

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 67-15256

Priority: March 20, 2018

Maximum Diversion Rate: 3.98 CFS

This is to certify, that BRYAN PECHT Or
MARIE PECHT
10090 W FLOATING FEATHER RD
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>
IRRIGATION	03/01 to 10/31	3.98 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NE ¼ SW ¼	Sec. 21,	Twp 13N,	Rge 03W, B.M.	WASHINGTON County
GROUND WATER	NW ¼ SE ¼	Sec. 21,	Twp 13N,	Rge 03W, B.M.	WASHINGTON 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		
13N	03W	21			5.0	40	31				30		33	2.0	1.0	17			40	199.0

Total Acres: 199.0

CONDITIONS OF APPROVAL

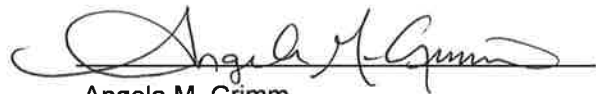
1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2023**.
2. Subject to all prior water rights.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
4. 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.
5. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
6. 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.

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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.

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

Signed this 10th day of SEPTEMBER, 2010.



Angela M. Grimm

Water Rights Supervisor

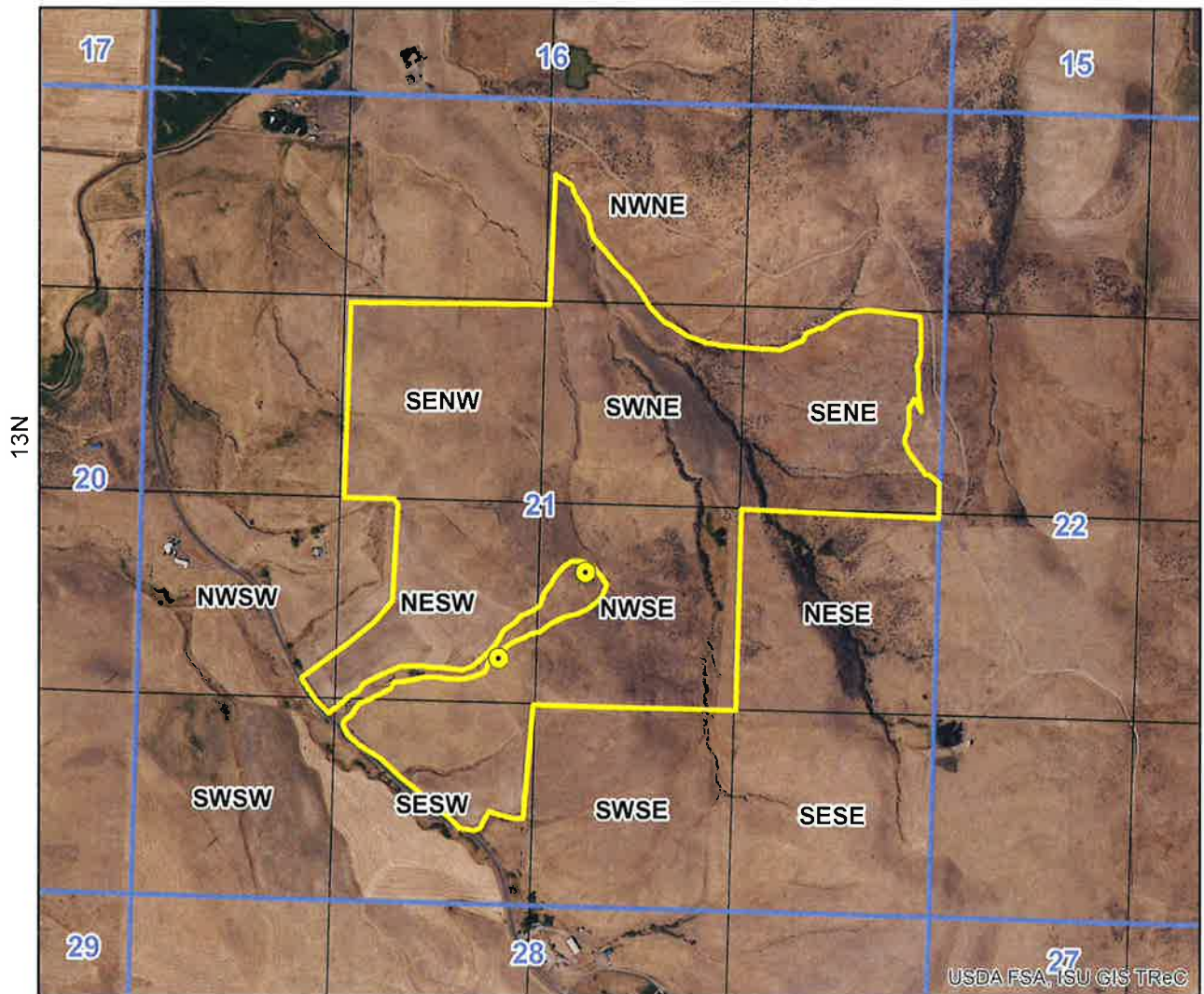
State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

