

Dear Senators BURTENSHAW, Adams, Semmelroth, and
Representatives MENDIVE, Shepherd, Burns:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Idaho Department of Water Resources:

IDAPA 37.03.01 - Adjudication Rules (ZBR Chapter Rewrite) - Proposed Rule (Docket No.
37-0301-2401).

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 11/14/2024. 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 12/12/2024.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Legislative Drafter - Alli Olson

DATE: October 28, 2024

SUBJECT: Idaho Department of Water Resources

IDAPA 37.03.01 - Adjudication Rules (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 37-0301-2401)

Summary and Stated Reasons for the Rule

The Idaho Department of Water Resources submits notice of proposed rulemaking related to the Adjudication Rules, IDAPA 37.03.01. The Department states the proposed rulemaking is pursuant to the Zero-Based Regulation initiative and reduces the chapter by approximately 17%. The Department states the proposed changes clarify the minimum requirements for completing a notice of claim to a water right acquired under state law and establish clear criteria for calculating of claim filing fees, refunding fees, and for rejecting incomplete claims. The Department also states it believes these regulatory measures are necessary for the orderly, consistent, and efficient processing of adjudication claims filed in connection with any of the active general stream adjudications within Idaho. The proposed rule improves readability by removing unnecessary language and revising language.

Negotiated Rulemaking / Fiscal Impact

The Department states that negotiated rulemaking was conducted for the proposed rule and notice was published in the April 3, 2024, Idaho Administrative Bulletin, Vol. 24-4, pages 50-51. As a whole, the Department states they set the minimum requirements for completing a notice of a claim to a water right acquired under state law which includes establishing clear criteria for calculation of claim filing fees including flat fees, variable fees, and late fees, as set forth in Idaho Code § 42-2424. The Department also states that there is no fiscal impact to the General Fund.

Statutory Authority

The Department of Water Resources appears to have the authority to promulgate the proposed rule pursuant to Section 42-1805(8), Idaho Code.

cc: Idaho Department of Water Resources
Megan Jenkins

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES

37.03.01 – ADJUDICATION RULES

DOCKET NO. 37-0301-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 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, no later than October 16, 2024.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Idaho Department of Water Resources (IDWR) initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(ZBR\)](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, must be reviewed by the promulgating agency over a five-year period. This review is being conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at <https://adminrules.idaho.gov>. This rule chapter was scheduled for review in 2024.

With this Notice, IDWR proposes a new chapter of adjudication rules. The new chapter is approximately 17% shorter than the existing adjudication rule chapter due to both internal agency analysis and external stakeholder negotiation, commentary, and editing. Changes to the rule (a) clarify the minimum requirements for completing a notice of claim to a water right acquired under state law, establishes clear criteria for calculation of claim filing fees, sets clear criteria for refunding fees, and establishes criteria for rejecting incomplete claims. IDWR believes the regulatory measures in the Rule are necessary for the orderly, consistent, and efficient processing of adjudication claims filed in connection with any of the active general stream adjudications within the state.

The development of the proposed rule text through two publicly-released preliminary rule draft iterations may be viewed at: <https://idwr.idaho.gov/legal-actions/rules/idwr-rulemaking-2024-2025/adjudication-rules/>. On the same website, IDWR also developed and published rulemaking support documents, which provide IDWR's recommendations on rulemaking, rulemaking analysis, and responses to substantive comments received through the negotiated rulemaking process.

After consideration of public comments received in response to this Proposed Rule, IDWR will present the final rule text during the 2025 Legislative Session.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

IDAPA 37.03.01 sets the minimum requirements for completing a notice of claim to a water right acquired under state law which includes establishing clear criteria for calculation of claim filing fees including flat fees, variable fees, and late fees, as set forth in Idaho Code § 42-1414.

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 as a result of this rulemaking: N/A.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024 Idaho Administrative Bulletin, [Vol. 24-4, pages 50-51](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Erik Boe at Erik.Boe@idwr.idaho.gov, (208) 287-4800.

Anyone may submit written comments regarding this proposed rulemaking by mail to the address below or by email to rulesinfo@idwr.idaho.gov. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 30th day of August, 2024.

