

# HOW TO FILL OUT YOUR STATEMENT OF CLAIM FOR EXISTING WATER RIGHTS

## BACKGROUND

In 1979, the Montana Legislature passed Senate Bill 76, a law authorizing a process to adjudicate claims of existing water rights. “Existing water rights” originated before July 1, 1973, and were generally established by putting water to beneficial use. As used here, a water right is:

1. a specific quantity of water;
2. taken from a single water source;
3. first used or appropriated on a specific date (commonly referred to as a priority date).

Water users were not required to file claims on some pre-1973 uses, but could file them voluntarily. These “exempt” water uses are stockwater and domestic (household and lawn and garden) uses of:

1. groundwater (wells or developed springs), and;
2. instream flow (direct use from a stream without using a ditch, pipe, dam, bucket, pump or other diversion method).

All pre-1973 stockwater uses from surface water diversions, such as reservoirs and ditches, had to be claimed during the original filing period, which is now expired. Such uses of stockwater from surface water diversions can no longer be filed on with a Statement of Claim. They must now be filed

on using an Application for Beneficial Water Use Permit (form 600), or other application process.

Please note: Stockwater use from a small reservoir collecting surface water may be able to be filed on using an Application for Provisional Permit for Completed Stockwater Pit or Reservoir (form 605) ***however, specific criteria must be met in order to do so.*** Contact your nearest Department of Natural Resource and Conservation (DNRC) field office for more information. The field offices are listed on the last page of this document.

In 2013, the Montana Legislature passed Senate Bill 355, a law allowing for the filing of exempt existing water right claims. In 2017, House Bill 110 was passed which reformed SB 355 and set a state-wide filing deadline of June 30, 2019. Under this law, water users who previously did not file exempt existing water right claims may choose to do so now. The option to file is voluntary. However, failure to file a claim for an existing exempt right subordinates the existing right to all other water rights except those exempt rights for which a claim has not been filed. In other words, exempt claims not filed with the DNRC will be considered junior in priority to all other water rights recorded in DNRC’s database.

## SPECIAL NOTE ABOUT GROUNDWATER USE

Groundwater Codes passed into law in 1961 required that all groundwater uses beginning after January 1, 1962, be recorded in the County Clerk and Recorder's office on a "Notice of Completion" form. If your groundwater use began between January 1, 1962, and July 1, 1973, and no Notice of Completion was recorded in that time period, follow these instructions:

1. obtain a Notice of Completion of Ground Water Development (form 602) from any DNRC field office;
2. complete the form and return it, along with a filing fee of \$125, to the DNRC field office nearest you.

If the groundwater use has a flow rate of 35 gallons per minute or less and appropriates less than 10 acre-feet of water per year, the form will be processed and a "Certificate of Water Right" will be issued by the Department. The priority date assigned to the water right will be the date DNRC receives the completed Form 602.

*Please Note: A HB 110 claim can still be filed however its priority date will be the date DNRC receives the completed Statement of Claim form.*

If the flow rate is over 35 gallons per minute or the use appropriates more than 10 acre-feet of water per year, an Application for Beneficial Water Use Permit (form 600) must be submitted instead. Contact the DNRC field office nearest you for additional information concerning the filing process.



## DOCUMENTING AND FILING YOUR WATER RIGHT CLAIM

Claims must be made on the appropriate Statement of Claim form. The forms are available at any of the DNRC field offices listed on the back of this document. The forms are also available online at <http://dnrc.mt.gov/divisions/water/adjudication/sb-355-exempt-claim-filing>.

The forms are:

**STOCKWATER FORM** – for water uses for livestock. In addition to cattle, these include poultry, sheep, goats and hogs as well as other livestock.

**DOMESTIC FORM** – for water uses for individual household purposes such as cooking, washing and laundry. Domestic water uses also include the irrigation of a household lawn, garden and windbreak.

*Each water right must be claimed on a form that describes the water use. If water is used for more than one purpose (i.e. stock and domestic), a separate claim must be filed for each use.*

Each completed water right claim should consist of:

1. a complete signed claim form;
2. a properly labeled map;
3. documentation supporting your claim;
4. the filing fee.

As a suggestion, gather all the information you can about your water right before filling out the claim form. This would include any documentation as well as a map. It may be helpful to complete the map before you fill out the claim form. Suggestions for properly completing a map and helpful section breakdown illustration can be found on page 10 of this document.

