IDAHO DEPARTMENT OF WATER RESOURCES Proof Report

Water Application 43-7211

Owner Type Current Owner	<u>Name and Address</u> JANET YATES 1941 S 2450 E MALTA, ID 83342 (208) 645-2438	<u>.</u>			
Current Owner	KIRTLAND YATES 1941 S 2450 E MALTA, ID 83342 (208) 430-3330				
Status: Denied					
Source			Tributary		
Beneficial Use		<u>From</u>	<u>To</u>	Diversion Rate	<u>Volume</u>
Source and Point	(s) of Diversion				
Place Of Use					
Conditions of Ap	proval:				
Comments:					
Dates and Other I Application Denied Number of Protest Water District Num Application Type: I Mitigation Plan: Fa	l Date: 11/1/2000 s: 0 nber: TBD New Appropriation				
<u>Combined Use Li</u> N/A	mits				
<u>SubCase:</u> N/A					
Water Supply Ban N/A	<u>nk:</u>				

Son FROM: Allen Merritt

TO: Permit No:

43-07208 43-07211 43-07212 43-07299 45-07576A 45-07576B 45-07578 45-07579 45-07607 45-07665 45-07666 45-07667

In the Name of:

DATE September 26, 2000

Scott Knudsen Kirtland Yates Warr Brothers Interstate Feeders Inc Conrad Land & Livestock Ida-Gold Farms Cummins Farms Inc Ron Hepworth / Hepworth Farms Lambert Produce Inc Lambert Produce Inc Lambert Produce Inc 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 A few applications were withdrawn but the remaining applications listed above have not been withdrawn.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.

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IDAHO DEPARTMENT OF WATER RESOURCES WATER RIGHT PROFILE REPORT

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C JANET YA							
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MALTA ID	83342						
	2						
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			HOW .			CASSI	A County
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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

August 10, 2000

KARL J. DREHER DIRECTOR

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 applications (\$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 lent

Allen Merritt, PE Southern Region Manager



State of Idahc DEPARTMENT OF WATER RESOURCES 1341 Fillmore Street. Suite 200, Twin Falls, ID 83301-3380 Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

August 2, 2000

DIRK KEMPTHORNE GOVERNOR

KARL J. DREHER DIRECTOR

KIRKLAND &/OR JANET YATES MALTA ID 83342

19415. 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 1st, 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.

Sincereby lent

Allen Merritt, PE Southern Region Manager

INIL-47-02307 43-10553 S. J

Form 217 12/84

STATE OF IDAHO



DEPARTMENT OF WATER RESOURCES

JUN 26 1985

PROOF OF BENEFICIAL USE

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 the Janet Yates
Post Office Address: M2/tz, Idzho.
Telephone No645-2438
Source of Water: <u>Groundwater</u> .
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:
Indicate the date water was first diverted and beneficially used under this permit: $\frac{Prior + Qcs}{1984}$. Measuring Device: Required? \Box Yes \Box No Installed? \Box Yes \Box No
Flow Measurement Port: Required? Yes I No Installed? Yes No
Person to contact to accompany the Department representative during the field examination:
(Name)
(Address) (Telephone Number)

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

6/26/85 Date

Kitland Yak

Signature of Permit Holder (and Title, if appropriate)

		PARTME	TATE OF INT OF WA	TER RES			GEIVE JN 26 1985
	То ар	propriate th	e public wat	ers of the S	State of Id		nt of Water Res. am District Offic
Name of a	pplicant <u>Kirt</u>	land &/or J	Janet Yates		Phone	645-2438	
Post office	address <u>Malt</u>	a, ID 8334	2				
Source of	water supply	Groundwat	ter	which is a	tributary o	f	KY.
Location o	of point of divers	ion is <u>NW</u>	¼ ofSW	¼ of Section	1 <u>33</u>	Township	13 s
Range _2	<u>7E</u> B.M.	Cassia	1	County, add	itional poin	ts of diversion i	f any:
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b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

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

Kirthanox yales

	Receipted 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

This is to certify that I have examined Application for Permit to appropriate the public waters of the State

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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 be-

fore _____, 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:

8 oc 2

3.12