

RECEIVED**DEC 31 2013**DEPT. OF WATER RESOURCES
SOUTHERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 78962**MINIMUM REQUIREMENTS CHECKLIST**
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

Name of Applicant(s) JANET YATES AND KIRTLAND YATES**Check whether each item below is attached (Yes) or not applicable (N/A) for the proposed transfer.****Yes N/A** *Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☒ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner.
- ☐ ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s).
- ☐ ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at <http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm>.
- ☒ ☐ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☐ ☒ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.)
- ☐ ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☒ #9 Other. Please describe: _____

RECEIVED

DEC 31 2013

DEPT. OF WATER RESOURCES
SOUTHERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant JANET YATES Phone (208)645-2438
 Mailing Address 1941 S 2450 E, MALTA ID 83342 Email _____

Name of Applicant KIRTLAND YATES Phone (208)645-2438
 Mailing Address 1941 S 2450 E, MALTA ID 83342 Email _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No Representative

Name of Representative _____ Phone _____
 Mailing Address _____ Email _____

- ☐ Send all correspondence for this application to the representative and not to the applicant.
- OR
- ☐ Send original correspondence to the applicant and copies to the representative.
- ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.
- OR
- ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). 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 rejection of the application or cancellation of an approval.

Kirland Yates Kirland Yates - Owner Dec 30 - 2013
 Signature of Applicant or Authorized Representative Print Name and Title if applicable Date

Janet Yates Janet Yates - owner 12-30-13
 Signature of Applicant or Authorized Representative Print Name and Title if applicable Date

A. PURPOSE OF TRANSFER

1.	Right	Split	POD	POU	Add POD	Period of Use	Nature of Use
43-2307	No	No	No	No	Yes	No	No
43-10593	No	No	No	No	Yes	No	No

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1 Continued

2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2**

Application proposes to add a point of diversion (well) for irrigation purposes authorized under rights
43-2307 & 43-10593.

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT TO A SEPARATE SYSTEM, DESCRIBE PORTIONS TO BE CHANGED TO A SEPARATE SYSTEM AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1. Detailed Water Right Description(s) Attached labeled Part 1.

Summary of Water Rights After the Approved Change

Transferred Right (All or Part)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	Original Right (Remaining Portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
43-2307	2.900 cfs	666.0 af	166.5	235.0		N/A	N/A	N/A	N/A
43-10593	0.840 cfs	N/A	68.5	235.0		N/A	N/A	N/A	N/A

**COMBINED
TOTALS**

2.900 cfs	666.0 af	N/A	235.0	N/A	N/A	N/A	N/A
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2. Total amount of water proposed to be transferred or changed 2.9 cubic feet per second and/or 666 acre-feet per annum

3. Points(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)
- ☒ As shown in Part 1.
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5**.

4. Place of Use:

- ☐ No changes to place of use are proposed. (Proceed to #5.)
- ☒ As shown in Part 1.
- ☐ See Attachment.

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Transfer Right After Requested Changes

Proposed Water Right No. 43-2307

Current Water Right Owner

JANET YATES
 1941 S 2450 E
 MALTA, ID 83342

KIRTLAND YATES
 1941 S 2450 E
 MALTA, ID 83342

Priority Date: 3/31/1948

Origin: Water Right

Basis: Decreed

Status Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	2.900 CFS	666.0 AFA	
Total Diversion			2.900 CFS	666.0 AFA	

Source and Point(s) of Diversion:

GROUND WATER	SENE	Sec. ~~33~~ ³⁴ Twp 13S Rge 27E CASSIA County
GROUND WATER	NWSW	Sec. 33 Twp 13S Rge 27E CASSIA County
GROUND WATER	SWSW	Sec. 33 Twp 13S Rge 27E CASSIA County

Describe the proposed diversion system

Will use existing irrigation system

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	27E	33					40.0	39.0	37.0	40.0	40.0	39.0							235.0

Right Acre Limit: 166.5
 POU Total Acres: 235.0

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Transfer Right After Requested Changes

Proposed Water Right No. 43-10593

Current Water Right Owner

KIRTLAND YATES
1941 S 2450 E
MALTA, ID 83342

JANET YATES
1941 S 2450 E
MALTA, ID 83342

Priority Date: 6/30/1985

Origin: Water Right

Basis: Decreed

Status Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	0.840 CFS	
Total Diversion			0.840 CFS	

