspector, that well never existed. If approved the following changes should be made to the conditions of water right no. 63-3394 and 63-3110. Add condition 186 to limit the new POD to 5.57 cfs as this is what was paid for on the application. Add 01M and standard transfer conditions T07 & T08.

SCANNED

MAR 01 2023

RECEIVED

JAN 20 2023

Clint Lindow

WATER RESOURCES
WESTERN REGION

From: Kenneth Cole <cfi1846@gmail.com>
Sent: Friday, January 20, 2023 5:25 PM
To: Clint Lindow
Subject: Re: Well replacement question
Attachments: image001.jpg

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Mr. Lindow:

Regarding water right 63 - 3394 and 63 - 3110

I am planning to replace the well at township 1 North 2 West, section 4, SW/SW to a new well I plan to drill in township 1 North 2 West, Section 9, SW/NE. Therefore I need to move the point of diversion to the new well located in township 1 North 2 West, section 9, SW/NE

If you need further clarification please let me know.

Kenneth Cole

On Fri, Jan 20, 2023, 12:36 PM Clint Lindow <Clint.Lindow@idwr.idaho.gov> wrote:

Kenneth,

My name is Clint Lindow and I am the Water agent assigned to your Application for Transfer of Water Right – Point of Diversion. Water rights 63-3394 & 63-3110 have a point of diversion located in **Township 01N 02W section 04 SW/SW** and I was wondering what your plan was to do with that Diversion point? Are you replacing that well located in **Township 01N 02W Section 04 SW/SW** with the new well listed in transfer application in **Township 01N 02W section 9 SW/NE?**

SCANNED

MAR 01 2023

Clint Lindow

From: Clint Lindow
Sent: Friday, January 20, 2023 12:37 PM
To: cfi1846@gmail.com
Subject: Well replacement question

Kenneth,

My name is Clint Lindow and I am the Water agent assigned to your Application for Transfer of Water Right – Point of Diversion. Water rights 63-3394 & 63-3110 have a point of diversion located in **Township 01N 02W section 04 SW/SW** and I was wondering what your plan was to do with that Diversion point? Are you replacing that well located in **Township 01N 02W Section 04 SW/SW** with the new well listed in transfer application in **Township 01N 02W section 9 SW/NE?**



Clint Lindow

Water Resource Agent
P: (208) 605-4620
Idaho Dept. of Water Resources
idwr.idaho.gov

SCANNED

MAR 01 2023