

MAY-03-01 THU 11:03 AM

P. 02

Form 42-222A
12/99Ident. No. TC-34-02

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES TEMPORARY CHANGE APPLICATION

(To change point of diversion, place of use or purpose of use)

Name of Applicant Mark Gates Phone 588-2447
Post Office Address 5306 Zollinger Road Mackay ID 83251

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change purpose of use ☐ Other

2. Describe the proposed change(s) and the reason(s) thereof changing water use to
compensate for drought conditions

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>34-00871</u>	<u>10-01-1885</u>	<u>1.6 cfs</u>	<u>irrigation</u>	<u>5-25</u> to <u>10-15</u>
				to
				to
				to

2. Total amount of water being transferred 1.6 cfs cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Warm Spring Creek tributary to Big Lost River

4. Point(s) of Diversion:

Tract No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
		SE	NE		6	8N	23E	Custer	Warm Springs

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
8N	23E	6		40	40	20				40									
8N	23E	5							20										

Total Acres 160

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MAY-03-01 THU 11:03 AM

6. General Information:

- a. Who owns the water right to be changed? Mark Gates
- b. Describe the arrangement allowing use of the right personal transfer
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
will be left dry
- d. Has the water right sought to be transferred been used this year? no If yes, explain _____
- e. Absent the changes, how would the right be used for the remainder of the year? would be used on decreed place of use
- f. Describe other water rights used for the same purpose.
none
- g. Remarks _____

I hereby assume all risk in accordance with Section 42-222A, Idaho Code, and assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.

Cindy J. Gregory for Mark J. Gates
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by HWT Date 5-30-01 Fee \$50

Receipted HWT # E026758 Recommend: approve deny

Watermaster recommendation Approve

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. _____

And said application is hereby APPROVED subject to the following limitations and conditions:

1. Subject to receipt of appropriate filing fee
2. Subject to Control of water Dist #4 watermaster
3. Expires on Nov 1, 2001
4. Measuring device required

Witness my hand this 29th day of May 2001

[Signature]
For the Director

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT 34-871 IN THE NAME)
OF MARK GATES, TRUSTEE)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

WHEREAS, a drought emergency has been declared for Custer County to allow administrative actions to lessen the severe impacts of the drought conditions in the county; and

WHEREAS, section 42-222A, Idaho Code, provides that upon declaration of a drought emergency, the director of the Department of Water Resources (A Department) is authorized to allow temporary changes in the point of diversion, the place of use, and the purpose of use for valid existing water rights or temporary exchanges of water, as provided in section 42-240, Idaho Code, when the director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, Idaho Code; and

WHEREAS, on May 25, 2001, Gates submitted the attached Temporary Change Application ("application") to the Department; and

WHEREAS, the Department has reviewed the application and has determined the application can be approved with certain conditions; and

WHEREAS, The applicant assumes all risk and is the responsible party if diversion and use of water under the temporary change approval causes injury to other water rights or constitutes an enlargement in use of the original right;

ORDER

IT IS HEREBY ORDERED that the application is **APPROVED** subject to the following conditions:

1. Diversion and use of right no(s). 34-871 is authorized only at the point of diversion and place of use described on the application or as otherwise approved in this order.
2. This temporary change approval does not authorize construction of a new well as a new point of diversion.
3. This temporary change approval may only be used to provide a

replacement water supply to lands or other uses that normally have a full water supply, except for the drought condition. This temporary change approval may not be used to provide water for new development or to allow expansion of the use of water under existing water rights.

4. Right(s) 34-871 are limited to the irrigation of a total of 160 acres in a single irrigation season.
5. This temporary approval does not authorize the use of diversion works or a delivery system owned by or managed by a corporation or an irrigation district without the written consent of such corporation or irrigation district.
6. The applicant agrees to hold the director and the state of Idaho harmless from all liability on account of the diversion and use of water under this temporary change approval.
7. This temporary change approval does not grant any right-of-way or easement to use the diversion works or conveyance works of another person or entity.
8. The applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval. (If this condition or a similar one is used, describe the required frequency of measurement and when and where to report the amount of measured water).
9. The watermaster of Water District No. 34 is authorized to administer the temporary change approval.
10. This temporary change approval expires on 10-15-01 unless rescinded or extended by the director. Thereafter, the water right shall revert to the point of diversion, place of use and nature of use existing prior to the temporary change approval.

