

Cherryland

T37N R3W

Fir Island

RIVER

POU

PD

Government lot check for  
85-15341 by RGH 7/17/2001

SWNW

SENW

SWNE

SENE

NWSW

NESW

NWSE

NESE

SWSW

SESW

SWSE

SESE

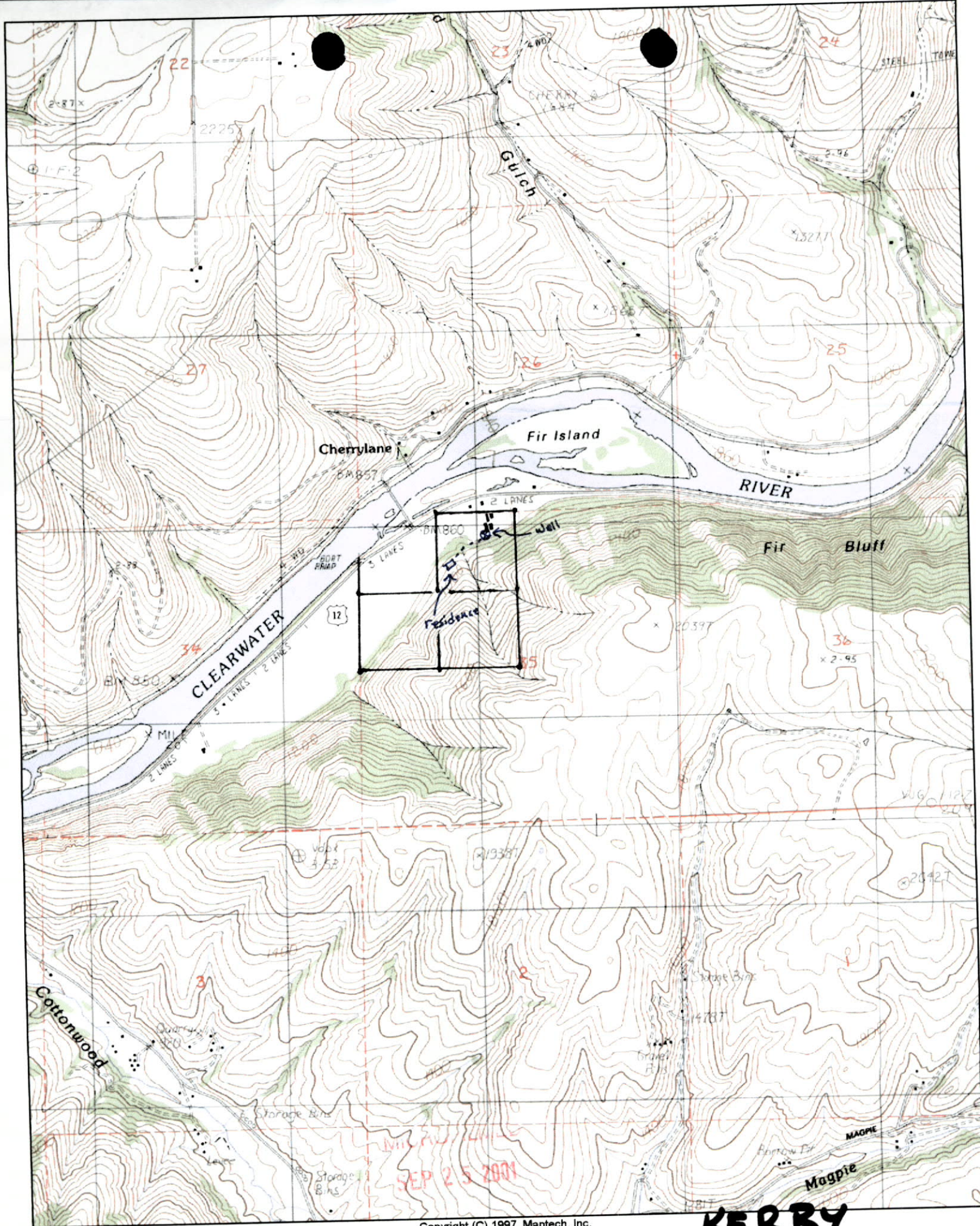
4614  
3-53

45387

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SEP 25 2001  
SEP 25 2001

Storage Bins

Grave



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**KERBY**  
**T.37N., R.3W.**

