VI. CLAIM EXAMINATION

This chapter contains instructions for the following areas of the claim examination process.

A Checking For Correct Data Entry
B Owner Name And Address
C Purpose
D Source
E Additional Legal Land Descriptions
F Point Of Diversion
G Means Of Diversion
H Reservoirs
I Type Of Right
J Priority Date
K Period Of Use

These instructions pertain to all types of claims, i.e., irrigation, stock, domestic, and other uses. Subsequent chapters address procedures specific to each of the four general claim categories.

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A. CHECKING FOR CORRECT DATA ENTRY

1. Data Entry Review. The first step in examining a claim is to compare the data on the worksheet to the data on the claim form. This checks for proper and complete data entry into the department's computer data base. If inconsistencies are found, make sure they are errors before altering the worksheet.

a. Inconsistencies Between Claim Form And Worksheet. Not all differences between the claim and worksheet are data entry errors. Some differences that may occur are:

- Records section may have made corrections. Such corrections were generally clerical, e.g., errors missed during "clarification." There should be an explanation on the Statement of Claim Checklist or in the claim file.

- The claimant may have amended their claim. The file should be reviewed for amendments.

- The claim may have an associated transfer of ownership. If a change in ownership has occurred, there will be a transfer (TR) remark on the worksheet noting the date the transfer was received. See "Transfers", Chapter XI.

- The claim may have an associated change or sever/sell. If there is an associated change or sever/sell, there will be a change text (CT) remark on the worksheet explaining the scope and status of the change or sever/sell. See "Change In Appropriation Right", Chapter XI.

- Certain claimed source names were not keypunched at the time the claims were originally entered due to the computer data base structure, e.g., unnamed springs, certain named springs, named wells. See Source, section VI.C.

- As claims were originally entered into the computer data base, all flow rates in units of miner's inches (MI) were converted by the computer to cubic feet per second (C). Worksheets that have flow rate in cubic feet per second units also have equivalent miner's inch units in parenthesis. Conversions back to miner's inches will not always be exact due to rounding error. Such rounding errors need not be corrected.

b. Correcting Data Entry Errors. When an examination worksheet contains data entry errors, corrections can be made directly on the worksheet. Check "DNRC Error" in the examination information area.

If a large amount of data was input incorrectly or omitted, the worksheet and copies of the pertinent information from the claim

file may be sent to the records section for data base entry and microfilming. Include a request for a new examination worksheet.

2. Checking Date Received. Compare the date received on the worksheet to the date stamped on the claim form. The dates should be the same.

Claim forms were first available in November 1979, so no dates should be earlier than that. If a date received is earlier than November 1979, check the claim file and transmittal record (that tracked the fee) for a correct date.

Other possible errors may be encountered involving the date a claim form was received by the department. Some of these are:

- date improperly entered into computer;
- date stamp improperly set or advanced; or (e.g., not April 31, not Saturday or Sunday)
- date implied claim generated used, not date original claim was received. (If the claim is an implied claim, confirm that the date received is the same as the originally filed claim from which the implied claim was generated.)

If the claim received date indicates a late filing between April 30, 1982 and June 30, 1982, check the claim file and transmittal record to confirm the date received. This ensures that an error in stamping is not misunderstood to be a late claim. If the claim appears to truly be a late claim, see "Special Provisions: Late Claims" for examination procedures.

Indicate whether or not the date received appears to have been correctly stamped and entered into the computer by checking the appropriate box next to the "claim received" on the examination worksheet. Changes to the date received can be made directly on the worksheet. To document any inconsistencies involving the date stamped on the claim form, or basis for changing the date received on the worksheet, use the General Comments area of the worksheet.

If a claim designated as late is determined not to be late, the worksheet should be sent to the records section immediately. This will ensure the integrity and accuracy of the data base for public use. Include a request for a new examination worksheet.

3. Checking Fee Paid. Filing fees for claims were required pursuant to §85-2-225, MCA. The fee status of a claim can be determined by checking the upper lefthand corner of the claim form (see Figure XI-3).

When a filing fee was required but not submitted, check the claim file and transmittal record to confirm the fee status. In addition, review the other claims submitted by the claimant. If

confirmed that a required filing fee was not submitted, contact the claimant.

An exception to the filing fee requirement, as described in §85-2-225, are those claims where the type of historical right claimed is decreed. However, if the type of right is amended or clarified to a use or filed right, a filing fee will be required. If confirmed a filing fee was not submitted, contact the claimant.

If the fee issue is unresolved, add a remark to the department's examination report for all the claims involved.

Examples: F5 FI51FILING FEE INSUFFICIENT TO COVER CLAIM. TOTAL AMOUNT DUE $40.00.

F10 F151FILING FEE INSUFFICIENT TO COVER CLAIMS. TOTAL AMOUNT DUE $120.00 FOR CLAIM NOS. W000000-00, W000000-00, W000000-00.

Implied Claims. Filing fees are required for implied claims. Refer to "Special Provisions" chapter for fee review instructions.

Late Claims. Filing fees are required for late claims. If a filing fee for a late claim has not been received, add an issue remark for all the late claims involved.

Examples: F25 FI51FILING FEE INSUFFICIENT TO COVER LATE CLAIM. TOTAL AMOUNT DUE $40.00.

F30 FI51FILING FEE INSUFFICIENT TO COVER LATE CLAIMS. TOTAL AMOUNT DUE $80.00 FOR CLAIM NOS. W000000-00, W999999-00.

As of July 1, 1993, late claims received by the department are also subject to a $150 processing fee. However, this fee does not apply to exempt claims. Depending on when the late claim was received, follow the procedures described below.

- Late Claim Received Between April 30, 1982 and June 30, 1993. For late claims received by the department between April 30, 1982 and June 30, 1993, the processing fee will be collected according to procedures established by rules prepared by the department. If the processing fee is voluntarily paid prior to it being collected, immediately notify the program manager of the claim number.

- Late Claim Received After June 30, 1993. A processing fee must accompany late claims received after June 30, 1993. The exception is for late claims filed by a state agency which by department rule, will be collected later. If the processing fee is missing for a state agency claim, add the following issue remark to each late claim.

Example: F35 FI51PROCESSING FEE INSUFFICIENT TO COVER LATE CLAIM. TOTAL AMOUNT DUE $150.00.

Indicate by checking the appropriate box next to the "fee paid" on the examination worksheet whether or not the fee status is correct pursuant to §85-2-225, MCA. The "fee paid" should be the sum of the filing fee and processing fee. Changes to the fee paid can be made directly on the worksheet. To document any inconsistencies involving the fee paid on the claim form, or basis for changing the fee paid on the worksheet, use the General Comments area of the worksheet.

B. OWNER NAME AND ADDRESS

An owner is any person, as defined in §85-2-102, MCA, who has title or interest in water rights or properties. The name and address of the current owner is printed on the examination worksheet and decree abstract.

The name and address of the original claimant is stored in the computer data base for claims that have had a transfer of ownership filed with the department. If multiple transfers have occurred, only the original and current owner names are retained in the computer data base. Names of intermediate owners can be found in the claim file or on the microfilm record.

An owner may have name or address format variations on their claims, or an address may have changed. By establishing consistency in owner names and addresses, the quality of the computer data base for research is improved, plus owner indexes and listings become accurate and reliable.

1. Examining Owner Name And Address. Review the owner name and address to establish a consistent name format as well as a consistent and current address on all water rights belonging to each owner.

Standardization can be performed on the basin as a whole prior to or after examining the claims. It can also be done by ownership during claim examination. For common name and address abbreviations, see Exhibit IV-6.

In addition, check the claim form for the claimant signature and notarization.

a. Owner/Address Index. An index of all water rights (claims, permits, certificates) in a basin will be supplied before claim examination begins. This index is sorted alphabetically by owner name including address and water right ID number. Each name and address appears as it was keypunched into the computer data base. The owner/address index is the primary tool for identifying inconsistencies in owner names and addresses.

Common owner/address inconsistencies that might be identified are

- owner name format variations
- owner name misspelled
- clerical error in address
- lack of or incorrectly identified middle initial
- Bob versus Robert
- lack of Jr. or Sr.
- lack of Inc. or Co.

b. Changing Owner Name/Address. The claimed owner name/address will not be changed during the examination unless:

- amended by the claimant;
- clarified by the department.

Upon identifying an owner/address inconsistency, the following data sources are available for researching.

- signature on back of claim form, permit application, certificate application
- accompanying documentation
- other water rights by the same owner
- telephone directories
- courthouse records
- claimant contact

Caution should be used in making changes to an owner name. A claimant may wish to have several name formats for a number of reasons, such as, taxation, inheritance purposes, contractual agreements, and corporate or ranch management purposes. In situations where an owner name format is not clear, contact the claimant. If a substantive change is to be made, e.g. adding a name omitted on one claim but named on others, it should be by an amendment.

Make changes to the owner name/address on the worksheet. If the change will result in a difference between the claim form, amendment or addendum, and the decree abstract, denote the change by placing an asterisk on the worksheet in the brackets to the left of the owner name and address. The basis of the change must be documented in the claim file.

If a claimed owner name and address was inadvertently omitted from the data base, add it directly to the worksheet.

When owner name/address corrections need to be made in an ownership with multiple water rights, use an Name/Address Correction form (Exhibit VI-1). The form can be used when an examination worksheet is not available, such as prior to basin examination or post-decree. It may also be used to correct new appropriations files. Complete and process the form as follows:

- Following the standardized procedures outlined in the Owner Name/Address Standards manual (Exhibit IV-6), complete the form, except for the water right number.

- Photocopy sufficient copies of Exhibit VI-1.

- Complete the water right number so that one photocopy will exist for each file.

- Send the form(s) to the records section in Helena with instructions to update the owner record, and to film and file the form.

If the claim file contains a Form 608, Water Right Transfer Certificate, but the examination worksheet reflects the original (seller) owner, request a new examination worksheet which should reflect the new owner's name. As an alternative, a note such as "Ownership changed based on transfer received MM/DD/YY" can be placed next to the owner's name. No asterisk or checkmark is necessary as the owner record has already been updated in the computer and the transfer has been documented with a TR remark.

Water Supply Organizations. Organizations established for the distribution of water should remain solely in the organizations name. If the organization provides a listing of shareholders or member names, those individuals should not be listed as owners. No transfers or amendments should be sought from shareholders or individual members.

Some of the more common water supply organizations include:

Federal Projects	Water User Associations
State Projects	Municipal Water Companies
Public Service Corporations	Drainage Districts
Mutual Irrigation Companies	Conservation Districts
Water Companies	
Individuals (with several rights)	
Corporations, Partnerships, or Trusts (with several rights)	

c. Deceased Owner. When the owner is deceased and the estate is being handled by a trustee, retain the deceased owner's name. Add c/o the trustee or personal representative and their address as the new address.

If issues exist on a claim and the owner is deceased, discuss them with the personal representative or trustee. If the trustee or personal representative is unable to resolve the issues or does not have power of attorney, add issue remarks to the claim and document the discussions with the personal representative or trustee.

A deceased owner's name can be removed under certain terms and conditions. See Administrative Policy No. 14 "Water Right Transfer Certificate Processing Policy", Procedural Guidelines: Corrections. Following are situations which may occur.

- Husband or wife (or co-owner) dies and only one name is listed in the department records.

- Husband or wife (or co-owner) dies and both names are listed in the department records.

d. Signature And Notarization. If there appears to be a problem with the signature or notarization on the claim form, e.g., unsigned, not notarized, not signed by owner named in Item 1, add an ownership (OW) issue remark to the department's examination report.

Examples: O35 OW51CLAIM FORM NOT NOTARIZED.

O40 OW51CLAIM FORM NOT SIGNED OR NOTARIZED.

O45 OW51CLAIM FORM SIGNED BY OTHER THAN CLAIMANT.

The notarized signature of a guardian or person with power of attorney is acceptable, if supported by written or verbal confirmation. Document confirmation on the examination worksheet.

If contacted for other reasons, the claimant may be requested to sign and notarize a copy of the original claim form. In this situation, an issue remark would not be necessary.

2. Owner Name/Address Issues. Identify pertinent owner name/address issues discovered during claim examination on the department's examination report using an ownership (OW) remark. For certain ownership issues, refer to the following sections.

- Overlapping POU. See Irrigation: Place Of Use Issues
- Decreed Right Exceeded. See Irrigation: Flow Rate: Recording Documentation

3. New Owner Determined But File Lacks Transfer Certificate. When a change in ownership has occurred but no transfer certificate (608) has been received, try to get a transfer filed by either the former owner or new owner. See Transfers, Chapter XI.

Important - until a transfer has been properly filed, instructions or amendments from new owners should not be used to alter a claim. Accept and document information by the new owner, but do not incorporate it until the transfer is received.

If a transfer certificate is not received, then add the following remark to the claim file.

Examples: O50 OW51AS OF MM/DD/YY, THIS WATER RIGHT APPEARS TO BE OWNED BY JOHN L. AND JANE W. DOE, 5793 BOXWOOD DR, BOZEMAN, MT 59715.

O85 OW51VALLEY COUNTY RECORDS AS OF MM/DD/YY SHOWS PLACE OF USE IS OWNED BY MOLVIG BROTHERS.

C. PURPOSE

The purpose of a water right is the beneficial use for which it has historically been used.

1. Identifying Claimed Purpose. Using the information in the claim file, check the purpose on the claim form for clerical errors by the claimant, and for consistency with the documentation. If the claimed purpose is unclear, contact the claimant.

2. Examining Claimed Purpose. Review the purpose stated on a claim form and the submitted documentation to confirm that the water has been used historically (i.e., before 1973) for the claimed purpose. Review any available and relevant data sources, such as

- the claim file
- returned questionnaires
- Water Resource Surveys
- city directories
- local historical records
- mining indexes
- aerial photographs

The examiner's personal knowledge of an area, windshield surveys, claimant interviews, and field investigations are additional sources of information. Document each source of information used in the examination.

a. Standard Purpose Descriptions. Water rights used for similar purposes will be made consistent by checking that the assigned purpose code on the examination worksheet is consistent with the purpose guidelines described below.

Other Use Claims. Due to the general nature of the purpose categories listed on the other uses claim form, similar or identical uses of water were often claimed under different purpose categories. For example, water for an ore concentrator may have been claimed as a mining use (MN) by one claimant, but as an industrial use (IN) by another. A gravel washing plant may have been designated as commercial (CM) during initial clarification, which should now be changed to mining (MN).

Use the claim form, returned questionnaire, and any claimant contact to determine whether the claimed purpose is consistent with the categories listed in Figure VI-1.

Additional standard descriptions may have to be developed as claim examination progresses and additional purposes are encountered. To assure statewide uniformity the program manager will be involved in the review and categorization of additional purposes.

FIGURE VI-1

STANDARD PURPOSE LIST

AGRICULTURAL SPRAYING (AS)
Miscellaneous agricultural spraying.

COMMERCIAL (CM)
Campground (private), hospital (private), nursing home (private), store, restaurant, service station, bar, tavern lounge, dude ranch, rental cabins, pay-to-fish pond, hot spring resort, hotel, motel, club, athletic club, theater, car wash, mobile home park, apartments, cemetery, golf course, airport, office complex, office building, marina.

DEWATERING (DE)
Purpose is to remove water from an area to allow other activities such as: habitation, raising crops, construction. This purpose is questioned as a beneficial use unless the water is diverted to a beneficial use such as irrigation, in which case the purpose should be standardized to irrigation.

DOMESTIC (DM)
Single family dwelling, occupied by owner or rented. Criteria to substantiate this purpose include:

- Water used in household.
- Household characterized by long term occupancy (i.e., one month or more.)
- May include irrigation of lawn, garden, shelterbelt, ornamental acres, orchard, or greenhouse.
- Does not include irrigation of pastures, cropped forage used as fodder, or products sold commercially.

EROSION CONTROL (EC)
Generally a dike or series of dikes to impede the flow of water thereby reducing erosion. This purpose is questioned as a beneficial use unless the water is diverted to a beneficial use such as irrigation, in which case the purpose should be standardized to irrigation.

FLOOD CONTROL (FC)
Usually an impoundment, may not be beneficial use.

FIRE PROTECTION (FP)
System in place only to extinguish fires. If the system is used for another purpose, that other purpose should be the purpose of the water right with fire protection remarked as an incidental use.

FIGURE VI-1 (cont.)

FISH RACEWAYS (FR)
Confinement structures such as tanks or troughs with flow through water systems used for intensive fish breeding and raising.

FISH AND WILDLIFE (FW)
Fish pond, reservoir, instream flow to protect habitat (Murphy Right).

GEOTHERMAL HEATING (GH)
Heating of private buildings with geothermal water.

INDUSTRIAL (IN)
Oil refinery, sugar beet refinery, meat packing plant, coke ovens, sawmill, aluminum reduction, ore smelter, any use incidental to these plants or factories.

INSTITUTIONAL (IS)
School, church, hospital (government), nursing home (government), missile sites, DFWP fishing access site, DFWP parks, DOT maintenance shop, highway rest area, border crossing station, USFS picnic area, USFS campground, USFS guard station, USFS lookout, USFS ranger station, or other government facilities.

IRRIGATION (IR)
Irrigation of pastures, cropped forage used as fodder, or products sold commercially.

LAWN AND GARDEN (LG)
Private gardening, private ornamental horticulture, lawn, not cropped or foraged. Criteria to substantiate this purpose include:

- Not used in a household.
- Use is proximate to and associated with one or more households.
- May include irrigation of shelterbelt, ornamental acres, orchard, or greenhouse.
- Does not include irrigation of pastures, cropped forage used as fodder, or products sold commercially.

MUNICIPAL (MC)
Any use associated with a municipal water system, which may include individual water rights for a cemetery, parks, golf course, etc. See Exhibit X-11 for a partial list of municipal systems.

MULTIPLE DOMESTIC (MD)
More than one dwelling, characterized by long term occupancy. Condominiums, townhouses, home owner's associations, two or more households in separate dwellings

sharing a well or spring. See Chapter VIII. Criteria to substantiate this purpose include:

- Water used in two or more households in separate dwelling units.
- Households characterized by long term occupancy (i.e., one month or more).
- May include irrigation of lawn, garden, shelterbelt, ornamental acres, orchard, or greenhouse.
- Does not include irrigation of pastures, cropped forage used as fodder, or products sold commercially.
- Does not include political entities or publicly regulated private utilities.

MINING (MN)
Extraction or milling of ore, gravel washing, uses incidental to these purposes.

NAVIGATION (NV)
Instream flow to protect navigation, impoundment to store water against future inadequate flows.

OIL WELL FLOODING (OF)
Oil well flooding.

OBSERVATION AND TESTING (OT)
Wells used exclusively to monitor aquifers for recharge, drawdown, water quality, etc.

POLLUTION ABATEMENT (PA)
Systems used to reduce pollution by the addition or application of water. Usually associated with a commercial, industrial, mining, or other more primary activity; in such cases the purpose should be standardized to the primary activity. If not associated, this purpose is questioned as a beneficial use.

POWER GENERATION (PG)
Mechanical, geothermal, fossil fuel, hydroelectric or nuclear power production.

RECREATION (RC)
Pond or reservoir, instream recreational use.

SEDIMENT CONTROL (SC)
Generally settling ponds for filtering or syphoning water to remove sediments. Usually associated with an industrial or mining operation; in which case the purpose should be standardized to the primary operation. If not associated, this purpose is questioned as a beneficial use.

FIGURE VI-1 (cont.)

STOCK (ST)
Domestic animals, such as, but not limited to, cows, horses, sheep, pigs.

STORAGE (SG)
Usually associated with a reservoir operation.

WILDLIFE (WI)
Claim by person or agency for water used by wildlife, water used by wildlife kept as stock is STOCK (ST). Claims for waterfowl purposes should be standardized to wildlife (WI) or stock (ST).

Domestic Claims. During the claim filing period, the domestic claim form was used to describe several different types of water use, including domestic (DM), multiple domestic (MD), and lawn and garden irrigation (LG). Generally, all of these uses were assigned a domestic (DM) purpose code.

For consistency, claims describing multiple domestic and lawn and garden use should now be assigned the appropriate purpose code. See Figure VI-1 for guidelines on which purpose code should be assigned.

Claims to lawn and garden use should be examined using the domestic use guidelines.

b. Changing The Purpose. If the claim file and, when available, a completed questionnaire provide a clear picture of historic water use, the claimed purpose description should reflect that use. A claimed purpose may be changed to one of the standardized purpose descriptions in order to consistently identify similar purposes. Make such a change by crossing out the claimed purpose on the examination worksheet and writing in the standard purpose code. Document the change on the worksheet by placing an asterisk in the brackets to the left of the purpose heading, and by stating the reasons in the comments area.