Source and Point(s) of Diversion:

GROUND WATER	NWSW	Sec. 33 Twp 13S Rge 27E CASSIA County
GROUND WATER	SWSW	Sec. 33 Twp 13S Rge 27E CASSIA County
GROUND WATER	SENE	Sec. 34 Twp 13S Rge 27E CASSIA County

Describe the proposed diversion system

Will use existing irrigation system

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	27E	33					40.0	39.0	37.0	40.0	40.0	39.0							235.0

Right Acre Limit: 68.5
POU Total Acres: 235.0

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future

- b. Who owns the property at the point(s) of diversion

USDI - BLM

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

USDI - BLM Right-of-Way Agreement (IDI-037480)

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

No, ☐ If Yes, ☒

Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien:

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

- e. Describe the use of any other water right(s) for the same purpose or land, or same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

- f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

☐
☐
☐
☐

☒
☒
☒
☒

undergone a period of five or more consecutive years of non-use,
currently leased to the Water Supply Bank,
currently used in a mitigation plan limiting the use of water under the right, or
currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No. 43-2307

Current Water Right Owner

JANET YATES
1941 S 2450 E
MALTA, ID 83342

Or

KIRTLAND YATES
1941 S 2450 E
MALTA, ID 83342

Priority Date: 3/31/1948

Origin: Water Right

Basis: Decreed

Status: Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	2.900 CFS	666.0 AFA	
Total Diversion			2.900 CFS	666.0 AFA	

Source and Point(s) of Diversion:

GROUND WATER	SWSW	Sec. 33 Twp 13S Rge 27E CASSIA County
GROUND WATER	NWSW	Sec. 33 Twp 13S Rge 27E CASSIA County

Describe the proposed diversion system

Will use existing irrigation system

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	27E	33					40.0	39.0	37.0	40.0	40.0	39.0							235.0

Right Acre Limit: 166.5

POU Total Acres: 235.0

Conditions/Remarks:

- 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 determine the amount of water diverted from power records and shall annually report the information to the Department.
- This right is limited to the irrigation of 166.5 acres within the place of use described above in a single irrigation season.
- Rights 43-2307 and 43-10593 when combined shall not exceed a total diversion rate of 2.90 cfs, a total annual maximum diversion volume of 666 af at the field headgate, and the irrigation of 235 acres.
- The right holder shall accomplish the change authorized by this transfer within 1 year of the date of this approval.
- Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A

Current Water Right No. 43-10593

Current Water Right Owner

KIRTLAND YATES
 1941 S 2450 E
 MALTA, ID 83342

JANET YATES
 1941 S 2450 E
 MALTA, ID 83342

Priority Date: 6/30/1985

Origin: Water Right

Basis: Decreed

Status: Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	0.840 CFS	
Total Diversion			0.840 CFS	

Source and Point(s) of Diversion:

GROUND WATER	SWSW	Sec. 33 Twp 13S Rge 27E CASSIA County
GROUND WATER	NWSW	Sec. 33 Twp 13S Rge 27E CASSIA County

Describe the proposed diversion system

Will use existing irrigation system

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	27E	33					40.0	39.0	37.0	40.0	40.0	39.0							235.0

Right Acre Limit: 68.5

POU Total Acres: 235.0

Conditions/Remarks:

1. 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 determine the amount of water diverted from power records and shall annually report the information to the Department.
2. This right is limited to the irrigation of 68.5 acres within the place of use described above in a single irrigation season.
3. Rights 43-2307 and 43-10593 when combined shall not exceed a total diversion rate of 2.90 cfs, a total annual maximum diversion volume of 666 af at the field headgate, and the irrigation of 235 acres.
4. This right is an expansion of Right No. 43-2307 pursuant to Section 42-1416B, Idaho Code.
5. The right holder shall accomplish the change authorized by this transfer within 1 year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

APPLICATION FOR TRANSFER OF WATER RIGHT PART 3

☒ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.

