III. GENERAL PROCEDURES

Adjudication staff spends a considerable amount of time organizing claim files and materials for efficient examination. Several areas must be considered before beginning claim examination in a basin. This chapter identifies some of these areas and provides general guidelines.

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FIGURES

A. PUBLIC MEETINGS

1. Purpose. The department, if directed by the Water Court pursuant §85-2-243, MCA may conduct public meetings in each basin or subbasin. See also Rule 32, W.R.C.E.R. Public meetings are a method of acquainting the public with the general procedures of the adjudication process and the department's claim examination process. They may also be used for specific purposes such as:

- gathering facts and information for accurate claim examination within a basin related to
    - flow rate, volume, and period of use for irrigation that may include the usual and customary method of irrigation, crops grown, and growing season within a basin or subbasin; and
    - flow rate, volume, and period of use for other uses of water within a basin or subbasin; and
- educating the public about available resources and information including decrees, decree indexes, regional/unit office resources, and the process beyond examination.

2. Planning. Public meetings should be held at a time and place appropriate to the material being presented and convenient to the participants. Two or more public meetings on a single issue may be necessary for larger basins.

Determining the need for a public meeting and the items to be discussed will be a joint effort between the adjudication staff, supervisors, the bureau chief and the department’s Public Information Officer (PIO). The planning process should consider:

- persons needed as presenters;
- preferred date and alternatives;
- meeting location (time, town, building, room, adequate seating);
- equipment (department brochures, other handouts, public address system, projector and screen, tape recorder, etc.);
- checking for potential conflicts with other meetings or events; and
- checking for a possible sponsor (county commissioners, extension agents, etc.).

3. Notification. Preparation of news releases will be coordinated by the bureau chief and the PIO. Meetings will be announced using one or more of the following: radio stations, newspapers, or television stations which have general coverage in the location. In addition, notices may be posted in various public locations. The Water Court will be notified in writing at least 10 working days prior to an announcement. Suggested locations for notices and contacts:

- Regional/Unit Office
- Claimants
- Clerk of Court
- Clerk and Recorder
- Library
- Natural Resources Conservation Service (NRCS)
- Farm Service Agency (FSA); formerly Agricultural Stabilization Conservation Service (ASCS)
- USFS, BLM, BIA, BOR, etc.
- County Commissioners
- County Extension Agents
- Conservation Districts
- Legislators
- Attorneys and consultants active in water rights
- Seed company, fertilizer company, grain terminal, etc.
- Irrigation company, implement supply dealer, etc.
- Farm supply dealer, tire dealer, etc.
- Post Office
- Banks, Production Credit Association, Federal Land Bank
- Chamber of Commerce
- Schools, gymnasiums
- Grocery store

B. STANDARD MEASUREMENTS OF WATER

1. Conversions. The Supreme Court rules have adopted standard water measurements for flow rate and volume to ensure consistency and to comply with §85-2-103, MCA., Rule 4, W.R.C.E.R. The following conversions will be used in determining equivalent flow rates and volumes:

- forty (40) statutory or miner's inches (MI) = 1 cubic foot per second (cfs);
- one (1) miner's inch (MI) = 11.22 gallons per minute (gpm);
- one (1) cubic foot per second (cfs) = 448.8 gallons per minute (gpm); and
- one (1) acre-foot (AF) = 325,851 gallons.

For additional information about standard measurements, see Figure III-1. For common abbreviations used for water measurement, see Exhibit III-1.

2. Reporting Flow Rate and Volume. Generally, flow rates were claimed in cubic feet per second (cfs), miners inches (MI) or gallons per minute (gpm). As claims were originally stored in the database, flow rates in units of miner's inches were converted by the computer to cubic feet per second.

The department's examination worksheet, review abstracts and decree abstracts will identify units of water measurement only in gpm or cfs in compliance with §85-2-103, MCA.

a. Flow Rate. The standard units for flow rates are as follows:

- Less than one (1) cfs will be converted automatically by the database into units of gallons per minute (gpm) when standards are applied.
- Equal to or greater than one (1) cfs will be converted to units of cubic feet per second when standards are applied.

b. Volume. Volumes will be in units of acre-feet (AF) or gallons (g). All conversions will be made using the equivalencies described above.

