

Department Of Natural Resources and Conservation  
Water Rights Bureau  
New Appropriations Program

This was updated on 09/21/01 to include information under the Completion Analysis section; water spreading information was added; and information under Volume was clarified. The Volume page was emailed to all staff on 09/22/01.

06/28/2002 – Updated to include coding stockwater/wildlife reservoirs.

06/03/2003 – Updated to change the Replacement Folder instructions. (page 17)

06/03/2003 – Updated to change the Ownership Update requirements. (page 17)

7/9/2009 - Removed references to DRAFT CERTIFICATE. Multiple pages – Draft certificates should not be issued until requested by the Water Court at final decree.

# **VERIFICATION/CERTIFICATION PROCEDURES**

Revised  
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**Verification Project**  
(Questionnaires)  
(Completion forms received between  
June 30, 1973 – April 14, 1992)

**Verification Project- permits and authorizations to change where a notice of completion form was received between June 30, 1973 and April 14, 1992.**

- Replacement wells: If a change authorization specified a completion deadline for a replacement well type of application, the change authorization must be verified. If no deadline was specified, certification will not be performed.
- ~~Verification will not be performed on permits issued on Applications for Completed Stockwater Pits or Reservoirs (605s). The application requires information showing how the project was completed and it is signed by the appropriator. Therefore no further review is necessary.~~ This issue is still undecided.
- Verification will be completed on Applications for Beneficial Water Use Permits (600s) on reservoirs with a capacity and volume used that lie within the ranges of a 605. These permits were issued with a completion deadline.

The verification process initially required that DNRC field investigate each project to verify the project was completed in substantial accordance with the permit or change authorization. Changes in 85-2-315, MCA, in 1991 helped to reduce the number of Department field investigations, but the task was still unmanageable. In 1999, a “questionnaire” process was put into place. DNRC sent questionnaires to appropriators and asked for their assistance in verifying their projects. Once questionnaires are received, then the procedures are followed starting at Completion Analysis, page 9.

The specific verification project process are located in the exhibits section.

The following is a brief outline of the procedures used to process verification project permits and change authorizations.

1. Determine basin in which to mail questionnaires
2. Run index, mailing labels, and all-purpose abstracts
3. Based on all-purpose abstracts determine which questionnaires should be included in the packet that will be mailed.
4. Mail cover letter, questionnaires, self-addressed return envelope, and a postcard. The postcard is used to let us know about a change in ownership of the right.
5. In the Access verification database, log the date the letter was sent and which questionnaires were sent
6. Log date of returned completed questionnaires
  - a. If the questionnaire showing that the project is not developed, send the questionnaire and file to the regional office for action
7. Log any return mail that is received

8. Log whether the ownership change postcard is returned
9. Match up completed questionnaires with file
10. Run a new verification abstract. Place verifab and copy of microfiche in the file, if file is located in central office.
11. Attach Verification File Status Update notice (see exhibits) to the front of the file.
12. Send cover letter, questionnaires, and file (if not already located in the regional office), to regional office for processing
13. Regional office processes file using verification/certification procedures
14. Regional office will provide updates as to status of verification in order to track progress on project for legislature – see exhibits section.
15. Regional office or Central office codes the findings/modifications and ~~issues a draft certificate~~ prints a general abstract or change authorization general abstract.
16. Regional office or Central office sends “Thank you” letter and copy of ~~draft certificate~~ the general abstract to appropriator
17. Return file to central office
18. Central office will update Access verification database with appropriate information
19. File will be filmed and stored at Mergenthalers (new storage)

#### No Response Mail

A second letter and questionnaire(s) will be sent.

If there is no response to the second letter, a property ownership search through county records will be made. If the owner matches the DNRC owner of record, then an attempt will be made to contact the owner by telephone or in person. If the owner does not match our owner of record, then we will update the verification database and resend the letter, questionnaire(s), abstract, postcard, and self-addressed envelope.

If no contact can be established, a decision to terminate will be made in consultation between the Regional Manager and the New Appropriations Program Manager.

#### Return Mail/Ownership Information Postcard

Return Mail will be researched at the appropriate county and a new first letter or second letter will be sent.

If an address correction is provided, write a memo to file, film the envelope, correct the letter with the new address, and resend the letter and questionnaire(s) and include an Ownership Update, form 608. When the Form 608 is received, the main frame will be updated.

If an address correction is not provided, research the property ownership through county records. Document the new owner and/or address with a memo to the file, and update the project database. Resend the letter and questionnaire(s) and include an Ownership Update, form 608.

## **Certification Process** (Completion forms received after April 14, 1992)

### **Certification - permits and authorizations to change where a notice of completion form was received after April 14, 1992.**

In 1991, the law was changed to allow the appropriator to certify how the project was completed. When the certified project completion notice is received, DNRC is to review the information and determine whether the completed project is within substantial accordance.

Replacement wells: If a change authorization specified a completion deadline for a replacement well type of application, the change authorization must be certified. If no deadline was specified, certification will not be performed.

~~Certification will not be performed on permits issued on Applications for Completed Stockwater Pits or Reservoirs (605s). The application requires information showing how the project was completed and it is signed by the appropriator. Therefore no further review is necessary. Not yet determined.~~

By October 1 of each year, the Central Office, at the regional office's request, will send a reminder to all permits and authorizations to change that have that year's project completion deadline, see exhibits, Project Completion & Progress Reminder Letters.

Upon receipt of a Project Completion Notice, form 617 or 618, date stamp, check for completeness, make sure a map and photos are included that shows the completed project. All notes or corrections made to the project completion notice must be made on a work copy since the owner has certified the information.

#### Form 617 & 618 Signature Requirement

##### Form 617

###### M. Certification

The field examiner must sign and have part M notarized. If the permit owner is the examiner they must complete part M.

###### N. Permit Owner

If the permit owner is not the examiner and does not sign part M as the examiner, they must sign part N. The permit owner's signature confirms they are aware of the examiner's findings. The form must be signed by the owner or it can be signed by another provided the signer has power of attorney or written authorization. The authorization must state something like, *I owner of water right do hereby declare John Public has full authority to act as my agent and sign all water right documents on my behalf.* A notarized statement is best, however, it does not have to be notarized

##### Form 618

###### J. Certification

The field examiner must sign and have part J notarized. If the authorization holder is the examiner they must complete part J.

#### K. Authorization Holder

If the authorization holder is not the examiner and does not sign part J as the examiner, they must sign part K. The appropriator's signature confirms they are aware of the examiner's findings. The form must be signed by the owner or it can be signed by another provided the signer has power of attorney or written authorization. The authorization must state something like, *I owner of water right do hereby declare John Public has full authority to act as my agent and sign all water right documents on my behalf.* A notarized statement is best, however, it does not have to be notarized

The following is a brief outline of the procedures used to process certified project permits and change authorizations.

1. Receive certified Project Completion Notice, form 617 or 618
2. Regional office processes form using project completion procedures
3. Regional office codes changes and generates a general abstract or change authorization  
~~general abstract issues a draft certificate on permits or all purpose abstract on change authorizations~~
4. Regional office or central office sends ~~draft certificate~~abstract to the appropriator
5. Return file to central office
6. File will be filmed and stored at Mergenthalers (new storage)

## **GENERAL PROCEDURES**

If questions arise that are not addressed in these procedures and where the proposed action may result in a policy change, discuss the matter with the New Appropriations Program Manager.

These procedures incorporate the verification and certification procedures into one set of procedures. The analysis, field inspection, documentation, technical information, etc. is used to certify all permits or authorizations to change regardless of the date the project completion notice for notice of completion was filed.

### **Completion Analysis**

In some cases information may be learned that a project was not completed at the time the completion notice was filed, but is now in use. In other cases, the amounts used may have been greater or lesser than authorized. Verify the project as it exists today. These rights are low on the totem pole of water rights and are subject to call by senior water users. The information about the circumstances can and should be documented in the file. Of course, if the amount is greater than the allowed in the permit or change, we must inform the appropriator of the need for an additional right.

The first step is to request a verifab, refer to the Coding Manual. Review the entire file and become familiar with its history.

- Compare the permit or change authorization to the application and public notice. They should all reflect the same information unless objections and stipulations amended the final application.
- Verify all of the permits and authorizations to change by an owner at the same time if at all possible.
- Review the files to identify which ones are associated. Associated permits should be placed together and copies of the rights they are associated with (claims, certificates, etc.) should be made from microfiche and placed in the permit file.
- Review the permits to identify overlapping rights. Copies of the rights they are overlapping with (claims, certificates, etc.) should be made from microfiche and placed in the permit file.
- Permits and subsequent changes should be verified together.
- Make sure a Notice of Completion or Project Completion Notice (Form 617 or 618) is in the file to allow you to analyze the permit or change authorization.

Each file must have one accurate, readable map enclosed locating the point(s) of diversion, means of conveyance, place(s) of use, number of acres (for irrigation) and place of storage, if applicable. Use a current aerial photo whenever possible. A topographic map may be used when necessary. Locate the permitted or authorized data. After analysis, identify the verified data. For microfilm and coding purposes use a felt tip marker or cross hatches for map markings.

### **Authorizations to Change**

To verify a change authorization, the analyst will need to review the underlying water right. Use microfiche or the original files when necessary. Authorizations may be filed with their underlying

right; when more than one right is involved it is filed with the water right with the lowest number. If more than one right is involved, be sure to have all the water right files pulled or use microfiche.

Review the entire change authorization file to become familiar with the authorized change, its background, any objections or hearing results. Review the water right(s) file(s) that the change pertains to. Be familiar with the appropriator's project. Note any discrepancies in the amounts of water under the water right versus the application to change that need clarifying with the appropriator.

It may be helpful to make corrections on a copy of the original change authorization in addition to the verifab.

### Authorizations to Change on Permits

When verifying a **permit** that has a change authorization, wait until a Project Completion Notice, form 618, has been received on the change authorization. Analyze the permit and change authorization together to reflect the appropriation. ~~The draft certificate (permit) should reflect what the appropriation is currently and the change authorization should be terminated. All paperwork associated with the change authorization will be incorporated into the original permit file. The database will be updated to reflect the verified information and a comment added that the draft certificate reflects the change authorization conditions and the change authorization has been administratively terminated.~~

### Analysis

When performing an analysis, remember it is the truth and accuracy of the development we are confirming. The analysis process may include phone or written contact with the appropriator to discuss and confirm the details of the permit or change authorization or questionnaire(s). Items needing to be evaluated and/or discussed with the appropriator include:

- diversion means;
- pump specifications;
- actual pumping rate;
- copies of well logs;
- period of appropriation;
- period of use;
- purposes/use, subsequent volumes;
- number of households;
- number of animal units;
- number of acres irrigated;
- legal land description (place of use, point of diversion);
- ownership updates required;
- any new uses; and
- an accurate map.

If, in any case, you cannot confirm this information or the information provided by the appropriator is questionable, a field inspection must be recommended.

Review and correct the verifab as instructed in Verification Abstract (verifab) p.15. Document further explanation of verifab information and findings in a verification memorandum.

## **Field Inspection**

A field inspection may be performed if the supplied information or individual contact does not adequately provide the information on which to base the decision of whether the completed project is in substantial accordance with the permit or change authorization. Sometimes field inspections may be worthwhile if the appropriator has numerous files that need to be verified or certified.

