

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO.)
21-2126 IN THE NAME OF MRS.)
ADA CARLSON)
_____)

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 August 22, 1961, Mrs. Ada Carlson applied to the Department for a permit to appropriate 8.3 cubic feet per second from an unnamed stream tributary to Conant Creek to irrigate 418 acres in Fremont County, Idaho.
2. On September 28, 1961, the Department approved the application submitted by Mrs. Ada Carlson (permit holder) as Permit No. 21-2126 (permit).
3. On April 16, 1976, the Department issued an order that required the permit holder to submit proof of application of water to beneficial use on or before July 1, 1976.
4. On June 3, 1976, the Department received a proof of beneficial use statement for the permit from the permit holder.
5. On January 26, 1987, the Department mailed the permit holder a notice that within 60 days she 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.
6. On February 26, 1988, the Department lapsed Permit 21-2126 for failure to submit the examination fee or a completed field report.
7. On May 20, 1988, the Department received a field examination fee from the permit holder.

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 § 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 419 days late.
2. The Department should reinstate the permit and advance the priority date of the permit 419 days to November 19, 1963.

ORDER

IT IS HEREBY ORDERED, that Permit No. 21-2126 in the name of Mrs. Ada Carlson, is **REINSTATED** with the priority date advanced to **November 19, 1963**.

DATED this 20th day of December, 2004.


GARY SPACKMAN