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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

IDWR / NORTH

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column. If the water right is leased to the Water Supply Bank, check "Yes". If you are not sure if the water right is leased to the Water Supply Bank, see #7 of the instructions.

Water Right/Claim No.	Split?	Leased to Water Supply Bank?	Water Right/Claim No.	Split?	Leased to Water Supply Bank?
85-2127	Yes ☒	Yes ☐		Yes ☐	Yes ☐
85-15864	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐

2. Previous Owner's Name: Konen Farms
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): Carol M Church
New owner(s) as listed on the conveyance document Name connector ☐ and ☐ or
8204 N Summerfield Loop Hayden ID 83835
Mailing address City State Zip
208 305-1185 konenchurch@yahoo.com
Telephone Email
4. If the water rights and/or adjudication claims were split, how did the division occur?
☒ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
5. Date you acquired the water rights and/or claims listed above: April 24, 2001 & December 3, 2003
6. Do you own the land identified as the water right place of use? Yes ☒ No ☐
o If no, attach evidence that written notice of the change of water right ownership has been delivered to the landowner of record.
7. This form must be signed and submitted with the following **REQUIRED** items:
☒ A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
☒ Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
☒ Filing fee (see instructions for further explanation):
o \$25 per *undivided* water right.
o \$100 per *split* water right.
o No fee is required for pending adjudication claims.
☐ If water right(s) are leased to the Water Supply Bank AND there are multiple owners, a Lessor Designation form is required.
☐ If water right(s) are leased to the Water Supply Bank, the individual owner or designated lessor must complete, sign and submit an IRS Form W-9.

8. Signature: Carol M Church owner 9/12/2023
Signature of new owner/claimant Title, if applicable Date
Carol M Church
Print name

Signature: _____
Signature of new owner/claimant Title, if applicable Date

Print name

Received by JS Date 9.13.23 For IDWR Office Use Only: Receipt No. N044049 Receipt Amt. 100-
Active in the Water Supply Bank? Yes ☐ No ☐ If yes, forward to the State Office for processing W-9 received? Yes ☐ No ☐
Name on W-9 _____ Approved by _____ Processed by NS Date 3/19/24

Change in Ownership for 85-2127 & 85-11223

This report is written to document the appropriate change in ownership for water rights 85-2127 and 85-11223. The place of use for these rights is identical and they are currently in the name Konen Farms in the Idaho Department of Water Resources (IDWR) database. In a Final Judgment in CASE NO. CV35-18-1095, Judge Mark T. Monson held that *“the Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right No. 85-2127 to Konen Farms was a Decree to Orville Konen and Gelene Konen because they were the owners of the water right for which application was made, and “Konen Farms” was a pseudonym for Orville Konen and Gelene Konen.”* A similar finding was included for Water right 85-11223. The court also said that it *“hereby declares that Water Right No. 85-2127 and Water Right No. 85-11223 were transferred to the Orville Konen and Gelene M. Konen Trust Dated December 3, 2003, pursuant to the Warranty Deed recorded November 5, 2007, Records of Nez Perce County, Idaho.”* A copy of Judge Monson’s Final Judgment is attached to this report as Exhibit 2. Water right 85-2127 is for 1.04 cubic feet per second (cfs) for the irrigation of 134 acres from ground water with three wells as points of diversion. Water right 85-11223 is for 0.33 cfs for the irrigation of those same acres and also stock water from two springs. The land covered by these rights is currently in four separate ownerships. Previously, one parcel of 5.34 acres was conveyed to School District 243. There is no evidence that the water rights were withheld in this conveyance. Those acres are not considered in this report. After removing the water for the 5.34 acres owned by the School District 243, 1.00 cfs is left to be split for 85-2127 and 0.32 cfs on 85-11223. Since the entering of partial decrees by the Fifth Judicial court for both of rights, the land has changed hands which necessitates filing of Change in Water Right Ownership forms with IDWR. Directions on how split the remaining water rights is contained in an **“Agreement”** signed on December 31, 2012 by all parties owning land covered by the water rights. The **“Agreement”** is attached to this report as Exhibit 1. The Quitclaim deeds referred to in the **“Agreement”**, which are 807924 & 807925, were signed the same day.

Spatial data for the ownership of the land covered by these two water rights was obtained from the Nez Perce county GIS coordinator Bill Reynolds. Overlaying land ownership and the shape file for 85-2127 demonstrated what county parcels intersected with these rights. Figure 1 is a pictorial representation of this and is attached to this report. It shows that 85-2127 and 85-11223 are attached to

six separate parcels that are currently owned by School District 343, John and Bruce Konen, Carol Church and Konen LLC.

The chain of title for these properties starts with Judge Monson's declaration that as of November 5, 2007, excepting the for properties owned by Carol Church which had been previously gifted by Orvelle & Gelene Konen to Carol Church, the trusts owned these properties. The chain of tile is as follows :

1. Konen LLC:

Parcel RP35N05W260007 by Quitclaim Deed 807924 from the Orvelle & Gelene Trusts to Robert Konen dated December 31, 2012, then by Quitclaim Deed from Robert Konen to Konen LLC dated December 29, 2021.

2. John and Bruce Konen:

Parcel RP35N05W262400 by Quitclaim Deed 807925 from the Orvelle & Gelene Trusts to John Konen, Bruce Konen and Sharon Konen dated December 31, 2012, then by Quitclaim Deed 851265 to John Konen and Bruce Konen dated August 11, 2017.

Parcel RP35N05W236625 by Quitclaim Deed 807925 from the Orvelle & Gelene Trusts to John Konen, Bruce Konen and Sharon Konen dated December 31, 2012, then by Quitclaim Deed 851265 to John Konen and Bruce Konen dated August 11, 2017. Also by Quitclaim Deed 871859 from the Orvelle & Gelene Trusts to John Konen and Bruce Konen dated December 2, 2019.

3. Carol Church:

Parcel RP35N05W264801 by Gift Deed 663145 from Orvelle & Gelene Konen dated April 24, 2001. Parcel RP35N05W264401 by Gift Deed 699366 from Orvelle & Gelene Konen dated December 3, 2003.

The next step was to determine the acres that each party is entitled to. This was done by overlaying each individual ownership with shape file for 85-2127 & 85-11223. The result is Konen LLC has a total of 24.5 acres, Carol Church has 18.3 acres and John and Bruce Konen have 85.4 acres. A map for each party is attached showing the acres in each 40 acre tract for the respective owners. Print outs of information from the Nez Perce GIS website for each parcel are attached to this report. These printouts

Change in Ownership for 85-2127 & 85-11223

contain the name of the current owner of each parcel as well as a history of recent ownership changes for that parcel.

