

VIII. DOMESTIC

This chapter describes the procedures unique to the examination of domestic claims. Other examination procedures for the other elements of domestic claims are described in Chapter VI: Claim Examination, and Chapter VII: Irrigation.

The following elements are discussed in this chapter:

- A. General Discussion
- B. Flow Rate
- C. Volume
- D. Place of Use

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A. GENERAL DISCUSSION

1. Domestic Claim. During the claim filing period, the domestic claim form was used to describe several different types of water use, including domestic, multiple domestic, and lawn and garden irrigation. Most often, these uses were grouped together under the domestic purpose category. Claims describing multiple domestic and lawn and garden should now be assigned the appropriate purpose. See the “Standard Purpose List” (Figure VI-1) to apply the appropriate purpose. **Claims with a purpose of multiple domestic or lawn and garden will be examined using the domestic guidelines.**

For consistency, the number of dwellings for a domestic claim is one. If two or more dwellings are identified, the purpose is multiple domestic. See “Volume: Examining Claimed Volume: Number of Dwellings” ([Section VIII.C.2.c](#)) below for information on identifying the number of dwellings.

Domestic and multiple domestic guidelines should be discussed with a supervisor prior to basin examination to establish consistent approaches.

2. Exempt Claims. Per [§85-2-222, MCA](#), individual domestic uses based upon *instream flow* or *ground water* sources are exempt from the filing requirements of [§85-2-221, MCA](#). Domestic exempt claims are:

- Individual (single and multiple) household domestic use, and lawn and garden use from a groundwater source

Any of these existing water rights, however, could be voluntarily filed with the department.

Take care when determining the number of households. Check that the correct exempt status is indicated on the examination worksheet under the water right number. In the database, indicate whether or not the claim is an ‘Exempt Claim’ in the ‘Claim Filing Information’ on the Historical tab in the Create and Maintain Water Right Detail screen.

3. Domestic Claim Questionnaire. A domestic questionnaire should be used to obtain additional information when the claim file does not provide sufficient information to examine a claimed domestic purpose. This questionnaire would be useful in the following circumstances:

- extended nonuse, such as old mining camps;
- several domestic claims with same priority date, source, and documentation;
- questions of non-perfection;
- post-June 30, 1973 use.

Send the Domestic Questionnaire (Exhibit VIII-1) and a cover letter (Exhibit IV-8) to the present owner of record. Alternatively, the claimant can be contacted by phone or in a personal interview (see “Examination Materials and Procedures: Claimant Contact Techniques” in Section IV.F). It may be appropriate to also send additional questionnaires or to customize the Domestic Questionnaire to gain additional information.

Multiple Owners. If multiple owners are involved, the questionnaire should be sent to all owners of record. If the questionnaire is undeliverable (return mail), the questionnaire may then be sent to owners identified through Cadastral information. See Jim Gilman's April 9, 2008 Interoffice Memorandum regarding Claimant Contact. In the event questionnaires completed by multiple owners are in conflict, consult with a supervisor. Options may include the claimants splitting the water right (per Administrative Guideline No. 14, "DNRC Water Right Ownership Update Guideline") or adding a free text issue remark:

Example: GIIS DOMESTIC QUESTIONNAIRES WERE RECEIVED FROM MULTIPLE OWNERS ON THE FOLLOWING DATES: **MM/DD/YYYY**, **MM/DD/YYYY**. THE DOMESTIC QUESTIONNAIRE INFORMATION HAS NOT BEEN INCORPORATED INTO THE CLAIMED INFORMATION DUE TO DISAGREEMENT AMONG THE OWNERS.

B. FLOW RATE
[Rule 19, W.R.C.E.R](#)

The flow rate is the rate at which water has been diverted or withdrawn from the source. Domestic flow rates will be decreed in units of gallons per minute (gpm) or cubic feet per second (cfs). See "General Procedures: Standard Measurement of Water" (Section III.B) for standard units and conversions.

Claimant contact must occur upon completing examination of the ownership if the flow rate is modified by rule; an issue remark exists, or is unclear. [Rules 19\(d\) and 44, W.R.C.E.R](#) and Section IV.F.

1. Identifying Claimed Flow Rate. The identification of claimed flow rates will follow the procedures described in "Irrigation: Flow Rate: Identifying the Claimed Flow Rate" (Section VII.B.1).

2. Examining Claimed Flow Rate. The claimed flow rate for domestic claims (as well as claims to lawn and garden use and multiple domestic) will be examined according to the claimed means of diversion, information in the claim file, and a general flow rate guideline of 35 gpm. Information may be gained through claimant contact. [Rules 19\(d\)\(1\) and 44, W.R.C.E.R](#)

For claimed flow rates that will be decreed, there are two underlying considerations to keep in mind. First, has the entire flow rate claimed actually been diverted? Second, is the claimed flow rate reasonable for the specific purpose? If the answer to either question is no, further information should be pursued to determine what is reasonable and accurate. This thought process should form the basis for examining all claims.

