

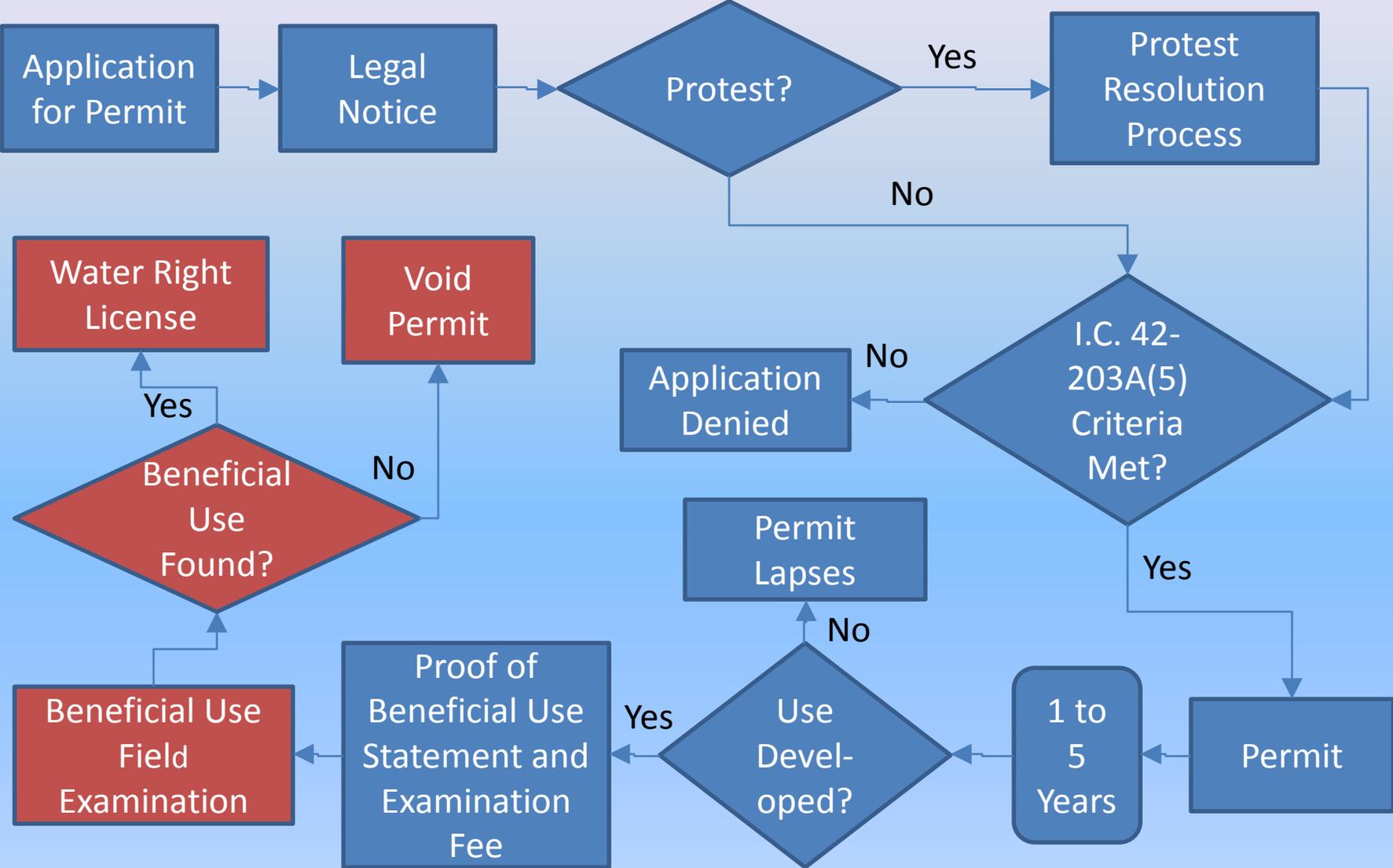
# Idaho Department of Water Resources 2012 Water Right Licensing Summary