67-15256

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

03W



0 0.15 0.3 0.6 Miles

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





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

C.L. "Butch" Otter
Governor

Gary Spackman
Director

September 10, 2018

MARIE PECHT
BRYAN PECHT
10090 W FLOATING FEATHER RD
STAR ID 83669-5202

RE: Permit No. 67-15256

Permit Approval Notice

Dear Permit Holder(s):

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,

A handwritten signature in black ink, appearing to read "Nick Miller", written over a horizontal line.

Nick Miller
Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2018, I served a true and correct copy of Permit to Appropriate Water No. 67-15256 by U.S. Mail, postage prepaid, to the following:

MARIE PECHT (Current Owners)
BRYAN PECHT
10090 W FLOATING FEATHER RD
STAR ID 83669-5202



Rachel Neely
Administrative Assistant I

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

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

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

MEMORANDUM

Date: September 05, 2018
To: Water Right File 67-15256
From: jshearer
Re: Rule 40 Info Request

Rule 40 info was requested July 30th, 2018. Marie Pecht contacted the Department August 30th within 30 days of the Rule 40 Request, and expressed that she would like to amend application 67-15256 to a less amount of 3.98 cfs and 199 acres. Amended application was received 9/4/2018 with said reductions to the rate and acreage, thus a Rule 40 info response was no longer necessary.

Shearer, Justin

From: Shearer, Justin
Sent: Thursday, August 30, 2018 2:56 PM
To: 'ParkCrest Homes'
Subject: RE: app permit # 67-15256 Pecht in Midvale
Attachments: Pecht Application.pdf

Good Afternoon Mr. and Mrs. Pecht,

Attached you will find a copy of your original application proposing to irrigate 205 acres at the rate of 5.0 cfs. After speaking with Marie, she had mentioned that you guys would like to amend your application down to 199 acres at the rate of 3.98 cfs.

In order to make these changes, please print off the attached application and amend and initial items 5, 6, and 9 of the application to reflect this desired change. Amendments can be made by performing a strike through with one line on the original, writing the amendment above or below, and initialing to the side. The numbers in item 9 should add up to 199 acres to reflect the reduction from 250 acres. In addition, your map should be revised to accurately reflect the 199 acres you wish to irrigate.

Once the application is amended and initialed please send back to me at your earliest convenience.

Feel free to let me know if you have any questions or concerns.

Thanks and regards,

Justin Shearer
Idaho Department of Water Resources
Water Resource Agent
(208) 334-2190
justin.shearer@idwr.idaho.gov

From: ParkCrest Homes [mailto:parkcrest@q.com]
Sent: Thursday, August 30, 2018 10:54 AM
To: Shearer, Justin <Justin.Shearer@idwr.idaho.gov>
Subject: app permit # 67-15256 Pecht in Midvale

Hey Justin, Just in case here is my e mail
address Thank You for all your kind
help!!! Marie Pecht

--

Bryan Pecht
ParkCrest Homes LLC



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 30, 2018

BRYAN PECHT Or
MARIE PECHT
10090 W. FLOATING FEATHER RD
STAR, ID 83669

COPY

Re: Application for Permit No. 67-15256 Rule 40 Additional Information Request

Dear Applicant:

The Idaho Department of Water Resources ("IDWR") is processing Application for Permit No. 67-15256. Because your proposed project qualifies as a large diversion, IDWR requests additional information required by the Water Appropriation Rules¹. This requirement includes the following items discussed in Water Appropriation Rule 40, Rule Subsections 040.05c through 040.05g (copy enclosed):

1. effect on existing water rights
2. sufficiency of water supply
3. good faith, delay or speculative purposes
4. financial resources
5. local public interest

Please submit the requested information for application processing to continue. **Your written response is required within the next thirty (30) days.** You may seek additional time to provide the information if necessary. The application will be voided without a timely written reply. Refunds are not available for voided applications.