Unique Features or Aspects. Any unique aspects or features of the flow rate may also be noted on the department's examination worksheet by a flow rate (FR) information remark: [Rule 19\(g\)\(3\), W.R.C.E.R](#)

Example: F45 ENTIRE FLOW OF THE SOURCE AS DECREED IN A PRIOR DECREE, CASE NO. **0000**, **MONTANA** COUNTY.

a. Changing Flow Rate. The claimed flow rate will not be changed during examination unless:

- amended by the claimant; [Rule 19\(f\)\(1\), W.R.C.E.R](#)
- modified by rule (clarified) by the department; [Rules 19\(f\)\(3\), \(4\) and 44, W.R.C.E.R](#) Section VII.B.1
- modified by rule (clarified) by the department without claimant contact if the claimed intent is clear or with the claimant contact if the claimed intent is unclear. [Rules 19\(f\)\(2\), 33\(b\)\(7\), and 33\(c\), W.R.C.E.R](#)

When the claimed flow rate is changed so that the review or decree abstract will differ from the claim form or amendment, place an asterisk in the brackets to the left of

the flow rate element on the examination worksheet. Document the changes on the examination worksheet including the appropriate authority below the flow rate element or in the "General Comments" area.

b. Claimant Contact. For system types receiving a flow rate in the Water Court decree, claimant contact may be required. In conjunction with the flow rate examination criteria, the claimant should also be contacted whenever the claimed flow rate is unclear, has apparent discrepancies, appears insufficient, or unreasonable. This contact can have several outcomes: [Rules 19\(d\) and 44, W.R.C.E.R](#) and Section IV.F.

- Information discussed confirms the claimed flow rate. Document the information supporting the claimed flow rate.
- A flow rate different from that claimed is substantiated which the claimant wishes to have replace the claimed data. The claimant should submit an amendment.
- If the issue is unresolved (e.g., pump data are insufficient to confirm the claimed flow rate) or data support an actual flow rate different from the one claimed, add a flow rate (FR) issue remark to the department's examination worksheet.

3. Specific Flow Rate Examination Criteria. Flow rates for domestic claims will be decreed differently depending upon the type of system involved. This section contains guidelines for examining domestic flow rates organized by system and type of right:

- a. [Domestic Claims without Reservoirs](#)
- b. [Domestic Claims with Onstream Reservoirs](#)
- c. [Domestic Claims with Offstream Reservoirs](#)
- d. [Prior Decreed Flow Rates](#)

a. Domestic Claims without Reservoirs. The flow rate for all domestic claims not involving the use of a reservoir will be decreed as claimed. **The guideline for examining these claims is 35 gpm.** (If the means of diversion is a bucket, use 10 gpm as a guideline.) Claimed flow rates of 35 gpm or below will generally be accepted, but may be examined further if there is an apparent error or conflicting data. [Rules 19\(b\)\(1\), W.R.C.E.R](#)

When a claimed flow rate exceeds the 35 gpm guideline, review the claim file for information that may be useful in determining its accuracy. Useful data includes:

- horsepower of pumping unit
- length, diameter, and head of gravity flow pipeline
- well pumping depth (i.e., "head" or vertical lift)
- pump make and model
- test data (well log information)

- flow rate measurements or records

When a claimed flow rate for a pump appears in error, conflicts with pump data in the claim file (such as the pump rate at Means of Diversion), or exceeds the 35 gpm guideline, and there is insufficient information in the claim file to substantiate the claimed flow rate, a Pump Questionnaire (Exhibit VII-3) or Gravity Flow Pipeline Questionnaire (Exhibit VII-5) should be sent to the claimant with a cover letter (Exhibit IV-8). Alternatively, the claimant can be contacted by phone or in a personal interview (see “Examination Materials and Procedures: Claimant Contact Techniques” in Section IV.F).

If claimant contact confirms a flow rate greater than the 35 gpm guideline, indicate the need for a KEEP/CLAIMED flag on the examination worksheet. Document the supporting information in the “General Comments” area on the examination worksheet.

If claimant contact is inconclusive, or the claimed flow rate exceeds 35 gpm, add a flow rate (FR) issue remark to the department’s examination worksheet:

Examples: F205 THE CLAIMED FLOW RATE EXCEEDS THE 35 GPM GUIDELINE FOR THIS PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA.

F210 THE CLAIMED FLOW RATE EXCEEDS THE 35 GPM GUIDELINE FOR THIS PURPOSE. AVAILABLE DATA SUPPORT A FLOW RATE OF **24 GPM**.

F211 THE CLAIMED FLOW RATE APPEARS EXCESSIVE FOR A **BUCKET** MEANS OF DIVERSION.

If the flow rate is confirmed, but **exceeds 105 gpm** (3 times the 35 gpm guideline), add a flow rate (FR) issue remark to the department’s examination worksheet:

Example: F206 THE CLAIMED FLOW RATE EXCEEDS 105 GPM AND APPEARS EXCESSIVE FOR THIS PURPOSE.

b. Domestic Claims with Onstream Reservoirs. When a claim describes an onstream reservoir as its diversion method, a flow rate will not be decreed. Change the claimed flow rate to null (no value) and add an asterisk in the brackets to the left of the flow rate element of the examination worksheet. Standards will add the following flow rate (FR) information remark to the review and decree abstract: [Rules 19\(d\)\(3\)\(i\), W.R.C.E.R](#)

FF007 A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

c. Domestic Claims with Offstream Reservoirs. The flow rate for offstream reservoirs, where control of the reservoir is part of the right, will be decreed as claimed, amended, or modified by rule. **The guideline for examining these claims will**

be the capacity of the diversion and conveyance system. If there is no information regarding the capacity of the diversion and conveyance system, or the system is shared by more than one claimant, the flow rate **guideline of 35 gpm** will be used. [Rules 19\(b\)\(3\)\(ii\), W.R.C.E.R](#)

Because few claims involving offstream reservoirs include information about the capacity of their diversion or delivery systems, send a Reservoir Questionnaire to the claimant when the claimed flow rate exceeds the 35 gpm guideline.

When a claimed flow rate exceeds the capacity of the system, or the 35 gpm flow rate guideline, add a flow rate (FR) issue remark to the department's examination worksheet:

Examples: F135 THE CLAIMED FLOW RATE APPEARS TO EXCEED THE CAPACITY OF THE DIVERSION AND CONVEYANCE FACILITIES.

F145 THE CLAIMED FLOW RATE APPEARS TO EXCEED THE CAPACITY OF THE DIVERSION AND CONVEYANCE SYSTEM. AVAILABLE DATA SUPPORT A FLOW RATE OF **2.50 CFS**.

F205 THE CLAIMED FLOW RATE EXCEEDS THE 35 GPM GUIDELINE FOR THIS PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA.

d. Prior Decreed Flow Rates. Claimed flow rates based on historical district court decrees which **specifically** decreed a domestic use (i.e., not contingent upon another decreed purpose) will be decreed as claimed, amended, or modified by rule.

If the claimed flow rate is greater than the amount historically decreed, add a flow rate (FR) issue remark to the department's examination worksheet:

Example: F90 THE CLAIMED FLOW RATE EXCEEDS THE **5** MINER'S INCHES OF **DOE CREEK** DECREED IN CASE NO. **0000**, **MONTANA** COUNTY.

A prior decreed flow rate will be compared to the guideline for the type of domestic system. For claimed amounts exceeding the guideline, add the appropriate flow rate issue remark (see above) to the department's examination worksheet.

Decree Exceeded: Flow rates based on a historically decreed water right for domestic use will be recorded (see "Irrigation: Flow Rate: Recording Documentation" (Section VII.B.5)). Where a prior decreed right has been exceeded, add a decree exceeded (DE) issue remark to the department's examination worksheet. Occasionally, domestic rights are in multiple use situations with irrigation claims. Anytime the combination of consumptive use rights exceeds the decreed amount, include the multiple use rights in the decreed exceeded remark: [Rule 19\(e\), W.R.C.E.R](#)

Example: D5 THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME PRIOR DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 150 MINER'S INCHES DECREED IN CASE NO. 0000, MONTANA COUNTY. 000000-00, 000000-00, 000000-00.

4. Flow Rate Issues. Note any flow rate issues on the examination worksheet. At the completion of examining the ownership, the claimant should be notified through claimant contact of all issue remarks. [Rule 19\(g\)\(5\), W.R.C.E.R](#)

a. Claimed Flow Rate Appears Inadequate. Claimed flow rates that appear excessively low (e.g., 1 gpm or less) should be reviewed for possible error by the claimant such as unit of measurement. Also review the documentation to substantiate the flow rate. If the flow rate appears inadequate, add the following flow rate (FR) issue remark to the department's examination worksheet:

Example: F185 THE CLAIMED FLOW RATE APPEARS TO BE INADEQUATE FOR THE CLAIMED PURPOSE.

b. No Flow Rate Claimed. If no flow rate was claimed where a flow rate is to be decreed by the Water Court, review the supporting documentation in the claim file. If the flow rate cannot be identified, the flow rate should be null (no value) on the examination worksheet. Indicate a KEEP/CLAIMED flag on the worksheet below the flow rate element. Add a flow rate (FR) issue remark to the department's examination worksheet:

Examples: F172 NO QUANTIFIED FLOW RATE WAS CLAIMED. THE FLOW RATE GUIDELINE FOR THIS PURPOSE IS 35 GPM.

F195 NO FLOW RATE HAS BEEN CLAIMED. THE FLOW RATE GUIDELINE FOR THIS PURPOSE IS 35 GPM.

F190 NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.

c. Claimed Flow Rate not Numerically Quantified. Where a flow rate is to be decreed by the Water Court and the claim states the flow rate as "ALL" or a portion of "ALL" (e.g., "½ of ALL"), apply the following procedure. Use Percent of Flow (POF) as the unit when entering flow rate in the database.

- For historically decreed rights where the flow rate is expressed as a percent of flow (POF), the units should be noted as POF on the examination worksheet. If 'ALL' is claimed, the flow rate will be noted as "100 POF"; if one-half of flow is claimed, the flow rate will be noted as "50 POF." Add a KEEP/CLAIMED flag below the flow rate element on the examination worksheet. Add a flow rate (FR) information remark to the examination worksheet to identify the claimed flow rate:

Examples: F45 ENTIRE FLOW OF THE SOURCE AS DECREED IN A PRIOR DECREE, CASE NO. **0000**, **MONTANA** COUNTY.

F50 THIS RIGHT IS FOR **ONE FOURTH** THE FLOW OF **DOE CREEK** AS DECREED IN A PRIOR DECREE, CASE NO. **0000**, **MONTANA** COUNTY.

- For a single filed or use right where a flow rate is to be decreed, add a flow rate information remark (F56) and a flow rate issue remark (F170 or F172) to the examination worksheet. Check that the flow rate is expressed as POF and a KEEP/CLAIMED flag is noted on the examination worksheet. Add the appropriate flow rate information and issue remarks:

Examples: F56 **ENTIRE/ONE FOURTH THE** FLOW OF **DOE CREEK**.

F172 NO QUANTIFIED FLOW RATE WAS CLAIMED. THE FLOW RATE GUIDELINE FOR THIS PURPOSE IS 35 GPM.

- For multiple filed or use rights based on the same historical water right filed by the same claimant, where a flow rate is to be decreed and a flow rate has not been identified, add the following flow rate (FR) issue remark to the department's examination worksheet for each claim involved. This remark is in lieu of the F170 issue remark referenced above.

Example: F171 THE FLOW RATE HAS NOT BEEN EXAMINED AS NO QUANTIFIED FLOW RATE WAS CLAIMED. THE CLAIMS LISTED FOLLOWING THIS STATEMENT ARE ALL BASED ON THE SAME HISTORIC WATER RIGHT. **000000-00**, **000000-00**.

C. VOLUME

The volume for a domestic claim is the amount of water diverted from the source over the year and is measured in acre-feet (AF). Volumes for claims with lawn and garden (LG) as the purpose should be examined using these domestic use guidelines. To determine the volume guidelines required in this section, first examine the place of use (Section VIII.D) to identify the number of households and irrigated acres.

Claimant contact must occur upon completing examination of the ownership if the volume is modified by rule; an issue remark exists, or is unclear. [Rule s19\(d\) and 44 W.R.C.E.R](#) and Section IV.F.

1. Identifying Volume. Identification of claimed volumes follows the procedures described in "Irrigation: Volume" (Section VII.C.1).

2. Examining Volume. The claimed volume for domestic claims (and claims to lawn and garden use) will be examined according to the claimed means of diversion, information in the claim file, and a general volume guideline of 1.5 acre-feet per household and 2.5 acre-feet per acre of lawn and garden or shelter belt up to a reasonable amount of domestic irrigation (generally 5 acres or less). If a reservoir is associated with a domestic claim, the guideline will be the same as above, plus a reasonable amount for evaporation. See "Evaporation Losses" (Exhibit X-8) for procedures on determining an estimation of evaporation. Information may be gained through claimant contact. [Rules 19\(b\)\(2\), 19\(b\)\(3\)\(iii\), and 44, W.R.C.E.R](#)

Unique Features or Aspects. Any unique features or aspects of the volume may be noted on the department's examination worksheet by a volume (VM) information remark: [Rule 19\(g\)\(3\), W.R.C.E.R](#)

Example: VM CASE NO. 0000, MONTANA COUNTY, DECREES ONE-THIRD INTEREST OF THE DOE LAKE STORAGE RIGHT.

a. Changing Volume. The claimed volume will not be changed during examination unless:

- amended by the claimant; [Rule 19\(f\)\(1\), W.R.C.E.R](#)
- modified by rule by the department [Rules 19\(f\)\(3\),\(4\) W.R.C.E.R](#) Section VII.C.1;
- modified by rule (clarified) by the department without claimant contact if the claimed intent is clear or with claimant contact if the claimed intent is unclear. [Rules 19\(f\)\(2\), 33\(b\)\(7\), and 33\(c\), W.R.C.E.R](#)

When the claimed volume is changed so that the review or decree abstract will differ from the claim form or amendment, place an asterisk in the brackets to the left of the volume element on the examination worksheet. The claimant must be notified of these changes.

b. Claimant Contact. In conjunction with the volume examination criteria, the claimant should also be contacted whenever the claimed volume is unclear, has apparent discrepancies, appears insufficient, or unreasonable. This contact can have several outcomes: [Rules 19\(d\) and 44, W.R.C.E.R](#)

- Information discussed confirms the claimed volume. Document the information supporting the claimed volume.
- A volume different from that claimed is substantiated which the claimant wishes to have replace the claimed data. The claimant should submit an amendment.
- If the issue is unresolved, or data support an actual volume different from the one claimed, add a volume (VM) issue remark to the department's examination worksheet. See Chapter V: Volume.

c. Number of Dwellings. Establishing a volume guideline for examining the claimed volume requires identifying the number of dwellings associated with the domestic claim ([Rule 19 \(c\) W.R.C.E.R.](#)). 'Domestic' purpose is for a single dwelling. 'Multiple Domestic' purpose is for more than one dwelling.

- **Identify the number of dwellings using available data sources.**

If the number of dwellings cannot be determined from available data sources:

- Convert the number of people claimed to households, generally assuming **five people equal one household**. Round odd lots up to the next higher household figure, e.g., 7 people equal two households. If the number of houses described in the claim conflicts with the number of households derived from people, contact the claimant.

Enter the number of dwellings in the blank to the right of "Households" under the volume element on the examination worksheet. The number of dwellings (households) will be stored in the database and will appear on the review and decree abstract.

Due to the small scale of most domestic places of use, aerial photographs are of limited value in substantiating the claimed number of households. Only if there is a wide discrepancy between the claimed number of households and the aerial photograph, or if the photograph shows no evidence of pre-June 30, 1973 domestic use, should the claimant be contacted.

d. Feasibility Check. Claims that will be decreed both a flow rate and a total volume should be checked for feasibility. A feasible volume and a comparison statistic are calculated under the volume element on the examination worksheet. The Feasible Volume shows the maximum volume possible if water were diverted at the claimed flow rate throughout the claimed period of use (year round use equals 366 days).