Organize the contents of the file, placing the documents you will need to refer to in the field on top. This includes the permit or change authorization, map, copies of supplemental rights, any prior field reports, the verifab, and the questionnaire(s).

Grouping the files for field action by location or source will help to maximize your field time. When scheduling appointments, keep in mind the size of the projects and the time it will take to travel between landowners. While in the field, leave all gates as you found them and only drive on designated roads unless permission has been granted by the landowner to do otherwise.

Typically the best person to contact to schedule field trips is the ranch manager, lessee, or someone who is familiar with the operation of the water right. The water right owner, however, should always be informed of the trip.

When contacting the operator/appropriator to schedule appointments for field inspections, provide them with as much explanation as possible as to the "what" and "why" of verification. Generally, the more advance notice you give, the more likely that the appropriator will be able to be present and prepared to answer questions during your field inspection. The required prior notice can be made orally or in writing. If you have success in reaching appropriators by phone, you may be able to set up a trip schedule quicker. When notifying the appropriator in writing include a copy of the permit or change authorization to refresh the appropriator's memory or to enlighten a new owner who may not be aware of the document. Document on the letter any subsequent phone calls or any request from the appropriator to accompany you.

For authorizations to change confirm the location of the new point of diversion, place of use, or place of storage, or the new purpose. In addition, discuss with the appropriator all other aspects of the water right and confirm whether or not a new permit or change is required. Verify that the past use is no longer continuing except when authorized (i.e., additional point of diversion). If the change was for a new point of diversion or a new place of storage, confirm that the old point of diversion or reservoir is not being used. If it is found that the old use is continuing, advise the appropriator that they are in violation of the law. A permit application or another change application would be required in most all cases to correct the situation.

## **Field Equipment**

The following is a list of equipment that is necessary for various field measurements. The list also includes miscellaneous items that would be helpful during field inspections.

- Measuring Acreage: aerial photos, orthophotos, wheel tape, planimeter, area dot grid, 100-or 200-foot steel or fiberglass tape, electronic digitizer (in office equipment).
- Measuring Slope: hand or abney level, rod, topographic maps.

- Measuring Reservoir Capacity: 100-or 200-foot steel or fiberglass tape, wheel tape, measuring wheel, hand level, Brunton compass, rod, staff gauge with 1 foot marks, aerial photos, fishing pole, bobber, sinker, plastic canvas.
- Measuring Water Flow Rate: 5-gallon bucket, piece of hose (garden variety), stop watch, Pitot tube, flow meter, portable weir or flume, carpenter's level.
- Measuring Ditches, Headgates Culverts and Outlets: 12 or 25-foot steel tape, rod, level.
- Miscellaneous Equipment: hip or chest waders; camera (highly recommended); note paper and pencils; pocket calculator; flashlight; mainline/sprinkler slide rule; map grid; compass; shovel, bucket, tool chest, or cell phone.

## Photographs

It is highly recommended that a camera be standard field equipment. Good photographs assist in visualizing a project. One clear view with a detailed description could be sufficient. However, one photo of the diversion works and one photo of the place of use are recommended. For ease of reviewing, filming, and storing, it is recommended the photos be mounted in order on 8.5" X 11" white paper. Panoramic photo groups should be placed on and 8 ½" x 14" white paper to prevent damage and separation. Identify under each photo what it depicts and the date taken. Indicate the permit or authorization number, appropriator's name, and the photographer's name in the upper right corner of each page of photos. Digital photographs will be accepted. Digital photos need to include the statement that the photos have not been digitally manipulated along with the above mention information. If you refer to the photos in a field report, number the photos for reference purposes.

## Documentation

The verifier's findings and documentation are the basis for determining whether the completed project is within substantial accordance ~~with the permit or change authorization, and a Draft Certificate of Water Right can be issued for a permit or whether the change complied with the terms of the authorization.~~ It will be used as factual support for making decisions. It must be clear, accurate, and complete.

## Verification Abstract (Verifab)

The Verification Abstract, also known as a verifab, see exhibits, is a computer generated form to be used by all verifiers for documenting the department's findings and recommendations and the appropriator's agreement or disagreement and endorsement. A completed verifab is required for each file verified. Even if an analysis is performed and no appropriator signature is needed, it is the standard form on which the verifier documents findings and recommendations, which confirms that verification was completed. When necessary, it is the only document for the appropriator's comments and signature.

Cross out any items to be changed and write in the verified recommended information above. The database will be updated with the information provided on the verifab. For coding instructions, refer to the database coding manual.

There are six sections to the form. Each section is discussed below with instructions on how each is to be completed by the verifier, appropriator, and regional manager.

### Authorization Number / Water Right ID

Most of the authorizations to change are now identified by "G" and "V". If more than one water right is being changed, the lowest water right number is used as the change authorization number. The other remaining water rights being changed are identified in a "CT" remark in the "G" or "V" record.

If the authorization number has a "G" or "V" ID, the ID of the underlying water right will be designated on the verifab; "P" for permit, "C" for certificate, "E" for exempt right, "D" for Powder River decreed right, and "W" for claim.

### Data

This information comes directly from the computer. It is as current as the date printed in the upper right corner of the verifab. Current owners will be listed if the ownership update was coded prior to the verifab run date.

### Permits

It is imperative that you begin by reviewing this section of the form against the actual permit as issued. The permit should have already been compared to the application and public notice. Prior to conversion to the database, permits were hand typed and the backlog of these permits were then coded for the computer. During conversion, some of the permit information was lost. There were no remark or condition codes prior to the database; therefore, no clarifying remarks or conditions may be printed on the verifab for older permits. If there are, they will be printed under the "Remarks" section. Also, there was no period of appropriation category, therefore, some of the older permits will have zeros listed after the category. For older permits, you will need to identify the period of appropriation on the form.

The data may also differ from the actual permit if a change authorization has been completed. If the permitted data is different, check for a completed change authorization. Verify any completed changes along with their permits.

There may be legitimate blanks or zero filled items. Stock reservoir permits will have a blank in front of the "GPM." Generally they are issued without a rate. Permits for increased rates only may have ".00" in front of the "AC-FT."

To correct any errors draw a single line through the items in error and write in the correct information above it.

### Change Authorizations

For authorizations to change, the data was initially coded from the application for change (606) or sever-sell (609) and the underlying water right(s). To review this section, you will need the actual authorization and an all-purpose abstract for the underlying water right(s).

For changes on claims check the claim to see what was decreed and whether the claim has been modified or dismissed by the Water Court. If modified, be sure the change authorization is within the bounds of the underlying right. If the claim has been dismissed or withdrawn, the change authorization must be revoked because there is no underlying water right on which to base a change.

Read the actual authorization to identify the authorized change; point of diversion, place of use, purpose of use, or place of storage. Compare it to the verifab (G record) and the water right abstract to see that the authorized change is correctly identified on both.

- If the underlying water right is a **permit**, ground water certificate, or exempt right, make any corrections to the water right record on the all-purpose abstract and any corrections to the G record on the verifab. Cross out the information in error and write in the correct information above it. Update the database.
- If the underlying water right is a **claim**, make any corrections to the G record on the verifab but do not correct the claim. Document any found errors on a claim in a verification memorandum and make a copy for the adjudication program manager.

When there is more than one water right involved, there must be a "CT" (CA03) remark coded in the G record identifying all of the water rights. If the remark is missing from the data section, list the code "CA03" and the water right numbers so that the remark will get added into the database.

Any conditions found on the change authorization or permit must be identified on the verifab in the data section. See Conditions, page 24.

### Findings

Whenever a change is made in the data section, a statement or reference must be made under "Findings". The findings section is for identifying the evidence that substantiates the change made in the data section. It may be a brief phrase such as "clerical error" or "per ownership update received 3/00"; or it may be a reference note such as, "See Supplement" or "See field report." It may be a statement on the verified facts; "verified 50 acres, over variance, advised appropriator to file 600 for additional acreage."

### Verifier's Section (to be completed by verifier)

Complete the verifab by filling out the verifier's section of the form. This section has five parts:

Part 1 is for additional computer data (e.g., well depth, dam height, etc.) which is often used for compiling various reports. If the computer has any information on these items, it will print it. If you obtain information on any of the items during verification, write in the correct information. These corrections will be updated at the same time updates are made for the ~~draft certificate or~~ abstract.

Part 2 is for identifying associated rights. Rights are considered associated if they share something, other than name, in common with each other. Check the box if the permit is associated to any other right(s) and list the other right(s). Write the complete water right

number - the basin, the ID (P, C, W, etc.), and the number. Include all-purpose abstracts or copies of the right(s) in the file.

Part 3 is the microfilm check. Go through the file and destroy any duplicate correspondence, abstracts or code sheets. For now, all files will be re-filmed. If, however, the file contains a large map that has already been filmed, it will not be re-filmed. If the film contains a large map, check "yes" in this section. The microfilm clerk will retrieve and save the original map microfilm and put it with the refilmed file fiche.

Part 4 is for identifying any supplemental reports, memos, pictures, or other items that are a part of the verification documentation. List these items on the lines provided. This will identify for a reviewer the complete contents of the verification documentation.

Part 5 is for the verifier's signature and date.

#### Appropriator's Section (to be completed by appropriator)

The completion of this section may be optional depending on the particular circumstances.

- If the verifier's findings and recommendations reflect no change in the data, this section need not be completed.
- If a change in the permitted data reflects a clerical correction or computer error (e.g., appropriators name or source misspelled in computer) it need not be completed.
- If a modification is based on information provided by the appropriator through a signed document, no signature is required.

If a modification is based on a field investigation or interview, the appropriator must complete this section and sign. The appropriator must be afforded opportunity for a show cause hearing if modifications occur.

Send the original verifab, along with a verifab cover letter exhibit to the appropriator for review and signature. You may allow 30 days or more for it to be returned and explain what action will be taken if it is not returned. Generally, the verifab can be sent by first class mail.

Depending on the circumstances, the verifier may be able to get the party's signature while in the field at the conclusion of the inspection. If you need to discuss any items you may request the appropriator to come into the office to review the verification and sign the verifab.

Only one appropriator must sign. If the appropriator is not available, the signature of the appropriator's spouse, ranch manager, or other authorized agent is acceptable provided the appropriator has provided the department proof of power of attorney or written authorization. The authorization must state something like, *I, owner of water right do hereby declare John Public has full authority to act as my agent and sign all water right documents on my behalf.* A notarized statement is best, however, it does not have to be notarized

When the appropriator does not respond or return the verifab within the stated time frame, document the no-response, make the modifications, and send out the ~~draft certificate or~~ water right abstract.

### Regional Manager's Section (to be completed by RM)

The regional manager or their designee is responsible to make a final review of the verifab, questionnaire, and original file and designate the final action. The Regional Manager or designee will check the appropriate action, sign, and date the verifab. If some other action is needed, specify the action on the lines provided. The central office will take no action without the regional manager's or designee signature.

### Verification Supplement Page

This section is for additional verified facts, documentation and general comments or recommendations. The page is printed on all permits and change authorizations. If the page is not used, separate it from the verifab and throw it away.

The page is divided into three parts. Part 1 is for Additional Verified Data. This could be additional points of diversion or additional legal descriptions for the place of use. It is for any verified data that will not fit under the data section and will be updated in the computer before the ~~draft certificate or~~ abstract is generated. Part 2 is for documenting the evidence that substantiates the verified data, just as on page 1 of the verifab. Part 3 is for any general comments, information, or recommendations. It is simply additional space for the verifier's use.

