MEMORANDUM

To: Regional Offices
Water Allocation Bureau

Amended Application Processing No. 9
Transfer Processing No. 20
Supplement to Permit Processing No. 5

From: Norman C. Young NCY

RE: **CHANGES TO WATER RIGHT APPLICATIONS**

Date: JANUARY 12, 2000

This memo supercedes Application Processing Memorandum No. 9 dated May 10, 1982. This memo replaces the portion of Permit Processing Memorandum No. 5 under the heading Amending and Application for Permit.

Applications for Permit

Changes to an application for permit must be made by the applicant, not by department staff. If an application for permit is not acceptable because it is incomplete according to the criteria set forth in Water Appropriation Rule 35.03, the department should return the original application to the applicant as directed in Water Appropriation Rule 35.01.d. Department staff should not complete or change the application unless the applicant signs written permission to do so or the applicant is present to initial and date the change. No priority will be established by an incomplete application. To resubmit the original application form, the applicant may line out (not erase or white out) any original entry in a manner that it can still be read and then insert the new information and initial and date the change. The applicant may also submit a new application form in place of the original. When the application is complete, whether on the original form or on a replacement, it will be treated in all respects like a new application.

If an application is acceptable but the applicant wants to amend the application as described in Water Appropriation Rule 35.04, the applicant may make changes on the original application form or may submit a replacement application to the department. Amendments to an original application form must be made by lining out (not erasing or whiting out) the original entry in a manner that it can still be read and then having the applicant initial and date the changes. A replacement application must be identified as "amended" on its face and the original application must be retained in department files to document the date of filing or fee submittal. Because of the need to retain the original application, applicants should be encouraged to submit a replacement application or to visit the office to initial and date changes on the original. If the changes must be made through the mail, the department should keep the original application and encourage the applicants to make the amendments on a replacement

application form. This way, if the application is not amended in a reasonable time period, the original application can still be processed. Consult Water Appropriation Rule 35.04 to determine when amending an application requires advancing the priority date, collecting an additional fee, and/or re-advertising the application.

For changes other than those addressed in Water Appropriation Rule 35.04, it is not always necessary for department staff to seek an amended application from the applicant. It should be a general rule that a "mistake", such as a legal description that does not match the attached map, should be corrected by the applicant prior to publication of the legal notice. However, the department can clarify some items, such as source names that do not conform to the department's data entry standards, by documenting the water right file in the manner set forth below. Standard seasons of use for irrigation purposes can also be addressed by documenting the file with a memorandum. The department can also affect a change by issuing the permit for less than requested in the application. It is not possible in this memorandum to list all the items that might be addressed as "mistakes" or "clarifications" or by partial approval. When in doubt about the appropriate method, it is probably safest to have the applicant make the change or to obtain written permission for the change from the applicant.

When an application is complete but additional information is needed to support some aspect of the application, department staff should request the additional information in writing. Section 42-204, *Idaho Code*, authorizes the department to void the record of an application for permit if an applicant does not provide the requested information within thirty (30) days.

Explanatory information or "clarifications" concerning an application may be added to the "comments" field in the water rights database, but it should not be added to the paper document by department staff. A memo to the file may also be appropriate to further explain an application as long as it is not the mechanism for a change to the application document. Printouts of "comments" and memorandums should be placed on the right side of a water right file so they are not perceived to be part of the actual application, which is placed on the left.

Other Applications

For the most part, the department should treat other kinds of water right applications, including applications for transfer and applications to amend permits, the same as it does applications for permit. As with applications for permit, department staff should not complete or change other kinds of applications unless the applicants are present to initial and date the changes. However, because the filing date of other kinds of applications does not establish a priority date, it is not necessary to keep originals or copies of applications that have been replaced by amended applications unless the amendments were made after publication of the legal notice.