Compare the Feasible Volume to the claimed volume. When the claimed flow rate (Q) or period of use has been amended, recalculate the maximum feasible volume (V) using the following equations:

- For cfs: Feasible V = Q x days used x 1.9834711
- For gpm: Feasible V = (Q x days used)/226.28542

When the claimed volume exceeds the maximum feasible volume, standards will apply the following volume (VM) issue remarks to the review and decree abstract. If the claimant wishes to resolve the issue remarks, flow rate, volume, and period of use should be discussed with the claimant in order to determine which may be in error.

Examples: V23 THE VOLUME OF THIS WATER RIGHT APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME IS GREATER THAN **3.20** ACRE-FEET PER ACRE PER YEAR.

V24 THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS **3.20** ACRE-FEET PER YEAR.

3. Specific Volume Examination Criteria. Volumes for domestic claims will be decreed differently depending on the type of system involved. This section contains guidelines for examining the domestic volume organized by system and type of right:

- a. [Domestic Claims without Reservoirs](#)
- b. [Domestic Claims with Reservoirs](#)
- c. [Prior Decreed Volume](#)

Claimed volumes below the guidelines are generally accepted, but may be examined further if there is an apparent error or conflicting data.

a. Domestic Claims without Reservoirs. The volume for domestic claims without reservoirs will be decreed as claimed, amended, or modified by rule. The guidelines for reviewing these claims are: [Rule 19\(b\)\(2\), W.R.C.E.R](#)

- **one and one-half acre-feet per household, and**
- **two and one-half acre-feet per acre of domestic irrigation (generally 5 acres or less)**

Review the Comparison Statistic under the volume element on the examination worksheet. This calculates the number of hours per day it takes to deliver the claimed volume. A value greater than 10 hours per day may indicate an issue with the volume, flow rate, or period of use. If the claimed volume, flow rate or period of use is amended or modified by rule, recalculate the 'comparison stat' to confirm the claim is reasonable.

- Comparison Stat = (claimed volume/feasible volume) x 24 hours/day

When a claimed volume exceeds the guideline, the claim file should be reviewed for information supporting the claimed volume. If the claimed volume is not supported by information in the claim file, add a volume (VM) issue remark to the department's examination worksheet:

Example: V85 VOLUME MAY BE EXCESSIVE. BASED ON THE FLOW RATE AND PERIOD OF USE, THE SYSTEM WOULD HAVE TO RUN **24.0** HOURS PER DAY TO DELIVER THE CLAIMED VOLUME. NO INFORMATION EXISTS IN THE CLAIM FILE TO CONFIRM THIS FIGURE.

Seasonal Use. If the claim file indicates the period of use to be other than year round for domestic claims without reservoirs, the volume guideline will be calculated by pro-rating the year round guideline. The total pro-rated value may equal a certain amount for households plus a different amount for lawn and garden.

b. Domestic Claims with Reservoirs. The volume for domestic claims with reservoirs will be decreed as claimed, amended or modified by rule. **The guideline for domestic claims involving reservoirs is one and one-half acre-feet per household and two and one-half acre-feet per acre of lawn and garden or shelterbelt, plus a reasonable amount for evaporation.** The evaporation adjustment to the guideline only applies if the claimant has control of the reservoir as part of the domestic right. Calculate the guideline either on the examination worksheet or on the reservoir questionnaire (Exhibit VI-6). [Rule 19\(b\)\(3\)\(iii\), W.R.C.E.R](#)

On large reservoirs claimed for domestic use, the guideline may be artificially high due to the evaporation variable. This may not be a guideline of beneficial use. On claims where this occurs, base claimant contact on the guideline of one and one-half acre-feet per household and two and one-half acre-feet per acre.

Claimed volume at or below the calculated guideline will generally be accepted, but may be examined further if there is an apparent error or conflicting data.

When a claimed volume exceeds the guideline, the claim file should be reviewed for information supporting the claimed volume. If the claimed volume is not supported by information the claim file, add a volume (VM) issue remark to the department's examination worksheet. See "Domestic: Volume: Volume Issues: Volume Excessive" ([Section VIII.C.4.b](#)).

Reservoir Data. When the claimant has control of the reservoir as part of the domestic right, data will be collected and added according to the procedures in "Claim Examination: Reservoirs and Groundwater Pits" (Section VI.H.).

Seasonal Use. If the claim file indicates the period of use to be other than year round for domestic claims with reservoirs, such as a summer cabin on Flathead Lake, the volume guideline will be calculated by pro-rating the year round guideline. The total pro-rated value may equal a certain amount for households plus a different amount for lawn and garden.

c. Prior Decreed Volume. A volume will be decreed for claims based on a prior historical district court decree **specifically** for domestic use. Add a volume (VM) information remark to the department's examination worksheet:

Example: V10 THIS VOLUME WAS DECREED IN A PRIOR DECREE, CASE NO. **0000**, **MONTANA** COUNTY.

If the claimed volume is greater than the amount historically decreed, add a volume (VM) issue remark to the department's examination worksheet:

Example: V30 THE CLAIMED VOLUME EXCEEDS THE **50** ACRE-FEET DECREED IN A PRIOR DECREE, CASE NO. **0000**, **MONTANA** COUNTY.

A prior decreed volume will be compared to the guideline for the type of domestic system. For claimed amounts exceeding the guideline, add an appropriate volume issue remark to the department's examination worksheet. See [Section VIII.C.4.b.](#) below.