A water conversion table, land description guide and list of water measurement data are also on pages 10 through 12 of this document. Remember, these are only guides; individual on-site measurement of flows and volumes is the most accurate method of determining water use.

- no filing fee is required for claims to water rights contained in an old district court water decree.

## HOW TO FILL OUT YOUR CLAIM FORM

Completed claims must be submitted to the DNRC or postmarked by June 30, 2019.

After selecting the proper claim form, follow the appropriate step-by-step instructions.

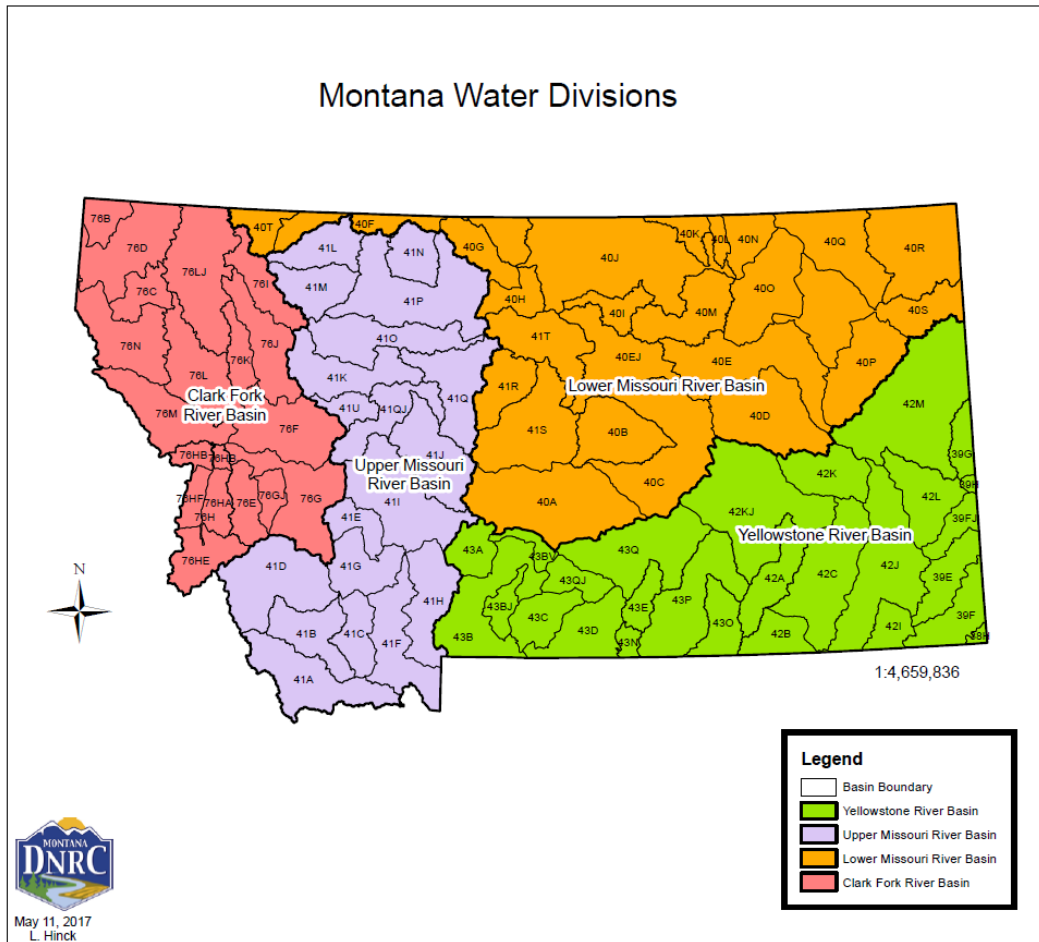
## CLAIM FILING FEES

The claim form is a legal document. *Each form must be filled out completely. Leave no question unanswered.*

A filing fee of \$130 is required for each water right claim, with these EXCEPTIONS:

When the claim is complete, it must be signed by *all water right owners*. Claim forms should be completed in ink.

- the total fee shall not exceed \$1,560.00 per landowner per water division (water divisions shown below).



# STOCKWATER FORM INSTRUCTIONS

## 1. OWNER AND CO-OWNER

The actual owner of the water right should be printed here. If there is more than one owner, list only one name per line. For more than two names, use the Addendum to Statement of Claim for Existing Water Rights sheet or list the additional owners and their addresses on the attached sheet of paper. The Addendum can be obtained from any DNRC field office or online. A permanent mailing address for receiving correspondence must be supplied for each owner and co-owner.

