

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

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2021 Water Right Ownership Changes

OVERVIEW & FREQUENTLY ASKED QUESTIONS

Last updated: January 2022

BACKGROUND

The 2021 MT Legislature passed [Senate Bill 55](#) which was signed into law by Governor Gianforte on April 20, 2021; these changes took effect October 1, 2021. The passing of this bill resulted in many changes that impact water right ownership. These changes include:

- When filing an ownership update form, **additional history of water right ownership** (e.g., the "recorded chain of conveyance" back to a DNRC record owner) **may now need to be provided by the water right holder**. Previously, only the latest recorded deed was required when filing an ownership update form.
- When Montana Department of Natural Resources and Conservation (DNRC) receives notification of a property transfer from the Montana Department of Revenue (DOR), DNRC may process the ownership update if the transferor listed from DOR matches the current owner in DNRC records. **If those names do not match, the full recorded chain of conveyance is required**, along with a paper ownership update form.
- Once an ownership update deficiency letter is sent, the **water right holder has 60 days** to submit the complete water right ownership.
- Once DNRC has received an ownership update form or notification of a property transfer from DOR, DNRC staff have 30 days to update the ownership or, if information is incomplete, send a deficiency letter to the water right owner on file. **The ownership update cannot be processed until the full chain of conveyance is provided.**
- **A processing fee is still required.** The penalty for not paying the required fee increased to \$300 plus the recovery cost (including but not limited to attorney's fees).

KEY TERMS

Chain of Conveyance = the full history of the water right (property ownership records which may or may not mention water rights) from the record owner to the current owner

Deficiency Letter = when there is incomplete information for a water right, DNRC staff are now required to send a letter stipulating what is missing from the record and requesting information from the water right owner on file

DNRC Record Owner = the current owner who is listed in DNRC records of a given water right, which can be found on the water right query system

Water Right Query System = an online tool to query water right records (link in additional resources section below)

EXAMPLE OF WATER RIGHT OWNERSHIP CHANGES (2021)

Owner A files a water right and sells property to *owner B* but does not update the ownership of the water right. *Owner B* sells property to *owner C* who finds and attempts to update ownership of the water right. DNRC now needs recorded conveyance documents from A to B and B to C because A is listed in DNRC records as the owner of record.

FREQUENTLY ASKED QUESTIONS

- 1. I recently purchased property with water rights, what do I need to do to comply with the new rules?**

If you or your closing agent did not already do so, you should file a DNRC Form 608, Water Right Ownership Update. Be sure to attach full recorded chain of conveyance documents. You should look up the water rights on the Water Right Query System to view details and current ownership records.
- 2. Where can I find previous deeds/ownership information?**

Water right owners are now responsible for providing full recorded chain of conveyance back to a DNRC record owner. If a new water right owner needs to find documentation regarding previous owners, this can be found at county Clerk and Recorder's offices statewide. Some county officials will help with the search over the phone, through mail, or provide online search access.
- 3. What do I do if I receive a deficiency letter?**

The deficiency letter is a means of notifying a water right holder that information is missing in the record. The letter will specify what documentation is needed. Water right owners are now responsible for providing a full chain of conveyance back to a DNRC record owner. For the water right ownership update to be processed, DNRC staff need 1) a completed water right ownership update form; 2) the required fee (see ownership update form); and 3) required recorded deeds for the property with the water right.
- 4. How much is the fee for updating ownership of a water right?**

A filing fee of \$50 for one water right and \$10 for each additional water right is required (maximum payment of \$300 per transaction). Payment may be made by cash (please do not mail), check, or credit card (processing fees apply) to the local DNRC office.
- 5. I recently purchased a property, and I am not sure who the water right 'record owner' is as no information has been provided to me. What should I do?**

Visit the DNRC Water Right Query System. You can search for your water right using the property geocode, water right number, potential previous owner names, and many other advanced search options. Once you have found your water right, the DNRC record owner will be displayed.
- 6. I'm a real estate professional, how can I assist the landowner?**

Understanding the new law and assisting new water right owners who are not familiar with the process is both helpful and appreciated. Some title companies and realtors have provided documentation on behalf of their clients as well. Many water right owners in Montana are not aware of the changes resulting from SB 55, so helping in any capacity is appreciated.

7. **Why did the ownership update process change?**

The intent of the legislation was to essentially tighten the ownership update process, requiring additional information to be provided ensuring that water rights were not transferred in error. A water right is a property right and, in most cases, is tied to the property where it is used, therefore, proper DNRC ownership records are essential. In addition, timelines were established ensuring both timely action by the DNRC and water right owners. Penalties for not paying required fees were also increased substantially. With this new process outlined by state lawmakers, additional information will be required, and we understand the process will be more onerous for owners, professionals, and DNRC.

CHECK LIST FOR UPDATING WATER RIGHT OWNERSHIP

- Completed water right ownership update form
- Required fee (to transfer water right)
- All recorded deeds tracking back to a DNRC record owner



ADDITIONAL RESOURCES

- Find information and required forms at the Montana DNRC Water Rights Bureau ownership updates webpage: <http://dnrc.mt.gov/divisions/water/water-rights/water-right-ownership-updates>
 - Montana DNRC Water Right Ownership Update [Form](#)
 - Montana DNRC Water Right Ownership Update – Divided Interest [Form](#)
 - Montana DNRC Water Right Ownership Update – Exempt (Reserved) or Severed Water Right [Form](#)
- Visit the DNRC Water Rights Query webpage to view information on your water rights. <http://wrqs.dnrc.mt.gov/>
- For more information, contact your local DNRC Water Resources Regional Office (see information by county listed below).

BILLINGS

Airport Business Park
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Big Horn, Carbon, Carter, Custer, Fallon, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, & Yellowstone Counties

BOZEMAN

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406-586-3136
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GLASGOW

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Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, & Wibaux Counties

HAVRE

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KALISPELL

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LEWISTOWN

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Cascade, Fergus, Golden Valley, Judith Basin, Meagher, Musselshell, Petroleum, & Wheatland Counties

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