Decree Exceeded: Volumes based on a historical decreed right for domestic use will be recorded. See "Irrigation: Flow Rate: Recording Documentation" (Section VII.B.5). When a prior decreed right is found to be exceeded by the combined volume of claims based on that right, add a free text decree exceeded (DE) issue remark similar to the D5, but modified to refer to volume and acre-feet. Occasionally, domestic rights are in multiple use situations with irrigation claims. Anytime the combination of consumptive use rights exceeds the decreed amount, include the multiple use rights in the decreed exceeded remark:

Example: DEIS THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED VOLUMES EXCEEDS THE **15** ACRE-FEET DECREED IN CASE NO. **0000**, **MONTANA** COUNTY. **000000-00, 000000-00, 000000-00.**

4. Volume Issues. Note any volume issues on the examination worksheet. At the completion of examining the ownership, the claimant should be notified through claimant contact of all issue remarks. [Rule 19\(g\)\(5\), W.R.C.E.R](#)

a. Volume Guideline not Determinable. The calculation of the volume guideline for domestic claims requires the claimed number of households and acres of domestic irrigation be identified. When the number of households or total acres cannot be identified and the claimed volume exceeds 4 AF, add the following volume (VM) issue remark to the department's examination worksheet:

Example: V60 THE CLAIMED VOLUME WAS NOT EXAMINED. THE CLAIMED NUMBER OF HOUSEHOLDS AND ACRES OF DOMESTIC IRRIGATION COULD NOT BE IDENTIFIED.

In some instances, the claimed number of households and total irrigated acres are large, and are not supported by data sources. Base the volume guidelines on the claimed number of households and total acres. Add the following volume (VM) issue remark to the department's examination worksheet:

Example: V65 THE CLAIMED VOLUME MAY BE EXCESSIVE. THE CLAIMED NUMBER OF HOUSEHOLDS AND ACRES OF DOMESTIC IRRIGATION APPEAR TO BE INACCURATE.

b. Volume Excessive. When a claimed volume exceeds the guidelines and is not supported by available data, add the appropriate volume issue remark to the department's examination worksheet. If the volume is amended, check the volume against the "comparison stat" (number of hours per day required to deliver the volume).

Examples: V70 THE CLAIMED VOLUME EXCEEDS THE **2.50** ACRE-FEET GUIDELINE FOR THIS PURPOSE. ITS ACCURACY CANNOT BE CONFIRMED DUE TO LACK OF DATA.

V75 THE CLAIMED VOLUME EXCEEDS THE **2.00** ACRE-FEET GUIDELINE FOR THIS PURPOSE. AVAILABLE DATA SUPPORT A VOLUME OF **1.80** ACRE-FEET.

V77 VOLUME APPEARS TO BE EXCESSIVE FOR A **BUCKET** MEANS OF DIVERSION.

V80 THE CLAIMED VOLUME APPEARS EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EXCEEDS THE GUIDELINE OF **3.00** ACRE-FEET PLUS A REASONABLE AMOUNT FOR EVAPORATION.

V86 THE CLAIMED FLOW RATE OR VOLUME MAY BE INCORRECT. BASED ON THE FLOW RATE AND PERIOD OF USE, THE SYSTEM WOULD HAVE TO RUN **24.0** HOURS PER DAY TO DELIVER THE CLAIMED VOLUME. NO INFORMATION EXISTS IN THE CLAIM FILE TO CONFIRM THESE FIGURES.

V100 THE CLAIMED VOLUME **APPEARS TO/MAY** BE EXCESSIVE FOR THE CLAIMED PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA.

V105 THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. AVAILABLE DATA SUPPORT A VOLUME OF **2.30** ACRE-FEET.

V111 THE CLAIMED VOLUME CANNOT BE CONFIRMED DUE TO LACK OF DATA.

c. Claimed Volume Inadequate. If the claimed volume appears inadequate for the claimed use when compared to available data, add the following volume (VM) issue remark to the department's examination worksheet:

Example: V45 THE CLAIMED VOLUME APPEARS TO BE INADEQUATE FOR THE CLAIMED PURPOSE.

Volumes cannot be raised to the guideline arbitrarily through claimant contact. The guidelines are strictly a tool to trigger the need for further examination. When the claimed volume appears inadequate, the claimant may determine a volume based on a historical pre-1973 use that is reasonable compared to the number of hours per day required to deliver the volume. If amended, the volume should be checked against the "comparison stat" for reasonableness.

d. No Volume Claimed. When no volume has been claimed, add the appropriate volume (VM) issue remark to the department's examination worksheet:

Examples: V90 NO VOLUME HAS BEEN CLAIMED. THE VOLUME GUIDELINE FOR THIS PURPOSE IS **2.00** ACRE-FEET PER YEAR.

V95 NO VOLUME HAS BEEN CLAIMED.

V97 NO QUANTIFIED VOLUME WAS CLAIMED. THE VOLUME GUIDELINE FOR THIS PURPOSE IS **2.50** ACRE-FEET PER YEAR.

Check that the volume element on the examination worksheet is expressed as null (no value).

e. Claimed Volume not Numerically Quantified. When a claimed volume states "ALL" or a portion of "ALL" (e.g. "½ of ALL"), the following procedures apply:

- For prior decreed rights, check that the volume is expressed as null (no value) and a KEEP/CLAIMED flag is designated. Add a volume (VM) information remark to the examination worksheet to identify the claimed volume:

Examples: V11 ENTIRE VOLUME OF THE SOURCE AS DECREED IN A PRIOR DECREE, CASE NO. **0000**, **MONTANA** COUNTY.

