

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

**WATER POLICIES & PROCEDURES**



THE BOARD APPROVED THE FOLLOWING FRWMB WATER POLICIES & PROCEDURES (WP&P) FOR A 15-DAY PUBLIC COMMENT PERIOD STARTING ON **NOVEMBER 19, 2025**. COMMENTS MUST BE RECEIVED OR POSTMARKED BY **5:00 PM DECEMBER 04, 2025**. THESE DRAFT POLICIES INCLUDE:

**[NEW] SECTIONS, [NEW] SUBSECTIONS, AND [UPDATED] SECTIONS THAT HAVE NOT BEEN APPROVED BY THE BOARD:**

- **WP&P 107(4) UPDATED SUBSECTION: State-based Registrations, Pre-1973 Uses**
- **WP&P 22-117(4) UPDATE SUBSECTION: Domestic Allowances, Term “site”**
- **WP&P 22-101 REORG AND NEW SUBSECTION (2): Permits and Changes, Exceptions to a Change Authorization.**

## INTRODUCTION

The Water Policy & Procedures (“WP&P” or “Procedures”) are created by the Flathead Reservation Water Management Board (“FRWMB” or “Board”) and the Office of the Water Engineer (“OE”) to specify and clarify details relating to water administration for the achievement and implementation of the Unitary Administration and Management Ordinance (“UAMO” or “Ordinance”). These Procedures, and amendments thereof, shall be published by the OE on the FRWMB website ([www.frwmb.gov](http://www.frwmb.gov)).

The FRWMB has the authority to develop and promulgate these Procedures pursuant to the Confederated Salish and Kootenai Tribes (CSKT)—Montana (MT) Water Compact (Compact):

### **Compact Article IV.I.5.a: Powers and Duties.**

*a. In General. The Board shall have the power to promulgate procedures, prescribe forms, develop additional materials, and implement amendments thereto as may be necessary and proper to exercise its jurisdiction and carry out its assigned functions under this Compact and the Law of Administration. A set of forms for initial use by the Board in the implementation of the Law of Administration is attached hereto as Appendix 37. The Board may amend these forms at its discretion. Such modifications are pursuant to, and shall not be deemed an amendment of, this Compact.*

The Board shall promulgate the Procedures through public meetings of the Board. These meetings shall be open to the observation of the general public pursuant to the Compact, Ordinance, and Policies of the Board. Where there is a conflict of laws, the law that provides for greater openness to the public applies. The Board shall notice the public of any scheduled drafting workshops in the creation of these Procedures and shall encourage the participation of the public through public comment, to be considered by the Board at the next scheduled Board meeting. The Board shall not approve any portion of these Procedures until public comment has been solicited.

These Procedures are intended to clarify and supplement details into the implementation of the Ordinance and the administration of water within the exterior boundaries of the Reservation. In the event that these Procedures conflict with the Ordinance or the Compact, the language of the Ordinance or the Compact shall control.

This document is intended to track the organization of the Ordinance for purposes of easy referencing to sections of the Ordinance for which the procedural clarification is intended to elucidate; 100 is added to each Ordinance section directly referenced with less direct sections added before and after.

## FRWMB Water Policies & Procedures

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### *WP&P 21-107. [Updated Subsection 4] Process for Registration of Certain Other Previously Unrecorded Existing Uses.*

- 3) **Adequacy of State-based Registrations - Pre-1973 filings pursuant Ordinance 2-2-107(1)**: Registrations under this section are limited to uses whose first use predates July 1, 1973 and the use is one of the following:
- Surface Water, direct from source, purposed for stock;
  - Groundwater purposed for single domestic (one home) that may include lawn and garden not to exceed five (5) acres in total size; or
  - Groundwater purposed for stock.

The OE will examine historic air photos for purposes of confirming the existence of pre-1973 use in a fashion similar to what DNRC Claim Examiners would do. When the OE cannot confirm pre-1973 use, they will document the lack of confirmation in a letter of defect written to the current owner of the parcel associated with the State-based Registration application and require the owner to provide substantial credible evidence of the pre-1973 use that may include, but is not limited to: affidavit from a pre-1973 corroborating the use, additional pre-1973 photographic information, and/or additional pre-1973 written documentation corroborating the use.

### *WP&P 22-117. [UPDATED SUBSECTION 4] Process for Registration of Certain Other Previously Unrecorded Existing Uses.*

- 4) **Sites Defined**. Business “Sites,” as part of the definitions of Business in **Ordinance, §1-1-104(8)**, mean any location where business is conducted and may include areas that are absent a building/structure, including but not limited to fields, canopies, industrial settings, and other areas where business operations occur.

### *WP&P 22-101. Appropriation Rights and Change in Use authorizations on the Reservation [REORGANIZED UPDATED SUBSECTION 2; NEW SUBSECTION].*

- 1) **Failure to Apply – Application for New Use**: Applicants who failed to file for Existing Uses pursuant to **Ordinance § 2-1-106(2)-(3)** may file an application with the OE to

establish a new water right under **Ordinance § 2-2-101**. The priority date of these water rights shall be the date that the application was received by the OE.

*WP&P 21-112(2). [REPOSTED] Procedure for Declaring Abandonment.*

- 2) Evidence of Water Supply: For purposes of **Ordinance § 2-1-111 and § 2-1-112**, a Petitioner alleging a reduced water supply will be considered prima facie evidence a reduction has occurred.. Form 612F.

*WP&P 22-101(2). Appropriation Rights and Change in Use authorizations on the Reservation.*

- 2) Exceptions to a Change in Use Authorization:

- a. Replacement Point of Diversion: Before replacing a surface water Point of Diversion, a water user must file a Request for a Replacement Point of Diversion form (Form 644F). All information requested by form 644F must be correct and complete before the OE may approve the request. Upon receipt, the OE has 45 days from receiving and date stamping to review the request but may extend the review period up to 60 days. If the request has deficiencies, the OE will send a defect letter that itemizes the defects the applicant must address. The applicant has thirty (30) calendar days from the date of the letter to respond. If the applicant requests additional time, the OE, may allow up to six (6) months in which to respond to defects. If the applicant is unable to attain OE approval for a request to move a point of diversion, the action is not permissible.

If the OE determines a 644F request to be outside the parameters of what is allowed under this section and Form 644F, the applicant may alternatively be required by the OE to submit and receive approval for a 606F Change Authorization Request before replacing the POD.

- b. Petition to Modify a Permit or Change Authorization: The owner(s) of a water right may petition the OE (Form 651F) to modify a Permit or a Change in Use Authorization for the following categories:
  - i. Modify or Correct information relating to water use;
  - ii. Remove a Condition;
  - iii. Reduce Volume or Flow Rate; and
  - iv. Change Interim Compliance or Construction Date.

Petition to Modify a Permit or a Change is authorized at the discretion of the Water Engineer. All information requested by form 651F must be correct and complete before the Water Engineer may approve the request. Upon receipt, the OE has 45 days from receiving and date stamping to review the request but may extend the review period to 60 days. The OE may request additional information

from the applicant, pursuant to the OE application defect letter policies at the direction of the Water Engineer. Additional information requested may be broad in scope and include the applicant providing historic use information, information that eliminates concerns of any adverse effect resulting from the petition, or information relating to any past or present litigation, objections, or complaints relating to the water right(s) included in the petition.