☐ If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b**. If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

☐ If you propose to change the nature of use or period of use of all or part of the right(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation.
Label it **Attachment #8b**

1. Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required on Part 3B above.: _____

[illegible]

Received By J. Couper Date 12/31/2013 Prelim. Check By _____ Date _____
 Fee Paid \$660.00 Date 12/31/2013 Received By J. Couper Receipt # 5033732
 Add'l Fee Paid _____ Date _____ Received By _____ Receipt # _____

UNITED STATES
Department of the Interior
Bureau of Land Management
RECEIVED

RIGHT-OF-WAY GRANT

Issuing Office
Burley Field Office

Serial Number
IDI-037480

2013 AUG 21 PM 7 22

1. A right-of-way is hereby granted pursuant to:

- a. ☒ Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);
- b. ☐ Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);
- c. ☐ Other (*describe*) _____

2. Nature of Interest:

- a. By this instrument, the holder:

**Yates Enterprises, LLC
Kirtland and Janet Yates
1941 S. 2450 E.
Malta, ID 83342**

receives a right to construct, operate, maintain, and terminate buried 18" diameter irrigation pipeline on public lands described as follows:

**Boise Meridian, Twin Falls County Idaho
T. 14 S., R. 27 E.,
sec. 33, N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$;
sec. 34, SE $\frac{1}{4}$.**

- b. The right-of-way or permit area granted herein is:

20 feet wide, 5640 feet in length, and contains 2.589 acres, more or less.

- c. This instrument shall terminate on **December 31, 2042** unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument **may** be renewed. If renewed, the right-of-way shall be subject to the regulations existing at the time of the renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions

- a. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800 and 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth within the identified case file or attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety (Map Attachment A, Stipulations Attachment B).
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, the undersigned agrees to the terms and conditions of this right-of-way grant.

Kirtland Yates

(Signature of Holder)

Michael C Courtney

(Signature of Authorized Officer)

Owner

(Title)

Burley FM

(Title)

Aug 21 - 2013

(Date)

8/21/2013

(Effective Date of Grant)

Transfer 78962

Attachment B

TERMS, CONDITIONS, AND STIPULATIONS

Yates Enterprises, LLC

Yates Irrigation Well & Pipeline

IDI-37480

1. The Holder, by accepting this right-of-way grant, agrees and consents to comply with and be bound by the following terms and conditions:
 - a. All Federal and State laws applicable to the authorized use and such additional Federal and State laws along with the implementing regulations that may be enacted and issued during the term of the grant.
 - b. That in operation, maintenance, and termination of the authorized use, there shall be no discrimination against any employee or applicant for employment because of race, creed, color, sex, age, disability, religion or national origin and all subcontracts shall include an identical provision.
 - c. When requested by the Authorized Officer, the Holder shall make his equipment already at the site with operators, temporarily available for fighting fires in the vicinity of the project. Payment for such services will be made at rates determined by the Authorized Officer.
2. The Authorized Officer may suspend or terminate in whole or in part this right-of-way grant which has been issued when, in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
3. The Holder shall not initiate any surface disturbing activities, beyond normal maintenance activities, on the right-of-way without the prior written authorization of the Authorized Officer.
4. Any cultural and/or paleontological resource (historic or prehistoric site object) discovered by the Holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the Authorized Officer. The Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the Authorized Officer after consulting with the Holder.
5. Holder shall comply with the applicable Federal and State Laws and regulations concerning the use of pesticides (i.e. insecticides, herbicides, fungicides, rodenticide, and other similar substances) in all activities/operations under this grant. A chemical shall not be used if the Secretary of Interior has prohibited its use. Only BLM approved

herbicides will be used. The list of chemicals is periodically updated and can be obtained from the Twin Falls District Office. Pesticides shall be used only in accordance with their registered uses and within other limitations if the Secretary has imposed limitations. Pesticides shall not be permanently stored on public lands authorized for use under this grant. Applicator(s) shall hold a current applicator's license.

6. As directed by the Authorized Officer the Holder shall be responsible for control of noxious weed species within the limits of the right-of-way authorized under this grant.
7. The Holder is responsible to ensure that the undercarriages of equipment and/or vehicles used for maintenance be free of all soil and plant material prior to entering and exiting the project area to reduce the establishment of new invasive, non-native species or the spread of existing species to new areas.
8. The Holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the Holder shall immediately report the incident, in writing, to the Authorized Officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the Holder shall secure the services of a registered land surveyor or Bureau cadastral surveyor to restore the disturbed monument and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands of the United States, latest edition. The Holder shall record such survey in the appropriate county and send a copy to the Authorized Officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the Holder shall be responsible for the survey cost.
9. The Holder of this right-of-way grant or the Holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
10. All design, material, operation, and maintenance practices shall be in accordance with safe and proven engineering practices.
11. The Holder shall comply with all applicable federal laws and regulations existing or hereafter enacted or promulgated. In any event, the Holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the permit area or on facilities authorized under this permit. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193). Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response

Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal agency or State government.