DATED this 31st day of May, 2001.


AUTHORIZED PERSON
IDWR

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right ReportNEW

WATER RIGHT NO. 34-871

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ELIZABETH W GATES TRUSTEE
Current Owner	MARK T GATES TRUSTEE
	700 EMERSON ST
	PALO ALTO, CA 94301
	(415)321-5982
Current Owner	PRISCILLA B WOODS
Current Owner	WARD W WOODS
	C/O MARK T GATES
	700 EMERSON ST
	PALO ALTO, CA 94301
	(415)321-5982
Directors Report Owner	BRET L ZOLLINGER
Directors Report Owner	JOLENE ZOLLINGER
	STAR RT
	MACKAY, ID 83251
	(208)588-2670
Attorney	JAMES P SPECK
	SPECK & AANESTAD
	PO BOX 987
	KETCHUM, ID 83340
	(208)726-4421

Priority Date: 06/01/1885
 Basis: Decreed
 Status: Active

<u>Source</u>	<u>Tributary to</u>
WARM SPRINGS CREEK	BIG LOST RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	5/01	10/15	1.6 CFS		
STOCKWATER	1/01	12/31	0.02 CFS		
Total Diversion			1.6 CFS		

Location of Point(s) of Diversion:

WARM SPRINGS CREEK	SWSE	Sec. 31	Township 08N	Range 23E	CUSTER County
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IRRIGATION Use:
 Acre Limit: 160

Place(s) of use:

Place of Use Legal Description: IRRIGATION	CUSTER County
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<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
07N	23E	5	4	NWNW	30									
		6	1	NENE	27									
08N		31		SWSE	35		SESE	39						
		32		SWSW	29									

Place of Use Legal Description: STOCKWATER same as IRRIGATION

Total Acres: 160

Conditions of Approval:

1. N15 THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED.
2. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
3. N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
4. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
5. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
6. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Remarks:

1. Quantity USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 7.94 CFS.
COMBINED RIGHT NOS.: 34-00867, 34-00869 AND 34-10801
2. Purpose of Use THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE WATERMASTER FOR WATER DISTRICT 34.
3. Place of Use - Irrigation USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 397 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00867, 34-00869 AND 34-10801 THIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
4. Explanatory RIGHT NO. 34-00869 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
STOCKWATER 800 CATTLE AND HORSES

Comments:

Author	Date	Subject	Comment
DCARLSON	5/20/1992	NOTICE OF ERROR	CHANGED REMARKS DUE TO CHANGES IN OTHER RIGHT
JTHOMPSO	10/18/1996	OWNERSHIP	CHANGED OWNERSHIP PER SF3/EC; JT NAME CHANGE THE DATA IN THE NAME FILE WAS CHANGED WITHOUT THE ABOVE USER NOTING EXACTLY WHAT WAS CHANGED. TYPICALLY THIS CHANGE IS TO THE CURRENT OWNER OF THE WATER RIGHT. HOWEVER, THE CHANGE MAY BE TO ADD OR DELETE AN ATTORNEY OR LIENHOLDER, FOR EXAMPLE, WITHOUT CHANGING THE CURRENT OWNER OF THE WATER RIGHT.
JTHOMPSO	11/19/1996	NAME CHANGE	NAME OF CURRENT OWNER CHANGED TO BE CONSISTENT WITH 34-10803 AS DONE BY STATE OFFICE ON 10/23/96. SEE ALSO SF3.
AJU10-DS	6/9/2000	AJU10 CONDITION UPDATE	CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

Dates:

Licensed Date:
Claim Received Date: 01/15/1990
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Decreed Date: 12/29/1997
Date Filed with Court:
Objection Filed Date:
SF5 Filed:
Special Master Recom Signed Date:

Other Information:

Water District No. 34
P. O. Box 53
Mackay, ID 83251
(208) 588-3137

FAX TRANSMITTAL

To: Harold Jones

Date: 05-25-01

of Pages: 3
(including
cover sheet)

Gatus

Comments: Original application with fee
to follow in mail

Form 42-222A
12/99

Ident. No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TEMPORARY CHANGE APPLICATION

RECEIVED**MAY 30 2001**Department of Water Resources
Eastern Region

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Total Acres 1600

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Cindy J. Gregory for Mark J. Gates
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Fee \$50.00

Receipted # E026788 Recommend: _____ approve _____ deny _____

Watermaster recommendation _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____

For the Director