The parties have previously attempted to make ownership changes with IDWR. In February 2014, Robert Konen filed Change of Ownership documents with IDWR. Those forms and accompanying information were returned on March 21 2014. Mr. Konen again filed change in ownership documents in June 2017. A letter acknowledging that filing and changing of ownership was sent by IDWR August 30, 2017. On November 17, 2017, IDWR sent a letter saying that *“The splitting of 85-2127 was not supported by the documentation submitted and the water right has been unsplit in the water right records maintained by the department.”* In September of 2017, John & Bruce Konen and Carol M. Church filed Change in Water Right Ownership forms with IDWR. Those forms and documentation were returned in December of 2017. It appears that the reason for returning both of these change in ownership forms was related not meeting the requirements set out in the **“Agreement”** on how to divide the rights.

In the absence of language to the contrary when the conveying property, the presumption is that the water rights remain with the benefited property on an unchanged pro-rated basis. This means that if a 40 acre parcel with a water right for 0.4 cfs is divided into two 20 acre parcels each parcel receives 0.2 cfs.

In the case of the **“Agreement”**, a different method of dividing the water rights for 85-2127 was selected. The **“Agreement”** speaks of two splits when in fact; there are three splits because there are now three separate ownerships. Pursuant to the **“Agreement”** for purposes of the division of the water rights, two of the ownerships (John, Bruce Konen and Sharon Konen and Carol M. Church) are combined and treated as one. According to the **“Agreement”**, the split of water right 85-2127 is to be done on a basis of the amount of water produced by the three wells. The amount that John, Bruce and Sharon Konen and Carol M. Church are to receive is the water that is produced from wells on their properties and Robert Konen is to receive the water that is produce from a well on his property. However, no amounts of water for the wells were assigned in the **“Agreement”**. The only available information that I have been able to locate is found in the exam report for 85-2127 dated June 19, 1969. This report was the basis of the water license issued to J. F. Konen. It does have a fairly comprehensive description of the system, including connected horsepower and well diameters and depths. For the sake

Change in Ownership for 85-2127 & 85-11223

clarity, I will use same numeric designation to identify the wells as was used in examiners report. Well number one is described as being 12 inches in diameter and 20 feet deep. It had a 7 1/2 horsepower pump and is on property owned by Carol Church. Well number two is described as being an 8 inches in diameter and 267 feet deep with a 15 horsepower pump. It is on property now owned Konen LLC, which is a successor in interest to Robert Konen. Well number three is described as being 2700 feet deep and 16 inches in diameter with a 30 horsepower pump. It is on property owned by John Konen and Bruce Konen who are successors in interest to John, Bruce and Sharon Konen.

There are water measurements for each well recorded in the examiner's report. There are a number of problems in using these measurements as a basis of the allocation of water. First of all, the measurements were made using a weir, which is a method of measuring water in an open channel with no pressure head, whereas this irrigation system used sprinklers under pressure. Measurements made under open channel conditions will result in higher flow rates than would occur with the sprinkler system. Secondly, the sum of the individual amounts measured is 2.02 cfs which is almost twice the amount licensed. Thirdly, in order to produce the amount supposedly measured for well number two, 400 gpm or 0.89 cfs, the pump would have to operate at 200 per cent efficiency. The flow rate measured for well two is the same as for well three even though the connected horsepower for well number three is two times as much as well number two. Ultimately the examiner did not use these measurements and recommended an amount for licensing based on the number and size of the sprinkler nozzles on the system and pressure recorded at the nozzle tips. This method is a very common way of determining irrigation system capacity. The system as it was when the exam was done no longer exists and it is impossible to replicate the conditions that were the basis of the water right license. So we are still left with coming up with a division of the water right that satisfies the spirit of the **"Agreement"**. I would propose using the connected horsepower for each pump as a way of allocating the water because, all things being equal, the amount of water produced by those respective pumps will be proportional the horsepower connected to that pump. It should be noted that using this proportion as a basis of allocating flow will likely underestimate the water allocated to well number one (Carol Church). This is because it is probable the height that water must lifted in well number one is less than for either well number two or three. Flow rate has an inverse relationship to the height water is lifted. In other words, the higher the lift, the lower the quantity produced.

The total connected horsepower for all the pumps is 52.5 hp (7.5 +15+30). Based on using connected horsepower for wells on the respective ownerships, Konen LLC is entitled to (15/52.5) or 2/7's of 1.00 cfs or 0.29 cfs or 130 gpm on 24.5 acres. The remaining 0.71 cfs is split on a basis of the proportion the acres which are irrigated on their respective properties, namely 85.4/103.7 (0.58 cfs or 260 gpm) to John and Bruce Konen for the irrigation of 85.4 acres and 18.3/103.7 (0.13 cfs or 58 gpm) to Carol Church for the irrigation of 18.3 acres. The spatial location of the acres for the respective ownerships are shown on maps that accompany this report.

Because a portion water right 85-11223 was attached to land now owned by School District 243, it is a split right. However, the remaining portion, 0.32 cfs or 144 gpm, is conveyed in its entirety to Konen LLC. It should be noted that even though this right is now entirely owned by Konen LLC, the IDWR database still shows it also being attached to property owned by John and Bruce Konen and Carol M. Church. Konen LLC should file a transfer of a water right to property which it owns.

Exhibit 1

AGREEMENT

This Agreement made by, between, and among the Orvelle Konen and Gelene M. Konen Survivor's Trust "A", the Orvelle Konen and Gelene M. Konen Family Trust "B", Gelene Konen individually, John D. Konen, Sharon A. Konen, Carol M. Church, Robert V. Konen, and Bruce L. Konen.

Whereas, Orvelle Konen and Gelene Konen, were the owners of real property located in Nez Perce County, Idaho, including, but not limited to, the real property described in Exhibit A, attached, and the real property described in Exhibit B., attached; and

Whereas Orvelle Konen and Gelene Konen transferred title to the real property described in Exhibit A and Exhibit B to the Orvelle Konen and Gelene M. Konen Trust, dated December 3, 2003; and

Whereas Orvelle Konen passed away on April 26, 2010; and

Whereas, pursuant to the provisions of the Orvelle Konen and Gelene M. Konen Trust, an undivided one-half interest in the real property owned by that Trust was conveyed to the Orvelle Konen and Gelene M. Konen Survivor's Trust "A", and an undivided one-half interest in the real property was conveyed to the Orvelle Konen and Gelene M. Konen Family Trust "B"; and

Whereas, Gelene Konen wishes to immediately convey to Bruce L. Konen, Sharon A. Konen, and John D. Konen, the real property described in Exhibit A, along with certain easements and water rights, and wishes to immediately convey to Robert V. Konen the real property described in Exhibit B, excepting and/or reserving therefrom certain water rights and easements; and

Whereas the immediate transfer of the parcels of real property set forth in the previous paragraph differs from the disposition of the real property of Orvelle Konen and Gelene Konen, including the real property described in Exhibit A and Exhibit B, set forth in the Orvelle Konen and Gelene M. Konen Trust; and

