

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO.)
22-07292 IN THE NAME OF)
MADISON COUNTY)
_____)

**ORDER ADVANCING THE
DATE OF PRIORITY**

This matter having come before the Department of Water Resources (Department) as a result of the payment of an examination fee, the Department finds, concludes and orders as follows:

FINDINGS OF FACT

1. On April 5, 1979, Madison County applied to the Department for a permit to appropriate 2.6 cubic feet per second from a pond to irrigate 130 acres in Madison County, Idaho.
2. On June 23, 1981, the Department approved the application submitted by Madison County as Permit No. 22-07292 (permit). As a condition of the approval, the Department required the permit holders to submit proof of construction of works and application of water to beneficial use on or before July 1, 1984.
3. On July 9, 1984, the permit lapsed because the permit holder had not submitted proof of beneficial use within the required time.
4. On September 23, 1985, the Department received a proof of beneficial use statement for the permit from Madison County.
5. On February 11, 1986, the Department issued an order reinstating the permit and advancing the priority date of the permit to September 23, 1985.
6. On January 26, 1987, the Department mailed Madison County a notice that within 60 days they must submit to the Department an examination fee or a notice that a certified water right examiner had been retained to conduct an examination of the development accomplished in connection with the permit. The notice also informed Madison County that failure to submit the required fee or information within 60 days would result in advancement of the priority date of the permit and that failure to submit the fee or a completed field report within one year would result in lapsing of the permit.
7. On July 10, 1987, the Department received a field examination fee from Madison County.

8. Idaho Code § 42-217 says, in pertinent part:

Holders of permits who have submitted proof of beneficial use but have not had their project examined for beneficial use shall submit the fee required in section 42-221, Idaho Code, within sixty (60) days of notification by the director of the department of water resources that a license examination fee is required. Failure to submit the fee in the time allowed shall be cause for the director to advance the date of priority of the permit one (1) day for each day that the fee is late; provided that if the fee is not fully paid within one (1) year of the time it is due, the director of the department of water resources may consider the proof of beneficial use for the permit to be incomplete and lapse the permit, as provided in section 42-218a, Idaho Code.

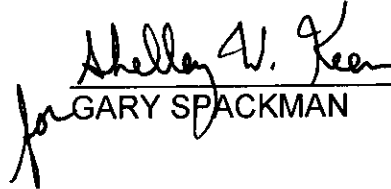
CONCLUSIONS OF LAW

1. The examination fee for the permit was submitted 105 days late.
2. The Department should advance the priority date for the permit 105 days to September 29, 1986.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that the priority date of Permit No. 22-07292 is advanced to September 29, 1986.

DATED this 16th day of July, 2004.


for GARY SPACKMAN