

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 86661**

This is to certify that: KBCP LLC
3010 MC KINLEY RD
AMERICAN FALLS, ID 83211-5448

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>
35-4093	WR/DECREED	4/1/1962	2.320 cfs	464.0 af	N/A	116.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

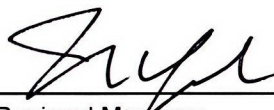
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
35-4093	NO	NO	NO	YES	NO	NO

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>
35-4093	35-4093	2.320 cfs	464.0 af	N/A	116.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		2.320 cfs	464.0 af	N/A	116.0		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 13th day of October, 2022.



Regional Manager

Transfer No. 86661

SCANNED
OCT 14 2022

WATER RIGHT NO. 35-4093**As Modified by Transfer No. 86661**

In accordance with the approval of Transfer No. 86661, Water Right No. 35-4093 is now described as follows:

Right Holder: KBCP LLC
3010 MC KINLEY RD
AMERICAN FALLS, ID 83211-5448

Priority Date: 4/1/1962

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	4/01	to 10/31	2.320 cfs	464.0 af
			2.320 cfs	464.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SENEENW	Sec 25 Twp 07S Rge 30E	POWER County
GROUND WATER	L3 (NESE)	Sec 25 Twp 07S Rge 30E	POWER 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	
07S	30E	25			18.0	38.0	3.0	22.0				25.0	1.0				9.0			116.0
							L 2													

POU Total Acres: 116.0

CONDITIONS OF APPROVAL

1. 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. 120.
2. Prior to the diversion and use of water under Transfer approval 86661, 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.
3. 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.
4. Use of this right is combined with water from Aberdeen Springfield Canal Co.