FIGURE III-1
GENERAL WATER CONVERSION TABLE

One cubic foot of water = 7.48 gallons
= 62.4 pounds
= 1,728.0 cubic inches

One cubic foot per second (cfs) = 7.48 gallons per second
= 448.8 gallons per minute
= 1.0 acre-inch per hour
= 0.99 acre-feet per 12 hours
= 1.983 acre-feet per day
= 724.0 acre-feet per year
= 646,316 gallons per day
= 40.0 Miner's Inches Montana (1 Miner's Inch = 11.22 GPM)

One acre-foot of water = 325,851.0 gallons
= 43,560.0 cubic feet
= 1 foot of water on 1 acre

One gallon of water = 8.34 pounds
= 231.0 cubic inches
= 0.134 cubic feet

One gallon per minute = 1,440.0 gallons per day
= 0.002 cubic feet per second

100 gallons per minute = 0.442 acre-feet per day

1,000,000 gallons per day = 1.55 cubic feet per second
= 694.0 gallons per minute
= 3.07 acre-feet per day
= 1,121.0 acre-feet per year

1 foot of water pressure = 0.433 pounds per square inch

1 pound per square inch = 2.31 feet of water pressure

C. CENTRALIZED RECORD SYSTEM

A centralized record system for all water rights is maintained by the department. Rule 3(a), W.R.C.E.R. This system is composed of three parts:

- numbered files of original claim forms and documentation submitted by the claimants, along with related materials added by the department and Water Court;
- a database record system which is initially the claimed information as clarified by the department;
- a microfilm or scanned record of each numbered claim file.

All water right information can be found in the claim file or as a scanned document maintained by the department and available through the Oracle database or DNRC Water Right Query System. Historically, the claims were maintained on microfiche. As more basins come 'online', microfiche will become obsolete. The claim files and scanned records are progressively updated to document each stage of the adjudication process. Rule 3(b). (c), W.R.C.E.R.

1. Changing the Record. The department will not change the claimed elements of a water right in the centralized record system except as specified below. Rule 3(d), W.R.C.E.R.

a. Prior to Issuance of a Decree: Rule 3(d)(1), W.R.C.E.R.

- As specifically ordered or directed in writing by the Water Court.
- To comply with standard measurement of water (§85-2-103, MCA) and water right ownership updates (§§85-2-421 through 85-2-426, MCA).
- As specifically allowed and directed by the Water Right Claim Examination Rules (W.R.C.E.R.).
- To reflect a claimant's amendment(s) to a claim.
- To correct a department data entry error.

b. After Issuance of a Decree: Rule 3(d)(2), W.R.C.E.R.

- As specifically ordered or directed in writing by the Water Court, including any computer programming changes the DNRC may determine are necessary which if implemented would add information or make changes to the elements of claims in the centralized record system.

- In compliance with water right ownership updates (§§85-2-421 through 85-2-426, MCA).
- To change an owner's address.
- To remove asterisks identifying changes to claimed elements.

c. Method. When changing a record that does not involve an amendment, make the change on the examination worksheet or appropriate abstract. Be extremely aware of what authority allows the examiner to make changes. **No change should ever occur without documentation; this could include an explanation, the authority, and any documents which will then become part of the claim file.** The changes will be entered into the database.

When a change involves an amendment, refer to "Special Provisions: Amended Claims" in Section XI.A. for processing instructions.

2. Public Access. All records pertaining to the centralized record system are public records and therefore open to inspection by any person as provided in §2-6-102, MCA. Prior to final decree anything in the file is part of a work in progress and may be subject to change. Rule 3(e) W.R.C.E.R.

Any changes to water rights involved in active Water Court proceedings will not be released on the Natural Resources Information system until the Water Court enters an operating authority.

3. Copies. For parties requesting reproductions of department materials, fees will be charged and collected at rates established by the department. Follow §2-6-110, MCA and the DNRC Public Information Policy when providing materials to customers (see Attachment A: "DNRC Information-Related Charges" contained within the PDF document). Reproduced materials for which costs will be recovered include, but are not limited to, photocopies, copies from microfiche, reproduced microfiche, and computer generated materials. The department will provide copies in the format they are in, no special conversions will take place. Rule 3(e), W.R.C.E.R.

Any person may obtain a copy of a Water Court decree or decree index. Rule 3(g) W.R.C.E.R. Members or the public should be informed that after a ½ hour of copying, a labor fee is imposed. Water Court decrees and indexes issued after 1998 are available online (http://dnrc.mt.gov/wrd/water_rts/adjudication/). Decrees and indexes are also available from the department for the cost of covering printing or electronic media (CD) costs.

D. PRE-EXAMINATION OFFICE ORGANIZATION

For the examination process to proceed in an orderly and efficient manner, an organized examination system must be set up by each regional/unit office or adjudication team. Due to differences in physical layout, budget priorities, and personnel, individual office organization is left to the supervisor and examiner.

