

IDAHO DEPARTMENT OF WATER RESOURCES  
Proof Report

6/8/2020

Water Application 43-7211

**Owner Type**      **Name and Address**

Current Owner      JANET YATES  
1941 S 2450 E  
MALTA, ID 83342  
(208) 645-2438

Current Owner      KIRTLAND YATES  
1941 S 2450 E  
MALTA, ID 83342  
(208) 430-3330

**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 A few applications were withdrawn but the remaining applications listed above have not been withdrawn.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.**

43-07211

WR0749NP  
No. 43-07211

IDAHO DEPARTMENT OF WATER RESOURCES  
WATER RIGHT PROFILE REPORT

DATE: 10/04/00  
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	KIRTLAND YATES 1941 S 2450 E MALTA ID 83342 (208) 645-2438	06/26/1985	IRRIGATION	03/15 11/15	1.900 CFS	
TOTAL DIVERSION:					1.900 CFS	
C	JANET YATES 1941 S 2450 E MALTA ID 83342					

Water Source: GROUNDWATER

Tributary to:

Stage: APPLICATION

Point(s) of Diversion: T13S R27E S33 NWSW

CASSIA County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE												
T	R	S		NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		
13S	27E	33	:					:	40	40	40	40	:	40	40			:						240.0
TOTAL ACRES																							240.0	

Pou County: CASSIA

Dates: App. Received: Priority Date: 06/26/1985  
Proof Due Date: Proof Made Date:  
Exam Made Date: 09/30/1991 Exam Sent to S.O.:  
Licensed Date:

Misc: Water District Number: Field Exam Fee:

Comments: Date: 06/05/2000 User-ID: MBALDWIN Subject: RAFT RIVER GWMA  
This application is within the Raft River Critical Groundwater  
Management Area.

Date: 10/04/2000 User-ID: MBALDWIN Subject: ADDRESS UPDATE  
Address updated per t/c from applicant approximately 8/10/00.

Audit: 09/22/87 05/28/88 CONVERT 10/08/91 TRYON 02/08/98 CLEARFLD  
06/05/00 MBALDWIN



## 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 10, 2000

Janet Yates  
1941 S 2450 E  
Malta, ID 83342

RE: Request for information  
Application for Permit 43-07211

Dear Mrs. Yates:

Please find enclosed printouts for the Snake River Basin Claims (SRBA) which we discussed on the phone yesterday. Claim A43-02307 is for the old original license for irrigation on the property. Claim A43-10593 is for expanded use of the original license on additional acres. Claim A43-10188 is for the domestic well on the farm.

Also enclosed is a copy of 42-1416B of the IDAHO CODE which deals with expansion claims in critical ground water areas such as your claim A43-10593.

As we discussed, your application for water permit filed in 1985 (43-07211) has no bearing on how your SRBA claims will be reviewed and recommended. As you know this application has been held without action since 1985. Review of data by the department finds the Raft River Critical Ground Water Area continues to be overdrafted and approval of any new water right application is not possible. For this reason all pending water right applications are going to be denied. Before this process you are given the opportunity to withdraw your application 43-07211 and get the fees refunded that were paid for this application (\$65.00). After September 1, 2000 no refunds will be given and the applications will start the process of being denied. In that process you are provided opportunity to respond to the preliminary order that will be issued denying your application pursuant to IDWR procedural rules. Ultimately if you wish you may appeal the denial to the district court.

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

Sincerely,

Allen Merritt, PE  
Southern Region Manager



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

KIRKLAND &/OR JANET YATES  
MALTA ID 83342

1941 S. 2450 E

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

U241,

43-02307

43-10553

See 1

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
PROOF OF BENEFICIAL USE

RECEIVED

JUN 26 1985

Department of Water Resources  
Southern District Office

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed development under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below:

Permit No. 43-7211

Name(s) of Permit Holder: Kirkland & Janet Yates

Post Office Address: M21t2, Idaho.

Telephone No. 645-2438

Source of Water: Groundwater.

Extent of Use:

Domestic \_\_\_\_\_ (number of households)

Stockwater \_\_\_\_\_ (number and type of stock)

Irrigation 240 \_\_\_\_\_ (acres)

Other/Remarks \_\_\_\_\_

Indicate the date water was first diverted and beneficially used under this permit: Prior to Oct. 1

Measuring Device: Required? ☐ Yes ☐ No  
Installed? ☐ Yes ☐ No

Flow Measurement Port: Required? ☒ Yes ☐ No  
Installed? ☐ Yes ☐ No

Person to contact to accompany the Department representative during the field examination:

Applicant

(Name)

(Address)

(Telephone Number)

The above information is a true statement of the extent to which the above numbered permit has been developed.

Date

6/26/85

Signature of Permit Holder (and Title, if appropriate)

Kirkland Yates

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

Ident. No. 43-7211  
**RECEIVED**

JUN 26 1985

To appropriate the public waters of the State of Idaho Department of Water Resources  
Southern District Office

1. Name of applicant Kirtland &/or Janet Yates Phone 645-2438

Post office address Malta, ID 83342

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

3. Location of point of diversion is NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 33 Township K4, 13S

Range 27E B.M. Cassia County, additional points of diversion if any: \_\_\_\_\_

4. Water will be used for the following purposes:

Amount 1.90 K.Y. 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. 1.90 K.Y. cubic feet per second and/or b. 1.56 acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Existing well & pump, sprinklers

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 \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 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:

[illegible]

Total number of acres to be irrigated 240

c. Describe any other water rights used for the same purposes as described above.

Lic. 43-2307 - 2.90 cf, 166.5 cfm

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

b. Who owns the land to be irrigated or place of use

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing \_\_\_\_\_

10. Remarks This system was expanded in the spring of 1984 with the installation of  
sprinklers. The well pump was increased from 60 hp to 100 hp in 1981, and  
another 60 acres was put under irrigation. The expansion was completed in  
the spring of 1984 when a full sprinkler system was installed. If this  
application can be approved, we feel that this development should have  
priority over the water rights of Idaho Power Co.

Lands presently have 2.90cfs Licensed on 166.5 acres.

Total lands presently irrigated = 240 acres.

This filing is being made to cover the total 240 acres with  $1\frac{1}{2}$  acre when combined with license 43-2307.

$$240 \times .02 = 4.80 \text{ max. allowable}$$

2.90 existing license

1.90 amt. of this filing.

K. Gates



A hand-drawn map on grid paper. A rectangular area is outlined in the center. To the left of the rectangle is the label "T.135". Above the rectangle is the label "R. 27E". Inside the rectangle, the numbers "42" and "155" are written in the top row, "117" in the middle row, and "810" in the bottom row. To the right of the rectangle is the label "33". Below the rectangle, there are several small 'x' marks and the number "2.45".

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.

Kentland Yates  
(Applicant)

Received by ADM Date 6/26/85 Time 2:35 p.m.

Preliminary check by VB Fee \$ 65.00

Received by ADM Date 6/26/85 # 36636

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: