

Dear Senators SCHROEDER, Pearce & Stennett, and  
Representatives STEVENSON, Wood(35) and Saylor:

The Legislative Services Office, Research and Legislation, has received the enclosed  
rules of the Dept. Of Water Resources:

IDAPA 37.03.01 - Adjudication Rules (Docket #37-0301-0801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by  
the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice  
to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis  
from Legislative Services. The final date to call a meeting on the enclosed rules is no later than  
10-6-08. If a meeting is called, the subcommittee must hold the meeting within forty-two (42)  
days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting  
on the enclosed rules is 11-3-08.

\_\_\_\_\_The germane joint subcommittee may request a statement of economic impact with  
respect to a proposed rule by notifying Research and Legislation. There is no time limit on  
requesting this statement, and it may be requested whether or not a meeting on the proposed rule  
is called or after a meeting has been held.

To notify Research and Legislation, call 334-2475, or send a written request to the  
address or FAX number indicated on the memorandum enclosed.

## **MEMORANDUM**

**TO:** Rules Review Subcommittee of the Senate Resources & Environment Committee  
and the House Resources & Conservation Committee

**FROM:** Katharine Gerrity, Principal Legislative Research Analyst

**DATE:** September 17, 2008

**SUBJECT:** Idaho Department of Water Resources

IDAPA 37.03.01 - Adjudication Rules (Docket #37-0301-0801)

The Idaho Department of Water Resources submits notice of temporary and proposed rule at IDAPA 37.03.01 - Adjudication Rules. According to the Department, the rulemaking is necessary to conform to various statutory changes that were made from 2006 through 2008, as well as to update citations to the Idaho Code and reduce the number of claim forms from two to one. The Department notes that because the 2008 Legislature lowered the fees for filing a claim in an adjudication, this will result in a negative impact on fees collected by the Department. Negotiated rulemaking was not conducted.

We have no specific comments regarding the rule as the result of our review. The rule appears to be authorized pursuant to Sections 42-1414 and 42-1805, Idaho Code.

cc: Idaho Department of Water Resources  
Don Shaff

# **IDAPA 37 - DEPARTMENT OF WATER RESOURCES**

## **37.03.01 - ADJUDICATION RULES**

### **DOCKET NO. 37-0301-0801**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is August 20, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 42-1414, and 42-1805(8), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule change is necessary to make rules consistent with 2006, 2007 and 2008 legislative amendments to Chapter 14, Title 42, Idaho Code, update outdated citations to Idaho Code, and reduce number of claim forms from two to one.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with deadlines in amendments to governing law or federal programs.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Because the 2008 Legislature lowered the fees for filing a claim in an adjudication, this will result in a negative impact on the fees collected by IDWR's adjudication programs in Section 42-1414, Idaho Code.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The rule change itself does not have a fiscal impact because the rule change simply makes the rules consistent with the new fee structure in Section 42-1414, Idaho Code. Because the 2008 Legislature lowered the fees for filing a claim in an adjudication, this will result in a negative impact on the fees collected by IDWR's adjudication programs.

**NEGOTIATED RULEMAKING:** Pursuant to 67-5220, Idaho Code, negotiated rulemaking was not conducted because the primary purpose of rule change is to make the rules consistent with existing Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Don Shaff, Adjudication Bureau Chief, at (208) 287- 4800.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2009.

DATED this August 18, 2008.

Donald V. Shaff  
Adjudication Bureau Chief  
Idaho Department of Water Resources  
322 E. Front St.  
PO Box 83720  
Boise, Idaho 83720-0098  
Ph: (208) 287-4800  
Fx: (208) 287-6700

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0301-0801**

~~000. (RESERVED).~~

**000. LEGAL AUTHORITY.**

This Chapter is adopted under the legal authorities of Section 42-1414, and 42-1805(8), Idaho Code. ( )

**001. TITLE AND SCOPE (RULE 1).**

*The purpose of these rules is to implement statutes governing the filing of notices of claims to water rights acquired under state law and the collection of fees for filing notices of claims to water rights acquired under state law in general adjudications, as provided in Sections 42-1409(2), (4) and (8), 42-1414, and 42-1415, Idaho Code. (7-1-93)*

**01. Title.** These rules shall be cited as IDAPA 37.03.01, "Adjudication Rules." ( )

**02. Scope.** These rules implement statutes governing the filing of notices of claims to water rights acquired under state law and the collection of fees for filing notices of claims to water rights acquired under state law in general adjudications, as provided in Sections 41-1409, 42-1414 and 42-1415, Idaho Code. ( )

**002. WRITTEN INTERPRETATIONS.**

The Idaho Department of Water Resources maintains written interpretations of its rules which may include, but may not be limited to, written procedures manuals and operations manuals, Attorney General formal and informal opinions, and other written guidance, which pertain to the interpretation of the rules of this chapter. Copies of the procedures manuals and operations manuals, Attorney General opinions, and other written interpretations, if applicable, are available for public inspection and copying at the director's office of the Idaho Department of Water Resources, Boise, Idaho. ( )

**003. ADMINISTRATIVE APPEALS.**

Any person aggrieved by any final decision or order of the department shall be entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code. ( )

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated herein by reference. ( )

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Department of Water Resources is located at 322 East Front Street in Boise, Idaho and it is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. The mailing address is: Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098. The telephone number of the office is (208) 287-4800. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

This rule is subject to and in compliance with the provisions of Title 9, Chapter 3, Idaho Code. ( )

~~0027.~~ -- 009. (RESERVED).