If the claim file is unclear about the purpose being claimed, the claimant should be contacted. For example, a domestic claim could be unclear whether it is lawn and garden only, one household, or more than one household. If claimant contact is unsuccessful, leave the purpose code as DM and add the following remark:

Example: P625 PU51CLAIMED PURPOSE OF USE COULD NOT BE IDENTIFIED DUE TO LACK OF DATA.

c. Further Defining Purpose. The standard purpose types provide reviewers of decrees and department records with little information about how a water right was actually used. When the claim file or outside data sources identify a specific use, add a purpose remark to the department's examination report to more precisely describe the purpose. Document the source of the information on the worksheet. When the specific purpose is not clear from the claim file, questionnaire, or other information, claimant contact should be considered.

Remarks that might further define the purpose include:

- Mining:	P565 PU01PLACER MINING
- Commercial:	PU01DAIRY
- Commercial:	PU01RESTAURANT
- Commercial:	PU01CONVENIENCE STORE AND SERVICE STATION
- Industrial:	PU01SMELTER
- Industrial:	PU01SAWMILL WITH LOG POND
- Institutional:	PU01CHURCH

- Institutional:	PU01FISHING ACCESS SITE
- Power Generation:	PU01HYDROPOWER
- Power Generation:	PU01COAL FIRED ELECTRIC POWER PLANT

d. Post-1973 Change Of Purpose. If the claimed purpose appears to be for a use that was different before July 1, 1973, follow the procedures in section XI.F. Changes.

3. Purpose Issues. Denote all unresolved purpose issues on the department's examination report using a purpose (PU) remark. Any unique aspects or features of the purpose should be identified in a purpose remark, i.e., PU01.

Generally purpose issues will become apparent and be resolved as a result of examining other elements of a claim, such as flow rate, volume, place of use, point of diversion, and priority date. For example, if an aerial photo used to verify the place of use of a claim for fish raceways does not show evidence of raceways, the place of use and purpose both become issues. Purpose issues will also become apparent when applying the purpose consistency guidelines.

When a purpose issue remark is added identifying extended nonuse, a nonperfected use, or some other major discrepancy, examine the other elements as if the water right is being used for the claimed purpose in case the purpose issue is not addressed by objections or the court. Add issue remarks to these elements if they do not meet the pertinent guidelines or review criteria. For example, assuming an irrigation claim:

- flow rate below 17 gpm/ac, no issue remark may be needed
- volume will be zero, no issue remark needed
- POU partially irrigated, add PL and FR issue remarks
- priority date is not documented, add issue remark.

a. Fish & Wildlife, Wildlife, And Recreation.
On 9-24-2002, the Montana Supreme Courts overruled its 1988 decision, In the Matter of Dearborn Drainage Area (1988), 234 Mont. 331, 766 P.2d 228 (Bean Lake), that "Montana, prior to 1973, did not recognize fish, wildlife and recreation appropriations, whether diversionary or non-diversionary."

The 9-24-2002 opinion held that recreation, fish and wildlife uses are beneficial and that valid instream and inlake uses existed prior to 1973 where the intended beneficial use did not require a diversion, and when the facts and circumstances indicate that notice of the appropriator's intent had been given.

The Supreme Court instructed the Water Court to hold hearings in a manner similar to *Adjudication of Water Rights of Yellowstone River* (1992), 253 Mont. 167, 832 P.2d 1210, on all pre-1973 recreation, fish and wildlife claims, both diversionary and non-diversionary, an determine the validity of such claims

In accordance with the Supreme Court Ruling and to provide notice to all other water users, each recreation, fish, and wildlife claim examined should have the following issue remark:

P723 THE MONTANA SUPREME COURT HAS INSTRUCTED THE WATER COURT TO HOLD A HEARING ON THIS CLAIM TO DETERMINE ITS VALIDITY. IN THE MATTER OF THE MISSOURI RIVER DRAINAGE AREA, 2002 MT 216, 311 MONT. 327.

Refer to "Other Uses Claims: Flow Rate and Volume" for guidelines on examining flow rates and volumes.

b. Questionable Purposes. The following are guidelines for uses considered questionable. Other uses not listed should be brought to the attention of the program manager.

Dewatering, Erosion Control, Flood Control (dikes, levees, impoundments), Navigation. If it is not clear whether the claim describes one of these water uses or water management practices, contact the claimant. After confirming a questionable use exists, add the following issue remark to the department's examination report.

Example: P630 PU51THIS CLAIMED PURPOSE IS QUESTIONED AS A BENEFICIAL USE OF WATER EXISTING PRIOR TO JULY 1, 1973.

For these questionable uses do not examine the flow rates and volumes. The flow rate and volume of such claims will be decreed as claimed. When a value for flow rate or volume is claimed but not examined, add the appropriate following remark to the department's examination report.

Examples: F85 FR51THE CLAIMED FLOW RATE WAS NOT EXAMINED AS NO FLOW RATE GUIDELINES FOR THIS PURPOSE HAVE BEEN ESTABLISHED BY THE CLAIM EXAMINATION RULES.

V25 VM51THE CLAIMED VOLUME WAS NOT EXAMINED AS NO VOLUME GUIDELINES FOR THIS PURPOSE HAVE BEEN ESTABLISHED BY THE CLAIM EXAMINATION RULES.

Natural Overflow. For irrigation claims where the means of diversion is natural overflow, add the following issue remark to the department's examination report.

Example: P644 PU51IT APPEARS THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED. ACCORDING TO INFORMATION IN THE CLAIM FILE, THERE APPEARS TO BE NO APPROPRIATION OF WATER. ALL ELEMENTS OF THIS CLAIM MAY BE QUESTIONABLE.

Dewatering, Erosion Control, Pollution Abatement, Sediment Control. These uses are questioned as beneficial uses unless the water is used for a specific purpose such as irrigation, mining, industrial, etc. For example, a pollution abatement claim may be used for watering a sawdust pile at a lumber mill. In this situation, the purpose should be standardized to industrial (IN) with a specific purpose remark describing the use.

c. Specific Purpose Not Claimed. Some claimants wrote descriptions of their water use on the claim form, and did not check any of the purposes listed on the form. The policy during the claim filing period required categorizing the described purpose into one of the 26 purpose types available in the computer data base. When reviewing such claims, check the purpose code that was assigned to determine whether it is consistent with the purpose guidelines.

If the claim file contains insufficient data to determine the purpose, contact the claimant. Before contacting the claimant, consult outside data sources, if available. When those data sources indicate that substantive purpose issues also exist, (e.g., 10 or more years of nonuse, water right never perfected, purpose changed to claimed purpose after 1973) discuss those issues with the claimant. If changing the purpose would more accurately characterize the water right, the claimant may wish to amend the claim.

When purpose cannot be clearly identified, add an issue remark to the department's examination report:

Example: P625 PU51THE CLAIMED PURPOSE (USE) COULD NOT BE IDENTIFIED DUE TO LACK OF DATA.

d. Multiple Purposes Claimed. Claims may be encountered (generally other use claims) where more than one use has been identified. Only one purpose will appear on the examination worksheet. In this situation, the claimant should be contacted to determine what is actually being claimed. Refer to section XI.B., Implied Claims.

If the issue is unresolved, add the following remark to the department's examination report.

Example: P637 PU51THE PURPOSE OF THIS CLAIM IS UNCLEAR AS MULTIPLE PURPOSES HAVE BEEN CLAIMED. THE CLAIMED PURPOSES INCLUDE RECREATION AND COMMERCIAL. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.

Fire Protection. An exception to the claimant contact and water court authorization called for in section XI.B. is when one of two claimed purposes is fire protection. Whenever fire protection is claimed as an additional purpose, identify it by adding the following incidental use remark to the decree abstract.

Example: P555 PU01THIS WATER RIGHT IS INCIDENTALLY USED FOR FIRE PROTECTION.

e. Claimed Purpose Not Perfected. For claims where it is apparent the right has never been perfected, document these findings thoroughly in the claim file. If a nonperfected claim is not withdrawn by the claimant, add a remark to the department's examination report.

Examples: P639 PU51DNRC EXAMINATION WAS UNABLE TO CONFIRM THE USE OF THIS WATER RIGHT. IT APPEARS THIS WATER RIGHT MAY HAVE NOT BEEN PERFECTED.

**** PU51THE RIDDLE COUNTY WATER RESOURCES SURVEY (1959) INDICATES THIS MUNICIPAL CLAIM WAS NOT PERFECTED.

P644 PU51IT APPEARS THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED. ACCORDING TO INFORMATION IN THE CLAIM FILE, THERE APPEARS TO BE NO APPROPRIATION OF WATER. ALL ELEMENTS OF THIS CLAIM MAY BE QUESTIONABLE.

P650 PU51IT APPEARS THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED. ACCORDING TO INFORMATION IN THE CLAIM FILE, NO WELL EXISTS FOR THIS CLAIM. ALL ELEMENTS OF THIS CLAIM MAY BE QUESTIONABLE.

THE HEADGATE AND DITCH ARE AT A LOWER ELEVATION THAN THE CLAIMED PLACE OF USE.

WATER FROM THE MAIN DITCH HAS NEVER BEEN USED FOR HOUSEHOLD PURPOSES.

P655 PU51ACCORDING TO INFORMATION IN THE CLAIM FILE, THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED FOR IRRIGATION USE. ALL ELEMENTS OF THIS CLAIM MAY BE QUESTIONABLE.

The other water right elements for these claims may be vague or incomplete. If so, it is only necessary to add the following purpose issue remark to the department's examination report. However, issue remarks may be added to a specific element if there is relevant information in the claim file or if other data sources confirm nonuse. For example, if from available maps the existence of a historical conveyance facility or acres irrigated can not identified, issue remarks may also be added to the point of diversion and place of use elements.

Example: P665 PU51IT APPEARS THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED. NO PURPOSE, SOURCE, POINT OF DIVERSION, MEANS OF DIVERSION, PRIORITY DATE, TYPE OF HISTORICAL RIGHT, FLOW RATE, VOLUME, PERIOD OF USE, OR PLACE OF USE HAVE BEEN CLAIMED. ALL ELEMENTS OF THIS CLAIM MAY BE QUESTIONABLE.

(Note: Two or more elements can be coded.)

The following is an example of nonperfected claims which would need to be remarked. The City of Kerbelville filed three municipal claims, each describing the same source, POD, conveyance system, and POU. Each of the claims is based on a different filed appropriation. However, the WRS field notes for Riddle County indicate only one of those filings has ever been perfected. Claimant contact indicates that the remaining filed appropriations were to extend and expand the conveyance system for proposed subdivisions, which were never begun, or not yet begun but are planned.

f. Extended Nonuse. The Van Cleave Mining Company filed a claim describing the use of spring water in their Dog Tired Gold Mine since 1902. However, the Montana Mining Indexes published from 1947 through 1973 do not make reference to the Dog Tired. The questionnaire returned by the claimant confirms that the mine has not been in operation for the past 40 years.

For extended nonuse situations, contact the claimant to discuss the data sources, and if necessary, arrange a field investigation. If the interview (and field investigation if conducted) supports the data sources, add a remark to the department's examination report.

Examples: P620 PU51THIS CLAIMED WATER RIGHT MAY BE QUESTIONABLE. A FIELD INVESTIGATION CONDUCTED 03/15/84 FOUND NO EVIDENCE OF RECENT MINING ACTIVITY. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

P675 PU51THIS CLAIMED WATER RIGHT MAY BE QUESTIONABLE. THE RIGHT APPEARS TO HAVE LAST BEEN USED IN 1956.

P676 PU51THIS CLAIMED WATER RIGHT MAY BE QUESTIONABLE. ACCORDING TO INFORMATION IN THE CLAIM FILE, THE RIGHT WAS LAST USED IN 1950.

P680 PU51THIS CLAIMED WATER RIGHT MAY BE QUESTIONABLE. ACCORDING TO INFORMATION IN THE CLAIM FILE, THE RIGHT MAY NOT HAVE BEEN USED FOR THE PAST 40 YEARS.

Add the above remark only if there has not been any use of the water right for the claimed purpose during the entire 10 year period prior to July 1, 1973. If there is evidence that the water right was used for the claimed purpose during that period, even briefly, do not add the remark.

Data are insufficient to conclude that the water right was not used from 1963 or earlier to 1973, but a nonuse issue appears to exist, add the following remark to the department's examination report.

Example: P685 PU51DNRC EXAMINATION WAS UNABLE TO CONFIRM THE USE OF THIS WATER RIGHT FOR THE TEN CONSECUTIVE YEARS PRIOR TO JULY 1, 1973.

g. Claimed Purpose Differs From Formerly Decreed Purpose. Claims based on a formerly decreed right that specifically identifies a purpose should be for that purpose. Claims for surface water stock use associated to a right formerly decreed for irrigation are an exception. If the claimed purpose does not match the formerly decreed purpose, contact the claimant to determine whether the documentation is correct for the claimed purpose, or whether documentation of an amendment to the district court decree is available. If the issue is unresolved by an amendment to the claim or documentation of an amendment of the district court decree, add a remark to the department's examination report.

Example: P690 PU51THE CLAIMED PURPOSE DOES NOT MATCH THE FORMERLY DECREED PURPOSE. CASE NO. 0000, WHEATLAND COUNTY DECREED THE USE AS MINING.

4. Multiple Uses. The multiple use of a water right occurs when a single historic appropriation has been claimed for different purposes by a single claimant. The claimant may be the individual who originally filed the claims or a transferred owner. Multiple uses of a right for stock and irrigation, or irrigation and other uses are common.

A multiple use is determined through review of indexes, submitted documentation and the intent of each claim. First review the owner index to identify all claims under one ownership which have the same type of historical right and priority date. Review the claim files to determine if the owner is the original claimant or a transferred owner.

Next, cross reference the POU index to identify all the claims associated to each parcel or place of use. This will determine:

- if a multiple use exists between different owners of record which may occur when portional transfers have been filed

- any overlapping ownership situations

The conclusive identification of multiple use comes from close comparison of the documentation supporting the historical right upon which the claims are based. The following items must be the same for all claims when a multiple use exists.

Decreed and Filed Rights	-	claimant, type of historical right, priority date, source and documentation must be the same.
Use Rights	-	claimant, priority date, and source must be the same.

When a multiple use situation is identified, add the following remark to the decree abstract of all claims involved:

Example: M10 MU01THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES. W000000-00, W000000-00.

Late claims should be included in multiple use situations. Rights with prefixes of U, Z, J or O should not be included in multiple use remarks with "W" rights.

Situations may occur where a multiple use of a water right appears to exist, but cannot be confirmed. For example, a claimant files stock and domestic claims on a well, the type of right, priority date and documentation are the same, but the flow rates are different. Another example would be when documentation to support a single historic appropriation is submitted by a claimant on separate claims, but the type of historical right and/or priority dates differ.

Contacting the claimant to understand the situation is advised. If contact does not resolve the issue, add the following remarks to the department's examination report.

Examples: M20 MU51THE CLAIMS LISTED FOLLOWING THIS STATEMENT MAY BE A MULTIPLE USE OF THE SAME RIGHT. THESE CLAIMS MAY NEED A MULTIPLE USE REMARK. W000000-00, W000000-00.

M21 MU51THE CLAIMS LISTED FOLLOWING THIS STATEMENT MAY BE A MULTIPLE USE OF THE SAME RIGHT. THESE CLAIMS HAVE STATED DIFFERENT FLOW RATES. IT APPEARS THE FLOW RATE SHOULD BE THE CAPACITY OF THE PUMP. W000000-00, W000000-00.

M22 MU51THE CLAIMS LISTED FOLLOWING THIS STATEMENT MAY BE TO BE A MULTIPLE USE OF THE SAME RIGHT. IT APPEARS THE PRIORITY DATE IS JUNE 11, 1884 AND THE TYPE OF HISTORICAL RIGHT IS DECREED. W000001-00, W00000-00.

5. Associated Rights. If a claim (W) and an exempt right by a single owner are based on the same historical right, do not add a multiple use remark. Exempt rights are not included in the adjudication process. The association between the claim and exempt right should be made through an associated remark. The following remark should be added to the claim.

Example: A30 AS01THIS WATER RIGHT IS ASSOCIATED WITH WATER RIGHT NO. E000000-00. THEY ARE BASED ON THE SAME HISTORIC WATER RIGHT.

If a state-based claim ("W") and a federal claim ("U"), a post-1973 water right, or an exempt right (based on a different historical right), are used on the same development, they should be

related through an associated remark. One of the following remarks should be added to the claims ("W" and "U").

Examples: A35 AS01THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE ASSOCIATED. THEY SHARE THE SAME RESERVOIR/ POTHOLE LAKE/POINT OF DIVERSION. W000000-00, E000000-00, C000000-00, P000000-00.

A40 AS01THIS WATER RIGHT IS ASSOCIATED WITH WATER RIGHT NO. P000000-00. THEY HAVE OVERLAPPING PLACES OF USE.

When the above situations involve exempt rights or post-1973 water rights, complete an 'Associated' flag (Figure VI-2) as follows:

WATER RIGHT NO. E000000-00
IS ASSOCIATED WITH
WATER RIGHT NO. W000000-00

WR's ARE ASSOCIATED BECAUSE: This exempt right is associated to claim no. W000000-00. They are based on the same historic water right.

Put a copy of the flag (clearly marked "COPY") in the claim file. Send the flag to the Processing Unit in Helena, where an AS remark will be entered into the computer record and the flag will be filmed and filed.

FIGURE VI-2

ASSOCIATED FLAG

WATER RIGHT NO. _____

(film & file here)

_____

_____

_____

_____

_____

IS ASSOCIATED WITH

WATER RIGHT NO. _____

WR's ARE ASSOCIATED BECAUSE: _____

_____

_____

_____

_____

_____

_____

CODED (initials)

DATE

_____

COMPLETED BY:

_____

DATE

D. SOURCE NAME

The source is the specific natural supply from which water is appropriated for a beneficial use. A single source may have several names applied to it by claimants. By standardizing source names for consistency, the quality of the computer data base for researching is improved, plus source name indexes and listings become accurate and reliable.

1. Basinwide Standardization System. This section describes the preparation of a single, permanent reference index on maps or aerials of all standard source names within a basin. This reference index can be developed prior to examining claims within the basin or can be developed as the basin claims are examined.

In some areas of Montana, almost every source on a USGS map is named. In these areas, it is possible to standardize stream names as claims are examined. Other parts of Montana do not have the USGS coverage or only a few of the watercourses are named on the USGS maps. In these areas, stream name standardization is best done prior to claim examination.

When standardizing source names as claims are examined, care must be taken that every claim on a source receive the same name. For example, a USGS UT source is claimed by some as an UT and by others as a colloquial name. When claims specifying UT as the source are examined first and later claims use the colloquial name, all the claims must be located and standardized.

The following procedure was designed to develop a single, permanent reference index of all standardized source names. The procedure is intended to be applied before individual claim examination.

- Resources needed:
  a) USGS topographic maps for basin
  b) WRS for the county(ies)
  c) POD index for the basin
  d) Source name index for the basin

- Systematically, examine the POD index, WRS, and USGS quad for each township. The POD index is useful since it lists claimed source names township by township.

  i) If a claimed source name agrees with the USGS topographic map, go to the next claimed name on the POD index. If a claimed source name disagrees with the USGS, the USGS name will usually be kept.

  ii) If a claimed name is an UT on the USGS topographic map, check the WRS. If the WRS name agrees with the claimed name, write that name on the USGS topographic map.

iii) If a claimed source name disagrees with the WRS, check to see if only one claim disagrees or if all claims on the source disagree. Then decide whether to adopt the WRS name or the colloquial name.

iv) If a claimed name is an UT on both the USGS topographic map and the WRS (or there is no WRS for the township), check the POD index for colloquial names. Check the source name index to see if the colloquial name identifies more than one source. Once you've determined how many different names are claimed for this source and how often each is used - standardize to one of them or leave the source as an UT. Write the standard name on the USGS topographic map.

v) Generally, an UT on the USGS topographic map will not be given a WRS name unless someone specifies that name on their claim.

- This sequence takes care of colloquial names as they come up. It provides a source name resource that is easily used. There is little chance that claimed source names will not be consistently standardized.

2. Identifying The Claimed Source. Using the information in the claim file, check the source name identified on the claim form for clerical errors by the claimant, and for consistency with the documentation. If the claimed source is unclear, contact the claimant. An amendment identifying the claimed source may be necessary.

3. Examining Source Name. The claimed source name will be checked to establish a consistent name for each source.

a. Source Name Review. The source indicated on the claim and worksheet will be compared with various data sources. In order of preference, the three primary authorities for standardizing source names are

- USGS topographic maps
- Water Resources Survey (WRS) maps
- colloquial names on claims

In areas without USGS topographic map coverage, Bureau of Land Management (BLM) maps and US Forest Service maps are a good resource.

