

IDAHO DEPARTMENT OF WATER RESOURCES  
Proof Report

6/25/2020

Water Application 45-7579

<b><u>Owner Type</u></b>	<b><u>Name and Address</u></b>
Current Owner	HEPWORTH FARMS RT 2 BOX 2206 BURLEY, ID 83318

**Status:** Denied

**Source**

**Tributary**

**Beneficial Use**

**From**

**To**

**Diversion Rate**

**Volume**

**Source and Point(s) of Diversion**

**Place Of Use**

**Conditions of Approval:**

**Comments:**

**Dates and Other Information**

Application Denied Date: 11/1/2000  
Number of Protests: 0  
Water District Number: TBD  
Application Type: New Appropriation  
Mitigation Plan: False

**Combined Use Limits**

N/A

**SubCase:**

N/A

**Water Supply Bank:**

N/A

## MEMO

FROM: Allen Merritt 

DATE September 26, 2000

TO: Permit No:	43-07208	In the Name of:	Scott Knudsen
	43-07211		Kirtland Yates
	43-07212		Warr Brothers
	43-07299		Interstate Feeders Inc
	45-07576A		Conrad Land & Livestock
	45-07576B		Ida-Gold Farms
	45-07578		Cummins Farms Inc
	45-07579		Ron Hepworth / Hepworth Farms
	45-07607		Lambert Produce Inc
	45-07665		Lambert Produce Inc
	45-07666		Lambert Produce Inc
	45-07667		Lambert Produce Inc

Subject: Review and Recommendation

The above applications for permit have been filed for development of ground water in an established critical ground water area. In reviewing the history of why these applications were filed it appears that they were filed shortly after the Swan Falls agreement and the intention was to obtain the benefits of subordination of Idaho Powers' water rights to existing or proposed developments. In many but not all instances, the lands covered by the above filings were subsequently covered by expansion claims in the SRBA process.

This block of applications in critical ground water areas was identified in July of 2000. It appears that these applications cannot and will not ever be processed due to the critical ground water designation. In early August a letter was sent providing the applicants opportunity to withdraw their application and get a refund of the fees that have been paid. A few applications were withdrawn but the remaining applications listed above have not been withdrawn.

## RECOMMENDATION

**I recommend that the above listed applications be denied. Denial should be in the form of a preliminary order. The reason for denial is that they all propose ground water development in a critical ground water area which is not allowed.**

45-07579



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

9/1/00

Mr. Ron Hepworth  
HEPWORTH FAMILY LIMITED PARTNERSHIP  
668 S 800 W  
BURLEY ID 83318

RE: Application for Permit 45-07579

Dear Mr. Hepworth,

Mr. Young asked that I look into your concerns about the above referenced application and especially it's relation to Snake River Basin Adjudication claim, A45-10310. I have looked at the claim, the overlapping licenses and the various administrative transfers that have been filed and approved. In addition, I was able to examine a 1978 aerial photograph for the area and confirmed that the area was cultivated and apparently irrigated in 1978.

A brief review of the SRBA claim indicates that it was filed as an enlargement of the existing licenses. Because the land was irrigated prior to closure of the area (closed by the order establishing the West Oakley Fan Critical Ground Water Management Area in 1982) IDWR can evaluate the claim pursuant to §42-1426 I.C. This statute provides that individuals who developed irrigation later than the 1963 mandatory permit statute can be recommended a right for irrigation diversion volume in the SRBA if there is no increase in diversion flow rate from the licensed well(s), nor injury to other rights. There are other factors that will need to be evaluated to arrive at a final recommendation in the SRBA, but it appears at this time that IDWR would make an affirmative recommendation for most, if not all, of the claimed use.

I would like to point out that approved transfer #4193 appears to have misspoken the total flow rate authorized. The total flow rate should be limited to the licensed capacity of 16.12 cfs, since the enlargement claim A45-10310 does not provide any flow rate. Condition #3 on the transfer approval correctly specifies the diversion volume limit of 5080 acre feet per year, metering is required.

Hopefully this analysis provides adequate information for you to make an informed decision about Application 45-07579. If you have other question please give me a call.

