

CRITERIA ADDENDUM APPLICATION FOR BENEFICIAL WATER USE PERMIT FOR APPROPRIATIONS GREATER THAN 5.5 CFS AND 4,000 AC-FT

Section 85-2-311(3), MCA, provides the Department shall approve a water use permit for an appropriation of 5.5 CFS or greater and 4,000 AC-FT of water if the applicant proves by clear and convincing evidence the criteria listed below are met.

The information requested by this supplement together with the application is necessary for the Department to process an application. It is the applicant's responsibility to provide credible, relevant, and factual information upon which the Department may rely to support the issuance of a provisional permit.

It is your responsibility to obtain any necessary easement or right-of-way. If public lands are involved, such as State of Montana or BLM, contact the appropriate agency. The water right may need to be in their name.

BASIN CLOSURE AREAS: *There are several closed basins in Montana. Within these basins, additional criteria must be met before a permit can be issued. Check with the local Regional Office to determine if your diversion is located within a closed basin.*

WATER QUALITY CRITERIA: *If a party files a valid objection containing substantial credible information establishing to the satisfaction of the Department that the water quality criteria, as applicable, may not be met, the applicant will be required to prove the following: 1) the water quality of an appropriator will not be adversely affected; 2) the proposed use will be substantially in accordance with the classification of water set for the source of supply pursuant to 75-5-301(1); or 3) the ability of a discharge permit holder to satisfy effluent limitations of a permit issued in accordance with Title 75, chapter 5, part 4, will not be adversely affected.*

OUT-OF-STATE: *For out-of-state water use, an applicant must also prove by clear and convincing evidence the criteria in 85-2-311(4), MCA.*

ON A SEPARATE ATTACHMENT PROVIDE CLEAR AND CONVINCING EVIDENCE PROVING:

1. Information to prove there is water physically available at the proposed point of diversion in the amount you seek to appropriate;
2. Information or data to prove water is legally available during the period and in the amount you request;
3. Information to prove the proposed use of water will not adversely affect a prior appropriator using an existing water right, a certificate, a permit, or a state water reservation. Include how you plan to exercise and control your project to ensure prior appropriators will be satisfied.
4. Describe the proposed means of diversion, construction, and operation of the diversion works you intend to use and present evidence to prove the means of diversion, construction and operation are adequate;
5. Information and data to prove the proposed use is a beneficial use of water and the flow rate and volume requested is reasonable; and
6. Show the proposed appropriation is a reasonable use based on consideration of the following:
 - a. describe the existing demands on the State water supply as well as projected demands of water for future beneficial purposes including municipal water supplies, irrigation systems, and minimum streamflows for the protection of existing water rights and aquatic life;
 - b. describe the benefits of the proposed use to the applicant and the State of Montana;
 - c. describe the effects on the quantity and quality of water for existing uses in the source of supply;
 - d. describe the availability and the feasibility of using low-quality water (meaning not potable for human consumption) for the purpose for which the application has been made;
 - e. describe the effect on private property rights by any creation of or contribution to saline seep; and
 - f. the probable significant adverse environmental impacts of the proposed use of water.

If the water applied for is to be appropriated in excess of that which will be solely used by the applicant or if it will be marketed by the applicant to other users, information detailing the following is required: a) each person who will use the water and the amount of water each person will use; b) the proposed place of use of all water by each person; c) the nature of the relationship between the applicant and each person using the water; and d) each firm contractual agreement for the specified amount of water for each person using the water.

PROJECT PLAN & TIME LINE: Once you receive your permit when will you begin construction? Provide a detailed project plan and time line for purchasing and installing equipment, the anticipated completion date, and a description of when and how much water will be put to beneficial use. The completion date is the time by which the diversion works will be operating and the permitted water used to the fullest extent planned.