

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
NO. 85-15786

Priority: July 13, 2017

Maximum Diversion Rate: 0.06 CFS

This is to certify, that KONEN FARMS  
32073 WAHA RD  
LEWISTON ID 83501

has applied for a permit to appropriate water from:

**Source:** UNNAMED STREAM

**Tributary:** SINKS

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

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>RATE OF DIVERSION</u> |
|-----------------------|----------------------|--------------------------|
| IRRIGATION            | 02/15 to 11/30       | 0.06 CFS                 |

**LOCATION OF POINT(S) OF DIVERSION:**

UNNAMED STREAM SE1/4NW1/4 Sec. 26, Twp 35N, Rge 05W, B.M. NEZ PERCE County

**PLACE OF USE:** IRRIGATION

| Twp Rge Sec | NE |    |     |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-------------|----|----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|             | NE | NW | SW  | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 35N 05W 26  |    |    | 2.0 |    |    |    |    |    |    |    |    |    |    |    |    |    | 2.0    |

Total Acres: 2

**CONDITIONS OF APPROVAL**

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2022**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
5. 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.
6. This right does not grant any right-of-way or easement across the land of another.

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

Signed this 5<sup>th</sup> day of October, 2017.

  
DOUGLAS JONES, Northern Regional Manager

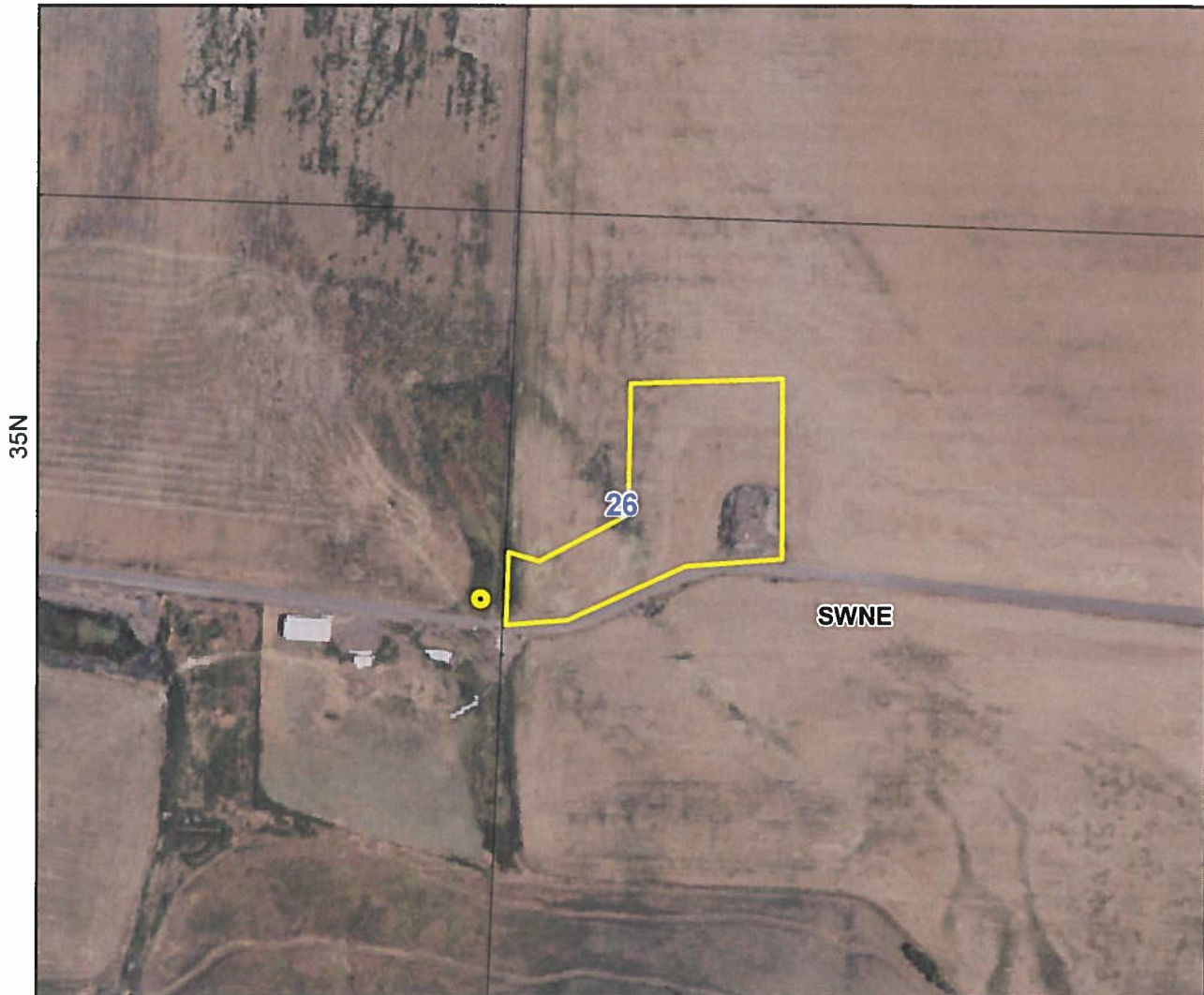
State of Idaho  
Department of Water Resources

