


ADJUDICATION MEMORANDUM #19

TO: Adjudication Bureau Staff

FROM: Don Shaff, Adjudication Bureau Chief 

SUBJECT: Filing Fees for Multiple Purpose Claims

REVISED: March 11, 2009

Idaho Administrative Procedures Act (IDAPA) 37.03.01 (also known as the Adjudication rules) provides that if a claimant claims more than one purpose of use on a single claim, the variable fee will be the total of the variable fees payable for each purpose of use. The exception to this rule is that no variable fee is payable for claims or portions of claims for fire-fighting purposes, or for domestic use and/or stockwater (D&S) use that qualify for the D&S form. Some questions have arisen as to application of these rules, as addressed below.

I. Domestic and/or Stockwater Claims on the D&S Form

Domestic and/or stockwater are the only purposes of use that may be claimed at item 6 of the D&S form. However, those uses may include other uses that are normally given a different purpose of use label. For example, under the definition of stockwater in the adjudication statute, stockwater use can include the use of water for wildlife. As another example, domestic use can include the use of water for a business operated in the home by the occupant of the home. To qualify for the D&S form, these uses (wildlife and commercial in the examples provided) cannot be separately claimed at item 6 of the D&S form. Instead, they should be described in the non-irrigation uses section (section 8) of the D&S form. If the claimant wants to separately claim these purposes of use, the claimant will have to do so on the irrigation & other form and will have to pay the appropriate variable fees.

The same rules apply to uses meeting the definition of domestic use as put forth in Section 42-111(1)(b), Idaho Code. For example, a use that would otherwise be called commercial may meet the domestic definition because the total diversion rate is not more than 0.04 cfs and the total diversion volume is not more than 2500 gallons per day. The use would still have to be described as domestic to be claimed on the D&S form and be subject to the \$25.00 fee, and the use would be further described in section 8. If the claimant wants to claim it as other than domestic at item 6, then the claimant will have to do so on the irrigation & other form and pay the appropriate variable fee.

II. Stockwater on the Irrigation & Other Claim Form

If the claimant lists stockwater use at item 6 of the irrigation & other form, and the rate or amount of water claimed to be diverted is in excess of the amount that can be claimed on the D&S form, a variable fee must be paid.

III. Public Instream Flows, Lake Level Maintenance, Wildlife, Recreation, and Aesthetic Purposes on the Irrigation & Other Claim Form

For a public agency, the per cfs fee is only charged once for a claim to water for more than one public purpose, with public purpose defined as including public instream flows, lake level maintenance, wildlife, aesthetic, and recreation. If a claimant other than a public agency lists wildlife, recreation, and aesthetic purposes as purposes of use at item 6 of the irrigation & other form, the claimant will be required to pay three per cfs variable fees. However, a private claimant can pick one of the three to list at item 6 of the irrigation & other form, and describe the other two as incidental uses in the non-irrigation uses section (item 8) of the irrigation & other form, and will only have to pay one variable fee.