Whereas, Robert Konen wishes to immediately acquire the real property described in Exhibit B; and

Whereas, John D. Konen, Sharon A. Konen and Bruce L. Konen wish to immediately acquire the real property described in Exhibit A; and

Whereas, the real property described in Exhibit A is subject to a *Farm Lease*, entered into on April 24, 2001, by Orvelle Konen and Gelene Konen,, therein designated as "Lessors", and Robert V. Konen, therein designated as "Lessee"; and

Whereas, Gelene Konen gave Robert V. Konen notice on October 18, 2012, that the automatic renewal provision of that *Farm Lease* expired immediately; and

Whereas, Robert V. Konen gave Gelene Konen notice that certain agreements with the federal

government for farming the real property described in the *Farm Lease*, including the real property described in Exhibit A, do not end until December 31, 2015, and that Robert V. Konen wishes to and is obligated by those agreements to continue farming the real property until those agreements end on December 31, 2015, and that Gelene M. Konen, John D. Konen, Sharon A. Konen, and Bruce L. Konen wish to allow Robert V. Konen to do so. Furthermore, Robert V. Konen wishes to extend the *Farm Lease*, as it applies to the upper place (also known as the Waha Road farm), and Gelene M. Konen wishes to allow Robert V. Konen to do so, said lease being dated April 24, 2001, on the same payment and performance terms such that it will not expire until the 31st day of August of 2022, and such that there will be no automatic renewal provision for the lease, though the parties may agree to extend the lease beyond that date at that time; and

Whereas, Carol M. Church owns a parcel of real property, the northern boundary of which is located approximately 100 to 120 feet from the south boundary of the real property described in Exhibit A. Located on that parcel owned by Carol M. Church is a ground water source (a "spring") that is used to provide water to a pond located also on that parcel. That water from that spring has also been, from time to time, conveyed to the real property described in Exhibit A. That spring has been variously described as a point of diversion for Idaho Water Right No. 85-11223 and for Water Right No. 85-2127, both Water Rights which are owned by Gelene Konen. At the time of execution of this Agreement, the parties are not sure of the accurate identity of the Water Right of which that spring is a point of diversion, but believe that it is Water Right No. 85-2127, based upon the map of the Water Right obtained from the Idaho Department of Water Resources. That map shows three points of diversion for that Water Right. The parties believe that the southernmost point of diversion is the spring referred to in this paragraph, and further believe that the spring is located on the parcel owned by Carol M. Church. The parties believe that the northernmost point of diversion on that map is located on the real property described in Exhibit A. The parties also believe that the remaining point of diversion on that map is a well located adjacent to, and just off of, the parcel owned by Carol M. Church. The parties wish to split the Water Right, such that the spring and the northernmost points of diversion shall belong to one split, and the well, which is the remaining point of diversion, shall belong to the other split, and such that the ownership of the split of the Water Right containing the spring and the northernmost point of diversion shall be transferred to Carol M. Church, John D. Konen, Sharon A. Konen, and Bruce L. Konen, with the places of use of the water from those points of diversion to be the parcel owned by Carol M. Church and the real property described in Exhibit A, and such that ownership of the split containing the well shall be transferred to Robert V. Konen, with the place of use of the water from that well to be the real property described in Exhibit B. Based on the assumption that those three sources of water are points of diversion for Water Right No. 85-2127, then the parties wish to transfer ownership of Water Right 85-11223 to Robert V. Konen; and

Whereas, there exists a strip of real property described in Exhibit C, attached, which will be conveyed to Robert V. Konen as part of the real property described in Exhibit B. Carol M. Church wishes to use that strip of land as an easement for ingress to and egress from the real property owned by her adjacent to, and to the south of, that strip of land, at the three gates that exist on the fence line on her parcel along that strip of land, for as long as she owns that parcel and that parcel is used for agricultural or ranching purposes, and Gelene M. Konen wishes for her to do so. Furthermore, John D. Konen, Sharon A. Konen, and Bruce L. Konen wish to use

that strip of land as an easement for ingress to and egress from the real property described in Exhibit A, directly opposite the locations of, and same widths as, the three gates that exist on the fence line on Carol M. Church's parcel set forth above, for as long as any one or more of those three persons own the real property described in Exhibit A and that property is being used for agricultural or ranching purposes, and Gelene M. Konen wishes for them to do so. Furthermore, John D. Konen, Sharon A. Konen, Bruce L. Konen, and Carol M. Church wish to use that strip of land as an easement for conveying water from the spring, referred to above, located on the parcel owned by Carol M. Church to the real property described in Exhibit A, and Gelene M. Konen wishes for them to do so.

Therefore, in consideration of the mutual terms, conditions, and covenants contained herein, the parties agree as follows:

1. The Orvelle Konen and Gelene M. Konen Survivor's Trust "A", and the Orvelle Konen and Gelene M. Konen Family Trust "B" shall immediately convey to John D. Konen, Sharon A. Konen, and Bruce L. Konen the real property described in Exhibit A, free of any and all claims of Robert V. Konen, except for those rights and duties of the respective parties set forth in the *Farm Lease*. A true and correct copy of the *Quitclaim Deed* by which the conveyance is to be made, is attached to this Agreement as Exhibit D.
2. The Orvelle Konen and Gelene M. Konen Survivor's Trust "A", and the Orvelle Konen and Gelene M. Konen Family Trust "B" shall convey to Robert V. Konen the real property described in Exhibit B, free of any and all claims by John D. Konen, Sharon A. Konen, and Bruce L. Konen, except as set forth herein. A true and correct copy of the *Quitclaim Deed* by which the conveyance is to be made, is attached to this Agreement as Exhibit E.
3. The date of the transfer of the real property described in Exhibit A to John D. Konen, Sharon A. Konen, and Bruce L. Konen, and the date of the transfer of the real property described in Exhibit B to Robert V. Konen, shall occur on the date that the *Quitclaim Deed* for each of those transfers is executed, notwithstanding the date upon which each such *Quitclaim Deed* is recorded at the Office of the Nez Perce County Recorder, and notwithstanding the date upon which each such *Quitclaim Deed* is delivered to the grantee(s) of each such transfer.
4. Pursuant to the terms and conditions of paragraphs 2 and 3 of Article VIII of the Orvelle Konen and Gelene M. Konen Trust, the intended transfers of the real property described in Exhibits A and B in the manner set forth in those paragraphs 2 and 3 upon the death of the surviving settlor of that Trust shall lapse upon the gift by *Quitclaim Deed* of the real property described in Exhibit A to John D. Konen, Sharon A. Konen, and Bruce L. Konen, and the gift by *Quitclaim Deed* of the real property described in Exhibit B to Robert V. Konen, as said lapses are specifically provided for in those paragraphs 2 and 3.
5. The property known as the "Upper Place", also known as the "Waha Farm" shall continue to be owned by the Orvelle Konen and Gelene M. Konen Trust, the Orvelle Konen and Gelene M. Konen Survivor's Trust "A", and/or the Orvelle Konen and Gelene M. Konen Family Trust "B", as the case may be, and shall remain subject to the terms

and conditions of those Trusts.