010. DEFINITIONS (~~RULE 10~~).

- ~~01.~~ ~~AF. An acre foot (feet).~~ (7-1-93)
- 021.** **Amendment Fee.** The additional fee payable at the time of filing an amendment to a claim, as provided in Section 42-140914(42), Idaho Code. (7-1-93)(\_\_\_\_)
- ~~03.~~ ~~Application. An application to appropriate water, as provided in Sections 42-202 or 42-1503, Idaho Code.~~ (7-1-93)
- 042.** **Aquaculture.** The use of water for propagation of fish, shell fish, and any other animal or plant product naturally occurring in an underwater environment. (7-1-93)
- 053.** **Aquaculture Fee.** The variable fee payable for aquaculture use, as provided in Section 42-1414(21)(e)(iii), Idaho Code, which shall be calculated for each cfs and fraction thereof to the nearest dollar. (7-1-93)(\_\_\_\_)
- ~~06.~~ ~~CFS. Cubic foot (feet) per second.~~ (7-1-93)
- 074.** **Claim.** A notice of claim to a water right acquired under state law, as provided in Section 42-1409(24), Idaho Code. (7-1-93)(\_\_\_\_)
- 085.** **Department.** The Idaho Department of Water Resources. (7-1-93)
- 096.** **Director.** The Director of the Idaho Department of Water Resources. (7-1-93)
- 07.** **Domestic Use.** Domestic use as defined in Section 42-1401A(4), Idaho Code. (\_\_\_\_)
- ~~10.~~ ~~Extended Payment Plan. The installment schedule for payment of fees for filing claims, as provided in Section 42-1414(3), Idaho Code.~~ (7-1-93)
- ~~11.~~ ~~Fire Fighting Purposes. The use of water in times of emergency: to extinguish an existing fire on private or public lands, facilities, or equipment; to prevent an existing fire from spreading to private or public lands, facilities or equipment within the vicinity of and endangered by an existing fire; and by fire fighting personnel engaged in fighting an existing fire. Fire fighting purposes does not include the use of water to prevent a fire from occurring in the future, the use of water for domestic purposes in regularly maintained firefighting stations, or the storage of water for fighting future fires.~~ (7-1-93)
- ~~1208.~~ **Flat Fee.** The per claim fee for filing claims, as provided in Section 42-1414(1)(a), Idaho Code. (7-1-93)(\_\_\_\_)
- ~~1309.~~ **Late Fee.** The additional fee payable for the filing of late claims, as provided in Section 42-140914(83), Idaho Code. (7-1-93)(\_\_\_\_)
- ~~14.~~ ~~Long Claim Form. The department's form number 42-1409(2)a, entitled "Notice of Claim to a Water Right Acquired Under State Law."~~ (7-1-93)
- 150.** **Per Acre Fee.** The variable fee for irrigation use, as provided in Section 42-1414(21)(a)(i), Idaho Code, which shall be calculated for each acre and fraction thereof rounded to the next whole acre. (7-1-93)(\_\_\_\_)
- 161.** **Per Cfs Fee.** The variable fee payable for other uses, as provided in Section 42-1414(21)(a)(iii), (iv) and (v), Idaho Code, which shall be calculated for each cfs and fraction thereof to the nearest dollar. (7-1-93)(\_\_\_\_)
- 172.** **Per Kilowatt Fee.** The variable fee payable for power generation use, as provided in Section 42-

1414(21)(b)(ii), Idaho Code, which shall be calculated for each kilowatt and fraction thereof. (7-1-93)( )

~~18.~~ **Report.** *The report of the director, as provided in Section 42-1411(1), Idaho Code.* (7-1-93)

~~193.~~ **Short State Law Claim Form.** The department's form ~~number 42-1409(2)b~~, entitled "Notice of Claim to a Water Right Acquired Under State Law ~~for Domestic and/or Stockwater Purposes as provided in Section 42-1409(4), Idaho Code.~~" (7-1-93)( )

~~14.~~ **Stock Watering Use.** Stock watering use as defined in Section 42-1401A(11), Idaho Code. ( )

~~2015.~~ **Total Fee.** The fee payable for filing a claim, which consists of the flat fee plus any applicable variable fee and late fee. (7-1-93)( )

~~216.~~ **Variable Fee.** The fee payable for filing claims in addition to the flat fee, as provided in Section 42-1414(21)(b), Idaho Code. (7-1-93)( )

~~2217.~~ **Water Delivery System.** All structures and equipment used for diversion, storage, transportation, and use of water from the water source to and including each place of use. (7-1-93)

~~2318.~~ **Water Delivery Organization.** An irrigation district, a water utility, a municipality, or any similar claimant of a water right who diverts water pursuant to the water right claimed and delivers the water to others who make beneficial use of the water diverted by the water delivery organization pursuant to the water right claimed by the water delivery organization. (7-1-93)

**011. ABBREVIATIONS.**

~~01.~~ **AF.** An acre foot (feet). ( )

~~02.~~ **CFS.** Cubic foot (feet) per second. ( )

~~03.~~ **NA.** Not applicable. ( )

~~04.~~ **PIN.** Parcel identification number. ( )

~~0142.~~ -- 024. (RESERVED).

**025. GENERAL (RULE 25).**

**01. Requirement to Pay.** All persons filing claims to water rights acquired under state law or amendments to claims to water rights acquired under state law shall be required to pay filing fees as set forth by statute and these rules. (7-1-93)

**02. Method of Payment.** Fees shall be paid in legal tender of the United States; or by money order, certified check, cashier's check, ~~or~~ personal check, or by electronic payment on-line payable to the department in legal tender of the United States. ~~Credit card payments and~~ two-party checks will not be accepted. (7-1-93)( )

**03. Personal Check.** If a personal check in payment of a flat fee, a variable fee, or a late fee, ~~and/or the first payment on an extended payment plan~~ is returned unpaid to the department or the debit or credit card payment is rejected by the financial institution, the claims covered by the returned check or the rejected debit or credit card will be rejected and returned to the claimant. If a personal check in payment of an amendment fee is returned unpaid to the department or the debit or credit card payment is rejected by the financial institution, the amended claim will be rejected and returned to the claimant, but the original claim will still be in effect. ~~If a personal check in payment of the second through fifth payments on an extended payment plan is returned unpaid to the department, the returned check will be treated as nonpayment pursuant to Rule Subsection 040.05.~~ (7-1-93)( )

**04. Time of Payment.** Flat fees and variable fees shall be payable to the department at the time of filing a claim, ~~except in the case of extended payment plans otherwise provided for by statute and these rules.~~

Amendment fees shall be payable to the department at the time of filing the amended claim. Late fees shall be payable at the time of filing the late claim. (7-1-93)(\_\_\_\_)

**05. Government Voucher.** Fees payable by government agencies (other than agencies of foreign governments) may be paid when due by government voucher. If full payment of the voucher is not received within forty-five (45) days of the date the voucher is received, the unpaid voucher will be treated as a returned check as provided in *Rule* Subsection 025.03. (7-1-93)(\_\_\_\_)

~~**06. Insufficient Paid Fee.** If a fee paid is later determined by the director to be insufficient, the director will send a notice of balance due by certified mail to the claimant at the most recent address shown by department records, stating the balance due and that the balance will be due within thirty (30) days of the date the notice is mailed. If the balance is not received by the date set forth in the notice, the balance due will be treated as an extended payment plan in default as set forth in *Rule* Subsections 040.05.c. and 040.05.d. A notice of balance due shall not be issued after filing of the director's report for the claim for which the fee was paid, or more than four (4) years after the date the insufficient payment was received by the director, whichever is later. (7-1-93)~~

~~**076. Rejection of Claim.** Claims based upon an application to appropriate water that has not been approved by the department pursuant to Sections 42-204 or 42-1503, Idaho Code, shall not be accepted, and any fees paid shall be returned to the claimant. Claims submitted without the correct filing fee shall be rejected and returned to the claimant. (7-1-93)(\_\_\_\_)~~

~~**087. Fire-Fighting.** A claim is not required to be filed for water used solely for fire fighting purposes. The report will contain general conclusions of law recognizing and protecting the use of water for fire fighting purposes absent a decree, license, or permit for the use of water for fire fighting purposes to extinguish an existing fire on private or public lands, structures, or equipment, or to prevent an existing fire from spreading to private or public lands, structures, or equipment endangered by an existing fire pursuant to Section 42-201(3), Idaho Code. A claim is required for the use of water for domestic purposes in regularly maintained firefighting stations and for the storage of water for fighting future fires. (7-1-93)(\_\_\_\_)~~

