


ADJUDICATION MEMORANDUM #25

TO: Adjudication Bureau Staff

FROM: Don Shaff, Adjudication Bureau Chief 

SUBJECT: Refund Policy

REVISED: April 13, 2009

The practice of processing, identifying, and assessing claim fees that may be refunded requires a clearly stated policy with which all staff are familiar. The purpose of this memo is to identify those conditions under which refunds will be processed, considered, and if approved, submitted for payment by the State Controller's office. Refer also to IDAPA 37.03.01.055 (also known as the Adjudication Rules).

Refunds will fall into two categories: overpayment and withdrawal or relinquishment. Copies of the current turn-around forms for these categories, except overpayment, are attached. Each office will produce the form such that the appropriate office address appears on the form. Correspondence meeting the requirements of the form(s) is acceptable in place of the form(s).

PROCESSING

When a refund request is initiated, the assisting staff member will attach an explanation and a copy of the receipt to Bureau's refund request form and give it to the Technical Section Manager. The Technical Section Manager will then route the request through the Fiscal Department. The claimant's request for a refund or withdrawal shall be filed with the claim unless the request is for a refund of fees on a claim that was not submitted in an acceptable form, and the claim has been rejected and returned to the claimant.

After the Technical Support Section Manager has reviewed and approved a refund request, the Technical Support Section staff will modify the claim record(s) with a status code withdrawn, including any appropriate comments. Upon approval of the refund request the documents are routed back to the Region for filing in the claim file, and the claim is stamped WITHDRAWN by the Region.

The request for a refund in connection with a withdrawal (Form 25a) (as opposed to an overpayment refund) must be signed by:

1. the person(s) who signed the claim form, or

2. a person who has submitted a power of attorney to act for the claimant, either with the claim or with the refund request.

The staff member putting together the refund request should thoroughly research the refund to avoid duplicative research by other sections.

OVERPAYMENT

Overpayment refunds obviously apply when the claimant has paid more in fees than were due for the claim(s) as originally submitted. The Bureau's refund request form shall identify the payee's name and address, receipt number(s), and claim number(s). (Note: There is no "overpayment" when an amendment of a claim would result in a smaller fee than the fee determined at the time the claim was originally filed.) The total appropriate fees shall be shown indicating the remainder to refund. Any further explanation of the circumstances regarding the fees would be acceptable.

If overpayment refunds of less than \$1.00 are discovered by staff a refund request will not be prepared or processed. If, however, a claimant requests and is due a refund of less than \$1.00 the refund will be processed as described above.

WITHDRAWAL

The withdrawal process applies when a claimant indicates in writing or Form 25a a desire to withdraw the claim(s).

Generally, the Department does not initiate a refund automatically upon withdrawal. If an application for permit should have been filed instead of a claim, the claim fees may be applied to the application for permit fee.

If a claimant wishes to withdraw a claim and receive a refund of the claim fee, and the claimant believes there are extenuating circumstances entitling them to a refund, the request must be approved by the Technical Support Section Manager. (The desire to withdraw an invalid claim does not, by itself, represent extenuating circumstances entitling the claimant to a refund.) The claimant's request shall explain in an attachment why the claim is being withdrawn and why the fees should be refunded.

The Bureau's refund request form shall set forth the amount of the fees that will be refunded under the corresponding receipt number(s). (Note: The claimant can always choose to withdraw a claim but the circumstances in which a refund will be granted are limited.)

RELINQUISHMENT

Use of Form 25c is intended for those circumstances when one claimant inadvertently duplicates the claim of another claimant. In most circumstances the conditions would be:

- 1) Multiple ownership of the property with the same water right claimed by two or some combination of the owners not knowing what the other was filing as claims;
- 2) A claimant mistakenly filing a claim for a water right neither holding nor owning the property to which it is appurtenant.

If the claimant submitting the relinquishment also wants a refund of the filing fees, they must also file a request for refund (Form 25b).

REFUND TO NON-CLAIMANT

The form Request for Refund (25b) would also be used by an individual, firm or company (e.g. attorney) paying the fees on behalf of the claimants. A refund check can be issued only to the payor of the fees.

REQUEST FOR WITHDRAWAL OF CLAIM

Name of Claimant:

(Please Print) _____

Mailing Address: _____

Amount: \$ _____ Receipt No.: _____

County of Water Right: _____

Claim No(s): _____

I wish to withdraw the Notice(s) of Claim to a Water Right which number(s) appear above and for which I previously paid a filing fee to the Idaho Department of Water Resources. I do ___ /do not ___ request a refund of the filing fee. If a refund is requested I have attached an explanation of the justification for granting a refund.

(Signature of Claimant) (Date)

(Signature of Claimant) (Date)

(Signature of Claimant) (Date)

Return to:

Idaho Department of Water Resources

Adjudication Section

For IDWR Use

Initials Date

Approval Region _____

Approval State Office _____

Data Entry _____

Claim File _____

REQUEST FOR REFUND

Name of Payor: (Please Print) _____

Mailing Address: _____

Amount: \$ _____ Receipt No.: _____

County of Water Right: _____

Claim No(s): _____

A Request For Withdrawal Of Claim or Relinquishment of Notice of Claim has been submitted for the Notice(s) of Claim to a Water Right which number(s) appear above, if numbers were assigned, and for which I, not the claimant, previously paid a filing fee to the Idaho Department of Water Resources. I request a refund of the filing fee and have attached an explanation of the justification for the refund.

(Signature of Payor)

(Date)

Return to:

Idaho Department of Water Resources

Adjudication Section

For IDWR Use

Initials Date

Approval Region _____

Approval State Office _____

Data Entry _____

Claim File _____

Form 25c

RELINQUISHMENT OF NOTICE OF CLAIM

TO WHOM IT MAY CONCERN:

I _____ hereby relinquish and
Print name(s)

withdraw any and all of my right, title and interest in and to Notice of Claim to a Water
Right #__-____ filed under §42-1409, Idaho Code.
(Print #)

Signed at _____ this _____ day
of _____, _____.

Signature of Claimant

Signature of Claimant

For IDWR Use

Initials Date

Data Entry _____

Claim File _____