6. The *Farm Lease*, as it applies to the real property described in Exhibit A, shall expire on December 31, 2015, free of any and all claims by Robert V. Konen, including any right to cultivate, possess, and/or harvest any crop growing on that parcel. Furthermore, Robert V. Konen shall not sow, nor cause to be sown, any crop on that parcel that is to be harvested after December 31, 2015. The *Farm Lease* of the upper place (also known as the Waha Road farm), said lease being dated April 24, 2001, shall be extended on the same payment and performance terms as presently exist and shall not expire until the 31st day of August of 2022. There will be no automatic renewal provision for the lease, though the parties may agree to extend the lease beyond that date at that time.
7. The parties shall timely take all steps reasonably deemed necessary to split the Water Right that they believe is Water Right No. 85-2127, that belief being based upon the map of Water Right No. 85-2127 obtained from the Idaho Department of Water Resources. That map shows three points of diversion for that Water Right, as set forth above, in this Agreement. The parties shall split the Water Right, such that the spring and the northernmost point of diversion shall belong to one split, and the well, which is the remaining point of diversion, shall belong to the other split, and shall transfer ownership of the split of the Water Right containing the spring and the northernmost point of diversion to Carol M. Church, John D. Konen, Sharon A. Konen, and Bruce L. Konen, with the places of use of the water from those points of diversion to be the parcel owned by Carol M. Church and the real property described in Exhibit A, and shall transfer ownership of the split containing the well to Robert V. Konen, with the place of use of the water from that well to be the real property described in Exhibit B. Based on the assumption that those three sources of water are points of diversion for Water Right No. 85-2127, then the parties shall transfer ownership of Water Right 85-11223 to Robert V. Konen. If the parties are mistaken in the correct identity of the Water Rights to which those water sources are points of diversion, then the parties agree that the correct Water Rights for which those water sources are points of diversion shall be split and/or transferred, as the case may be, and the parties shall take all reasonable actions in order to correctly identify, split, and/or transfer the correct Water Rights. The parties further agree that if the spring is not located on the parcel owned by Carol M. Church, and/or if the well is not located off of the parcel owned by Carol M. Church, then the parties will take all steps reasonably necessary in order to adjust lot lines in order to include the spring on the parcel owned by Carol M. Church, and/or to exclude the well from her parcel, both including sufficient area around each such water source to allow the intended owner reasonable access to each such water source. The parties further agree that the water source located on the real property described in Exhibit A, which was a point of diversion for Water Right No. 85-7542, which has been relinquished to the State of Idaho, shall belong to John D. Konen, Sharon A. Konen, and Bruce L. Konen, who shall have the right, at their sole discretion, to attempt to reinstate that Water Right or otherwise appropriate that water for use on the real property described in Exhibit A, free of any claim of the other parties to this Agreement.
8. There are no agreements, warranties, or representations, express or implied, except those expressly set forth in this agreement. All agreements, representations, and warranties

contained in this agreement shall apply as of the closing date and shall survive the closing of this agreement.

9. In the event any provision of this Contract or any part thereof shall be determined by the Court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions hereunder, or parts thereof, shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated thereby, it being agreed that such remaining provisions shall be construed in a manner most closely approximating the intention of the parties with respect to the invalid, void, or unenforceable provision or part thereof.
10. All covenants and conditions, including the Declaration of Restrictions and Protective Covenants contained or referred to in this Contract are intended to survive the delivery by Seller and acceptance of the deed by Purchaser.
11. In the event of any suit or proceeding by either party herein against the other party, in any way arising out of this Contract, or attempting to enforce any right herein granted, the losing party in such suit or proceeding shall pay to the prevailing party all reasonable attorney fees and costs incurred by the prevailing party in bringing, maintaining, and/or defending against said proceeding or suit.
12. The laws of Idaho shall govern all question as to the validity and construction of this Contract.

In witness whereof, the partes have signed this Agreement on the dates set forth below.

GELENE M. KONEN
GELENE M. KONEN

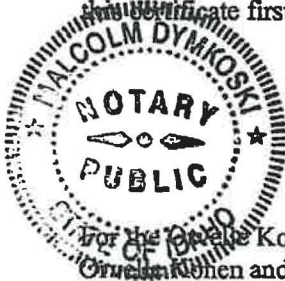
STATE OF IDAHO

SS.

County of Kootenai

On 12/31, 2012, before me, MALCOLM DYMKOski, a Notary Public for the State of Idaho, personally appeared Gelene M. Konen, known or identified to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the name and year in this certificate first above written.



MALCOLM DYMKOski
Notary Public
Commission expires: 10-6-2016

For the Gelene M. Konen and Gelene M. Konen Survivor's Trust "A" and the
Orville M. Konen and Gelene M. Konen Family Trust "B"

GELENE M. KONEN
GELENE M. KONEN, Trustee

STATE OF IDAHO

SS.

County of Kootenai

On 12/31, 2012, before me, MALCOLM DYMKOski, a Notary Public for the State of Idaho, personally appeared Gelene M. Konen, known or identified to me to be the persons whose name is subscribed to the foregoing instrument as Trustee, and acknowledged to me that she executed the same as such Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the name and year in this certificate first above written.



MALCOLM DYMKOski
Notary Public
Commission expires: 10-6-2016

Carol M. Church
CAROL M. CHURCH

STATE OF IDAHO

SS.

County of Kootenai

On 12/31, 20 12, before me, MALCOLM DYMOSKI, a Notary Public for the State of Idaho, personally appeared Carol M. Church, known or identified to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the name and year in this certificate first above written.



[Signature]
Notary Public
Commission expires: 10-6-2016

For the Orvelle Konen and Celene M. Konen Survivor's Trust "A" and the Orvelle Konen and Celene M. Konen Family Trust "B"

Carol M. Church
CAROL M. CHURCH, Trustee

STATE OF IDAHO

SS.

County of Kootenai

On 12/31, 20 12, before me, MALCOLM DYMOSKI, a Notary Public for the State of Idaho, personally appeared Carol M. Church, known or identified to me to be the persons whose name is subscribed to the foregoing instrument as Trustee, and acknowledged to me that she executed the same as such Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the name and year in this certificate first above written.