**TRIBUNE PUBLISHING COMPANY, INC.**

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

**LEGAL ADVERTISING  
INVOICE**

SOLD TO: ID DEPT. OF WATER RESOURCES  
1910 NORTHWEST BLVD. STE 210  
COEUR D AL ID 83814

Date 04/26/2001

INVOICE NO. 258790

Account No. 964750

Description 258790The following ap

Times 2

Lines 23

Tab. Lines

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APR 27 2001

IDWR/North

\$ 74.06

NOTICE: This is an 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(a) have been filed to appropriate the public waters of the State of Idaho: 258790  
85-15341

DON KERBY  
ROUTE 1 BOX 111  
LENORE ID 83541  
Point(s) of Diversion NENW S35 T37N R03W NEZ PERCE County  
Source GROUND WATER  
Use: DOMESTIC 01/01 To 12/31 0.04 CFS  
Use: IRRIGATION 03/15 To 11/15 0.04 CFS  
Total Diversion: 0.04 CFS

Date Filed: 09/20/2000  
Place of Use: IRRIGATION T37N R03W S35 NENW  
Place Of Use: DOMESTIC is same as IRRIGATION  
Number of Acres 2

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sac 42-203A, Idaho Code  
Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 1910 Northwest Blvd, Suite 210, Coeur D'Alene ID 83814 together with a protest fee of \$25.00 for each application on or before 05/07/2001. The protestant must also send a copy of the protest to the applicant.  
KARL J DREHER, Director Published on 4/19 and 26/2001

Karen 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, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 258790The follo attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 04/19, or once a WEEK for 2 consecutive WEEK, the first publication thereof being on the 04/19/2001, and the last publication thereof being on the 04/26/2001, and said 258790The follo 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 26th day of April in the year of 2001, 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.



*Sheral M Lantz*

Notary Public in and for the State of Idaho,  
residing at Lewiston, therein  
Commission Expires June 4, 03

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AUG - 8 2001

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

Department of Water Resources

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner.

1. Permit No. 85-15341 Telephone No. (Day) 208 746-9891

2. Name of Permit Holder(s): Don Kerby

3. Mailing Address: Rt 1 Box 111

City Lenore State ID Zip 83541

4. Source of Water: Ground water If GROUNDWATER (well), Date Drilled: mo. July / yr. 1987

Well Driller: unknown Drilling Permit Number: \_\_\_\_\_

5. Use(s) (as authorized by the water right permit):

Domestic (No. of households): 1 Stockwater (No. and type of stock): \_\_\_\_\_

Irrigation (No. of acres): 2 Acre Other: \_\_\_\_\_

6. Total rate of diversion and/or volume for which proof is submitted: Don 04  
100 04 cfs OR \_\_\_\_\_ acre-feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)

(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required?

Yes \_\_\_\_\_ or No X

Has the measuring device been installed?

Yes \_\_\_\_\_ or No X

8. Fee Enclosed: \$ N/A (See Fee Schedule on back of the instructions for filing proof of beneficial use)

9. Person to contact to accompany the Department representative during field examination of the water system.

Name: Don Kerby Telephone Number: (208) 746-9891

Address: Rt 1 Box 111 Lenore Id 83541

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: Don A. Kerby  
(include your title, if on behalf of company or organization)

Date: 8-6-01

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State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**

NO. 85-15341

Priority: 09/20/2000

Maximum Diversion Rate: 0.04 CFS

This is to certify, that DON KERBY  
RT 1 BOX 111  
LENORE ID 83541

has applied for a permit to appropriate water from:

**Source:** GROUND WATER

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> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|--------------------------|----------------------|
| DOMESTIC              | 01/01 to 12/31       | 0.04 CFS                 |                      |
| IRRIGATION            | 03/15 to 11/15       | 0.04 CFS                 |                      |

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

GROUND WATER NE $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 35, Twp 37N, Rge 03W, 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 |        |
| 37N 03W 35  |    |    |    |    | 2.0 |    |    |    |    |    |    |    |    |    |    |    | 2.0    |

Total Acres: 2

**PLACE OF USE:** DOMESTIC, same as Irrigation

**CONDITIONS OF APPROVAL**

1. Proof of application of water to beneficial use shall be submitted on or before **August 1, 2002**.
2. Subject to all prior water rights.
3. The issuance of this right does not grant any right-of-way or easement across the land of another.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
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 lands above.
6. Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 31<sup>st</sup> day of July, 2001.