~~**09. In-Stream Livestock Use.** A claim is not required to be filed for water used solely for in-stream livestock use as defined by Section 42-113, Idaho Code. The report will contain general conclusions of law stating that: (7-1-93)~~

~~**a.** In the consideration of applications for permits to appropriate water for other purposes, the director shall impose such reasonable conditions as are necessary to protect prior water rights for in-stream livestock use; and (7-1-93)~~

~~**b.** In the administration of water rights, the director shall recognize and protect water rights for in-stream livestock use, according to priority, as the director recognizes and protects water rights for other purposes. (7-1-93)~~

~~**108. Examples.** Examples set forth in these rules are solely for purposes of illustration and do not have the effect of rules. (7-1-93)~~

**026. -- 029. (RESERVED).**

**030. FLAT FEES (RULE 30).**

**01. Small Domestic and Stock Water.** A flat fee of twenty-five dollars (\$25) shall be payable for each claim, ~~where the total amount of water diverted does not exceed thirteen thousand (13,000) gallons per day, that is limited to:~~ for domestic use and/or stock watering use meeting the definition of domestic use and/or stock watering use in *Rule* 010. (7-1-93)(\_\_\_\_)

~~**a.** Domestic use as defined by Section 42-1401A(5), Idaho Code; (7-1-93)~~

~~**b.** Stock watering use as defined by Section 42-1401A(12), Idaho Code; or (7-1-93)~~

~~e.~~ Domestic use as defined by Section 42-1401A(5), Idaho Code, and stock watering use as defined by Section 42-1401A(12), Idaho Code. (7-1-93)

~~d.~~ Domestic use as defined by Section 42-1401A(5), Idaho Code, includes single ownership, multiple-family domestic uses, so long as the total amount of water diverted for all households pursuant to a single water right does not exceed thirteen thousand (13,000) gallons per day. (7-1-93)

**02. Exception Other Claims.** A flat fee of fifty dollars (\$50) shall be payable for each claim that does not meet the definition criteria of Rule Subsection 030.01. (7-1-93)( )

**031. -- 034. (RESERVED).**

**035. VARIABLE FEES (~~RULE 35~~).**

**01. General.** For each claim not meeting the definition criteria of Rule Subsection 0307.01, there may be a variable fee in addition to the flat fee. (7-1-93)( )

**02. Per Acre Fee.** (7-1-93)

**a.** A fee of one dollar (\$1.00) per acre shall be required for claims for irrigation use. ( )

~~b.~~ The per acre fee shall only be charged once against a particular acre, regardless of the number of claims filed for the irrigation of that acre or the number of claimants filing claims for the irrigation of that acre. (7-1-93)

i. Example 1: A claimant submits two (2) claims, one (1) for irrigation of sixty (60) acres, and one (1) for a supplemental water right to irrigate the same sixty (60) acres with a later priority. The total fee for both claims consists of two (2) flat fees of fifty dollars (\$50) each, plus one (1) sixty dollar (\$60) variable fee based upon sixty (60) acres, for a total of one hundred sixty dollars (\$160). (7-1-93)

~~b.c.~~ The per acre fee shall be payable by the first person to file a claim for the irrigation of a particular acre. (7-1-93)

i. Example 2: A water delivery organization files a claim for irrigation of lands within the service area of the water delivery organization, and pays the filing fee. An individual files a claim for a supplemental water right for sixty (60) acres of land that is claimed as irrigated acreage by the water delivery organization. The total fee paid directly by the individual is the fifty dollar (\$50) flat fee, the variable per acre fee has already been paid by the water delivery organization. (7-1-93)

~~d.~~ The per acre fee for an irrigation project where the canals constructed cover an area of twenty-five thousand (25,000) acres or more, or irrigation districts organized and existing as such under the laws of the state of Idaho, or for beneficial use by more than five (5) water users in an area of less than twenty-five thousand (25,000) acres shall be determined based upon the acreage claimed to be irrigated by the project or irrigation district within the boundaries of the project or irrigation district. (7-1-93)( )

**03. Per Kilowatt Fee.** (7-1-93)

**a.** A per kilowatt of capacity (manufacturer's nameplate rating) fee of three dollars and fifty cents (\$3.50) per kilowatt, or two hundred fifty thousand dollars (\$250,000.00), which ever is less, shall be required for claims for power use. ( )

~~b.~~ The per kilowatt fee shall be determined based upon the total generating capacity of all generators in which the water right claimed is used. (7-1-93)

~~b.c.~~ The total per kilowatt fee for all claims filed for a single hydropower facility shall not exceed the per kilowatt fee for the total generating capacity of all generators in the hydropower facility. (7-1-93)



i. Example 3: A claimant submits three (3) claims for water used in one (1) power plant. The power plant has four (4) generators, each with a manufacturer's nameplate rating of ninety (90) kilowatt capacity. The total fee for all three (3) claims consists of three (3) flat fees of fifty dollars (\$50) each, plus a variable fee of one thousand two hundred sixty dollars (\$1,260) (4 x 90 x 3.50), for a total of one thousand four hundred ten dollars (\$1,410). (7-1-93)

**04. Per CFS Fee.** (7-1-93)

~~a.~~ A fee of ten dollars (\$10) per cfs for aquaculture shall be required. A fee of one hundred dollars (\$100) per cfs for all other uses shall be required except for irrigation, power, and domestic and stock watering uses meeting the definition of domestic and stock watering use in Section 010. ( )

~~a.b.~~ For a claim to water for more than one (1) public purpose, the per cfs fee shall only be charged once per cfs claimed. Public purposes shall include public in-stream flows, ~~public~~ lake level maintenance, wildlife, aesthetic beauty, and recreation. (7-1-93)( )

i. Example 4: A claimant files a claim to ten (10) cfs for a public in-stream flow for wildlife, recreation, and aesthetic purposes. The variable fee is one thousand dollars (\$1,000) and the flat fee is fifty dollars (\$50), for a total fee of one thousand fifty dollars (\$1,050). (7-1-93)

~~b.c.~~ If there is a seasonal variation in the number of cfs claimed, the per cfs fee shall be based upon the maximum number of cfs claimed for any period during a single calendar year. (7-1-93)

~~e.d.~~ The per cfs fee shall apply to claims for water quality improvement, recreation, aesthetic purposes, and any other purpose not expressly listed at Section 42-1414(21), Idaho Code, except as otherwise provided by these rules. (7-1-93)( )

