

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 37-22876

Priority: May 16, 2014

Maximum Diversion Rate: 6.09 CFS
Maximum Diversion Volume: 2,818.6 AF

It is hereby certified that:

FLYING HEART RANCH II SUBDIVISION OWNERS ASSN
PO BOX 2163
HAILEY ID 83333

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated May 16, 2014, and has submitted Proof of Beneficial Use on January 30, 2020. An examination confirms water is diverted from:

Source : GROUND WATER

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
WILDLIFE	01/01 to 12/31	6.09 CFS	2,818.6 AF
RECREATION	01/01 to 12/31	6.09 CFS	2,818.6 AF
AESTHETIC	01/01 to 12/31	6.09 CFS	2,818.6 AF

Location of Point(s) of Diversion

GROUND WATER SW¼ SE¼, Sec. 32, Twp 03N, Rge 18E, B.M. BLAINE County
GROUND WATER SW¼ SE¼, Sec. 32, Twp 03N, Rge 18E, B.M. BLAINE County

Place of Use: WILDLIFE

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
02N	18E	5	X L1	X L2		X														
03N	18E	32															X			

Place of Use: RECREATION

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
02N	18E	5	X L1	X L2		X														
03N	18E	32															X			

Place of Use: AESTHETIC

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
02N	18E	5	X L1	X L2		X														
03N	18E	32															X			

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 37-22876

Conditions of Approval

1. Rights 37-7767 and 37-22876 when combined shall not exceed a total diversion rate of 10.0 cfs.
2. This right shall be limited such that no more than 10 cfs will be allowed to flow through the right holder's system (unless natural flow exceeds 10 cfs) as measured at the measuring device located at the southeastern end of the pond (SWNENE S05, T2N, R18E).
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
4. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s). Additionally, the right holder shall maintain a measuring device at the southeastern end of the pond (SWNENE S05, T2N, R18E).
5. Use of water under this right shall be non-consumptive.
6. This right shall be junior and subordinate to future water rights authorizing the diversion and use of water from the Big Wood River and its tributaries, including ground water, for consumptive uses, except that this right shall not be subordinate to future water rights for similar wildlife, recreation and/or aesthetic uses.
7. The Director retains jurisdiction over this right to determine whether the use of water is consumptive, and to require measuring devices or testing by the water right holder to determine consumption. If water is being consumed, the Director also retains jurisdiction to require mitigation, or to regulate the right in its priority with other water rights of the Big Wood River.
8. This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
9. Administration of this right to satisfy the minimum stream flow water rights in the Snake River at Murphy Gage shall not be required because use of water pursuant to this right is either non-consumptive or the right holder is required to provide ongoing mitigation to offset the depletion of water resulting from the use of this right.

This license is issued pursuant to the provisions of Idaho Code § 42-219. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

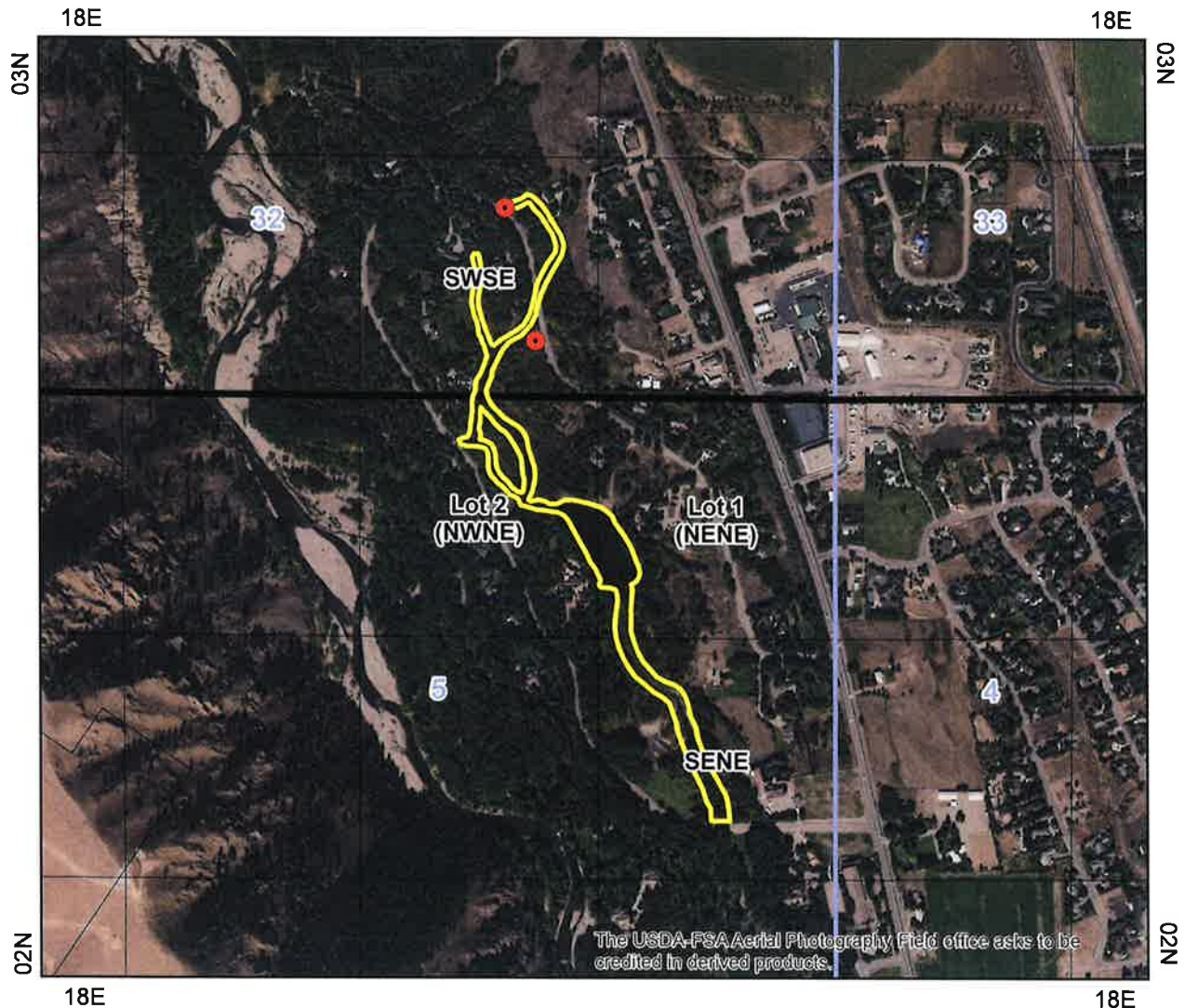
Signed this 30th day of July, 20 20.