## **Request for Show Cause Hearing**

When an appropriator requests a hearing because they disagree with a modification of their right or revocation of the right, send the file to the hearings unit. Organize and insert the applicable flags into the file prior to sending the file to the hearings unit.

If a show cause hearing is set, the verifier is expected to be prepared to testify as a department witness about their review and analysis of the file.

## **Revocation**

When a permit or change authorization is to be revoked with the appropriator's approval, flag the file for revocation and send it to the central office for revocation.

When a permit or change authorization is recommended for revocation with no response from the appropriator, send the file to the central office for revocation. To take this action, the file documentation must clearly indicate to the appropriator what action the department will take if no response is received.

## **Database Coding and Generating an Issuance of Draft Certificate or Abstract**

All corrections from the verifab will be entered into the database and ~~draft certificates of water right will be issued on permits and~~ water right abstracts will be generated on authorizations to change. If any appropriator indicated they disagreed with the recommendations of the verifier but did not request a show cause hearing, a ~~Draft Certificate of Water Right or~~ water right abstract will be

~~generated issued~~ as recommended. The ~~Draft Certificate of Water Right or~~ water right abstract, along with a cover letter, will be sent to the appropriator.

If the appropriator is not the DNRC owner of record, ~~the water right ownership update will not occur until a , then the draft certificate of water right or abstract will not be sent until~~ a Water Right Ownership Update is filed. The transfer form should be processed ASAP so that the file can be completed ~~and the draft authorization issued~~.

The date of the last signature acquired on the verifab or show cause hearing will be entered into the computer under “Date Verified”. The date that the ~~draft certificate of water right or~~ water right abstract is ~~generated ordered~~ will be entered into the computer under the “Verification/Certification” event Certificate Issued”.

## Microfilm and File Organization

Remove and destroy any duplicate correspondence, any coding sheets, all but the most recent all-purpose abstracts, inter-bureau instruction notes, and blank maps. If a file contains a large map that has already been filmed, it will not be re-filmed. The microfilm clerk will retrieve and save any large maps that were previously microfilmed and will put it with the new fiche.

**Folder Replacement:** If the file folder is not in good shape or change files are not in red folders make a new folder. You MUST check to see if the old folder has a **bar code**. If the old folder does have a bar code on it, please place the old folder inside the new folder and send to the Records Unit. The Records Unit will then recreate a permanent bar code to place on the new folder.

FOLDER LABEL: Make a new label for all change authorization file folders. The label must look like the example below.

CHG	30000746	42C	03
<b>SERIES</b>	<b>WATER RIGHT NUMBER</b>	<b>BASIN</b>	<b>REGIONAL OFFICE #</b>
	DOE, JOHN C		

**Series Identifier = NA** (600,602, 605, 627)      **ADJ** (All claims)      **CHG** (634, 606)

**Filming:** We will attempt to re-film all of the verification files until or unless the process becomes unmanageable.

When a change is authorized on more than one water right, the change file is filmed in its entirety and placed in its own microfiche. The change microfiche should be placed in the change series filing cabinets. Review the parent water right microfiche to make sure a change issued flag or a copy of the change authorization has been placed in each of the parent rights.

Refer to the New Appropriations File Organizational Chart exhibit for the file order. Filming is done file right side, top to bottom, and then file left side, top to bottom.

Each transparency type of map will be filmed separately.

When a large document is submitted on more than one file, the original document is placed in one file. A flag locating the original document must be made for each additional file. Flags or title pages may be placed in front of certain sections so that when viewing the fiche items can be located quickly.

# GENERAL INFORMATION

## **Associated Rights**

Associated rights are appropriations that have some connection or common component, other than owner name, between them. This association suggests that each appropriation must be viewed in order to understand the total project. If the verifier recommends an associated remark, identify under remarks on the verifab "AS" and a statement about why they are associated. The associated remarks are open-text so the language can be written as you choose, however, you can also refer to the Associated Remarks exhibit for examples.

When rights are found to be associated, a flag should be placed in all the associated files and an associated remark should be added to the database records. The flag will identify the associated water rights that will help clarify the total project for anyone reviewing either file.

### Permit Associated to a Permit

When permits are on separate sources, verify the rates at which each source is diverted. If the diversions are operated separately, verify a volume from each source.

If the diversions are manifold but you know the flow rate of each diversion, calculate a volume by first determining what percentage of the total flow each diversion is supplying. Verify the total volume perfected. Each diversion may, on occasion, supply 100% of the total flow.

If permits are from the same source and share a diversion, verify the total rate. Recommend the verified rate not to exceed the permitted rate ~~for the draft certificates~~. Verify the total volume perfected.

A remark may be added that limits the rate and maximum volume that can be used on the overlapping acreage.

### Permit Associated to a Claim

When a permit is supplemental to a claim and both are diverted from the same source, through the same system, verify the total rate and volume of the system. Recommend the permitted rate and volume ~~for the draft certificate~~ if it does not exceed the verified rate and volume. The balance of the verified amounts should be reflected on the claim. If the permit is operated separately, verify the rate and volume as recommended above in the Permit Associated to a Permit section. If the claim was filed and the final decree issued the total verified amount, the permit is unnecessary.

When claimed acres are greater than the verified permit acres, recommend the verified acres ~~for the draft certificate~~. Bring the discrepancy to the Regional Manager's and Adjudication Program Manager's attention. The Department ~~will~~ add an issue remark to the claimed acreage.

When claimed acres are less than the verified permit acres, recommend only those acres that overlap the claim as supplemental and consider the balance of acres new. When a permit is supplemental to a claim, add an associated remark to the verifab and prepare an associated flag for both the permit file and the claim file describing the supplemental association. If the basin is

locked, meaning that the Water Court decree is in process and only certain elements can be updated, send the associated flag to the Adjudication Program Manager for coding. The flag should be placed in the claim file for future reference.

### Secondary Source becomes Primary Source

If a permit was issued as supplemental and you verify the primary right or source is no longer used (e.g., contract water) do not designate the permitted water as supplemental. ~~The draft certificate will be issued for irrigation purposes (IR) without a supplemental remark.~~ Verify the volume of water used. If the permit has become the primary source of water, the appropriator may be using more water than was originally permitted. If so, advise the appropriator to file a new application to cover the water over the permitted amount.

### Associated Remarks

Associated rights will have a remark added to ~~the draft certificate to~~ identify the associated relationship and, in some cases, the maximum amount of water allowed between the rights. When the permit is associated to more than one right, list all of the water right numbers for the AS remark.

When a permit is associated to a permit or change authorization, the remark can identify a maximum rate and volume allowed between the rights. For example, AS01: " WATER RIGHTS 41J-P-56003 and 41J-P-56004 are ASSOCIATED. THEY HAVE OVERLAPPING PLACES OF USE. WHEN COMBINED TO IRRIGATE THE OVERLAPPING ACRES THE TOTAL APPROPRIATION SHALL NOT EXCEED 350 GPM UP TO 475 ACRE-FEET PER YEAR."

When a permit is associated to a claim the remark will simply identify the relationship. AS01: " WATER RIGHTS 41J-P-56003 and 41J-W-56004 ARE ASSOCIATED. THEY HAVE OVERLAPPING PLACES OF USE."

When recommending an associated remark, identify the code AS and write the associated language for the remark on the verifab under Remarks or Conditions.

## **Appropriations Never Used or Currently Not in Use**

If appropriation works are currently not being used, determine and document whether the water right was ever put to use. If the right has never been put to use, recommend revocation. If the right was put to use, but has not been used for a number of years, document why the water right has not been used and determine if the appropriator intends to use the water again. If the appropriator has no intent to use the water right within a reasonable time period (2 – 3 years), then recommend revocation. The appropriator can present his case to the hearings officer.

If the appropriation was assigned a completion deadline that was not reasonable for the size or type of project such as subdivision or municipality use, the permit can be reissued with a new deadline. Contact the New Appropriations Program Manager before proceeding with reissuing the new document.

If the diversion and operation works are in and constructed and the appropriator has the ability to use of the water, verify the full project. Add a comment to the verifab stating this information.

## Change Application Required

Any change in the permitted or authorized point of diversion, place of use, purpose of use, or place of storage may require a change authorization prior to the issuance of a water right abstract.

In some instances, however, the verified information may be recommended and no change authorization is required. If all of the following statements are true concerning the verified information, it could be recommended for verification:

- the verified information is within the original notice area;
- no new area of possible effect is encountered;
- no possibility of substantial or unsubstantial impact (any impact, no matter the degree) is created;
- no new appropriators are in the area of possible adverse effect.

The notice area is considered the area of possible impact described in the file and owners of water rights within the area were provided a public notice of the application. In those cases where we verify a description as being on one side or the other of a section or quarter section line, we may be able to consider them within the notice area. We must still review the deviation for physical effects or injury. Each case must be reviewed separately. Those change authorizations that fall in this category should be the exception and not the rule. If there is any doubt whether the above statements are true, a change application should be recommended.

When a project has not been perfected in accordance with the permit or change authorization and a change authorization application is required the regional office must advise the appropriator, by letter, of the appropriate action needed. A letter must be sent advising the appropriator that a new change authorization application is required and explaining the reasons therefore. It should accompany the verifab and any supplemental documentation. A sample letter is in the exhibits section. If the analyst discusses it with the appropriator in the field, document the discussion on the verifab. The appropriator's signature will evidence their acknowledgment of the discussion.

## Duplicate Rights

During the adjudication-filing period, some claimants were advised to file a claim and a permit application for projects with questionable water right status. In addition, some claimants filed claims on entire incremental projects.

If, during verification, the verifier positively confirms that a permit duplicates a claim, check the status of the claim. Its status will dictate the procedure to follow on the permit.

### Rights in Pre-Final Decree

If the claim is in a pre-final decree status, verification of the permit should be completed as usual along with documentation of its duplication. Add a duplicate right information remark to the adjudication and new appropriation water right record. No further action will be taken until the claim is finally decreed. ~~At that time the verifier will either recommend no draft certificate be~~

~~issued or recommend a modified permit.~~ If the appropriator agrees, the permit may be revoked or modified; if he does not, the appropriator may request a show cause hearing.

### Rights in Final Decree

If the claim is in a basin that is in final decree, and it is clearly documented that the entire permit is a duplicate water right on the project, the verifier should recommend ~~the permit be revoked~~~~no draft certificate be issued.~~ If the appropriator agrees, the permit will be revoked. If a portion of the permit duplicates a claim, recommend the permit be reduced and exclude the duplicate amount. If the permit is not revoked or modified, check and add, if necessary, an associated remark in the permit file.

In all cases where the verifier confirms duplication, a copy of the information should be placed in the claim file.

### **Permit Application Required**

During analysis, cases will come up that will require an additional permit to adequately cover a specific project. The appropriator will have developed more than the original permit allowed or altered it in some manner that expanded the appropriation or altered the burden on the source. The following are situations that may require a new permit before the appropriator's project would be considered in compliance with the law. ~~Whatever the reason may be that a new application is required, the Draft Certificate of Water Right on the original permit will still be issued.~~

- Period of Appropriation: An expanded period was verified than was permitted.
- Period of Use: An expanded period was verified than was permitted.
- Source: The verified source is not the permitted source (a 606 may also suffice).
- Place of Use: Where the verified acreage is greater than permitted.
- Rate and Volume: All rate or volume increases from the permitted amounts.
- Use: An additional use was verified to have increased the volume or rate of the appropriation and the verifier has determined impact has or could be created due to the deviation.
- Reservoirs: Where verification of a permit for an enlargement finds no existing right for the original reservoir, when the verified capacity is greater than the total permitted volume, or where the verified capacity is greater than permitted and impact has or could be created by the deviation.
- Other: Any situation where the appropriator has expanded his original appropriation.