**05. Claims Including Storage.** (7-1-93)

a. The variable fee for a claim that includes storage shall be based upon the ultimate use of the water stored. If the claim states purposes other than diversion to storage, storage, and diversion from storage, the total variable fee will be determined as provided in ~~Rule~~ Subsection 035.06. (7-1-93)( )

b. ~~Ground water recharge is not an ultimate use and n~~ No variable fee shall be payable for water claimed for ground water recharge purposes. (7-1-93)( )

c. For purposes of determining the per cfs fee for amounts of water claimed in af, one (1) cfs equals one and ninety-eight one-hundredths (1.98) af per day of diversion to storage. (7-1-93)

d. No variable fee shall be payable for minimum by-pass flows. (7-1-93)

**06. Multiple Purpose Claims.** If a claimant claims more than one (1) purpose of use on a single claim, the variable fee will be the total of the variable fees payable for each purpose of use. (7-1-93)

a. Example 5: A claimant files a claim for twenty (20) cfs of water, which is first used for power purposes in a plant with a one hundred fifty (150) kilowatt capacity, and is then used for irrigation of one thousand (1,000) acres of land. The variable fee is one thousand dollars (\$1,000) (per acre fee) plus five hundred twenty-five dollars (\$525) (per kilowatt fee), for a total variable fee of one thousand five hundred twenty-five dollars (\$1,525). The total fee is one thousand five hundred seventy-five dollars (\$1,575), consisting of ~~the~~ a variable fee of one thousand five hundred twenty-five dollars (\$1,525) variable fee and the a flat fee of fifty dollars (\$50) flat fee. (7-1-93)( )

b. Example 6: A claimant files a claim for twenty (20) cfs of water, ~~half of which 10 cfs~~ is claimed for commercial purposes, ~~half of which 10 cfs~~ is claimed for irrigation of five hundred (500) acres. The variable fee is one thousand dollars (\$1,000) (per cfs fee) plus five hundred dollars (\$500) (per acre fee) for a total variable fee of one thousand five hundred dollars (\$1,500). The total fee is one thousand five hundred fifty dollars (\$1,550), consisting of ~~the~~ a variable fee of one thousand five hundred dollars (\$1,500) variable fee and the a flat fee of fifty

dollars (\$50) flat fee.

(7-1-93)( )

**07. Exceptions.** No variable fee shall be payable for claims or portions of claims for fire-fighting purposes; if a claim is required under Subsection 025.07 or for domestic use and/or stock watering use meeting the definitions of domestic use and stock watering use in ~~Rule~~ Section ~~030.01~~ 010. (7-1-93)

**a.** Example 7: A claimant files a claim for 5.04 cfs of water, five (5) cfs of which is claimed for irrigation of two hundred fifty (250) acres, two one-hundredths (.02) cfs of which is claimed for domestic use, two one-hundredths (.02) cfs of which is claimed for stock watering. The variable fee is two hundred fifty dollars (\$250) and the flat fee is fifty dollars (\$50), for a total fee of three hundred dollars (\$300). (7-1-93)

**036. -- 03944. (RESERVED).**

**040. EXTENDED PAYMENT PLANS (RULE 40).**

~~01. Eligibility.~~ A claimant is eligible for an extended payment plan where the total fee for all claims filed by that claimant in a single day at a single claims taking location equals or exceeds one thousand dollars (\$1,000). (7-1-93)

~~02. Payment Schedule.~~ (7-1-93)

~~a.~~ An extended payment plan shall consist of five (5) annual payments. An extended payment plan is not available for a shorter term or with more frequent payments, but early payments will be accepted as provided in Rule Subsection 040.04. (7-1-93)

~~b.~~ Extended payments shall be made in equal annual payments of principal. The first principal payment shall be due upon filing the claim or claims. The remaining four (4) payments will be due on the first day of the same month during the following four (4) years. Interest will be calculated annually from the day after the due date for the previous principal payment to and including the due date for the next principal payment, and will be due upon the due date for the next principal payment. (7-1-93)

~~i.~~ Example 8: A claimant files claims December 17, 1987, and the total fees are five thousand dollars (\$5,000). One thousand dollars (\$1,000) will be due December 17, 1987. The second payment will be due December 1, 1988, and will be one thousand dollars (\$1,000) plus three hundred eighty-two dollars and forty-seven cents (\$382.47) (349 days interest on \$4,000), for a total of one thousand three hundred eighty-two dollars and forty-seven cents (\$1,382.47). The third payment will be due on December 1, 1989, and will be one thousand dollars (\$1,000) plus one (1) year's interest on three thousand dollars (\$3,000), for a total of one thousand three hundred dollars (\$1,300). The fourth payment will be due December 1, 1990 and will be one thousand dollars (\$1,000) plus one (1) year's interest on two thousand dollars (\$2,000), for a total of one thousand two hundred dollars (\$1,200). The fifth payment will be due on December 1, 1991, and will consist on one thousand dollars (\$1,000) plus one (1) year's interest on one thousand dollars (\$1,000), for a total of one thousand one hundred dollars (\$1,100). (7-1-93)

~~03. Notice of Payment Due.~~ At least fourteen (14) days prior to the date an extended payment is due, the director will send a notice of payment due by regular mail to the claimant at the most recent address shown by department records. (7-1-93)

~~04. Early Payments.~~ Early payments will be accepted. When a payment due is received prior to the fourteenth (14th) day before the due date, interest will be recalculated based on the amount of interest accrued daily from the day after receipt of the next previous payment to and including the date the early payment is received. Any overpayment resulting from the recalculation of interest due will be applied to the principal amount due the following year, unless the early payment is the last payment, in which case any overpayment will be refunded to the claimant. (7-1-93)

~~05. Late Payments.~~ (7-1-93)

~~a.~~ When a payment due is not received by the 14th day following the due date, interest will accrue daily on the amount due from the day after the due date to and including the date the payment is received at the

~~annual interest rate set forth at Section 42-1414, Idaho Code. When the payment due is received, it will be applied first to interest (including late interest) and then to principal, and the next year's payment will be recalculated accordingly, unless the late payment is the last payment due. If the late payment is the last payment due, the director will send a notice of balance due by regular mail to the claimant at the most recent address shown by department records, stating that the balance will be due within thirty (30) days of the date the notice is mailed. (7-1-93)~~

~~**b.** When a payment due is not received by the 30th day following the due date, the director will send a notice of default by certified mail to the claimant at the most recent address shown by department records. (7-1-93)~~

~~**c.** When a payment due is not received by the 60th day following the due date, and the director has not filed the director's report, the director may reject and return all claims covered by the extended payment plan in default. (7-1-93)~~

~~**d.** When a payment due is not received by the 60th day following the due date, and the director has filed the director's report, the director may:~~

~~**i.** Issue a cease and desist order directing the claimant not to divert any water pursuant to the claims covered by the extended payment plan in default until all amounts due have been received by the department; (7-1-93)~~

~~**ii.** Obtain an injunction from the district court conducting the general adjudication directing the claimant not to divert any water pursuant to the claims covered by the extended payment plan in default until all amounts due have been received by the department; and (7-1-93)~~

~~**iii.** Reject and return the claims covered by the extended payment plan and amend the report to recommend the water right represented by the claims covered by the extended payment plan as unclaimed. (7-1-93)~~