## 2. PERSON COMPLETING FORM

Fill in your name and mailing address here.

## 3. SOURCE OF WATER

Check only one source and print its name. If a source has more than one name, enclose the additional names in parenthesis. If no name exists, print “unnamed”. After naming the stream from which you use water, you are asked to name the body of water to which the stream is a tributary. In other words, name the first down-stream body of water which receives the water from your source. EXAMPLE: The Yellowstone River is a tributary of the Missouri River because the Yellowstone River flows into the Missouri River.

Check the appropriate Source Type: Groundwater or Surface Water. Stock drinking directly from an undeveloped spring, stream or natural lake is surface water. Stock drinking from a well or developed spring is groundwater.

## 4. POINT OF DIVERSION

“Point of diversion” refers to that point where the water is taken from the source for use. If you water stock from a well or developed spring, the point of diversion is the location of the well or spring.

In cases where the stock drink directly from a stream, the point of diversion is the location of the entire length of the stream where the stock drink. Print the name of the county in which the diversion is made. Identify the point of diversion to a 10-acre legal land description within the section, if possible. Page 10 of this document illustrates a section break-down that may be helpful. If the land has been subdivided, give the name of the lot, block and subdivision in addition to the section quarters, section, township and range. If your point of diversion is in a government lot, identify the government lot number, quarter section, section, township and range.

List only one point of diversion on each claim form. Describe additional points of diversion from the same water source on the Addendum to Statement of Claim for Existing Water Rights sheet.

## 5. MEANS OF DIVERSION

“Means of diversion” is how water is removed from the source.

- Pump
- Gravity Flow – gravity flow means flow under natural pressure, such as water collection and conveyance from a spring box.
- Direct – direct diversion means that livestock drink directly from the water source.
- Other – any other means of diversion that may be used, such as a pipeline or vertically culvert. Specify the means of diversion in the space provided.

**6. TOTAL NUMBER OF LIVESTOCK SERVED**

Indicate the historic (pre-July 1, 1973) types and number of livestock in the proper spaces. Females and their offspring should be counted as one animal unit. Count weaned animals individually.

**7. PLACE OF USE**

The “place of use” is where the stock drink the water. This could be the location of a stock tank or groundwater pit.

In cases where livestock drink directly from a stream, river, natural lake or undeveloped spring, the place of use would be identical to the point of diversion, i.e. the entire length of the stream, river, natural lake or spring where the water is accessible to livestock.

If additional spaces are needed to describe your place of use, list the additional land descriptions on the Addendum to Statement of Claim for Existing Water Rights sheet.

**8. FLOW RATE CLAIMED**

This is the rate at which water is removed from the source for use. Water flow measurements can be expressed in three ways: gallons per minute (GPM), cubic feet per second (CFS) and Montana miners inches (MI). You may wish to claim the flow rate given on your original water appropriation or decree. However, since actual measurement was rarely made by the original appropriators, these figures are sometimes inaccurate. If you are claiming a groundwater pit, the flow rate is the maximum rate groundwater flows into the pit.

**9. VOLUME CLAIMED**

“Volume” is the total amount of water, in acre-feet, diverted each year to satisfy stock needs. Pages 11 and 12 of this document contain some recommendations that may be helpful when determining volumes for stock needs.

**10. PERIOD OF USE**

This is the period of time each year the water is used. Indicate the earliest month and day and the latest month and day the water has historically been used by livestock during any year. For example, if the water is needed during the entire year, check “year round use.”

**11. PERIOD OF DIVERSION**

This is the period of time each year the water is diverted from the source. Indicate the earliest month and day and the latest month and day the water has historically (prior to July 1, 1973) been diverted for livestock use during any year.

**12. CHECK ONE: TYPE OF HISTORICAL RIGHT AND PRIOTIRY DATE (DATE OF FIRST USE)**

Mark the box in front of the type of water right claimed. The types of water rights are:

**DECREED OR ADJUDICATED RIGHTS** – water rights that were decreed by a court prior to July 1, 1973. These rights are on file at the County Clerk of Court’s office.

**FILED APPROPRIATION RIGHTS** – water rights recorded on a “Notice of Appropriation” filed in the County Clerk and Recorder’s office. This filing may have been done by any landowner.

**USE RIGHTS** – water rights developed by use; no record of the water right was ever made in the county courthouse.

A use right to surface water could have legally been established before July 1, 1973 on un-adjudicated streams. A use right to *groundwater* could have legally been established before January 1, 1962. If a well or spring was developed after January 1, 1962, and was not recorded in the county

courthouse, please refer to the SPECIAL NOTE ABOUT GROUNDWATER USE on the second page of this document.

For a decreed right, the priority date as found by the court should be entered in the priority date space. The priority date of some Notice of Appropriations is the date of “posting notice”, if it appears on the filing. Most Notices of Appropriation actually support a use right with a date of first use earlier than the date the filing was made in the county courthouse. The priority date for all use rights is the earliest date of use that can be supported by the proof-of-use attachments.

### **13. ATTACH COPIES OF THE DECREE, RECORD OF FILING OR PROOF OF USE RIGHT**

Documentation of the water right should be provided following these guidelines:

**DECREED RIGHT** – attach a copy of the portion of the decree describing the right. The copy can be obtained from the County Clerk of Court’s office in the county of decree.

**FILED APPROPRIATION RIGHT** – attach a copy of the record of filing made in the County Clerk and Recorder’s office. In most cases, filed rights are recorded under the name of the original appropriator in the county where the water right is diverted. A deed or abstract may refer to the book and page number of the county record where the filing is found.

**USE RIGHT** – even though unrecorded, use water rights are valid if you can substantiate the date when the use began and the amount of water used. Proof-of-use documents may include water measurement records, a notarized statement of someone who knows when the use began (affidavit) or other

attachments establishing a date and amount of first water use. *It is advisable to attach any supporting evidence that can possibly be found.*

### **14. ATTACH A CLEAR AND CONCISE MAP**

A map must be attached with each claim form you file. Any map is acceptable as long as it is legible, accurate, and to scale. Possible maps are aerial photographs, Water Resource Survey maps, U.S. Geological Survey maps, or Soil Conservation plan maps.

The map must show and clearly label the following:

- point of diversion. Briefly describes the means of diversion (e.g. well). This should include the entire area stock can drink, if stock drink directly from the source.
- means of water conveyance (e.g. pipeline).
- place of storage, if any (e.g. tank).
- place of water use (where stock drink).
- any other items that can be labeled which would further describe or identify the water right.
- indicate clearly the sections, township and range associated with the areas of your map.
- print the owner’s name and address.

An example of a well-labeled map attachment is illustrated on page 10 in this document.

### **15. OWNER SIGNATURE(S)**

To complete the claim form, it must be signed by all owners listed on the form.

# DOMESTIC FORM INSTRUCTIONS

## 1. OWNER AND CO-OWNER

The actual owner of the water right should be printed here. If there is more than one owner, list only one name per line. For more than two names, use the Addendum to Statement of Claim for Existing Water Rights sheet or list the additional owners and their addresses on the attached sheet of paper. The Addendum can be obtained from any DNRC field office or online. A permanent mailing address for receiving correspondence must be supplied for each owner and co-owner.

## 2. PERSON COMPLETING FORM

Fill in the name and mailing address of the person completing the form here.

## 3. SOURCE OF WATER

Check only one source and print its name. If a source has more than one name, enclose the additional names in parenthesis. If no name exists, print "unnamed". After naming the stream from which you use water, you are asked to name the body of water to which the stream is a tributary. In other words, name the first down-stream body of water which receives the water from your source. EXAMPLE: The Yellowstone River is a tributary of the Missouri River because the Yellowstone River flows into the Missouri River.

Check the appropriate Source Type: Groundwater or Surface Water.

## 4. POINT OF DIVERSION

"Point of diversion" refers to that point where the water is taken from its natural source for your use. The point of diversion is the actual location of the well, pump, spring box, or any diversion-means used to withdraw the water. Print the name of the county in which the diversion is made. Locate the point of diversion to a 10-acre area within the section,

if possible. Page 10 of this document illustrates a section break-down that may be helpful. If the land has been subdivided, give the name of the lot, block and subdivision in addition to the section quarters, section, township and range. If your point of diversion is in a government lot, give the government lot number, quarter section, section, township and range.

## 5. MEANS OF DIVERSION

The "means of diversion" is how water is taken from the natural source. Select the type of diversion used and mark the appropriate box.

## 6. PLACE OF USE AND ACRES IRRIGATED

The "place of use" for domestic water claims is generally the location of the home, lawn and garden. It can also include the location of a shelterbelt. Indicate the appropriate acreage of the lawn, garden, and/or shelterbelt. If you don't water a lawn or garden, print "0" acres and describe the location of the house. If you live in a subdivision and have your own individual water supply, complete the blanks describing lot, block and subdivision.

If multiple homes are hooked up to the same development, file separate Statements of Claim (one for each household).

## 7. NUMBER OF PERSONS SERVED

Claim the maximum number of person ever to live in the house on a regular basis.

## 8. FLOW RATE CLAIMED

This is the rate at which water is removed from the source for use. Water flow measurements can be expressed in three ways: gallons per minute (GPM), cubic feet per second (CFS) and Montana miners inches (MI). Actual flow measurement is always

best. See how to measure a flow rate on page 11. However, most domestic wells discharge between 5 and 30 gallons per minute. The water equivalents table on the last page of this document may be helpful.

### **9. VOLUME CLAIMED**

“Volume” is the total amount of water, in acre-feet, consumed in a year. A common standard of use for domestic purposes is listed on the last page of this document. Any recommendation standard of use should be adjusted depending on your individual situation.

### **10. PERIOD OF USE**

This is the period of time each year the water is used. Indicate the earliest month and day and the latest month and day the water has historically been used for domestic use during any year. For example, if the water is needed during the entire year, check “year round use.”

### **11. PERIOD OF DIVERSION**

This is the period of time each year the water is diverted from the source. Indicate the earliest month and day and the latest month and day the water has historically been diverted for domestic use during any year.

### **12. CHECK ONE: TYPE OF HISTORICAL RIGHT & PRIOTIRY DATE (DATE OF FIRST USE)**

Mark the box in front of the type of water right claimed. The types of water rights are:

**DECREED OR ADJUDICATED RIGHTS** – water rights that have been reviewed and recognized by a court proceedings. These rights are on file at the County Clerk of Court’s office.

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Recorder’s office. This filing may have been done by any landowner.

**USE RIGHTS** – water rights developed by use; no record of the water right was ever made in the county courthouse.

A use right to surface water could have legally been established anytime before July 1, 1973 on un-adjudicated streams. A use right to groundwater could have legally been established before January 1, 1962. If a well or spring was developed after January 1, 1962, and was not recorded in the county courthouse, please refer to the SPECIAL NOTE ABOUT GROUNDWATER USE on the second page of this document.

For a decreed right, the priority date as found by the court should be entered in the priority date space. The priority date of some Notice of Appropriation is the date of “posting notice”, if it appears on the filing. Most Notices of Appropriation actually support a use right with a date of first use much earlier than the date the filing was made in the county courthouse. The priority date for all use rights is the earliest date of use that can be supported by the proof-of-use attachments.

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name of the original appropriator in the county where the water right is diverted. A deed or abstract may refer to the book and page number of the county record where the filing is found.

**USE RIGHT** – even though unrecorded, use water rights are valid if you can substantiate the date when the use began and the amount of water used. Proof-of-use documents may include water measurement records, a notarized statement of someone who knows when the use began (affidavit) or any similar attachment establishing a date and amount of first water use. *It is advisable to attach any supporting evidence that can possibly be found.*

#### **14. ATTACH A CLEAR AND CONCISE MAP**

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The map must show and clearly label the following:

- point of diversion. Briefly describes the means of diversion (i.e. well). This should be the location of the well, developed spring or bucket that is used to pull water from the source.
- means of water conveyance (i.e. pipeline).
- place of storage, if any (i.e. tank).
- place of water use (house, lawn, garden, and/or shelterbelt).
- any other items that can be labeled which would further describe or identify the water right.
- indicate clearly the sections, township and range associated with the areas of your map.
- print the owner's name and address.

An example of a well labeled map attachment is illustrated on page 10 in this document.

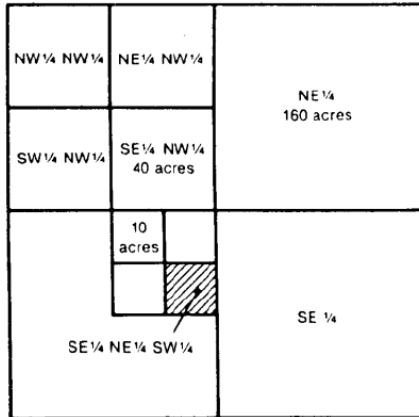
#### **15. OWNER SIGNATURE(S)**

To complete the claim form, it must be signed by all owners listed on the form.



Judith River

## LEGAL LAND DESCRIPTION



To describe any point in a section, the section is first divided into quarters of 160 acres. A quarter is described as being either the northeast (NE), northwest (NW), southeast (SE), or southwest (SW) quarter of the section. For a more precise location, the quarters can be divided in a like manner to 40-acre quarters. To further describe a location, the 40-acre quarters can be similarly divided to 10-acre quarters.

The legal description of a parcel of land, when written, always begins with the *smallest* division and then proceeds to the *largest* division. For example, the smallest parcel shown in the illustration of Section 1 in Township 3N, Range 6, would be legally described as:

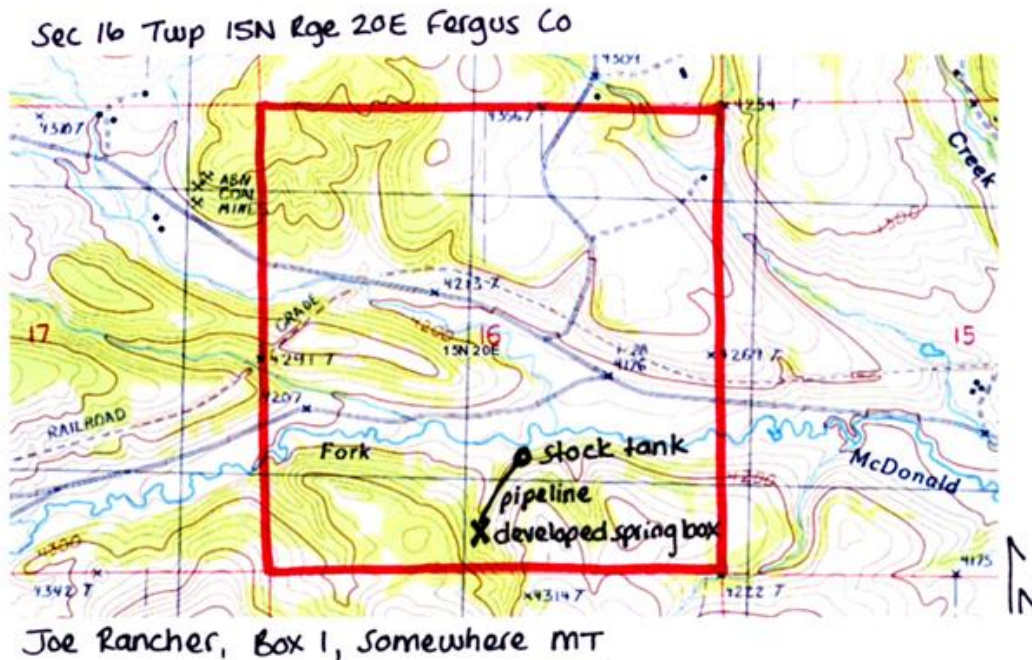
"The SE 1/4 NE 1/4 SW 1/4, Section 1, Township 3N, Range 6W".

EXAMPLE: Section 1, Township 3 North, Range 6 West

Standard Section	= 640 acres
1/4 section	= 160 acres
1/4 of 1/4 section	= 40 acres
1/4 of 1/4 of 1/4 section	= 10 acres

If you want to describe a location that covers a large area, such as a stream or lake, the section may be divided in half and described as either N 1/2, S 1/2, W 1/2, or E 1/2 of the section. A larger location may simply be described by the section number.

## ATTACH A CLEAR AND CONCISE MAP



## **HELPFUL WATER MEASUREMENT TIPS**

### **FLOW RATE**

Flow rate can be expressed in cubic feet per second (CFS), gallons per minute (GPM) and miners inches (MI).

1 CFS = 448.8 GPM

1 CFS = 40 MI

1 CFS = 646,272 gallons per day, or roughly 2 acre-feet per day.

Flow Rate Estimation: Time how many seconds it takes to fill a 5-gallon bucket. After determining the number of seconds it takes to fill the bucket, use the following formula to estimate your flow rate:

$$300 \div \text{number of seconds} = \text{flow rate in GPM}$$

### **STOCKWATER**

For stockwater requirements, most small wells discharge between 5 and 30 gallons per minute, which is usually sufficient for most stock needs.