The criteria for a colloquial name (a name of local recognition) will be when a source not named on the USGS map or WRS is named consistently by the majority of the owners claiming it. Generally, the retention of a colloquial name would occur when multiple water rights by different owners exist for the source.

Standardize the claimed source name to match the preferred authority. When the evidence shows that the primary authority is incorrect, refer to the next level or most accurate authority. Example: a stream named Russell Creek on the USGS map was called Russell Coulee by 12 of 13 claimants. The WRS and County Notice of Appropriation Index supported the latter name; therefore, Russell Coulee became the accepted standard.

b. Changing Source Name. Make any corrections to the claimed source name directly on the worksheet. When a claimed source name is changed, note the change by placing an asterisk in the left hand margin of the examination worksheet.

Proper spelling, spacing, and composition of the source name is imperative. The computer data base limits the length of source names to 33 characters. See Exhibit III-1 for proper abbreviations and Chapter IV.D.: Source Name Coding Consistency.

c. Surface Or Groundwater Check. This area of the worksheet will be used by the reviewer to check the source type. Source types are broadly defined as:

Groundwater (G) - well or developed spring
Surface Water (S) - stream, lake, reservoir, or undeveloped spring

Based on source name standardization and the examination procedures, the source type should reflect the broad definitions. When a claimed source type is changed, note the change by placing a checkmark in the left hand margin of the examination worksheet.

Assign source type codes to the identified source as identified on Figure VI-3. For claimed source types not listed on Figure VI-3, consult the water resource specialist or program manager.

d. Computer Storage And Retrieval. The computer data base is set up to store a source name with each diversion record. Therefore, a different source name may be retained for each diversion record. But, because the claim form allowed only one source possibility, the source entered into the computer for each diversion is the same. To print the source name on worksheets and abstracts, the computer retrieves the source name from the first diversion record (DV01). All source names stored with PODs will appear in POD and Source Name indexes.

Retaining Multiple Source Names. If examination determines the diversions to be on different sources, correct the source names in the appropriate diversion record so that the indexes (source, and POD) will be accurate. Source names different from that listed on the worksheet (DV01) may be added in one of the two following manners.

- Unnamed Tributaries. In the POD legals is a heading entitled "TRIB." If the source is on an unnamed tributary

FIGURE VI-3

SOURCE TYPES

	Claimed or Documented Source Name	Type Code	Acceptable Source Name for Examination Worksheet
1.	Groundwater Well	G	Well
2.	Developed Spring(s) (spring name meets standardization criteria)	G	Spring Name (Standardized Spring Name)
	Developed Spring(s) (spring name does not meet standardization criteria)	G	Spring, Trib of _____ (Note: a source name remark may be used to retain claimed or documented spring name.)
3.	Undeveloped Spring(s) (single point source, spring name meets standardization criteria)	S	Spring Name (Standardized Spring Name)
	Undeveloped Spring(s) (single point source, spring name does not meet standardization criteria)	S	Spring, Trib of _____ (Note: a source name remark may be used to retain claimed or documented spring name.)
	Undeveloped Spring(s) (broad POD description, spring name meets standardization criteria)	S	UT (unnamed tributary) of _____
	Undeveloped Spring(s) (broad POD description, spring name does not meet standardization criteria)	S	UT (unnamed tributary) of _____ (Note: a source name remark may be used to retain claimed or documented spring name.)
4.	Drain Ditch Waste Water Waste and Seepage Seepage Drainage Collection Ditch or Collection Box	S	Waste and Seepage, Trib of _____ (Note: a source name remark may be used to retain claimed or documented source names.)
5.	Subirrigation	G	Subirrigation, Trib of _____
6.	Swamp Marsh Diffuse Surface Water Runoff	S	UT (unnamed tributary) of _____ (Note: a source name remark may be used to retain claimed or documented source name.)
7.	Natural Pit(s) Manmade Pit(s) Glacial Kettle(s) Natural Sink(s) USGS Named Stream Closed Basin UT Closed Basin	S	See instructions under VI.D.8.d.
8.	Groundwater Pit(s)	G	Manmade Pit, Trib of _____ Natural Pit, Trib of _____
9.	Natural Overflow	S	Standardized named stream or UT (unnamed tributary) of _____. (Note: a source name remark may be used to retain claimed or documented source name.)
10.	All Other Names		Discuss with water resource specialist and regional manager. If still unresolved, bring to program manager's attention.

there should be a "Y" listed in the TRIB column. To change a source name to "Unnamed Tributary of" for a POD other than DV01, place a "Y" in the TRIB space of the appropriate POD. This will list the unnamed tributary in indexes. Add a source name remark to identify the unnamed tributary on the decree abstract.

Example: S10 SN01POINT OF DIVERSION NO. 4 IS ON AN UNNAMED TRIBUTARY OF STONEY CREEK.

- Named Sources. Claims with PODs on separate named sources are likely to be implied claims. See "Source Name Issues: PODs on Multiple Sources". To retain additional source names for one water right, use a POD code sheet to add the source name pertaining to the POD not listed as DV01. Use "C" as the Action code to indicate a change to the existing record, and complete all areas of the POD record on the code sheet. This will list the additional source names in indexes. Add a source name remark to identify the second source name on the decree abstract.

Example: S25 SN01POINT OF DIVERSION NO. 3 IS ON LITTLE STONEY CREEK.

Printing And Storage Formats. Figure VI-4 is included to help explain source name format, and is divided into four areas.

- The "Write On Worksheet" column shows how different source name standardization should be written on the worksheet.

- The "Coded As" column shows how the source name will be coded and stored in the computer.

- The "Printed On Decree Abstract" column depicts the source name format for the decrees and certificates.

- The "Printed On Indexes" column displays the source name format as printed on indexes and other reports.

4. Streams.

a. Named Streams. The stream name confirmed on the USGS or WRS map, or as an acceptable colloquial name will be the standard source name. Make corrections or standardizations on the worksheet. If a WRS or colloquial name becomes the standardized name, write the name on the USGS topographic map.

When a claimed source name is not an acceptable source name, it can be retained on the decree abstract in a source name remark. If the claimed source name is not supported by the data sources but might be meaningful to the claimant, it should be retained. Use discretion when adding remarks.

Example: S30 SN01ALSO KNOWN AS DOG TAIL SLOUGH

FIGURE VI-4

SOURCE NAME FORMAT

Write on Worksheet	CODED AS: Source Name	UT Code	ST Remark	Printed on Review Abstract and Decree Abstract	Printed on Indexes
Standardized Name	Standardized Name	N	None	Standardized Name	Standardized Name
UT of _ _ _	Standardized Name	Y	None	Unnamed Tributary of _ _ _	UT _ _ _ _ _ _ (UT Rock Creek)
Spring, Trib of _ _ _	Standardized Name	Y	SP	Spring, Trib of _ _ _	SP _ _ _ _ _ _ (SP Rock Creek)
Standardized Spring Name	Standardized Spring Name	N	None	Standardized Spring Name	Standardized Spring Name
Waste & Seepage Trib of _ _ _	Standardized Name	Y	WS	Waste & Seepage, Trib of _ _ _	WS _ _ _ _ _ _ (WS Rock Creek)
Subirrigation Trib of _ _ _	Standardized Name	Y	SI	Subirrigation, Trib of _ _ _	SI _ _ _ _ _ _ (SI Rock Creek)
Manmade Pit Trib of _ _ _	Standardized Name	Y	MP	Manmade Pit, Trib of _ _ _	MP _ _ _ _ _ _ (MP Rock Creek)
Natural Pit Trib of _ _ _	Standardized Name	Y	NP	Natural Pit, Trib of _ _ _	NP _ _ _ _ _ _ (NP Rock Creek)
UT of Interior Drainage	Interior Drainage	Y	None	Unnamed Tributary of Interior Drainage	UT Interior Drainage
Spring Trib of Interior Drainage	Interior Drainage	Y	None	Spring, Trib of Interior Drainage	SP Interior Drainage
Natural Pit Trib of Interior Drainage	Interior Drainage	Y	None	Natural Pit, Trib of Interior Drainage	NP Interior Drainage
Manmade Pit Trib of Interior Drainage	Interior Drainage	Y	None	Manmade Pit, Trib of Interior Drainage	MP Interior Drainage

When a name is used more than once in a basin to identify different streams (i.e., Deer Creek, Rock Creek, Beaver Creek) adding a source name (SN) remark to the department's examination report is suggested. Use the name of the first stream to which the source is tributary in this remark.

Example: S75 SN01THE SOURCE IS A TRIBUTARY OF PRICKLEY PEAR CREEK.

b. Unnamed Streams. If the source is unnamed, the first standard source name to which the claimed source is a tributary will be used. Using the USGS topographic map, follow the claimed source downstream until it enters a named source. The source name will be written on the worksheet as: UT _____ (using the first standardized named source to which the claimed source is a tributary), i.e., UT Missouri River.

5. Lakes And Reservoirs. A lake is a considerable inland body of standing water which occurs naturally. Naturally occurring lakes which have had their surface artificially raised, altered, or volume increased due to human activities will be treated as a reservoir only on those claims using the storage. A reservoir is an artificial (man-made) lake where water is collected and kept in quantity for use.

The source name for a claim which includes a reservoir is the name of the stream from which water is diverted or impounded. For purposes of source name standardization, the following guidelines will apply.

- The source will be the inflowing stream name. If no inflowing stream, use the outflowing stream name. If there is no named outflowing stream, the source will be UT of the first named stream to which the source is a tributary (or UT).

- A claimed lake or reservoir name which meets the acceptable standardization criteria will be retained by writing the name in the reservoir/lake name area on the worksheet. When there is no reservoir record, an acceptable lake or reservoir name will be retained using the reservoir code sheet. See "Examination Materials and Procedures: Code Sheet Instructions" for how to complete reservoir code sheets.

The source and the reservoir/lake name records in the computer and on the decree abstract are limited to 33 spaces. Abbreviate the standardized name as necessary.

By following these guidelines both the stream and lake/reservoir name will be in the decree. The water right will be listed twice in the source name index; once under the stream name and once under the lake or reservoir name.

When a claimed reservoir name is not an acceptable standardized reservoir name and has not been added to the reservoir record, it may be retained using a reservoir name (RN) remark. The names will appear in the decree as part of the reservoir record.

Examples: R25 RN01RESERVOIR NAME: OLD MILLER POND
RN01RESERVOIR NAME: UPPER RANCH RSVR. NO. 2

When a natural lake is claimed that is unnamed or has a name that is not an acceptable standardized name (and, therefore, has not been added to a reservoir record), it may be noted using a source name (SN) remark.

Examples: S30 SN01ALSO KNOWN AS JOHNSON LAKE
S35 SN01UNNAMED NATURAL LAKE
S41 SN01POTHOLE LAKE
S42 SN01SOURCE FEEDS A NATURAL LAKE/POND

6. Springs. Many variations exist in how springs have been named and stored in the computer data base. This section discusses how they should be reviewed so that consistent source name standardization is maintained.

Developed Spring. A spring will be considered "developed" and the appropriation will be classified as groundwater if documentation clearly indicates a development of the spring that appropriates groundwater. Appropriate documentation to consider a spring "developed" would include:

- A GW3 or GW4 filed in accordance with the 1961 Groundwater Code, unless the GW form clearly indicates the spring has not been developed. For example, if the GW states "natural flowing springs", "natural flow", "spring surfaces and runs off", "natural springs", it should be considered undeveloped and classified as surface water.

  A GW1 or GW2 which identifies a spring, and meets the filing criteria, may be used as a GW3 or GW4.

- Claim form or other documentation in the file indicates the flow of the spring has been increased above its natural flow by some development at its point of extrusion from the ground.

- Claim form or other documentation in the file indicates some form of development at the spring, such as a "developed spring", "spring box", "pipeline", "pump" or "rock cribbing, **and** claimant contact confirms the development has increased the discharge of the spring above its natural flow.

- Claimant is contacted regarding spring development or for other items, and confirms development has increased the discharge of the spring above its natural flow.

Undeveloped Spring. A spring will be presumed to be "undeveloped" and the appropriation will be classified as surface water if the above "developed" spring criteria are not met.

a. Identifying The Source. When the claimed source is a spring, the identification of the source as a spring or a stream will be determined as follows:

- When a spring is "developed" based on the above criteria, the source will be a spring. The source type will be groundwater (G) and the POD legal land description should encompass just the spring.

  In some cases, the source may be composed of several springs or a cluster of springs within a small area. Unless the springs have been specifically identified on the map, only one POD description is needed. To explain this situation, a source name remark may be added to the department's examination report.

Example: S20 SN01SOURCE IS COMPOSED OF SEVERAL/FOUR DEVELOPED/UNDEVELOPED SPRINGS WITHIN THE POINT OF DIVERSION LEGAL LAND DESCRIPTION.

  Based on the physical location of the developed spring, the claim may include a commingling of surface water. If the commingled surface water has not been claimed, the following source name remark may be added to the department's examination report.

Example: S80 SN01THIS WATER RIGHT ALSO INCLUDES SURFACE WATER FROM UNNAMED TRIBUTARY OF MAD DOG CREEK.

  Depending on the location of the POU, there may be a secondary diversion on a water course used as a natural carrier. See "Claim Examination: Point Of Diversion (POD)" for natural carrier remarks.

- When a spring is "undeveloped" based on the above criteria, and the POD on the claim form and map are a single point source at the spring, the source will be spring. The source type will be surface water (S) and the POD legal land description should encompass just the spring. The specific means of diversion may need clarification. If the means of diversion was claimed as "developed spring", this will need to be changed to a code other than "DS".

  The source name remarks (S20, S80) discussed above may also be needed.

- If a spring is "undeveloped" based on the above criteria, and the POD on the claim form and map identify an area larger than just the spring or POD downstream from the

spring, the source will be the stream to which the spring is a tributary. The source type will be surface water (S) and the POD legal land description should encompass where the water is diverted for use. The specific means of diversion may need clarification.

The following source name remark may be added to the department's examination report if a spring has been developed in a manner that adds to the watercourse from which the water is actually diverted. However, this may be a separate right and an implied claim may be needed.

Example: S85 SN01THIS WATER RIGHT ALSO INCLUDES GROUNDWATER FROM A DEVELOPED SPRING IN THE NWNWNW SEC 18 TWP 10N RGE 13W POWELL COUNTY.

b. Named Springs. A claimed spring name which meets the acceptable standardization criteria will be retained as the standard source name. Make corrections to the claimed source name directly on the worksheet. The word "Spring" should always follow a standard name, e.g., Two Dot Spring.

A decision was made during the claims collection period that certain named springs would not be stored in the computer data base, such as,

- Spring #1, #2, etc.
- spring name is the same as the claimant's name;
- a number followed by a name (#3 Arthur);
- a number that is spelled out (twenty-seven).

These springs will not be named on the worksheet. These claimed spring names must be checked to see if they meet acceptable standardization criteria. If the name does not meet the criteria, treat the source as an unnamed spring.

In situations where a claimed spring name is not an acceptable standardized name, the claimed name may be retained in a source name (SN) remark added to the decree abstract. Use discretion when adding such remarks.

Example: S30 SN01ALSO KNOWN AS KELLEY PLACE SPRING

c. Unnamed Springs. A claimed spring without a name or with a claimed name that does not meet the acceptable standardization criteria is considered an unnamed spring. Identify the first down gradient named source, even if far away from the spring, for establishing the standard source name. This puts the spring in a subbasin, enhancing the usefulness of the data base.

All unnamed springs will be standardized on the worksheet to "Spring, Trib of _____" (using the first down gradient named source). If the spring cannot be related to a named source, the standard source name will be "Spring".

7. Wells. When "well" has been claimed, the source name on the worksheet will be "Well." The standard source name for these sources will be "Well," unless a claimed well name meets acceptable standardization criteria. A claimed source name being standardized to "Well" may be retained in a source name (SN01) remark. Use discretion when adding remarks.

Recording Well Data. Instructions for entering well data, i.e., depth, static water level, yield rate, and casing diameter, are given in "Point Of Diversion: Specific Point Of Diversion Guidelines".

8. Additional Source Types. When none of the five choices (spring, well, stream, lake, or reservoir) on the claim form fit a particular situation, certain other source names are acceptable.

These additional source names are presented in Figure VI-3. The left column lists various source names or types which may appear on the claim form or documentation. The right column lists the corresponding standardized source name.

Names in the left column can be retained as source name remarks in the department's examination report if helpful in explaining the situation. Source name remarks added during clarification should be deleted if they do not appear useful.

Questions regarding these source names and types should be brought to the attention of the water resource specialist and regional manager, or program manager. Claimed source names and types not identified in Figure VI-3 will normally involve issue remarks.

a. Waste And Seepage. Waste water is water lost through the design of a system, the operation of a system, and/or the water distribution facility which has not re-entered a natural stream channel. Seepage is the movement of water through a porous soil; its origin could be from another's waste or occurring naturally.

The source name for claims involving waste and/or seepage will be standardized as "Waste and Seepage Trib of _____," using the first named source into which the water would flow. When considering "Waste and Seepage Trib of _____" as the standardized source name, a definite diversion of the water must be involved. To further explain how and where waste and seepage originates, a source name remark may be added to the department's examination report.

Examples: S90 SN01THE SOURCE IS WATER COLLECTED IN A DRAIN DITCH.

S95 SN01THE SOURCE IS WATER COLLECTED IN THE MONFORTON DRAIN DITCHES.

Drain ditches may exist where the water is not being used, but is being drained off the claimed place of use. In this situation the right may be subirrigation, not waste and seepage.

For claims to waste or seepage being diverted from a natural stream channel, the source name will be that of the stream.

b. Subirrigation. The two types of subirrigation are as follows.

- Natural subirrigation is land having a water table within reach of the crop root system. There is normally no specific point of diversion: POU should equal POD.

- Controlled subirrigation systems, such as drain ditches equipped with check dams to control the level of the water table, would require a specific POD.

The source name for claims involving subirrigation will be standardized as "Subirrigation Trib of_____," using the first named source the subirrigation water would flow into.

c. Natural Overflow Or Flood. Generally, natural overflow or natural flooding as a claimed source name was changed during the clarification process to the stream name. Standardize the source name for claims involving natural overflow or natural flooding to the stream from which the natural overflow or flooding occurs.

d. Interior Drainages (Closed Basins). A closed basin or interior drainage exists when the surface water of an area does not have an identifiable outlet. An interior drainage, therefore, may not be known to be tributary to any other drainage or source.

The following guidelines, listed in order of preference, apply for standardizing the source name of an interior drainage.

- A named stream or lake, or an unnamed tributary to a named stream or lake, within an interior drainage which meets the acceptable standardization criteria will be the source name, e.g., "SWAMP COULEE." Add a source name remark to the department's examination report identifying the interior drainage.

Example: S100 SN01SOURCE LOCATED WITHIN AN INTERIOR DRAINAGE.

- For unnamed streams within an interior drainage, determine the first named source down gradient from the interior drainage. Use this source name in conjunction with the source type. This puts the source in a subbasin which enhances the usefulness of the data base. Add a source name remark to the department's examination report identifying the interior drainage.

Examples: Unnamed Tributary of *(source name)*
Natural Pit Trib of *(source name)*
Manmade Pit Trib of *(source name)*

Example: S100 SN01SOURCE LOCATED WITHIN AN INTERIOR DRAINAGE.

- If there is no named stream within the interior drainage and a down gradient source name cannot be determined, the standardized source name will be "INTERIOR DRAINAGE" used in conjunction with the source type.

Examples: Natural Pit, Trib of Interior Drainage
Manmade Pit, Trib of Interior Drainage
UT, Trib of Interior Drainage
Spring, Trib of Interior Drainage

e. Others. All claimed source names that cannot be standardized using the procedures in the preceding sections will be brought to the attention of the program manager.

9. Source Name Issues.

a. Multiple Source Types Claimed. Claims may be encountered listing multiple source types, such as Waste/Subirrigation/Slough. Determining the accurate source name requires careful analysis. Contacting the claimant is advised.

The following guidelines apply when multiple source types have been claimed.

- If more than one source is involved, send the claim to the water court requesting authorization for an implied claim. The claim file should clearly document why more than one water right exists.

- If only one source is involved and the source type is clearly indicated in the claim file, change the source type accordingly. When a single source type is not clearly indicated in the claim file, contact the claimant.

- If the multiple source type problem is not resolved, add a source name remark to the department's examination report.

Example: S105 SN51THIS CLAIM APPEARS TO BE CLAIMING TWO SEPARATE SOURCES OF WATER. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.

b. PODs On Multiple Sources. Some claims show points of diversion on two or more sources. Two or more water rights may be involved, the POD legals may be incorrect, or there may be only one water right involving two sources. If there is any uncertainty whether more than one water right is involved, contact the claimant.

The following guidelines apply when PODs on multiple sources have been claimed.