1. Pre-examination Steps. This section contains a synopsis of organizational work which should be completed prior to examination.

a. Obtain materials necessary for examining claims:
   (1) Water Resources Survey books and field forms
   (2) database-derived claim indexes by drainage basin
   (3) Document stamps: department supplemental document stamp, claimant supplemental document stamp, claim folder stamp (if necessary)
   (4) Prior to GIS software development, claims were examined using scaled grids, planimeters (for checking acreage), mylar, and sectionalized aerials. These materials may be obtained for reference.

b. Coordinate with GIS staff to have all 1979-1980 aerial photographs, WRS aerials, and WRS information scanned and registered for use in WRMapper.

c. Arrange for WRMapper training. See the Adjudication Shared Drive (ASD) for Mapper protocols, guides and materials.

d. Request GIS staff determine the basin boundary and compare with previously determined boundaries (drawn on topographic maps). With the bureau chief and supervisor, determine basin boundary for interbasin transfers misbasined claims, and notice purposes.

e. Log the location of all claims into the database or request the database team perform this function.

f. Obtain all court decrees – there may be several decrees on a source, each being issued on a different date, possibly with different parties for different sections of the source.

g. Obtain indexes of 1979 aerials, and WRS aerials if the physical aerials will be housed at the regional/unit office or with the team. (Historical aerials will be available digitally within WRMapper.)

h. Obtain copies of forms (electronic or hardcopy):
   (1) addendums (POU, POD, Remark, Reservoir)
   (2) questionnaires (Pump, Reservoir, Other Uses, etc.)
   (3) interview report form
   (4) field investigation worksheet
   (5) map and overlay labels

(6) associated flags
(7) basin correction forms
(8) name/address correction form
(9) implied claim form labels
(10) amendment forms
(11) withdrawal forms
(12) Supplemental rights forms

i. Develop decree indexes for recording documentation.
j. Complete source name standardization.
k. Start list of claims with interbasin transfer.
l. Have the following readily available, in hardcopy and GIS format, for examining claims:
(1) basin boundary map
(2) climatic area map
(3) Indian cession map
(4) basin map to plot field investigations
(5) interbasin transfer list

2. Claim Organization.

a. Oracle Database. Enter the location of the claims in the database under the Location tab or request this action be performed by the database team. The location screen displays the current and previous locations and staff processing the claim, as well as the dates the file was received and sent. Claims can be assigned to an office or specific individuals. See the Oracle Coding Manual for instructions on entering location information.

b. Claim Storage. Develop a filing system to organize claim files in a way that will allow easy location of the claim files through all stages of the examination process. The following is a recommended system for dividing drawers/boxes into specific categories to allow for easier access and location of claim files:

- Unexamined Claims. Claims for a basin are sent from Helena to the regional/unit office or team in numerical order in labeled file folders. These claims should be stored numerically prior to being pulled for examination.

- Examination Completed. Claims organized numerically where examination has been completed but the examination materials have not been sent to the Records Unit in Helena for processing.

- Examined And Reviewed. Claims organized numerically where all examination and review abstract work and processing has been completed. These claims require no further action prior to the issuance of the department's summary report.

- Action Pending. Claims being examined which need additional work. These claims should be sorted separately, either in a designated area, or at each examiner's workspace. Since 'action pending' claims may be comprised of a variety of pending issues, they should be organized alphabetically by owner name. Pending issues may include:

    - Claimant Contact. Preliminary review of claims where a response from or interview with the claimant is pending.

    - On-site visit. Claims where a scheduled on-site visit is pending.

    - Supervisor. Claims to be sent to supervisor for review or have been returned but not finally processed.

    - Water Court Assistance. Claims to be sent to the Water Court for review (generally for possible implied claims) or have been returned but not finally processed.

c. Database-generated Claim Indexes. Six database indexes (1-6 below) will be generated for each drainage basin to cross-reference claims during claim examination. The 'Uses Indexes' exist but will be printed only at the request of the regional/unit office or adjudication team supervisor. If any of these indexes need to be sorted differently, or if other indexes are needed for specific purposes, request through a supervisor. Place indexes into binders with labeled tabs for easy cross-referencing.