12. The Holder agrees to indemnify the United States against any liability arising from the release of any hazardous substances or hazardous waste (as these terms are defined in the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act, 42 U.S. C. 6901 et seq.) on the permit area (unless the release or threatened release is wholly unrelated to the right-of-way Holder's activity on the right-of-way).
13. Prior to termination or assignment of the right-of-way or a portion of the right-of-way, the Holder shall contact the Authorized Officer.
14. The Holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of the public lands under this grant associated with the authorized maintenance activities of the Holder.
15. No routine maintenance activities shall be performed during periods when the soil is too wet to adequately support maintenance equipment. If such equipment creates ruts in excess of 4-inches deep, the soil shall be deemed too wet to adequately support maintenance equipment.
16. The Holder shall conduct all maintenance activities in a manner that will minimize disturbance to vegetation, drainage channels, and stream banks. The Holder shall take resource conservation and protection measures on the right-of-way as the Authorized Officer deems reasonably necessary. Areas disturbed during maintenance outside of the existing road and shoulder shall be reseeded with a seed mixture and rate of success to be determined by the Authorized Officer.
17. The Holder shall keep the right-of-way clean by removal of any debris or waste associated with maintenance activities.
18. No signs or advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the Authorized Officer.
19. All terms, conditions, and/or stipulations of associated permits will be adhered to.
20. Construction activities are not to take place during the Migratory Bird Nesting Season from **March 1 through July 31st**, or until occupied nests are no longer active. If construction activities need to take place during the migratory bird nesting season an exception request must be submitted to the BLM Authorized Officer in writing requesting a variance to the stipulation. Upon receiving this request, an onsite evaluation must be completed by the BLM resource specialist to determine if implementation of project activities will avoid causing harm to federally protected migratory birds.

21. WATER RESOURCES STIPULATIONS:

- a) This grant authorizes the temporary use of a federally owned water facility in the form of a groundwater well (aka Biggers/Yates Well) located on federal public land within T.13S., R.27E., Sec. 34, NE1/4SE1/4NW1/4, BM, in order to deliver irrigation water to adjacent, privately owned lands. This grant authorizes the Holder to initiate a water transfer with the Idaho Department of Water Resources pursuant to I.C. 42-222 to add a point of diversion to Holder's water right(s) for irrigation purposes from BLM's groundwater well described herein.
- b) The Holder's use of BLM's groundwater well pursuant to this grant shall be subject to and subordinate to BLM's use and enjoyment of the well. At the conclusion of this grant, the Holder is required to vacate the use of BLM's groundwater well and remove this diversion from the Holder's water right(s).
- c) This grant does not authorize the use of water on federal public lands for irrigated agricultural purposes or any other purposes. The Holder is not authorized to use any water rights held in the name of the United States.
- d) The Holder assumes all liability for compliance with all existing and subsequently enacted, issued, or amended state and Federal rules, regulations, and laws governing diversion and use of water, irrigated agriculture, and other activities applicable to or derived from the authorized uses made pursuant to this grant; and for damages caused by the Holder in the pursuit of using BLM's groundwater well or from accessing federal public land pursuant to this grant.
- e) No right, title, interest, or economic expectation of use accrues to the Holder due to the temporary use of BLM's groundwater well or associated access to federal public land made pursuant to this grant beyond the term or conditions of this grant.
- f) The Holder shall not cause any water to be conveyed off of federal public land without the express written permission by the Authorized Officer of the Bureau of Land Management.
- g) Permission to proceed under this grant is withheld until such time that the State of Idaho has approved the diversion of water from BLM's groundwater well described herein for the purposes for which this grant is issued. Diversion and use of water from BLM's groundwater well without written permission from the State of Idaho in the form of a valid water right describing a point of diversion from BLM's groundwater well described herein would constitute a violation of the terms of this grant.
- h) The Holder shall be liable for all costs associated with obtaining, maintaining in good standing and using the Holder's water right(s) to divert water from BLM's groundwater well described herein, including but not limited to: transfer application fees, fines, violation fines, assessment fees, measurement fees, mitigation, power or fuel costs, and purchase, installation & maintenance of any required equipment, pumps, measurement devices, etc.