~~**06. Splitting Extended Payment Plans. (7-1-93)**~~

~~**a.** When a single extended payment plan is established that covers more than one (1) claim, the extended payment plan may later be split into two (2) extended payment plans, each of which covers a portion of the claims previously covered by the single extended payment plan. If the claims covered by an extended payment plan created by the split would not have qualified for an extended payment plan at the time the claims were filed, the entire balance for the claims covered by the extended payment plan created by the split will be due at the time the extended payment plan is split. (7-1-93)~~

~~**b.** A single claim may not be split into two (2) extended payment plans unless the water right claimed has been split by conveyance to different owners. If the portion of the claim covered by an extended payment plan created by the split would not have qualified for an extended payment plan at the time the claim was filed, the entire balance of the fee for that portion of the claim will be due at the time the extended payment plan is split. (7-1-93)~~

~~**c.** When a single extended payment plan has been established that covers more than one (1) claim, the claimant may choose to pay the balance on less than all of the claims, leaving the balance on the remaining claims to be paid on the extended payment plan, unless the remaining claims would not have qualified for an extended payment plan at the time of filing. (7-1-93)~~

~~**07. Partial Payments. (7-1-93)**~~

~~**a.** Partial payments (payment of less than the full amount due on an extended payment) will be applied first to interest due and any remainder will be applied to principal. (7-1-93)~~

~~**b.** Partial payments on extended payment plans covering more than one (1) claim will be divided among the claims in proportion to the amount due on each claim, except as provided in Rule Subsections 040.07.c. and 040.07.d. (7-1-93)~~

~~**c.** When a single extended payment plan has been established that covers more than one (1) claim, the claimant may choose to make a payment on less than all of the claims, and allow the other claims to be rejected and~~

~~returned, if the claims on which a payment is made would have qualified for an extended payment plan at the time of filing.~~ (7-1-93)

~~d. When a single extended payment plan has been established that covers more than one (1) claim, the claimant may choose to pay the balance on less than all of the claims, and allow the other claims to be rejected and returned.~~ (7-1-93)

~~041. -- 044. (RESERVED).~~

045. AMENDMENT FEES (~~RULE 45~~).

~~01. Recalculated Fee.~~ When a claimant files an amendment to a claim, the total fee shall be recalculated as if the amended claim were the original claim. If the total fee as recalculated is greater than the total fee paid at the time the claim was filed, the amendment fee shall be the difference between the two (2) amounts. No refund shall be made if the total fee as recalculated is less than the total fee paid at the time the claim was filed. (7-1-93)(\_\_\_\_)

~~02. Determining Eligibility.~~ The amendment fee shall not be included for purposes of determining eligibility for an extended payment plan, and the amendment fee may not be included in an extended payment plan. (7-1-93)

046. -- 049. (RESERVED).

050. LATE FEES (~~RULE 50~~).

01. Late Fee Payable. A late fee shall be payable when a claim is filed after the date set forth in the first commencement notice mailed to the claimant or the claimant's predecessor in interest pursuant to Sections 42-1408, ~~14A(2) and~~ (3), Idaho Code. (7-1-93)(\_\_\_\_)

~~02. Determining Eligibility.~~ The late fee shall not be included for purposes of determining eligibility for an extended payment plan, and the late fee may not be included in an extended payment plan. (7-1-93)

~~032. Waiver.~~ The late fee may be waived by the director for good cause shown. (7-1-93)

051. -- 054. (RESERVED).

055. REFUNDS (~~RULE 55~~).

Fees shall not be refunded or returned except where the fee was miscalculated at the time the claim was filed or as expressly provided in these rules. (7-1-93)

056. -- 059. (RESERVED).

060. SUFFICIENCY OF CLAIMS (~~RULE 60~~).

01. Single Claim. ~~Except for claims based on both state law and federal law, A~~ single claim may describe only one (1) water right. A claim that describes more than one (1) water right will be rejected and returned along with any fees paid, and must be refiled as multiple claims. (7-1-93)(\_\_\_\_)

~~02. Claim Forms.~~ (7-1-93)

~~a. Claims meeting the definition of Rule Subsection 030.01, other than claims to domestic and/or stock watering use that include storage or instream stock watering use, may be filed on the short claim form.~~ (7-1-93)

~~b. Claims not meeting the definition of Rule Subsection 030.01, and claims to domestic and/or stock watering use that include storage or instream stock watering use, shall be filed on the long claim form.~~ (7-1-93)

**032. Short State Law Claim Form -- Minimum Requirements.** Claims filed on the ~~short state law~~ claim form shall contain the following information: ~~(7-1-93)( )~~

**a.** Name, Address and Phone Number of Claimant. The name, address, and phone number of the claimant and all co-claimants claiming the water right jointly with the claimant shall be listed at item one (1) of the form. (7-1-93)

**b.** Date of Priority. The date of priority shall be listed at item two (2) of the form, and shall include month, day and year. Only one (1) priority may be ~~claimed~~ stated unless the claim is based upon both state and federal law as provided in Subsection 060.01. If more than one (1) priority date is ~~claimed~~ stated, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims. ~~(7-1-93)( )~~

**i.** Within thirty (30) days, unless an extension by the director or his designee is approved, the claimant shall provide evidence of the priority date to support the water right claimed. If the claimant fails to provide evidence of priority, the form may be rejected and returned with no refund of the fees paid. ( )

**c.** Source of Water Supply. The source of water supply shall be stated at item three (3) of the form. (7-1-93)

**i.** For surface water sources, the source of water shall be identified by the official name listed on the U.S. Geological Survey Quadrangle map. If no official name has been given, the name in local common usage should be listed. If there is no official or common name, the source should be described as "unnamed stream" or "spring." The first named downstream water source to which the source is tributary shall also be listed. For ground water sources, the source shall be listed as "ground water." (7-1-93)

**ii.** Only one (1) source shall be listed unless the claim is for a single water delivery system that has more than one (1) source, or the claim is for a single licensed or decreed right that covers more than one (1) water delivery system. If more than one (1) source is listed and the claim is not for a single water delivery system that has more than one (1) source, and the claim is not for a single licensed or decreed water right that covers more than one (1) water delivery system, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims. (7-1-93)

~~**d.** *Location of Point of Diversion. The location of the point of diversion shall be listed at item four (4) of the form.* (7-1-93)~~

~~**i.** *The location of the point of diversion shall be described to nearest forty (40) acre tract (quarter-quarter Section) or government lot number, and shall include township number (including north or south designations), range number (including east or west designations), Section number, and county. The location of the point of diversion should be described to the nearest ten (10) acre tract (quarter-quarter quarter Section) if that description is reasonably available.* (7-1-93)~~

~~**ii.** *If the point of diversion is located in a platted subdivision, a plat of which has been recorded in the county recorder's office for the county in which the subdivision is located, the claimant shall also list the subdivision name, block number and lot number in the remarks section of the form.* (7-1-93)~~

