

**FLATHEAD RESERVATION WATER MANAGEMENT BOARD
AND THE OFFICE OF THE WATER ENGINEER**

WATER POLICIES & PROCEDURES



NOTICE

THE BOARD APPROVED THE SECTIONS OF THE WP&P BELOW FOR A 15-DAY PUBLIC COMMENT PERIOD ON 7/16/2025. THESE SECTIONS INCLUDE:

- CHAPTER I – WATER RESOURCES CONSERVATION, DEVELOPMENT AND ADMINISTRATION
 - PART 0 – OPERATIONS
 - WP&P 10-102. OE Form Descriptions, Status, Fees, and Version Dates.
 - 9) Properties Under a Contract for Deed & Deed of Trust.
 - PART 1 – GENERAL PROVISIONS
 - WP&P 11-108. Reservation Water Rights Database.
- CHAPTER II – WATER USE
 - PART 1 – GENERAL PROVISIONS
 - WP&P 21-111. Abandonment of Appropriation Right.
 - WP&P 21-112. Procedure for Declaring Abandonment.
 - PART 2 – PERMIT AND CHANGE APPLICATION PROCESS
 - WP&P 22-115. Redundant and Substitute Wells.
- CHAPTER III – ENFORCEMENT
 - WP&P 31-113. Fines.
 - 4) Fines for Failing to Curtail Illegal Use(s).

CHAPTER I: WATER RESOURCES CONSERVATION, DEVELOPMENT AND ADMINISTRATION

PART 0: OPERATIONS. SECTION

WP&P [Update] 10-103. Water Right Application Submission.

9) Properties Under a Contract for Deed & Deed of Trust.

- a) Contract for Deed: For applications with parcels that are under a contract for deed, both the transferor(s) and the transferee(s) must sign water right applications with original signatures. Water rights approved by the OE will be issued to both the transferor(s) and the transferee(s). If the contract for deed is finalized before the OE issues a water right, the transferee may provide a copy of the deed and file an Application Owner Update Form (620F) with the OE and any subsequent issuances will list only the transferee(s). If the contract for deed is finalized after the OE issues a water right, the transferee(s) must file a Water Right Ownership Form (608) with the Montana DNRC Water Resources Division.
- b) Deed of Trust: For applications with a parcel(s) that are under a deed of trust, the Grantor(s) must sign water right applications with original signatures. Water rights approved by the OE will be issued to the Grantor(s). If the property is foreclosed before the OE issues a water right, the new owners must provide the OE with an updated deed and file an Application Owner Update Form (620F) with the OE to convert the active water right application to their name. The OE may terminate the application if these steps are not taken before application deadlines pass.

PART 1 – GENERAL PROVISIONS

WP&P 11-108. [NEW] Reservation Water Rights Database.

- 1) Access to WRIS Database: An OE employee approved to work within WRIS will receive a State-registered CN#, which shall be unique and individual to that OE employee.
- 2) Corrections to Water Rights with a Priority Date of July 1, 1973, or Later: The Water Engineer or Staff in consultation with the Engineer may correct errors or provide additional information for existing State-based water rights recorded in the WRIS. Corrections shall occur on the original version of the water right.
 - a. Corrections to the record – informational remark: Water Rights being corrected shall receive an informational remark that explains exactly what was corrected, when it was corrected, and that the correction was performed by the OE.
 - b. Corrections to the record – memo to the file: Water Rights being corrected shall be generally described in a memo to be added to the water right record that explicitly describes the reason(s) for any correction. For each corrected water right element, the memo will define what was modified, provide the date of the correction, justify the need for the correction, document who made the

2025-07-16 FRWMB Approval for Public Comment.
2025-07-18 Published for 15-day Notice and Comment.

correction, document who authorized the correction, and when needed, include a fully implemented Correction form (Form 625F).

- 3) Correction to Water Rights with a Priority Date Prior to July 1, 1973 (Statements of Claim):
Corrections to Statements of Claim shall be limited to clerical and typographic errors corroborated by the associated scanned claim file.

CHAPTER II – WATER USE

PART 1 – GENERAL PROVISIONS

WP&P 21-111. [New] Abandonment of Appropriation Right.

- 1) Evidence of non-use: The OE may use historic aerial photographs or other evidence for purposes of demonstrating a period of ten (10) successive years of nonuse of an appropriation right.
- 2) Failure to Maintain Operable Diversion: Failure of an Appropriator to maintain a diversion may not equate with water not being available for use for the 10 successive year period set forth in Ordinance 2-1-111(3).
- 3) Proof of Agreement or Contract: An Appropriator who is part of an agreement or contract as set forth in Ordinance 2-1-111(4), must provide the OE with a copy of the executed agreement, that details the duration of the agreement, the area affected by the agreement or contract, and the parties involved.