1) Owner
2) Source
3) POD
4) Priority Date
5) Numerical
6) Reservoir
7) Uses – IR, DM, ST, OT

d. Claim Folder Stamp. ***This stamp was used prior to 2005 and is now an obsolete process.*** A stamp was provided for labeling the front of each claim folder with a checklist. Claim folders were stamped prior to examining claims. The intent of the checklist on the front of the claim folder was to reduce confusion as to whether a claim had been completely examined. Its format was:

_______________	Claimant Contact
_______________	Documentation Recorded
_______________	POU Recorded
_______________	Claim Examined

3. Stamp To Identify Supplemental Forms. Two different supplemental document stamps will be kept in each regional/unit office or with each team to identify documents added to the claim file during claim examination. The purpose of these stamps is to differentiate between documents added by the claims examiner and the claimant. In addition, any received documents should be date stamped.

a. DNRC Supplemental Document Stamp. Stamp any supplemental forms, maps, documents, worksheets, etc. **added to the file by the examiner** which might be confused with paperwork submitted by the claimant with the DNRC supplemental document stamp. It is important to identify the origin of the materials. Its format is:

DNRC Supplemental Document Claim # _______________

b. Claimant Supplemental Document Stamp. Stamp any documents, maps, letters, affidavits, etc., **received from the claimant or the claimant's representative** after receipt of the original claim with the CLAIMANT supplemental document stamp. Also, stamp the documents with the date received. Some documents may have been added to the claim file after April 30, 1982 without being stamped. If so, stamp them at this time. It is important to identify the origin of the materials. The stamp's format is:

CLAIMANT Supplemental Document Claim #_______________

4. District/Supreme Court Decrees. Obtain complete copies of district court decrees in a basin prior to examining a basin. The decree index (compiled during the Water Resources Survey) may be a sufficient listing of the decrees. If the Supreme Court ruling has an impact, a copy of the decree should be obtained from the state law library. All decrees issued after the decree index was compiled must be obtained. Also obtain all decreed supplements (petitions) to appropriate water from decreed streams after the initial decrees were issued. The later decrees should be indexed for easy cross-reference.

5. Decree Index. A record of the documentation that accompanies a claim will be maintained for prior decreed rights. The purpose of this record keeping system is to check for the possibility of claims exceeding the original amount of water appropriated and decreed ("decree exceeded"). See "Irrigation: Flow Rate, Recording Documentation" (Section VII.B.6). Track prior decreed rights in the Historical Right tab in

the database. See the Oracle Coding Manual for instructions.

Many offices have historic decree index books already and some may have been microfilmed or scanned. Check all office resources for these items. Copies of the Water Resources Survey Decree Indexes for sources in a basin should be placed in a binder. Since these indexes are not complete or up to date, the form shown as Exhibit III-3 should be in the front of the Decree Index.

To make the indexes more usable, they were photocopied onto 8½ x 14" paper to provide extra room for recording documentation. If space becomes limited for recording documentation, use additional blank pages or Exhibit III-3.

6. Basin Files. A file should be set up for each basin in the regional/unit office or by each team for general basin information. Break each file into subparts, as necessary, such as:

- general basin information
- interbasin transfer list
- log of late claims
- review information for decree
- Water Court notices and findings
- review for objections
- objections
- objections list
- Water Court orders
- reports to legal staff
- reports to Water Court
- log of field investigations conducted in basin during examination

A basin file organized like this retains all pertinent objection materials, reports, lists of potential problems, etc. in easily found categories. Be aware of materials that may be needed in adjacent basins, e.g., the interbasin transfer list for Basin A should be included in Basin B file.

Each basin file should contain a synopsis of examination progress. Exhibit III-4 is a suggested format. Knowing dates at various stages of the examination process is useful for planning, reports, etc.

7. Aerial Photographs. All aerial photographs should be scanned and rectified by GIS staff for use in WRMapper. On occasion, photos may need to be obtained from the USDA Farm Service Agency Aerial Photography Field Office (APFO) (See Form FSA-441 for ordering information and Form FSA 441a for pricing and other general photo information; Exhibit III-5). Available aerial photographs from the Agriculture Stabilization and Conservation Service (ASCS—USDA) are listed in Exhibit III-7. In addition, an inventory of Water Resource Survey aerial photography by regional/unit office and county is found in Exhibit III-9. Any newly acquired photos should

be sent to the GIS staff for inclusion in WRMapper. Historically, aerial photos were sectionalized by hand. For a description of the procedure, see Exhibit III-8.

a. Aerial Photograph Storage. Store aerial photographs in groups by roll number or county. See Form FSA-441A for an explanation on how aerial photograph exposures are enumerated. The aerials within each group (e.g., roll number) should then be kept in numerical order by exposure number.

An aerial photograph's clarity can be diminished or marred by abrasion and friction. Storing photos vertically, e.g., hanging in a cabinet, reduces this type of wear.

b. Aerial Photograph Indexes. Develop aerial photograph indexes so photographs can be quickly and easily retrieved. The index should indicate the preferred photo for mapping a POU when sections are covered by more than one photo.