When a project has not been perfected in accordance with the permit or change authorization and a permit application is required the regional office must advise the appropriator, by letter, of the appropriate action needed. A letter must be sent advising the appropriator that a new permit is required and explaining the reasons therefore. A sample letter is shown in the exhibit section. It should accompany the verifab, report of findings, and any supplemental documentation. Place a copy of the letter in the file.

If the analyst discusses it with the appropriator in the field, document the discussion on the verifab. The appropriator's signature will evidence their acknowledgment of the discussion

In basin closure areas or controlled groundwater areas where the appropriation exceeds the permitted conditions, new permit applications may not be possible. Refer to the specific conditions of the basin closure or controlled groundwater area.

When a new permit application is processed, place a copy of all the verification documentation on the original permit in the file. Upon receipt of the project completion notice (617) and new verifab, review the verifab to confirm the permitted data section is accurate. Refer to Form 617, p.5.

## **Replacement Wells**

Verify the legal description of the location of the new well. Make a note in the file of its distance and direction from the old well. Ask the appropriator for a copy of the new Well Log Report if the file does not contain one and a copy of the old log if available. Confirm that the historic use has not been increased with the new well.

## **Unperfected Permit/Change Authorization**

If evidence indicates the permit has not been perfected, document the findings and recommend the permit/change authorization be revoked. If no beneficial use of the water has been made, the verifier must recommend revocation of the permit/change authorization. If the elements of the change authorization have never been instituted, then the change authorization must be recommended for revocation.

## **Water User Associations/Private Water Districts**

These types of permitted projects can entail some peculiarities. As an example, Hill County's permit for irrigation for the Beaver Creek Watershed Project describes the place of use by township and range only. The project is operated such that individual contract holders sell, rent, and trade their contracts to other water users at will and sometimes without the manager's or ditch rider's knowledge. It would be nearly impossible or, to say the least, most time consuming to verify each contract holder's water use.

What must be verified is the total project's perfected amount of water, its point(s) of diversion, the total maximum acres perfected, and whether the place of use is within the area applied for and permitted. If any irrigation acreage falls outside the advertised area, an application for change may be required. Each actual irrigated parcel and the amount of water applied to it need not be identified.

## SPECIFIC ELEMENTS

### Conditions

Prior to analysis and/or field inspection, read through the complete file for history on the permit or authorization conditions. Review any objections, stipulations or hearing orders so that you are familiar with and understand the background and basis of the conditions. During verification, check for compliance with the conditions. If a condition refers to a condition or stipulation found in a final order or attachment, add the wording of the condition to the verifab along with the reference.

~~The conditions of a permit will carry over to and appear on the draft certificate of water right provided the condition is in the database. The exception may be conditions placed on a permit through a Final Order.~~ In the past, conditions through Final Orders were not entered into the database and placed on the permit, they were referenced to the Final Order. When this situation is discovered through verification, enter the Final Order conditions into the database. The wording of these conditions must be the exact wording on the Final Order.

Some permits and authorizations were conditioned requiring that plans and specifications be submitted prior to construction or appropriation. The general purpose of the requirement was to insure certain features were designed into the project to protect prior rights. If no plans were submitted, a review of the file and objections might reveal the design feature or requirements that were considered. If the actual diversion works protects other users, the condition in essence has been met. If the appropriator has plans or specifications in his records, copies should be obtained for our file record. The condition ~~should not be retained would not be repeated on the draft certificate~~. If the actual diversion works do not satisfy the original concerns, compile your documentation and recommend modification or revocation.

Other permits were conditioned requiring progress reports on the completion of the project. If the project is complete, this condition should be removed.

### Non-Compliance

Failure of the appropriator to comply with the terms, conditions or restrictions of the permit or change authorization is grounds for initiating revocation proceedings or modification (Section 85-2-314, 85-2-402(10), MCA). Before recommending revocation or any modification of the condition(s), the verifier shall review the whole purpose and effect of the condition and the existence of previous objections.

If the verifier determines that impact has been caused; the appropriator will not comply; or for any other documented reason that no additional time for compliance can be justified, they must recommend revocation. The appropriator may request a show cause hearing.

### Compliance Time Frame

When the appropriator is found not to be complying with the conditions of the permit or change authorization, but indicates they will, the verifier must determine if time should be allowed for compliance. Generally, however, the verifier may allow up to 12 months for the appropriator to come into compliance depending on the magnitude of the conditions. Justification for the

recommended time period shall be documented in the record. The appropriator shall be notified of the deadline date in writing.

Upon expiration of the deadline, the verifier may field inspect whether the appropriator complied with the condition. If they have, complete the verification recommendations and have the appropriator review and sign the verifab. If they have not, the verifier shall recommend revocation.

### Removing or Modifying Conditions

If no objections were filed against the original application and the verifier's recommendation is to remove or modify a condition, specific supporting documentation must be included in the file. This documentation must include, but is not limited to, the reason for the recommendation to modify, or eliminate a condition and specific facts reviewed or gathered to form the basis of the decision. This information should cover a review of the source, the area of possible adverse effect, and the existence of prior appropriators.

If objections were received, and the verifier's recommendation is to remove or modify a condition, specific supporting documentation must be included in the file. The verifier shall review the whole purpose and effect of the condition. In most cases, the verifier must contact the objector to determine if the condition is still warranted and written documentation must be included in the file authorizing the condition removal.

In some cases a condition may be removed even if objections were received to the application. The condition can be removed if:

- the condition does not make sense;
- is not feasible because of project design;
- there isn't a specific agreement between the applicant and objector to add the condition; or
- the objector did not formally withdraw their objection because the condition would be added.

Documentation must include the reason for the recommendation to remove the condition and specific facts reviewed or gathered to form the basis of the decision.

If the condition(s) is a result of a final order of the administrative hearing process, the appropriator must request the hearing officer examine the modification or elimination of the condition as per the Administrative Procedures Act.

### New Conditions

If the verifier finds that a new condition should be required (e.g., measuring device), make the recommendation, including a justification for the new condition, compile the supporting documentation, and submit the file to the Regional Manager. If a new condition is recommended, send the condition to the appropriator in a Notice of Statement and Opinion (612). If they disagree, a show cause hearing may be requested.

## Flow Rates

The flow rate should be determined by the capacity of the system, rather than by measurements of volumes actually diverted, because conditions may or may not be such that the maximum diversion is necessary.<sup>1</sup> Verification of a flow rate is to determine the maximum rate that the diversion system produces and the rate diverted from the source. As a general rule of thumb, if the verified rate is within 10% of the permitted rate, recommend the permitted rate. ~~The draft certificate of water right is issued based on a comparison of the permitted amount against the verified amount but can not exceed the amount of water permitted.~~ Any verified amounts in excess 10% greater than the permit will require a new permit application.

If the flow rate is not applicable, such as on-stream ponds and spreader dike irrigation systems on non-perennial streams, recommend the rate be dropped.

If an application and public notice identifies a flow rate and its omission from the permit is clearly an oversight, verify the flow rate and add the flow rate to the record and make a recommendation for the draft certificate.

There are several methods of measuring flow rates. The type of diversion you encounter, the available equipment and whether or not the diversion is in use, will determine what method you use. A discussion of some of these methods and techniques can be found in the Appendix. Keep in mind the following when measuring and comparing the permitted and verified rates:

- the degree of accuracy of your measuring device;
- the existence of normal wear on diversion and irrigation equipment;
- the time of year of your measurement; and
- the placement and amount of equipment operating.

### Degree of Accuracy

Flow measuring devices vary in degree of accuracy. Some of the more common devices and their error values are listed below. These values are based on properly installed and maintained devices. Refer to your office Water Measurement Manual, Revised Second Edition, for conditions that can affect the accuracy of these devices.

propeller type flow meter -	5%
weirs -	5%
orifices -	5%
flumes -	5%
current meter -	2% (ideal conditions) 10% (generally)
floating technique -	10% (very uniform channels, man-made) 30% (natural channels)

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<sup>1</sup> Memorandum related to the Verification Procedures from Fred Robinson to Shaunda Hildebrand & Sheri Smith dated 01/27/00.



## System Wear

A certain amount of wear in a system is expected. The actual flow rate may currently be greater than or less than the original design flow rate. Diversion structures may wear out and ditches may wash out causing greater flow rates than were originally designed. Deterioration due to sand may occur with sprinkler nozzles and pump impellers causing less flow rate than normal.

If the original design rate has been perfected and is within the permitted amount, recommend that rate ~~it for the draft certificate~~. If deterioration has caused excessive water to be diverted, advise the appropriator that the ~~draft certificate permit does will~~ not cover the current diversion. Advise the appropriator that any amount over the permitted rate should be applied for if they intend to continue the current diversion rate or fix the system to be within the authorized water right.

## Time of Year

The time of year the data is collected can affect the findings in regards to flow rate. Early in the season with a ditch diversion, for example, the appropriator is probably diverting his normal amount, but later in the season they may be getting something less than normal. Remember to ask the appropriator to describe the maximum appropriation so that you can compare it to the actual measurement. If all evidence indicates the appropriator has perfected the original design flow rate and will utilize it in most years, recommend the permitted flow rate. How long the project has been in use could affect your findings. The appropriator may have historically diverted a greater amount and has since altered the system. If the evidence indicates and the verifier is convinced they will probably not return to using the maximum permitted rate, recommend the verified amount. The appropriator can request a show cause hearing if they disagree.

## Position of Equipment

During measurement the equipment may be at a high point in the field or at the end of a long mainline. On odd-shaped fields some lateral pipe may not be in use. These factors generally result in a verified flow rate lower than the system maximum.

It is still good to use actual flow rate data measured in the field. These measurements can be used to check against pump curves or assumed system data. From the measured flow, the flow of the system under other conditions can be extrapolated.

## **Legal Land Description**

Legal land description can utilize several descriptors: township, range, section, quarter section, lot, block, subdivision, government lot, tract, Certificate of Survey number, or county. The more description we have the more detailed our records will be. Document all provided UTM or Lat/Long readings for future GIS coordination. Place the information in the lat/long formatted remark.

Whenever a legal description can be further detailed, the verifier should do so. Points of diversion should always be described to the 10-acre description whenever possible. If the acreage can be better described by adding another quarter, do so. A description smaller than a 10-acre area is rarely necessary.

Incorrect legal description is defined as a land description that is different than was applied for, advertised, and issued. Any correction in legal description must be made according to the guidelines set out in Change Application Required, page 21.

## Maps

Every verified file must include one accurate legible verification map. The map is to confirm and document the verified findings of the permit or authorization as perfected. If the existing file map is accurate for the verified information, a new one is not required. Use an aerial photo, especially for irrigation, a USGS topographic map, or a plat map.

Both the past and present information must be identified for authorizations to change. When mapping a change in place of use for several irrigation water rights, it is advised that overlays be used for easier reviewing and understanding.