[Signature]
Notary Public
Commission expires: 10-6-2016

SHARON A. KONEN

CAROL M. CHURCH

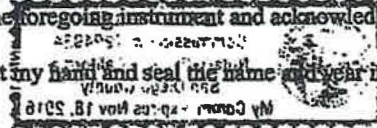
STATE OF IDAHO

ss.

County of Kootenai

On _____, 20____, before me, _____, a
Notary Public for the State of Idaho, personally appeared Carol M. Church, known or identified
to me to be the person whose name is subscribed to the foregoing instrument and acknowledged
to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the name and year in
this certificate first above written.



Notary Public

Commission expires:

For the Orville Konen and Gelene M. Konen Survivor's Trust "A" and the
Orville Konen and Gelene M. Konen Family Trust "B"

CAROL M. CHURCH, Trustee

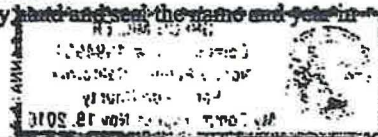
STATE OF IDAHO

ss.

County of Kootenai

On _____, 20____, before me, _____, a
Notary Public for the State of Idaho, personally appeared Carol M. Church, known or identified
to me to be the persons whose name is subscribed to the foregoing instrument as Trustee, and
acknowledged to me that she executed the same as such Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the name and year in
this certificate first above written.



Notary Public

Commission expires:

Sharon A. Konen
SHARON A. KONEN

STATE OF CALIFORNIA

County of SAN DIEGO ^{SS.}

On DEC 31, 2012, before me, GREGG MILLER,
 a Notary Public for the State of Idaho, personally appeared Sharon A. Konen, known or identified to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the name and year in this certificate first above written.



[Signature]
 Notary Public
 Commission expires: NOV 18 2016

For the Orville Konen and Gelene M. Konen Survivor's Trust "A" and the
 Orville Konen and Gelene M. Konen Family Trust "B"

[Signature]
 SHARON A. KONEN, Trustee

STATE OF CALIFORNIA

County of SAN DIEGO ^{SS.}

On DEC 31, 2012, before me, GREGG MILLER, a
 Notary Public for the State of Idaho, personally appeared Sharon A. Konen, known or identified to me to be the persons whose name is subscribed to the foregoing instrument as Trustee, and acknowledged to me that she executed the same as such Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the name and year in this certificate first above written.



[Signature]
 Notary Public
 Commission expires: NOV 18 2016


JOHN D. KONEN

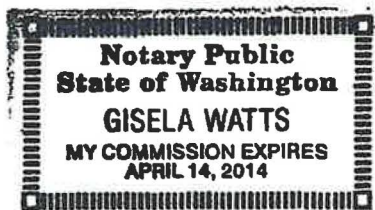
STATE OF WASHINGTON

ss.

County of Spokane

On 12-31 - 2012, before me, Gisela Watts, a
Notary Public for the State of ~~Idaho~~ ^{Washington}, personally appeared John D. Konen, known or identified to
me to be the person whose name is subscribed to the foregoing instrument and acknowledged to
me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the name and year in
this certificate first above written.




Notary Public
Commission expires:

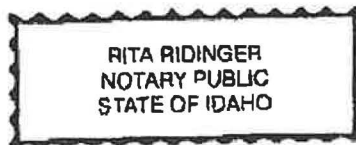
Bruce L. Konen by Sally A. Konen, P.O.A
BRUCE L. KONEN
By: SALLY KONEN
Attorney in Fact for Bruce L. Konen

STATE OF IDAHO

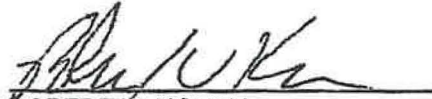
County of ~~Kootenai~~ ^{ss.} Nez Perce

On 12/31, 2012, before me, Rita Ridinger, a
Notary Public for the State of Idaho, personally appeared Sally Konen, known or identified to
me to be the person whose name is subscribed to the foregoing instrument as the attorney in fact
for Bruce L. Konen, and acknowledged to me that she executed the same as such attorney in fact
for Bruce L. Konen

IN WITNESS WHEREOF, I have hereunto set my hand and seal the name and year in
this certificate first above written.



Rita Ridinger
Notary Public
Commission expires: 9-9-2014


ROBERT V. KONEN

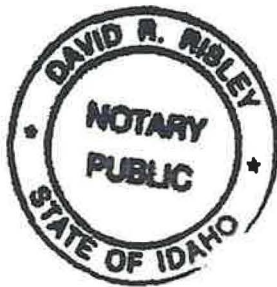
STATE OF IDAHO

ss.

County of Nez Perce

On ~~December~~ 31, 2012, before me, David R. Risley, a
Notary Public for the State of Idaho, personally appeared Robert V. Konen, known or identified
to me to be the person whose name is subscribed to the foregoing instrument and acknowledged
to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the name and year in
this certificate first above written.




Notary Public
Commission expires 2/20/2016

Exhibit 2

Filed: 06/06/2023 10:39:38
Second Judicial District, Nez Perce County
Patty O. Weeks, Clerk of the Court
By: Deputy Clerk - Davenport, Brittany

SUSAN P. WEEKS, ISB No. 4255
JAMES, VERNON & WEEKS, P.A..
1626 Lincoln Way
Coeur d'Alene, ID 83814
Telephone: (208) 667-0683
Facsimile: (208) 664-1684
E-Mail: sweeks@jvwlaw.net

Attorneys for Plaintiffs

IN THE DISTRICT COURT FOR THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

JOHN D. KONEN, TRUSTEE OF THE
ORVELLE KONENA ND GELENE M.
KONEN FAMILY TRUST "A" and
TRUSTEE OF THE ORVELLE KONEN
AND GELENE M. KONENE FAMILY
TRUST "B," JOHN D. KONEN, BRUCE L.
KONEN, AND CAROL M. CHURCH,

Plaintiffs,

vs.

ROBERT V. KONEN,,

Defendant.

CASE NO. CV35-18-1095

FINAL JUDGMENT

JUDGMENT IS ENTERED AS FOLLOWS:

1. The Court hereby declares In Re SRBA Case No. 39576 that the Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right No. 85-2127 to Konen Farms was a Decree to Orvelle Konen and Gelene Konen because they were the owners of the water right for which application was made, and "Konen Farms" was a pseudonym for Orvelle Konen and Gelene Konen.

3. The Court hereby declares In Re SRBA Case No. 39576 that the Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right No. 85-11223 to Konen Farms was a Decree to Orvelle

FINAL JUDGMENT: 1

Konen and Gelene Konen because they were the owners of the water right for which application was made, and "Konen Farms" was a pseudonym for Orville Konen and Gelene Konen. Konen

4. The Court hereby declares that Water Right No. 85-2127 and Water Right No. 11223 were transferred to the Orville Konen and Gelene M. Konen Trust Dated December 3, 2003, pursuant to the Warranty Deed recorded November 5, 2007, Records of Nez Perce County, Idaho.

