

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT)
NO. 11-7342 IN THE NAME OF)
UTAH PROCESS AGENCY, INC.)
_____)

PRELIMINARY ORDER
VOIDING PERMIT

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

FINDINGS OF FACT

1. On June 30, 1983, Connie Shipp Trust applied to the Department to appropriate 0.24 cfs from a spring, within the NW¼SE¼ of Section 30, Township 9 South, Range 42 East, B.M., Caribou County, to be used for domestic, stock watering, and irrigation purposes.
2. On April 23, 1984, the Department approved the application as Permit No. 11-7342 (permit).
3. On May 15, 1989, the Department received the permit holder's Proof of Beneficial Use statement for the permit.
4. On May 2, 2003, the Department received an Assignment of Permit, assigning the permit to Utah Process Agency, Inc. (permit holder).
5. On April 2, 2007, the Department contacted the permit holder's representative, Stephany Wuthrich, to obtain current information about ownership of the land where the permitted water use was to have been established. She informed the Department that the property was sold to John and Julie Franson in 2003.
6. On April 3, 2007, the Department received an Assignment of Permit assigning the permit to John and Julie Franson. The assignment of permit was not processed due to the lack of the required filing fee.
7. On April 3, 2007, Julie Franson met with the Department and explained that she and John Franson had developed the spring and installed a cistern.

8. On April 10, 2007, a Department field examiner reported that there is no evidence of beneficial use of water during the development period for the permit and that she was not able to confirm that water had been diverted and put to beneficial use in connection with the permit.
9. On April 10, 2007, the Department sent John and Julie Franson a Notice of Intent to Void Permit (notice).
10. The Department has not received any additional information to demonstrate that water was diverted and put to beneficial use in accordance with the permit.
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.

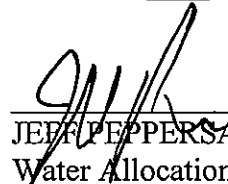
CONCLUSIONS OF LAW

1. The provisions of Idaho Code § 42-219(8) authorize the 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 establishment of the proposed beneficial of water as required by the permit and Idaho Code § 42-219 had not been completed within the development period authorized by the permit.
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. 11-7342 is **VOIDED**.

Dated this 15th day of May, 2008.



JEFF PEPPERSACK, Bureau Chief
Water Allocation Bureau