~~**iii.** *Only one (1) point of diversion shall be listed unless the claim is for a single water delivery system that has more than one (1) point of diversion, or the claim is for a single licensed or decreed water right that covers more than one (1) water delivery system. If more than one (1) point of diversion is listed and the claim is not for a single water delivery system that has more than one (1) point of diversion, and the claim is not for a single licensed or decreed right that covers more than one (1) water delivery system, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims.* (7-1-93)~~

~~**e.** *Description of Diversion Works. The diversion works shall be described at item five (5) of the form.* (7-1-93)~~

~~**i.** *The description shall include all major components of the water delivery system. The description shall also include the depth of wells, the horsepower capacity of pumps, and those dimensions of major components*~~

*which affect the diversion capacity of the water delivery system.* (7-1-93)

*ii. The description shall include the dates and a description of any changes in use or enlargements in use, and as to those dimensions required to be described above, the dimensions as originally constructed and as enlarged.* (7-1-93)

*f. Purpose of Use and Period of Use. Domestic use is listed on the first line of item six (6) of the form. The period of use and the amount of water claimed in cfs for domestic purposes shall be listed on the first line of item six (6). Period of use shall include the month and day of the first and last day of use.* (7-1-93)

*i. Stock watering use is listed on the second line of item six (6) of the form. The period of use and the amount of water claimed in cfs for stock watering purposes shall be listed on the second line of item six (6) of the form. Period of use shall include the month and day of the first and last day of use.* (7-1-93)

*ii. The amount of water claimed for each purpose for which water is claimed shall not exceed the amount of water beneficially used for the purpose claimed, and the period of use for each purpose claimed shall not exceed the period in which water is beneficially used for the purpose claimed.* (7-1-93)

*g. Amount of Water Claimed. The total amount of water claimed shall be listed in cfs at item seven (7) of the form. The total amount of water claimed shall not exceed the total of the amounts listed at item six (6) of the form, or the total diversion capacity of the diversion system, whichever is less.* (7-1-93)

*h. Annual Volume of Consumptive Use. The annual volume of consumptive use for domestic and stock watering use is generally deemed de minimus. Annual volume of consumptive use is already stated as de minimus at item eight (8) of the form.* (7-1-93)

*i. Description of Uses. The uses of water claimed shall be fully described at item nine (9) of the form.* (7-1-93)

*i. For domestic use in homes, the number of households served shall be described. If domestic use for more than one (1) household not in a single ownership is listed, the form will be rejected and returned along with any fees paid, and the claim must be refiled on the long claim form.* (7-1-93)

*ii. Domestic use for organization camps and public campgrounds shall be fully described, including but not limited to the number of camp units, water faucets, flush toilets, showers, and sewer connections. Description of domestic use for organization camps and public campgrounds shall also include the average and peak numbers of individuals using the facility, and the periods when peak or average rates of usage occur.* (7-1-93)

*iii. For stock watering use, the number and type of stock shall be described.* (7-1-93)

*j. Place of Use. The place of use for domestic use claimed shall be listed at item ten (10) of the form by entering a "D" in the appropriate boxes for each forty (40) acre tract or government lot on the form. The place of use for stock watering use claimed shall be listed at item ten (10) of the form by entering an "S" in the appropriate boxes for each forty (40) acre tract or government lot on the form.* (7-1-93)

*k. County of Place of Use. The county(ies) in which the place(s) of use is (are) located shall be listed at item eleven (11) of the form.* (7-1-93)

*l. Authority to Assert Claim. The claimant shall indicate at item twelve (12) of the form whether the claimant is the owner of the place(s) of use. If the claimant is not the owner of the place(s) of use, the claimant shall, in the remarks section of the form, describe the claimant's authority to assert the claim, and state the name, address, and phone number of the owner(s) of the place(s) of use.* (7-1-93)

*m. Other Water Rights. The claimant shall describe at item thirteen (13) of the form any other water rights used at the same place and for the same purpose as the right claimed. If there are no other water rights used at the same place and for the same purpose as the right claimed, the claimant shall state "NA" or "none."* (7-1-93)

~~n.~~ *Remarks.* ~~The claimant may submit any additional, relevant information not specifically requested at item fourteen (14) of the form. If the space provided is not sufficient, remarks shall be set forth on a separate piece of paper and attached to the form. All separate attachments must be specifically referenced in the remarks section of the form.~~ (7-1-93)

~~o.~~ *Basis of Claim.* ~~The basis of the claim shall be indicated at item fifteen (15) of the form. If a water right number has been assigned by the department to the right claimed, the water right number shall also be indicated. If a water right number has not been assigned and the water right is based upon a decree, the claimant shall list the title and date of the decree, the case number, and the court that issued the decree.~~ (7-1-93)

~~p.~~ *Signature.* ~~All claims must be signed and sworn or affirmed before a notary public or other person authorized by law to administer an oath or affirmation at item sixteen (16) of the form.~~ (7-1-93)

~~i.~~ *Individuals shall sign at the space indicated for individuals. The form must be signed by the person listed as the claimant at item one (1) of the form unless written evidence is submitted with the form to show that the signatory has authority to sign for the claimant. A form listing more than one (1) claimant at item one (1) must be signed by each of the claimants listed at item one (1) unless the names are joined by "or", or "and/or" at item one (1).* (7-1-93)

~~ii.~~ *Claims by corporations, municipalities or other organizations shall be signed by an officer of the corporation or an elected official of the municipality or an individual authorized by the organization to sign the form. The signator's title shall be indicated with the signature.* (7-1-93)

~~**04. Short Claim Form—Insufficient Claims, Waivers.**~~ (7-1-93)

~~a.~~ *Claims filed on the short claim form that do not contain the information required by Rule 060.03, and claims that were improperly filed on the short claim form, shall be rejected and returned along with any fees paid.* (7-1-93)

~~b.~~ *The director may waive the minimum information requirements of Rule 060.03 and accept the claim for good cause shown.* (7-1-93)

~~**05. Long Claim Form—Minimum Requirements.**~~ *Claims filed on the long claim form shall contain the following information:* (7-1-93)

~~a.~~ *Name, Address and Phone Number of Claimant.* ~~The name, address, and phone number of the claimant and all co-claimants claiming the water right jointly with the claimant shall be listed at item one (1) of the form.~~ (7-1-93)

~~b.~~ *Date of Priority.* ~~The date of priority shall be listed at item two (2) of the form, and shall include month, day and year. Only one (1) priority may be stated. If more than one (1) priority date is stated, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims.~~ (7-1-93)

~~e.~~ *Source of Water Supply.* ~~The source of water supply shall be stated at item three (3) of the form.~~ (7-1-93)

~~i.~~ *For surface water sources, the source of water shall be identified by the official name listed on the U.S. Geological Survey Quadrangle map. If no official name has been given, the name in local common usage should be listed. If there is no official or common name, the source should be described as "unnamed stream" or "spring." The first named downstream water source to which the source is tributary shall also be listed. For ground water sources, the source shall be listed as "groundwater."* (7-1-93)