The following are options presently used in regional/unit offices:

- A book-like index may be organized by township, range, and section, using forms shown in Exhibit III-6. Each section in a township has the corresponding photo numbers indicated. The indexes for the regional/unit office area can be arranged by county or basin within one book or as separate books. This index shows when more than one aerial exists of the parcel being examined. Due to the potential difference in clarity between photographs, it could be important to know that several photos cover the same area.

- A map of the basin (BLM or Forest Service map) can be used on which the coverage of each aerial is identified and labeled. This index gives a pictorial view of the coverage of a parcel being examined.

c. Ordering Aerial Photographs. USDA photos from 1955 through the present are housed at its Aerial Photography Field Office (APFO) in Salt Lake City. It houses photographic imagery secured for the Forest Service and Natural Resource and Conservation Service in addition to the Farm Service Agency. Scale of APFO photography varies from 1:6,000 to 1:80,000; all film products are available in black-and-white. In addition, natural color and color infrared products are available for some areas; please refer to the APFO Catalog for film types for specific areas of coverage. The catalog lists photographic coverage by state and by county. After determining the vintage of photos available for a county, contact APFO for individual photo numbers and ordering information. Orders are custom made and normally take 4 to 6 weeks for processing and shipping.

Send requests for aerial photographs to a supervisor. The request should list the needed photographs by county, and then by ascending roll and exposure number. The request should also contain a statement justifying the need for the photographs. The photographs ordered will be 24" X 24" (1 inch = 1320 ft.), unless stated otherwise in the request. When requesting photos, normally order only every other photograph in the flight line. Exceptions might be around the basin periphery where two photographs in sequence may be necessary for complete coverage.

The APFO Catalog lists available flight years for each county in Montana. For each flight year, the number of indexes is listed. These indexes, which are used for ordering photographs, are available in either hard copy or microfiche. If the indexes are not available at the regional/unit office, they may be ordered. It is suggested checking with the GIS supervisor or local NRCS offices to use their indexes if available.

E. WATER COURT CORRESPONDENCE Rules 12 and 13 W.R.Adj.R.: Rules 43(d) W.R.C.E.R.

Correspondence with the Water Court is an every day occurrence. Usually this correspondence is in response to Water Court requests for assistance or requests made by the department to the Water Court requesting assistance.

With the exception of the Witness Identification Memorandum discussed below, all written correspondence to the Water Court will be reviewed by a supervisor for quality, content, and consistency. **Remember: the claimants and any other parties involved in the proceedings are copied (cc:) on all correspondence with the Water Court.**

If a deadline is established by the Water Court, a draft of the document should be sent to a supervisor in advance so that sufficient review is possible. E-mail is the recommended method for sending drafts. In situations where the Water Court request requires an immediate response, send only a copy of the final document to a supervisor.

After the document has been reviewed by a supervisor, the original will be sent to the Water Court.

Throughout the manual, the different procedures for Water Court correspondence are discussed. Described below are the primary areas where correspondence is sent to the Water Court.

1. Witness Notification Memorandums. If the Water Court order requires notification of the name and phone number of the department's witness who will be participating in the status conference, hearing or prehearing conference, a response memorandum should be prepared (See Figure III-2). Send the original response to the Water Court at least three working days prior to the deadline set in the order. Send a copy of the original response to all individuals listed on the Court's service list.

2. On-site Visits. See "Examination Materials and Procedures: Investigation Techniques, On-Site Visits" (Section IV, IV.F., and IV.F.3).

3. Misbasined Claims. See "Claim Examination: Point of Diversion" in Section VI.F.

4. Implied Claims. See "Special Provisions: Implied Claims" in Section XI.B.

5. Post-Decree Revisions. See "(Temporary) Preliminary Decree: Post-Decree Revisions" (Section XIII.E).

6. Summary Report Review. See Chapter XII.

7. Post Decree Assistance. Primarily Issue Remark Resolution. See Chapter XIII

FIGURE III-2
WITNESS IDENTIFICATION MEMO

(Department Letterhead)

TO:	[*Name*], Water Master Montana Water Court
FROM:	[*Name*], Water Resources Specialist
DATE:	[*Month/Day/Year*]
SUBJECT:	Case No. [*WC-YYYY- ##*]
CLAIMANT(S):	Doe Ranches, Inc.

The appropriate person to assist the Water Court in the above mentioned case is [*Name*], Water Resources Specialist in the [*Helena Water Resources Regional Office*]. [*Name*] will be available on the appointed date and time at the [*enter location and phone number if conference call or location if attending in person, e.g. Whitehall Public School, Whitehall, Montana*].

cc: [CLAIMANT]
[ALL PARTIES ON SERVICE LIST]