

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO.)
77-7052 IN THE NAME OF)
SULPHUR CREEK RANCH INC.)
_____)

REINSTATEMENT ORDER

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 June 22, 1976, Eugene Barton applied to the Department for a permit to appropriate 1.5 cubic feet per second and 48.0 acre feet of water from Blue Moon Creek for fish propagation and fish propagation storage uses in Valley County, Idaho.
2. On August 7, 1976, the Department approved the application submitted by Eugene Barton as Permit No. 77-7052 (permit).
3. On August 29, 1977, the Department received an assignment of permit to Sulphur Creek Ranch (permit holder) and proof of beneficial use of the permit.
4. On October 1, 1987, the Department mailed the permit holder a notice that within 60 days it 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 the permit holder 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 May 5, 1988, the Department lapsed Permit 77-7052 for failure to submit the examination fee or a completed field report.
8. On October 27, 1988, the Department received a field examination fee from the permit holder.
9. 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 § 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 § 42-218a, Idaho Code.

CONCLUSIONS OF LAW

1. The examination fee for the permit was submitted 331 days late.
2. The Department should reinstate the permit and advance the priority date of the permit 331 days to May 19, 1977.

ORDER

IT IS HEREBY ORDERED, that Permit No. 77-7052 in the name of Sulphur Creek Ranch, is **REINSTATED** with the priority date advanced to **May 19, 1977**.

DATED this 28th day of July, 2005.



GARY SPACKMAN