IDWR rules, forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Sincerely,

Justin Shearer
Water Resource Agent

Enclosure: IDAPA 37.03.08.040.05.c-g

¹ IDAPA 37.03.08 – Water Appropriation Rules

IDAPA 37.03.08.040.05.c-g
Water Appropriation Rules 40.05.c through 40.05.g

c. The following information shall be submitted for applications to appropriate unappropriated water or trust water... Information relative to the effect on existing water rights, Section 42-203A(5)(a), Idaho Code, shall be submitted as follows:

i. For applications appropriating springs or surface streams with five (5) or fewer existing users, either the identification number, or the name and address of the user, and the location of the point of diversion and nature of use for each existing water right shall be submitted.

ii. For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to all existing wells and springs and permitted wells within a one-half mile radius of the proposed well.

iii. Information shall be submitted concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights.

d. Information relative to sufficiency of water supply, Section 42-203A(5)(b), Idaho Code, shall be submitted as follows:

i. Information shall be submitted on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year.

ii. Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on other sources of supply that may be used to supplement the applied for water source.

e. Information relative to good faith, delay, or speculative purposes of the applicant, Section 42-203A(5)(c), Idaho Code, shall be submitted as follows:

i. The applicant shall submit copies of deeds, leases, easements or applications for rights-of-way from federal or state agencies documenting a possessory interest in the lands necessary for all project facilities and the place of use or if such interest can be obtained by eminent domain proceedings the applicant must show that appropriate actions are being taken to obtain the interest. Applicants for hydropower uses shall also submit information required to demonstrate compliance with Sections 42-205 and 42-206, Idaho Code.

ii. The applicant shall submit copies of applications for other needed permits, licenses and approvals, and must keep the department apprised of the status of the applications and any subsequent approvals or denials.

f. Information Relative to Financial Resources, Section 42-203A(5)(d), Idaho Code, shall be submitted as follows:

i. The applicant shall submit a current financial statement certified to show the accuracy of the information contained therein, or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the beneficial use proposed.

ii. The applicant shall submit plans and specifications along with estimated construction costs for the project works. The plans shall be definite enough to allow for determination of project impacts and implications.

g. Information Relative to Conflict with the Local Public Interest, Section 42-203A(5)(e), Idaho Code, shall be submitted as follows: The applicant shall seek comment and shall submit all letters of comment on the effects of the construction and operation of the proposed project from the governing body of the city and/or county and tribal reservation within which the point of diversion and place of use are located, the Idaho Department of Fish and Game, the Idaho Department of Environmental Quality, and any irrigation district or canal company within which the proposed project is located and from other entities as determined by the director.

RECEIVED

JUL 09 2018

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO)
) SS
COUNTY OF WASHINGTON)

Dara J Victorino being duly sworn, deposes and says that she is the Principle Clerk of the Upper Country News-Reporter, a weekly newspaper printed and published at Cambridge, Washington County, State of Idaho and having a general circulation therein and which said newspaper has been published continuously and uninterrupted in said County for a period of seventy-eight (78) consecutive weeks prior to the first publication of the advertisement, a copy of which is attached thereto: that advertisement was published in the regular edition of The Upper Country News-Reporter for two (2) insertions beginning with the Issue of June 20, 2018 and ending with the Issue of June 27, 2018.

Dara J Victorino

On this 2nd day of July, 2018, before me, a Notary Public, personally appeared Dara J Victorino, known or identified to me to be the person whose name subscribed to the written instrument, and being by me first and duly sworn, declared that the statements therein are true and acknowledged to me that she executed the same.

Melissa Dougherty

Notary Public of Idaho

Residing at Council, Idaho

My Commission Expires 11/30/2023

MELISSA DOUGHERTY
Notary Public
State of Idaho

To: IDAHO DEPARTMENT OF WATER RESOURCES

Subject: APPLICATION TO APPROPRIATE 67-15256 - PECHT, BRIAN & MARIE

LEGAL NOTICE

The following application has been filed to appropriate the public waters of the State of Idaho:

67-15256

BRYAN PECHT

MARIE PECHT

10090 W FLOATING FEATHER

STAR, ID 83669

Points of Diversion NESW NWSE S21 T13N R03W WASHINGTON County Source GROUND WATER

Use: IRRIGATION 03/01 to 10/31 5 CFS

Total Diversion: 5 CFS

Date Filed: 3/20/2018

Place of Use: IRRIGATION

T13N R03W S21 NE(ALL) SENW SW(ALL) NWSE

Total Acres: 250

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), please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-203A. 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 7/9/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 6/20/2018 and 6/27/2018

Published in the Upper Country News-Reporter on
June 20, 2018 • June 27, 2018