Erik Boe, Water Compliance Bureau Chief, Rules Regulation Officer
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720 Boise, ID 83720-0098
Phone: (208) 287-4800

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 37-0301-2401
(ZBR Chapter Rewrite)

37.03.01 – ADJUDICATION RULES

000. LEGAL AUTHORITY.

These rules are adopted under the legal authorities of Section ~~42-1414~~, and 42-1805(8), Idaho Code.

(3-18-22)()

001. ~~TITLE AND SCOPE.~~

~~01. Title.~~ These rules are titled IDAPA 37.03.01, “Adjudication Rules.”

(3-18-22)

~~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 pursuant to Sections 42-1409, 42-1409A, and 42-1414 and ~~42-1415~~, Idaho Code.

(3-18-22)()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Amendment Fee. The additional fee ~~payable~~ required at the time of filing an amendment to a claim, ~~as provided in Section 42-1414(2), Idaho Code.~~

(3-18-22)()

02. Aquaculture. The use of water for propagation of fish, shell-fish, and any other animal or plant product naturally occurring in an underwater environment.

(3-18-22)()

~~03. Aquaculture Fee.~~ The variable fee payable for aquaculture use, ~~as provided in Section 42-1414(1)(b)(iii), Idaho Code, which shall be calculated for each cfs and fraction thereof to the nearest dollar.~~

(3-18-22)

043. Claim. A notice of claim to a water right acquired under state law, as provided in filed pursuant to Section 42-1409(4), Idaho Code.

(3-18-22)()

- ~~054.~~ **Department.** The Idaho Department of Water Resources. (3-18-22)
- ~~065.~~ **Director.** The Director of the Idaho Department of Water Resources. Per Section 42-1701(3), Idaho Code, the Director may delegate authority to perform duties imposed upon the Director by law, including duties described herein, to a Department employee. (3-18-22)()
- ~~076.~~ **Domestic Use.** Domestic use as defined in Section 42-1401A(4), Idaho Code. (3-18-22)
- ~~087.~~ **Flat Fee.** The per claim fee for filing a claims, ~~as provided in pursuant to~~ Section 42-1414(1)(a), Idaho Code. (3-18-22)()
- ~~098.~~ **Late Fee.** The additional fee payable required for the filing of a late claims, ~~as provided in pursuant to~~ Section 42-1414(3), Idaho Code. (3-18-22)()
- ~~10.~~ ~~**Per Acre Fee.** The variable fee for irrigation use, as provided in Section 42-1414(1)(b)(i), Idaho Code, which shall be calculated for each acre and fraction thereof rounded to the next whole acre.~~ (3-18-22)
- ~~11.~~ ~~**Per Cfs Fee.** The variable fee payable for other uses, as provided in Section 42-1414(1)(b)(iii), (iv) and (v), Idaho Code, which shall be calculated for each cfs and fraction thereof to the nearest dollar.~~ (3-18-22)
- ~~12.~~ ~~**Per Kilowatt Fee.** The variable fee payable for power generation use, as provided in Section 42-1414(1)(b)(ii), Idaho Code, which shall be calculated for each kilowatt and fraction thereof.~~ (3-18-22)
- ~~13.~~ ~~**State Law Claim Form.** The department's form entitled "Notice of Claim to a Water Right Acquired Under State Law as provided in Section 42-1409(4), Idaho Code.~~ (3-18-22)
- ~~09.~~ **Public Entity.** A state or local government, or any agency, office, or department run by a state or local government. ()
- ~~10.~~ **Public Purpose.** Use of water by a public entity for in-stream flows, lake level maintenance, wildlife, aesthetic, or recreation use. ()
- ~~141.~~ **Stock Watering Use.** Stock watering use as defined in Section 42-1401A(11), Idaho Code. (3-18-22)
- ~~152.~~ **Total Fee.** The fee payable required for filing a claim, ~~which consists~~ consisting of the flat fee plus any applicable variable fee and late fee. (3-18-22)()
- ~~163.~~ **Variable Fee.** The fee payable required for filing claims in addition to the flat fee, ~~as provided in pursuant to~~ Section 42-1414(1)(b), Idaho Code. (3-18-22)()
- ~~174.~~ **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. (3-18-22)
- ~~185.~~ **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.~~ (3-18-22)()
011. **ABBREVIATIONS.**
01. ~~AF.~~ AF. An acre Acre foot (feet). (3-18-22)()
02. **CFS.** Cubic foot (feet) per second. (3-18-22)
- ~~03.~~ ~~**NA.** Not applicable.~~ (3-18-22)

