



filing requirements need to be checked before the proof is considered acceptable. A copy of the well log and drilling permit should be forwarded to the vault as received for filing in the water right file.

If the log and drilling permit can not be located or if the applicability of the drilling permit requirement can not readily be determined, correspondence may be required to determine when the well was drilled, deepened or enlarged. This determination should be a joint effort of water right personnel and groundwater protection personnel with the groundwater section taking the lead to obtain the well log and drilling permit.

The question on the proof form relative to when the water was first beneficially used will eliminate much of the potential correspondence. I.e. if the date of first beneficial use shown on the proof is prior to the date a drilling permit was required, a drilling permit likely is not applicable. An exception could involve multiple wells where some of the wells are constructed prior to 7-1-87 and some after or deepening of a well after 7-1-87.

If a drilling permit is required but was not applied for, the proof should be considered incomplete and unacceptable until the required drilling permit and fee are submitted, the drilling permit has been issued and the conditions of the drilling permit have been met.

A drilling permit must also be checked against the proof to be sure the proper drilling permit fee has been paid. If the drilling permit fee paid is too small, the proof should be considered incomplete until the correct drilling permit fee has been paid.

The legal basis for rejecting a proof of beneficial use for failure to obtain a drilling permit or for failure to have paid the proper drilling permit fee is based on a condition of water right permit approval which reads as follows:

"The permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code".

This condition should also be added to extension requests or amendments which indicate a well is yet to be constructed or deepened. If a permit holder fails to comply with the drilling permit statute, the permit will be cancelled under the provisions of Section 42-311, Idaho Code for failure to comply with the conditions of permit approval.