

MEMORANDUM

DATE: August 28, 2012

TO: Debbie Allen

FROM: Shelley W. Keen *SWK*

RE: Refund Request

Please refund \$300 submitted on Receipt E037392 to:

John David Young
1047 N. 800 E.
Shelley, ID 83274

For more explanation, please refer to my memo in Water Right File 32-13275.

MEMORANDUM

DATE: August 28, 2012

TO: Water Right File 32-13275

FROM: Shelley W. Keen 

RE: Examination Fee

On March 15, 2012, John D. Young and M. Kathleen Young submitted a Statement of Completion for Permit 32-13275, even though it is not due until December 1, 2013. The Youngs paid an examination fee of \$300 in connection with their Statement of Completion. IDWR was not able to complete the examination right away, and on July 12, 2012, the Youngs submitted a Beneficial Use Field Report prepared by a Certified Water Right Examiner (CWRE). Today Mr. Young called to request a refund of his examination fee.

Beneficial Use Examination Rule 50.02.c states:

After submitting proof of beneficial use and paying an examination fee to the department, but before the department's actual examination, a permit holder may submit an examination report completed by a certified water right examiner. Because the examination fee is an essential component of timely proof submittal, the department will not refund the examination fee.

The rule seems to indicate that IDWR would not refund the examination fee. However, it is important to understand the meaning of the phrase "timely proof submittal" in the rule. When a permit holder submits a Statement of Completion, it is not acceptable without either an examination fee or a field report prepared by a CWRE. In most instances, the Statement of Completion is not submitted until it is due, and the examination fee or the CWRE report is necessary to keep the permit from lapsing because the due date has passed without an acceptable Statement of Completion. The rule is intended to preserve the acceptability and timeliness of the Statement of Completion by retaining the required examination fee.

In the case of the Youngs' permit, the Statement of Completion is not yet due. Therefore, the fee is not required to preserve the timeliness of the submittal. If the CWRE's report is found to be acceptable, the fee should be refunded since the CWRE's field report was submitted well before the Statement of Completion was due.