~~04. PIN. Parcel identification number. (3-18-22)~~

012. -- 024. (RESERVED)

025. GENERAL.

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~~ are required to pay filing fees as set forth by statute and these rules. (3-18-22)()

02. **Method of Payment.** Fees ~~shall~~ may be paid in ~~legal tender of the United States~~ cash; or by money order, certified check, cashier's check, personal check, debit or credit card, or by electronic payment on-line ~~payable to the department in legal tender of the United States. Two party checks will not be accepted.~~ (3-18-22)()

03. **Personal Check.** If a personal check ~~in payment of a flat fee, a variable fee, or a late fee,~~ is returned unpaid to the ~~d~~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 ~~d~~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. (3-18-22)()

~~04. **Time of Payment.** Flat fees and variable fees shall be payable to the department at the time of filing a claim. 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. (3-18-22)~~

054. **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 pursuant to~~ Subsection 025.03. (3-18-22)()

065. **Rejection of Claim.** Claims submitted without the correct filing fee ~~shall~~ will be rejected and returned to the claimant along with any fees paid. (3-18-22)()

076. **Fire-Fighting.** A claim is not required ~~to be filed~~ for water used solely to extinguish or prevent spreading of 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. (3-18-22)()

026. -- 029. (RESERVED)

030. FLAT FEES.

01. **Small Domestic and Stock Water.** A flat fee of twenty-five dollars (\$25) ~~shall be payable is~~ required for each claim for domestic use and/or stock watering use meeting the definition of domestic use and/or stock watering use in Rule Section 010. Filing fees for claims for stock water use only are assessed for the first four (4) claims filed by a claimant. (3-18-22)()

02. **Other Claims.** A flat fee of fifty dollars (\$50) ~~shall be payable is~~ required for each claim that does not meet the criteria of Subsection 030.01. (3-18-22)()

031. -- 034. (RESERVED)

035. VARIABLE FEES.

01. **General.** A variable fee in addition to the flat fee is required Ffor each claim not meeting the

criteria of Subsection 030.01, ~~there may be a variable fee in addition to the flat fee~~ unless otherwise stated in these rules. (3-18-22)()

02. Per Acre Fee. The variable fee for irrigation use, pursuant to Section 42-1414(1)(b)(i), Idaho Code, is calculated for each acre and fraction thereof rounded to the next whole acre. (3-18-22)()

a. A fee of one dollar (\$1.00) per acre ~~shall be~~ is required for ~~claims for an~~ irrigation use claim. (3-18-22)()

b. The per acre fee ~~shall is~~ 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. (3-18-22)()

c. The per acre fee ~~shall be~~ is payable by the first person to file a claim for the irrigation of a particular acre. (3-18-22)()

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 will~~ 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. (3-18-22)()

03. Per Kilowatt Fee. The variable fee for power generation pursuant to Section 42-1414(1)(b)(ii), Idaho Code, calculated for each kilowatt and fraction thereof. (3-18-22)()

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), whichever is less, ~~shall be~~ is required for a power generation ~~claims for power use.~~ (3-18-22)()

b. The per kilowatt fee ~~shall be~~ is determined based upon the total generating capacity of all generators in which the water right claimed is used. (3-18-22)()

c. The total per kilowatt fee for all claims filed for a single hydropower facility ~~shall will~~ not exceed the per kilowatt fee for the total generating capacity of all generators in the hydropower facility. (3-18-22)()