By Shelley Keen, Craig Saxton, and Dan Nelson  
November 29, 2012



# The Challenge

# Idaho Department of Water Resources Water Appropriation Process

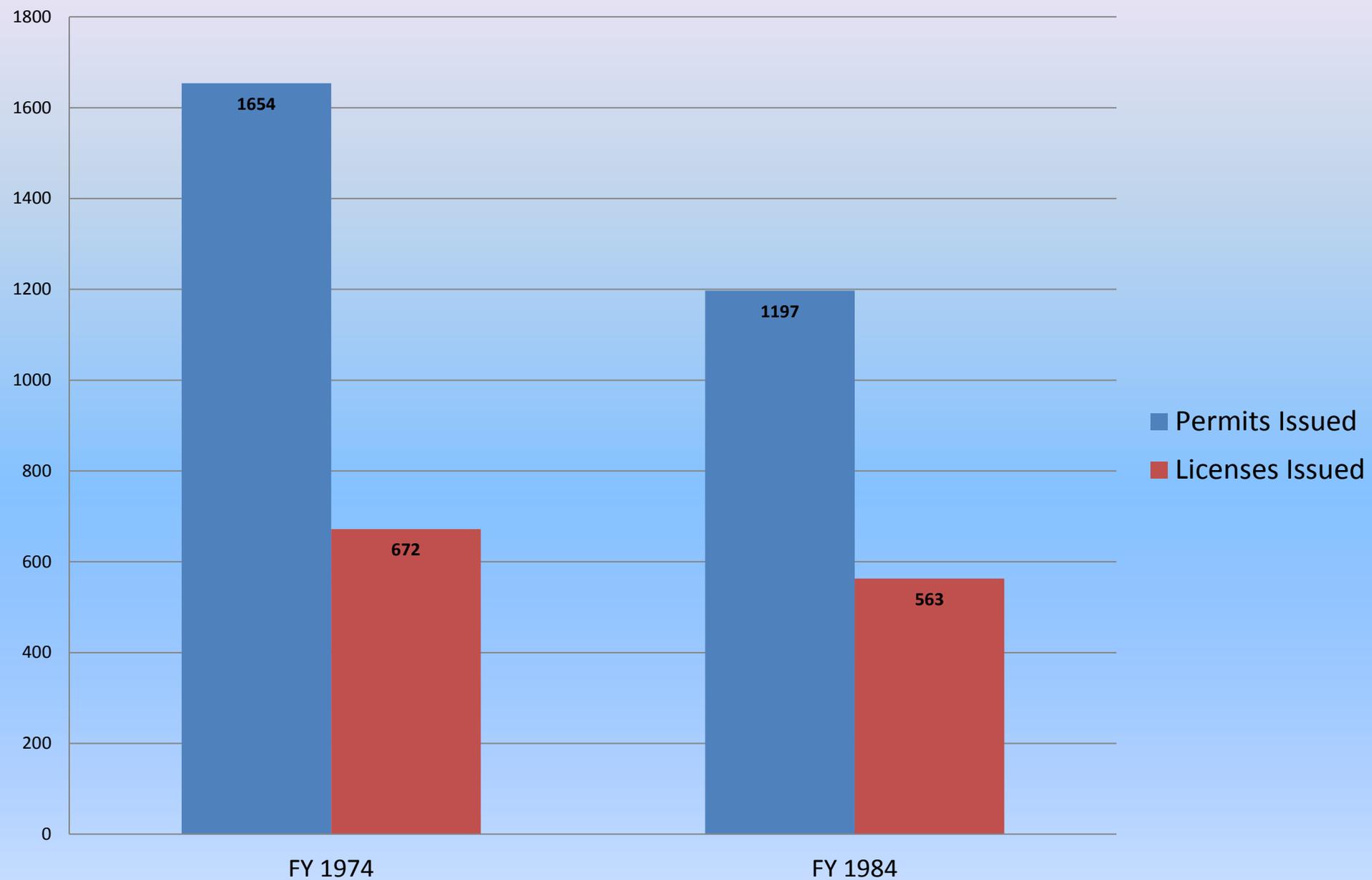


## The Water Right Licensing Backlog

- ❑ As of April 1, 2012, the backlog was 3200 active permits with proof of beneficial use submitted.
  - ❑ Of the 3200, examinations had already been conducted for 600, but licenses had not yet been issued.
  - ❑ 2600 of the 3200 active permits required examination.
  
- ❑ The backlog isn't static.
  - ❑ As of November 23, 2012, we have 1570 active permits with proof yet to be submitted.
  - ❑ We expect to issue over 300 new permits per year for the foreseeable future.

# Idaho Department of Water Resources

## Permits vs. Licenses -- 1974 and 1984



## Idaho Department of Water Resources Licensing Backlog Timeline

### ☐ Mid -1980s

- ☐ Examination fee required
- ☐ Fee used to hire temporary seasonal examiners, mostly college students
- ☐ Certified Water Right Examiner (private sector) option implemented

### ☐ 1987

- ☐ Snake River Basin Adjudication (SRBA) commenced
- ☐ IDWR emphasized work on the SRBA

### ☐ End of FY1999

- ☐ Licensing backlog is 2585

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## Water Right Licensing Timeline Continued

### 2001

- IDWR redesigns its software for processing water rights
- No licenses issued for a year

### 2006

- Water Rights staff work on SRBA claim review
- Licensing effort suspended

### 2007 to 2011

- Transfer backlog reduction prioritized
- Licensing effort minimal

### April 1, 2012

- Backlog is 3200

**Idaho Department of Water Resources**  
**Water Right Licensing Program Urgency**

- ❑ Idaho Supreme Court Decision in the 2011 Brownlee Hydro Case (*Idaho Power Company v. Idaho Department of Water Resources*):
  - ❑ “Therefore, a water right does not vest until all of the statutory steps have been completed, including obtaining a license.” (Page 13)
  - ❑ “Indeed, if Idaho Power believed it was being injured by the Department’s delay in issuing the license, it could have sought a writ of mandamus to compel action by the Department. I.C. § 7-302 provides an avenue for a party ‘to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station . . . .’ I.C. § 7-302. “ (Page 15)

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# Water Right Licensing Program Urgency Continued

- ❑ Because permits do not permanently establish the elements of water rights, their value is uncertain. When farms and businesses seek operating loans, licenses give lenders confidence.
- ❑ IDWR must base water right licenses on the beneficial use established prior to the date proof of beneficial use was submitted. As years pass, it gets difficult for water right examiners to confirm what was developed at the time proof of beneficial use was made.
- ❑ The water right licensing backlog developed under competing priorities for Department resources. Reduced demand for water right permits and transfers has made Department resources available for the licensing effort.

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Effects of Past Licensing Measures

❑ Temporary examiners

- ❑ Many field reports left significant questions unanswered when the temporary employment period ended.

❑ Turning the examinations over to private sector Certified Water Right Examiners

- ❑ The contribution by CWREs is extremely valuable, but few permits holders choose CWREs because IDWR's statutorily mandated fees are usually less.

## Idaho Department of Water Resources

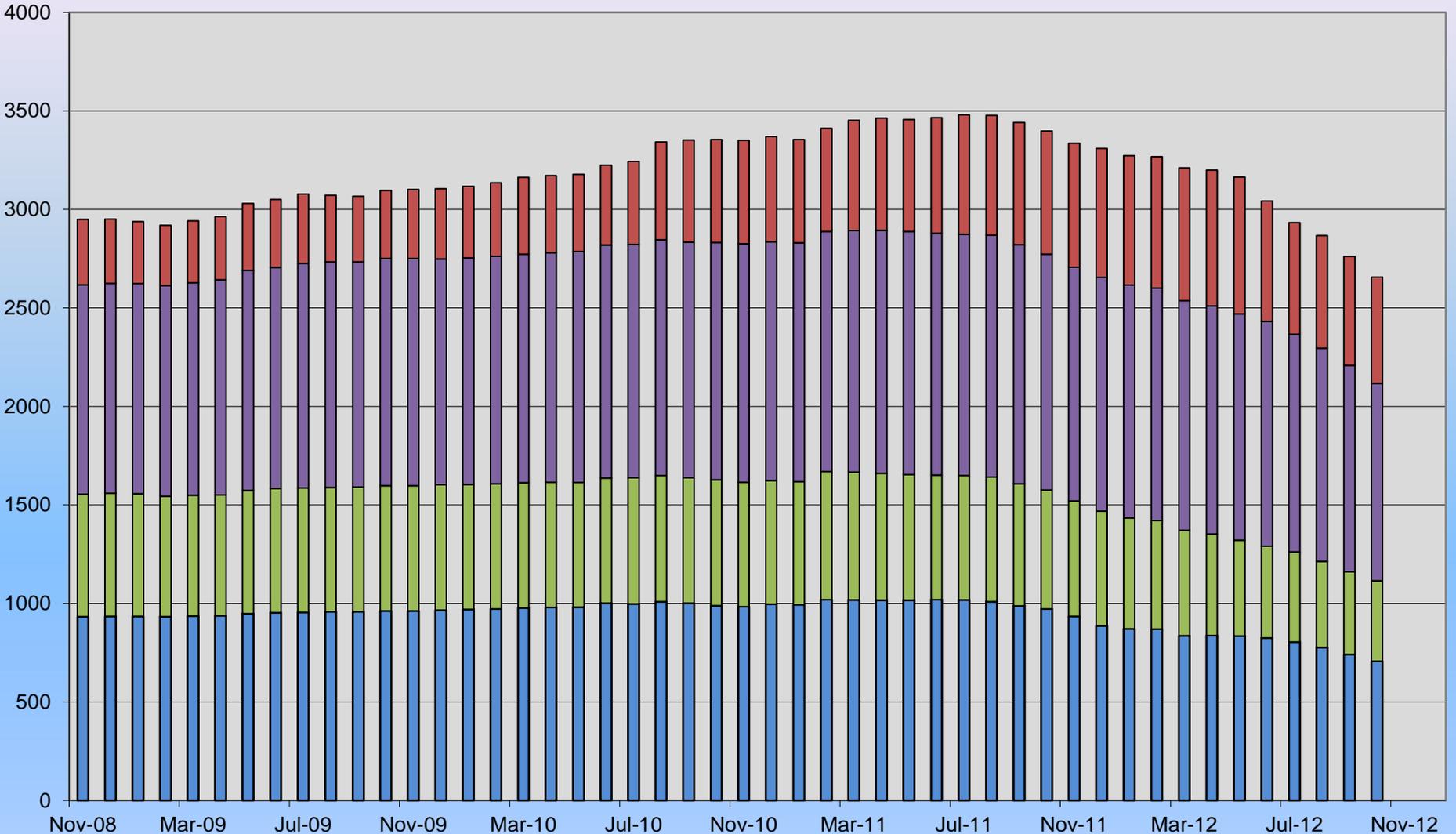
### What licensing measures have worked?

- ❑ In 2007 regional managers were given the authority to sign water right licenses. This eliminated a bottleneck in the state office.
- ❑ Having the field examiner also draft the license has improved efficiency and raised the quality of exams and licenses.
- ❑ Beneficial Use Field Examination Rules were updated in the spring of 2012 to remove the requirement for on-site examinations for permits that meet certain requirements.
- ❑ The Director required contributions to the water right licensing effort from staff members in Hydrology, Water Distribution, Planning, and Geographic Information Systems. Staff members in Fiscal and Information Technology also contributed to the licensing effort.