- For claims involving a named source and an unnamed tributary to that same source, and there is no apparent adverse effect to other water users, the claim will be reviewed as one water right. Place a "Y" on the worksheet in the diversion record for the POD on the unnamed tributary to identify it in indexes. Add a source name remark to identify the unnamed tributary on the decree abstract.

Example: S10 SN01POINT OF DIVERSION NO. 4 IS ON AN UNNAMED TRIBUTARY OF STONEY CREEK.

- For claims involving two or more PODs on different named sources, claimant contact is advised.

  i) The POD legals may be incorrect.

  ii) If more than one source is involved, send the claim to the water court requesting authorization for an implied claim.

  iii) If the reasons for PODs on different sources cannot be resolved, add a source name remark to the department's examination report.

Example: S110 SN51THIS CLAIM APPEARS TO DIVERT WATER FROM TWO SEPARATE SOURCES. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.

c. <u>POD Not On Claimed Source.</u> When the POD is located on a water course different from the source claimed, either an exchange of water from different sources or a natural carrier situation is occurring.

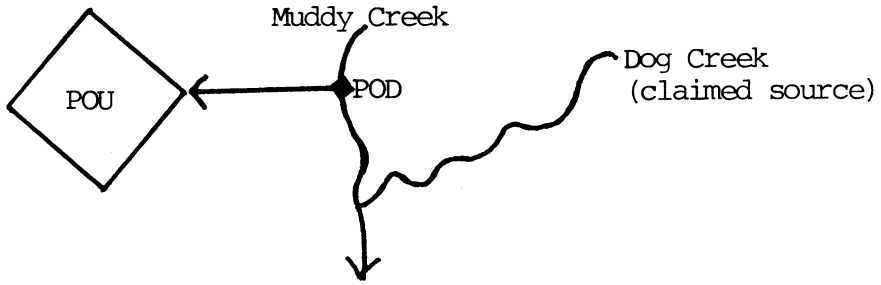
<u>Exchange Of Water From Different Sources.</u> An exchange of water occurs when water from the diverted source is substituted for the water of the appropriated source. Contacting the claimant to understand the specifics is advised. Standardize the source name to the stream from which water was originally appropriated. Add a source name remark to the decree abstract.

Examples: S55 SN01WATER FROM NO MAN LAKE IS EXCHANGED FOR WATER DIVERTED FROM THE SOUTH FORK OF INDIAN CREEK.

S60 SN01WATER DECREED FROM DOG CREEK, CASE NO. 0000, PONDERA COUNTY, IS EXCHANGED FOR WATER DIVERTED FROM MUDDY CREEK.

In addition, add a source name remark to the department's examination report noting the exchange as an issue. It is suggested this type of claim be reviewed by the water resources specialist.

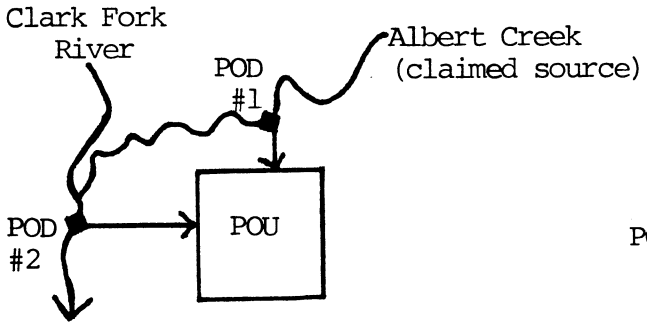
Example: S115 SN51WATER IS NOT DIVERTED FROM THE CLAIMED SOURCE. WATER FROM THE CLAIMED SOURCE IS EXCHANGED FOR WATER DIVERTED FROM A DIFFERENT SOURCE. DUE TO THE EXCHANGE OF WATER, THE SOURCE AND PRIORITY DATE CANNOT BE CONFIRMED.

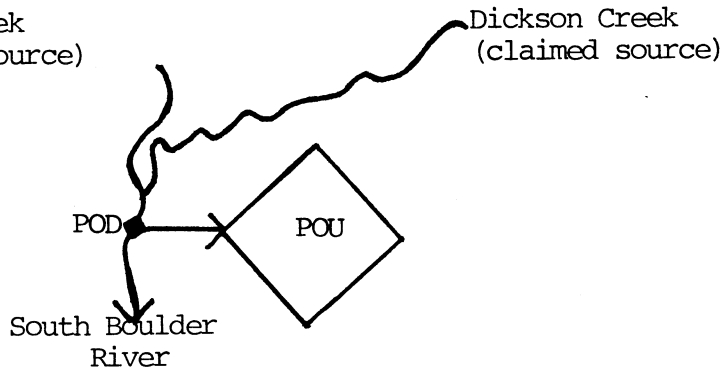


Natural Carrier. If the claimed source is an upstream tributary to the water course on which the POD is located, add a source name remark to the department's examination report to help explain and clarify the particular situation.

Examples: S65 SN01CLARK FORK RIVER IS USED AS A NATURAL CARRIER TO CONVEY WATER FROM ALBERT CREEK TO POINT OF DIVERSION NO. 2.

S70 SN01SOUTH BOULDER RIVER IS USED AS A NATURAL CARRIER TO CONVEY WATER FROM DICKSON CREEK TO THE POINT OF DIVERSION.





When the second example is encountered, check claim file, WRS, and if necessary, the claimant, to determine whether water was historically diverted from the claimed source. If a historical diversion from the claimed source cannot be determined or never existed, add a source name issue remark, in addition to the remark above, to the department's examination report.

Examples: S120 SN51WATER IS NOT DIVERTED FROM THE SOURCE CLAIMED. A HISTORICAL APPROPRIATION FROM THE CLAIMED SOURCE CANNOT BE CONFIRMED.

S125 SN51WATER IS NOT DIVERTED FROM THE SOURCE CLAIMED. IT APPEARS THAT NO HISTORICAL APPROPRIATION HAS OCCURRED FROM THE CLAIMED SOURCE.

d. Claimed Source Questionable. In certain situations, a claim for groundwater from a well in a flood plain should be questioned. For example, a well adjacent to a stream with a depth of 15 feet and a casing diameter of 48 inches may actually be diverting surface water from the stream.

If uncertain whether a claim fits into this category, consult with the water resources specialist, regional manager, and/or program manager.

When it is appears the source may be incorrect, contact the claimant to discuss the issue. If the issue is not resolved, add a source name remark to the department's examination report.

Example: S126 SN51THE CLAIMED SOURCE MAY BE QUESTIONABLE. BASED ON AVAILABLE DATA, THE SOURCE MAY BE SURFACE WATER FROM DOG CREEK.

If the source is amended to a surface source where the POD is a sump or pit next to the source, add a point of diversion (PD01) remark to explain the POD is adjacent to the source but is diverting water from the source.

Example: **** PD01WATER FROM DOG CREEK IS DIVERTED BY MEANS OF A PIT LOCATED ADJACENT TO THE SOURCE.

E. ADDITIONAL LEGAL LAND DESCRIPTIONS

The normal reference to legal land descriptions is by township, range, section, and quarter sections. Other types of legal land descriptions, e.g., government lots, subdivisions, mining claims, can be used to help define a property location. Exhibits VI-2 and VI-3 are discussions of land surveys, legal land descriptions, and the documents involved.

This section describes how other types of legal land descriptions are identified. These descriptions may be added to the decree abstract during the examination process as a clarification of a claimed POD or POU to the nearest reasonable and concise legal land description.

1. Subdivisions. A claimed subdivision or one identified during examination will be retained to appear on the decree abstract. This is especially important in the urban areas of the state.

In standardizing subdivision names, use the subdivision name list from the Department of Revenue. Each regional office should have this list for their area.

When adding a subdivision, record the lot and block numbers directly on the worksheet. Add a subdivision name to the decree abstract with a subdivision name (SB) remark, using a remark code sheet, not a subdivision record code sheet. The subdivision name remark should begin with the two letter county code and a hyphen before the subdivision name.

Examples: S5 SB01JE-GRUBER ESTATES, FIRST ADDITION

SB01HI-CERTIFICATE OF SURVEY NO. 22134
(if on Department of Revenue list)

Following are some guidelines for adding or changing subdivision descriptions.

- A lot number with no identified subdivision name may refer to a government lot. Check the GLO plat of the township to confirm.

- Use quarter section breakdowns with subdivision lot and block descriptions. Refine the quarter section legals the same as with land descriptions not involving subdivisions.

- If more than one lot or block number occurs within a specified quarter section breakdown, repeat the breakdown as a separate parcel listing for each lot or block number.

- It may not be possible to identify the acreage or legals to match each lot and block referred to in a POD or POU. If not, lot and block numbers may be retained in a point

of diversion (PD) or place of use (PL) remark. If the remark is to refer to both POD and POU, a clarification of land description (CL) remark may be used. A subdivision name (SB) remark is also necessary. (Example: Claimed POU equals 10 acres of irrigation in Lots 5, 6, and 7 of Gruber Estates, First Addition, NENENE, Sec. 1. Number of acres within each lot cannot be determined. Add a place of use (PL) and subdivision name (SB) remark.)

Examples: P6 PD01THE POINT OF DIVERSION INCLUDES LOTS 8 AND 9 OF GRUBER ESTATES, FIRST ADDITION.

P7 PD01THE POINT OF DIVERSION IS LOCATED IN TRACTS 2A AND 2B OF CERTIFICATE OF SURVEY NO. 2076.

P175 PL01THE PLACE OF USE INCLUDES LOTS 5, 6, AND 7 OF GRUBER ESTATES, FIRST ADDITION.

P180 PL01THE PLACE OF USE IS LOCATED IN TRACTS 2A AND 2B OF CERTIFICATE OF SURVEY NO. 2076.

C40 CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES LOTS 5, 6 AND 7 OF GRUBER ESTATES, FIRST ADDITION.

C55 CL01POINT OF DIVERSION AND PLACE OF USE ARE LOCATED IN TRACTS 2A AND 2B OF CERTIFICATE OF SURVEY NO. 2076.

S5 SB01JE-GRUBER ESTATES, FIRST ADDITION

- If a subdivision and government lot are both involved, retain the subdivision lot and block numbers on the worksheet, (a SB remark is necessary), and add a PD, PL, or CL remark to the decree abstract to retain the government lot.

Examples: P4 PD01THE POINT OF DIVERSION INCLUDES/IS LOCATED IN GOVT LOT 8 IN SEC 13 TWP 16N RGE 15E JUDITH BASIN COUNTY.

P165 PL01THE PLACE OF USE INCLUDES/IS LOCATED IN GOVT LOTS 5, 6, AND 7 IN SEC 12 TWP 15N RGE 15E JUDITH BASIN COUNTY.

C10 CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES/ARE LOCATED IN GOVT LOTS 3 AND 4 IN SEC 12 TWP 15N RGE 15E JUDITH BASIN COUNTY.

S5 SB01JB-SAPPHIRE MOUNTAIN ESTATES

2. Government Lots. Government lots are used to describe portions of sections where normal quartering methods into aliquot parts is not feasible. They are typically found in sections along the north and west side of a township, odd shaped sections,

land adjacent to lakes and rivers, on Indian reservations, and where surveys joined.

When a claim lists a government lot or a land description in a potential government lot situation, check the General Land Office (GLO) plat books or GLO microfiche to confirm. Add a copy of the plat map to the claim file.

Retain a government lot identified through examination, even if not claimed. Write government lot numbers directly on the examination worksheet. The computer will print "GOVT" next to the lot number when a lot number is part of a legal land description and is not accompanied by a subdivision (SB) remark.

Use the following guidelines when a government lot is associated with a point of diversion or place of use legal land description.

- If section is close to being typical size (640 acres), then a ¼¼¼ or ¼¼ description should be added.

  There should be at least one ¼ or ½ section description to identify the quadrant in which the lot is located.

  These descriptions, although not technically correct, are a useful data management tool.

  To break an odd shaped section into quadrants, align a standard section grid with the southeast corner. If the southeast corner is part of a lot boundary, align the grid with a standard corner which is not part of a lot boundary. The quadrant containing the standard corner (usually the southeast) will be normal size with the error thrown into remaining quadrants (usually the north and west).

- If more than one lot exists within a specific claimed legal (quadrant), repeat the quadrant for each lot.

- If a government lot and subdivision are both involved, see procedures in "Subdivisions" above.

3. Certificate of Surveys. A claimed certificate of survey (COS) or one identified during examination will be retained to appear on the decree abstract. If the COS is listed on the Department of Revenue subdivision list, retain it in a SB remark. See procedures in "Subdivisions" above. If the COS is not on the Department of Revenue list, retain it in a CL, PD or PL remark.

Examples: C15 CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES/ARE LOCATED IN CERTIFICATE OF SURVEY NO. 0000, BEAVERHEAD COUNTY.

C55 CL01POINT OF DIVERSION AND PLACE OF USE ARE LOCATED IN TRACTS 2A AND 2B OF CERTIFICATE OF SURVEY NO. 2076.

P3 PD01THE POINT OF DIVERSION INCLUDES/IS LOCATED IN CERTIFICATE OF SURVEY NO. 0000, BEAVERHEAD COUNTY.

P171 PL01THE PLACE OF USE INCLUDES/IS LOCATED IN CERTIFICATE OF SURVEY NO. 0000, BEAVERHEAD COUNTY.

4. Homestead Entry Surveys, Desert Land Claims and Mining Claims. For a description and discussion of each of these documents, see Exhibit VI-2 in the appendix. These documents can help to further define the location of a claimed water right.

Whenever one of these documents is identified on the claim form, in the claim file, or through claim examination, the type of document and document number should be retained on the decree abstract using a point of diversion (PD) or place of use (PL) remark. A clarification (CL) remark may be used if the document refers to both the POD and POU.

Examples: P5 PD01THE POINT OF DIVERSION INCLUDES/IS LOCATED IN VICTORY LODE, MINERAL SURVEY NO. 0000.

P6 PD01THE POINT OF DIVERSION INCLUDES MINERAL SURVEY NO. 8776.

P7 PD01THE POINT OF DIVERSION IS LOCATED IN HOMESTEAD ENTRY SURVEY NO. 8789.

P170 PL01THE PLACE OF USE INCLUDES/IS LOCATED IN LUCKY STRIKE PLACER, MINERAL SURVEY NO. 9999.

P175 PL01THE PLACE OF USE INCLUDES LOTS 5, 6, AND 7 OF HOMESTEAD ENTRY SURVEY NO. 747.

P180 PL01THE PLACE OF USE IS LOCATED IN HOMESTEAD ENTRY SURVEY NO. 8765.

C25 CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES/ARE LOCATED IN VICTORY LODE, MINERAL SURVEY NO. 0000.

C40 CL01POINT OF DIVERSION AND PLACE OF USE INCLUDES MINERAL SURVEY NO. 9383.

C55 CL01POINT OF DIVERSION AND PLACE OF USE ARE LOCATED IN HOMESTEAD ENTRY SURVEY NO. 8736.

Even when a homestead entry survey, mineral survey, etc. is retained, a legal land description should be listed on the worksheet for the POD and POU.

If not submitted with or identified on the claim form, indicate in the comments area on the worksheet where the document was found.

5. Unsurveyed Areas. If examining a claim in an area indicated as unsurveyed on a USGS topographic map, the rectangular (TRS) legal land description should be interpolated and listed on the examination worksheet. These descriptions, although not technically correct, are a useful management tool. Whenever a legal land description is interpolated in an unsurveyed area, add a remark to the department's examination report.

Examples: C60 CL01THE TOWNSHIP IS UNSURVEYED. THE LEGAL LAND DESCRIPTION HAS BEEN ESTIMATED.

P15 PD01THE TOWNSHIP IS UNSURVEYED. THE LEGAL LAND DESCRIPTION FOR THE POINT OF DIVERSION HAS BEEN ESTIMATED.

P210 PL01THE TOWNSHIP IS UNSURVEYED. THE LEGAL LAND DESCRIPTION FOR THE PLACE OF USE HAS BEEN ESTIMATED.

The survey lines of some unsurveyed areas have been interpolated on US Forest Service and BLM maps. Use these references when available.

6. Claims On Indian Reservation. For claims where the point of diversion or part of the place of use is within an Indian reservation, add the following remark to the department's examination report.

Example: C64 CL01THIS WATER RIGHT IS LOCATED, IN WHOLE OR IN PART, WITHIN THE BOUNDARY OF THE FORT PECK INDIAN RESERVATION.

F. POINT OF DIVERSION (POD)

The point of diversion is the location of the initial diversion, impoundment, or withdrawal of water from the source of supply. By standardizing PODs, the quality of the computer data is improved making POD indexes or listings more accurate and reliable.

All PODs will be described on the decree abstract using an aliquot legal land description and any other legal land description that will precisely define its location. Refer to "Land Surveys and Descriptions," Exhibit VI-3, for a general discussion of legal land descriptions.

1. Identifying The Claimed POD. Using the information in the claim file, check the POD identified on the claim form for clerical errors by the claimant, and for consistency with the documentation. If the claimed POD is unclear to the extent that what was intended cannot be determined, contact the claimant. An amendment identifying the claimed POD may be needed.

Secondary Points Of Diversion. Some claimants listed secondary points of diversion along with or instead of the initial point of diversion for their system. A secondary diversion is one that moves or controls water after the initial diversion and is within the system either enroute to the POU or on the POU itself. It does not take new water from the claimed source. Examples of secondary diversions are:

- lateral ditches off of a main ditch
- dams for offstream reservoirs
- diversions from a stream course used as a natural conveyance
- spreader dikes below the initial diversion dike

Multiple diversions in series along a stream channel are not secondary PODs since each is used to initially divert water from the claimed source.

Secondary PODs should be deleted from the examination worksheet. Place an asterisk in the brackets to the left of the POD heading to denote the change. Claimant contact is only necessary if the initial POD is not clear from the claim file. In such situations, the initial POD can be added to the claim on instruction from the claimant; an amendment is not necessary.

Secondary diversions from a stream course used as a natural carrier may be denoted in a remark. See "Examining POD: Unique POD Features" below.

2. Examining POD. Examine each claimed POD to confirm its existence and check each legal land description for accuracy and consistency. A single POD may have had several different legal land descriptions applied to it by claimants.

Compare the POD indicated on the claim and worksheet with various data sources. These data sources include

- claim file
- aerial photographs or orthophotoquads
- topographic maps
- Water Resources Survey
- ditch name indexes

Locate the claimed POD on the aerial photograph, and use the Water Resources Survey data or USGS topographic maps to confirm its location. If there is a discrepancy between an aerial photograph and the WRS data, the aerial photograph takes preference. If the aerial photograph, due to timber cover or the small size of the diversion means, does not show evidence of the claimed POD, the WRS data will be given preference.

If the POD cannot be found on the aerial photograph, WRS, or topographic map, the review of the claimed POD becomes subjective. Look carefully at the conveyance facility and POU in respect to the point of diversion. Also consider the claimed means of diversion. Determine if it is possible to supply the POU using the claimed POD, means of diversion, and conveyance facility. If necessary, consult the POD index to identify other claims with PODs in that general area. Pull these claims for a better understanding of the situation.

The claimed POD may be changed if supported by the claimant's map, data sources, or other claims using the same POD. This change may involve either refining a claimed POD legal or identifying an entirely different legal.

Refining POD Legals. Once identified, claimed PODs should be refined to the nearest reasonable and concise legal land description.

The most precise legal land description is normally a ¼¼¼ section. The data base allows for a fourth ¼ section breakdown to a legal land description. This shall only be used when the claimant's map or our data source is extremely precise, or the claim indicates a fourth ¼ description. PODs in a highly subdivided area or a townsite could warrant a fourth ¼ description.

POD legals should be further refined using legal land description devices such as lot-block-subdivision, government lot, Homestead Entry Survey number, etc., whenever possible.

Shared PODs. The claimed legal land description of PODs shared by several claims and/or claimants may be revised to make them consistent. The claimed POD may be changed if supported by data sources or claimant's map. This change may involve either refining a claimed POD legal or identifying an entirely different legal.

To help achieve this goal, it is suggested that claims be reviewed as a group, by source and by ownership. Familiarity with the area will increase. Patterns will become more apparent. For example, if the legals given by several users of a shared diversion differ from the data sources, contact the claimant(s). It may be appropriate to conduct a field investigation.

For named ditches, POD consistency can be achieved by developing a ditch name index. See "Conveyance Facilities Index" below.

a. Changing POD. The claimed POD will not be changed during the examination unless

- amended by the claimant;
- clarified by the department to the nearest reasonable and concise legal land description;
- revised by the department to make a common POD used for more than one claim consistent;
- clarified by the department on confirmation by the claimant.