04. Per CFS Fee. The variable fee for a use other than those identified in Subsections 035.01, 035.02, and 035.03, pursuant to Section 42-1414(1)(b)(iii), (iv), and (v), Idaho Code, calculated for each cfs and fraction thereof to the nearest dollar. (3-18-22)()

a. A fee of ten dollars (\$10) per cfs ~~for aquaculture shall be~~ is required for an aquaculture use claim. A fee of one hundred dollars (\$100) per cfs is required 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. (3-18-22)()

b. For a claim ~~to water~~ for more than one (1) public purpose, the per cfs fee ~~shall only will~~ be charged only once per cfs claimed. ~~Public purposes shall include public in-stream flows, lake level maintenance, wildlife, aesthetic beauty, and recreation.~~ (3-18-22)()

c. If there is a seasonal variation in the number of cfs claimed, the per cfs fee ~~shall be~~ is based upon the maximum number of cfs claimed for any period during a single calendar year. (3-18-22)()

~~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(1), Idaho Code, except as otherwise provided by these rules.~~ (3-18-22)

05. Claims Including Storage. (3-18-22)

~~a.~~ The ~~variable fee for a claim that includes storage shall be based upon the ultimate use of the water stored~~ ultimate use of the water stored determines the variable fee for a claim that includes storage. If ~~the a~~ claim states a purposes other than diversion to storage, storage, and diversion from storage, the total variable fee will be determined ~~as provided in pursuant~~ Subsection 035.06. (3-18-22)()

~~b.~~ No variable fee shall be payable for water claimed for ground water recharge purposes. (3-18-22)

~~eb.~~ For purposes of determining the per cfs fee for the 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. (3-18-22)()

~~d.~~ No variable fee shall be payable for minimum by-pass flows. (3-18-22)

06. Multiple Purpose Claims. If a ~~claimant~~ claims includes more than one (1) purpose of use ~~on a single claim~~, the variable fee will be the total of the variable fees payable required for each purpose of use. (3-18-22)()

07. Exceptions. No variable fee ~~shall be payable~~ is required for a claims or portions of a claims for ground water recharge purposes, 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 Section 010.~~ (3-18-22)()

036. -- 044. (RESERVED)

045. AMENDMENT FEES.

When a claimant files an amendment to a claim, ~~the total fee shall be recalculated as if the amended claim were the original claim.~~ I if the total fee as recalculated is greater than the total fee paid at the time the claim was originally filed, the amendment fee shall be is the difference between the two (2) amounts. No refund ~~shall be made~~ is issued if the total fee as recalculated is less than the total fee paid at the time the claim was originally filed. (3-18-22)()

046. -- 049. (RESERVED)

050. LATE FEES.

01. Late Fee Payable. A late fee ~~shall be payable when~~ is required for 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 42-1414(3), Idaho Code. (3-18-22)()

02. Waiver. The late fee may be waived by the ~~d~~Director for good cause shown. (3-18-22)()

051. -- 054. (RESERVED)

055. REFUNDS.

Fees ~~shall~~ will 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. (3-18-22)()

056. -- 059. (RESERVED)

060. SUFFICIENCY OF CLAIMS.

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.~~ (3-18-22)()

02. State Law Claim Form—Minimum Requirements. Claims filed on the state law A claim form ~~shall contain the following information~~ must be filed: (3-18-22)()

a. On the Department's form entitled "Notice of Claim to a Water Right Acquired Under State Law."

or equivalent form approved by the Department, with any applicable attachments. ()

b. In accordance with IDAPA 37.01.01, “Rules of Procedure of the Idaho Department of Water Resources.” Section 053, either on paper, digitally in PDF format, or through the Department’s online filing process.

c. With required filing fees pursuant to Sections 030 and 035. ()

d. In accordance with the minimum requirements pursuant to Subsection 060.03. ()

03. Minimum Requirements. Claims filed on the claim form must contain the following information: ()

a. ~~Name, Address and Phone Number of Claimant. The name, and mailing address, and phone number of the claimant and all co-claimants claiming jointly filing the notice of claim to a water right jointly with the claimant shall be listed at item one (1) of the form.~~ Name, and mailing address, and phone number of the claimant and all co-claimants claiming jointly filing the notice of claim to a water right jointly with the claimant shall be listed at item one (1) of the form. (3-18-22)()

b. ~~Date of Priority. The date of priority shall be listed at item two (2) of the form, and shall include including month, day and year. Only one (1) priority may be 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 stated, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims.~~ Date of priority. The date of priority shall be listed at item two (2) of the form, and shall include including month, day and year. Only one (1) priority may be 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 stated, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims. (3-18-22)()