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SEP 27 2001

*Karl J Dreher*  
KARL J DREHER, Director

69006

Ident. No. 85-15341

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JUL 24 2001

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Department of Water Resources

1. Name of Applicant Don Kerby Phone (208) 276-3343 Evening  
(208) 746-9891 Day  
 Mailing address Route 1, Box 111, Lenore, Idaho 83541
2. Source of water supply Groundwater which is a tributary of \_\_\_\_\_
3. Location of point of diversion is Township 37N Range 3 W.B.M. Sec. 35 in the NE 1/4, NW 1/4, Govt. Lot \_\_\_\_\_, B.M., Nez Perce County;  
 additional points of diversion if any: \_\_\_\_\_
4. Water will be used for the following purposes:
- Amount .043 CFS for Domestic purposes from Jan. 1 to Dec. 31 (both dates inclusive)  
 (cfs or acre-feet per annum)
- Amount .043 CFS for Irrigation purposes from March 1 to Oct. 31 (both dates inclusive)  
 (cfs or acre-feet per annum)
- Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
 (cfs or acre-feet per annum)
- Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
 (cfs or acre-feet per annum)
- Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
 (cfs or acre-feet per annum)
- Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
 (cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) .043 and/or (b) \_\_\_\_\_  
 cubic feet per second acre feet per annum
6. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source \_\_\_\_\_  
Drilled well approximately 300' deep.
- b. Height of storage dam \_\_\_\_\_ feet; active reservoir capacity \_\_\_\_\_ acre-feet; total  
 reservoir capacity \_\_\_\_\_ acre-feet
- c. Proposed well diameter is 8 inches; proposed depth of well is 300 feet
- d. Is ground water with a temperature of greater than 85° F being sought? No
- e. If well is already drilled, when? 1987; Drilling firm unknown  
 Well was drilled for (well owner) \_\_\_\_\_; Drilling Permit No. \_\_\_\_\_
7. Time required for completion of works and application of water to proposed beneficial use is in use years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
- a. Hydropower; show total feet of head and proposed capacity in KW. \_\_\_\_\_
- b. Stockwatering; list number and kind of livestock. \_\_\_\_\_
- c. Municipal; show name of municipality. \_\_\_\_\_
- d. Domestic; show number of households. 1
- e. Other; describe fully. Irrigation of 2 acres of pasture.

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9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP | RGE | SEC | N E |    |    |    | N W |    |    |    | S W |    |    |    | S E |    |    |    | TOTALS |
|-----|-----|-----|-----|----|----|----|-----|----|----|----|-----|----|----|----|-----|----|----|----|--------|
|     |     |     | NE  | NW | SW | SE | NE  | NW | SW | SE | NE  | NW | SW | SE | NE  | NW | SW | SE |        |
| 37N | 3W  | 35  |     |    |    |    | 2   |    |    |    |     |    |    |    |     |    |    |    | 2      |
|     |     |     |     |    |    |    | D   |    |    |    |     |    |    |    |     |    |    |    |        |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |

Total number of acres to be irrigated 2

10. Describe any other water rights used for the same purposes as described above. \_\_\_\_\_

11. a. Who owns the property at the point of diversion? Cherrylane Ranches, Inc.

b. Who owns the land to be irrigated or place of use? Don A. Kerby

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Cherrylane Ranches, Inc. is a family farm corporation owned by the Kerby

12. Remarks: family. I, Don Kerby, am Vice President of Cherrylane Ranch. This permit  
is for my residence and a small amount of pasture. The water system supplies  
water for domestic, irrigation, and stockwater to the ranch farmstead and  
to my personal residence. We have a shared water use agreement.