Changes may be made directly to the worksheet or by adding a POD code sheet. If the legal land descriptions are changed so that they will be different on the decree abstract from the claim form, amendment, or addendum, place an asterisk on the worksheet in the brackets to the left of point of diversion to flag the change. The basis of the change must be documented in the claim file.

b. Claimant Contact. Whenever the claimed point of diversion is unclear, has apparent discrepancies, or appears inaccurate after the initial review, the claimant should be contacted unless otherwise specified in this subchapter. This contact can have several outcomes.

- Information discussed confirms the claimed POD. Document the information supporting the claimed POD.
- A POD different from that in the claim file is identified. The claimed POD may be changed on confirmation by the claimant. Thoroughly document the discussions with the claimant and the data used to substantiate the new POD. As an alternative, an amendment can be submitted to change the claimed POD.
- A new POD in addition to those claimed is identified. This information can only be added by amendment.
- If the issue is unresolved, add a POD issue remark containing the correct POD to the department's examination report. (If the actual POD is too lengthy for a remark,

record the actual POD in the general comments area of the worksheet, on an interview report form, or in a memorandum. Do not use a POD code sheet.)

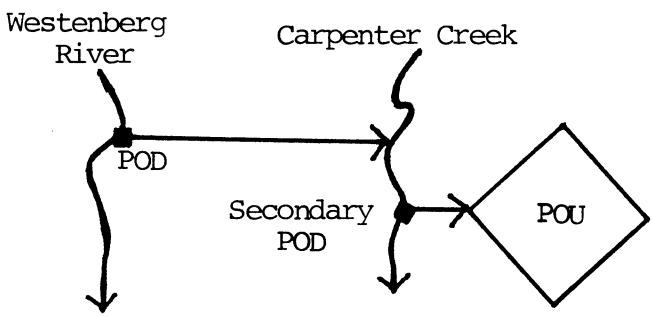
c. Unique POD Features. Unique POD features should be called to the attention of the water court by adding a remark to the examination report.

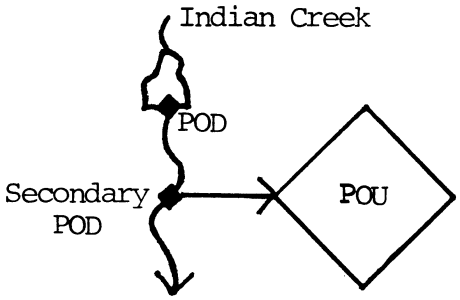
Example: P20 PD01DRAIN DITCH IS FED ALONG ITS FULL LENGTH BY UNDERGROUND SEEPS.

Natural Carrier. Secondary diversions located on a water course used as a natural carrier should be remarked as unique features in the department's examination report if helpful in explaining and clarifying a particular situation.

Examples: C120 CV01WATER DIVERTED FROM WESTENBERG RIVER IS CONVEYED TO CARPENTER CREEK WHICH IS USED AS A NATURAL CARRIER TO A SECONDARY POINT OF DIVERSION IN THE SWSWSE SEC 23 TWP 99S RGE 99E DAKOTA COUNTY.

C125 CV01WATER RELEASED FROM CLIFF RESERVOIR USES INDIAN CREEK AS A NATURAL CARRIER TO CONVEY WATER TO A SECONDARY POINT OF DIVERSION IN THE NWNWNW SEC 15 TWP 01N RGE 15E DAKOTA COUNTY.





d. Conveyance Facilities Index. This section describes the preparation of an index that allows convenient comparison of claims using the same named ditch as a conveyance facility. An example of this index is shown as Exhibit VI-4.

The index would not be available until after examination data has been input into the computer. A complete index will be provided as part of the review abstract process and subsequent reviews. The index is useful to department reviewers when checking for clerical and other errors, and to claimants in their review of the decree.

The development of this index is left to each regional office staff's discretion. On some streams, most claims are diverted through named ditches, and the index would be beneficial to develop. There are, however, areas where few (if any) ditches are named or few claims use common carrier ditches. For these reasons, it may not be necessary to compile a ditch name index for every stream in a basin; or in some cases, for any streams in a basin.

The first step in the preparation of this index is the standardization of ditch names. As the WRS includes most ditches, it will prove to be a valuable source for this information. Different names are sometimes indicated on the USGS topographic maps or are given by the claimants either on the claim form or in the documentation. The suggested order of preference for these sources is:

- WRS ditch names
- USGS ditch names
- Colloquial names

To enter a ditch or canal name into the computer record of a claim, use a ditch name (CX) remark. The text of the remark is the ditch name.

Examples: C160 CX01REID DITCH
C161 CX01FARMERS CANAL

Computer will print:

"DITCH NAME: REID DITCH"
"DITCH NAME: FARMERS CANAL"

When a claim uses two or more named ditches, additional CX remarks can be added. The ditch names can be tied to the respective PODs using the following ditch name remark format. The number in the text of the remark must correspond to the diversion record number of the respective POD for that named ditch, i.e., for DV03 remark text must be 03-ADAM-SMITH DITCH. This allows the computer to print the ditch name with the appropriate POD legals in the ditch name index.

Examples: C165 CX0101-FRAZIER DITCH
CX0303-ADAM-SMITH DITCH

Computer will print:

"DITCH NAME FOR DIVERSION NO. 01 IS
FRAZIER DITCH"

"DITCH NAME FOR DIVERSION NO. 03 IS
ADAM-SMITH DITCH"

C166 CX0101-FARMERS CANAL
CX0302-STONE CANAL

Computer will print:

"DITCH NAME FOR DIVERSION NO. 01 IS
FARMERS CANAL"

"DITCH NAME FOR DIVERSION NO. 02 IS:
STONE CANAL"

For claims to stored water released and diverted downstream into a named ditch or canal, add a ditch name remark.

Examples: C160 CX01WARREN DITCH (STORAGE)
C161 CX01STONE CANAL (STORAGE)

Computer will print:

"DITCH NAME: WARREN DITCH (STORAGE)"
"DITCH NAME: STONE CANAL (STORAGE)"

3. Specific Point Of Diversion Guidelines. The following are guidelines to various situations encountered in examining and consistently defining POD locations.

a. Point Specific Diversions. Point specific diversions include dams, headgates, stationary pumps, springs, and wells. All specific PODs associated with a water right should have their locations listed separately. This applies even if there is more than one POD existing in a 10 acre (¼¼¼) legal land description. The claimant's map is the primary reference.

Recording Well Data. For general DNRC use, well data that is encountered in the claim file, GW files, or other data sources will be stored in the computer data base.

When a well has been claimed, a line will appear in the POD area on the worksheet that shows existing well data in the computer record of a claim and allows for input of well data identified during examination. The format of the line on the examination worksheet is:

depth 9999 static wtr lvl 9999 yield rate 99999 csing diam 99.99

If the worksheet does not have a line for entering well data, the well data code sheet (same as reservoir code sheet) may be used. If the code sheet is used, the entire field must be completed including the legal land descriptions of the well. Code the "Action" byte as "C" for change.

The yield rate is the rate at which the well was tested and is normally found on the well log. The yield rate should be greater than the pumping rate (claimed flow rate). If the yield rate cannot be identified from the claim file or other data sources, this area should be left blank.

If well data is available that does not appear on the worksheet, write it in the appropriate space and place a check mark in the margin to alert the coders. If data appears on the line, it should be checked against the information in the claim file, and other information obtained during the examination.

Two Or More Rights On The Same Well Or Pump. Two or more different water rights (different priority dates) may be encountered

on a single well or pump location. For example, a well was originally used for stock and used later for domestic. In this type of situation, an associated remark may be added to the department's examination report.

Example: A35 AS01THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE ASSOCIATED. THEY SHARE THE SAME POINT OF DIVERSION/RESERVOIR/POTHOLE LAKE. W000000-00, E000000-00, C000000-00, P000000-00.

b. Reservoirs. The POD of an offstream reservoir should identify where the water is diverted from the source for conveyance to the reservoir. The POD of an onstream reservoir will be the location of where the impoundment structure crosses the source.

If control of the reservoir is not a part of the right (onstream/offstream code is "R") the POD for the right should be where the water is diverted from the reservoir to the POU.

Additional Diversions. Systems involving reservoirs sometimes have other diversions from the source that do not involve the reservoir. These additional PODs should also be identified on the decree abstract.

c. Transitory Diversions. Some systems divert water from several non-specific places along a source with a movable diversion means. In this situation the POD should identify the length (area) along which the diversion occurs. Add a point of diversion remark to the department's examination report.

Examples: P25 PD01POINT OF DIVERSION IS MOVEABLE ALL ALONG SOURCE WITHIN LEGAL LAND DESCRIPTION.

P30 PD01POINT OF DIVERSION NO. 2 IS MOVEABLE ALL ALONG SOURCE WITHIN LEGAL LAND DESCRIPTION.

P35 PD01PUMP IS MOVEABLE ALL ALONG SOURCE WITHIN LEGAL LAND DESCRIPTION.

d. Water Spreading. For water spreading systems involving dikes, the point of diversion is the location where the structure crosses the source.

If it is necessary to use additional legal land descriptions to describe the structure, do not use additional point of diversion records. Add a point of diversion remark to the department's examination report.

Examples: P8 PD01DIKE EXTENDS INTO THE NESW SEC 03 TWP 05N RGE 15E SWEET GRASS COUNTY.

P9 PD01DIKE EXTENDS INTO THE NWNWNE, NENENW SEC 03 TWP 05N RGE 15E SWEET GRASS COUNTY.

e. Natural Subirrigation. When the source is natural subirrigation, the legal land description for the POD will be the same as for the place of use.

f. Controlled Subirrigation. Where subirrigation is man controlled, such as a check dam on a drain ditch, the POD will be the location of the check dam.

g. Natural Overflow. When the source is natural overflow or flooding, the legal land description for the POD will normally be the length of the stream through the place of use.

h. Waste And Seepage. This source name is used to cover a variety of situations. The POD for waste and seepage rights will be defined as the location where the claimant initially collects or manipulates waste and seepage and directs it to the place of use; this manipulation may range from construction of extensive drainage ditches to simply burning off the brush from a barrow pit, enabling it to collect water. Because of the wide variety of situations, it will frequently be necessary to contact the claimant to identify the point of diversion for a waste and seepage claim.

- If the waste and seepage is ponded on the surface, the POD should be where the water leaves the ponded area.

- If the exact boundaries of the collection area are known, the POD will be where the water leaves the collection boundary.

- If the exact boundaries of the collection area are not known, the POD will be where the water leaves the drain ditch to the POU.

- If the exact boundaries of the collection area are known, but the location of where the water leaves is not, (e.g. several locations or unresolved) the POD should be the length of the collection area.

4. POD Issues. Any pertinent POD issues unresolved during claim examination may be remarked on the department's examination report using a point of diversion (PD) remark. Some potential POD issue areas follow.

a. Claimed POD Incorrect. If a claimed POD appears incorrect and cannot be corrected through clarification or claimant contact, add an issue remark to the department's examination report.

Examples: P40 PD51THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SWSWSW SEC 30 TWP 99N RGE 99W ALBERTA COUNTY.

**** PD51IT APPEARS THAT POINT OF DIVERSION NO. 3 IS ACTUALLY IN THE SESESE SEC 1 TWP 20S RGE 35E WYOMING COUNTY.

P50 PD51THE POINTS OF DIVERSION APPEAR TO BE INCORRECT. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

P55 PD51IT APPEARS POINT OF DIVERSION NO. 2 MAY BE INCORRECT. THE EXISTENCE OF A DIVERSION FACILITY AND CONVEYANCE DITCH CANNOT BE CONFIRMED FROM AVAILABLE DATA.

P57 PD51THE CLAIMED POINT OF DIVERSION MAY BE INCOMPLETE. IT APPEARS THERE SHOULD BE ADDITIONAL POINTS OF DIVERSION ON DEEP CREEK WHICH COULD NOT BE IDENTIFIED FROM INFORMATION IN THE CLAIM FILE.

b. Claimed POD Not Refined. Point specific diversions such as dams, headgates, stationary pumps, and wells should be refined to the nearest reasonable legal land description. The most precise description is normally a ¼¼¼ section. If a claimed POD is incomplete and cannot be refined through clarification or claimant contact, add an issue remark to the department's examination report.

Examples: P36 PD51THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.

P37 PD51THE LEGAL LAND DESCRIPTION FOR POINT OF DIVERSION NO. 2 COULD NOT BE REFINED FROM INFORMATION IN THE FILE. THIS CLAIMED POINT OF DIVERSION CANNOT BE CONFIRMED.

P38 PD51THE LEGAL LAND DESCRIPTION FOR POINTS OF DIVERSION NO. 1 AND 2 COULD NOT BE REFINED FROM INFORMATION IN THE FILE. THE CLAIMED POINTS OF DIVERSION CANNOT BE CONFIRMED.

c. Claimed Conveyance Questionable. If the claimed conveyance facility appears in error, not functional, or unable to service the claimed place of use, and claimant contact did not resolve the issue, add a conveyance facility (CV) remark to the department's examination report.

Examples: C145 CV51USE OF THE JOHNSON DITCH TO CONVEY WATER TO THE PLACE OF USE MAY BE QUESTIONABLE.

C150 CV51THE CLAIMED CONVEYANCE DITCH CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

C155 CV51THE CONVEYANCE DITCH HAS BEEN SEVERED BY HIGHWAY CONSTRUCTION AND CANNOT CONVEY WATER FROM THE SOURCE TO THE PLACE OF USE.

d. Secondary POD Without Initial POD. A secondary POD claimed without initial POD requires claimant contact if the initial POD cannot be determined from the claim file, data sources, or other claims. If the initial POD can not be identified and is not supplied by the claimant, add an issue remark to the department's examination report.

Example: P60 PD51THE CLAIMED POINT OF DIVERSION IS NOT THE INITIAL POINT THAT WATER IS DIVERTED FROM THE SOURCE. THE INITIAL POINT CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

e. Prolonged Nonuse. If the claim file, data sources, or claimant contact confirm that a POD has not been in use for an extended period of time, add an issue remark to the department's examination report.

Examples: P65 PD51ACCORDING TO INFORMATION IN THE CLAIM FILE, POINT OF DIVERSION NO. 3 HAS NOT BEEN USED SINCE 1958.

**** PD51ACCORDING TO INFORMATION IN THE CLAIM FILE, POINT OF DIVERSION NO. 2 IS INOPERABLE AND HAS NOT BEEN USED SINCE 1959.

f. Point Of Diversion Not On Claimed Source. See "Source Name: Source Name Issues: POD Not On Claimed Source" above.

g. Point Of Diversion Not In Montana. If the POD is determined to be outside Montana, add both of the following remarks.

Examples: **** PD01POINT OF DIVERSION IS IN THE SENENW SEC 10 TWP 18N RGE 21E LEMHI COUNTY, IDAHO.

**** PD51AN INTERSTATE USE OF WATER IS INVOLVED. POINT OF DIVERSION IS IN IDAHO.

Wyoming, South Dakota, and part of North Dakota touching the Yellowstone River division are exceptions because interstate use between Montana and these states is governed by a compact. Contact the program manager for processing instructions for interstate claims involving these states.

h. Post-6/30/73 Changes. Post-6/30/73 change in point of diversion not in accordance with §85-2-402, MCA. See Special Provisions: Changes in Appropriation Right.

5. Interbasin Transfer Or Potential Interbasin Groundwater (GW) Effect. An interbasin transfer of surface water occurs when water is diverted in one basin, and used in whole or in part, in another basin.

Potential interbasin groundwater effect involves claims for groundwater which may affect water rights outside the basin of

diversion. Generally, an affect to water rights within a basin will be considered to occur when a groundwater claim outside the basin is:

- greater than one cfs, and
- within a mile of the basin boundary.

For example, a well at Twin Bridges (basin 41B) for 600 gpm within one mile of the basin boundary may potentially effect groundwater claims in 41C, 41D and 41G.

All interbasin transfers and GW effects involving irrigation and other uses claims will be denoted on the decree abstract. Interbasin transfers and GW effects involving stockwater or domestic claims will only be denoted if the claim is to a water right also used for other uses or irrigation. For example, an irrigation and stock claim were submitted on the same filed notice of appropriation. Both divert water in basin 41B for use in basin 41C. The decree abstracts would denote both claims as interbasin transfers.

a. Identifying Interbasin Transfers. Prior to examining claims, a check for interbasin transfer and GW effect claims should be made. Using USGS topographic maps, conduct a search along the basin lines, on both sides, for likely areas of interbasin transfer or GW effect. Typically these are

- basin junctions where streams meet
- basin boundaries in flat or gently sloped terrain
- basin boundaries on mountain saddles
- basin boundaries running down mountain slopes into valleys

Send a list of sections in such areas to the records section requesting general purpose abstracts by POU for all claims in those sections. Check the POD and POU on each abstract against the USGS topographic maps to determine whether it involves an interbasin transfer or GW effect.

If the area of responsibility of other regional offices is within or adjacent to the basin being examined, contact them to determine whether they are aware of interbasin transfers into the basin.

b. List Of Interbasin Transfers. A list of all interbasin transfers and GW effects will be compiled as an ongoing process for each basin. The list will contain

- the claim number
- basin of the POD
- basin of the POU
- source type code

Interbasin transfers either out of or into a basin will be on the list. It should be readily accessible to all SB staff in the office, e.g., posted on the wall. Add any pertinent claims to lists

being maintained on other basins. Notify other offices of interbasin transfer claims in basins they are examining as they are discovered.

Upon completion of examination of the basin, submit the list to the records section supervisor. Send a copy to regional offices with adjacent basins in their area.

c. Denoting Interbasin Transfers. Identify all claims which include interbasin transfer or GW effect by adding one of the following interbasin transfer (TI) remarks to the decree abstract to explain the interbasin relationship.

- Where the entire place of use is in a basin separate from the point of diversion basin:

  T10 TI01THIS APPROPRIATION OF WATER TAKES WATER FROM THE JUDITH RIVER DRAINAGE (BASIN 41S) AND USES IT IN THE ARROW CREEK DRAINAGE (BASIN 41R). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.

- Where only a portion of the place of use is in a basin separate from the point of diversion basin:

  T15 TI01THIS APPROPRIATION OF WATER TAKES WATER FROM THE JUDITH RIVER DRAINAGE (BASIN 41S) AND USES IT IN THE JUDITH RIVER DRAINAGE (BASIN 41S) AND THE ARROW CREEK DRAINAGE (BASIN 41R). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.

- Where a claim involves a potential groundwater affect:

  T20 TI01THIS APPROPRIATION OF WATER TAKES GROUNDWATER FROM THE WILLOW CREEK DRAINAGE (BASIN 41N). THIS USE MAY POTENTIALLY AFFECT WATER RIGHTS IN THE MARIAS RIVER DRAINAGE (BASIN 41P). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER BASIN.

d. Reviewing Interbasin Transfer Claims. Claims involving an interbasin transfer will be decreed in the POD basin and noticed in the POU basin.

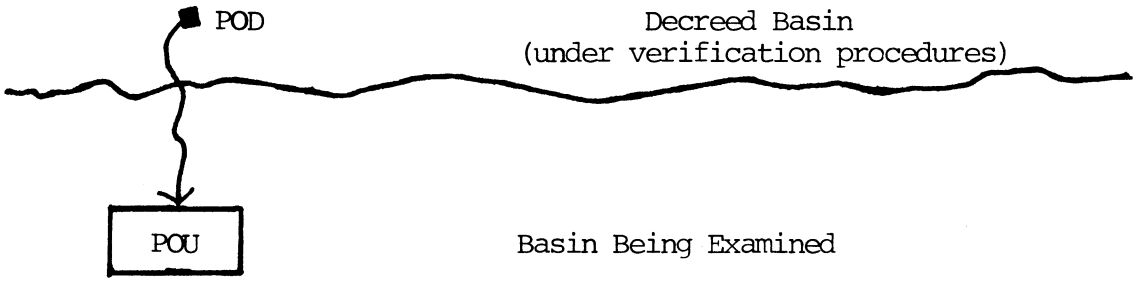
For the POD basin, the claim shall be examined and reported using the examination rules applicable to the examination of all other claims in the basin.

In the POU basin, the claim will only be noticed (see Figure VI-5). If the POD basin has not been examined, then the claim shall be examined in the POU basin. If the POD basin has been examined, then no further review need be made of the claim in the POU basin.