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.~~ 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. List only one (1) date of priority, the date the water right was established, unless the claim is based upon both state and federal law pursuant to Subsection 060.01. (3-18-22)()

c. ~~Source of Water Supply. The source of water supply shall be stated at item three (3) of the form.~~ Source of Water Supply. The source of water supply shall be stated at item three (3) of the form. (3-18-22)()

i. ~~For a surface water sources, the source of water shall be identified by include the official geographic name listed on the U.S. United States Geological Survey (USGS) 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.” the source of water is not named on the USGS Quadrangle map, describe it as an unnamed water body, such as “unnamed stream.” For surface water sources, also identify the first named stream or river to which the source is tributary. If the water source sinks into the ground before reaching a stream named on the USGS Quadrangle map, describe the “tributary to” stream as “sinks.” If the water source flows into a stream named on the USGS Quadrangle map for part of the year and sinks into the ground for the other part of the year, identify the “tributary to” stream as the named stream on the USGS Quadrangle map.~~ For a surface water sources, the source of water shall be identified by include the official geographic name listed on the U.S. United States Geological Survey (USGS) 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.” the source of water is not named on the USGS Quadrangle map, describe it as an unnamed water body, such as “unnamed stream.” For surface water sources, also identify the first named stream or river to which the source is tributary. If the water source sinks into the ground before reaching a stream named on the USGS Quadrangle map, describe the “tributary to” stream as “sinks.” If the water source flows into a stream named on the USGS Quadrangle map for part of the year and sinks into the ground for the other part of the year, identify the “tributary to” stream as the named stream on the USGS Quadrangle map. (3-18-22)()

ii. ~~Only Identify only one (1) water source shall be listed unless the claim is for a single interconnected water delivery system that has diverts water from 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.~~ Only Identify only one (1) water source shall be listed unless the claim is for a single interconnected water delivery system that has diverts water from 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. (3-18-22)()

iii. For a water source under the ground surface, identify the source as “ground water.” ()

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, the beginning and ending points of the claimed in-stream flow shall be listed at item four (4) part (b) of the form.~~ Location of Point of Diversion. Describe the location of the point of diversion to the nearest forty (40) acre tract (quarter-quarter section) or government lot number, and include township number (including north or south designations), range number (including east or west designations), section number, and county. (3-18-22)()

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.~~ Describe the beginning and ending points of instream flow use, if claimed. (3-18-22)()

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.~~ (3-18-22)()

iii. List the subdivision name, block number, and lot number. ~~If the point of diversion is located in a platted subdivision, a where the plat of which has been is 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 item thirteen (13) of the form (remarks section).~~ (3-18-22)()

iv. ~~A claim to a water right that includes storage shall state must include the point at which water is impounded (applicable only to for an on-stream reservoirs) or the point at which water is diverted to storage (applicable only to for an off-stream reservoirs), the point at which water is released from storage into a natural stream channel (applicable only. For a claim where a natural stream channel is used to convey stored water), and include the point at which water is diverted into a natural channel, and the point where water is rediverted (applicable only where a natural channel is used to convey stored water) from the natural channel.~~ (3-18-22)()

v. Only list 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.~~ (3-18-22)()

e. Description of Diversion Works. ~~The diversion works shall be described at item five (5) of the form.~~ (3-18-22)()

i. ~~The description shall include~~ Describe all major components of the water delivery system, such as dams, reservoirs, ditches, pipelines, pumps, wells, headgates, etc. ~~The description shall also include~~ 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, Include the depth of wells, the horsepower capacity of rating of installed pumps, and whether headgates are automatic or equipped with locks and/or measuring devices.~~ (3-18-22)()

ii. ~~The description shall~~ For a claim asserting an accomplished transfer pursuant to Section 42-1425, Idaho Code, 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.~~ Describe the diversion works before and after the accomplished transfer. (3-18-22)()

iii. For a claim describing an enlargement in use pursuant to Section 42-1426, Idaho Code, identify the water right enlarged (base right) and the date the enlargement occurred. Identify the enlarged element of the base right including number of acres irrigated, extended season of use, or additional uses of water. Describe the diversion works as originally constructed and as enlarged. ()

iv. For claim describing an expansion in use pursuant to Section 42-1416B, Idaho Code, identify the water right expanded (base right) and the date the expansion occurred. Identify the expanded element of the base right including number of acres irrigated or additional uses of water. Describe the diversion works as originally constructed and as expanded. ()

iii.v. Water delivery organizations ~~shall~~ must 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.

