

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84612**

This is to certify that: **COVINGTON BROS LLC**
PO BOX 183
REXBURG, ID 83440-0183

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>
1-10011	WR/DECREED	7/1/1985	2.070 cfs	N/A	388.0	1348.0	SNAKE RIVER
1-7006	WR/DECREED	11/12/1974	7.380 cfs	3132.6 af	960.0	1348.0	SNAKE RIVER
1-7087	WR/LICENSE	7/1/1985	4.600 cfs	N/A	230.0	1348.0	SNAKE RIVER
25-10069	WR/DECREED	7/1/1985	0.100 cfs	10.0 af	374.0	1334.0	GROUND WATER
25-7106	WR/DECREED	4/15/1977	5.310 cfs	2254.0 af	960.0	1334.0	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>
1-10011	NO	NO	YES	NO	NO	NO
1-7006	NO	NO	YES	NO	NO	NO
1-7087	NO	NO	YES	NO	NO	NO
25-10069	NO	NO	YES	NO	NO	NO
25-7106	NO	NO	YES	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>
1-10011	1-10011	2.070 cfs	N/A	388.0	1348.0	N/A	N/A	N/A	N/A	N/A
1-7006	1-7006	7.380 cfs	N/A	960.0	1348.0	N/A	N/A	N/A	N/A	N/A
1-7087	1-7087	4.600 cfs	N/A	230.0	1348.0	N/A	N/A	N/A	N/A	N/A
25-10069	25-10069	0.100 cfs	N/A	374.0	1348.0	N/A	N/A	N/A	N/A	N/A
25-7106	25-7106	5.310 cfs	N/A	960.0	1348.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		14.000 cfs	N/A	1348.0	1348.0		N/A	N/A	N/A	N/A

Transfer No. 84612

**Support Data
In File # 1-7006**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 84612

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 9th day of March, 2021



Regional Manager



Transfer No. 84612

Support Data
In File # 1-7006

WATER RIGHT NO. 1-7087**As Modified by Transfer No. 84612**

In accordance with the approval of Transfer No. 84612, Water Right No. 1-7087 is now described as follows:

Right Holder: COVINGTON BROS LLC
PO BOX 183
REXBURG, ID 83440-0183

Priority Date: 7/1/1985

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

BENEFICIAL USE

IRRIGATION

From

04/01

To

to 10/31

Diversion Rate

4.600 cfs

4.600 cfs

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER

L9 (NWNE)

Sec 26 Twp 04N Rge 40E JEFFERSON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	40E	1			7.0					2.0	29.0	1.0	30.0	36.0	29.0	40.0	36.0	40.0	250.0
04N	40E	2																6.0	6.0
04N	40E	11	34.0		21.0	40.0									39.0				134.0
04N	40E	12	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	39.0	33.0		36.0	40.0	40.0	37.0	39.0	584.0
04N	40E	13		37.0	40.0		40.0			40.0									157.0
04N	41E	6									4.0	28.0	40.0	14.0					86.0
												L 6	L 7						
04N	41E	7					28.0	40.0	40.0	23.0									131.0
								L 1	L 2										

Right Acre Limit: 230.0

POU Total Acres: 1348.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 230 acres within the authorized place of use in a single irrigation season.
2. Rights 01-10011, 01-7006 and 01-7087 when combined shall not exceed a total diversion rate of 8.69 cfs, and a total annual maximum diversion volume of 3700 af at the field headgate.
3. Rights 01-10011, 01-7006, 01-7087, 25-7106 and 25-10069 when combined shall not exceed the irrigation of 1348 acres.
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.

Transfer No. 84612

WATER RIGHT NO. 1-7087
As Modified by Transfer No. 84612

CONDITIONS OF APPROVAL

5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
7. This right does not grant any right-of-way or easement across the land of another.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. 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. 25-7106**As Modified by Transfer No. 84612**

In accordance with the approval of Transfer No. 84612, Water Right No. 25-7106 is now described as follows:

Right Holder: COVINGTON BROS LLC
PO BOX 183
REXBURG, ID 83440-0183

Priority Date: 4/15/1977

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

04/01

To

to 11/01

Diversion Rate

5.310 cfs

5.310 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER

L9 (NWNE)

Sec 26 Twp 04N Rge 40E JEFFERSON County (R)

GROUND WATER

SWSW

Sec 27 Twp 04N Rge 40E JEFFERSON County (I)