- i) The Holder shall be liable for all costs associated with maintaining BLM's groundwater well, shaft, casing, pad, pumps and other components of the water facility in good repair and in serviceable condition to the satisfaction of the BLM Authorized Officer.
- j) The Holder agrees that the United States shall be fully indemnified, released and held harmless from loss, injury, damage and/or reduction in value of water rights or the benefiting farming operation should this grant be suspended, modified, terminated, or expires and is not renewed.
- k) If this grant expires or is terminated, the Holder agrees and is required to initiate a water transfer with the Idaho Department of Water Resources (IDWR) pursuant to Idaho Code § 42-222 to remove any point of diversion describing federal public land from the Holder's water right(s) associated with this grant within sixty (60) days of the date this grant expires or is terminated. The Holder agrees to bear all costs of the water transfer. The United States agrees to cooperate in said water transfer. If the water transfer is not initiated within sixty (60) days of the date this grant expires or is terminated, or is initiated but then withdrawn, or IDWR denies the transfer removing the point of diversion from federal public land or moving it to non-federal land, then the Holder agrees that the Holder's water right(s) associated with this grant shall be deemed abandoned, forfeited and no longer legally valid. The Holder further agrees that the United States shall be fully indemnified, released and held harmless from any loss, injury, damage and/or reduction in value of water rights or the benefiting farming operation should IDWR not allow transfer of the water right(s), or any portion thereof, and the water right(s) is/are deemed abandoned, forfeited and no longer legally valid.
- ✓l) The Holder is specifically precluded from placing water rights associated with this grant into the Water Supply Bank during the term of this grant or after the grant is suspended, modified, terminated or expires.
- m) Failure of the Holder to remain in compliance with state and federal rules, regulations, or laws regarding the diversion and use of water described herein or any stipulated condition contained in this grant the satisfaction of the Authorized Officer will result in suspension (43 CFR 2807.16) or termination (43 CFR 2807.17) of this grant at the sole discretion of the BLM Authorized Officer.
- n) If the BLM Authorized Officer determines during the term of this grant that the United States needs to resume full possession and use of its groundwater well, the BLM Authorized Officer may terminate the grant with thirty (30) day notice occurring prior to the start of the irrigation season. The start of the irrigation season is deemed to be March 15th.
- o) The stipulated conditions contained in this grant comprise the entire agreement and no promise, inducement, or representation other than herein set forth has been made, offered and agreed upon, and the terms of this grant are contractual and not merely a recital.

D. L. Evans Bank

"Idaho's Hometown Community Bank Since 1904"



RECEIVED

DEC 31 2013

DEPT. OF WATER RESOURCES
SOUTHERN REGION

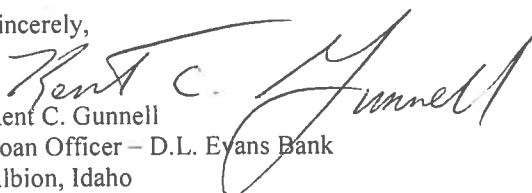
Department of Water Resources
Attn: Jeff Cooper
1341 Fillmore Street Suite 200
Twin Falls, Idaho 83301
Tel (208) 736-3033
Fax (208) 736-3037

December 9, 2013

Dear Jeff,

As an authorized Loan Officer for D.L. Evans Bank, we do not oppose the proposed changes outlined in transfer 78962 between Kirt and Janet Yates and the Department of Water Resources.

Sincerely,


Kent C. Gunnell
Loan Officer – D.L. Evans Bank
Albion, Idaho

Albion Branch
208-673-5301

Corner of Main and Market
Fax 208-673-6242

P.O. Box 517
Express Banking

Albion, ID 83311
1-888-873-9777



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-3380
Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 5, 2014

KIRTLAND YATES
JANET YATES
1941 S 2450 E
MALTA, ID 83342

RE: Transfer No. 78962
Water Right No(s). 43-10593, 43-2307

Dear Applicant(s):

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the **TIMES NEWS on 2/6/2014 and 2/13/2014**. Protests to this application may be submitted for a period ending ten (10) days after the second publication (**February 24, 2014**).