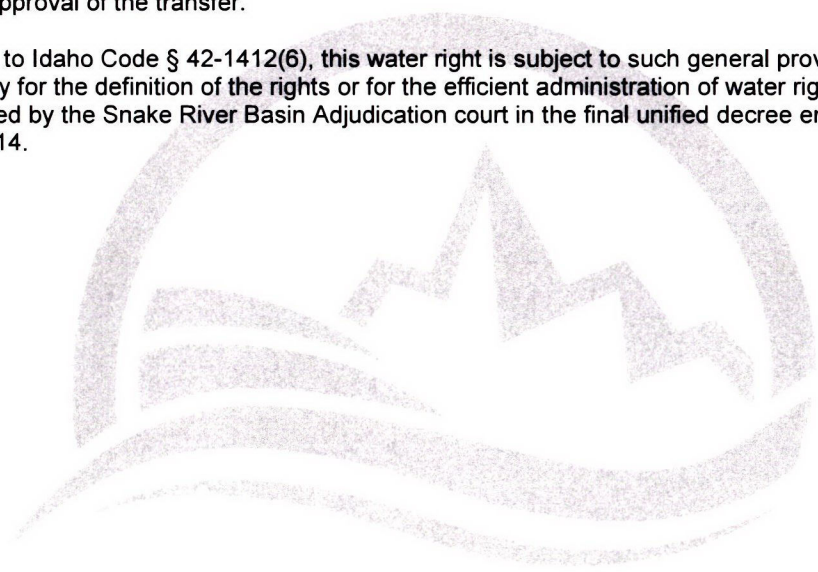
Transfer No. 86661

SCANNED
OCT 14 2022

WATER RIGHT NO. 35-4093
As Modified by Transfer No. 86661

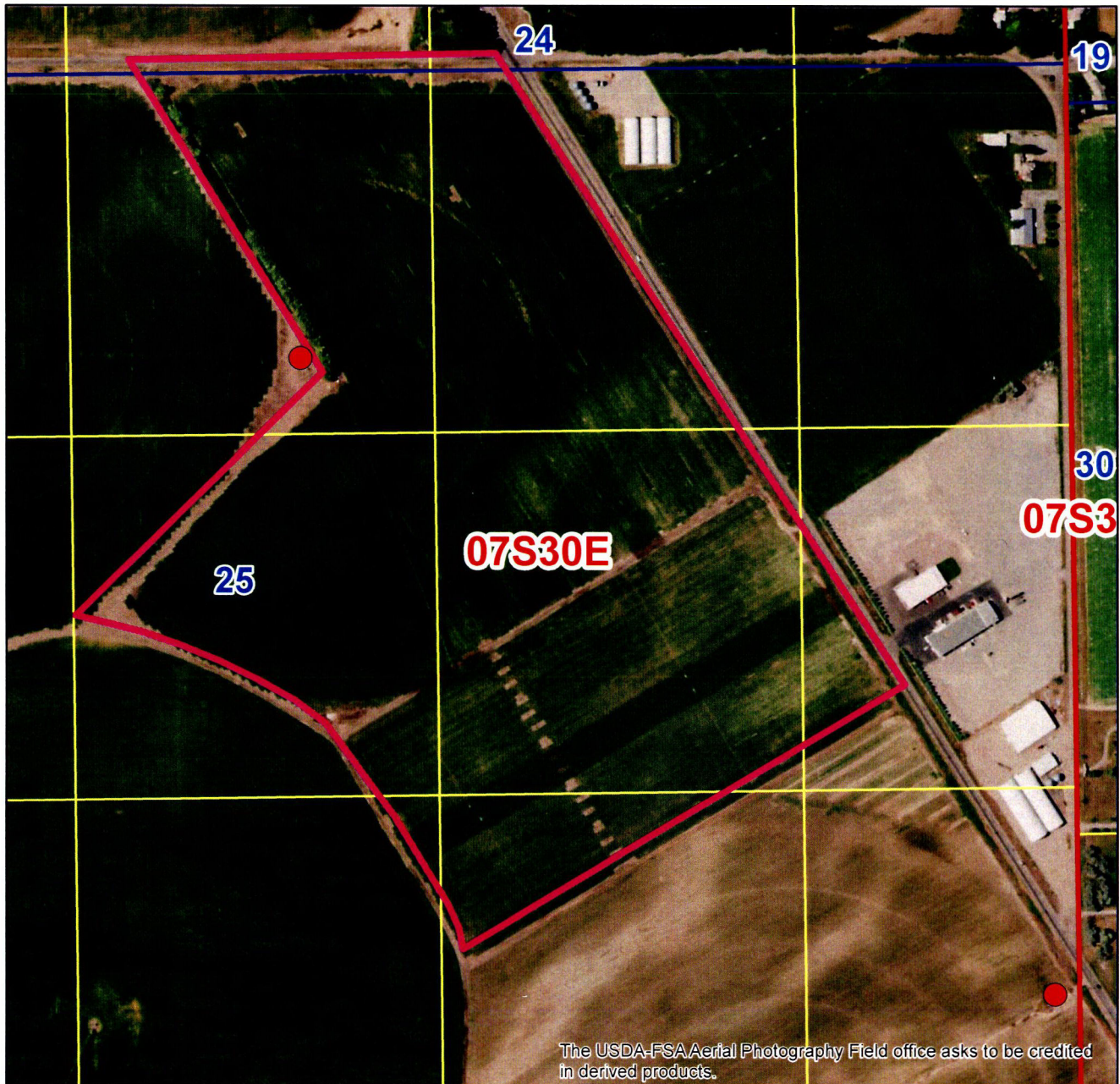
CONDITIONS OF APPROVAL

5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. 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.



Attachment to Transfer Approval 86661

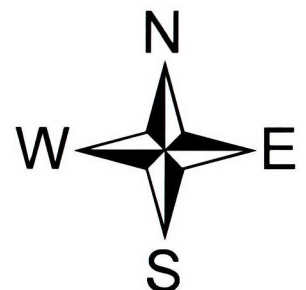
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

0 250 500 1,000 Feet



SCANNED

Date: 10/13/2022

OCT 14 2022



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

Governor Brad Little

Director Gary Spackman

October 13, 2022

KBCP LLC
3010 MC KINLEY RD
AMERICAN FALLS ID 83211-5448

Re: Transfer No: 86661
Water Right No(s): 35-4093

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.

SCANNED

OCT 14 2022

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:

GREG SULLIVAN
2016 WASHINGTON ST N STE 4
TWIN FALLS ID 83301-3082

SCANNED
OCT 14 2022

CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2022 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.: 86661
Water Right No(s): 35-4093

KBCP LLC
3010 MC KINLEY RD
AMERICAN FALLS ID 83211-5448

GREG SULLIVAN
2016 WASHINGTON ST N STE 4
TWIN FALLS ID 83301-3082



Christina Henman
Administrative Assistant

SCANNED
OCT 14 2022

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.