At a minimum, each map should contain the following items:

- north designation;
- township, range and sections identified;
- section corners marked;
- source;
- point of diversion;
- place of use;
- conveyance facilities;
- parcel acres (for irrigation);
- storage facilities (if any);
- file number and name; and
- USGS quad name or aerial photo number and date.

One combined map for associated rights is acceptable if the total project is quite detailed. The map should be placed in each water right file involved. If several permits are involved or a change authorization involves several water rights, using mylar overlays may be the best method of mapping the irrigated acreage. Shading or highlighting does not microfilm well. It is advised that a variety of hatch lines or markings with felt markers be used for irrigated areas.

Although the original file's map or applicant's map may be in poor shape, do not get rid of it. The map is a part of the original application. If however, the original map is incorrect make a note on the map to that effect.

## Ownership

We have not and will not generally question the land ownership at the point of diversion. If evidence reveals the permit has not been perfected due to the appropriator's inability to secure an easement for diversion or conveyance facilities, we must recommend the permit be revoked.

As of 1989 a person cannot acquire a water right in Montana without proof of possessory interest in the place of use. They must be able to show the water was put to a beneficial use. If an

appropriator has perfected the permit, more than likely they have a possessory interest in the place of use. If you find conditions have changed and they no longer have possessory interest in the place of use, advise the appropriator they may have to file a change application. Upon completion of the change, a water right abstract will be issued with the new place of use listed.

If the appropriator has not perfected the permit because they were unable to acquire a possessory interest in the proposed place of use, recommend the permit be revoked.

### Water Right Ownership Updates

#### If the current owner is not the owner of record,

If during the course of verifying or certifying a **permit** it is found that the water right owner is different from the DNRC owner of record, an ownership update form is always required. obtain the documentation necessary to confirm the ownership of the permit. The verification can continue with the entire analysis process should continue with correspondence to the current owner, however the name on the water right will not be changed until the ownership update is received. Issue the draft certificate in the current owner's name.

If verifying a **change authorization** that is still in a previous owner's name, but the underlying water rights have been updated, the change record will be updated without an additional Form 608. Correct the owner's name on the authorization verifab and update the change authorization application ownership in the database. We do not require an ownership update on change authorizations because they are not a water right.

If verifying a **change authorization on a permit, exempt right, or certificate** and the ownership is not current, a 608 is not required to update the change authorization or the underlying rights.

A Water Right Ownership Update, Form 608 is required to update the ownership on a claim and change application on that claim. In this case, the underlying right and the change authorization need to be in the same name, and therefore a 608 must be filed to include both numbers. We cannot update claims without a Form 608.

If the appropriator has other permits, ~~draft~~ certificates, claims, or change authorizations, an ownership update (Form 608) must be filed to update the appropriator's other rights.

Update the database, (choose the verification type of update) with the correct owner(s) and address(s).

### Address Changes

Address changes do not need an ownership update. Simply verify and recommend the correct address ~~for the draft certificate~~. Make sure all pertinent water rights are updated with the correct address. Complete and Owner/Address Correction form.

### Split Ownerships

When an ownership update involving a split is filed, the new owners are added to the record. The water right record is not split until after verification. After verification, each split is a separate water right. The combination of the split volumes can not exceed the verified permitted limits of the water right. If additional permit(s) or authorization(s) to change are needed, then a determination will need to be made which water right owner is responsible.

The permit file will have one permit verifab with all of the owners listed. List under "Permitted Data" on the verifab, those portions of the permit the transferee(s) received and perfected and those portions the original appropriator retained, if any.

Once the project is verified, one of the water rights will retain the original number and each split will receive a new water right number and a new file that reflects the verified appropriation. Make a separate file for each split. Make copies of the original

permit file and place the information in each file so that each file (split) can “stand-alone”. An ownership flow chart must be completed for each split and added to each file.

The water right can be split in the database. The original permit will be adjusted to reflect the verified data while a new record will be established for each split water right number. For each new water right derived from a split, enter the original right number in the water rights screen. This will attach that split to the original right.

Each split of the permit and the verified appropriation of the original permit, if any will have an abstract generated ~~draft certificate of water right issued~~.

Use the recommended filming order listed under New Appropriation File Organizational Chart exhibit to film each water right derived from a split.

For water rights that have been split, either in the database or file, prior to verification contact the New Appropriations Program Manager for specific procedures.

## **Period of Diversion/Appropriation**

This is the time period when water is being diverted or removed from the source. Generally on-stream pits, ponds, or dams will have a year-round period of appropriation. If the project involves an off-stream pit, pond, or reservoir, confirm what the period of diversion is. If it is longer than was permitted, a new permit application will be required for the extended period. If it is shorter than was permitted, recommend the verified period of diversion.

Some permits were not issued with a period of diversion. Generally the period of diversion and period of use coincide; however, when storage is involved they could be different. If evidence suggests they are different, confirm with the appropriator the historic period of diversion.

Recommend the period that the appropriator confirmed ~~for identification on the draft certificate~~.

## **Period of Use**

Period of use is the time period water is used for the beneficial use. Determine the historic period of use. If storage is involved, the period of use may be extended.

## **Place of Use**

The place of use should be described in as much detail as can reasonably be determined. The better the description, the more detailed and accurate our records will be.

The place of use for irrigation must include the number of acres and the legal description. If the acreage is located in a subdivision, the lot, block or tract and subdivision should be identified. The parcels should be listed to the most appropriate quarter description. It is more appropriate to describe 20 acres in the N½NWNW of Section 3 than 10 acres in the NWNWNW and 10 acres in the NENWNW.

The place of use for non-irrigation uses must be identified by use and the most precise quarter description. If the use is within a subdivision, the lot, block or tract and subdivision should be identified. If the POU is located within a government lot, the lot must be identified.

The place of use will be verified using the most current aerial photos, topographic maps, orthophotoquads, or other adequate maps available. The permit or change authorization is appurtenant to a specific parcel of land and if the place of use is outside the permitted or authorized area, then a new permit or change authorization may be required. See Change Application Required, page 21 or Permit Application Required, page 22.

If the POU is different than permitted, contact with the appropriator may be required. Refer to Change authorization Application Required, p.20 as to whether a change application should be required.

### **Point of Diversion/Mean of Diversion**

The point at which the water is impounded, diverted, or withdrawn from the source is the point of diversion. Verify the point of diversion to a 10-acre description whenever possible. A description of the diversion works and the conveyance facilities is needed to help document what was installed.

The minimum acceptable land descriptions are:

1. ¼<sup>1</sup>/<sub>4</sub> section, section, township and range (40 acre description);
2. Lot, Block, Subdivision, ¼ section, section township and range;
3. Government Lot, ¼ section, section, township and range; or
4. Certificate of Survey No. with or without a lot number, ¼ section, section, township and range.

#### Reservoirs:

For on-stream reservoirs, the point of diversion is where the dam crosses the source.

For on-stream surface water pit reservoirs, the point of diversion is where the pit intersects the source.

For on-stream groundwater pits, the point of diversion is where the pit sits overtop the developed spring or ground water pit.

For off-stream pits or dams, the point of diversion is where water is diverted from the source.

If the POD is different than permitted, contact with the permittee may be required. Refer to Change Application Required, page 21, as to whether a change application should be required.

#### Secondary Points of Diversion

Some systems involve secondary points of diversion. A secondary point of diversion maybe a diversion that is not directly from the source but from carriers such as pipelines, ditches and other streams. These points of diversion found within the delivery system should also be verified and identified in the file's documentation. A more complicated system might warrant ~~a-remarks-on-the-draft-certificate~~ to clarify the delivery system. For example, a permit for water from Smith Creek is diverted by a ditch, then dumped into James Creek, and rediverted by a pump to the field. A

clarifying remark ~~on the draft certificate~~ might state: "THE ABOVE WATER IS DIVERTED FROM SMITH CREEK BY DITCH AND RELEASED INTO JAMES CREEK. IT IS THEN PUMPED FROM JAMES CREEK AT A POINT IN THE NW NW SECTION 4, T14N, R3E.

### Multiple Points of Diversion

You may verify more points of diversion than were permitted. If they are on the same source and within the notice area, recommend all of the points of diversion ~~for the draft certificate~~. If any of the verified points of diversion do not meet the requirements of Change Application Required, page 21, or Permit Application Required, page 22, a new application (600 or 606) will be required.

When two or more points of diversion (e.g., two pumps) have the same legal description, only one description will be listed. A remark clarifying the diversion will be added to the ~~draft certificate~~ database. "THE WATER IS DIVERTED BY MEANS OF TWO PUMPS LOCATED IN THE ABOVE DESCRIBED AREA."

When the verifier finds that not all of the points of diversion have been developed, ask the appropriator what their intentions are for the other points of diversion. If they have no intention of utilizing them, recommend they be dropped. If they intend to rely on them as backup or additional diversion sites, recommend them ~~for the draft certificate~~. May add a remark stating the circumstance.

Transitory points of diversion shall be described by identifying the beginning and ending diversion points on the stream. A remark would be added to clarify the point of diversion. "THE POINT OF DIVERSION IS TRANSITORY ALONG SMITH CREEK WITHIN THE ABOVE DESCRIBED POINTS."

### Exceptional Diversions

With some sources of water you can not describe the point of diversion as one point or restrict it to a 10-acre area. A drain ditch collecting runoff, waste water or seepage all along its reach could cover quite an area. Remember the point of diversion is the place where the water is diverted, impounded or withdrawn from the source. In this case the water is collected or intercepted by the ditch all along it. The point of diversion recommended should be the description of the area the ditch passes through. A clarification remark should be added to explain the situation.

### Means of Diversion

The means of diversion describes how the water is removed or diverted from the source. Some older permits describe the means of diversion incorrectly. For example a diversion dam or a sump is not a means of diversion. It is simply a method used to raise water to a level great enough that the means of diversion, usually a pump, can operate adequately. When possible verify the means of diversion to correctly reflect how water is being removed from the source.

Accurate means of diversion are:

Dikes	Headgate	Pipeline
Dam	Infiltration Gallery	Pump
Pit/Dam	Instream Use	Pit
Developed Spring	Livestock Drinking Directly	Well
Ditch	from Source	

## Reservoirs

Confer with the appropriator on the location of the reservoir using an aerial photo, topographic map or other map. Using a section grid, determine the legal description of the dam and for stock, recreation, fish, and wildlife uses, the reservoir area. Generally for smaller reservoirs they will be the same.

To verify the capacity of a reservoir, start by calculating the surface acres. The surface area should be measured at the reservoir's maximum high water elevation. If an aerial photo is utilized, outline the reservoir, and use a dot grid, planimeter or digitizing tablet to determine the surface area.

NRCS “As Built” or other engineering surveys, if available, are usually accurate and would suffice as documentation of the reservoir capacity.

Installed drainage devices must be described on the 617, 618, questionnaire, or verifab.

If measurements will be made in the field, the following procedures may assist in calculating the surface area.