5. The Court declares that the Agreement executed by the parties to this lawsuit, a copy of which is attached hereto, was a binding Trust and Estate Dispute Resolution Act (TEDRA) Agreement.

6. The Court declares that the Trust is to split the water rights pursuant to Page 2 of page 11 of the TEDRA, as set forth in the paragraph that begins, "Whereas, Carol M. Church owns a parcel real property..."

7. The Court declares that the Trust will hire Bob Haynes, former regional manager of the Idaho Department of Water Resources Northern Regional Office and current employee of Idaho Water Engineering, to take all steps necessary to complete the split of the water rights as set forth in the TEDRA. The parties agree at least seven (7) days prior to the submission of the Notice of Change in Water Right Ownership that Mr. Haynes shall provide the attorneys for the parties the completed Notice of Change in Water Right Ownership to proof to assure that the New Owner(s) Information (Section 3) is correct, and that the proportional split provided for in the TEDRA is identified in section 4. It is not the purpose of the review that the parties can argue with Mr. Haynes to provide for a split of the water right other than the proportional division contained in the TEDRA.

8. The Court decrees upon completion of the water right split, this matter will be dismissed with prejudice with each side to bear their own costs and attorney fees.

DATED: 6/6/2023 9:06:19 AM



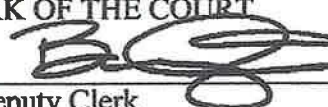
MARK T. MONSON
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the within and foregoing instrument was served upon the following on this date: 6/6/2023 10:39:43 AM

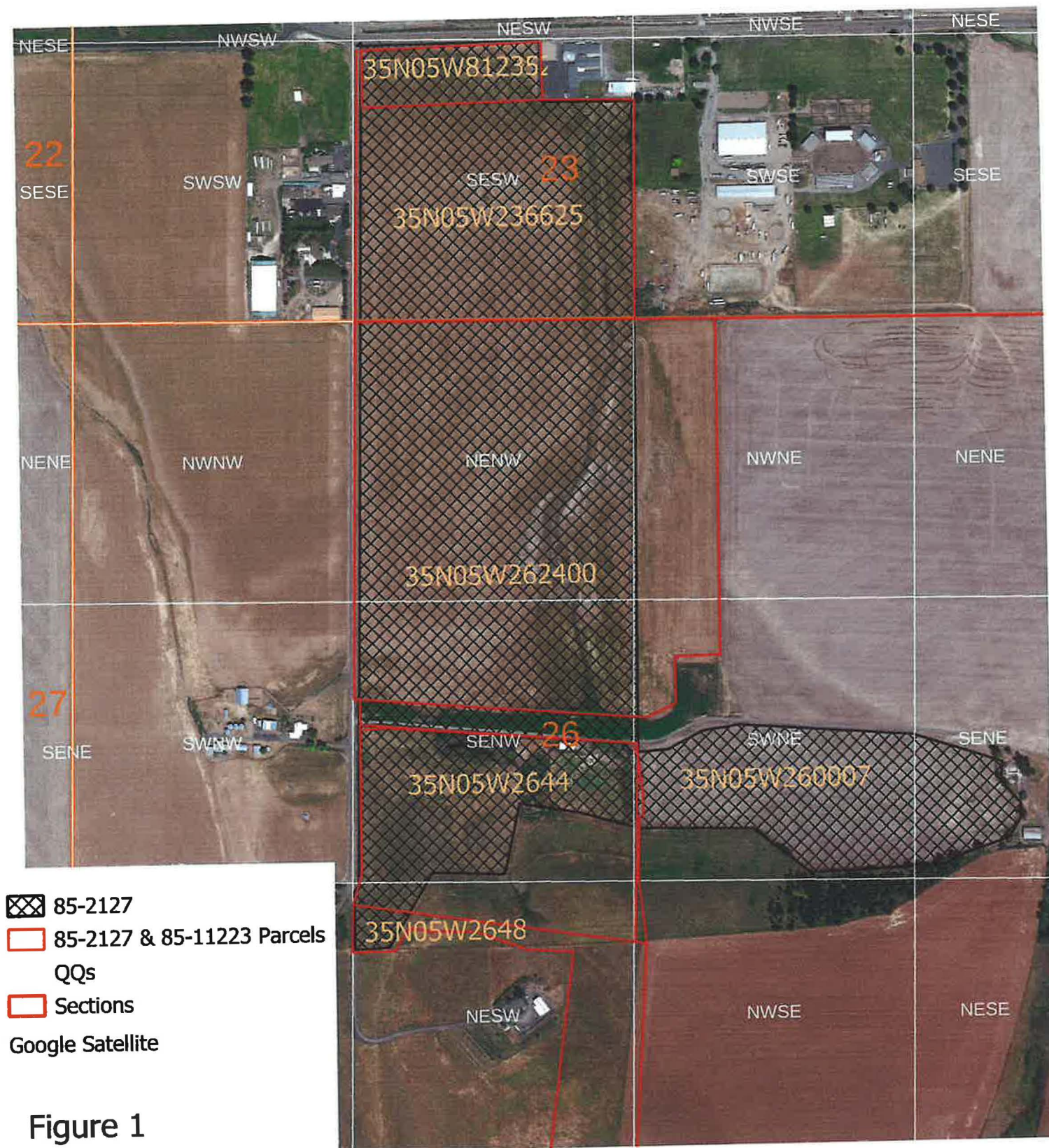
Jonathan D. Hally Blewett Mushlitz Hally, LLP 710 16 th Avenue Lewiston, ID 83501	☐ U.S. Mail ☐ Facsimile ☐ Hand Delivery ☐ iCourt File & Serve ☒ Email to: jonhally@idahoconstructionlawyers.com
Susan Weeks JAMES, VERNON & WEEKS, P.A. 1626 Lincoln Way Coeur d'Alene, ID 83814	☐ U.S. Mail ☐ Facsimile ☐ Hand Delivery ☐ iCourt File & Serve ☒ Email to sweeks@jvwlaw.net

CLERK OF THE COURT

By: 
Deputy Clerk



Overlay of Nez Perce County Parcels and Water Rights 85-2127 & 85-11223



Nez Perce County, Idaho

Assessor & Treasurer Map

About

Help

Contact

Introduction

Layers

Structure

Transportation

Highways

Major Roads

All Roads

Lakes

Streams

Parcels

Herd Districts

Lewiston ACI

Subdivision

Surveys

Zip Code

Zoning

PLSS

Township & Range

Sections

City

NPT_ReservationBndry

Imagery

Lew_Imagery_2018

NPC_Imagery_2018

County Boundary

Region

Legend

© 2023 - Nez Perce County, ID

Search Print Identify Property Identity Layers Measure

Property Information



Owner(s): **CHURCH CAROL MARIE**

Legal Taxes Assessor Residential Commercial Photos Sketches

Property Address: Mailing Address:
8204 N SUMMERFIELD LOOP
HAYDEN, ID 83835

Legal Description: Document Reference:
#8827 S1/2 26 35 5W
(EXC W1/2SW1/4 & #8584 & 10275)
GFD 663145

Review Year: **2021** *[Properties are reviewed every 5 years]*

Selected Properties: 1
☒ **RP35N05W264801**

[current property all properties] by 100 feet GO

Buffer Zoom All Zoom Current



MICROFILM No.