GROUND WATER

SWSW

Sec 27 Twp 04N Rge 40E JEFFERSON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	40E	1			7.0					2.0	29.0	1.0	30.0	36.0	29.0	40.0	36.0	40.0	250.0
04N	40E	2																6.0	6.0
04N	40E	11	34.0		21.0	40.0									39.0				134.0
04N	40E	12	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	39.0	33.0		36.0	40.0	40.0	37.0	39.0	584.0
04N	40E	13		37.0	40.0		40.0			40.0									157.0
04N	41E	6									4.0	28.0	40.0	14.0					86.0
04N	41E	7					28.0	40.0	40.0	23.0		L 6	L 7						131.0
								L 1	L 2										

Right Acre Limit: 960.0

POU Total Acres: 1348.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 960 acres within the place of use described above in a single irrigation season.
2. Rights 25-7106 and 25-10069 when combined shall not exceed a total diversion rate of 5.31 cfs, a total annual maximum diversion volume of 2264 af at the field headgate, and the irrigation of 1334 acres.
3. Rights 01-10011, 01-7006, 01-7087, 25-7106 and 25-10069 when combined shall not exceed the irrigation of 1348 acres.

Transfer No. 84612

WATER RIGHT NO. 25-7106
As Modified by Transfer No. 84612

CONDITIONS OF APPROVAL

4. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.
5. Prior to the diversion and use of water under Transfer approval 84612 the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
6. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
7. Water diverted under this right is exchanged by injecting the water into Dry Bed at the point of injection described above, and diverting an equal amount from South Fork Snake River at the point of redirection described above.
8. Use of this right is combined with water from Palisades Water Users Association.
9. Right No. 25-10069 is an enlargement of this right pursuant to Idaho Code § 42-1426.
10. This right does not grant any right-of-way or easement across the land of another.
11. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. 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. 1-7006**As Modified by Transfer No. 84612**

In accordance with the approval of Transfer No. 84612, Water Right No. 1-7006 is now described as follows:

Right Holder: COVINGTON BROS LLC
PO BOX 183
REXBURG, ID 83440-0183

Priority Date: 11/12/1974

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

BENEFICIAL USE

IRRIGATION

From

04/01

To

to 11/01

Diversion Rate

7.380 cfs

7.380 cfs

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER

L9 (NWNE)

Sec 26 Twp 04N Rge 40E JEFFERSON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	40E	1			7.0					2.0	29.0	1.0	30.0	36.0	29.0	40.0	36.0	40.0	250.0
04N	40E	2																6.0	6.0
04N	40E	11	34.0		21.0	40.0									39.0				134.0
04N	40E	12	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	39.0	33.0		36.0	40.0	40.0	37.0	39.0	584.0
04N	40E	13		37.0	40.0		40.0			40.0									157.0
04N	41E	6									4.0	28.0	40.0	14.0					86.0
04N	41E	7					28.0	40.0	40.0	23.0									131.0
							L 1	L 2											

Right Acre Limit: 960.0

POU Total Acres: 1348.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 960 acres within the authorized place of use in a single irrigation season.
2. Rights 01-10011 and 01-7006 when combined shall not exceed a total diversion rate of 7.38 cfs.
3. Rights 01-10011, 01-7006 and 01-7087 when combined shall not exceed a total diversion rate of 8.69 cfs, and a total annual maximum diversion volume of 3700 af at the field headgate.
4. Rights 01-10011, 01-7006, 01-7087, 25-7106 and 25-10069 when combined shall not exceed the irrigation of 1348 acres.

Transfer No. 84612

WATER RIGHT NO. 1-7006
As Modified by Transfer No. 84612

CONDITIONS OF APPROVAL

5. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.
6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
7. Use of this right is combined with water from Palisades Water Users Association.
8. Right No. 01-10011 is an enlargement of this right pursuant to Idaho Code § 42-1426.
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
10. This right does not grant any right-of-way or easement across the land of another.
11. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. 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. 1-10011
As Modified by Transfer No. 84612

In accordance with the approval of Transfer No. 84612, Water Right No. 1-10011 is now described as follows:

Right Holder: COVINGTON BROS LLC
 PO BOX 183
 REXBURG, ID 83440-0183

Priority Date: 7/1/1985

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

BENEFICIAL USE
 IRRIGATION

From 04/01 **To** 10/31

Diversion Rate
 2.070 cfs
 2.070 cfs

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER L9 (NWNE) Sec 26 Twp 04N Rge 40E JEFFERSON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	40E	1			7.0					2.0	29.0	1.0	30.0	36.0	29.0	40.0	36.0	40.0	250.0
04N	40E	2																6.0	6.0
04N	40E	11	34.0		21.0	40.0									39.0				134.0
04N	40E	12	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	39.0	33.0		36.0	40.0	40.0	37.0	39.0	584.0
04N	40E	13		37.0	40.0		40.0			40.0									157.0
04N	41E	6									4.0	28.0	40.0	14.0					86.0
04N	41E	7					28.0	40.0	40.0	23.0		L 6	L 7						131.0
								L 1	L 2										