# Attachment to Permit to Appropriate Water

85-15786

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

0 0.035 0.07 0.14 Miles





State of Idaho

## DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815-7763  
Phone: (208) 762-2800 • Fax: (208) 762-2819 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

October 5, 2017

KONEN FARMS  
32073 WAHA RD  
LEWISTON ID 83501

RE: Permit No. 85-15786

### Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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 a party 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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

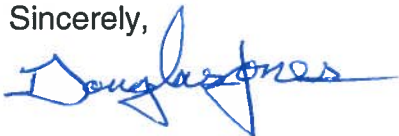
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, 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 the Northern Regional Office at 208-762-2800.

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas Jones", with a stylized, cursive script.

Douglas Jones, P.E.

Northern Regional Manager

Enclosure(s)

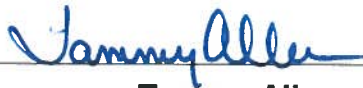
## **CERTIFICATE OF SERVICE**

I hereby certify that on October 6, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

**RE: WATER RIGHT NO.**

**85-15786**

**KONEN FARMS  
32073 WAHA RD  
LEWISTON ID 83501**



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**Tammy Alleman  
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.

# MEMORANDUM

**To:** Water Right Application 85-15786

**From:** Adam Frederick AF

**Date:** 09/06/2017

**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 from the unnamed stream is on the applicant's property and should be available.

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

The applicant plans to divert water for his/her own use on property that he/she owns and there are no known issues with any other party.

## **Financial Resources Information**

No significant resources are anticipated for the proposed irrigation.

## **Local Public Interest**

The Idaho Department of Fish & Game and the Department of Environmental Quality have been asked to comment by the Idaho Department of Water Resources. Idaho Department of Fish & Game did not respond and Department of Environmental Quality responded that this should not impair existing beneficial uses.

## **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: 08/10/2017INVOICE NO. 136829Account No. 964750Description 136829 The foll**LEGAL ADVERTISING  
INVOICE**Times 2Lines 29

Tab. lines

\$ 84.82

**RECEIVED**  
**AUG 15 2017**  
**IDWR/NORTHERN**

PO#

85-15786

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

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.

**AFFIDAVIT OF PUBLICATION**

The following application(s) have been filed to appropriate  
the public waters of the State of Idaho:

136829  
85-15786  
KONEN FARMS  
32073 WAHA RD  
LEWISTON, ID 83501  
Point of Diversion SENW S26 T35N R05W NEZ PERCE County  
Source UNNAMED STREAM Tributary SINKS  
Use: IRRIGATION 02/15 to 11/30 0.06 CFS  
Total Diversion: 0.06 CFS

Date Filed: 7/13/2017  
Place Of Use: IRRIGATION  
T35N R05W S26 SWNE  
Total Acres: 2

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208) 762-2800; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 N Mineral Dr., Ste 100, Coeur d'Alene, ID 83815 together with a protest fee of \$25.00 for each application on or before 8/21/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director  
Published on 8/3/2017 and 8/10/2017

Karen J. Lewis, 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 newspaper 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 136829 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 08/03, or once a Week for 2 consecutive Week, the first publication thereof being on the 08/03/2017, and the last publication thereof being on the 08/10/2017, and said 136829 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.

Karen J. Lewis

State of Idaho

S.S.

County of Nez Perce

On this 14<sup>th</sup> day of August in the year of 2017, before me, a Notary Public, personally appeared Karen J. Lewis, 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.

Carol Peterson  
Notary Public in and for the State of Idaho,  
residing at Lewiston, therein  
Commission Expires 9/1/2023