Accomplishment

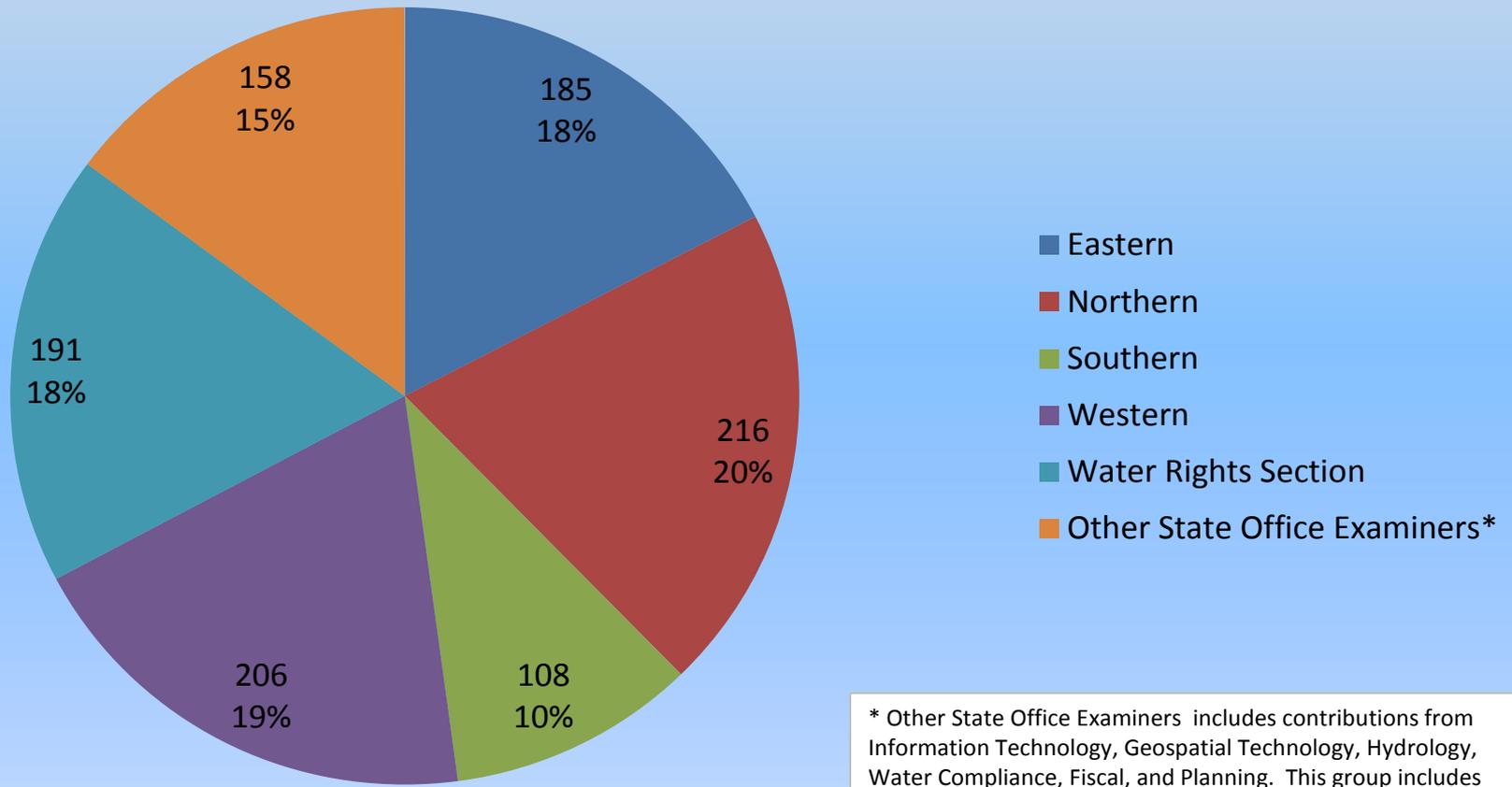
# Idaho Department of Water Resources

## Active Permits with Proof Submitted



Idaho Department of Water Resources  
Beneficial Use Field Examination Effort  
April - Oct. 2012

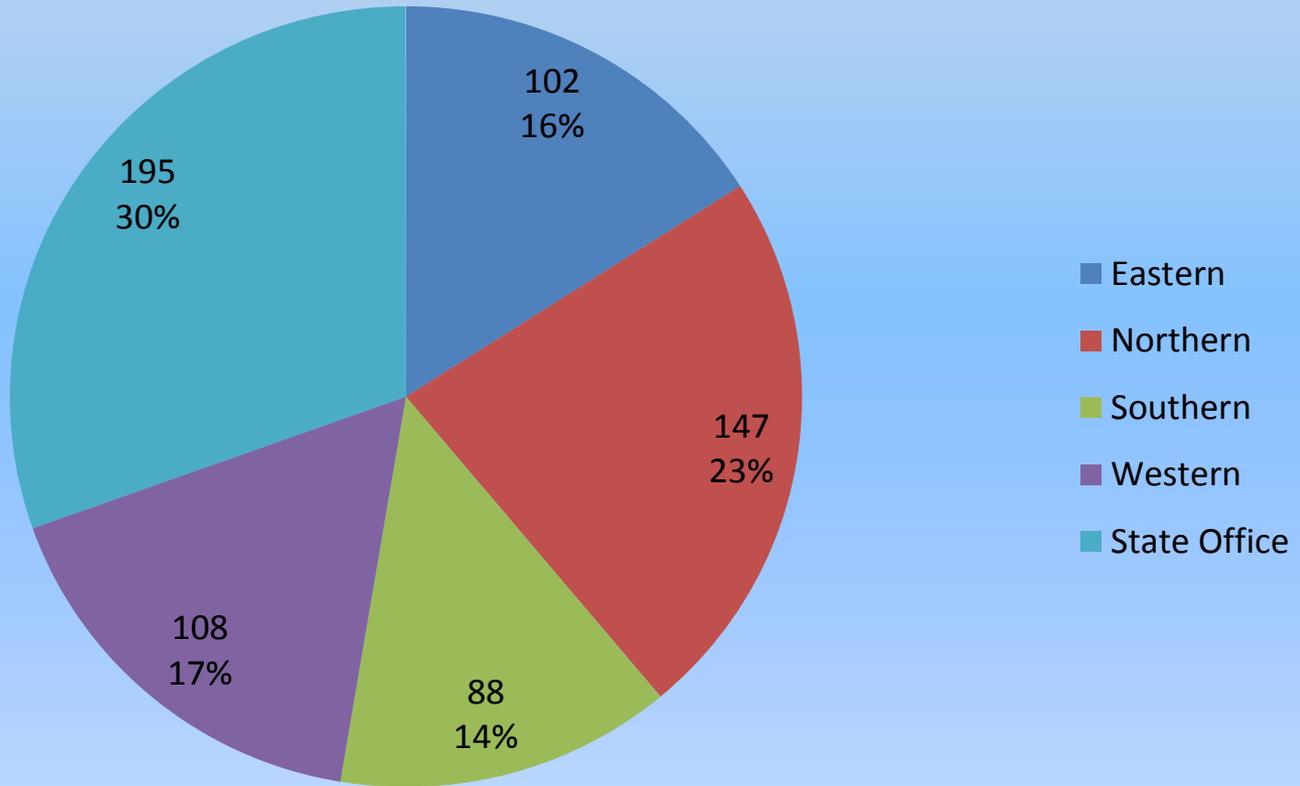
1064 Examinations Conducted



\* Other State Office Examiners includes contributions from Information Technology, Geospatial Technology, Hydrology, Water Compliance, Fiscal, and Planning. This group includes Dan Nelson and Sandra Thiel.