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

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Don Kerby  
 Signature of Applicant (and title, if applicable)

Received by [Signature] Date 9/20/00 Time 11:45a Preliminary check by [Signature]  
 Fee \$ 100.00 Received by [Signature] # N013957 Date 9/20/00  
 Publication prepared by [Signature] Date 4/11/01 Published in Lewiston Trib 4/19+26/01  
 Publication approved [Signature] Date 4/27/01

Cherry Lane

T37N R3W

Fir Island

POU

PD

Government lot check for  
85-15341 by RGH 7/17/2001

12

SWNW

SENW

SWNE

SENE

NWSW

NESW

NWSE

NESE

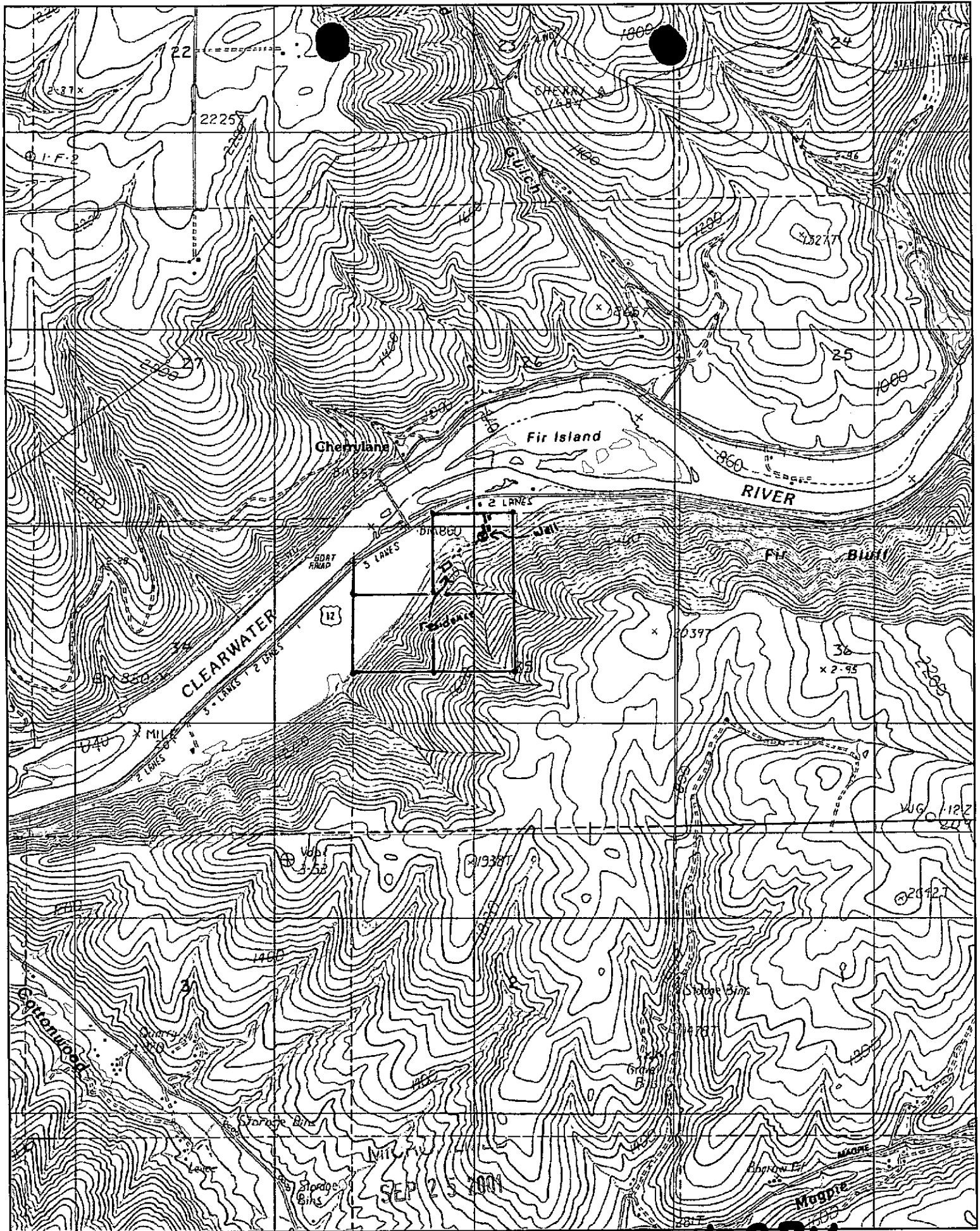
SWSW

SESW

SWSE

SESE

MICRO LINE



**KERBY**  
**T.37N., R.3W.**



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098  
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

