

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 22-7114)
IN THE NAME OF NORTHWEST FARM)
CREDIT SERVICES ACA AND STEVECO)
CANYON FARMS INC.)
_____)

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 orders:

FINDINGS OF FACT

1. On November 20, 1974, J. Wayne Stevens, applied to the Department for a permit to appropriate 20.0 cubic feet per second (cfs) from Canyon Creek, tributary to the Teton River, within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 13, Township 6 North, Range 43 East, B.M., for the irrigation of 1,702 acres in Madison County.
2. On February 25, 1975, the Department approved the application as Permit No. 22-7114 (permit) with a condition of approval requiring the permit holder to permanently install and maintain a measuring device as part of the diverting works.
3. On July 9, 1980, the Department received the permit holder's Proof of Beneficial Use statement for the permit.
4. On March 2, 1987, the Department received the required examination fee for the permit.
5. On September 20, 1994, the Department received an assignment of permit conveying ownership of the permit to Northwest Farm Credit Services ACA and Steveco Canyon Farms Inc.
6. On June 20, 2008, Department staff conducted a field examination to verify the water use developed in accordance with the permit. Although the examiner recommended the issuance of a license for 20.00 cfs of water for the irrigation of 1,702 acres within a 2,725.4 acre place of use, he did not confirm with evidence the beneficial use of water during the authorized development period and compliance with the conditions of approval in accordance with the permit.
7. State Water District No. 1 staff have confirmed that the permit holder has not complied with the condition of approval requiring the permit holder to permanently install and maintain a measuring device as part of the diverting works.

8. Licensed water rights 22-7069, 22-7103, and 22-7230 are claimed in the Snake River Basin Adjudication (SRBA) and recommended with a combined diversion rate limit of 12.94 cfs for the irrigation of 2,725.4 acres. These rights divert water from Canyon Creek at the same point of diversion authorized by the permit and cover all lands authorized for irrigation under the permit.
9. A review of Department diversion records indicates that the greatest diversion rate during the authorized development period was 10.0 cfs in 1978.
10. No beneficial use of water was developed under the permit that is not already authorized by prior water rights.
11. Idaho Code § 42-219(8) provides in pertinent part as follows:

In the event that the Department shall find that the applicant has not fully complied with the law and the 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.

CONCLUSIONS OF LAW

1. The provisions of Idaho Code § 42-219(8) authorize the Director of 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 because they have not established the proposed beneficial of water as required by the permit and Idaho Code § 42-219(8).
3. The Department should void the permit pursuant to Idaho Code § 42-219(8).

ORDER

IT IS HEREBY ORDERED that issuance of a license is **REFUSED** and Permit No. 22-7114 is **VOIDED**.

Dated this 8th day of September, 2008.



JEFF PEPPERSACK
Chief, Water Allocation Bureau