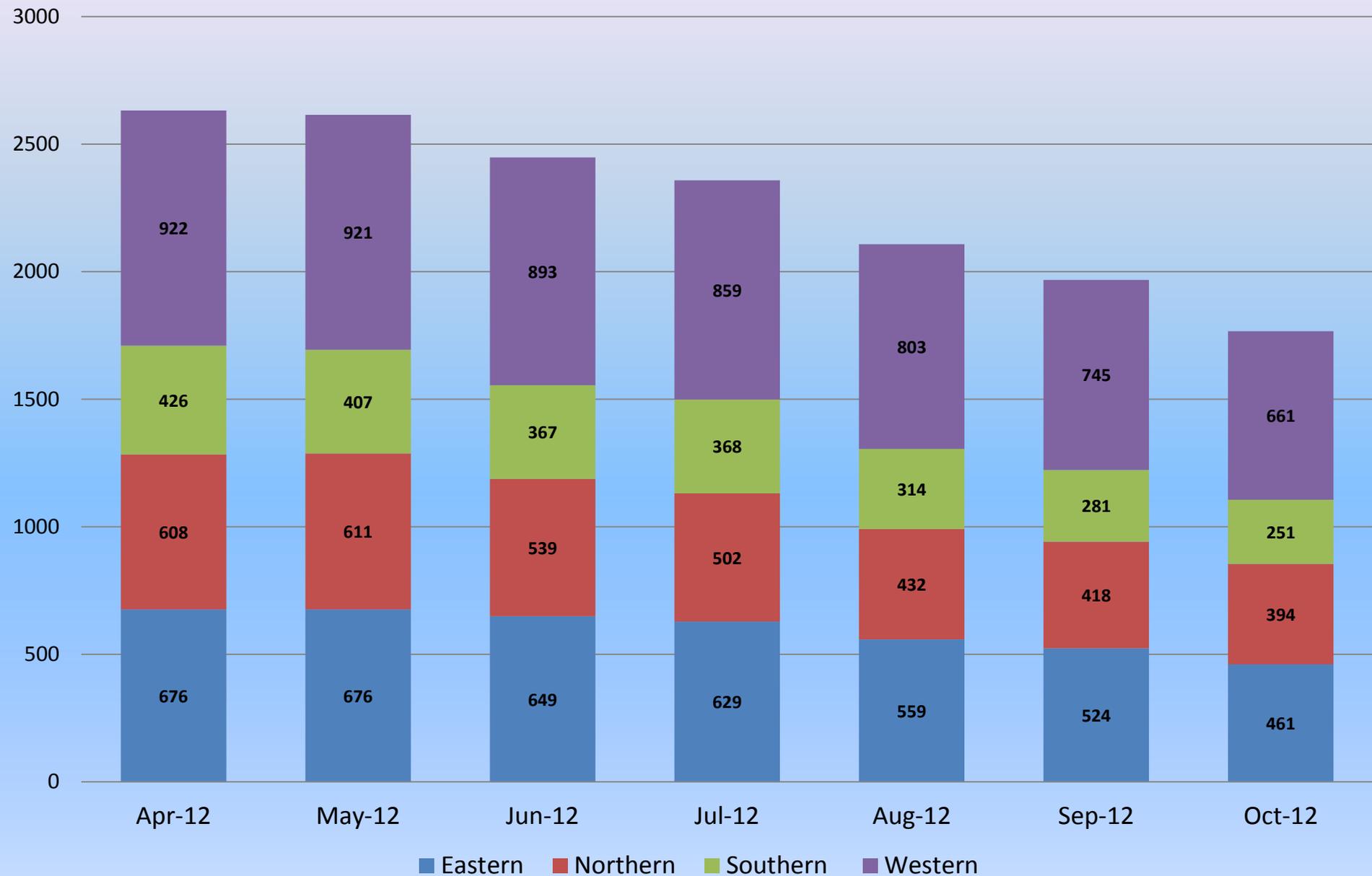
Idaho Department of Water Resources  
Water Right Licensing Effort  
April - Oct. 2012