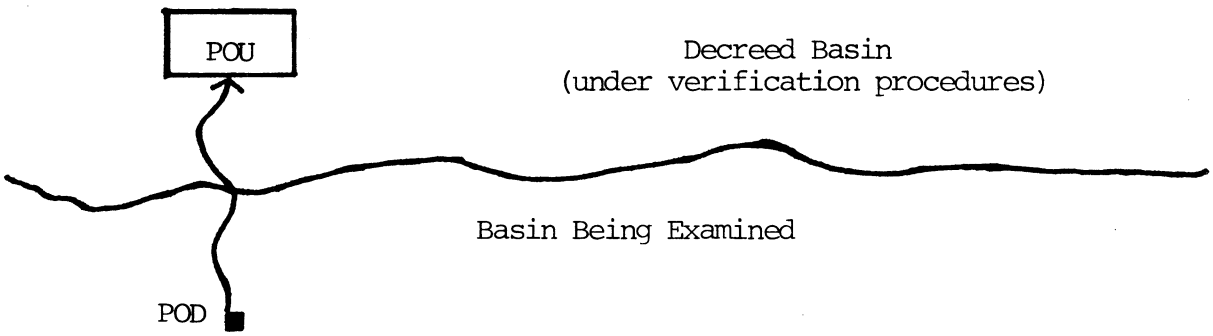
The computer will be programmed to print the notice in the POU basin decree. The notice abstract will only print interbasin transfer (TI) and place of use (PL) remarks; all others will be suppressed.

Interbasin Transfers Decreed Under Verification Procedures. Interbasin claims in basins decreed prior to 1992 were decreed under the verification procedures. When these claims are to be included in a basin examined using the Claim Examination rules, the following procedures will apply.

- Interbasin claims where the POD is in the decreed basin under the old format will be reviewed again under the Claim Examination rules in the POU basin. If this review finds additional issues, bring these to the water court's attention by letter. Replace the old format "DE" remark with the "TI" remark. The claim will be decreed in the POU basin as shown in Figure VI-5.



- Interbasin claims where a portion or all the POU is in the decreed basin under the old format will be reviewed again under the Claim Examination rules and entered into the POD basin decree in the new abstract format. Replace the old format "DE" remark with the "TI" remark. When the POU basin goes to the next stage of the adjudication process, the interbasin claim will be abstracted as shown in Figure VI-5.



Check whether objections have been filed on these types of claims. If so, contact the water master for status of the claim. If the objection has been resolved, request a copy of the master's report to update claim during examination. If the examination of the updated claim has found issues, discuss with the water master that these issues will be reported to the water court using the above procedures.

TEMPORARY PRELIMINARY DECREE
SHIELDS RIVER
BASIN 43A
ABSTRACT OF WATER RIGHT CLAIM

WATER RIGHT NUMBER 43B -W-020822-00

***** THIS IS AN INTERBASIN TRANSFER CLAIM *****

THE POINT OF DIVERSION FOR THIS WATER RIGHT IS LOCATED IN ANOTHER BASIN. THE ABBREVIATED INFORMATION PROVIDED HERE IS TO DESCRIBE THE PLACE OF USE IN THIS BASIN. COMPLETE INFORMATION DESCRIBING THE ENTIRE RIGHT CAN BE FOUND IN THE POINT OF DIVERSION BASIN DECREE.

FOR THE CURRENT STATUS OF THE POINT OF DIVERSION BASIN, CONTACT THE MONTANA WATER COURT OR THE DNRC AS INDICATED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF TEMPORARY PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

THIS APPROPRIATION OF WATER TAKES WATER FROM THE YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK DRAINAGE (BASIN 43B) AND USES IT IN THE SHIELDS RIVER DRAINAGE (BASIN 43A). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.

YOUR WATER RIGHT AS SHOWN ON THIS ABSTRACT MAY HAVE CHANGES FROM YOUR WATER RIGHT AS CLAIMED OR AMENDED. AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (DNRC) DURING THE EXAMINATION PROCESS. THESE CHANGES ARE AUTHORIZED BY THE MONTANA WATER COURT OR THE WATER RIGHT CLAIM EXAMINATION RULES AS ADOPTED BY THE MONTANA SUPREME COURT.

OBJECTIONS MAY BE FILED ACCORDING TO THE PROCEDURES OUTLINED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF TEMPORARY PRELIMINARY DECREE AND NOTICE OF AVAILABILITY." UNLESS OBJECTED TO OR CALLED IN ON MOTION OF THE MONTANA WATER COURT IN THIS DECREE OR IN THE PRELIMINARY DECREE, THE ELEMENTS OF THIS CLAIMED WATER RIGHT WILL APPEAR IN THE FINAL DECREE AS SHOWN ON THIS ABSTRACT. (SEE SECTION 85-2-233, MONTANA CODE ANNOTATED.)

OWNERS: HOFFMAN DONALD
PO BOX 83
CLYDE PARK MT 59018

HOFFMAN MYRTLE A
PO BOX 83
CLYDE PARK MT 59018

PURPOSE (USE): IRRIGATION
TYPE OF IRRIGATION SYSTEM: FLOOD

SOURCE: DUCK CREEK, WEST FORK
SOURCE TYPE: SURFACE WATER

PRIORITY DATE: JUNE 10, 1895

FLOW RATE:

VOLUME:

MAXIMUM ACRES:

PERIOD OF USE:

POINT OF DIVERSION AND MEANS OF DIVERSION:

PLACE OF USE FOR IRRIGATION:

TEMPORARY PRELIMINARY DECREE
SHIELDS RIVER
BASIN 43A
ABSTRACT OF WATER RIGHT CLAIM

WATER RIGHT NUMBER 43B -W-020822-00 (CONTINUED)

PLACE OF USE CONTINUED:

	ACRES	LOT	BLK	QTR	SEC	SEC	TWP	RGE	COUNTY
001	500.00					30	02N	11E	PARK
TOTAL	500.00								

A BETTER UNDERSTANDING OF YOUR CLAIMED WATER RIGHT CAN BE OBTAINED BY COMPARING YOUR RIGHT WITH OTHER CLAIMS IN THE BASIN. FOR EXAMPLE, COMPARE PRIORITY DATES, FLOW RATES, VOLUMES, OR ACRES IRRIGATED. ALSO, YOUR WATER RIGHT MAY BE SUBJECT TO WATER RIGHTS IN ADJOINING BASINS OR SUBBASINS AS WELL AS BEING SUBJECT TO OTHER RIGHTS ON YOUR SOURCE OF SUPPLY. FINALLY, YOUR WATER RIGHT MAY BE SUBJECT TO INDIAN RESERVED AND FEDERAL RESERVED WATER RIGHTS.

COMPLETE DETAILS REGARDING THE DNRC EXAMINATION RESULTS AND RELATED MATERIALS CAN BE REVIEWED AT THE OFFICE LOCATIONS IDENTIFIED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF TEMPORARY PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

SEE GENERAL FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR FURTHER EXPLANATION OF YOUR CLAIMED WATER RIGHT. THESE FINDINGS CAN BE FOUND AS INDICATED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF TEMPORARY PRELIMINARY DECREE AND NOTICE OF AVAILABILITY." IF YOU NEED OBJECTION FORMS, OR HAVE QUESTIONS ABOUT WATER COURT PROCEDURES OR CHANGES TO YOUR RIGHT, YOU CAN CONTACT THE WATER COURT BY CALLING 1-800-624-3270 (WITHIN MONTANA ONLY) OR 1-406-586-4364, OR BY WRITING TO P.O. BOX 879, BOZEMAN MT 59771-0879.

6. Basin Code. A basin code is assigned based on the legal land description of the claimed point of diversion. The basin code identifies claims for inclusion in a particular decree and legal public notice procedures. The concern for determining the proper basin code is not limited to getting mislabeled claims out, but also for getting proper but mislabeled claims in.

a. Reviewing Basin Codes. After identifying and clarifying the claimed PODs, review for accuracy the basin code assigned to the claim. Care should be taken that the basin code was not determined using a secondary POD.

On the examination worksheet, the basin code is found at the top within the claim number, and below the point of diversion and means of diversion elements.

Check the POD legal land description against the Atlas of Water Resources in Montana by Hydrologic Basin. For greater accuracy, transpose basin lines onto larger scale maps such as USGS topographic maps, US Forest Service, or BLM maps.

If the basin code on a claim is incorrect, check all claims within the ownership to verify that all the basin codes on the claims are correct.

b. Correcting Basin Codes. A claim with an incorrect basin code should be corrected immediately.

Non-decreed Claim Corrected To A Non-decreed Basin. Indicate the correct basin code on the worksheet, claim form, and claim folder label. Complete a basin correction target for each file, Exhibit VI-5.

If the claim files for the correct basin are not in the regional office, send the entire misbasined file to the records section in Helena with a note indicating the basin correction. Make any required additions or changes to the printed logs and indexes kept in the regional office. In Helena, the basin code will be changed in the computer data base, the basin correction target filmed, the microfilm jacket corrected, new duplicate microfiche distributed and the claim filed.

If the claim files for the correct basin are in the regional office, send only the basin correction target (Exhibit VI-5) to Helena. Request the target be returned after the basin code has been corrected.

Non-decreed Claim Corrected To A Decreed Basin. Immediately notify the water court by memorandum (Figure VI-6, Version 1) stating the problem and the claims involved. Indicate that after the claims have been examined and processed, the claim files will be sent to the water court.

Indicate the correct basin code on each worksheet, claim form, and claim folder label. For every file, add a copy of the notification memo, complete a basin correction target (Exhibit VI-5), and add a general information (GI) remark.

Example: G32 GI51CLAIM WAS IMPROPERLY DESIGNATED TO BASIN 40B. CLAIM WAS NOT INCLUDED IN THE BASIN 41C TEMPORARY PRELIMINARY DECREE ISSUED 11/14/90.

When claim examination is complete, send the files to the program manager for review and to have decree abstracts generated. If necessary, the files will be returned to the regional office for corrections. Once complete, the entire claim files will be filmed and forwarded to the water court by the program manager. The program manager will add a note requesting the files be returned if not needed by the water court.

Decreed Claim Corrected To A Decreed Basin. Occasionally, a claim which has been decreed may be found to be misbasined and the correct basin has also been decreed. Immediately notify the water court by memorandum (Figure VI-6, Version 2) indicating the following:

- If the claims have been objected to and are at the water court, request they return the files for correction. Indicate the claims can be returned to the water court if requested; otherwise they will be stored with the appropriate basin files.

- If the claims have not been objected to, indicate the necessary corrections will be made and the files will be stored with the appropriate basin files.

After the claim files are obtained, indicate the correct basin code on each claim form and claim folder label. For every file, add a copy of the notification memo, complete a basin correction target (Exhibit VI-5), and add a general information (GI) remark.

Example: G33 GI51CLAIM WAS IMPROPERLY DESIGNATED TO BASIN 43A AND WAS INCLUDED IN THE TEMPORARY PRELIMINARY DECREE ISSUED 08/03/88. CLAIM WAS NOT INCLUDED IN THE BASIN 43B TEMPORARY PRELIMINARY DECREE ISSUED 01/16/85.

Send the files to the program manager for review. The basin code will be changed in the computer data base and a corrected decree abstracts generated. The relevant information will be filmed and the claim files will be forwarded to the water court, or stored with the appropriate basin files.

Decreed Claim Corrected To A Non-decreed Basin. Immediately notify the water court by memorandum (Figure VI-6, Version 3) indicating the following:

FIGURE VI-6
(Regional Office Letterhead)

MEMORANDUM

TO: Montana Water Court

FROM: Kraig Van Voast, Water Resources Specialist

DATE: February 20, 1991

SUBJECT: Basin Correction to Claim Nos. W022062-00 and W022063-00.

****VERSION 1**** **Non-decreed Claim Corrected To A Decreed Basin.**

During the examination of Claim Nos. W022062-00 and W022063-00, it was discovered these claims were incorrectly designated to Basin 40J. After reviewing data sources, it was confirmed these claims are actually located in Basin 40K. Basin 40K was issued into temporary preliminary decree on November 21, 1989.

After examination of these claims is completed, the files will be sent to Helena for processing. The files and decree abstracts will then be sent to the Water Court.

If you have any questions, please feel free to call me.

****VERSION 2**** **Decreed Claim Corrected To A Decreed Basin.**

Recently it was discovered that Claim Nos. W022062-00 and W022063-00 were incorrectly designated to Basin 43A. After reviewing data sources, it was confirmed that these claims are actually located in Basin 43B. Basin 43B was issued into a temporary preliminary decree on January 16, 1985.

According to our records, these claims were objected to and may currently be at the water court. If so, please return the claim files to this office for correction and further processing. Also, please indicate whether the files should be returned to the court. Otherwise, the files will be stored with the appropriate basin files.

Upon receipt of the files, the necessary corrections will be made and the files will be sent to Helena for processing. The files and updated decree abstracts will then be sent to the Water Court or archived.

If you have any questions, please feel free to call me.

****VERSION 3**** - **Decreed Claim Corrected To A Non-Decreed Basin.**

Recently it was discovered that Claim Nos. W022062-00 and W022063-00 were incorrectly designated to Basin 40C. After reviewing data sources, it was confirmed that these claims are actually located in Basin 42KJ. Basin 42KJ has not yet been decreed.

According to our records, these claims were objected to and may currently be at the water court. If so, please return the claim files to this office for further correction and further processing. Also, please indicate whether the files should be returned to the court. Otherwise, the files will be stored with the appropriate basin files and reviewed when Basin 42KJ is examined.

Upon receipt of the files, the necessary corrections will be made and the files will be sent to Helena for processing. The files and updated decree abstracts will then be sent to the Water Court or archived.

If you have any questions, please feel free to call me.

- If the claims have been objected to and are at the water court, request they return the files for correction. Indicate the claims can be returned to the water court if requested; otherwise they will be stored with the appropriate basin files and reviewed when the basin is examined.

- If the claims have not been objected to, indicate the necessary corrections will be made and the claim files will be stored with the appropriate basin files and reviewed when the basin is examined.

After the claim files are obtained, indicate the correct basin code on each claim form and claim folder label. For every file, add a copy of the notification memo, complete a basin correction target (Exhibit VI-5), and add a general information (GI) remark.

Example: G34 GI51CLAIM WAS IMPROPERLY DESIGNATED TO BASIN 43A AND WAS INCLUDED IN THE TEMPORARY PRELIMINARY DECREE ISSUED 08/03/88.

Send the files to the program manager for review. The basin code will be changed in the computer data base and the relevant information will be filmed. The claim files will be forwarded to the water court, or stored with the appropriate basin files and reviewed when the basin is examined.

c. Correcting Basin Lines. Attention should be paid to the accuracy of basin boundaries as delineated in the Atlas of Water Resources in Montana by Hydrologic Basin. Any changes to these basin lines must be reviewed and approved by the regional manager.

Once approved, make the correction to all basin line maps and topographic maps in the office. Notify the entire regional office staff, other regional offices, and the program manager.

A check for claims affected by the correction should be made immediately after changing a basin line.

G. MEANS OF DIVERSION

The means of diversion (MOD) is the structure, facility, or method used to divert and initiate conveyance of water from the source of supply. It can vary for each POD claimed. Each claimed diversion means will be consistently described on the decree abstract. By standardizing the means of diversion, the quality of the computer data base is improved making indexes or listings containing MOD more accurate and reliable. When the source is a well, no MOD will be printed on the examination worksheet. The decree abstract will indicate the MOD as a well.

1. Identifying Claimed Means Of Diversion. Because of the limited number of choices provided by the claim forms, the diversion means listed on the examination worksheet may not accurately reflect the claimant's intent, or be as precise as possible. Furthermore, a single method of diversion may have had several names applied to it by claimants.

Compare the diversion means listed on the examination worksheet with the claim file. The claimant's map, documentation, and the examination worksheet should clearly and consistently reflect the claimant's intent.

If the claimant's intent is not clear, contact the claimant. When claimant contact is inconclusive, note the problem on the examination worksheet and add the following remark to the examination report:

Example: D50 DM51THE CLAIMED MEANS OF DIVERSION CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

2. Standard Means Of Diversion Descriptions. All means of diversion should be standardized to one of the codes on Figure VI-7. Use Figure VI-7 along with the claim file and any claimant contact to determine when a claimed means of diversion must be changed for consistency. "DS" and "US" should only be used when no other code (e.g., "LS") is appropriate.

Each POD will have only one means of diversion associated with it. If two or more methods of diversion are occurring, normally identify these as separate PODs. For example, a stockwater claim involving a pipeline from a spring to a tank and stock drinking direct from the spring and its channel of flow would be categorized as "LS" (direct from source) and "PL" (pipeline) using two POD descriptions.

In other situations, a clearly subordinate means of diversion could be added as a DM remark. For example, a domestic claim indicating pump and bucket for one POD legal could be categorized a "PM" for the means of diversion along with a DM remark.

Example: D10 DM01BUCKET USED AS AN ADDITIONAL MEANS OF DIVERSION.

FIGURE VI-7
MEANS OF DIVERSION GUIDELINES

Diversion Method	Standardized Name	Code
Bucket, Pan, or other container	Bucket	BK
Diversion Dam (or "Wing" dam) without impoundment	Diversion Dam	DD
Dike (i.e., spreader dike)	Dike	DK
Dam w/Impoundment	Dam	DM
Dam With Pit	Dam/Pit	DP
Drain Ditch, Collection Ditch	Drain Ditch	DR
Developed Spring,(man-made work involved-no specific method identified)	Developed Spring	DS
Ditch	Ditch	DT
Flowing (OBSOLETE)	Flowing	FL
Headgate	Headgate	HG
Infiltration Gallery	Infiltration Gallery	IG
Instream Use (usually only for FW or RC claims)	Instream	IN
Livestock Drinking Directly From Source (can be used for WI)	Direct From Source	LS
Natural Overflow	Natural Overflow	NO
Pipeline, Hose Directly In Source	Pipeline	PL
Pump (e.g., electric pump, fuel pump, hand pump, hydraulic ram, windmill)	Pump	PM
Sump or Pit	Pit	PT
Spring Box	Spring Box	SB
Natural Subirrigation	Subirrigation	SI
Undeveloped Spring (no man-made work involved)	Undeveloped Spring	US
Other	Add DM01 remark describing diversion means	XX

A diversion means (DM) remark can be used to further explain a diversion system that is only generally explained by the standard means of diversion codes. Such information will be identified on the department's examination report.

Example: D45 DM01WATER COLLECTED IN FOSTER WASTE DITCHES IN THE N2 SEC 05 TWP 07N RGE 16E WHEATLAND COUNTY.

When a MOD cannot be standardized to one found in Figure VI-6, change the diversion means code on the worksheet to XX and add a diversion means (DM) remark to the decree abstract.

Example: D25 DM01THE MEANS OF DIVERSION IS A FLUME.

Stockwater Reservoirs. The means of diversion for stock drinking directly only from an onstream reservoir should be "DM" to identify the dam as the means of diversion. If stock are drinking from stream channels above or below the reservoir as well as from the reservoir itself, the means of diversion should be "DM" for the reservoir point of diversion and "LS" for the stock drinking direct diversion.

3. Examining Means Of Diversion. Examine each claimed means of diversion for consistency, accuracy, and operational status. Compare the MOD on the claim and worksheet to various data sources. These data sources include

- claim file
- aerial photographs or orthophotoquads
- topographic maps
- Water Resources Survey

The review of a claimed means of diversion for accuracy will primarily be subjective. Review the claim file and data sources for confirmation of the operational status of means of diversion. When the means of diversion on various claims for a common POD appear inconsistent, or other questions arise concerning claimed means of diversion, initiate claimant contact.

To improve consistency in reviewing diversion means, it is suggested that all claims from a particular source be reviewed as a block, and by the same examiner. Within a source, all claims should be pulled for review by point of diversion. Remember that claims with the same POD legal land description may have separate diversion structures. Check the claim file to determine if the same diversion or conveyance (e.g., ditch) is described.

a. Changing MOD. The claimed MOD will not be changed during the examination unless

- amended by the claimant;
- clarified by the department to consistently identify similar means of diversion;

- clarified by the department on confirmation by the claimant.

Changes may be made directly to the worksheet. Place an asterisk on the worksheet in the brackets to the left of the POD heading to denote a change to a MOD that differs from that on the claim form. Exceptions to using an asterisk are a change from one department assigned code to another where the claimed intent is not changed, e.g., "LS" to "DM", "FL" to "PL" or "FL" to "LS". Such changes only require a check mark in the blank at the left margin of the worksheet.

b. Claimant Contact. Whenever the claimed means of diversion is unclear, has apparent discrepancies, or appears inaccurate after the initial review, the claimant should be contacted unless otherwise specified in this subchapter. This contact can have several outcomes.

- Information discussed confirms the claimed MOD. Document the information supporting the claimed MOD.

- A MOD different from that in the claim file is identified. The claimed MOD may be changed on confirmation by the claimant. Document the data substantiating the new MOD and the discussion with the claimant. As an alternative, an amendment can be submitted to change the claimed MOD.

- A new MOD in addition to those claimed is identified. This information can only be added by amendment.

- If the issue is unresolved either because no substantiating data can be found or a different MOD is substantiated but the claimant wants to retain the claim as is, add a MOD issue remark containing the correct MOD to the department's examination report.

4. Means Of Diversion Issues. Any pertinent means of diversion issues discovered during claim examination should be addressed by contacting the claimant. If claimant contact does not resolve the issue, add a diversion means (DM) issue remark to the department's examination report. Some potential means of diversion issues and example remarks are as follows.

