

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 63-34733

Priority: June 03, 2019

Maximum Diversion Rate: 2.30 CFS

This is to certify that

PECKHAM ROAD TRUST C/O GARY JOHNSTON, TRUSTEE
PO BOX 220 STAR ID 83669

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>
STOCKWATER	01/01 to 12/31	2.30 CFS

Location of Point(s) of Diversion

GROUND WATER	SE¼ NW¼, Sec. 21, Twp 04N, Rge 05W, B.M.	CANYON County
GROUND WATER	SW¼ NE¼, Sec. 21, Twp 04N, Rge 05W, B.M.	CANYON County
GROUND WATER	SW¼ NE¼, Sec. 21, Twp 04N, Rge 05W, B.M.	CANYON County
GROUND WATER	NE¼ NW¼, Sec. 21, Twp 04N, Rge 05W, B.M.	CANYON County
GROUND WATER	SW¼ NW¼, Sec. 21, Twp 04N, Rge 05W, B.M.	CANYON County
GROUND WATER	NW¼ NW¼, Sec. 21, Twp 04N, Rge 05W, B.M.	CANYON County

Place of Use: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	05W	21		X	X		X	X	X	X									

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2024**.
2. Subject to all prior water rights.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
5. Stockwater use is for 10,000 head of feedlot cattle. Rights 63-31635, 63-31636, 63-34655, and 63-34733 shall not exceed a total of 19,000 head of cattle.
6. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
7. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

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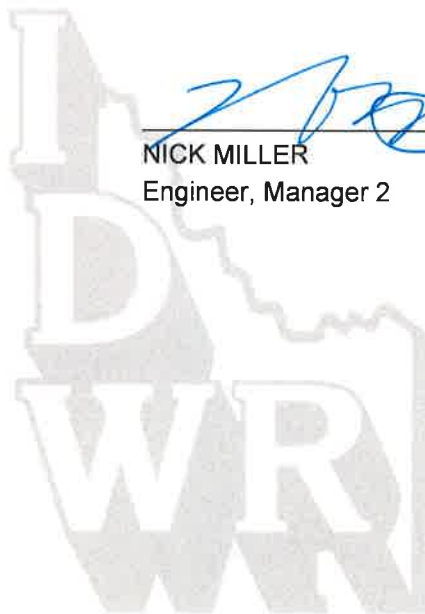
8. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.

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

Signed this 31st day of July, 2019.



NICK MILLER
Engineer, Manager 2



State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34733

This map depicts the STOCKWATER 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 0.075 0.15 0.3 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

July 31, 2019

PECKHAM ROAD TRUST
C/O GARY JOHNSTON, TRUSTEE
PO BOX 220
STAR ID 83669

RE: Permit No. 63-34733

Permit Approval Notice

Dear Permit Holders:

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

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

The final step in the water right process is issuance of a water right license. To receive a water right license, you must first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

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

Also, please note that permit holders are required to report any change of ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 334-2190.

Sincerely,



Anna Kaish

For Nick Miller
Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2019, I served a true and correct copy of Permit to Appropriate Water No. 63-34733 by U.S. Mail, postage prepaid, to the following:

PECKHAM ROAD TRUST (Current Owner)
C/O GARY JOHNSTON, TRUSTEE
PO BOX 220
STAR ID 83669



Anna Kaiser
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.

29512 1912661

1 IDWR - WESTERN REGION

2735 AIRPORT WAY
BOISE ID 83705

RECEIVED

JUL 01 2019

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO)

)SS.

County of Canyon and Ada)

Sharon Jessen
of the State of Idaho, being of first
duly sworn, deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the Counties of Canyon and Ada, State of Idaho; that the said newspaper is in general circulation in the said Counties of Canyon and Ada, and in the vicinity of Nampa, Caldwell, and Boise, and has been uninterruptedly published in said Counties during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:
06/20/2019 06/27/2019

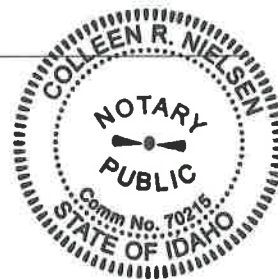


Sharon Jessen
STATE OF IDAHO)
County of Canyon and Ada)

On this 27th day of June in the year of
2019 before me a Notary Public, personally appeared
Sharon Jessen, known or identified
to me to be the person whose name is subscribed
to the within instrument, and being by me first
duly sworn, declared that the statements therein
are true, and acknowledge to me that he/she
executed the same.