640 Licenses Issued



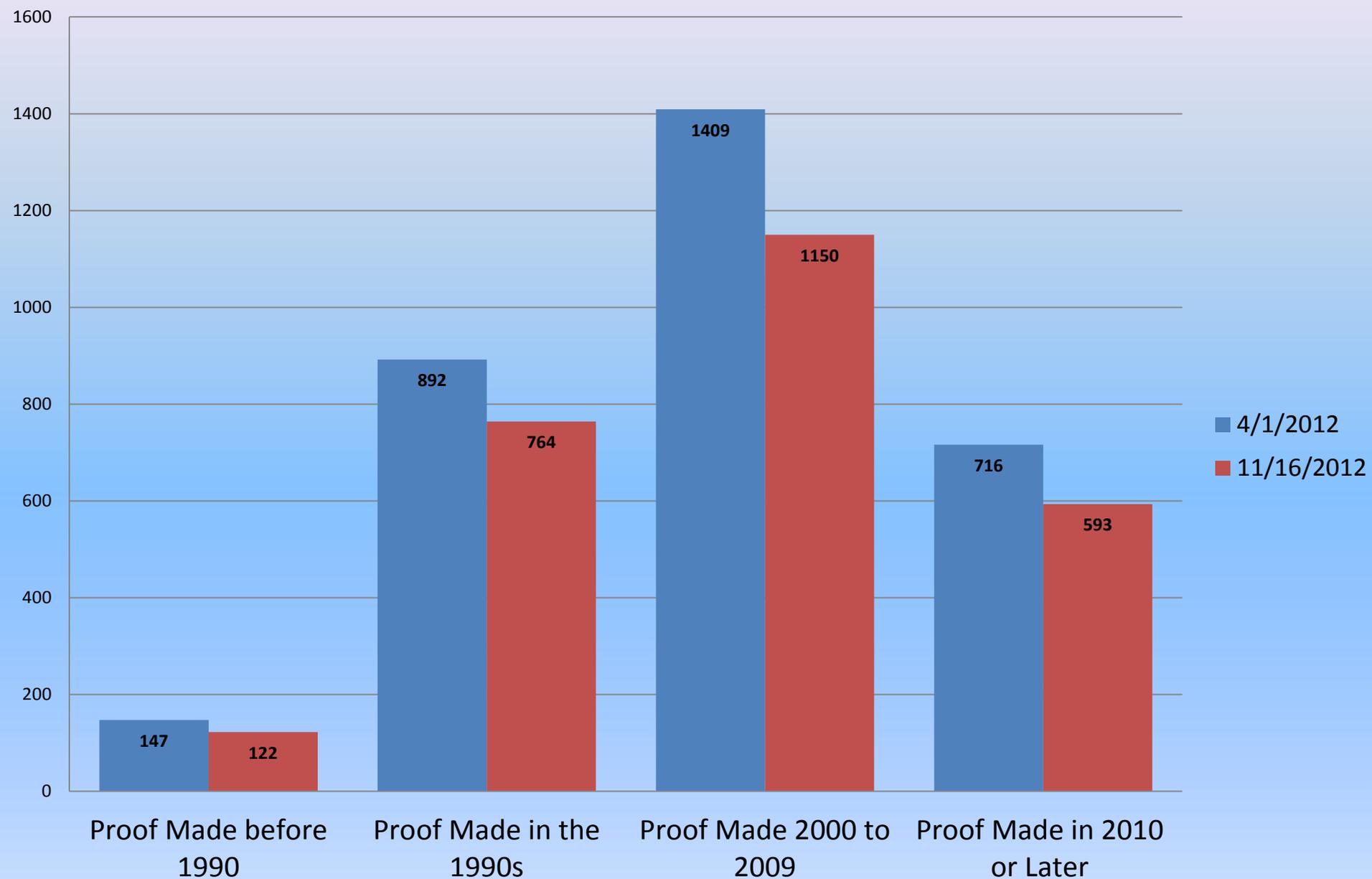
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## Total Permits Requiring A Field Examination



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## Age of the Water Right Licensing Backlog

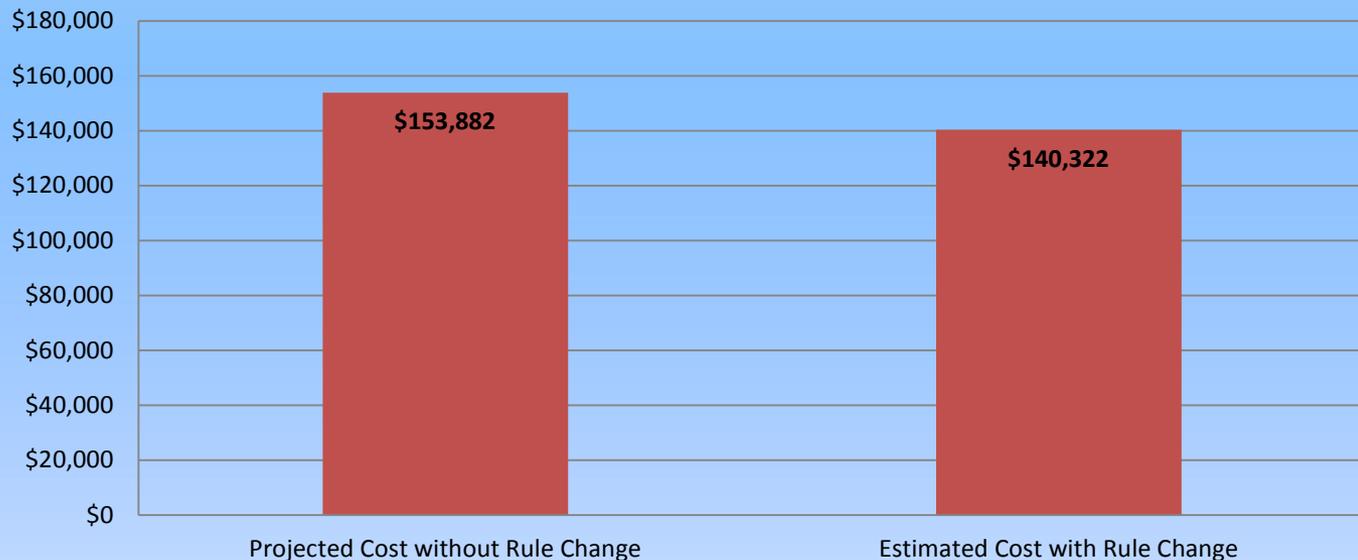


## Idaho Department of Water Resources

# Cost Savings from Exempting On-Site Examinations

□ In 2012 the Beneficial Use Examination Rules were modified to allow some small beneficial uses of water to be confirmed without an on-site inspection. Of the 166 proof statements received April to Oct. 2012, development of the permitted beneficial use was confirmed without a field visit 40 times. IDWR estimates that it requires, on average, \$339 more to conduct a field examination than it does to confirm beneficial use through desktop review. The estimated **cost savings** over seven months has been **\$13,560**.