Sincerely,

Douglas Jones, PE  
Water Rights Supervisor  
Southern Adjudication Unit

cc: N. Young, D. Tuthill, A. Merritt, files 45-07579 & 45-10310

MEMORANDUM

TO: DAVE TUTHILL *Dm*  
FROM: NORM YOUNG *NY*  
RE: RON HEPWORTH CLAIMS  
DATE: August 25, 2000

*Doug Jones*

*Doug, would you please  
make the analysis  
contemplated by this  
memo & contact Mr.  
Hepworth?*

*Thanks,*

*Dave*

On August 22, 2000, Ron Hepworth met with me to discuss the potential impact on his water use if Application for Permit No. 45-07579 is withdrawn or denied. He, along with others having pending applications in critical ground water areas received a letter from IDWR Southern Region indicating that our records were being cleared of such applications – either withdraw or have the application denied. He indicated that he has irrigated the 320 acres of land to be covered by the application since 1978. The West Oakley Fan CGWA was designated in 1982 and Application 45-07579 was filed July 1, 1985.

He told me that the point of diversion is used to irrigate other land that he owns and that he had filed an expansion claim (probably No. 45-10310) to cover the 320 acres.

My response to him was that the application could not be approved without specific information showing water was available. Given that the water levels continue to decline in the CGWA, it seems unlikely that he can show water is available for his application. We then discussed the need for a management plan to be adopted to allow continued use of a water right decreed under the expansion statute. He is confident that SW Irrigation District will provide this plan and left me with the impression that he will be satisfied with a decreed expansion right.

I told him we would review his claims to be sure that the expansion claim properly addresses the same land covered by Application 45-07579. If it does not, he needs to know so that he can try to protect the application. Please have someone evaluate whether Hepworth has filed a claim or claims that if decreed will allow irrigation of the land covered by the application. Let him know what we find.

c. Allen Merritt

RECEIVED

AUG 31 2000

Department of Water Resources  
Southern Region



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

August 2, 2000

RON HEPWORTH  
HEPWORTH FARMS  
RT 2 BOX 2206  
BURLEY ID 83318

RE: Application for Permit in Critical Ground Water Area

Dear Applicant:

Our office has initiated a review of applications for permits to appropriate the public waters of the State of Idaho that have been held without action for many years. One type of application being held is those which propose development of ground water within an established critical ground water area. Our records indicate you have filed such an application. (Please find attached a computer printout describing your application)

Our office intends to dispose of all applications seeking ground water development in critical areas by denying the applications. Before initiating this action our office intends to provide you opportunity to withdraw your application and request a refund of the filing fees that have been paid.

Please review this matter and if you wish to withdraw your application please complete the enclosed form. If our office does not receive a withdrawal by September 1<sup>st</sup>, 2000 your application will be forwarded to the IDWR State Office with a recommendation it be denied. Any denial will be in the form of a preliminary order which you may request reconsideration or judicial review pursuant to procedural rules.

If you have questions, please feel free to contact this office.

Sincerely,

Allen Merritt, PE  
Southern Region Manager

WR0749NP  
No. 45-07579

IDAHO DEPARTMENT OF WATER RESOURCES  
WATER RIGHT PROFILE REPORT

DATE: 06/05/00  
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	HEPWORTH FARMS RT. 2 BOX 2206 BURLEY ID 83318	07/01/1985	IRRIGATION	03/15 11/15	4.000 CFS	
					TOTAL DIVERSION:	4.000 CFS

Water Source: GROUNDWATER

Tributary to:

Stage: APPLICATION

Point(s) of Diversion: T11S R21E S25 NWNW CASSIA County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE								
NENE NWNE SWNE SENE				NENW NWNW SWNW SENW				NESW NWSW SWSW SESW				NESE NWSE SWSE SESE								
T	R	S		Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM
11S	21E	26	:	40		40		40		40		:								320.0
																			TOTAL ACRES	320.0

Pou County: CASSIA

Dates:	App. Received:	Priority Date:	07/01/1985
	Proof Due Date:	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:		

Misc: Water District Number: Field Exam Fee:

Comments: Date: 06/05/2000 User-ID: MBALDWIN Subject: WEST OAKLEY FAN CGWA  
This application is within the West Oakley Fan-Critical Groundwater Area.