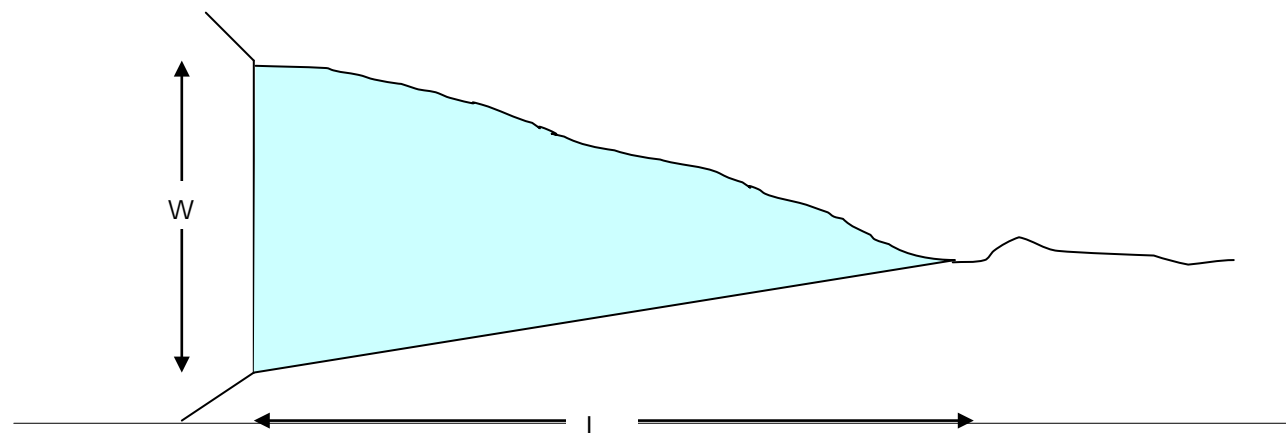
### Dam Reservoirs

A dam is defined as a man-made structure which is placed across a stream channel to impound water behind an embankment.

Smooth shoreline, straight reservoirs (Figure 1): Measure the width of the reservoir at the dam and the length, not the shore line length. Using the following formula, calculate the surface area.

$$\text{Acres} = \frac{1}{2}(l \times w) \\ 43560$$

$$l = \text{length of reservoir (ft.)} \\ w = \text{width of reservoir (ft.)}$$



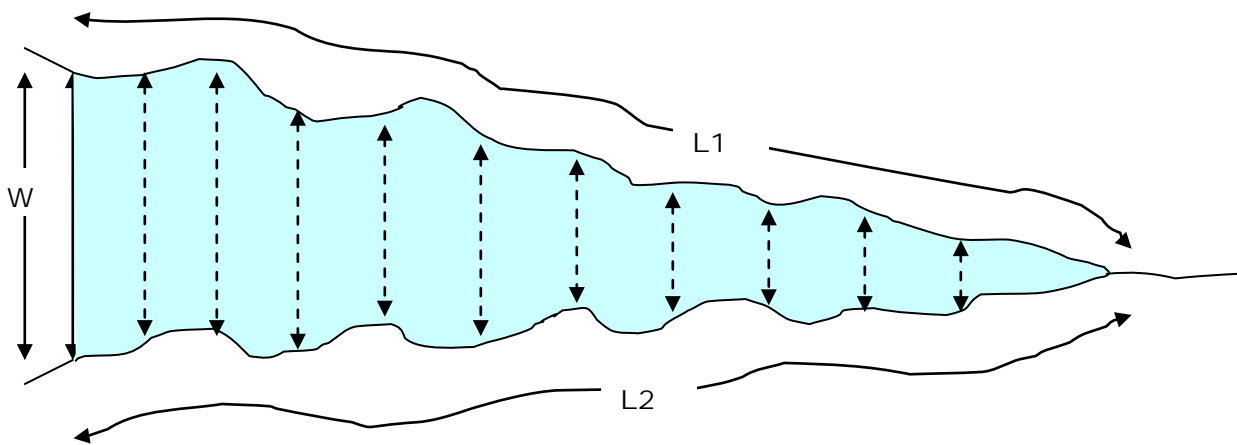
**Figure 1**

Irregular shoreline, curved reservoirs (Figure 2): Measure the length of the reservoir on both sides. Average the two numbers for the length,  $\frac{(L1 + L2)}{2}$ .

Measure by estimating the width of the reservoir at several equal intervals as shown in Figure 2. Calculate the average width. Using the following formula, calculate the surface area.

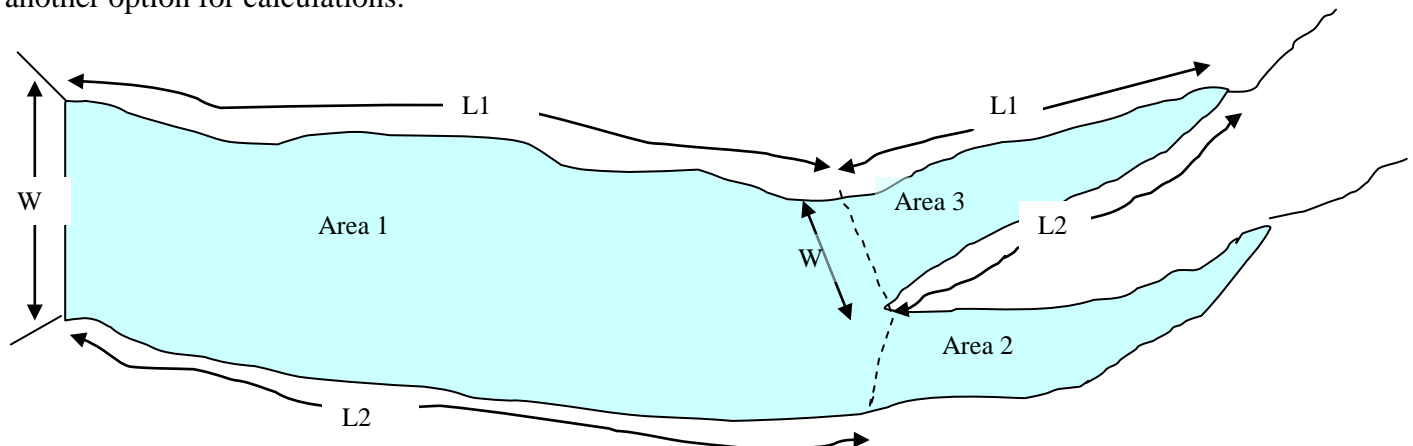
$$\text{Acres} = \frac{(l \times w)}{43560}$$

l = average length of reservoir (ft.)  
 w = average width of reservoir (ft.)



**Figure 2**

Irregular Shoreline with Forks Reservoirs (Figure 3): Before measuring, divide the reservoir into as many segments as necessary to conveniently measure length and width as shown in Figure 3. Calculate the area of each segment using the above procedure in irregular shoreline, curved reservoirs. Total the segment areas to get the total surface area. The traverse method program is another option for calculations.



### Figure 3

Now that you have the surface acres you need the reservoir depth. Measure the heights of the dam: the distances from the bottom of the drainage to the top of the fill. Subtract the freeboard: the vertical distance between the lowest point on the spillway and the top of the dam. Calculate the reservoir capacity with the following formula.

$$\text{Surface acres} \times \text{maximum depth (ft.)} \times 0.4 = \text{acre-feet}$$

The "0.4" is the conversion factor used to reduce the cross-sectional area from rectangular shape to a more natural shape. This conversion factor comes from "Engineering Field Manual for Conservation Practices," US Department of Agriculture, Natural Resource Conservation Service.

#### Pit Reservoirs

A pit is defined as a man-made excavated storage structure usually constructed according to NRCS guidelines with 3:1 side and 4:1 ends.

Measure the depth if possible. An appropriator may know and be able to give you the original depth. Calculate the surface acres by measuring the length and width of the pit and using the formula:

$$\text{Acres} = \frac{(l \times w)}{43560}$$

$$l = \text{length of reservoir (ft.)}$$

$$w = \text{width of reservoir (ft.)}$$

The capacity may be calculated with the following formula:

$$\text{Surface acres} \times \text{maximum depth (ft.)} \times 0.5 = \text{acre-feet.}$$

#### Verified vs. Permitted Capacity

Deviations in reservoir capacities are a result of two factors; one, the appropriator generally only knows the approximate size of structure they wanted to construct when they applied for the permit and; two, measurement error. If the methods previously described are used, we can obtain reasonably accurate measurements. Document the method of measurement and calculations in the file. As a general rule, the verified capacity will be reported ~~on the draft certificate~~. This may be greater than or less than the permitted capacity. The verified and reported capacity, however, cannot and does not expand the maximum permitted volume.

If the capacity is greater than permitted and greater than the total permitted volume, a new permit may be needed.

#### Variance Schedule

If the margin for error in the measurement is increased due to the configuration of the reservoir or an estimated depth, the variance schedule may be used to determine the recommended permitted capacity. If the verified capacity is within the allowable range, recommend the permitted capacity.

If it falls outside the allowable range, report the verified capacity. It may be advisable to take more than one measurement and work with the average.

Permitted Capacity	Variance
0-5 AF	25%
5.1 - 15 AF	15%
15.1 - 50 AF	10%
Over 50 AF	7%

To determine the allowable range, use the following calculation:

Permitted Capacity x Variance = Range  
Permitted Capacity - Range = Low Range  
Permitted Capacity + Range = High Range

For example, if reservoir is permitted at 3 acre-feet, the calculations are as follows:

$$3 \times .25 = .75 \qquad 3 - .75 = 2.25 \qquad 3 + .75 = 3.75$$

So, the low and high range is 2.25 - 3.75. If the actual reservoir measurements are between 2.25 and 3.75, the reservoir is within the allowable range.

#### Capacity vs. Permitted Maximum Volume

In those cases where more water is being impounded than the permitted maximum volume, the appropriator is in violation of their permit. They should be advised to file a new permit application for the balance of water being impounded. Exceptions exist where the reservoirs were built to a larger capacity than permitted, however the drainage will not reasonably produce more than the permitted amount.

Report the verified capacity on the verifab. The ~~draft certificate~~record will reflect the verified capacity and contain the following remark. RS: THE AUTHORIZED VOLUME OF THIS WATER RIGHT IS LESS THAN THE STORAGE CAPACITY OF THE RESERVOIR. ONLY 50 ACRE-FEET IS AUTHORIZED UNDER THIS WATER RIGHT.

When the verified capacity is less than was permitted and less than the permitted maximum volume determine how the reservoir has been operated and used. From this information, verify the maximum volume used. If multiple fills have been relied upon and used, a volume up to the permitted maximum volume can be recommended. If the use has only required one filling, the maximum volume recommended should be equal to the verified capacity. Allowances can be included for evaporation provided the maximum volume is not exceeded.

#### Little or No Appropriation

When the verifier finds a reservoir has held no water or very little water due to improper or inadequate construction, determine if any of the permitted water was put to beneficial use. If no, recommend the permit be revoked. The appropriator may request a show cause hearing if they disagree. If some water has been used, verify this amount ~~and recommend it for the draft certificate~~.

If some water has been impounded and put to use, but, because mother nature did not cooperate, document the amount currently stored. However, recommend the amount that would be stored if

nature cooperated. Document the impoundment specifications and recommend the verified amount up to the permitted amount.

### Reservoir Capacity Not Identified

Some of the older permits identified the reservoir but not its capacity. Calculate and recommend a capacity ~~to be identified on the draft certificate and~~. ~~–Add~~ add the capacity to the verifab.

### Enlargements

When verifying an enlarged reservoir, measure the total capacity. Recommend that the record reflect ~~the draft certificate be issued for~~ a volume not to exceed the permitted increased amount. If the original reservoir was pre-1973 and no claim was filed, the appropriator may need to file a permit application for the original capacity. If a claim was filed but the capacity was incorrectly claimed, the appropriator should be advised of their options. If the claim is in a basin with a final decree, submit your findings to the Adjudication Program Manager.

