

MEMORANDUM

DATE: April 4, 2013

TO: Water Right File 94-7424

FROM: Shelley W. Keen 

RE: Statement of Completion Submitted Date

On 11/12/2008, IDWR received a *Statement of Completion for Submitting Proof of Beneficial Use* ("proof") for Permit 94-7424. The permit holder did not enclose the required examination fee, and IDWR sent a letter requesting the fee. The permit holder submitted the fee on 11/26/2008. Because the proof was not due until 2009, for establishment of the water right, it didn't matter whether proof was received on 11/12/2008 or 11/26/2008. IDWR entered 11/12/2008 and continued to process the permit, ultimately issuing a water right license on June 2, 2009.

On 11/12/2008, the presiding judge issued an order commencing the Coeur d'Alene – Spokane River Basin Adjudication ("CSRBA"). Right holders who submitted proof by the date of the commencement order are required to participate in the CSRBA. Right holders who submitted proof after the commencement date are not required to participate. For right 94-7424, it now matters whether the proof was properly filed on 11/12/2008 or 11/26/2008.

Idaho Code § 42-217 states, in pertinent part:

Such written proof as may be required to be submitted by such user shall be upon forms furnished by the department of water resources and shall include fees as provided in subsection K. of section 42-221, Idaho Code, or a field examination report prepared by a certified water right examiner.

Beneficial Use Examination Rule 25.02 (IDAPA 37.03.02.025.02) states:

It is the responsibility of the permit holder or authorized representative to submit proof of beneficial use and provide for the timely submission of a completed field report by the due date in acceptable form to the director by either paying the required examination fee to the department or by employing a certified water right examiner.

In both the statute and the rule, if the permit holder chooses the fee option, paying the fee is clearly a required step in submitting proof. Since the fee was not paid for Permit 94-7424 until 11/26/2008, proof was not acceptable until 11/26/2008. The water rights database will be updated to show the correct proof made date.