(3-18-22)()

~~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.~~

(3-18-22)()

~~i. The purpose may be described. Describe each purpose of use in general terms such as irrigation, industrial, municipal, mining, power-generation, fish propagation, domestic, stock watering, etc.~~

(3-18-22)()

~~ii. A claim to a water right that includes storage shall use must be broken down separated 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 an on-stream reservoirs), storage, and diversion from storage (not applicable where the ultimate use is an in-reservoir public purpose). Detention of water in a holding pond, where the pond is not the end use of the water, 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 if 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.~~

(3-18-22)()

~~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.~~

(3-18-22)

~~iv. The amount of water diverted shall be listed in cfs, and the amount of water stored shall be listed in af per annum.~~

(3-18-22)

~~g. Quantity of Water. ()~~

~~i. Include the flow rate in cfs or the volume of water to be stored in af per year for each purpose of use, using values with a maximum of three significant figures with no more precision than hundredths for rate and tenths for volume. ()~~

()

~~ii. For claims to store water, the maximum af per year may not exceed the storage facility capacity unless the claim includes a description explaining the past practice of filling the storage facility more than once per year, or the claim is for a licensed or decreed right that includes refill. The description of past refill practices may include refills to replace seepage, evaporation, or use from storage. ()~~

()

~~iii. The amount of water claimed for each purpose for which water is claimed must not exceed the amount of water beneficially used for the purpose claimed. ()~~

()

~~iv. 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 must not exceed the sum total of the amounts quantity listed at item six (6) of the form for each water use, or the total diversion capacity of the diversion system, whichever is less.~~

(3-18-22)()

~~h. Period of Use. A period of use must be listed for each purpose of use and must include the month and day of the first and last day of use. ()~~

()

~~hi. Description of Non-Irrigation Uses. Fully describe any Non-irrigation uses shall be fully described at item eight (8) of the form. For Domestic uses, must describe the number of households served shall be described; for s and any irrigation associated with the domestic use. Stock watering uses, must describe the type of stock and number of each type of stock shall be described. (3-18-22)()~~

(3-18-22)()

~~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. (3-18-22)~~

~~ii. The claimant shall also state whether Claims for stock watering use must identify if the stock watering use is in-stream; or whether if water is diverted from the source for stock watering. Both types of In-stream livestock use and diverted stock watering cannot be filed on the same claim form; each type requires a separate claim unless the claim is for in-stream livestock use for which a "Notice of Diversion as an Alternative to Instream Stockwater Use" has been filed pursuant to Section 42-113, Idaho Code. (3-18-22)~~

~~iii. Describe 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 must also include the average and peak number of individuals using the facility, and the periods when peak or average rates of usage occur. (3-18-22)()~~

~~ij. Place of Use. Describe the location of the place of use to the nearest forty (40) acre tract or government lot and include township number (including north or south designations), range number (including east or west designations), section number, and county. The place of use for each purpose for which water is claimed shall be listed at item nine (9) 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. (3-18-22)()~~

~~i. Except claims for irrigation projects and irrigation districts meeting the criteria described in Subsection 060. 03.j.ii. below describe, the number of acres irrigated shall be described by entering the appropriate numbers in the appropriate boxes for to the nearest whole acre in 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. For irrigation of less than ten (10) acres, acreage must be shown to the nearest one-tenth (0.1) acre. (3-18-22)()~~

~~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 must be accompanied by a map showing the boundaries of the project or irrigation district; and shall must state the total number of acres irrigated within the boundaries of the project or irrigations district. The project or district shall submit a map of the boundary of the place of use and, w When available, claims should include a digital boundary defined in Section 42-202(B)(2), Idaho Code. (3-18-22)()~~