WP&P 21-112. [New] Procedure for Declaring Abandonment.

- 1) Evidence of Injury: A Petitioner claiming injury under Ordinance 2-1-112 relating to an appropriator's water use will be considered prima facie evidence of injury. Form 612F.
- 2) Evidence of Water Supply: For purposes of Ordinance 2-1-111 and 2-1-112, a Petitioner claiming reduced water supply will be considered prima facie evidence of reduced water supply. Form 612F.

PART 2 – PERMIT AND CHANGE APPLICATION PROCESS

WP&P 22-115 Redundant and Substitute Wells.

- 1) Redundant Well - GPS Locations: Applicants filing a Redundant Well Notice of Completion Form (635F), are required to provide the OE with the GPS coordinates (Latitude, Longitude) of the location of the new well and the location of the old Well.
- 2) Redundant Well – Documentation Needed: Applicants filing a Redundant Well Notice of Completion Form (635F), are required to provide the OE with documentation or citation of the rule requiring the Redundant Well.
- 3) Substitute Well – GPS Locations: Applicants filing a Substitute Well Notice of Completion Form (634F), are required to provide the OE with the GPS coordinates (Latitude, Longitude) of the location of the new well and the location of the old well.
- 4) Substitute Well – Abandoning the Well Being Replaced: Wells being replaced due to lack of supply or other malfunction shall be abandoned according to Administrative Rules of Montana 36.21.670.
- 5) Substitute Well – Abandoned Well Log: Applicants filing a Substitute Well Notice of Completion Form (634F), for circumstances where the old well is to be abandoned, must

abandon the old well and provide the OE with a copy of the Well Abandonment Log/Report. Any deviation from this documentation may be approved or denied at the discretion of the OE.

- 6) Substitute Well – Non-Abandonment of Well Being Replaced: Applicants filing a Substitute Well Notice of Completion Form (634F), for circumstances where the old Well is not being abandoned, must provide written rationale for the old Well to be retained and may be required by the OE to adhere to certain restrictions/conditions placed on the well not being abandoned that may be required to protect groundwater quality or manage future changes to groundwater regulations that may include, but are not limited to:
- a) Installing a sanitary well seal and providing the OE evidence of its installation;
 - b) Marking the Well location in a fashion that reduces the chance of damage from vehicles or machinery;
 - c) Making improvements around the wellhead designed to reduce the chances of future aquifer contamination;
 - d) Providing the OE written documentation that the well will not be used for any unauthorized purposes or in advance of attaining the appropriate water right; and
 - e) Agreement that the OE may impose abandonment at a future date if future groundwater regulations or future deterioration of the well head occur.

CHAPTER III – ENFORCEMENT

WP&P 31-113. Fines.

- 1) Maximum Fines Imposed by the Board. Maximum fines are defined in Ordinance.
 - a. Not to exceed \$1000 per violation. Ordinance, § 3-1-113(1).
 - b. Each day of violation constitutes a separate violation. Ordinance § 3-1-113(4).
- 2) Fines for Constructing a Well or Developed Spring Prior to Authorization from the OE. If a well(s) or developed spring(s) is found by the Office of the Engineer to have been drilled and/or developed after June 1, 2022, without prior authorization by the Office of the Engineer, a one-time fine equal to the pertinent application fee may be imposed by the Engineer, or any Staff who is so directed by the Engineer, in addition to any filing fee(s) that may be due. The Engineer, or any Staff who is so directed by the Engineer, may also notify the Montana Water Well Drillers Association regarding the violation and the need for prior approval before drilling can occur.
- 3) Fines for Exceeding Maximum Volumes Allowed for Measured Uses. If a water user exceeds the maximum volume allowed for a use of water for which they are required to measure and report to the OE, the Engineer, or any Staff who is so directed by the Engineer, may impose a fine up to an amount equal to the pertinent application fee associated with the use for each period of overage that occurs. For annual volume measurement requirements, the overage would be once per year. If annual volume measurement requirements are modified to be more frequently required by WP&P 31- 303.10.c.ii, that new required water measurement frequency would set the schedule for recurring fines.
- 4) Fines for Failing to Curtail Illegal Use(s). If a water user is found to be using water illegally after being notified by the Water Engineer, or any Staff who is so directed by the Engineer, to curtail the illegal use, the water user may be subject to fines.