- Claimed MOD appears incorrect.

Examples: D55 DM51THE MEANS OF DIVERSION APPEARS TO BE INCORRECT. THE MEANS OF DIVERSION APPEARS TO BE A PUMP.

**** DM51MEANS OF DIVERSION NO. 3 APPEARS TO BE INCORRECT. LOCAL RESIDENTS HAVE IDENTIFIED A DRAIN DITCH.

D65 DM51THE CLAIMED MEANS OF DIVERSION APPEARS TO/MAY BE INCORRECT AND CANNOT BE CONFIRMED DUE TO LACK OF DATA.

- Two or more means of diversion claimed for a single POD, which could not be resolved through clarification or claimant contact.

Example: D70 DM51TWO SEPARATE MEANS OF DIVERSION HAVE BEEN CLAIMED FOR THE POINT OF DIVERSION IN THE SESESE SEC 12 TWP 99N RGE 99E MANITOBA COUNTY.

- Two or more means of diversion claimed by separate claims for a single POD.

Example: D75 DM51THE CLAIMS FOLLOWING THIS REMARK CLAIM DIFFERENT MEANS OF DIVERSION FOR WHAT APPEARS TO BE A SINGLE POINT OF DIVERSION IN THE NWNWNW SEC 36 TWP 99S RGE 99W IDAHO COUNTY. W000000-00, W000000-00, W000000-00, W000000-00.

- No means of diversion claimed.

Example: D80 DM51NO MEANS OF DIVERSION WAS CLAIMED.

H. RESERVOIRS

A reservoir, or pit, is a water storage facility created by manmade means that impounds water, storing it for beneficial use. Included are natural lakes that have had water levels raised by manmade means. A reservoir should only be identified as an element of a water right if control of the reservoir is part of the exercise of that right. Some reservoirs were claimed where control of the reservoir is not part of the claimed use. For example, stored water in Hungry Horse Reservoir is part of the U.S. Bureau of Reclamation's rights for power generation on the South Fork of the Flathead River, but storage is not part of rights for summer homes on Flathead Lake.

The purpose of this chapter is to outline the specific procedures unique to reviewing reservoirs. Examine all elements of claims that include reservoirs using the procedures pertinent to the claimed purpose. Flow rate and volume procedures, as they relate to reservoirs, are also addressed in the chapters pertaining to the purpose of the reservoir.

1. Identifying Claimed Reservoirs. When a reservoir has been claimed or clarified on the claim form, a reservoir record will be printed on the examination worksheet between the POD and POU. Review the claim file and outside data sources to confirm the existence of the reservoir. Useful sources include aerial photos, topographic maps, and Water Resources Survey materials. If the reservoir cannot be confirmed, contact the claimant. If necessary, a field investigation may be conducted.

If a reservoir has been claimed or depicted on the claimant's map but does not appear on the examination worksheet, it may be added using a reservoir code sheet (Exhibit IV-4). See part 3 below for reservoir record information. If it is determined from information in the claim file or other data sources that a reservoir exists which has not been claimed, normally claimant contact would be required to determine whether the reservoir is part of the use claimed prior to adding the reservoir record.

Source Name. The source name for a claim including a reservoir is the name of the stream from which water is diverted or impounded. If there is more than one named stream flowing into an onstream reservoir use the name of the outflowing stream. If there is no named outflowing stream, the source will be UT of the first named stream to which the source is a tributary (or UT). The source is not the reservoir name.

Unique Features or Aspects. Any unique aspects or features of a reservoir may be remarked using a reservoir name (RN) remark.

Examples: R65 RN01THE RESERVOIR IS A DAMMED OXBOW OF THE OLD MILK RIVER CHANNEL.

R70 RN01MANMADE PIT IN BOTTOM OF NATURAL LAKE.

2. Collecting Reservoir Data.

a. The Reservoir Information Worksheet. In an effort to provide information in the claim file for water court consideration in decreeing water use from reservoirs, a reservoir information worksheet (Exhibit VI-6) has been developed. The worksheet addresses the general information on the history, condition, operation, and dimensions of the reservoir.

b. When A Reservoir Information Worksheet Must Be Completed. A worksheet must be completed and added to the file of each claim where control of a reservoir is a part of the right, and:

- the claimed volume is greater than 15 acre-feet (a worksheet should also be completed when the claimed volume is less than 15 acre-feet but it appears the reservoir is larger than 15 acre-feet), or

- the claim file contains specific reservoir data which pertain to the items listed on the worksheet, or

- specific reservoir data is readily obtained from published data sources such as

  i) project files at local BLM offices
  ii) state water conservation projects book
  iii) USBOR project data book (1981)
  iv) miscellaneous published information from MPC, WWPC, etc.
  v) DNRC Dam Safety Bureau

c. Completing The Reservoir Information Worksheet. Only one worksheet is needed for all claims on a single reservoir; list the claim numbers and purposes at the top of the worksheet. Example: W999999-00 (IR), W999998-00 (ST), W999997-00 (MN). Copies of the completed worksheet should be placed in each file.

The worksheet may be completed by either the reviewer or the claimant.

Step 1. Review the claim file to determine the extent to which submitted materials provide the information requested in part A of the worksheet. If the information is in the claim file, complete part A of the worksheet and the "DNRC Reservoir/Pit Estimate" section to confirm the data in part A. See part e. below for confirming reservoir data. It is not necessary to contact the claimant to complete parts B and C.

If the information needed to complete part A can be readily obtained from published data, either complete part A of the worksheet or add a copy of the published data to the claim file. It is not necessary to contact the claimant to complete parts B and C.

If information is not in the claim file or cannot be obtained from published data, proceed to step 2.

Step 2. Estimate the reservoir/pit capacity. Calculations can be documented under the "DNRC Reservoir/Pit Estimate" section of the worksheet or the comments area of the examination worksheet. If the claimed volume is less than two times the estimated reservoir/pit capacity, use the estimated reservoir data. If the claimant is contacted for other reasons, complete parts A, B and C of the worksheet.

If the claimed volume is greater than two times the estimated reservoir/pit capacity, proceed to step 3.

Step 3. When Steps 1 and 2 cannot be accomplished, claimant contact should be pursued. An in-person or telephone interview is the preferred approach. Complete as much of the worksheet as possible. Another approach is to send the worksheet along with a cover letter (Exhibit IV-8) to the claimant. Complete the "DNRC Reservoir/Pit Estimate" section to confirm the data in part A.

d. Completing The "FOR DEPARTMENT USE ONLY" Area.

DNRC Reservoir/Pit Estimate. Measure the surface acres on the aerial photograph. Assume a depth of 8 to 10 feet, or whatever is common in the area. Analyze the contour lines on a topographic map to help estimate depth. Dam height is the estimated depth plus 3 feet for freeboard. Use depth and surface acres at the maximum water level to calculate the capacity as follows:

The standard equation for figuring reservoir capacity is:

Surface Acres X Depth X .4 = Capacity in acre-feet

For pits, the standard equation is:

Surface Acres X Depth X .5 = Capacity in acre-feet

Information Obtained. Use this area to document where the information from parts A, B and C were obtained. More than one area may be checked.

e. Confirming Reservoir Data. When the information in part A of the worksheet is from other than published data, review this information for reasonableness. Compare this information to the "DNRC Reservoir/Pit Estimates" section on the worksheet. If the claimed volume is greater than two times the estimated reservoir/pit capacity, contact the claimant. If contact is inconclusive, retain the claimant's data and add the following issue remark.

Example: R77 RN51THE MAXIMUM STORAGE CAPACITY OF THIS RESERVOIR MAY BE QUESTIONABLE. ACCORDING TO DNRC ESTIMATES, THE MAXIMUM STORAGE CAPACITY IS 40.00 ACRE FEET.

f. Referencing Reservoir Data. When a reservoir worksheet is added to the claim file, where parts A, B or C have been completed, add a reservoir remark to the department's examination report.

Example: R75 RN01SEE THE RESERVOIR WORKSHEET IN THE CLAIM FILE FOR ADDITIONAL RESERVOIR DATA.

If a copy of published data is added to the claim file in lieu of a reservoir worksheet, add a reservoir remark to the department's examination report.

Example: R76 RN01SEE THE MONTANA RESOURCES BOARD DAM INVENTORY WORKSHEET IN THE CLAIM FILE FOR ADDITIONAL RESERVOIR DATA.

3. Reservoir Record. A reservoir record is used to store reservoir data in the computer data base. Each reservoir will have only one reservoir record associated with it.

A reservoir record is required for (1) claims where control of a reservoir or pit is part of the right, or (2) claims where control of the reservoir is not part of the right but a standardized reservoir/lake name is identified.

If the reservoir record is missing from the worksheet, it may be created by means of a reservoir record code sheet (Exhibit IV-3). See "Examination Materials and Procedures: Code Sheet Instructions."

The format for the reservoir data line on the examination worksheet is:

RESERVOIR:

	ON/OFF/R	QTR SEC	SEC	TWP	RGE	CNTY
RS01	N	NENE	03	27N	38E	VA

RESERVOIR/LAKE NAME: Old Miller Pond

RESERVOIR DATA: CAPACITY 9999999.9 DAM HT 999 SURFACE AREA 99999.99

Add or change reservoir data to the fields on the worksheet. On older worksheets, write the data clearly on the worksheet to the right of the onstream/offstream designation. Place a checkmark, in the left margin to alert the coders to the additional data.

As an alternative, a reservoir code sheet may be used. The entire record must be completed including the legal land description and reservoir name, if any. If a reservoir record already exists, code the "Action" byte as "C" for change.

a. Onstream/Offstream Checkoff. Check that the appropriate code appears in the "ON/OFF" area of the worksheet or "ENLG" space on the reservoir/lake code sheet. If not, add or

correct it as necessary and place a checkmark in the margin of the worksheet.

- "Y" defines an offstream storage facilities with a diversion on the source and a manmade conveyance system to the reservoir, and where control of the reservoir is part of the exercise of the right.

- "N" defines an onstream reservoir where water is impounded on the natural channel of the source and where control of the reservoir is part of the exercise of the right.

- "R" is used for natural lakes and reservoirs where storage is not part of the right but a standardized reservoir/lake name is identified. On the decree abstract, the reservoir/lake name prints under the source and the reservoir record is suppressed..

b. Legal Land Description Of Impoundment. When the claimant has control of the reservoir as part of the right, the legal land description in the reservoir record should be the entire impoundment structure. Make this as clear and concise as possible. If it is necessary to use additional legal land descriptions to describe the impoundment structure, do not use additional reservoir records. Add additional land descriptions in a RN remark. Add these remarks to appear on the decree abstract, but only when the reservoir record will appear there also.

Examples: R35 RN01THE DAM/PIT EXTENDS INTO THE NESW SEC 03 TWP 05N RGE 15E SWEET GRASS COUNTY.

R40 RN01THE DAM/PIT EXTENDS INTO THE NWNWNE, NENENW SEC 03 TWP 05N RGE 15E SWEET GRASS COUNTY.

Where control of the storage facility is not part of the right, the legal land description in the reservoir record should be where the claimant diverts water from the reservoir. This description should match the land description of the POD; not the dam location.

c. Reservoir Name. Named reservoirs may be stored as part of the reservoir record. Standardize and retain reservoir names according to the procedures in Claim Examination: Source Name: Lakes And Reservoirs. A claimed reservoir name which is not an acceptable standardized name should not be stored in the reservoir record but may be retained by adding a reservoir name remark. The name will appear in the decree below the reservoir record.

Example: R25 RN01RESERVOIR NAME: OLD MILLER POND

If a reservoir record is needed and there is no standardized reservoir name, complete the reservoir record code sheet but do not complete the reservoir name portion.

d. Maximum Storage Capacity. For onstream and offstream ("N" and "Y") reservoirs, add the maximum storage capacity to the computer data base if known. This information is not needed for "R" type reservoirs.

Maximum storage capacity is measured in acre-feet. When the maximum reservoir capacity has been determined, either by actual data or estimation, add this figure to the appropriate place on the examination worksheet. It will appear on the decree abstract under Reservoir.

When the maximum storage capacity, dam height or surface area have been estimated by the department, add a remark to the decree abstract.

Examples: R55 RN01THE CAPACITY, DAM HEIGHT, AND SURFACE AREA HAVE BEEN ESTIMATED BY DNRC.

R56 RN01THECAPACITY, DAM HEIGHT, AND SURFACE AREA HAVE/HAS BEEN ESTIMATED BY DNRC.

If the data to calculate an actual maximum capacity is later obtained, replace the estimated figures with the actual figures, and remove or modify the remark.

e. Dam Height And Surface Area. For onstream and offstream ("N" and "Y") reservoirs, add the dam height and surface area to the computer data base if known. This information is not needed for "R" type reservoirs.

Dam height is the vertical distance from the lowest point on the dam crest to the lowest point on the natural ground (including any stream channel) along the downstream toe of the dam. When the total dam height is estimated, it should equal the known or estimated reservoir depth plus 3 feet for freeboard.

4. Reservoir Issues. Any pertinent reservoir issues should be addressed by contacting the claimant. If the claimant contact does not resolve the issue, add a remark to the department's examination report. Some potential reservoir issues and remarks are as follows.

Washed Out Reservoirs. If the aerial photograph, or other data sources indicate that the reservoir is washed out, or otherwise not usable, add a remark to the examination report.

Example: R80 RN51RESERVOIR APPEARS WASHED OUT ON USDA AERIAL PHOTOGRAPH NO. 179-152, DATED 08/05/79.

Incremental Development. A reservoir may be encountered that appears from a data source (including the questionnaire) to have been constructed or enlarged later than the claimed priority date. Attempt to find out when the reservoir was constructed or enlarged. If the reservoir was constructed or enlarged later than the claimed

priority date, the issue should be denoted on the department's examination report.

Examples: R85 RN51ACCORDING TO INFORMATION IN THE CLAIM FILE, THE RESERVOIR WAS CONSTRUCTED IN 1951 WHICH DOES NOT CORRESPOND TO THE CLAIMED PRIORITY DATE. THIS MAY INDICATE AN EXPANSION OF THE WATER RIGHT.

R90 RN51ACCORDING TO INFORMATION IN THE CLAIM FILE, THE RESERVOIR WAS ENLARGED IN 1940. THIS MAY INDICATE AN EXPANSION OF THE WATER RIGHT.

R91 RN51ACCORDING TO INFORMATION IN THE CLAIM FILE, A PIT WAS CONSTRUCTED WITHIN THE RESERVOIR IN 1962 WHICH DOES NOT CORRESPOND WITH THE CLAIMED PRIORITY DATE. THIS MAY INDICATE AN EXPANSION OF THE WATER RIGHT.

R95 RN51THE RESERVOIR IS NOT SHOWN IN THE STILLWATER COUNTY WATER RESOURCES SURVEY (1946). IT APPEARS TO HAVE BEEN BUILT AFTER THE ORIGINAL APPROPRIATION AND MAY INDICATE AN EXPANSION OF THE WATER RIGHT.

Reservoir Unconfirmed. If a reservoir cannot be confirmed from data sources or claimant contact, add the following remark to the examination report.

Example: R100 RN51EXISTENCE OF THE CLAIMED RESERVOIR CANNOT BE CONFIRMED WITH AVAILABLE DATA.

Questionable Storage Right. Through examination, it may be encountered where an existing reservoir has been claimed, but it is questionable whether a storage right exists. For example, a reservoir dam is located on Party A's property and water backs up onto Party B's property. Both parties have submitted claims for the same reservoir. In this situation, Party B may or may not have a storage right to the reservoir.

Claimant contact should be pursued. If Party B has no easement or financial involvement with the reservoir, Party B may request or amend the claim to remove the reservoir (assuming a stock claim, the POD would equal POU and means of diversion would be LS). An alternative is to leave the reservoir and add the following issue remark to the examination report.

Example: R105 RN51A RESERVOIR STORAGE RIGHT ON THIS CLAIM MAY BE QUESTIONABLE. THE DAM IS LOCATED ON ANOTHER INDIVIDUAL'S PROPERTY WHICH IS COVERED BY CLAIM NO. W000000-00.

Shared Reservoir. Occasionally, it may be determined through the examination process, that the claimed reservoir will have another claim (different priority date), exempt right, or a post-7/1/73 water right associated to it. This association can be confirmed by information obtained through:

- documentation in the claim file
- claimant contact
- data source research
- notification from New Appropriations that a permit was issued to increase the existing capacity of a claimed reservoir.

Document this association by adding the following AS remark.

Example: A35 AS01THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE ASSOCIATED. THEY SHARE THE SAME POINT OF DIVERSION/RESERVOIR/POTHOLE LAKE. W000000-00, E000000-00, C000000-00, P000000-00.

When the above situations involve exempt rights or post-1973 water rights, complete an 'Associated' flag (Figure VI-2) as follows:

WATER RIGHT NO. P000000-00
IS ASSOCIATED WITH
WATER RIGHT NO. W000000-00

WR's ARE ASSOCIATED BECAUSE: This permit is associated to claim no. W000000-00. They share the same reservoir.

Put a copy of the flag (clearly marked "COPY") in the claim file. Send the flag to the Processing Unit in Helena, where an AS remark will be entered into the computer record and the flag will be filmed and filed.

I. TYPE OF RIGHT

The type of historical right upon which a claim is based will be identified on the decree abstract. There are four types of rights which will be encountered and reviewed during the examination process.

- Decreed rights
- Filed rights
- Use rights
- Reserved rights

1. Type Of Right Definitions. For the purposes of this examination, the types of rights are defined as follows.

Decreed Right. A decreed right is a water right previously determined in a judicial decree.

A petition on a decreed stream as described in 89-829 RCM is considered a decreed right, if the petition has been accepted by the district court. A copy of the court judgement must accompany the claim.

Filed Right. A filed right is a water right which has been filed and recorded in the office of the county clerk and recorder. The following documents are those generally encountered which constitute a filed right.

- Notice of Appropriation. Various formats of this form were filed with the county clerk and recorder. See Exhibit VI-9.

- GW Form. See Exhibits VI-10 through VI-13. A GW form used as a filed notice of appropriation for surface water will be accepted if the document was filed at the courthouse.

- Ersatz Notice of Appropriation. Other types of documents filed at the courthouse will be accepted if the source and priority date are stated. If a document is questionable, consult the program manager.

Use Right. A use right is a water right perfected by diverting and putting water to beneficial use without formal notice, filing, or decree.

Documents supporting a use right include affidavits by the claimant or others, well logs, power records, water use records and agreements, etc. Furthermore, a signed and notarized claim form is considered a self-serving affidavit.

A secretarial right is a water right stemming from a homestead entry patent issued by the US Government under the Act of Congress of May 20, 1862. This type of right will be treated as a use right.

Reserved Right. A reserved right is a water right reserved to fulfill the primary purpose of land withdrawn from the public domain by an act of congress, a treaty, executive order, or explicit direction of congress in federal statutes.

Review claims to reserved rights to confirm that it is a reserved right. If there is doubt about whether the underlying right is a reserved right, contact the claimant (see Exhibit VI-14) to obtain confirmation that the type of right being claimed is, in fact, a reserved right. If the claimant contact is inconclusive, send a copy of the claim to the water court with a request that they assist in determining whether the claim is for a reserved right. Use the format of Figure XI-2 with the following title for making the request: "Request for Assistance".

Change the letter prefix of all claims for reserved rights from "W" to "U". Do not examine claims for reserved rights. At this time, the Supreme Court rules do not address how to examine reserved rights. It will be determined later, probably through water court orders, what action will be taken on these claims.

Claims for reserved rights will be suppressed from temporary preliminary decrees pending the outcome of negotiations under Title 85, Chapter 2, Part 7, MCA.

If a claimant has a state-based claim (i.e., use right for stock) on the same development as a reserved claim (i.e., reserved right for wildlife), the legal land description on the reserved claim should be examined. Relate the rights through an associated (AS) remark.

Example: A35 AS01THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE ASSOCIATED. THEY SHARE THE SAME RESERVOIR. W000000-00, W000000-00.

2. Examining Type Of Right. Check the documentation submitted with the claim against the above definitions to determine whether the historical right is a decreed, filed, use, or reserved right. Compare the type of right on the claim form to the submitted document based on the criteria in section 1. above.

Sources of information for reviewing type of right include:

- microfiche files of GW forms
- regional office file of decrees
- WRS books and files
- county clerk of court or clerk and recorder

a. Changing Claimed Type Of Right. The claimed type of right will not be changed during the examination unless:

- amended by the claimant;
- clarified by the department.

The following are provided as guidance about when the type of right may be clarified without claimant contact.

- If the type of right is not indicated on the claim form but is clear from the documentation, as defined above, the type of right may be added without obtaining an amendment.

