

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 63-33707)
IN THE NAME OF CHARLES)
MADENFORD FAMILY TRUST)
_____)

**PRELIMINARY ORDER
VOIDING PERMIT**

This matter having come before the Department of Water Resources ("Department") as a result of an investigation by the Department to determine the extent of beneficial use of water, the Department finds, concludes and order as follows:

FINDINGS OF FACT

1. On October 19, 2012, Charles Madenford Family Trust ("applicant") applied to the Department for a permit to appropriate 26 acre feet of ground water at 0.25 cubic feet per second within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 33, Township 5 North, Range 1 West, B.M., for aesthetic storage, recreation storage, and wildlife storage purposes in Ada County ("application").
2. Also on October 19, 2012, the Department received a Proof of Beneficial Use statement for the permit.
3. On May 29, 2013, the Department approved the application as Permit 63-33707 ("permit").
4. On February 20, 2015, Department staff conducted a field examination to verify the beneficial use of water established in accordance with the permit. The field examiner reported that the permit holder had constructed the proposed storage facility, but that it was dry at the time the permit holder submitted proof of beneficial use. The field examiner also reported that the permit holder has relied on water delivered by Farmers Union Ditch Company to fill the storage facility in the past. Therefore, the field examiner could not confirm that the proposed beneficial use of ground water was established during the authorized development period for the permit.

5. Idaho Code § 42-219(8) states:

In the event that the Department shall find that the applicant has not fully complied with the law and conditions of the permit, it may issue a license for that portion of use which is in accordance with the permit, or may refuse issuance of a license and void the permit.

6. On February 27, 2015, the Department sent the permit holder a Notice of Intent to Void Permit ("notice"). The notice provided 30 days for the permit holder to provide evidence that a beneficial use of water had been established in connection with the permit. The Department has not received a response to the notice.

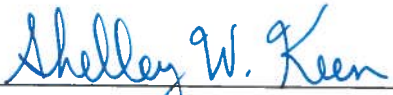
CONCLUSION OF LAW

1. The provisions of Idaho Code § 42-219(8) authorize the Department to void permits for which the permit holder has not fully complied with the law and the conditions of the permit.
2. Investigation by the Department revealed that the permit holder has not complied with the conditions of the permit by not diverting water from the identified source and applying it to the proposed beneficial use as required by the permit.
3. The permit should be voided pursuant to Idaho Code § 42-219(8).

ORDER

IT IS, THEREFORE, HEREBY ORDERED that issuance of a license is **REFUSED** and Permit No. 63-33707 is **VOIDED** under the provisions of Idaho Code § 42-219(8).

Dated this 15th day of April, 2015.



Shelley W. Keen, Manager
Water Rights Permits Section