August 15, 2001

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

DON KERBY  
ROUTE 1 BOX 111  
LENORE ID 83541

**PROOF ACKNOWLEDGMENT LETTER**

**RE: PERMIT NO. 85-15341**

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to contact you to schedule a field examination to determine and confirm the use being made of the water, and that it meets the permitted beneficial use.

Be advised that Section 42-248, Idaho Code, requires you or the owner of these water rights to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

If you have questions, please contact the **Northern** Regional Office of the department in Coeur d'Alene at (208) 769-1450.

Sincerely,

Deborah J. Gibson  
Administrative Assistant  
Water Allocation Bureau

Encl.  
c: IDWR - Regional Office

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SEP 25 2001

## ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 85-15341

Reviewed By: dgibson

Date: August 15, 2001

|                                   | <u>Yes</u> | <u>No</u> |                                  | <u>Yes</u> | <u>No</u> |
|-----------------------------------|------------|-----------|----------------------------------|------------|-----------|
| Proof received timely?            | X          |           | Drilling permit required?        | X          |           |
| License examination fee required? |            | X         | Drilling permit No.:             |            |           |
| Appropriate fee submitted?        | X          |           | Drilling permit upgrade needed?  |            |           |
| Receipt No.:                      |            | N013957,  | Well driller's report filed?     |            | X         |
| Additional Amount Due:            |            |           | Measuring device required?       |            | X         |
| Name and address same as permit?  | X          |           | Measuring device installed?      |            |           |
| Are the water uses correct?       | X          |           | Measure device waiver requested? |            |           |

### Priority Calculation

|                     |   |            |
|---------------------|---|------------|
| Date proof received |   | 08/08/2001 |
| Date proof due      | - | 08/01/2002 |
| Lapse notice sent   | - |            |
| No. of days late    | = | 0          |
| Holiday allowance   | + |            |
| Priority date       | + | 09/20/2000 |
| New priority date   | = | 09/20/2000 |

### Deficiencies of Actions Items

Acknowledge Proof.



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

August 1, 2001

DON KERBY  
RT 1 BOX 111  
LENORE ID 83541

RE: Permit No. 85-15341

**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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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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 me at 208-327-7946.

Sincerely,

*Sharla Curtis*

for

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

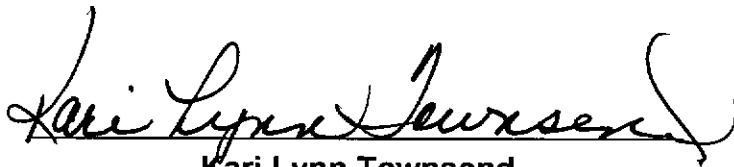
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SEP 25 2001

# **CERTIFICATE OF MAILING**

I hereby certify that on August 1, 2001 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. 85-15341**

**DON KERBY  
RT 1 BOX 111  
LENORE ID 83541**

  
Kari Lynn Townsend  
Secretary

**MICROFILMED**

**SEP 25 2001**

**EXPLANATORY INFORMATION  
TO ACCOMPANY A  
PRELIMINARY ORDER**

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. 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 Idaho Water Resource Board (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).

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## 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 issuance 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.