### Dam Safety

Any dams, no matter what the size, with suspect safety problems should be noted and brought to the attention of the Dam Safety Program. For guidelines on identifying deficiencies see the manual, Dam Safety: An Owner's Guidance Manual. Check to see if a Hazard Classification has been completed for a dam 50 acre-feet or larger.

## **Source of Water - Stream Names**

Confirm the source of water in terms of surface or ground water. All water rights are designated one or the other in the computer. All sources must fall into one of the following major categories: groundwater; well; named streams; unnamed tributary (unnamed creeks, coulees, runoff, seepage, waste water, undeveloped spring); or closed basin.

In some situations sewage effluent may be a correct source of water. This occurs when the water being used is the water discharged by a municipality.

If the verified/certified source name is different from the permit, a new permit may be needed. Refer to Permit Application Required, page 22.

### Groundwater

Some sources of groundwater are developed springs, drain ditches, pits, sumps and mine adits. Permits involving these systems should have the source listed as "groundwater." The particular development used to divert the groundwater is described in the "diversion means," (e.g., developed spring). Developed spring means any artificial opening or excavation in the ground, however made, including any physical alteration at the point of discharge regardless of whether it results in any increase in the yield of ground water, from which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

## Well

A well is any artificial opening or excavation in the ground, however made, by which groundwater is sought or can be obtained, or through which it flows under natural pressures or is artificially withdrawn. Document whether there is more than one well and if it is a manifold system. A remark ~~on the draft certificate~~ may be appropriate in these cases. I I: THE WATER IS DIVERTED BY MEANS OF A MANIFOLD SYSTEM CONSISTING OF THREE WELLS.

## Named Streams

This category includes named rivers, creeks, gulches, coulees, sloughs, and draws. For standardization purposes, check the permitted source name against the standardized Source Name Listing. If different, change the source name to the standard name (i.e., USGS name). If the source name changes due to standardization, a remark may be appropriate to relate the new source name to the permit source name. If there is any question, add a source name clarification remark. As an example, the USGS name was Big Spring Creek and the permit named it Big Draw. There is sufficient difference in the names that a remark would help clarify the source. SN01: THE SOURCE IS ALSO KNOWN AS BIG DRAW. In another example the USGS name is Briggs Creek and the permitted name was Briggs Coulee, a remark would not be necessary.

## Unnamed Tributaries

Source types with this designation include; unnamed creeks, coulees, gulches, runoff, waste water, undeveloped springs, overflow and diffuse surface water. Confirm the first named stream to which the source is tributary, using a quad map or water resource survey map. Some sources with this designation might warrant a clarifying remark to better identify the source. SN01: THE SOURCE OF WATER IS WASTE WATER COLLECTED IN A DRAIN DITCH AT THE ABOVE DESCRIBED POINT OF DIVERSION.

## Closed Basin

A closed basin is an area or region draining to some natural depression in the area from which water escapes only by seepage and evaporation. When verifying these source types, confirm there is no natural outflow. If there is a natural outflow, then "closed basin" is not the proper designation.

## Multiple Sources

Current policy requires a separate permit application for each source of water. Historically there are a few permits, however, that have been issued with more than one source of water. An example of this situation is: a permit from an "unnamed tributary." The source is actually two unnamed tributaries of a named stream. The diversion, a ditch, is such that it begins on one tributary and crosses the second tributary on its way to the field. Both tributaries are the source for the permit. If either or both permitted sources are named, the major supplying stream should be listed as the source and the second source listed in a source remark.

If the verifier finds another source other than the permitted source being utilized, verify and recommend the amount of water from the permitted source and advise the appropriator to file a new application for the additional source.

## Reservoir Names

Diversions from lakes and reservoirs such as Canyon Ferry Lake, Fort Peck Lake, Flathead Lake, or Gibson Reservoir will have the source listed as the out-flowing stream: Missouri River, Sun River, etc. The name of the reservoir or lake, only if named on the USGS quad, will be put in a reservoir record ~~and reflected on the draft certificate in the reservoir section~~. Correct the source name when needed on the verifab and fill in the permitted data section with the reservoir name as follows:  
Reservoir (or lake) Name: Flathead Lake

## **Volumes**

Volumes should be verified using the standards associated to the purpose of use. If there are no standards available for the purpose, base the verification on the system and the project operation schedule.

Some older permits were granted unobtainable volumes. The volumes were not checked against the rate and time formula. Recalculate the volume to make sure it does not exceed the amount possible, using  $\text{rate} \times \text{time} = \text{volume}$ .

The recommended volume ~~for a draft certificate~~ can not exceed the permitted volume. If you verify a larger volume than permitted, you must advise the appropriator a new application is required for any volume over the permitted amount.

## Partially Completed Appropriations

If the verifier finds the construction and installation of the diversion and operation works has been completed and the water put to the beneficial use stated, verify the project as complete. For example, if a permit calls for withdrawal of 250 gpm for irrigation of 100 acres, the project is complete when a pump with a capacity of 250 gpm is installed and the water is applied to crops on 100 acres. It does not matter whether climatic or conservation practices have resulted in the use of less water.<sup>2</sup> Recommend the ~~draft certificate reflect the~~ full amount of water permitted.

If a portion of the appropriation has not been used for other reasons, the verifier must recommend only the amount that has been perfected using standards to determine volume.

## No Permitted Volumes

Some permits have been issued without volumes. An appropriator, who needed a larger rate but no additional water, was issued a permit for the increased rate only. The ~~draft certificate~~ record would include -would be issued with- a remark (as was the permit) tying it to the original ~~permit~~ draft certificate with a maximum rate and volume identified. AS01: THIS WATER RIGHT IS ISSUED IN ASSOCIATION WITH WATER RIGHT 43B-P12008 FOR A TOTAL APPROPRIATION OF 350 GPM NOT TO EXCEED 427 ACRE-FEET PER YEAR.

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<sup>2</sup> Memorandum related to the Verification Procedures from Fred Robinson to Shaunda Hildebrand & Sheri Smith dated 01/27/00.

## **Beneficial Uses**

"Beneficial Use" is defined in Section 85-2-102(2)(a) as a use of water for the benefit of the appropriator, other persons, or the public, including, but not limited to, agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses.

Old permits listed purposes in many different formats. When possible, verify the purpose to the following.

Agricultural Spraying	Institutional - Explain actual use
Commercial – Explain actual use	Lawn and garden
Domestic	Municipal
Fire Protection	Multiple domestic
Fish Raceway	Mining
Fishery	Pollution Abatement/Dust Control
Fish and wildlife	Power generation
Geothermal	Recreation
Industrial - Explain actual use	Stock
Irrigation	Wildlife/Waterfowl

### **Domestic**

The standard volume requirement for a household is 1.0 acre-feet. For lawns and gardens the standard is 2.5 acre-feet per acre. Verify the number of households, size of lawn or garden if exceeds 1/4 acre, and the period of appropriation. Based on the above standards, verify the permitted rate and volume.

Generally the place of use will include the house, lawn and any garden. If the location is within a subdivision, verify the tract, lot, or block numbers as well as the quarter section descriptions. Usually the point of diversion will equal the place of use. Using an aerial photo, topographic map, or county plat map, confirm with the appropriator the place of use.

### **Fire Protection**

Department Administrative Rule No. 36.12.105 allows for temporary emergency appropriations of water. The temporary emergency beneficial use of water for the protection of lives and property by reason of fire is included in the definition of emergency appropriation under Rule No. 36.12.101(6). A permit is not required for this emergency use.

If the appropriator has constructed a storage facility for only emergency fire protection purposes, verify the capacity of the pond and recommend either the permitted or verified appropriation ~~for the draft certificate~~. Verify that the pond and facilities are ready and capable for fire protection use.

If there are other use(s) included which require the storage of water and the pond capacity can otherwise be justified, then fire protection should be considered an incidental use and the

verification should be based on the other use(s). Advise the appropriator that they do not need a permit for fire protection and recommend a reduction in the total rate and volume by the amount allowed for this use. Add the following remark ~~to the draft certificate~~ FP: "PURSUANT TO ADMINISTRATIVE RULE OF MONTANA 36.12.105, WATER MAY BE USED FOR EMERGENCY FIRE SUPPRESSION PURPOSES WHENEVER THE NEED ARISES."

There are some "fire protection" uses that occur daily. For example, commercial log companies may wet down the logs and log area, particularly in the summer and fall, to decrease the chances of fire. These uses need a permit ~~and should be recommended for the draft certificate~~. Based on the rate of diversion and operation schedule, verify the maximum volume perfected. Recommend those amounts that fall within the permitted amounts ~~for the draft certificate~~.

## **Fisheries**

When analyzing volumes and flow rates, refer to the standards indicated in the Pond Guidelines and/or the quantification and justification information provided in the application.

### Fish Hatcheries - State-owned or Private Commercial

Developments include hatchery raceways or ponds used for rearing and propagating fish for commercial sale or for distributing and stocking the waters of the state. These uses require a constant flow through system. The volume is usually based on the diversion rate and period of appropriation.

Besides the maximum volume of the appropriation, verify the number of raceways or ponds and the total volume of water stored in these facilities. Even if the permit did not identify a total storage volume, the ~~draft certificate~~record should have a remark reflecting the number of raceways or ponds and the total storage volume.

### Private Fish Ponds (non-commercial)

Included in this category are ponds, on- and off-stream, for private or public fishing purposes. These uses may also have been categorized as recreation. Fishing may be the sole purpose of the pond or it may be used in conjunction with other uses such as stock water or wildlife purposes. Verification of this use must include documentation evidencing the actuality of the use.

Some older permits were issued with only a volume specified. Verify the capacity of the impounding structure and recommend a volume not to exceed the permitted volume. If the appropriator wants to protect a flow rate and additional volume advise them a new application is needed.

For off-stream developments the verified flow rate should be the maximum diverted not to exceed the permitted flow rate. The capacity of the diversion and conveyance facilities will dictate this maximum as well as the source. Although the source may be such that the maximum will not be available year-round, it will be appropriated whenever it is. These developments generally have a daily, year-round diversion. The volume should be verified consistent with the intent of the permit.

On-stream developments would best be verified during spring runoff. Later in the season below normal flow rates may be encountered. Some permits have been granted flow rates equal to the maximum or average stream flows. In some cases this could be greater than the actual beneficial use or what is reasonably needed. If evidence raises questions concerning the reasonableness of the granted flow rate, the development should be discussed with the Regional Manager. A modification of the flow rate may be a recommendation. Otherwise, recommend the maximum flow rate perfected and a volume based on a year-round diversion schedule not to exceed the permitted amount.

## **Incidental Uses**

Some permits will reflect incidental uses such as wildlife or waterfowl in a remark. These “incidental” uses can be verified and added as a beneficial use if all of the following statements are true concerning the verified information:

- no new area of possible effect is encountered by the addition of the incidental use;
- no possibility of substantial or unsubstantial impact (any impact, no matter the degree) is created by the addition of the incidental use; and
- no new appropriators would be adversely effected by the addition of the incidental use.

If fire protection is for emergency purposes only, the use should not have a flow rate or volume assigned. The “fire protection” remark can be added to the record if needed.

