

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 85-15805

**Priority:** December 10, 2019

**Maximum Diversion Rate:** 0.08 CFS

This is to certify that

RICHARD KELLY & CONNIE KELLY REVOCABLE LIVING TRUST  
30880 VOLMER RD LEWISTON ID 83501-7011

has applied for a permit to appropriate water from:

**Source :** GROUND WATER

and a permit is APPROVED for development of water as follows:

<u><b>Beneficial Use</b></u>	<u><b>Period of Use</b></u>	<u><b>Rate of Diversion</b></u>
IRRIGATION	02/15 to 11/30	0.08 CFS

**Location of Point(s) of Diversion**

GROUND WATER SE¼ SW¼, Sec. 29, Twp 35N, Rge 05W, B.M. NEZ PERCE County

**Place of Use:** IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
35N	05W	29												2.5						2.5

Total Acres: 2.5

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2021**.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
4. This right authorizes the diversion of ground water within the Lewiston Plateau Ground Water Management Area (LPGWMA). Use of water under this right shall be subject to the provisions of the LPGWMA management plan approved by the director, including its conservation and protection goals.
5. When notified by the Department, the right holder shall record the quantity of water diverted and annually report the monthly diversion volume of water and/or other pertinent hydrologic and system information as required by Idaho Code § 42-701, and/or the management plan for the Lewiston Plateau Ground Water Management Area.
6. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
7. The following rights are diverted through point(s) of diversion described above: 85-15525 & 85-15805.
8. This right does not grant any right-of-way or easement across the land of another.

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 85-15805

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 29<sup>th</sup> day of January, 20 20.



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ADAM FREDERICK  
Water Rights Supervisor

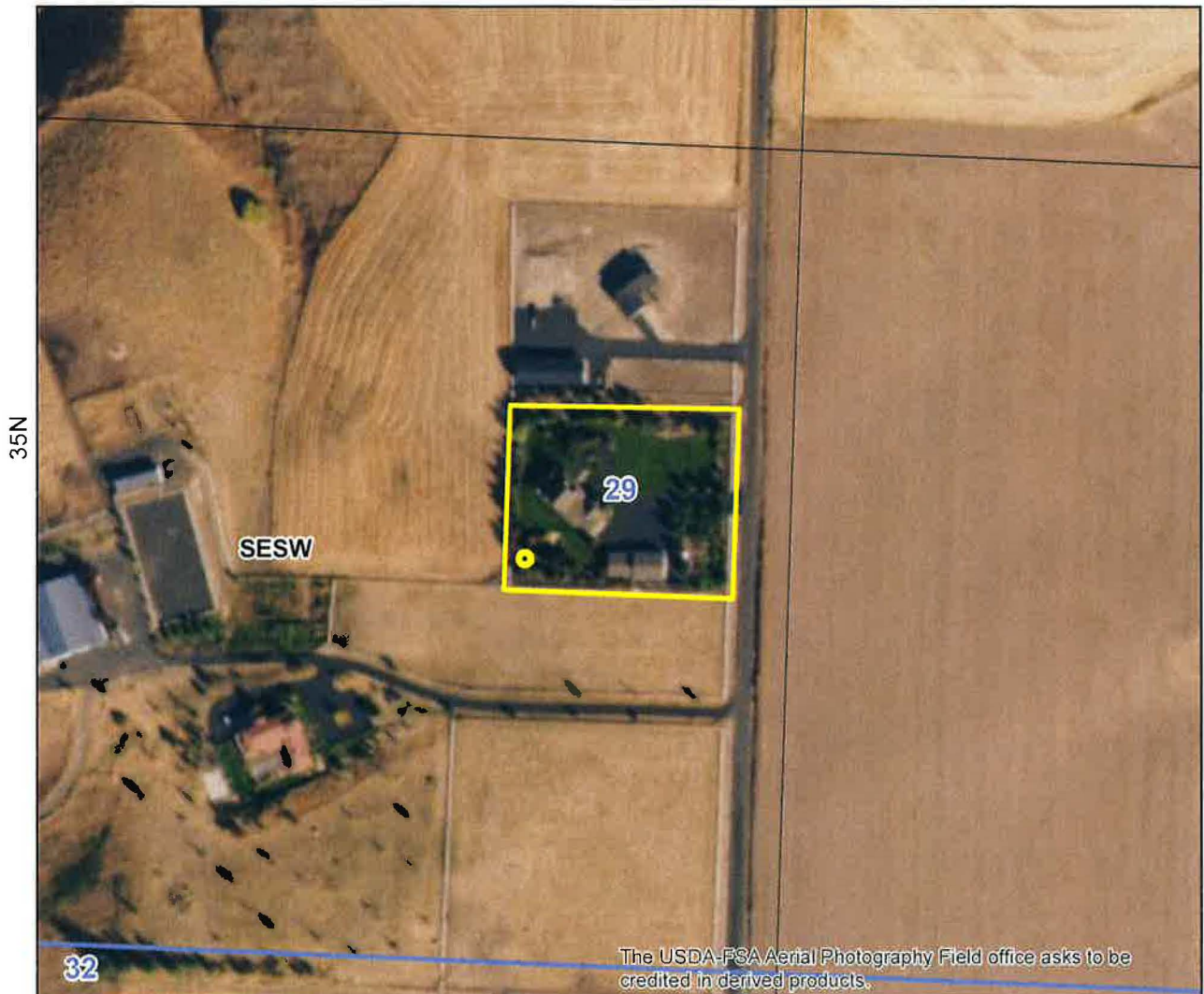
State of Idaho  
Department of Water Resources