Audit: 09/22/87 05/28/88 CONVERT

*Address update on database per info from US Post Office on 8/11/00.*

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
1341 Fillmore Street, Suite 200  
Twin Falls, Idaho 83301-3380

RETURN SERVICE REQUESTED

668 south 800 west

RECEIVED

AUG 11 2000

Department of Water Resources  
Southern Region

NOT DELIVERABLE  
AS ADDRESSED -  
UNABLE TO FORWARD

RON HEPWORTH  
HEPWORTH FARMS  
RT 2 BOX 2206  
BURLEY ID 83318

**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
**APPLICATION FOR PERMIT**

To appropriate the public waters of the State of Idaho

Ron Hepworth

1. Name of applicant Hepworth Farms Phone 678-5790

Post office address RT#2 Box 2206, Burley, ID. 83318

2. Source of water supply Groundwater which is a tributary of \_\_\_\_\_

3. Location of point of diversion is NW  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of Section 25 Township 11S

Range 21E B.M. Cassia County, additional points of diversion if any: \_\_\_\_\_

4. Water will be used for the following purposes:

Amount 4.0 for Irrigation purposes from Mar-15 to Nov-15 (both dates inclusive)  
(cfs or acre-feet per annum)

Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)

Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)

Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 4.0 cubic feet per second and/or b. \_\_\_\_\_ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Well, pump, sprinkler  
System

b. Height of storage dam \_\_\_\_\_ feet, active reservoir capacity \_\_\_\_\_ acre-feet; total reservoir capacity \_\_\_\_\_ acre-feet, materials used in storage dam: \_\_\_\_\_

Period of year when water will be diverted to storage \_\_\_\_\_ to \_\_\_\_\_ inclusive.  
(Month/Day) (Month/Day)

c. ~~Proposed~~ well diameter is 20 inches; ~~proposed~~ depth of well is 580 feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial

use is 5 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: \_\_\_\_\_  $\frac{1}{4}$  of \_\_\_\_\_  $\frac{1}{4}$  of Section \_\_\_\_\_ Township \_\_\_\_\_

Range \_\_\_\_\_ B.M.

(2) Amount of power to be generated: \_\_\_\_\_ horsepower under \_\_\_\_\_ feet of head.

(3) List number of each kind of livestock to be watered \_\_\_\_\_

(4) Name of municipality to be served \_\_\_\_\_, or number of families to be supplied with domestic water \_\_\_\_\_.

(5) If water is to be used for other purposes describe: \_\_\_\_\_



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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
11S	21E	26	40	40	40	40	40	40	40	40									320

Total number of acres to be irrigated 320

c. Describe any other water rights used for the same purposes as described above. None

9. a. Who owns the property at the point of diversion Applicant

b. Who owns the land to be irrigated or place of use Pickett Land & Livestock

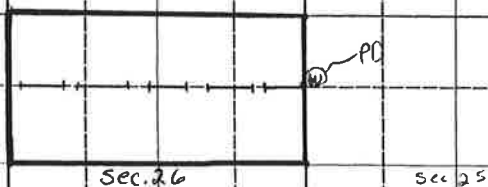
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Long-term lease agreement

10. Remarks Water was first applied to this land in 1978  
& has been irrigated every year since that time.

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

R. 21E

T. 11S.



Scale: 2 inches equal 1 mile.

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

*Hepworth Farm Inc.*  
by *Ron Hepworth* (Pres)  
(Applicant)

Received by TGB Date 7-1-85 Time 10:00 Am  
Preliminary check by [signature] Fee \$ 105.<sup>00</sup>  
Receipted by [signature] Date 7/1/85 # 36679  
Publication prepared by \_\_\_\_\_ Date \_\_\_\_\_  
Published in \_\_\_\_\_  
Publication dates \_\_\_\_\_  
Publication approved \_\_\_\_\_ Date \_\_\_\_\_  
Protests filed by: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Copies of protests forwarded by \_\_\_\_\_  
Hearing held by \_\_\_\_\_ Date \_\_\_\_\_  
Recommended for approval denial by Adm

**ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES**

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. \_\_\_\_\_, and said application is hereby \_\_\_\_\_.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before \_\_\_\_\_, 19 \_\_\_\_.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: