

## House Bill 110 – Exempt Claim Filing Statute

### Frequently Asked Questions

1. What is an exempt water right?
  - a. An exempt right is a water right in existence before 1973, exempted by statute from the two previous mandatory claim filing period. These rights include existing rights for livestock and individual, as opposed to municipal, domestic uses bases upon instream and groundwater sources. This subset does NOT include rights for irrigation or stockwater rights not falling within the preceding definition.
2. Why do I want to file my exempt water right? What do I gain?
  - a. By filing your exempt water right, you are able to enforce the right against all other timely filed water rights in the state, including groundwater certificates and DNRC water use permits. In addition, if your exempt water right is filed and recorded with DNRC, you are entitled to receive notice of various water right proceedings in your basin.
3. What happens if I don't file my exempt water right?
  - a. Your water right will NOT be enforceable against other water rights.
4. How much is the exempt claim filing fee?
  - a. \$130.00 for each claim.
5. When is the exempt right claim filing period? When does it start and when does it end?
  - a. The exempt right claim filing period begins on May 7, 2017 and ends on June 30<sup>th</sup> 2019.
  - b. **Claims have to be or postmarked on or before June 30<sup>th</sup> 2019.**
6. Where can I get exempt water right claim forms?
  - a. Claim forms are available at any DNRC Regional Office, the Montana Water Court, and online at:  
<http://dnrc.mt.gov/divisions/water/water-rights/water-right-forms>
7. Is there any other documentation of information I should provide when filing my statement of claim?
  - a. A clear map showing place of use and points of diversion.
  - b. Historical filings from the courthouse, such as Notice of Appropriation and Decrees where applicable.

8. What is the current status of exempt rights that were timely filed during previous claim filing period?
  - a. Some water users already filed claims for their exempt rights. If an exempt right was timely filed before April 30, 1982, or during the late claim filing period (1993-July 1, 1996) there is no need to re-file that right.
  - b. If an exempt right was filed in the adjudication process, the water right was made part of the decree for that basin. If the exempt water right was not filed as a statement of claim in the adjudication, the water right is NO part of the decree of the basin.
  
9. Will my exempt water right statement of claim be handled in the same way as previously filed statement of claim, previously exempt or not?
  - a. Yes. In the interest of preserving equal treatment and due process for all water uses in Montana, your exempt water right claim filing will be examined and adjudicated the same as any other timely filed existing water right in the Statewide Adjudication.
  
10. If I filed an exempt right during the late claim filing period ending on July 1, 1996, can I still file a claim during this claim filing period?
  - a. There is no reason to file an exempt claim during this claim filing period if you filed on that water right during the 1993- July 1, 1996 late claim filing period (1993-July 1, 1996) retained their claimed priority date.
  
11. If I filed a form 627 exempt right notice with the DNRC, can I still file a claim during this claim filing period?
  - a. Yes. By filing a statement of claim during the exempt claim filing period, you are establishing a timely filed water right claim that entitles you to all the rights held any water users who filed their claims during the original claim filing period ending on April 30, 1982. The 627 forms were voluntary filings for the DNRC and its public notice efforts. A 627 form is NOT considered a valid claim.
  
12. If I or predecessors in interest, filed a groundwater right in compliance with the 1962 Groundwater Code, but did not file a statement of claim for the right in the statewide adjudication, do I need file an exempt claim at this time?
  - a. No. However failure to do so could result in subordination of your right to all timely filed rights, groundwater certificates, and permits.

13. Do I need to provide evidence to support my exempt water right claim?
  - a. The requirements for exempt claim filing are exactly the same as they were for timely filed claims in 1982 and late claims in 1996. You do need to provide evidence to support your claim. Contact your regional DNRC office for more information on evidentiary requirements for your individual exempt rights, as they can vary greatly by type of right.
  
14. What else is expected of me when I file my exempt claim?
  - a. You will also need to work with the DNRC claim examiners to resolve any factual issues they find with your claim. This may create an additional time commitment on your part. Further, you may receive objections to your exempt claim filing when it is publicly noticed. You will need to be prepared to address and resolve any objections that are filed before the Water Court will issue a final decree for your exempt water right.
  
15. Do I forfeit my exempt right if I do file a claim?
  - a. No. Your right to use water will remain valid provided it is based on historic beneficial use. However, fail to do so will result in subordination to all timely-filed rights, ground water certificates and permits.