# Attachment to Permit to Appropriate Water

85-15805

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

05W



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.035 0.07 0.14 Miles





Brad Little  
Governor

State of Idaho

## DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N MINERAL DR STE 100 • COEUR D ALENE, ID 83815-7763  
Phone: (208)762-2800 • Fax: (208)769-2819 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

Gary Spackman  
Director

January 29, 2020

RICHARD KELLY & CONNIE KELLY REVOCABLE LIVING TRUST  
30880 VOLMER RD  
LEWISTON ID 83501-7011

RE: Permit No. 85-15805

### Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* ("Proof") by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit. If you have already diverted and used water to the full extent intended, you may complete and submit the enclosed Proof form immediately.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at [idwr.idaho.gov](http://idwr.idaho.gov) for more information about these programs.



Also, please note that permit holders are required to report any change of 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. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

If you have any questions concerning the enclosed information, please contact the Northern Region Office at (208) 762-2800.

Sincerely,



Adam Frederick  
Water Rights Supervisor

Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2020, I served a true and correct copy of Permit to Appropriate Water No. 85-15805 by U.S. Mail, postage prepaid, to the following:

RICHARD KELLY & CONNIE KELLY REVOCABLE LIVING TRUST (Current Owner)  
30880 VOLMER RD  
LEWISTON ID 83501-7011

CONNIE L KELLY (Trustee)  
30880 VOLMER RD  
LEWISTON ID 83501-7011

RICHARD K KELLY (Trustee)  
30880 VOLMER RD  
LEWISTON ID 83501-7011



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Tammy Allen  
Administrative Assistant 1

## **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

**To:** Water Right Application 85-15805

**From:** Adam Frederick Af

**Date:** 1/29/2020

**Re:** Application for a Permit to Appropriate Water within the Salmon and Clearwater River Basins.

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**Re:** Regional Analysis and Recommendation in accordance with Water Appropriation Rules (IDAPA 37.03.08.040.05).

## **Water Supply Information**

Water should be available from the groundwater source.

## **Good Faith, Delay, or Speculative Information**

The applicant plans to use water from his/her own property and there are no known issues with any other party.

## **Financial Resources Information**

No significant resources required because well and irrigation already exist.

## **Local Public Interest**

The well has already been drilled and there was no objections during the comment period. Two conditions will be added to the permit to address the Lewiston Plateau Ground Water Management Area.

## **Injury to Other Water Rights**

None anticipated.

## **Recommendation**

The Northern Region recommends proceeding with the processing of this water right application.

