

Memorandum

Date: January 21, 2010
To: File 37-20653 and 37-20654
From: Craig L. Saxton *CLS*

Subject: Late Proof of Beneficial use for 37-20653 and 37-20654

IDWR received a completed field exam for 37-20653 and 37-20654 on January 4, 2010.

On October 30, 2009, IDWR sent by certified mail, notice to the permit holders of 37-20653 and 37-20654, that proof of beneficial use was due on January 1, 2010. With the proof statement, the permit holder needed to include a filing fee or a completed field examination report prepared by a certified water right examiner.

January 1, 2010 was a holiday and the first working day after that was January 4, 2010. On January 4, 2010, IDWR received beneficial use field reports from Brockway Engineering without proof.

On January 13, 2010, IDWR received the Proof of Beneficial use form for 37-20653 and 37-20654. The cover letter explained that Mr. Brockway inadvertently forgot to include the proof form with the completed Beneficial Use Field Exam received on January 4, 2010. Mr. Brockway requested that the Department not extend the priority dates for 37-20563 and 37-20354 in light that the field exam was, in itself, a statement of proof and therefore proof was submitted on time.

After review, the submittal of the beneficial use field exam, in this case, will be considered enough proof of beneficial use to prevent the department from having to advance the priority date of permits 37-20653 and 37-20654. Despite that the actual proof form was received by IDWR 9 days after the proof due date, the beneficial use field exam was received on time. Forgetting to include the completed proof statement with the initial mailing appears to be a simple oversight, and was corrected almost immediately by Brockway Engineering after being informed of the error.