

BEFORE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT
NO. 37-7844 IN THE NAME OF
DARLENE JEVNE

**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 July 29, 1980, Clarence Lowell Mecham applied to the Department to appropriate 4.00 cubic feet per second from seeps in the bed of the Little Wood River, a tributary of the Big Wood River, within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, Township 1 North, Range 21 East, B.M., for the irrigation of 233 acres of land in Blaine County.

2. On December 24, 1980, the Department approved the application as Permit No. 37-7844 (permit).

3. On June 25, 1985, the Department received the permit holder's Proof of Beneficial Use statement for the permit.

4. On July 30, 1986, the Department received the permit holder's examination fee.

5. On December 10, 1986, Clarence Lowell Mecham sold the land that was to be irrigated by water diverted under the permit to Krea Mecham and Valerie Mecham.

6. On September 9, 1986; June 23, 1987; and July 21, 1987; a Department field examiner contacted Krea Mecham to arrange a time to conduct a field examination to verify the beneficial use of water established in connection with the permit. On each of the three occasions the examiner was informed that water was not available from the permitted source in sufficient quantity to irrigate.

7. On November 14, 1994, the Department acknowledged assignment of ownership of the permit to Darlene Jevne (permit holder).

8. On July 16, 1998, a Department field examiner wrote the permit holder a letter asking her if she wanted to relinquish the permit.

9. The Department did not receive a response to the July 16, 1998, letter.

10. On January 26, 1999, the Little Wood River watermaster informed a Department field examiner that the channel of the river had changed during 1997 so that water was not available at the pump that had been installed to divert water in accordance with this permit.

11. On October 18, 2004, the Department field examiner wrote another letter to the permit holder to determine the disposition of water use in connection with the permit and/or to arrange to conduct a field inspection. The letter was returned to the Department by the postal service.

12. On March 8, 2005, the Department field examiner reported, "It seems clear that this diversion has been abandoned, and that the permit should be voided for lack of beneficial use and lack of cooperation from the permit holder."

13. 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. The Department made numerous reasonable attempts to obtain the cooperation of the permit holder and a prior owner to verify that beneficial use of water has been established in connection with the permit, but on each occasion either water has not been available at the proposed point of diversion or the permit holder has not provided information to the Department.

3. The Department has not been able to confirm that water has been diverted and put to beneficial use in accordance with the permit.

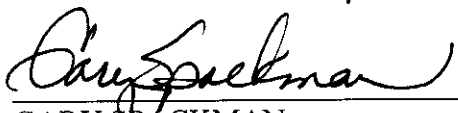
4. The permit holder has not complied with the conditions of the permit by not establishing the proposed beneficial use of water as required by the permit and Idaho Code § 42-219(8).

5. 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. 37-7844 is **VOIDED**.

Dated this 12th day of April, 2005.



GARY SPACKMAN