**TRIBUNE PUBLISHING COMPANY, INC**

The Lewiston Tribune  
505 C St., P.O.Box 957  
Lewiston, Idaho 83501  
(208) 743-9411

Date:	<u>01/09/2020</u>	INVOICE NO.	<u>156233</u>
Account No.	<u>964750</u>		
Description	<u>156233 The foll</u>		
Times	<u>2</u>	Lines	<u>73</u>
		Tab. lines	
		\$	<u>104.03</u>

**LEGAL ADVERTISING  
INVOICE**

Sold To: ID DEPT. OF WATER RESOURCES  
7600 MINERAL DR #100  
COEUR D ALENE ID 83814

PO#

NOTICE: This is a invoice of Purchase made by you. Statement will be rendered the first of the month  
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

The following application has  
been filed to appropriate the  
public waters of the State of  
Idaho:

85-15805  
RICHARD KELLY &  
CONNIE KELLY  
REVOCABLE  
LIVING TRUST  
30880 VOLMER RD  
LEWISTON, ID 83501-7011  
Point of Diversion SESW  
329 T35N R05W  
NEZ PERCE County  
Use: IRRIGATION  
12/15 to 11/30 0.08 CFS  
Total Diversion: 0.08 CFS  
Date Filed: 12/10/2019  
Place Of Use: IRRIGATION  
329 T35N R05W SESW  
NOTICE OF PROPOSED  
CHANGE OF  
WATER RIGHT  
TRANSFER NO. 83801  
ARTHUR W EATON JR, 16015  
EATON RD, LEWISTON, ID  
83501, has filed Application No.  
83801 for changes to the following  
water rights within NEZ PERCE  
County(s): Right No(s). 86-7304;  
see a full description of these  
rights and the proposed trans-

Permits will be subject to all  
prior water rights. For additional  
information concerning the prop-  
erty location, contact Northern  
Region office at (208) 762-2800.  
Protests may be submitted based  
on the criteria of Idaho Code 42-  
203A. Any protest against the ap-  
proval of this application must be  
filed with the Director, Dept. of  
Water Resources, Northern Re-  
gion, 7600 N MINERAL DR STE  
100, COEUR D ALENE ID 83815-  
7763 together with a protest fee  
of \$25.00 for each application on  
or before 1/21/2020. The protes-  
tant must also send a copy of the  
protest to the applicant.

GARY SPACKMAN,  
Director Published on  
1/2/2020 and 1/9/2020

**AFFIDAVIT OF PUBLICATION**

Hollie K Posey, being duly sworn, deposes and  
says, I am the Legal Clerk of the Tribune  
Publishing Company, a corporation organized and existing  
under and by virtue of the laws of the State of Idaho  
and under and by virtue of the laws of the State of Washington,  
publishers of the Lewiston Tribune, a news-  
paper of general circulation published at Lewiston, Nez Perce  
County, Idaho; That the said Lewiston Tribune is  
an established newspaper and has been published regularly  
and issued regularly at least once a day for more than 105  
consecutive years next immediately preceding the first  
publication of this notice, and has been so published  
uninterrupted for said period; that the 156233 The foll  
attached hereto and which is made a part of this affidavit  
was published in the said Lewiston Tribune,  
2 time(s). Publication being on  
01/02, or once a Week  
for 2 consecutive Week,  
the first publication thereof being on the 01/02/2020,  
and the last publication thereof being on the 01/09/2020,  
and said 156233 The foll was so published in the  
regular and entire issue of said newspaper and was not in a  
supplement thereof and was so published in every issue and  
number of the said paper, during the period and times of  
publication as set forth above.

Hollie K Posey

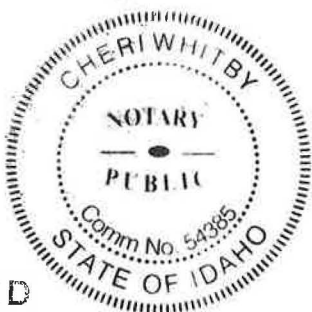
State of Idaho

S.S.

County of Nez Perce

On this 9<sup>th</sup> day of Jan in the year  
of 2020, before me, a Notary Public, personally  
appeared Hollie K Posey, known or identified  
to me to be the person whose name 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.

Cheri W. Ruby  
Notary Public in and for the State of Idaho,  
residing at Lewiston, therein  
Commission Expires 11/17/24



RECEIVED

JAN 13 2020

IDWR / NORTH