663145

FILED
FILMED
DELIVERED
MAILED

GIFT DEED

THIS INDENTURE made this 24th day of April, 2001, by and between, **ORVELLE KONEN** and **GELENE KONEN**, husband and wife, Grantors, and **CAROL MARIE CHURCH**, a married woman, as her sole and separate property, Grantee, whose address is 205 Thiessen Road, LEWISTON, IDAHO 83501, Lewiston, Idaho 83501.

WITNESSETH:

That Grantors for and in consideration of the love and affection they bear toward Grantee, do hereby grant, bargain, sell and convey unto Grantee, the following described premises located in Nez Perce County, State of Idaho, to wit:

A division of a portion of land located in portions of the Southwest Quarter and the Southeast Quarter of Section 26, Township 35 North, Range 5 West, B.M., in the County of Nez Perce, State of Idaho, and being more particularly described as follows:

Commencing at the Northwest corner of Section 26 as shown on Instrument No. 646104:

Thence South 27°47'59" East a distance of 2910.65 feet to a point on the East right of way line of Thiessen Road as shown by Instrument No. 646104;

Thence South 16°42'02" West a distance of 153.26 feet to a point on the East right-of-way of Thiessen Road, said point being the True Point of Beginning;

Thence South 30°55'46" West along said right-of-way of Thiessen Road a distance of 489.54 feet;

Thence South 06°15'38" East along said right-of-way of Thiessen Road a distance of 468.53 feet;

Thence South 02°41'00" East along said right of way of Thiessen Road a

distance of 138.52 feet;

Thence South 24°57'52" East along said right of way of Thiessen Road a distance of 713.18 feet;

Thence South 27°04'45" East along said right of way of Thiessen Road a distance of 432.53 feet;

Thence South 32°19'00" East along said right of way of Thiessen Road a distance of 433.29 feet;

Thence South 18°18'10" East a distance of 142.56 feet to the South line of said Section 26;

Thence North 89°55'13" East along said South line of Section 26 a distance of 774.62 feet to the South Quarter corner of said Section 26;

Thence continuing along the South line of Section 26 North 89°50'39" East a distance of 204.13 feet;

Thence North 17°23'41" West a distance of 466.38 feet;

Thence North 38°47'51" West a distance of 202.54 feet;

Thence North 02°41'15" East a distance of 1764.30 feet;

Thence North 82°07'20" West a distance of 1388.51 feet to the True Point of Beginning.

Ingress and egress to be provided as shown by Instrument No. 646104, said easement is existing and being used as of this date.

Excluding therefrom any portion lying within Instrument No. 646181, Records of Nez Perce County, Idaho.

Subject to a Right-of-Way easement for Washington Water Power per Book 8, page 529 of Miscellaneous, Records of Nez Perce County, Idaho and also excepting therefrom any easements as may be found by a thorough title search of this property.

Said parcel containing 55 acres more or less.

TO HAVE AND TO HOLD the said premises, with their appurtenances, unto the said Grantee, her heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee that they are the owners in fee simple of said premises; that it is free from all encumbrances, and that they will warrant and defend the same from all lawful claims whatsoever except general taxes for the year 2001, and easements, reservations, restrictions and rights-of-way of record or in use.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year herein above first written.

Orvelle Konen
ORVELLE KONEN

Blake & Cox
4-11-01 Gelele Konen
GELENE KONEN
(Louisiana ID)

STATE OF IDAHO
County of Nez Perce

On this 27th day of April, 2001, before me, the undersigned, a Notary Public in and for said state, personally appeared **ORVELLE KONEN** and **GELENE KONEN**, known to me to be the person whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year herein above first written.



Steve R. Cox
Notary Public in and for the State of Idaho,
residing at LEWISTON therein.
My Commission Expires: 5-14-04

Search Print Identify Property Identity Layers Measure

Property Information



Selected Properties: 1

☒ RP35N05W264401Owner(s): **CHURCH CAROL MARIE**[Legal](#) [Taxes](#) [Assessor](#) [Residential](#) [Commercial](#) [Photos](#) [Sketches](#)

Property Address:

Mailing Address:

**8204 N SUMMERFIELD LOOP
HAYDEN, ID 83835**

Legal Description:

**#9281 OF W1/2 26 35 5W
(EXC #10273)**

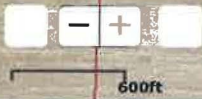
Document Reference:

GFD 699366Review Year: **2021***[Properties are reviewed every 5 years]*

Buffer

Zoom All

Zoom Current



699366

GIFT DEED

Grantors, ORVELLE KONEN and GELENE KONEN, husband & wife, of LEWISTON, IDAHO, for and in consideration of the love and affection they hold for Grantee, the daughter of Grantors, do give, grant and convey to Grantee, CAROL MARIE CHURCH, a married woman, as her sole and separate property, whose current address is 705 Thiessen Road, Lewiston, Nez Perce County, Idaho, 83501, and to Grantee's heirs and assigns the following described real property situate in the County of Nez Perce, State of Idaho, to wit:

A parcel of land located in the West ½ of Section 26, Township 35 North, Range 5 West, B.M. in the County of Nez Perce, State of Idaho, and being more particularly described as follows:

Commencing at the Northwest corner of said Section 26;

Thence South 27°47'59" East a distance of 2910.65 feet per Instrument No. 646014, records of Nez Perce County, Idaho, said point being on the East right-of-way of Thiessen Road and the True Point of Beginning;

Thence North 00°09'58" East along said right-of-way of Thiessen Road a distance of 707.17 feet;

Thence South 84°59'35" East a distance of 1308.20 feet;

Thence South 01°21'55" West a distance of 924.20 feet to the North line of Instrument No. 663145, records of Nez Perce County, Idaho;

Thence North 82°07'20" West a distance of 1340.07 feet to the East right-of-way of Thiessen Road as shown by said Instrument No. 663145;

Thence North 16°42'02" East along said right-of-way of Thiessen Road a distance of 153.76 feet to the True Point of Beginning.

Together with all improvements, water, water rights, ditches, ditch rights, easements, hereditaments and appurtenances thereunto belonging or in any way appertaining.