COREY SKINNER
Southern Regional Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
37-22876

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



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

0 0.1 0.2 0.4 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 ADDISON AVE W STE 500 • TWIN FALLS, ID 83301-5858

Phone: (208)736-3033 • Fax: (208)736-3037 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

July 31, 2020

FLYING HEART RANCH II SUBDIVISION OWNERS ASSN
PO BOX 2163
HAILEY ID 83333

RE: License No. 37-22876

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources ("Department") has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district.

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

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. Water right forms are available from any office of the Department or on the Department's website at idwr.idaho.gov

If you have any questions concerning the enclosed information, please contact me at (208) 736-3033.

Sincerely,

Corey Skinner
Southern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

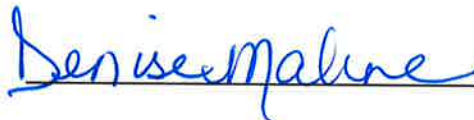
I hereby certify that on July 31, 2020, I served a true and correct copy of Water Right License No. 37-22876 by U.S. Mail, postage prepaid, to the following:

FLYING HEART RANCH II SUBDIVISION OWNERS ASSN (Current Owner)
PO BOX 2163
HAILEY ID 83333

GARY D SLETTE (Attorney)
ROBERTSON & SLETTE PLLC
PO BOX 1906
TWIN FALLS ID 83303-1906

WILL MILLER CONSULTING LLC (Representative)
PO BOX 1030
SUN VALLEY ID 83353-1030

WATER DISTRICT #37
KEVIN D LAKEY (Watermaster)
107 W 1ST
SHOSHONE ID 83352



Denise Maline
Administrative Assistant 1

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Bitzenburg, James

From: willmillerconsulting <willmillerconsulting@gmail.com>
Sent: Monday, July 20, 2020 11:44 AM
To: Bitzenburg, James
Cc: Will Miller
Subject: Flying Heart Ranch - Well Production Data
Attachments: FHR - 2015-2020 Well Production Summary.pdf; FHR - 2020 Well Pump Graph and Data 7-17-20.pdf; FHR - 2019 Well Pump Graph and Data 7-17-20.pdf; FHR - 2018 Well Pumps Graph and Data 7-17-20.pdf

Hello Jim -

Attached are 4 files for the Flying Heart Homeowners Association covering:

1. Well Test and Production Data Summary 2015 – 2020.
2. Well Production Graph and Data for 2020. This is continual data for 1/1/20 - 6/30/20
3. Well Production Graph and Data for 2019. This is continual data with gaps in 1/1/19 – 1/31/19, highlighted in yellow. Flows during the gaps have been estimated. Also, note that Well #1 was not running 4/29/19 – 6/26/19 and Well #2 was not running 4/12/19 – 7/3/19.
4. Well Production Graph and Data for 2018. The data set for 2018 is based on 16 manual reads with photographic documentation taken over the 2018 calendar year. The readings are highlighted in green. Flows during the gaps have been estimated.

Thanks, Will

Bitzenburg, James

From: Karen Roseberry <karenaroseberry@gmail.com>
Sent: Wednesday, July 08, 2020 1:41 PM
To: Bitzenburg, James
Cc: 'THOMAS MISTICK'; 'Will Miller'
Subject: FLYING HEART RANCH LETTER DTD 7/2/2020 RE: Permit to Divert Water 37-22876

Hi Jim,

Per Tom Mistick, President of the FHR and with Will Miller's consent, please change the records to replace Brockway Engineering as Representative to: Will Miller Consulting, LLC, PO Box 1030, Sun Valley, ID 83353.

Gary Slette will continue as Attorney.

Thank you.

Karen Roseberry
FHR OA Bookkeeper/Secretary
208-481-0403
karenaroseberry@gmail.com



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls ID 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037

Website: idwr.idaho.gov • Email: southerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

July 2, 2020

FLYING HEART RANCH II SUBDIVISION OWNERS ASSN
PO BOX 2163
HAILEY ID 83333

RE: PERMIT TO DIVERT WATER 37-22876

Dear Permit Holder:

I am working on licensing permit 37-22876 (see enclosed) and have been in contact with Tom Mistick and Will Miller to assist with the effort. Tom accompanied me on the Beneficial Use Examination which was completed on June 26 of this year. Our records indicate that Brockway Engineering is currently listed as representative for the Owners Association and Gary Slette is shown as the attorney. Do you wish to maintain both entities in their current positions as the permit becomes a licensed water right? Please reply via mail or email so that I can document the choice in the water right file. Thank you for your assistance.

My email address is: james.bitzenburg@idwr.idaho.gov

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Bitzenburg', written over a horizontal line.

Jim Bitzenburg
Senior Water Resource Agent

Enclosure