## **Irrigation**

For irrigation volumes, use NRCS dry year crop requirements. The reported volumes may be less than permitted volume or NRCS dry year crop requirements due to mitigating factors such as wet years or crop rotations. The verified volume may be the NRCS dry year crop requirement or the permitted volume, whichever is less. System operation and efficiencies may justify a greater volume than the NRCS dry crop requirements. Any increases above the NRCS dry year crop requirement must be thoroughly documented. To ensure permittee is not over the permitted amount, calculate the volume of water perfected and discuss with the appropriator the method and schedule of operation.

Verifying the place of use involves confirming the legal land description and the number of acres involved. Local NRCS or FSA offices may have information that will assist you in verifying the place of use.

Small Parcels - With an aerial photo or other adequate map and section grid, confirm the legal description of the place of use. Some acreage will be too small to see or outline on an aerial photo. A couple of methods can be used to figure the number of acres.

- Obtain from the county assessor or a plat map the size of the lot or parcel. Measure and subtract the area covered by homes, driveways, and outbuildings. The balance would be the irrigated acreage.
- Measure the boundary of the irrigated parcel by stepping it off or using a measuring wheel. Measure and subtract out the area covered by homes, driveways, and all outbuildings.
- Use the following formula to calculate the number of irrigated acres.

$$\text{Acres} = \frac{l \times w}{43560}$$

l = length of parcel (ft.)  
w = width of parcel (ft.)

Large Parcels - Confer with the appropriator if possible. On the aerial photo, outline the irrigated fields. With a section grid, determine the legal description of the fields. Using an area dot grid, planimeter or digitizing tablet, calculate the acreage within each parcel or legal description. If you have an irregular-shaped field you will have to make some estimates or measure the field in sections to come up with the square footage. Compare the verified place of use against the permitted place of use.

### Acreage Variance

An allowable range for the total irrigated acres is used to allow for aerial photo distortion, elevation change in topography, human error, and equipment accuracy in mapping boundaries and measuring acres. The following variance will be used for irrigation acreage.

<u>Permitted Acreage</u>	<u>Variance</u>
0 - 40 acres	15%
40.1 - 160 acres	10%
>160 acres	7%

To determine the allowable range, use the following calculation:

Permitted Acreage x Variance = Range  
Permitted Acreage - Range = Low Range  
Permitted Acreage + Range = High Range

For example, if the permitted acreage is 100, the calculations are as follows:

$$\text{Variance} = 100 \times .10 = 10 \quad \text{Low Range} = 100 - 10 = 90 \quad \text{High Range} = 100 + 10 = 110$$

If the actual acreage measured is between 90 and 110, the acres are within the allowable range.

Document the actual verified acres. If the verified acres fall within the allowable range, the permitted acres should be recommended ~~for the draft certificate~~.

### Verified Acres > Allowable Range

When the verified total acres is greater than the allowable range, recommend the permitted total acres ~~for the draft certificate~~. Advise the appropriator they should file a permit or change application, Form 600 or 606, for the acreage over the permitted acres. Keep in mind basin closures and controlled groundwater areas. If the area is closed to new permits and a change is not possible, advise the appropriator to reduce the irrigated acreage to the permitted amount.

### Verified Acres < Allowable Range

When the verified total acres is less than the allowable range, recommend the verified total acres ~~for the draft certificate~~. If the appropriator disagrees with the reduction in acres, they can request a show cause hearing.

### Individual Parcel Acres

The variance schedule does not pertain to the acres within individual parcels. If the total acres are within the variance, the number of acres within each parcel may need to be altered so that the total of the parcels equals the permitted total acres.

### Verified Acres vs Permitted Rate and Volume

When the recommendation is for the verified acres which is less than the permitted acres, compare this reduction in acres to the verified rate and volume. If it is verified that the appropriator is using the permitted amounts of water the rate and volume need not be reduced.

When the verified acres are greater than the permitted acres the recommendation must be for the permitted acres even though the rate and volume do not exceed the permit. We can not increase the acres ~~on the draft certificate~~. The appropriator must file a permit or change authorization application for the increase in acres.

If the number of new acres involved is due to a miscalculation of acres in the original field size, the rate and volume for the total field may be recommended if within the permitted amounts. If it is clear that the appropriator expanded his original intent, recommend the rate and volume associated to the original field. Any amount used over this and the additional acres will require a new permit.

### Rotation Systems

There are certain crops that are grown using a rotation system where, for example, out of 200 acres the appropriator will irrigate a different 50 acres each year.

Verify the total acres and the maximum acres irrigated in one year. If the size of each field varies, the rate and volume verified and recommended should be associated to the largest field. This would be the maximum appropriation in any given year. A remark will be added clarifying this method of operation. II01: THE PLACE OF USE IS IRRIGATED UNDER A ROTATION SYSTEM. THE MAXIMUM NUMBER OF ACRES IRRIGATED IN ANY YEAR SHALL NOT EXCEED 50 ACRES.

If a permit does not reflect a rotation system but it was noted or described in the application, recommend the total acreage and ~~add a the~~ clarifying remark ~~for the draft certificate~~. If neither the permit nor the application file reflect the intent to operate a rotation system, an application for change must be filed to include those fields not covered in the original permit. Refer to Change authorization Application Required, p.20.

### Water Spreading Systems

Water spreading is a form of flood irrigation. The projects usually involve dikes that have a gate or other type of structure that allows for capture and release of spring runoff water or seasonal storm

events. When water is impounded, it backs up over the land to be irrigated and is left on the land until between 4 – 8 inches of water has soaked into the ground. The remaining water is then released and may be impounded by another dike or it continues to flow down the drainage.

The volume used by the system is dependent on the operation practices. Contact the appropriator to find out the maximum amount of water that is allowed to soak into the ground and the maximum number of times/year the appropriator has been able to impound the water. Calculate the amounts used over the irrigated area and convert it the amount to acre-feet.

## **Municipal and Multiple Domestic (Subdivision) Uses**

Generally these uses require a greater length of time to become fully perfected than most other uses. Municipal applications usually project what the expected increase in population is that they plan to supply with the new permit. This figure is not the limiting factor of the right; the perfected rate and volume are. Verify the operation schedule. The operation may be other than a 24 hpd, 365 dpy diversion. Calculate and verify a volume from the actual diversion schedule. Verify the place of use to the best description possible whether it is a section or quarter section description. A remark can be added if necessary to specify the municipality served. Verify volumes for subdivisions in the same manner.

For municipalities, the place of use extends to the exterior boundaries of the town or city.

## **Recreation Purposes**

When analyzing volumes and flow rates, refer to the standards indicated in the Pond Guidelines and/or the quantification and justification information provided in the application.

Recreational purposes are determined by how the pond is used and must be justified and documented. Generally these uses always entail storage facilities and are used in association with other uses. Verification of these uses must include documentation evidencing the actuality of the use.

Generally the permitted volume for recreation is associated to the capacity of the storage facility. It is either equal to the capacity, or the recreation volume plus another use volume are equal to the capacity. If the volume verified does not exceed the permitted volume recommend ~~that volume~~ for the draft certificate.

## **Stock**

The consumptive use for stock is calculated by taking the animal units times .017 AF/year. For other than year round use, use the following formula.

$$\frac{\text{Animal Units} \times .017 \times \text{No. of days}}{365} = \text{AF for no. of days}$$

Refer to Water Conversion Table exhibit, form 615 for animal units.

Confirm with the appropriator the maximum animal unit count and recommend the associated volume not to exceed the permitted amount. See Reservoirs, page 32, for storage volumes.

If the stock drink directly from the source, the place of use described should be the reach of the stream from which they drink. The point of diversion will equal the place of use. If a reservoir is involved, the place of use is the area covered by the impounded water. In smaller structures, the point of diversion will equal the place of use. When stock tanks are involved, describe the place of use where the tanks are located. Confirm with the appropriator the place of use.

There are a couple of different ways to code purpose volumes on verified perennial stream reservoirs and pits used for stock and wildlife. If the standard for stock based on animal units is less than the max volume then use the standard and the remaining volume would be the volume applied to the wildlife purpose. If the stock standard is greater than the max volume, use the max volume on each purpose and add the VA remark.

## **Wildlife and Waterfowl**

When analyzing volumes and flow rates, refer to the standards indicated in the Pond Guidelines and/or the quantification and justification information provided in the application.

### Commercial Uses

Included in this category are game farms, fur farms, game bird farms, sanctuaries or preserves, zoos, and menageries. These uses involve captivity or some degree of control and present a quantifiable water need situation. During verification, describe the kind and method of operation found to provide information on their water usage. When storage is involved, document its operation and capacity. Verify the maximum amount of water perfected and make a recommendation not to exceed the permit ~~for the draft certificate~~.

### Natural Wildlife Uses

Unconfined habitats and undomesticated birds and animals characterize these uses. Both government agencies and private individuals have made appropriations for these uses. The agency that appropriates the majority of water for these uses is the U. S. Bureau of Land Management. Their developments generally have a two-fold purpose, stock and wildlife or waterfowl, and entail storage facilities. To verify these and other agency uses, calculate the capacity of the impoundment. Verify the maximum amount of water perfected and make a recommendation not exceeding the permit. Document the capacity of any storage involved.

## **Other Uses**

The recommended volume ~~for a draft certificate~~ can not exceed the permitted volume. If you verify a larger volume than permitted, you must advise the appropriator a new application is required for any volume over the permitted amount. If you are confident in your measurements and the verified volume is substantially less than permitted, recommend the lesser volume. Always confirm the place of use with the appropriator. A remark can be added to ~~the draft certificate to~~ help clarify the place of use.

## Mining

Some mining operations are transitory along a stream. It can take several years to move along the stream and to mine the total permitted area. This type of use does not require that all areas be mined in order for the permit to be considered complete. Verify the diversion rate and the perfected annual use. Verify and confirm the place of use for the total operation. Recommend your findings not to exceed the permitted amount ~~for the draft certificate~~. If the place of use is transitory, describe the area the reach of stream runs through. A remark could clarify the place of use: "THE PLACE OF USE IS TRANSITORY ALONG SMITH CREEK IN THE ABOVE DESCRIBED AREA."

## Commercial and Industrial

Some industrial or commercial uses may have measuring devices or water use records from which information on the volume can be obtained. If not, discuss with the appropriator the diversion or operation schedule. Document any information that substantiates the amount of water used. Using the operation schedule and the diversion rate, calculate ~~and~~ recommend a volume ~~for the draft certificate~~.

## Hydropower

Depending on the type and magnitude of the system, the verifier may find they need technical assistance to determine the diversion rate and/or volume used by a system. Some closed or buried diversions and some larger systems will require calculating the rate rather than using typical flow measuring equipment. Request assistance from regional engineers. Any questions or concerns when analyzing hydropower should be directed to the New Appropriations Program Manager.

Any system utilizing storage will likely have a more constant flow than one relying on the natural flow of a stream.

Those utilizing natural streamflow are dependent on normal to high water years to totally perfect their permitted amounts of water. Verifying during a dry year will give you a less than normal picture of the operation. If the system has only operated in a drought year then the design maximum should be recommended.

Although streamflow varies seasonally, the maximum flow will be utilized whenever it is available; therefore, it should be considered when determining the verified volume.

## Agricultural Spraying

The place of use can be quite extensive and vary every year, the place of use should be described where the water is diverted and placed in the holding tanks.

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