V12 THIS RIGHT IS FOR **ONE-FOURTH** THE VOLUME OF **DOE CREEK** AS DECREED IN A PRIOR DECREE, CASE NO. **0000**, **MONTANA** COUNTY.

- For filed and use rights where a volume is to be decreed, add a volume information remark (V13) and a volume issue remark (V97) to the examination worksheet:

Examples: V13 **ENTIRE/ONE-FOURTH THE VOLUME OF DOE CREEK.**

V97 NO QUANTIFIED VOLUME WAS CLAIMED. THE VOLUME
GUIDELINE FOR THIS PURPOSE IS **2.50** ACRE-FEET PER
YEAR.

Check that the volume is expressed as null (no value) and a KEEP/CLAIMED flag is designated on the examination worksheet.

D. PLACE OF USE (POU)
[Rule 18, W.R.C.E.R](#)

The place of use for a domestic claim includes the households, associated facilities, lawns, gardens, shelterbelts, ornamental acreage, non-commercial greenhouses, and orchards where the water was historically used. The described place of use will include the number of households, the legal land description and, if domestic irrigation is included, the number of acres irrigated.

Although the place of use element appears after the volume element on the examination worksheet, the place of use should be examined first. The number of households and irrigated acres claimed must be identified before the volume guideline can be determined.

Claimant contact must occur upon completing examination of the ownership if the place of use is modified by rule; an issue remark exists, or is unclear. [Rule 18\(a\)\(2\) and 44, W.R.C.E.R](#) and Section IV.F.

1. Identifying Place of Use. Most procedures for identifying place of use are described in "Irrigation: Place of Use" (Section VII.D.1). There are also several procedures unique to domestic claims described below.

Due to the small size of most domestic places of use, particular emphasis should be placed on refining claimed legal land descriptions through providing additional legal land descriptions, such as lot, block, and subdivision. See "Claim Examination: Additional Legal Land Descriptions" (Section VI.E.) for procedures. [Rule 18\(d\)\(3\), W.R.C.E.R](#)

2. Examining Place of Use. Examine the claimed place of use by comparing it with a post-priority date aerial photograph. If an aerial photograph is unavailable, use an orthophotoquads or another data source such as USGS maps, USFS maps, Bureau of Land Management maps, [Water Resources Survey](#) data, the [Montana Cadastral Mapping Program](#), county plat books, ownership records, or the claim file. [Rule 18\(a\)\(1\), W.R.C.E.R](#)

Changing the Place of Use. The claimed place of use will not be changed during the examination unless:

- amended by the claimant, [Rule 18\(c\)\(1\), W.R.C.E.R](#) or
- modified by rule to the nearest reasonable and concise legal land description. [Rule 18\(c\)\(2\), W.R.C.E.R](#)

a. Reviewing Legal Land Descriptions. If the claimed place of use is not evident on the aerial photograph, check the [Montana Cadastral Mapping Program](#) to determine whether the claimed legal land descriptions are correct. If incorrect, add a place of use (PL) issue remark to the department's examination worksheet:

Example: PLIS MONTANA COUNTY RECORDS INDICATE THE LEGAL LAND DESCRIPTION FOR THE CLAIMED PLACE OF USE IS SWSWSW SEC 36 TWP 99N RGE 99W MONTANA COUNTY.

P306 THE PLACE OF USE LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.

If evidence of domestic use cannot be found on the aerial photographs after a legal description is corrected, see “Examining Domestic Irrigation” (Section VIII.D.2.b.) directly below.

b. Examining Domestic Irrigation. Examination procedures for domestic irrigation will track closely with those used for typical irrigation (IR) claims (non-domestic). The claimant’s map and at least one post-priority date data source, when available, will be used to examine the acreage claimed ([Rule 18 \(b\), W.R.C.E.R.](#)). **Only one post-priority date data source is needed** (e.g., an aerial photograph or an orthophotoquad). The examination procedures for claims describing domestic irrigation will vary according to the total acreage claimed.

Claimed Acres 2.5 or Less. Acreage totals of 2.5 acres or less are presumed to be valid. The claimant should only be contacted if the aerial photograph or other data source (e.g., county plat) clearly contradicts the claim. Aerial photographs are generally not effective tools for reviewing small acreage. Note on the examination worksheet that the POU was not examined due to size.

Claimed Acres 2.51 to 5.0. Compare claims of 2.51 to 5.0 acres with an aerial photograph for evidence of domestic irrigation and to confirm that the claimed acreage appears correct. Contact the claimant if the aerial photograph contradicts the claimed acreage.

Claimed Acres Exceed 5.0. Domestic irrigation of more than 5 acres is rare. **Unless the aerial photograph clearly supports claimed domestic acreage greater than 5.0 (example, condominiums with extensive lawns), the claimant will be contacted** to determine if the claimed acreage is entirely for domestic irrigation. [Rules 18 \(b\)\(1\) and 55, W.R.C.E.R.](#) and Section IV.F.