Right Acre Limit: 388.0

POU Total Acres: 1348.0

CONDITIONS OF APPROVAL

1. Rights 01-10011 and 01-7006 when combined shall not exceed a total diversion rate of 7.38 cfs.
2. Rights 01-10011, 01-7006 and 01-7087 when combined shall not exceed a total diversion rate of 8.69 cfs, and a total annual maximum diversion volume of 3700 af at the field headgate.
3. Rights 01-10011, 01-7006, 01-7087, 25-7106 and 25-10069 when combined shall not exceed, and the irrigation of 1348 acres.
4. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.

Transfer No. 84612

WATER RIGHT NO. 1-10011
As Modified by Transfer No. 84612

CONDITIONS OF APPROVAL

5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. This right is based upon an enlargement of Right No. 01-7006 pursuant to Idaho Code § 42-1426.
7. This right is for an enlargement of 388 acres within the place of use described for this right.
8. This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Idaho Code § 42-1426. As between water rights decreed as enlargements pursuant to Idaho Code § 42-1426, the earlier priority right is the superior right.
9. Use of this right is combined with water from Palisades Water Users Association.
10. This right does not grant any right-of-way or easement across the land of another.
11. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. 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. 25-10069
As Modified by Transfer No. 84612

In accordance with the approval of Transfer No. 84612, Water Right No. 25-10069 is now described as follows:

Right Holder: COVINGTON BROS LLC
 PO BOX 183
 REXBURG, ID 83440-0183

Priority Date: 7/1/1985

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

04/01

to 10/31

To

Diversion Rate

0.100 cfs

0.100 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	L9 (NWNE)	Sec 26 Twp 04N Rge 40E	JEFFERSON County	(R)
GROUND WATER	SWSW	Sec 27 Twp 04N Rge 40E	JEFFERSON County	(I)
GROUND WATER	SWSW	Sec 27 Twp 04N Rge 40E	JEFFERSON County	

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	40E	1			7.0					2.0	29.0	1.0	30.0	36.0	29.0	40.0	36.0	40.0	250.0
04N	40E	2																6.0	6.0
04N	40E	11	34.0		21.0	40.0									39.0				134.0
04N	40E	12	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	39.0	33.0		36.0	40.0	40.0	37.0	39.0	584.0
04N	40E	13		37.0	40.0		40.0			40.0									157.0
04N	41E	6									4.0	28.0	40.0	14.0					86.0
04N	41E	7					28.0	40.0	40.0	23.0		L 6	L 7						131.0
							L 1	L 2											

Right Acre Limit: 374.0

POU Total Acres: 1348.0

CONDITIONS OF APPROVAL

1. Rights 25-7106 and 25-10069 when combined shall not exceed a total diversion rate of 5.31 cfs, a total annual maximum diversion volume of 2264 af at the field headgate, and the irrigation of 1334 acres.
2. Rights 01-10011, 01-7006, 01-7087, 25-7106 and 25-10069 when combined shall not exceed the irrigation of 1348 acres.