~~ii.~~ *Only one (1) source shall be listed unless the claim is for a single water delivery system that has more than one (1) source, or the claim is for a single licensed or decreed right that covers more than one (1) water delivery system. If more than one (1) source is listed and the claim is not for a single water delivery system that has more than one (1) source, and the claim is not for a single licensed or decreed water right that covers more than one*

~~(1) water delivery system, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims.~~ (7-1-93)

**d.** Location of Point of Diversion. For claims other than in-stream flows, the location of the point(s) of diversion shall be listed at item four (4) part (a) of the form. For claims to in-stream flows ~~for public purposes~~, the beginning and ending points of the claimed in-stream flow shall be listed at item four (4) part (b) of the form. (7-1-93)( )

i. The location of the point of diversion shall be described to nearest forty (40) acre tract (quarter-quarter section) or government lot number, and shall include township number (including north or south designations), range number (including east or west designations), section number, and county. ~~The location of the point of diversion should be described to the nearest ten (10) acre tract (quarter-quarter-quarter section) if that description is reasonably available.~~ (7-1-93)( )

ii. The claimant shall also list the Parcel Number or Parcel Identification Number (PIN) as assigned by the county assessor's office for the parcel where the water is diverted unless no Parcel Number or PIN is recorded for the property at the point of diversion. ( )

iii. If the point of diversion is located in a platted subdivision, a plat of which has been recorded in the county recorder's office for the county in which the subdivision is located, the claimant shall also list the subdivision name, block number and lot number in ~~the~~ item thirteen (13) of the form (remarks section) of the form. (7-1-93)( )

~~iv.~~ iv. A claim to a water right that includes storage shall state the point at which water is impounded (applicable only to ~~in~~-stream reservoirs) or the point at which water is diverted to storage (applicable only to off-stream reservoirs), the point at which water is released from storage into a natural stream channel (applicable only where a natural stream channel is used to convey stored water), and the point at which water is rediverted (applicable only where a natural channel is used to convey stored water). (7-1-93)( )

~~v.~~ Only one (1) point of diversion shall be listed unless the claim is for a single water delivery system that has more than one (1) point of diversion, or the claim is for a single licensed or decreed water right that covers more than one (1) water delivery system. If more than one (1) point of diversion is listed and the claim is not for a single water delivery system that has more than one (1) point of diversion, and the claim is not for a single licensed or decreed water right that covers more than one (1) water delivery system, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims. (7-1-93)

**e.** Description of Diversion Works. The diversion works shall be described at item five (5) of the form. (7-1-93)

i. The description shall include all major components of the water delivery system, such as dams, reservoirs, ditches, pipelines, pumps, wells, headgates, etc. The description shall also include those dimensions of major components which affect the diversion capacity of the water delivery system. The description shall also state whether the ditches are lined and/or covered, the depth of wells, the horsepower capacity of pumps, and whether headgates are automatic or equipped with locks and/or measuring devices. (7-1-93)

ii. The description shall include the dates and a description of any changes in use (including change in point of diversion, place of use, purpose of use, and period of use) or enlargements in use (including an increase in the amount of water diverted, the number of acres irrigated, or additional uses of water), and as to those dimensions required to be described above, the dimensions as originally constructed and as enlarged. (7-1-93)

iii. Water delivery organizations shall describe the water delivery system up to and including the point where responsibility for water distribution is assumed by entities other than the water delivery organization. (7-1-93)

**f.** Purpose of Use and Period of Use. Each purpose for which water is claimed, the period of use for each purpose for which water is claimed, and the amount of water claimed for each purpose for which water is claimed shall be listed at item six (6) of the form. Period of use shall include the month and day of the first and last day of use. For example, the period of use for domestic use is often January 1st through December 31st.



(7-1-93)( )

i. The purpose may be described in general terms such as irrigation, industrial, municipal, mining, power generation, fish propagation, domestic, stock watering, etc. (7-1-93)

ii. A claim to a water right which includes storage shall be broken down into component purposes, with the ultimate use(s) of the stored water indicated. The component purposes of a storage right are diversion to storage (not applicable to non-stream reservoirs), storage, diversion from storage (not applicable where the ultimate use is an in-reservoir public purpose). Detention of water in a holding pond that can be filled in less than twenty-four (24) hours at the claimed diversion rate is not required to be claimed as storage. The amount of water claimed shall be limited to the active storage capacity of the reservoir unless a past practice of refilling the reservoir during the water year (October 1 to September 30) is shown or the claim is for a licensed or decreed right that includes refill. If a past practice of refilling the reservoir is shown or if the claim is for a licensed or decreed right that includes refill, the total amount of water claimed for the calendar year and the entire period during which diversion to storage or impoundment occurs shall be indicated. (7-1-93)( )

iii. The amount of water claimed for each purpose for which water is claimed shall not exceed the amount of water beneficially used for the purpose claimed, and the period of use for each purpose claimed shall not exceed the period in which water is beneficially used for the purpose claimed. (7-1-93)

iv. The amount of water diverted shall be listed in cfs, and the amount of water stored shall be listed in af per annum. (7-1-93)

g. Amount of Water Claimed. The total amount of water claimed shall be listed at item seven (7) of the form. The total amount of water claimed shall not exceed the total of the amounts listed at item six (6) of the form, or the total diversion capacity of the diversion system, whichever is less. (7-1-93)

~~h.~~ Annual Volume of Consumptive Use. ~~The annual volume of consumptive use shall be listed in af per annum at item eight (8) of the form. The annual volume of consumptive use for in stream uses and for domestic and/or stock watering uses meeting the definition of Rule 030.01 is generally deemed de minimus.~~ (7-1-93)

~~h.~~ Description of Non-Irrigation Uses. Non-irrigation uses shall be fully described at item ~~nine~~ eight (98) of the form. For domestic uses, the number of households served shall be described; for stock watering uses, the type of stock and number of each type of stock shall be described. ~~The claimant shall also state whether the stock watering use is in stream, or whether water is diverted from the source for stock watering, or both.~~ (7-1-93)( )

i. If the claimant's domestic use does not meet the definition of domestic use in Subsection 010.07, the form will be rejected and returned unless the appropriate variable fee is paid. ( )

ii. The claimant shall also state whether the stock watering use is in-stream, or whether water is diverted from the source for stock watering. Both types of stock watering cannot be filed on the same claim form; each type requires a separate claim. ( )

iii. Domestic use for organization camps and public campgrounds shall be fully described, including but not limited to the number of camp units, water faucets, flush toilets, showers, and sewer connections. Description of domestic use for organization camps and public campgrounds shall also include the average and peak number of individuals using the facility, and the periods when peak or average rates of usage occur. ( )

ii. Place of Use. The place of use for each purpose for which water is claimed shall be listed at item ~~ten~~ nine (99) of the form, except that the place of use for in-stream flows for public purposes need not be listed if the place of use is fully described as the stream between the beginning and ending points listed as the points of diversion. (7-1-93)( )