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office if you have any questions regarding the application.

Sincerely,

Denise Maline
Administrative Assistant

Maline, Denise

From: Maline, Denise
Sent: Thursday, January 30, 2014 2:24 PM
To: Times News
Subject: LEGAL NOTICE
Attachments: Times News Cover Letter.docx; Times News Ad.docx

Attached please find (1) legal notice being submitted for publication on February 6th & 13th, 2014. Please contact me if you have any questions, or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise Maline
Administrative Assistant, Southern Region
Idaho Dept of Water Resources
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov

January 30, 2014

LEGAL NOTICE DEPARTMENT
TIMES NEWS
PO BOX 548
TWIN FALLS, ID 83303-0548

RE: Transfer No. 78927
Water Right No(s): 37-262A, 37-271A, 37-282, 37-662, 37-709A, 37-960A

RE: Transfer No. 78928
Water Right No(s): 37-11221, 37-4080

RE: Transfer No. 78962
Water Right No(s): 43-10593, 43-2307

RE: Transfer No. 78963
Water Right No(s): 43-2408

RE: Transfer No. 79020
Water Right No(s): 43-2356B, 43-2441C, 43-4022B, 43-4023B, 43-4024D, 43-4130B

RE: Application For Permit No.(s): 37-22850

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before February 24, 2014. Your cooperation is appreciated.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

37-22850

CITY OF GOODING

308 5TH AVE W

GOODING, ID 83330

Point of Diversion SWSW S32 T05S R15E GOODING County Source GROUND WATER Tributary

Point of Diversion L1(NENE) S6 T06S R15E GOODING County Source GROUND WATER Tributary

Point of Diversion NESE S31 T05S R15E GOODING County Source GROUND WATER Tributary

Point of Diversion SESW S32 T05S R15E GOODING County Source GROUND WATER Tributary

Point of Diversion SWSW S5 T06S R15E GOODING County Source GROUND WATER Tributary

Point of Diversion SENE S6 T06S R15E GOODING County Source GROUND WATER Tributary

Use: MUNICIPAL 03/15 to 11/15 7.21 CFS

Total Diversion: 7.21 CFS

Date Filed: 8/27/2013

Place Of Use: MUNICIPAL

Place of use is within City of Gooding Service Area

Application proposes diverting up to 7.21 cfs from three existing wells and up to three new wells to be drilled all located within the City of Gooding. Water will be used for municipal use during the irrigation season within the City of Gooding service area. A mitigation plan, proposing recharging Little Wood River rights as described in companion transfer #78927, has been included with the application.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 78927

CITY OF GOODING, 308 5TH AVE W, GOODING, ID 83330; has filed Application No. 78927 for changes to the following water rights within GOODING County(s): Right No(s). 37-262A, 37-271A, 37-282, 37-662, 37-709A, 37-960A. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes changing 7.21 cfs of Little Wood River rights currently authorized for irrigation use within the City of Gooding to groundwater recharge use northeast of the city. The application also proposes changing the authorized point of diversion from several locations in and near the City of Gooding to a new location approximately 1.9 miles north and 4.35 miles east of the Highway 26 and Highway 46 intersection at the south edge of Gooding. The proposed recharge site is generally located approximately 2.0 – 3.0 miles north and 1.5 – 3.75 miles east of the Highway 26 and Highway 46 intersection at the south edge of Gooding. The application proposal is associated with a mitigation plan submitted with companion Application for Permit 37-22850.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 78928

CITY OF GOODING, 308 5TH AVE W, GOODING, ID 83330; has filed Application No. 78928 for changes to the following water rights within GOODING County(s): Right No(s). 37-11221, 37-4080. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes changing the authorized points of diversion for two municipal groundwater rights for the City of Gooding. The application proposes allowing for the diversion of up to 7.05 cfs of water from three existing wells and up to three proposed new wells all located within the City of Gooding.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 78962