Transfer No. 84612

WATER RIGHT NO. 25-10069

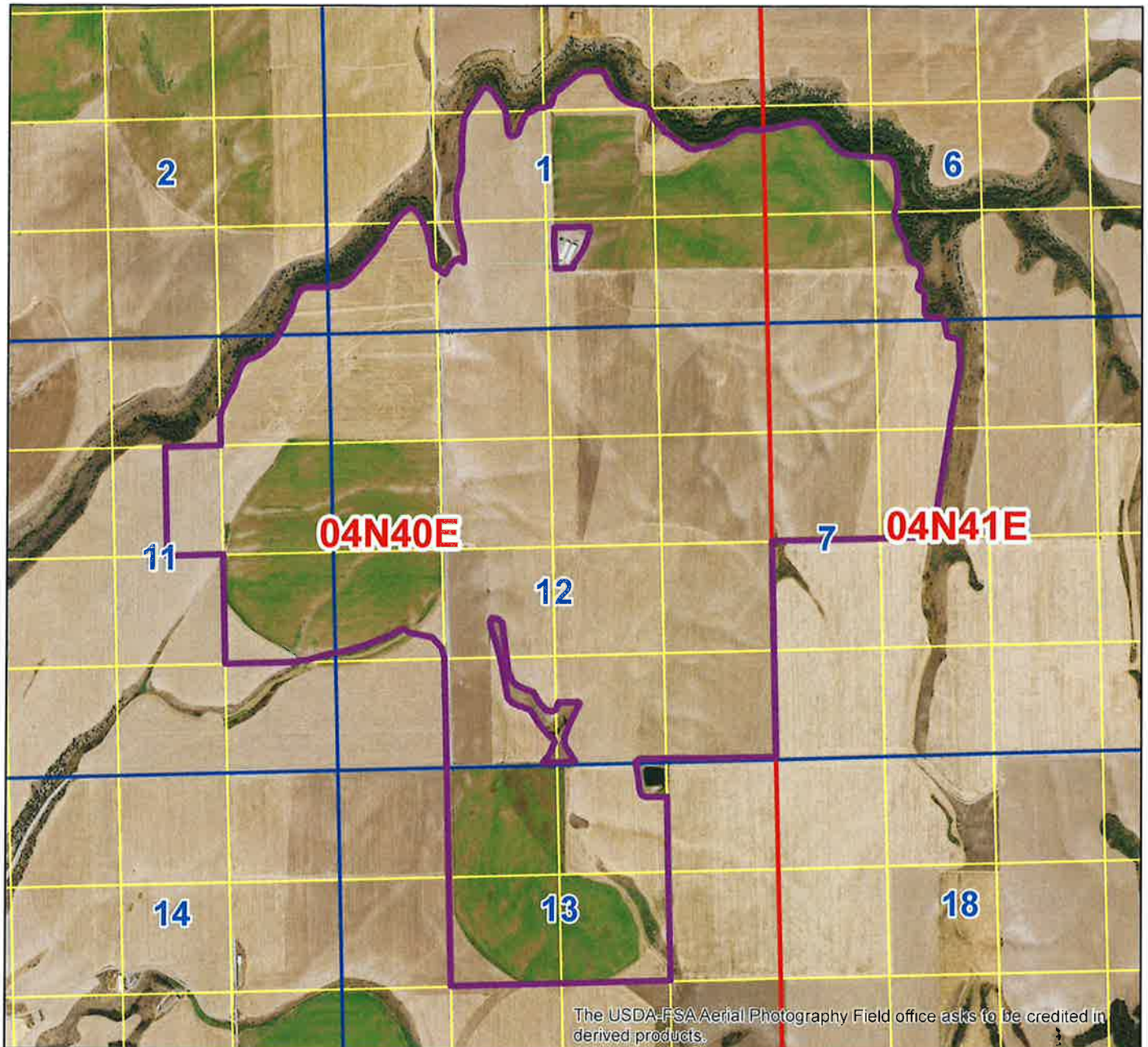
As Modified by Transfer No. 84612

CONDITIONS OF APPROVAL

3. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.
4. Prior to the diversion and use of water under Transfer approval 84612 the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
5. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
6. This right is based upon an enlargement of Right No. 25-7106 pursuant to Idaho Code § 42-1426.
7. This right is for an enlargement of 374 acres within the place of use described for this right.
8. Water diverted under this right is exchanged by injecting the water into Dry Bed at the point of injection described above, and diverting an equal amount from South Fork Snake River at the point of redirection described above.
9. Use of this right is combined with water from Palisades Water Users Association.
10. This right does not grant any right-of-way or easement across the land of another.
11. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. 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.
14. This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Idaho Code § 42-1426. As between water rights decreed as enlargements pursuant to Idaho Code § 42-1426, the earlier priority right is the superior right.

Attachment to Transfer Approval 84612

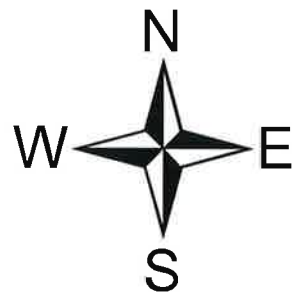
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

- WR POD
- ▭ WR POU
- ▭ Township/Range
- ▭ Sections
- ▭ QQ

0 1,250 2,500 5,000 Feet



Date: 3/9/2021



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls ID 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177

Website: idwr.idaho.gov • Email: easterninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 9, 2021

COVINGTON BROS LLC
PO BOX 183
REXBURG ID 83440-0183

Re: Transfer No: 84612
Water Right No(s): 1-7006, 1-7087, 1-10011, 25-7106, 25-10069

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 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) 525-7161.

Sincerely,



Christina Henman
Administrative Assistant

Enclosure

CC:

ROBERT L HARRIS
PO BOX 50130
IDAHO FALLS ID 83405-0130

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2021 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 84612

Water Right No(s): 1-7006, 1-7087, 1-10011, 25-7106, 25-10069

**COVINGTON BROS LLC
PO BOX 183
REXBURG ID 83440-0183**

**ROBERT L HARRIS
PO BOX 50130
IDAHO FALLS ID 83405-0130**



**Christina Henman
Administrative Assistant**

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.