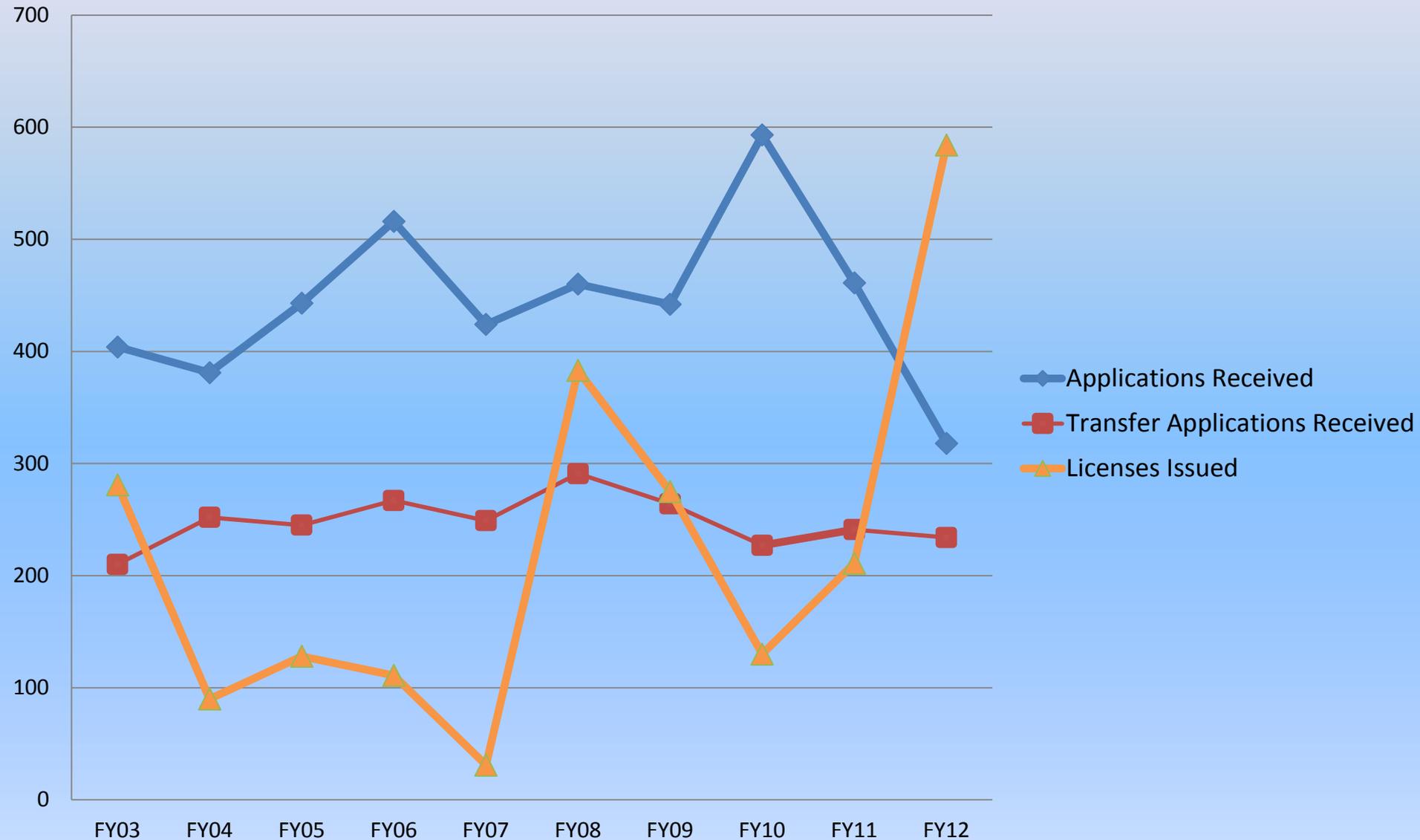
Estimated Cost Savings from Rule Change  
(166 Proof Statements Submitted April - Oct. 2012)



Looking Ahead

# Idaho Department of Water Resources

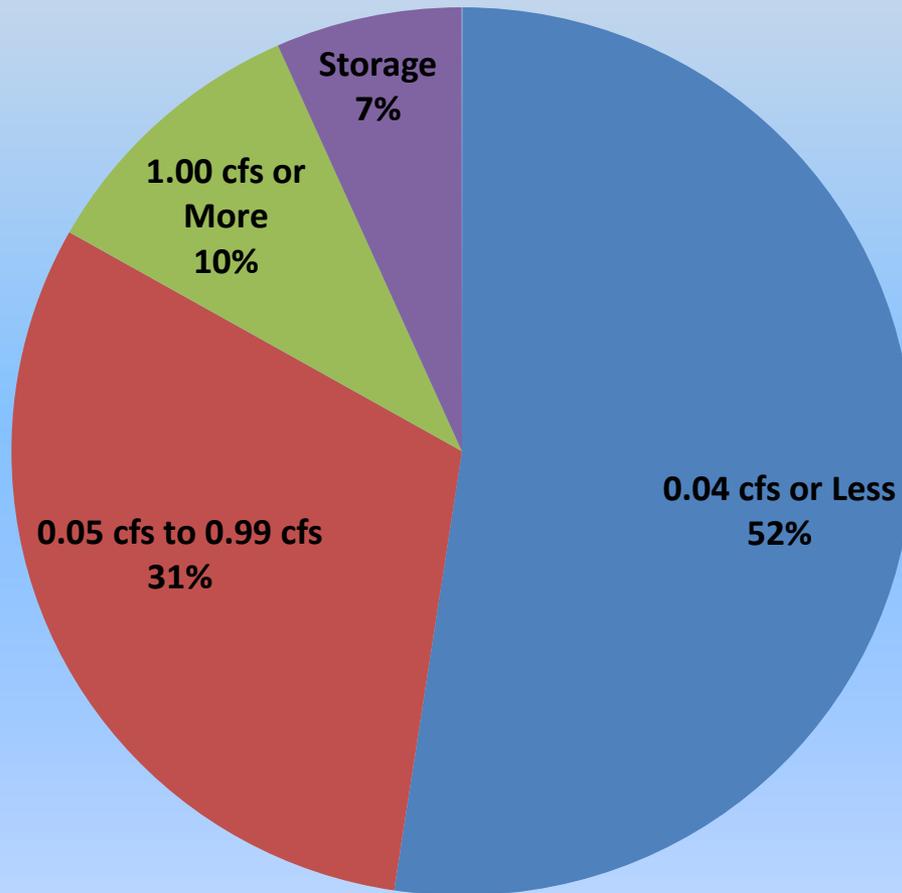
## Applications for Permit, Transfer Applications, and Licenses