MEMORANDUM

Date: October 7, 2022
To: Transfer 86661
From: Thomas Lafortune
Re: Review & Evaluation of Sufficiency of Information

The purpose of this transfer is to add a point of diversion to water right 35-4093. The point of diversion to be added to the right is an existing well without any water rights.

Authority to File:

The applicant, KBCP LLC, is the current owner of the right according to department records. The application was signed by Klaren Koopin, who is listed as an agent of KBCP LLC on the Idaho Secretary of State website. Proposed and existing points of diversion are located on land owned by KBCP LLC.

Water Right Validity:

Right 35-4093 was decreed in the SRBA in 2007. Aerial imagery shows consistent irrigation of the place of use for 35-4093. Forfeiture is not an issue.

Injury to Other Water Rights:

This transfer adds an existing well as an additional point of diversion for right 35-4093. The well being added to the right is about ¾ mile from the original well. The Eastern Snake Plain Aquifer Model does not need to be run because the new point of diversion and original point of diversion are in adjacent cells. The right is included in and administered by Water District 120. The watermaster was asked for comment and had no concerns with this transfer. There should not be any injury to other water users.

Enlargement of Use:

There is no enlargement. The diversion rate and irrigated acres will remain the same.

Local Public Interest:

No issues identified.

Beneficial Use and Conservation of Water Resources:

No issues identified.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

SCANNED

OCT 14 2022

RECEIVED

SEP 28 2022

Affidavit of Publication

State of Idaho

County of Power

Department of Water Resources
Eastern Region

Brett Crompton being first duly sworn on oath, states:

That he is the Publisher of The Power County Press, a newspaper of general circulation in Power County, Idaho, published weekly at American Falls in said county, that said newspaper has been published in said county uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement:

That the annexed notice or advertisement was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for 2 successive weekly issues thereof, the date of the first publication being the 31st day of August 2022 and the date of the last publication being the 14th day of September 2022

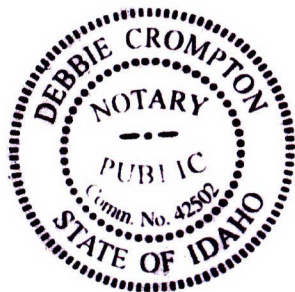
Signed

Brett Crompton

State of Idaho

County of Power

On this 7th day of September in the year of 2022 before me, a Notary Public, personally appeared Brett Crompton, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Debbie Crompton

Notary Public for Idaho
Residing at American Falls, Idaho
My commission expires: July 25, 2028

**Proposed change
of water right**

Published in The Power County
Press Aug. 31, Sept. 7, 2022.

NOTICE OF PROPOSED CHANGE
OF WATER RIGHT

TRANSFER NO. 86661

KBCP LLC, 3010 MC KINLEY
RD, AMERICAN FALLS, ID 83211-
5448 has filed Application No. 86661
for changes to the following water
rights within POWER County(s):
Right No(s). 35-4093; to see a full
description of these rights and the
proposed transfer, please see [https://research.idwr.idaho.gov/apps/
waterrights/querynewtransfers](https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers). The
purpose of the transfer is to change
a portion of the above rights as fol-
lows: add point of diversion. The pro-
posed points of diversion are in Lot 3
(NESE) (new) and SENENW Sec 25
T07S R30E for 2.32 cfs from ground
water.

For additional information con-
cerning the property location, contact
Eastern Region office at (208)525-
7161. Protests may be submitted
based on the criteria of Idaho Code
Sec. 42-222. Any protest against the
proposed change must be filed with
the Department of Water Resources,
Eastern Region, 900 N SKYLINE
DR STE A, IDAHO FALLS ID
83402-1718 together with a protest
fee of \$25.00 for each application on
or before 9/19/2022. The protestant
must also send a copy of the protest
to the applicant.

GARY SPACKMAN, Director
Published on 8/31/2022 and 9/7/2022

SCANNED
OCT 07 2022

Henman, Christina

From: Henman, Christina
Sent: Wednesday, August 24, 2022 2:42 PM
To: Jordan, Blake
Subject: Application for Transfer No. 86661
Attachments: tmpB849.docx

Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. You can find a copy of the application at: <https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Please contact this office if you have any questions regarding the application.