~~iii. The claimant shall also list Include 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. (3-18-22)()~~

~~jk. County of Place of Use. The List the county(ies) in which the place(s) of use is-(are) located shall be listed at item ten (10) of the form. (3-18-22)()~~

~~kl. Authority to Assert Claim. The claimant shall indicate at item eleven (11) of the form Indicate 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 include the name and; address, and phone number of the owner(s) of the place of use in item thirteen (13) (remarks section) of the form. (3-18-22)()~~

~~lm. Other Water Rights. The claimant shall d Describe at item twelve (12) of the form any other water rights used at the same place and for the same purpose as the water 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." Include the existing water right number or claim number, if known. (3-18-22)()~~

~~mi.~~ Remarks. ~~At item thirteen (13) of the form, t~~The claimant may submit any additional, relevant information not specifically requested. If the space provided on the claim form is ~~not~~ insufficient, remarks ~~shall~~ may 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 claim form. (3-18-22)()

~~no.~~ Maps. ~~An~~ Include an aerial photograph, digital image, or USGS quadrangle map ~~shall be included~~ with the claim, unless the claim meets the definition of domestic use ~~and or~~ stock watering use as defined in Section 010, or unless the claim is submitted electronically through the ~~d~~Department's ~~online~~ claim filing website. Identify ~~The~~ point(s) of diversion, place(s) of use, and the water delivery system ~~shall be identified~~ on the aerial photograph, imagery, or USGS quadrangle map. (3-18-22)()

~~op.~~ Basis of Claim. ~~The~~ Include the basis of the claim ~~shall be indicated at item fourteen (14) of the form. If a~~ Include any water right number ~~has been~~ previously assigned by the ~~d~~Department to the water right claimed, ~~the water right number shall also be indicated. If a water right number has not been assigned and the claimed~~ water right is based upon a decree, ~~the claimant shall~~ that does not have a previously assigned water right number, 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.~~ (3-18-22)()

~~pg.~~ Signature. Each claim must be signed by ~~the~~ each claimant, ~~at item fifteen (15) of the form, unless the claim is submitted electronically through the department's online claim filing website~~ submitted electronically by the claimant, or signed and submitted with evidence to show the signatory has authority to sign on behalf of the claimant. 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. (3-18-22)()

i. ~~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 the person submitting the form has authority to submit the form for the claimant or claimants. Claims~~ A claim by a corporations, municipalities or other organizations ~~shall~~ must 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. The signatory's title must be stated with the signature. (3-18-22)()

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.~~ (3-18-22)

~~qr.~~ Notice of Appearance. ~~If~~ An attorney submitting a claim on behalf of their client must include a notices ~~to be sent by the director to the claimant are to be sent to the claimant's attorney, the claimant's attorney shall~~ of appearance listing the attorney's name and address ~~and sign and date the form at item sixteen (16) of the form.~~ (3-18-22)()

~~034.~~ State Law Claim Form — Insufficient Claims, and Waivers. (3-18-22)()

a. Claims A claim filed on the state law claim form that does not contain the information required by Subsection 060.023 ~~shall~~ may be rejected and returned along with any fees paid, unless otherwise provided by these rules. (3-18-22)()

b. The ~~d~~Director may waive the minimum information requirements of Subsection 060.023 and accept the claim for good cause shown. (3-18-22)

~~04.~~ Further Information. This Rule Section 060 sets forth minimum requirements for the filing of a claims. The ~~d~~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. (3-18-22)()

061. -- 064. (RESERVED)

065. REJECTED AND RETURNED CLAIMS.

01. **Rejected Claims.** ~~Rejected claims shall be returned~~ The Department may return a rejected claim, or a copy of a generated claim record for claims filed electronically, to the claimant by ordinary mail at the most recent address shown by ~~e~~Department records. ~~The rejected claim shall be accompanied by,~~ with a notice of rejection that states generally the reason~~(s)~~ for rejection. (3-18-22)()

02. **Refiled Claims.** ~~Claims that have been rejected and returned to the e~~ Claimants may ~~be~~ refiled ~~rejected claims~~ 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 ~~e~~Department. (3-18-22)()

066. -- 999. (RESERVED)