

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 31

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO WATER; AMENDING SECTION 42-221, IDAHO CODE, TO DELETE REFERENCE TO APPLICATIONS TO CHANGE THE POINT OF DIVERSION, PLACE, PERIOD OR NATURE OF USE OF WATER UNDER A VESTED WATER RIGHT IN RELATION TO CERTAIN FEES, TO REVISE A FEE RELATING TO APPLICATIONS FOR AMENDMENT OF PERMIT AND TO PROVIDE FOR FEES FOR FILING APPLICATIONS TO CHANGE THE POINT OF DIVERSION, PLACE, PERIOD OR NATURE OF USE OF WATER UNDER A VESTED WATER RIGHT; AND AMENDING SECTION 42-248, IDAHO CODE, TO REVISE A PROVISION RELATING TO INFORMATION CONTAINED IN CERTAIN APPLICATIONS TO CHANGE A WATER RIGHT BEING DEEMED IN COMPLIANCE WITH SPECIFIED NOTIFICATION PROVISIONS AND TO PROVIDE FOR APPLICABILITY OF SPECIFIED FEE REQUIREMENTS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 42-221, Idaho Code, be, and the same is hereby amended to read as follows:

42-221. FEES OF DEPARTMENT. The department of water resources shall collect the following fees which shall constitute a fund to pay for legal advertising, the publication of public notices and for investigations, research, and providing public data as required of the department in the performance of its statutory duties:

A. For filing an application for a permit to appropriate the public waters of this state ~~or an application to change the point of diversion, place, period or nature of use of water under a vested water right:~~

1. For a quantity of 0.2 c.f.s. or less or for a storage volume of 20 acre feet or less \$100

2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s. or for a storage volume greater than 20 acre feet but not exceeding 100 acre feet \$250

3. For a quantity greater than 1.0 c.f.s. but not exceeding 20 c.f.s., or for a storage volume greater than 100 acre feet but not exceeding 2,000 acre feet \$250 plus \$40.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 1.0 c.f.s. or 100 acre feet.

4. For a quantity greater than 20.0 c.f.s. but not exceeding 100 c.f.s. or for a storage volume greater than 2,000 acre feet but not exceeding 10,000 acre feet \$1,010 plus \$20.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 20.0 c.f.s. or 2,000 acre feet.

5. For a quantity greater than 100.0 c.f.s. but not exceeding 500.0 c.f.s., or for a storage volume greater than 10,000 acre feet but not exceeding 50,000 acre feet \$2,610 plus \$10.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 100 c.f.s. or 10,000 acre feet.