i. Except claims for irrigation projects and irrigation districts meeting the criteria described in Subsection 060.i.ii. below, the number of acres irrigated shall be described by entering the appropriate numbers in the appropriate boxes for each forty (40) acre tract or government lot on the form. For other uses, a symbol or letter corresponding to the purpose for which water is claimed shall be placed in the appropriate box for each forty (40) acre

tract or government lot on the form. (7-1-93)( )

ii. Claims for an irrigation project where the canals constructed cover an area of twenty-five thousand (25,000) acres or more, or irrigation districts organized and existing as such under the laws of the state of Idaho, or for beneficial use by more than five (5) water users in an area of less than twenty-five thousand (25,000) acres shall be accompanied by a map showing the boundaries of the project or irrigation district, and shall state the total number of acres irrigated within the boundaries of the project or irrigations district, and for purposes of determining fees, the number of acres irrigated shall be described by forty (40) acre tract or government lot. The project or district shall submit a map of the boundary of the place of use and, when available, a digital boundary defined in Section 42-202(B)(2), Idaho Code. (7-1-93)( )

iii. The claimant shall also list the Parcel Number or Parcel Identification Number (PIN) as assigned by the county assessor's office for the parcel where the water is used unless no Parcel Number or PIN is recorded for the property at the place of use or the PIN is the same as the PIN shown in item four (4) for the point of diversion. ( )

ki. County of Place of Use. The county(ies) in which the place(s) of use is (are) located shall be listed at item ~~eleven~~ ten (170) of the form. (7-1-93)( )

kl. Authority to Assert Claim. The claimant shall indicate at item ~~twelve~~ eleven (121) of the form whether the claimant is the owner of the place(s) of use. If the claimant is not the owner of the place(s) of use, the claimant shall describe in the remarks section of the form the claimant's authority to assert the claim. Unless the claimant is a water delivery organization, the claimant shall also state the name, address, and phone number of the owner(s) of the place of use in ~~the~~ item thirteen (13) (remarks section) of the form. (7-1-93)( )

ml. Other Water Rights. The claimant shall describe at item twelve (12) of the form any other water rights used at the same place and for the same purpose as the right claimed. If there are no other water rights used at the same place and for the same purpose as the right claimed, the claimant shall state "NA" or "none." ( )

mi. Remarks. At item thirteen (13) of the form, ~~any other water rights used at the same place and for the same purpose as the right claimed. If there are no other water rights used at the same place and for the same purpose as the right claimed, the claimant shall state "NA" or "none."~~ (7-1-93)

~~n.~~ Remarks and Map. The claimant may submit any additional, relevant information not specifically requested ~~at item fourteen (14) of the form.~~ If the space provided is not sufficient, remarks shall be set forth on a separate piece of paper and attached to the form. All separate attachments must be specifically referenced in the remarks section of the form. ( )

n. Maps. An aerial photograph or USGS quadrangle map shall be included with the claim, unless the claim meets the definition of domestic use and stock watering use as defined in Section 010 or unless the claim is submitted electronically through the department's online claim filing website. The point(s) of diversion, place(s) of use, and the water delivery system shall be ~~sketched on the space provided for a map of the project. Section, township and range numbers shall be indicated. The claimant may submit a separate map or drawing if the claimant so desires~~ identified on the aerial photograph or USGS quadrangle map. (7-1-93)( )

o. Basis of Claim. The basis of the claim shall be indicated at item ~~fifteen~~ fourteen (154) of the form. If a water right number has been assigned by the department to the right claimed, the water right number shall also be indicated. If a water right number has not been assigned and the water right is based upon a decree, the claimant shall list the title and date of the decree, the case number, and the court that issued the decree. If the basis of claim is a beneficial use (also known as the constitutional method of appropriation), the claimant shall provide a short description of events or history of the development of the water right. (7-1-93)( )

p. Signature. All Each claims must be signed ~~and sworn or affirmed before a notary public or other person authorized by law to administer an oath or affirmation at item sixteen (16) of the form~~ by the claimant at item fifteen (15) of the form, unless the claim is submitted electronically through the department's online claim filing website. Each claimant, through submission of a signed claim or through submission of a claim by means of the department's online claim filing website, solemnly swears or affirms under penalty of perjury that the statements

contained in the notice of claim are true and correct. (7-1-93)( )

i. *Individuals shall sign at the space indicated for individuals. The form must be signed by the person* For claims submitted through the department's online claim filing website, the form shall be submitted by a person listed as the claimant at item one (1) of the form unless *written evidence is submitted with the form to show that the signatory has authority to sign for the claimant. A form listing more than one (1) claimant at item one (1) must be signed by each of the claimants listed at item one (1) unless the names are joined by "or", or "and/or" at item one* (1) the person submitting the form has authority to submit the form for the claimant or claimants. Claims by corporations, municipalities or other organizations shall be submitted by an officer of the corporation or an elected official of the municipality or an individual authorized by the organization to submit the form. (7-1-93)( )

ii. For claims that are not submitted by means of the internet, the form must be signed by each of the persons listed as claimants at item one (1) of the form unless the signatory has authority to sign for the claimant or claimants. Claims by corporations, municipalities or other organizations shall be signed by an officer of the corporation or an elected official of the municipality or an individual authorized by the organization to sign the form. The signatory's title shall be indicated with the signature. (7-1-93)( )

q. Notice of Appearance. If notices to be sent by the director to the claimant are to be sent to the claimant's attorney, the claimant's attorney shall list the attorney's name and address and sign and date the form at item ~~seventeen~~ sixteen (176) of the form. (7-1-93)( )

**063. Long State Law Claim Form -- Insufficient Claims, Waivers.** (7-1-93)( )

a. Claims filed on the *long state law* claim form that do not contain the information required by *Rule Subsection* 060.052 shall be rejected and returned along with any fees paid, unless otherwise provided by these rules. (7-1-93)( )

b. The director may waive the minimum information requirements of *Rule Subsection* 060.052 and accept the claim for good cause shown. (7-1-93)( )

**074. Further Information.** This Rule 060 sets forth minimum requirements for the filing of claims. The director may request further information in support of the assertions contained in a claim as part of the investigation of the water system and the claims pursuant to Section 42-1410, Idaho Code. (7-1-93)

**061. -- 064. (RESERVED).**

**065. REJECTED AND RETURNED CLAIMS (RULE 65).**

**01. Rejected Claims.** Rejected claims shall be returned to the claimant by ordinary mail at the most recent address shown by department records. The rejected claim shall be accompanied by a notice of rejection that states generally the reason(s) for rejection. (7-1-93)

**02. Refiled Claims.** Claims that have been rejected and returned to the claimant may be refiled with the appropriate fees and appropriate information at any time prior to the deadline for filing the original claim. Claims refiled after the deadline for filing the original claim will be subject to the late fee, unless the claim is refiled within thirty (30) days from the date of mailing the rejected claim by the department. (7-1-93)