699366

IN WITNESS WHEREOF, the said Grantors have hereunto set their hands this
3rd day of December, 2003.

Orvelle Konen
ORVELLE KONEN

Geleene Konen
GELENE KONEN

STATE OF IDAHO)
 : ss
County of Nez Perce)

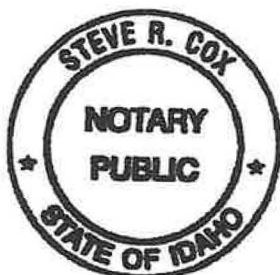
On this 3rd day of December, 2003, before me, the undersigned Notary, personally appeared ORVELLE KONEN and GELENE KONEN, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Steve R. Cox
NOTARY PUBLIC in and for the State of Idaho,
residing at LEWISTON, therein.

(SEAL)

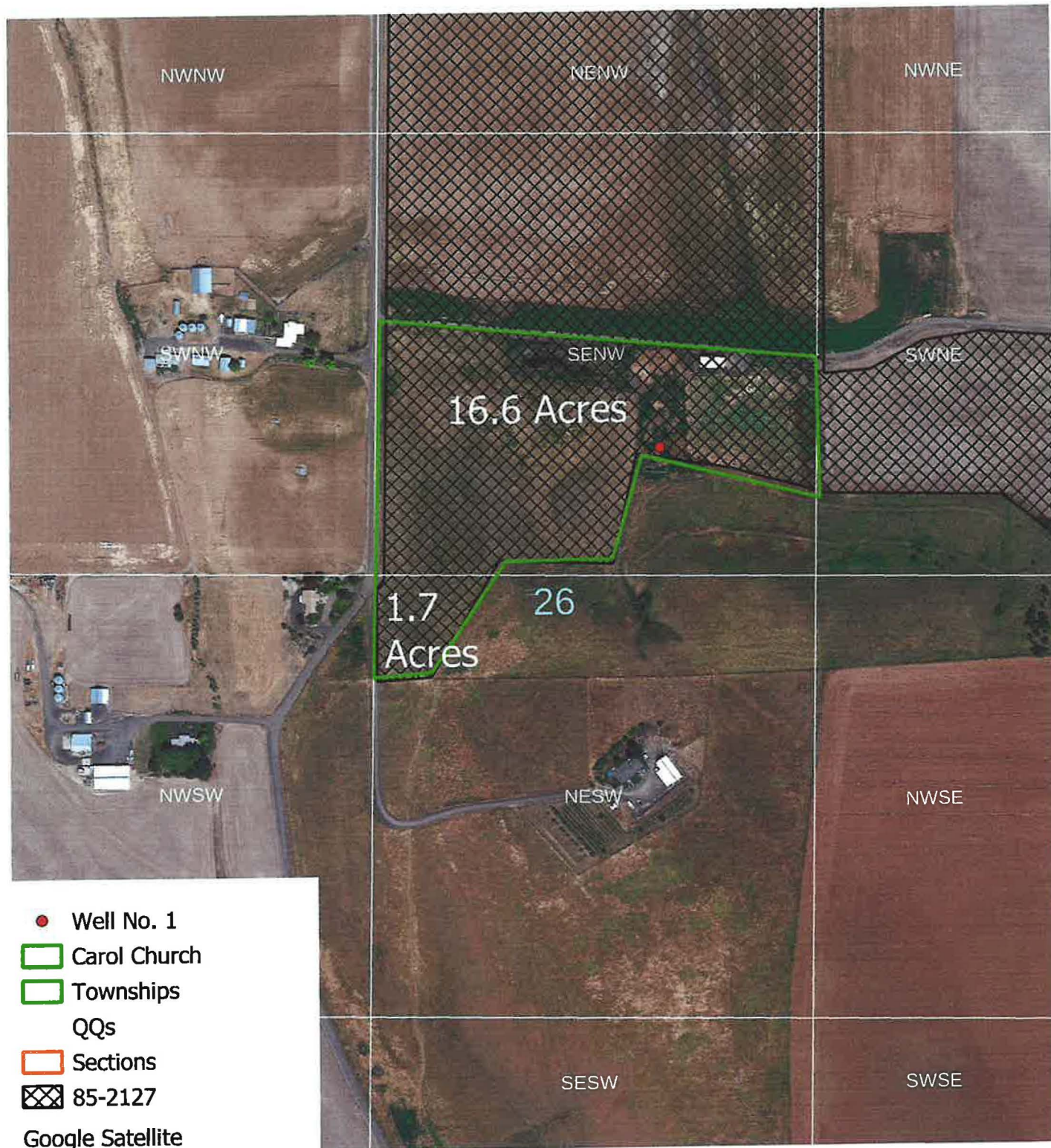
My commission expires: 5-14-04



INST. NO. 699366
FILED FOR RECORD
6:00 PM REG. BY Randall Blake Cox
2003 DEC -4 P: 4:29
PATTY O. WEEKS
RECORDER, NEZ PERCE CO ID
BY R. Riddell DEPUTY
* via Messenger

Ownership of Carol Church

T35N R5W Sec 26





IDAHO DEPARTMENT OF
WATER RESOURCES

Northern Region • 7600 N Mineral Drive, Suite 100 • Coeur D'Alene, ID 83815-7763
Phone: 208-762-2800 • Fax: 208-762-2819 • Email: northerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

March 19, 2024

CAROL M CHURCH
8204 N SUMMERFIELD LOOP
HAYDEN ID 83835-8234

Re: Change in Water Right Ownership: 85-2127 (Split into 85-2127 and **85-15864**),

Dear Water Right Holder(s):

The Department of Water Resources (Department) acknowledges the receipt of correspondence changing ownership of a portion of the above referenced water right(s) to you. The Department has modified its records based on the information received and has enclosed a computer-generated report for you.

Your portion of each water right(s) has a specified point of diversion, nature of use and place of use. If you plan to change the authorized point of diversion, nature of use, or place of use, including adding a new point of diversion, you must file an Application for Transfer of Water Right. If you do not plan to change any elements of your water right, then no further action is required at this time.

The portion of the water right retained by the original right holder retains the original water right number. The Department is sending the original right holder a copy of this letter and a computer-generated report showing the changes to the original water right.

Updating the ownership record for a water right does not reconfirm the validity of the right. When processing a Notice of Change in Water Right Ownership, the Department does not review the history of water use to determine if the right has been forfeited or deliberately abandoned through five years or more of non-use. To read more about water right forfeiture, including how to protect a water right from forfeiture, please see Idaho Code §§ 42-222 and 42-223.

Please note, water right owners are required to report any change of water right ownership and any change of mailing address to the Department within 120 days of the change. Reporting forms are available from any office of the Department, or from the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 762-2813.

Sincerely,

Natalie Steading

Natalie Steading
Tech Records Specialist 1

Enclosure(s)