1 6. For a quantity greater than 500 c.f.s., or for a storage volume
 2 greater than 50,000 acre feet \$6,610
 3 plus \$2.00 for each additional 1.0 c.f.s. or part thereof or 100 acre
 4 feet or part thereof over the first 500.0 c.f.s. or 50,000 acre feet.
 5 B. For filing an application for an extension of time within which to
 6 resume the use of water under a vested water right \$100
 7 C. For filing application for amendment of permit ~~\$50~~ \$100
 8 D.1. For filing claim to use right under section 42-243, Idaho
 9 Code \$100
 10 2. For filing a late claim to use a water right under section 42-243,
 11 Idaho Code, where the date filed with the department of water resources
 12 or, the postmark if mailed to the department of water resources, is:
 13 i. After June 30, 1998 \$250
 14 ii. After June 30, 2005 \$500
 15 iii. For every ten (10) years after June 30, 2005, an addi-
 16 tional \$500
 17 E. For filing an assignment of permit \$25.00
 18 F. For readvertising application for permit, change, exchange, or ex-
 19 tension to resume use \$50.00
 20 G. For certification, each document \$1.00
 21 H. For making photo copies of office records, maps and documents for
 22 public use A reasonable charge as determined by the department.
 23 I. For filing request for extension of time within which to submit proof
 24 of beneficial use on a water right permit \$50.00
 25 J. For tasks requiring in excess of one (1) hour research or for comput-
 26 erized data provided for public use
 27 A reasonable charge as determined by the department.
 28 K. For filing proof of beneficial use of water and requests for water
 29 right license examinations, a fee based upon the rate of diversion claimed in
 30 the proof of beneficial use:
 31 1. For a quantity of 0.2 c.f.s. or less, or for a storage volume of 20
 32 acre feet or less \$50.00
 33 except no fee shall be charged for domestic use for which a permit is not
 34 required.
 35 2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s.,
 36 or for a storage volume greater than 20 acre feet, but not exceeding 100
 37 acre feet \$100
 38 3. For a quantity greater than 1.0 c.f.s., or for a storage volume
 39 greater than 100 acre feet \$100
 40 plus \$25.00 for each additional c.f.s. or part thereof, or 100 acre feet
 41 or part thereof, over the first 1.0 c.f.s. or 100 acre feet with a maxi-
 42 mum fee not to exceed \$600.
 43 L. For filing a protest or request to intervene in a protes-
 44 ted matter \$25.00
 45 M. For filing an application to alter a stream channel pursuant to chap-
 46 ter 38, title 42, Idaho Code:
 47 1. Application for recreational dredge permits by residents of the
 48 state \$10.00
 49 2. Application for recreational dredge permits by nonresidents of the
 50 state \$30.00

1 3. Other applications \$20.00
 2 N. For receipt of all notices of application within a designated area, a
 3 reasonable annual charge as determined by the department.
 4 O. For filing an application to change the point of diversion, place,
 5 period or nature of use of water under a vested water right:
 6 1. For a quantity of 0.2 c.f.s. or less, or for a storage volume of 20
 7 acre feet or less\$200
 8 2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s.,
 9 or for a storage volume greater than 20 acre feet but not exceeding 100
 10 acre feet\$500
 11 3. For a quantity greater than 1.0 c.f.s. but not exceeding 20 c.f.s.,
 12 or for a storage volume greater than 100 acre feet but not exceeding
 13 2,000 acre feet\$500
 14 plus \$80.00 for each additional c.f.s. or part thereof or 100 acre feet
 15 or part thereof over the first 1.0 c.f.s. or 100 acre feet.
 16 4. For a quantity greater than 20.0 c.f.s. but not exceeding 100
 17 c.f.s., or for a storage volume greater than 2,000 acre feet but not
 18 exceeding 10,000 acre feet\$2,020
 19 plus \$40.00 for each additional c.f.s. or part thereof or 100 acre feet
 20 or part thereof over the first 20.0 c.f.s. or 2,000 acre feet.
 21 5. For a quantity greater than 100 c.f.s. but not exceeding 500 c.f.s.,
 22 or for a storage volume greater than 10,000 acre feet but not exceeding
 23 50,000 acre feet\$5,220
 24 plus \$20.00 for each additional c.f.s. or part thereof or 100 acre feet
 25 or part thereof over the first 100 c.f.s. or 10,000 acre feet.
 26 6. For a quantity greater than 500 c.f.s., or for a storage volume
 27 greater than 50,000 acre feet\$13,220
 28 plus \$4.00 for each additional c.f.s. or part thereof or 100 acre feet
 29 or part thereof over the first 500 c.f.s. or 50,000 acre feet.
 30 7. For any application to change the nature of use of water under one (1)
 31 or more vested water right(s), an additional fee of \$250 shall apply.
 32 All fees received by the department of water resources under the provi-
 33 sions of this chapter shall be transmitted to the state treasurer for deposit
 34 in the water administration account.