### **DOMESTIC**

A domestic well will typically discharge between 5 and 30 gallons per minute.

### **VOLUME**

#### **STOCKWATER**

For range cattle and horses, the annual water requirement from wells, springs, and streams can be determined from these formulas:

#### **WELLS or SPRINGS**

$$\text{Number of head} \times \text{months served} \times 0.0014 = \text{acre-feet}$$

#### **STREAMS**

$$\text{Number of head} \times \text{months served} \times 0.0028 = \text{acre-feet}$$

Either formula may be used for milk cows, hogs, or sheep with one additional step:

Milk Cows – multiply by 2

Hogs – divide by 3

Sheep – divide by 5

## AVERAGE LIVESTOCK WATER REQUIREMENTS

Some average water requirements for use through the year are listed below. Actual daily requirements depend on air temperature, type of feed, activity, etc.

- 30 gallons per day each horse,  
dry cow, steer, and milk cow
- 5 gallons per day each hog
- 3 gallons per day each sheep

## DOMESTIC VOLUME REQUIREMENTS

The yearly volume of water you use for domestic purposes can best be estimated using the following standard:

Family of Five:	1.5 acre-foot/year
¼ Acre Lawn & Garden:	0.63 acre-foot/year
Total Volume Used:	2.13 acre-foot/year

## WATER EQUIVALENTS TABLE

1 cubic foot .....	7.48 gallons.....	62.4 lbs of water
1 acre-foot .....	43,560 cubic feet.....	325,851 gallons
An acre-foot covers one acre of land (43,560 sq.ft) one foot deep.		
1 cubic foot per second (cfs) .....	448.8 gallons per minute	
1 cfs .....	40 Montana statutory miner's inches	
1 cfs .....	646,316 gallons per day	
For 24 hours .....	1.983 acre-feet	
For 30 days .....	59.5 acre-feet	
For 1 year .....	724 acre-feet	
1 million gallons .....	3.07 acre-feet	
1 million gallons per day (mgd) .....	1, 122 acre-feet per year	
1,000 gallons per minute (gpm) .....	2.23 cfs	
1,000 gpm .....	4.42 acre-feet per day	

## DNRC WATER RESOURCES FIELD OFFICES AND COUNTIES SERVED

### BILLINGS

Airport Business Park  
1371 Rimtop Drive  
Billings, MT 59105-1978  
**Phone: (406) 247-4415**

Big Horn	Prairie
Carbon	Rosebud
Carter	Stillwater
Custer	Sweet Grass
Fallon	Treasure
Powder River	Yellowstone

### BOZEMAN

2273 Boot Hill Court, Suite 110  
Bozeman, MT 59715  
**Phone: (406) 586-3136**

Gallatin  
Madison  
Park

### GLASGOW

222 Sixth Street South  
PO Box 1269  
Glasgow, MT 59230-1269  
**Phone: (406) 228-2561**

Daniels	Richland
Dawson	Roosevelt
Garfield	Sheridan
McCone	Valley
Phillips	Wibaux

### HAVRE

210 Sixth Ave  
PO Box 1828  
Havre, MT 59501-1828  
**Phone: (406) 265-5516**

Blaine	Liberty
Choteau	Pondera
Glacier	Teton
Hill	Toole

### HELENA

1424 Ninth Avenue  
PO Box 201601  
Helena, MT 59620-1601  
**Phone: (406) 444-6999**

Beaverhead	Lewis & Clark
Broadwater	Powell
Deer Lodge	Silver Bow
Jefferson	

### KALISPELL

655 Timberwolf Parkway, Suite 4  
Kalispell, MT 59901-1215  
**Phone: (406) 752-2288**

Flathead	Lincoln
Lake	Sanders

### LEWISTOWN

613 NE Main, Suite E  
Lewistown, MT 59457-2020  
**Phone: (406) 538-7459**

Cascade	Meagher
Fergus	Musselshell
Golden Valley	Petroleum
Judith Basin	Wheatland

### MISSOULA

P.O. Box 5004  
(2705 Spurgin Road, Bldg. C)  
Missoula, MT 59806-5004  
**Phone: (406) 721-4284**

Granite	Missoula
Mineral	Ravalli