**APPLICATION FOR PERMIT  
STATE OFFICE ANALYSIS**  
Reviewed by Sharla Curtis on 7/25/01

No. 85-15341 Name: Kerby Corp. Officers N/A Ad ok \_\_\_\_\_ Govt Lots \_\_\_\_\_

AREA OF CONCERN: No/Yes \_\_\_\_\_ Moratorium \_\_\_\_\_ GWMA \_\_\_\_\_ TRUST/NON-TRUST \_\_\_\_\_

**GROUNDWATER: (✓Flow Chart)**

**DRILLING PERMIT**

All wells - 046  
Basin 34 - 084 (if necessary)  
WMD - North/East/West  
≤ 0.24 cfs/5 acres - No MD  
> 0.24 cfs/5 acres - 067

**WMD**

Supp irr (irr = only use) - 065-104  
Supp irr (+ other uses) - 100-105  
≤ 0.24 cfs/5 acres - No MD  
> 0.24 cfs/5 acres - 01M

**LOCATION:**

Boise Front LoGeo - 058 (<85 GW)  
Mitigation - 121  
Trust - 051 (consumptive uses)  
Non-Trust - 048-049 (consumptive uses or non-cons. > 1.0 cfs)

**USES:**

~~STORAGE~~ - 18C-01H-01P-18B-NA  
~~IRR ≤ 5 ac~~ - R66/R67/R68/R69 (0.03 cfs/ac)  
    > 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)  
STOCK WATER - R37 (BLM/FS)-111 (instream stock)  
MINING - 054-106  
HEAT/COOL - R07 (injection well)  
FIRE PROT - 077  
COMMERCIAL/  
INDUSTRIAL - 106-R07  
DAIRY - 082-WD8  
POWER - 17H or 17K (+uses)-17G (under FERC )  
          or 17M (not FERC regulated)  
          025-027-R22-08A

**SURFACE WATER: (✓Flow Chart)**

F&G contacted - Yes/No Response  
In/Above MSF - WB9

**PLANNING REVIEW/RESPONSE**

WD - R04 (WD# \_\_\_\_\_)  
≤ 0.20 cfs/others - 01H, 01P or No MD  
> 0.20 cfs - 01J

**SPRINGS/SINK, INACTIVE WD or WD**

≤ 0.24 cfs/5 acres - No MD  
> 0.24 cfs/5 acres - 01M or No MD

**RIVER BASINS: (SW special considerations)**

SNAKE R (01) - W23, N/A  
                 (02,03) - 007 (w/ remark WB9 if above Weiser)  
PAYETTE R (65) - W23, 047 (Payette Lake)  
SALMON R (70's) - 029 (fish screens)  
WEISER R (67) - 086-087

**USES:**

MUNICIPAL  
Restricted area - 022,075  
Irr, GW supp to SW - 102  
Future needs - 007,109  
FISH PROP - 029 (70's only)-007-042-106  
~~DOMESTIC~~  
Surface water - WB5 (Big Wood/Boise above Star Bridge)  
                 - 27A (Payette R)  
                 - 070-071-075 (no parks/common areas)  
                 - WB5 ①  
                 - 065-104  
                 - W03 (2500 gpd - meets domestic def  
                           i.e. D/convenience store)

BENEFICIAL USE DUE: 8/01/2002

**MISC CONDITIONS/REMARKS:**

Protested - 020-W19  
Development Period  
    1 yr - 26A  
Ownership - 004  
Non-consumptive - 027  
Water Quality - 106-R07

Multiple pd's per 1/4 - W32  
Subd lot desc (pd) - W59  
Subd lot desc (pu) - W60  
Use definitions - W02 example - S/50 range  
Pre-1987 development - 068-074 (allow 120 days for proof due)  
Single p/d intended - 076

IRRIGATION SEASON 3/15 - 11/15 (Per updated map)

IRR VOLUME/ACRE 4.0

OTHER CONDITIONS/REMARKS \_\_\_\_\_

COMMENTS \_\_\_\_\_

489812 01  
489811 43

RECEIVED

JUL 24 2001

ID#0 DEPARTMENT OF WATER RESOURCES  
APPROPRIATION APPLICATION ANALYSIS SHEET6CA  
WRA

Department of Water Resources

69006  
APPLICATION # 85-15341

INITIAL REVIEW

APPLICANT:

KERBY

BY:

B

DATE:

4/5/01

## ITEM REQUIRED INFORMATION

1. (X) Name and Address
2. (X) Source
3. (X) Point of Diversion & County
4. (X) Quantity
  - (X) Nature of Proposed Use
  - (X) Period of Use
5. (X) Total Quantity
6. (X) Description of diverting works
7. (X) Time required for b/u
8. (X) Proposed use
9. (X) Place of use or acres irrigated
10. (X) Other water Rights
11. (X) Ownership
12. (X) Map
  - (X) Signature
  - (X) Fee (Amt, receipt, acknowledgement)

\*\*\* Send info sheet Y( ) N( )

## ADDITIONAL INFORMATION

(Yes) (No)

- (X) Field check: by \_\_\_\_\_
- (X) Field report attached
- (X) Analysis Supp. attached (>5cfs/500af)
- (X) Water delivered by water master?
- Water District # \_\_\_\_\_

## PROCESSING

(Yes) (No)

PRIORITY DATE:

9/20/00

(X) (Include Moratorium Remark)

(X) Statewide Advertising: (Diversion rate greater than 10 cfs or 1,000 af).

LT/Phur/ok

ADVERTISE IN:

NEL PERCE

County

## LETTERS SENT REQUESTING:

( ) Dam Information ( ) Fish Information

( ) Power Information ( ) Other: N/A

## INFORMATION RECEIVED:

( ) Dam Information ( ) Fish Information

( ) Power Information ( ) Other: N/A

## GROUNDWATER SECTION

WD Permit No.'s:

TAG #

Type:

Fees

Receipt No.

Upgrade Needed?

| WD Permit No.'s | TAG # | Type          | Fees    | Receipt No. | Upgrade Needed? |
|-----------------|-------|---------------|---------|-------------|-----------------|
| 1               |       | Dom. Non-Dom. | Paid \$ |             | Y ( ) N ( )     |
|                 |       | Dom. Non-Dom. | Paid \$ |             | Y ( ) N ( )     |
|                 |       | Dom. Non-Dom. | Paid \$ |             | Y ( ) N ( )     |

- (X) Groundwater management area
- (X) Critical ground water area
- (X) Well Drilling Permit required
- (X) Well Drilling Application and Fees received
- (X) Well Drilling Application approved?

Remarks: Drilled prior to 7/1/87

## FINAL REGIONAL PROCESSING/REVIEW

(Yes) (No)

- (X) Notice of pending void order issued. Final order response date: \_\_\_\_/\_\_\_\_/\_\_\_\_
- (X) Further information required from applicant
- 4/27 (X) Affidavit of publication received
- 4/27 (X) Application published correctly. If not, record action taken: \_\_\_\_\_
- 4/11 (X) Publication dates and paper recorded on application | Sr. Agent initial \_\_\_\_\_
- (X) Protests received, Final protest date: 5/7/01
- (X) Measuring device required
- (X) Measuring port required
- (X) Special conditions:
- (X) Special conditions of approval supplement and/or cover letter attached:

Approval Recommended by:

PWA

Date: 7/17/2001

**TRIBUNE PUBLISHING COMPANY, INC.**

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

Date 04/26/2001INVOICE NO. 258790Account No. 964750Description 258790The following apTimes 2Lines 23**LEGAL ADVERTISING  
INVOICE**

SOLD TO: ID DEPT. OF WATER RESOURCES  
1910 NORTHWEST BLVD. STE 210  
COEUR D AL ID 83814

**RECEIVED**

Tab. Lines

**APR 27 2001**\$ 74.06**IDWR/North**

NOTICE: This is an 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(a) have been filed to appropriate the public waters of the State of Idaho: 258790

85-15341

DON KERBY

ROUTE 1 BOX 111

LENORE ID 83541

Point(s) of Diversion NENW S35 T37N R03W NEZ PERCE County

Source GROUND WATER

Use: DOMESTIC 01/01 To 12/31 0.04 CFS

Use: IRRIGATION 03/15 To 11/15 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 09/20/2000

Place of Use: IRRIGATION T37N R03W S35 NENW

Place Of Use: DOMESTIC is same as IRRIGATION

Number of Acres 2

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sac 42-203A, Idaho Code

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 1910 Northwest Blvd, Suite 210, Coeur D'Alene ID 83814 together with a protest fee of \$25.00 for each application on or before 05/07/2001. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on 4/19 and 26/2001