Notary Public for Idaho
My Commission expires 06/28/2023



LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-34717

EG JOHNSON FARMS INC

24007 HIGHWAY 20/26

PARMA, ID 83660-7221

Point of Diversion SENE S3 T05N R04W PAYETTE

County Source GROUND WATER

Point of Diversion NESW S3 T05N R04W PAYETTE

County Source GROUND WATER

Point of Diversion SESW S3 T05N R04W PAYETTE

County Source GROUND WATER

Point of Diversion NESE S3 T05N R04W PAYETTE

County Source GROUND WATER

Point of Diversion NWSE S3 T05N R04W PAYETTE

County Source GROUND WATER

Point of Diversion SWSE S3 T05N R04W PAYETTE

County Source GROUND WATER

Point of Diversion NWSW S3 T05N R04W PAYETTE

County Source GROUND WATER

Point of Diversion SESE S3 T05N R04W PAYETTE County

Source GROUND WATER

Point of Diversion NENE S10 T05N R04W CANYON

County Source GROUND WATER

Point of Diversion SWNE S10 T05N R04W CANYON

County Source GROUND WATER

Point of Diversion SENW S10 T05N R04W CANYON

County Source GROUND WATER

Point of Diversion NENW S11 T05N R04W CANYON

County Source GROUND WATER

Point of Diversion NWNW S11 T05N R04W CANYON

County Source GROUND WATER

Use: IRRIGATION 03/01 to 11/15 11 CFS

Total Diversion: 11 CFS

Date Filed: 4/18/2019

Place Of Use: IRRIGATION

T05N R04W S3 SWNE SENE SWNW SENW NESW

NWSW SESW NESE NWSE SWSE SESE

T05N R04W S10 NENE NWNE SWNE NENW SENW

T05N R04W S11 NENW NWNW

Total Acres: 691.8

Water bearing zone to be appropriated is from 300 to 1000 feet.

63-34733

PECKHAM ROAD TRUST

C/O GARY JOHNSTON, TRUSTEE

PO BOX 220

STAR, ID 83669

Point of Diversion SENW S21 T04N R05W CANYON

County Source GROUND WATER

(2) Points of Diversion SWNE S21 T04N R05W CANYON

County Source GROUND WATER

Point of Diversion NENW S21 T04N R05W CANYON

County Source GROUND WATER

Point of Diversion SWNW S21 T04N R05W CANYON

County Source GROUND WATER

Point of Diversion NWNW S21 T04N R05W CANYON

County Source GROUND WATER

Use: STOCKWATER 01/01 to 12/31 2.3 CFS

Total Diversion: 2.3 CFS

Date Filed: 6/3/2019

Place Of Use: STOCKWATER

T04N R05W S21 NWNE SWNE NENW NWNW SWNW SENW

Water bearing zone to be appropriated is from 160 to 410 feet.

The following application has been filed to amend Permit to appropriate Water:

63-34655

PECKHAM ROAD TRUST

C/O GARY JOHNSTON, TRUSTEE

PO BOX 220

STAR, ID 83669

(2) Points of Diversion SWNE S21 T04N R05W CANYON

County Source GROUND WATER

Point of Diversion SENW S21 T04N R05W CANYON

County Source GROUND WATER

Point of Diversion NENW S21 T04N R05W CANYON

County Source GROUND WATER

Point of Diversion SWNW S21 T04N R05W CANYON

County Source GROUND WATER

Point of Diversion NWNW S21 T04N R05W CANYON

County Source GROUND WATER

Use: STOCKWATER 01/01 to 12/31 0.66 CFS

Total Diversion: 0.66 CFS

Date Filed: 5/23/2019

Place Of Use: STOCKWATER

T04N R05W S21 NWNE SWNE NENW NWNW SWNW SENW

Water bearing zone to be appropriated is from 160 to 410 feet.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s) or proposed amendment(s), please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code §§ 42-203A and 42-211. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 7/8/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

June 20, 27, 2019

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