Compare the claimed domestic acreage to the aerial photograph to determine if the claimed acreage is actually irrigated. If the irrigated acreage identified on the aerial photograph differs from the claimed acreage by more than the claimant contact point range, the claimant will be contacted. [Rules 18 \(b\)\(2\) and 44, W.R.C.E.R.](#) If claimant contact is not conclusive, add the appropriate issue remark by following the procedures outlined in "Irrigation: Place of Use: Specific POU Acreage Guidelines" (Section VII.D.3). [Rule 18 \(d\)\(6\), W.R.C.E.R.](#)

3. Non-domestic Irrigation. Examine the claim for the existence of domestic irrigation, as defined on the “Standard Purpose List” (Figure VI-1) under Lawn and Garden (LG) and Multiple Domestic (MD). Irrigated acres that do not meet those

guidelines will not be considered domestic irrigation. The aerial photograph or claimant contact may indicate that some or all of the claimed acreage is irrigated for non-domestic purposes.

When non-domestic irrigation is identified, all irrigation claims filed by the claimant should be reviewed to determine if they overlap the place of use described on the domestic claim.

- If a domestic irrigation claim overlaps the POU of an irrigation claim filed by the same owner, add a place of use (PL) issue remark to both claims. (Claimant contact may result in an amendment to eliminate the overlapping places of use, or the overlap may be justified.) [Rules 18 \(a\)\(2\)\(iv\) and 44, W.R.C.E.R.](#)

Example: P320 THE PLACES OF USE FOR **IRRIGATION** CLAIM NO. **000000-00** AND **DOMESTIC** CLAIM NO. **000000-00** OVERLAP.

- When no irrigation claim is found describing the POU of a claim for apparent non-domestic irrigation, add a place of use (PL) remark to the department's examination worksheet:

Examples: P325 THE CLAIMED PLACE OF USE DOES NOT APPEAR TO BE USED FOR DOMESTIC IRRIGATION PURPOSES.

P330 ONLY **TWO** ACRES OF THE CLAIMED PLACE OF USE APPEAR IRRIGATED FOR DOMESTIC PURPOSES.

If it is confirmed that the claimed POU is irrigated for other than domestic purposes, an implied irrigation claim may exist. See "Special Provisions: Implied Claims" (Section XI.B). Claimant contact may result in an amendment to clarify the domestic claim to reflect domestic use only. [Rules 18\(a\)\(2\)\(iii\) and 44, W.R.C.E.R.](#)

4. Mapping Place of Use. It is only necessary to map domestic places of use greater than five acres (the point of diversion should be mapped in WRMapper). In some cases, e.g. subdivisions, it may be helpful to map all POUs. When mapping domestic POUs, follow the procedures outlined in "Irrigation: Place of Use: Mapping Place of Use and Data Source Results" (Section VII.D.2.d.). These results should be produced in a PDF report created from WRMapper. The reports **MUST** be named according to "Exporting and Naming Reports" (Figure VII-1). For more information on WRMapper, see 'Mapper Protocols' on the Adjudication Shared Drive.

Overlapping Ownership. Ownership issues may be identified using the AllCad layer in WRMapper. If an ownership issue is identified, refer to "Irrigation: Place of Use: Place of Use Issues" (Section VII.D.4) or "Claim Examination: Owner Name and Address: New Owner Determined but File Lacks Ownership Update" (Section VI.B.3). This analysis includes examining claims for the possibility that they may overlap with federal or state ownership of the place of use. See Section VII. D.4.

Supplemental Rights. No review or identification of supplemental relationships will be made for domestic claims.

5. Geocodes. Geocodes were initially assigned to water rights as either a one-to-one match or a one-to-many match based on the legal land description. At times, the legal land description associated with a water right was described very broadly, encompassing several parcels that may not have been within the true place of use. As a result, geocodes must be verified as belonging to the claimed place of use. Any geocodes assigned initially to the water right are listed below the place of use element on the examination worksheet.

Determine valid geocodes by using the AllCad layer in WRMapper or the [Montana Cadastral Mapping Program](#) information. Indicate a valid geocode with a 'Y' on the examination worksheet. (See also, Assigning Geocodes Memo. Exhibit VI-18)

Once a place of use has validated geocodes, cross off any geocodes not associated with the place of use on the examination worksheet. In the database, these records will be deleted from the Geocode tab under the Create and Maintain Water Rights screen.

Geocode issues. Every effort should be made to validate geocodes.

- If a geocode cannot be conclusively determined as belonging partially or wholly within the place of use, the geocode should have a 'N' designation (not validated). If an ownership update occurs involving any geocode with a designation of an 'N', the water right will require further research before the ownership update can occur.
- If a geocode is designated as valid ('Y') and it is found to be in error, change the 'Y' to an 'N' on the examination worksheet and document the resources and/or research in making the determination. In the database, in order to remove an incorrectly validated geocode, first change the 'Y' to an 'N' and then save. The record can then be deleted.
- If a legal land description is found to be in error, review the geocodes. If any changes are made to the legal land description (i.e., a correction to the township, range or section occurs based on the claimant's map, for example), it may be determined that a geocode may need to be deleted or added.
- If the place of use is amended, review the geocodes. It may be determined that a valid geocode needs to be deleted, or a geocode not initially associated with the water right needs to be added.
- Water rights which have been reserved (exempted) from the land, such as those belonging to homeowner's associations, municipalities, and certain other entities that provide service but do not own the place of use, just the

water right, will not have any associated geocodes. If a geocode is assigned, delete it from the Geocode tab in the database.