35 SECTION 2. That Section 42-248, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 42-248. NOTIFICATION OF CHANGE IN OWNERSHIP OF A WATER RIGHT OR CHANGE
 38 OF ADDRESS OF A WATER RIGHT OWNER -- NOTICE OF ACTION AFFECTING A WATER
 39 RIGHT. (1) All persons owning or claiming ownership of a right to use the wa-
 40 ter of this state, whether the right is represented by decree of the court, by
 41 claim to a water right filed with the department of water resources or by per-
 42 mit or license issued by the director of the department of water resources,
 43 shall provide notice to the department of water resources of any change in
 44 ownership of any part of the water right or of any change in the owner's
 45 mailing address, either of which occurs after June 30, 2000. Notice shall
 46 be provided within one hundred twenty (120) days of any change using forms
 47 acceptable to the director. Any notice received by the department of water
 48 resources more than one hundred twenty (120) days after the change in owner-
 49 ship or mailing address has occurred shall be accompanied by a late filing

1 fee. The late filing fee shall be one hundred dollars (\$100). The director
2 may waive the late filing fee or a portion thereof for good cause.

3 (2) All persons owning or claiming ownership of a right to use the wa-
4 ter of this state that is evidenced by a water right recorded with the depart-
5 ment of water resources prior to June 30, 2000, and for which a claim to water
6 right, with current ownership and mailing address, is not on file with the
7 department of water resources in the Snake River Basin Adjudication, Twin
8 Falls Civil Case No. 39576, shall verify with the department that the own-
9 ership and mailing address information in the department's records is cor-
10 rect. Any incorrect ownership or mailing address shall be corrected by the
11 owner or claimant of the water right by July 1, 2002, using forms acceptable
12 to the director. Any mailing address or ownership corrections required by
13 this subsection received by the department of water resources after July 1,
14 2002, shall be subject to the late filing fee described in subsection (1) of
15 this section. The director may waive the late filing fee or a portion thereof
16 for good cause.

17 (3) The director of the department of water resources will be deemed to
18 have provided notice concerning any action by the director affecting a water
19 right or claim if a notice of the action is mailed to the address and owner of
20 the water right shown in the records of the department of water resources at
21 the time of mailing the notice.

22 (4) Compliance with section 42-1409(6), Idaho Code, shall be deemed to
23 be compliance with this section. The filing of an application to change a
24 water right under the provisions of section 42-211 or section 42-222, Idaho
25 Code, showing a change in address of the owner of the right, ~~and~~ or accom-
26 panied by evidence documenting any change in ownership of the water right,
27 shall be deemed compliance with this section. The fee requirements of this
28 section shall apply in addition to the filing fee that may be required in con-
29 nection with an application to change a water right under the provisions of
30 section 42-211 or 42-222, Idaho Code.

31 (5) A filing fee of twenty-five dollars (\$25.00) per right shall accom-
32 pany a notice of change of ownership of a water right, provided that the fee
33 shall be one hundred dollars (\$100) per right if a request is made to change
34 the department's records to reflect a division in the ownership of the water
35 right resulting from a division in the ownership of the place of use under the
36 water right. A notice of change of ownership of all or part of a water right
37 shall be accompanied by evidence showing the basis for the change in owner-
38 ship, and how the right is divided if the change divides the right among mul-
39 tiple owners.

40 (6) Any person having a security interest in a water right and desiring
41 to be notified by the department regarding the filing of a change in owner-
42 ship of that water right or of any proposed or final action to amend, transfer
43 or otherwise modify that water right shall make the request upon a form pro-
44 vided by the department accompanied by a fee of twenty-five dollars (\$25.00)
45 per right. The request shall be accompanied by evidence of the security in-
46 terest including the expiration date of the security interest or other date
47 defining the end of the period for which notification is requested. The re-
48 quest for notification shall expire at the end of the requested notification
49 period unless renewed on a form provided by the department and accompanied by
50 a renewal fee of twenty-five dollars (\$25.00) per right. The holder of a se-

1 security interest requesting notification under this subsection shall provide
2 notice to the department within sixty (60) days if the security interest is
3 terminated prior to the end of the requested notification period.