Karen 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, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 258790The follo attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 04/19, or once a WEEK for 2 consecutive WEEK, the first publication thereof being on the 04/19/2001, and the last publication thereof being on the 04/26/2001, and said 258790The follo 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

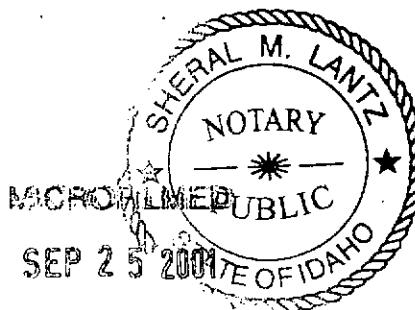
S.S.

County of Nez Perce

On this 26<sup>th</sup> day of April in the year of 2001, 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.

*Sheral M Lantz*

Notary Public in and for the State of Idaho,  
residing at Lewiston, therein  
Commission Expires June 4, 03



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

85-15341

DON KERBY  
ROUTE 1 BOX 111  
LENORE ID 83541

Point(s) of Diversion NENW S35 T37N R03W  
NEZ PERCE County  
Source GROUND WATER  
Use: DOMESTIC 01/01 To 12/31 0.04 CFS  
Use: IRRIGATION 03/15 To 11/15 0.04 CFS  
Total Diversion: 0.04 CFS  
Date Filed: 09/20/2000  
Place Of Use: IRRIGATION  
T37N R03W S35 NENW  
Place Of Use: DOMESTIC is same as IRRIGATION  
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KARL J DREHER, Director

Published on 4/19 and 26/2001

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SEP 25 2001



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615

(208) 769-1450

Fax (208) 769-1454

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

April 11, 2001

**Legal Notice Department**  
LEWISTON MORNING TRIBUNE  
505 C ST PO BOX 957  
LEWISTON ID 83501

RE: Application for Permit No. 85-15341

**Dear LEGAL NOTICE DEPARTMENT:**

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 05/07/2001. Your cooperation is appreciated.

Sincerely

Dianne Ball  
Administrative Assistant

MICROFILMED

SEP 25 2001



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615  
(208) 769-1450

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

April 11, 2001

Don Kerby  
Rt 1 Box 111  
Lenore ID 83541

Re: Water Appropriation Application No. 85-15341

Dear Mr. Kerby::

The Idaho Department of Water Resources hereby acknowledges receipt of the above referenced Application for Permit to Appropriate the Public Waters of the State of Idaho. To assist us in providing you with prompt, accurate service, please refer to the above referenced number in all future matters concerning this water right application. Enclosed for your file is Receipt Number N013957.

Your appropriation application is currently being prepared for advertising in the local county newspaper. This advertisement will be published for two consecutive weeks followed by a waiting period of ten days to allow for the submittal of protests. Normal processing time is approximately 3 to 4 months, if the application is not protested.

If the application is not protested, it will be forwarded to Boise to be considered for approval by the Director. State office personnel will then conduct a complete review, and you will be notified by mail of the outcome. However, if the application is protested during this waiting period, you will be sent a copy of the protest and instructions to aid you in resolving the protest without a hearing. All protests must be resolved before approval of the application can be made, so if the protestant does not voluntarily withdraw the protest, this department will conduct a conference and/or hearing on the matter.

You will receive your approved Application for Permit and instructions on filing the Proof of Beneficial Use from our State office in Boise.

**If your source is groundwater, a Well Drilling Permit is required for all wells constructed after July 1, 1987.**

A "Domestic" well drilling permit should be obtained for a rate of diversion of up to 18 gallons per minute (0.04 CFS) and a daily volume of up to 2,500 gallons per day. The cost for this permit is \$75.00. For any other use, including multiple homes, or municipal, etc., the Drilling Permit fee is \$200. These Permits can be obtained by your driller, also. It is sometimes possible to upgrade an existing Domestic Drilling Permit by submitting a fee for the difference. This, however, depends on the individual well.

If you have any questions or if I can be of any assistance please feel free to contact me at this office.

Sincerely,

ALLEN BEARDSLEE  
Senior Water Resources Agent

AB:db

Enc. Receipt

MICROFILMED

SEP 25 2001