Idaho Department of Water Resources  
Water Right Licenses Issued

April - Oct. 2012

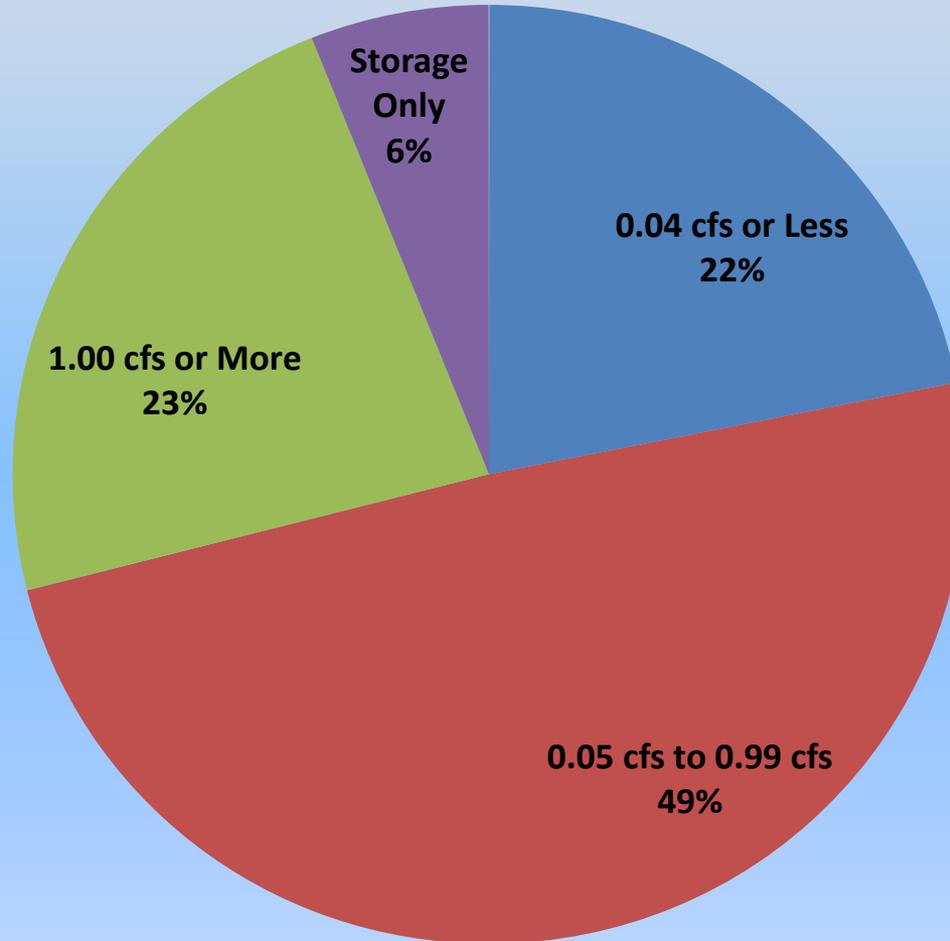
640 Licenses Issued



# Idaho Department of Water Resources

## Active Permits on Nov. 23, 2012

4181 Permits



## Idaho Department of Water Resources

# Water Right Licensing – Considerations for the Future

- ❑ As the previous slides show, the increased licensing effort corresponds to a period of reduced demand for permits and transfers. If the economy improves, and applications for new water rights and transfers increase, the licensing effort may not be sustainable with current staffing levels.
- ❑ Staff members reassigned from non-Water Right programs contributed 15% of the field examinations in 2012. Committing all of these staff members to field examinations may not be sustainable, depending on demands for services in their respective programs, such as Hydrology and Geospatial Technology.
- ❑ Field staff members struggled to work with aging equipment and vehicles, and there were not always enough to go around. Also, increased usage results in increased wear-and-tear. Sustaining the examination and licensing effort will require substantial investment in vehicles and equipment.
- ❑ Retaining experienced staff members is key to the effort, as it was for the transfer backlog reduction. Experienced staff members work more efficiently.

# Questions?

Shelley Keen  
Water Rights Section Manager  
[Shelley.keen@idwr.idaho.gov](mailto:Shelley.keen@idwr.idaho.gov)  
208-287-4947

Craig Saxton  
Water Rights Supervisor  
[Craig.saxton@idwr.idaho.gov](mailto:Craig.saxton@idwr.idaho.gov)  
208-287-4916

Dan Nelson  
Staff Hydrologist  
[Dan.nelson@idwr.idaho.gov](mailto:Dan.nelson@idwr.idaho.gov)  
208-287-4856