

ADJUDICATION MEMORANDUM #40A

TO: Adjudication Section Staff

FROM: Carter Fritschle, Adjudication Section Manager *CF*

SUBJECT: Notice of Error Procedure

REVISED: March 2, 2015

The filing of the Preliminary Director's Report with opportunity for the claimants to submit a Notice of Error reply to the Department is a courtesy, and it is not a requirement for current adjudications as it was at the beginning of the Snake River Basin Adjudication. However, IDWR found the process useful in identifying and correcting errors in the recommendations prior to filing the Director's Report with the court. Therefore, the practice has continued and the following guidelines should be followed to ensure the success of the process.

All returned Notices of Error should be scanned and ultimately placed in the claim file. Notices of Error in which the claimant agrees with the recommendation require no further action.

Any Notice of Error reply in which the claimant disagrees with IDWR's preliminary recommendation should be reviewed by the agent who made the recommendation if that is reasonably possible. If the agent who made the recommendation is not able to review the Notice of Error, another agent should be assigned to the review.

If the changes requested by the claimant are indeed errors that occurred during the recommendation process, the agent should make the requested changes and notify the claimant that the changes have been made. Notification can be by email, phone call or letter, and must be documented in the claim file.

In some circumstances, the requested changes can only be made if the claimant amends their claim. If an amended claim is necessary, the agent should offer to draft an amended claim and send it to the claimant for signature. If additional claim fees are required as a result of the amended claim, those fees must be returned with the amended claim in order to make the requested changes.

If the Notice of Error reply requests changes that challenge IDWR's policies or the statutes that govern the adjudication process, the agent should contact the attorney assigned to the adjudication and the adjudication section manager. The attorney and section manager will work with the agent to determine the appropriate response.

If the requested changes cannot be made, the claimant should be notified that IDWR cannot change the recommendation as requested, and that the claimant will need to address the issues with the objection process. It is generally best to notify the claimant by letter; however, notification by email or phone call is acceptable as long as the notification is documented in the claim file.

Note: If the claimant files the Notice of Error reply agreeing with the recommendation, but later changes his/her mind and files an objection, the filing of a Notice of Error in agreement with the recommendation is not binding on the claimant.