JANET YATES and KIRTLAND YATES, 1941 S 2450 E, MALTA, ID 83342; has filed Application No. 78962 for changes to the following water rights within CASSIA County(s): Right No(s). 43-10593, 43-2307. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to add a point of diversion to groundwater irrigation rights 43-2307 & 43-10593, currently authorized for use on a farm located approximately 3.5 – 4.2 mi. S & 2.8 – 3.4 mi. E of Malta. These rights are currently authorized to divert 2.9 CFS (235 acres) from two wells located approximately 4.2 mi. S & 3.1 mi. E of Malta. Application proposes to add an existing well, located approximately 3.8 mi. S & 4.3 mi. E of Malta, to be allowed to be used under these rights.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 78963**

UNITED STATES OF AMERICA ACTING THROUGH, USDI BUREAU OF LAND MANAGEMENT, IDAHO STATE OFFICE, 1387 S VINNELL WAY, BOISE, ID 83709-1657; has filed Application No. 78963 for changes to the following water rights within CASSIA County(s): Right No(s). 43-2408. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to add a point of diversion to groundwater irrigation right 43-2408, currently authorized for use on a farm located approximately 4.2 – 5.0 mi. S & 3.3 – 3.8 mi. E of Malta. This right is currently authorized to divert 2.45 CFS (200 acres) from a well located approximately 4.9 mi. S & 3.6 mi. E of Malta. Application proposes to add an existing well, located approximately 3.8 mi. S & 4.3 mi. E of Malta, to be allowed to be used under this right.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 79020**

J7 LLC, C/O JEFFREY C JOHNSON, PO BOX 147, MALTA, ID 83342-0147; has filed Application No. 79020 for changes to the following water rights within CASSIA County(s): Right No(s). 43-2356B, 43-2441C, 43-4022B, 43-4023B, 43-4024D, 43-4130B. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes creating a 949.4 acre permissible place of use on a farm located approximately 4.5 to 6.75 miles south and 1.75 to 3.25 miles east of Malta. Five rights on the farm will be modified to allow for use in the proposed permissible place of use. In addition, a 38 acre right currently used on a farm located approximately 8.25 to 10.5 miles south and 1.75 to 3.25 miles east of Malta will be moved to the proposed permissible place of use. The application proposes diverting up to 17.5 cfs from five existing wells on the farm located approximately 4.5 to 6.75 miles and 1.75 to 3.25 miles east of Malta.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Southern Region, 650 Addison Ave W, Ste 500, Twin Falls, ID 83301 together with a protest fee of \$25.00 for each application on or before February 24, 2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on February 6th & 13th, 2014

MEMORANDUM

Date: January 23, 2014
To: Transfer 78962 File
From: Jeff Cooper
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to add a point of diversion (POD) to groundwater irrigation rights 43-2307 & 43-10593, currently authorized for use on a farm located approximately 3.5 – 4.2 mi. S & 2.8 – 3.4 mi. E of Malta. These rights are currently authorized to divert 2.9 CFS (235 acres) from two wells located approximately 4.2 mi. S & 3.1 mi. E of Malta. Application proposes to add an existing well, located approximately 3.8 mi. S & 4.3 mi. E of Malta, to be allowed to be used under these rights.

All three wells involved in this transfer are located within the boundaries of the Raft River Critical Groundwater Area. It should also be noted that companion Transfer 78963 was filed to add the same (existing) well to a right located south of this property via a separate pipeline. That application is being pursued by the USDI-BLM at the request of the current leaser (Kirtland & Janet Yates) of the farm involved in that transfer (78963).

- **Authority to File:**

The applicant, Kirtland & Janet Yates, are listed as the current owner of rights 43-2407 & 43-10593. Application was signed by both Kirtland & Janet Yates. Applicant also provided a letter from DL Evans Bank supporting the proposed changes.

- **Water Right Validity:**

Rights 43-2407 & 43-10593 were partially decreed in the SRBA in June, 2002. A review of the aerial imagery indicates that all acres under these rights have irrigated within the last five years. Therefore forfeiture is not an issue.

- **Injury to Other Water Rights:**

None anticipated.

- **Enlargement of Use:**

None anticipated.

- **Local Public Interest:**

No negative impact anticipated.

- **Beneficial Use/Conservation of Water Resources:**

Decreed use is recognized as a beneficial use of water.

- **Effect on Economy of the Local Area:**

None anticipated.

- **Effect of the Agricultural Base of the Local Area:**

None anticipated.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.