- If the document type and claim form disagree but it is clear that the document substantiates the claimed right (i.e., source, flow rate and priority date agree), the type of right may be changed without obtaining an amendment. Generally this clarification would only be made from use to filed, use to decreed, or filed to decreed. The reverse relationship (filed to use, decreed to use, or decreed to filed) would imply that documentation may be missing. In which case, claimant contact is recommended.

Make any changes to type of right on the worksheet. If the change will result in a difference between the claim form, amendment or addendum, and the decree abstract, denote the change by placing an asterisk on the worksheet in the brackets to the left of the priority date heading. The basis of the change must be documented in the claim file.

b. Claimant Contact. Whenever the claimed type of right is unclear, has apparent discrepancies, or appears inaccurate after the initial review, the claimant should be contacted unless otherwise specified in this subchapter. The contact can have several outcomes.

- Information discussed confirms which type of right in the claim file is correct. Document the information supporting the claimed type of right, or request documentation to support the claimed type of right (excepting use rights).

- A type of right entirely different from that in the claim file is identified. The claimed type of right may be changed on the instructions of the claimant. Thoroughly document the instructions from the claimant and the data supporting the new type of right. As an alternative, an amendment can be submitted to change the claimed type of right. Obtain documentation of the clarified or amended type of right.

- If the issue is unresolved, add a priority date (PR) issue remark to the department's examination report.

3. Type Of Right Issues. Any pertinent unresolved type of right issues should be noted on the department's examination report using a priority date (PR) remark. Some potential issues and example remarks follow.

a. No Filed Or Decreed Right Documentation. If documentation of a filed or decreed right is not in the claim file and cannot be obtained from the claimant or office records, add a remark to the department's examination report.

Example: P355 PR51THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WERE NOT SUBMITTED WITH THIS CLAIM.

b. Documentation Conflicts With Other Data. If the documentation conflicts with the claim form or outside data sources (e.g. WRS) and cannot be corrected through clarification or claimant contact, add an issue remark to the department's examination report.

Examples: P360 PR51THE TYPE OF HISTORICAL RIGHT MAY BE QUESTIONABLE. DOCUMENTATION SUBMITTED WITH THE CLAIM INDICATES A USE RIGHT.

P365 PR51THE TYPE OF HISTORICAL RIGHT MAY BE QUESTIONABLE. THE WIBAUX COUNTY WATER RESOURCES SURVEY (1960) IDENTIFIES THIS RIGHT AS A FILED APPROPRIATION.

c. Filed Or Use Rights On A Decreed Stream. Two situations may be encountered that are issues involving filed or use rights on decreed streams. In either situation the claimed right must be on the decreed source or a tributary that has a right included in the district court decree. Claimant contact is not necessary prior to adding the issue remark.

Situation #1. When a filed or use right has a priority date preceding the date the decree was issued on the source, add the following remark to the department's examination report.

Example: P370 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION/USE RIGHT ON RACETRACK CREEK WITH A PRIORITY DATE PREDATING/POSTDATING CASE NO. 0000, POWELL COUNTY.

Situation #2. When a filed or use right has a priority date later than 1921 and postdates the issuance of the decree on the source, add the following remark to the department's examination report.

Example: P370 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION/USE RIGHT ON RACETRACK CREEK WITH A PRIORITY DATE PREDATING/POSTDATING CASE NO. 0000, POWELL COUNTY.

There are several circumstances when situation #1 and #2 should not be identified as an issue.

- When the district court decree specifically excludes the use, owner, source, or right from the case.

- Domestic (individual domestic, multiple domestic, lawn & garden) and stock claims which are exempt.

For state project claims based on a private filed or use right acquired by the state and combined with water rights established pursuant to 89-101 through 89-141, add the following remark to the department's examination report.

Example: **** PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION/USE RIGHT ON RED LODGE CREEK ACQUIRED BY THE STATE WITH A PRIORITY DATE PREDATING/POSTDATING CASE NO. 247, CARBON COUNTY.

d. No Type Of Historical Right Claimed. If the type of historical right cannot be corrected through clarification or claimant contact, add an issue remark to the department's examination report.

Example: P372 PR51NO TYPE OF HISTORICAL RIGHT WAS CLAIMED. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT WAS NOT SUBMITTED WITH THIS CLAIM.

J. PRIORITY DATE

Priority date is the allocation date associated with a beneficial use of water which determines ranking among water rights on a source. The priority date will always be expressed as a precise month, day, and year. The claimant was to support the priority date on a claim by submitting a decree, pertinent portion thereof, or other evidence [§85-2-224(2), MCA].

1. Priority Date Review Criteria. This section describes in general terms the procedures for reviewing the claimed priority date. A single priority date will be identified from the documentation for each claim. The following are the criteria for reviewing the claimed priority date.

Decreed Rights. Use the specific date identified in the documentation. The claim form, submitted documentation, office copy of district court decrees, and office decree index should all agree.

Filed Rights. For consistency, the earliest appropriation date on the filed document (generally the date of posting notice) is the priority date. The claim form and documentation should agree.

1962-1973 groundwater appropriation forms are an exception to this. If properly filed, the priority date of a form GW1, 2, or 3 is the date of filing at the county courthouse. The priority date of a form GW4 is the date of first use identified in item 3. See below for specific procedures relating to GW forms.

Use Rights. The claim is a self-serving affidavit for a use right. As a result, the documentation and claim form need not agree, but they should not contradict each other. For example, a claim states May 15, 1934 with an affidavit statement such as "water used prior to 1934" or "the system was being used in the 1930s," would not be contradictory.

2. Examining Priority Dates. Review the claimed priority date according to the guidelines in this section for conformity with the submitted documentation and facts available to the department, and to identify potential issues. In certain cases, the claimed priority date may be changed to standardize the format.

Compare the date on the claim form to the date on the submitted documentation based on the criteria in section 1. above. The priority date should also be compared to other data sources, such as

- copies of district court decrees
- WRS books and materials
- decree indexes

When necessary, the claimant may be contacted to help identify the claimed priority date.

Time Of Day. When claimed, the time of day was entered into the computer record and will appear as part of the priority date on the examination worksheet. A claimed time of day should not be examined, as the computer will suppress them when a decree is printed.

a. Changing Claimed Priority Dates. The claimed priority date will not be changed during the examination unless:

- amended by the claimant;
- clarified by the department;
- standardized for completeness (see below).

An amendment is normally required to change the priority date. The following are provided as guidance about when the priority date may be clarified versus amended.

- If the priority date is incomplete or not on the claim form but it is clear from the documentation, based on the priority date review criteria, the priority date may be added without obtaining an amendment from the claimant.

- If the date on the claim form matches a date on the documentation, the claimed date may be changed without an amendment only to a more senior priority date as identified by the review criteria. This includes situations such as:

  (i) The filing date on a GW4 was claimed.
  (ii) A date other than the earliest date on a surface water filing was claimed.
  (iii) The date a decree was issued was claimed.

Make changes to priority dates directly on the worksheet. If the change will result in a difference between the claim form, amendment or addendum, and the decree abstract, denote the change by placing an asterisk on the worksheet in the brackets to the left of the priority date heading. The basis of the change must be documented in the claim file.

b. Claimant Contact. Whenever the claimed priority date is unclear, has apparent discrepancies, or appears inaccurate after the initial review, the claimant should be contacted unless otherwise specified in this subchapter. The contact can have several outcomes.

- Information discussed confirms which priority date in the claim file is correct. Document the information supporting the claimed priority date, or request documentation to support the claimed priority date, as necessary.

- A priority date or documentation entirely different from the claim file is identified and the claimant wishes to

replace the claimed priority date. An amendment must be submitted to change the claimed priority date. Obtain documentation of the amended priority date, as necessary.

- If the issue is unresolved, add a priority date (PR) issue remark to the department's examination report.

c. Standardizing Priority Dates. Change the claimed priority date to standardize for completeness under the following criteria. Make the priority date standardization directly on the worksheet.

- No day date. If a day date is not claimed and the submitted documentation does not specify a day date, the last day of the month will be used.

- No month date. If a month date is not claimed and the submitted documentation does not specify a month date, the last month of the year will be used.

- Season. If a season of the year is claimed and the submitted documentation does not specify a month and day date, the last day of the particular season will be used.

Fall.....December 19
Winter.....March 19
Spring.....June 19
Summer.....September 19

General dates such as "Prior to 1950" may not be standardized. Contact the claimant to pursue a specific date.

If contacting the claimant of a filed or use right for other reasons, pursue a specific date for month, day, or season prior to standardization. A specific priority date supplied by the claimant may be added to the worksheet upon instructions from the claimant or by amendment.

3. Priority Date Issues. This section contains guidelines on the handling of various problems encountered in examining priority dates. This series of specific guidelines should be used as a systematic check of the priority date. By comparing the claimed priority date and documentation to the applicable subsections below (a through j) any discrepancies are likely to be identified. These specific guideline sections are

a. general priority date issues
b. decreed priority date issues
c. filed appropriation priority date issues
d. claimed source vs. documented source
e. claimed POU vs. documented POU
f. priority date post-June 30, 1973
g. duplication
h. redundant filings

i. priority date precedes earliest acceptable date
j. priority date precedes Indian cessation

Whenever the examination indicates that a claimed priority date may involve discrepancies or issues, follow the procedures under the appropriate category. If the issue is unresolved, add a priority date issue remark to the department's examination report.

a. General Priority Date Issues. Similar procedures will be used to address certain problems encountered on all types of rights.

- No priority date was claimed.
- No priority date documentation was submitted to support a decreed or filed right.
- A general year date was claimed, e.g., in the 1950s, before 1900.
- The priority dates on the claim form and the documentation conflict.
- The priority date in the claim file conflicts with outside data sources, e.g., WRS.

In these situations, contact the claimant to resolve the discrepancy, and if necessary request documentation specifying a priority date. Documents that may be submitted by the claimant to confirm the type of historical right and priority date are:

- Decreed right: pertinent portion of decree.
- Filed right: notice of appropriation, or other filed document.
- Use right: a signed letter, affidavit, or amendment. Notarization for the letter or affidavit is preferred but not required.

If the priority date is not confirmed by claimant contact or no documentation is submitted to support a priority date, excepting use rights, add a remark to the examination report identifying the particular problem encountered.

Examples: P355 PR51THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WERE NOT SUBMITTED WITH THIS CLAIM.

P380 PR51NO PRIORITY DATE WAS CLAIMED.

P385 PR51A SPECIFIC PRIORITY DATE HAS NOT BEEN IDENTIFIED. PRIORITY DATE WAS CLAIMED AS PRIOR TO 1950.

P386 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. IT IS UNCLEAR WHETHER THE CLAIMED PRIORITY DATE IS 1882 OR 1982.

P390 PR51THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE. THE PRIORITY DATE ON THE SUBMITTED NOTICE OF APPROPRIATION IS JUNE 10, 1921.

P395 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE WIBAUX COUNTY WATER RESOURCES SURVEY (1960) IDENTIFIES THE PRIORITY DATE AS MAY 13, 1913.

P400 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE AFFIDAVIT STATES THE WELL WAS COMPLETED IN THE EARLY 1930'S.

P405 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. ACCORDING TO INFORMATION IN THE CLAIM FILE, IT APPEARS WATER FROM THE SOURCE WAS FIRST USED IN 1980.

b. Decreed Priority Date Issues. The following guidelines are provided to address certain situations encountered on decreed rights.

Right In Decree Not Identified. When a date in the decree was claimed but the individual right being claimed has not or cannot be identified, contact the claimant. If contact is inconclusive, retain the claimed priority date and add an issue remark.

Examples: P415 PR51THE BASIS OF THIS CLAIMED WATER RIGHT WAS NOT FOUND IN THE DECREE FROM CASE NO. 0000, SANDERS COUNTY. THE CLAIMED PRIORITY DATE CANNOT BE CONFIRMED.

**** PR51THE DATE OF ISSUANCE OF THE DECREE, CASE NO. 0000, LAKE COUNTY, WAS CLAIMED. THE INDIVIDUAL RIGHT BEING CLAIMED CANNOT BE IDENTIFIED.

Documentation Contains No Priority Dates. When the pertinent portion of the decree submitted as documentation contains no priority dates, contact the claimant. If it is determined that the decree contains no priority dates, add a priority date issue remark.

Example: P430 PR51CASE NO. 0000, LAKE COUNTY, DOES NOT SPECIFY PRIORITY DATES. A PRIORITY DATE HAS/HAS NOT BEEN CLAIMED.

Decree Assigns Ranking. When the decree assigns the right a priority date and also assigns a ranking, add a priority date remark to identify the ranking as a feature of the right.

Example: P350 PR01CASE NO. 0000, LAKE COUNTY, DECREES A RIGHT OF 38TH USE.

The decree does not assign the right a priority date but only assigns a ranking. Add two priority date remarks. One denoting ranking (above) and the other identifying the lack of priority date.

Example: P430 PR51CASE NO. 0000, LAKE COUNTY, DOES NOT SPECIFY PRIORITY DATES. A PRIORITY DATE HAS/HAS NOT BEEN CLAIMED.

No Specific Day Or Month Dates. If the decree does not specify day or month dates and no specific date has been claimed, standardize the priority date. If the decree does not specify day or month dates, but specific dates have been claimed, accept the claimed priority date. When the flow rate is recorded (see "Irrigation: Flow Rate: Recording Documentation), also record the priority date that will appear on the decree abstract. After all claims for a basin, subbasin, or drainage have been examined, review the decree index.

If the claims against a particular historical right have priority dates which vary or are the same, add a priority date issue remark to the department's examination report for the claims involved.

Examples: P435 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. CASE NO. 0000, RAVALLI COUNTY, DOES NOT SPECIFY A DAY/MONTH/DAY AND MONTH. THE CLAIMS LISTED FOLLOWING THIS STATEMENT HAVE CLAIMED VARYING PRIORITY DATES. W000000-00, W000000-00, W000000-00.

P436 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. CASE NO. 0000, LEWIS AND CLARK COUNTY, DOES NOT SPECIFY A MONTH AND DAY. THE CLAIMS LISTED FOLLOWING THIS STATEMENT HAVE CLAIMED THE SAME PRIORITY DATE. W000000-00, W111111-00.

c. Filed Appropriation Priority Date Issues. The priority date on the claim form does not match any date on the filed appropriation document. Contact the claimant. If the claimed date is confirmed to be earlier or later than all dates on the notice, a use right is involved. If the contact is inconclusive, add a remark. 1962-1973 groundwater filings (GW forms) are an exception to this. See "Claims Involving 62-63 Groundwater (GW) Forms" below for specific procedures relating to GW forms.

Examples: P445 PR51THE CLAIMED PRIORITY DATE PREDATES/POSTDATES THE FILED NOTICE OF APPROPRIATION. THE CLAIMED PRIORITY DATE AND TYPE OF HISTORICAL RIGHT CANNOT BE SUBSTANTIATED.

P450 PR51THE CLAIMED PRIORITY DATE DIFFERS FROM THE EARLIEST DATE ON THE FILED NOTICE. THE CLAIMED PRIORITY DATE CANNOT BE SUBSTANTIATED.

d. Claimed Source vs. Documented Source. Compare the source name (if any) in the documentation to the standardized source name. Claimed and documentation source names should be identifying the same source of water. If there is an apparent

discrepancy, contact the claimant. If contact is inconclusive, add a remark to the department's examination report.

Examples: P455 PR51THE PRIORITY DATE IS MAY BE QUESTIONABLE. THE SOURCE DESCRIBED ON THE FILED NOTICE OF APPROPRIATION IS INCONSISTENT WITH THE CLAIMED SOURCE.

P460 PR51THE PRIORITY DATE IS MAY BE QUESTIONABLE. THE SOURCE DESCRIBED IN CASE NO. 0000, LINCOLN COUNTY, IS INCONSISTENT WITH THE CLAIMED SOURCE.

e. Claimed POU vs. Documented POU. Compare the POU land description in the documentation (if any) to the claimed POU land description. The claimed and documentation POUs should be within the same section or at least the same general locality. Before July 1, 1973, the POU could generally be changed without formal notice. If there is an apparent discrepancy, contact the claimant. If the contact is inconclusive, add a remark to the examination report.

Examples: P455 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE PLACE OF USE DESCRIBED ON THE FILED NOTICE OF APPROPRIATION IS INCONSISTENT WITH THE CLAIMED PLACE OF USE.

P460 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE PLACE OF USE DESCRIBED IN CASE NO. 0000, LINCOLN COUNTY, IS INCONSISTENT WITH THE CLAIMED PLACE OF USE.

P465 PR51THIS CLAIM TO A FILED APPROPRIATION/DECREED RIGHT MAY BE QUESTIONABLE. THE PLACE OF USE DESCRIBED IN THE MISSOULA COUNTY WATER RESOURCES SURVEY (1960) IS INCONSISTENT WITH THE CLAIMED PLACE OF USE.

f. Priority Date Post-June 30, 1973. The claimant will be contacted when a post-June 30, 1973 priority date is claimed. If the post-1973 priority date is confirmed as correct, several options are available to the claimant.

- Claim is withdrawn, and either a new appropriations form 602 or 600 completed.

  See "Special Provisions: Termination of a Claim" for claim processing instructions.

  It is advised the claimant work with the new appropriations staff prior to withdrawing the claim as their guidelines and standards are different. Give a copy of the claim file to the new appropriations staff.

  If the source is groundwater for 35 gpm or less not to exceed 10 acre-feet per year, a form 602 with filing fee is needed to issue a certificate. (The priority date is the date the 602 is received.) If the source is surface water, or groundwater over 35 gpm, the normal permitting

process with fee is required, i.e., a new appropriation application (Form 600) may be submitted. (The date the 600 is received becomes the priority date.)

- Claim is retained. Add the following remark to the department's examination report.

Example: P470 PR51THE CLAIMED PRIORITY DATE INDICATES AN APPROPRIATION OF WATER AFTER JUNE 30, 1973.

g. Duplication. Situations may be encountered where duplicate claims have been submitted for the same water right. Two examples of duplication are as follows.

- A claim for a filed right duplicates a claim to a later decreed right. Furthermore, some decrees specifically nullify particular prior filings. In such circumstances contact the claimant. If the claimant confirms the duplication, he may request that the claim be withdrawn. If contact is inconclusive, add a remark to the examination report on both claims.

Examples: D85 DU51THIS CLAIM APPEARS TO BE DUPLICATED BY CLAIM NO. W000000-00 WHICH IS BASED ON THE SAME FILED APPROPRIATION RIGHT. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED.

P475 PR51CASE NO. 0000, PARK COUNTY, NULLIFIED THE FILED APPROPRIATION RIGHT SUBMITTED WITH THIS CLAIM.

- When a single filed right, decreed right, or use right is used to document identical claims, contact the claimant. If the claimant confirms the duplication, he may request that one of the claims be withdrawn. If the contact is inconclusive, add a remark to the examination report on both claims.

Example: D85 DU51THIS CLAIM APPEARS TO BE DUPLICATED BY CLAIM NO. W000000-00 WHICH IS BASED ON THE SAME FILED APPROPRIATION RIGHT. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED.

h. Redundant Filings. Each claim should be based on its own distinct historical appropriation of water, i.e., each claim should have been perfected separately. Often more than one notice of appropriation is filed on a single historic appropriation.

Upon encountering what may be a "paper" right, contact the claimant to understand the history of its use. For example, explore whether the junior rights in a series of multiple rights can be associated with an increase or change in water use. Was an additional ditch constructed? Extended? Was the capacity of the diversion or conveyance system increased? Or, are there no changes

in use or appropriations of additional water associated with the claims?

If contact does not resolve the issue, add a remark to the examination report for all the claims involved.

Examples: D93 DU51CLAIM NOS. W000000-00 AND W000000-00 MAY BE REDUNDANT CLAIMS ON THE SAME HISTORIC APPROPRIATION OF WATER. IT APPEARS THAT ONLY ONE WATER RIGHT IS INVOLVED.

D94 DU51THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT APPEAR TO BE REDUNDANT/DUPLICATE FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED. W000000-00, W000000-00, C000000-00.

i. Priority Date Precedes Earliest Acceptable Date. Each regional office will establish the earliest acceptable priority date for the basin being examined. These dates should be based on the WRS or other historical records. Particular purposes may have different earliest acceptable dates within a basin. Note earliest acceptable priority date in the general basin information file for each basin. As a general rule, any priority date before 1860 should be examined closely.

If the claimed priority date precedes the earliest acceptable priority date as established, contact the claimant. If contact is inconclusive, add a remark to the department's examination report.

Example: **** PR51THE CLAIMED PRIORITY DATE PRECEDES 1864, THE EARLIEST GENERAL DATE OF SETTLEMENT WITHIN THE YAAK RIVER DRAINAGE.

j. Priority Date Precedes Indian Cession. The boundaries of most Indian reservations originally included much larger areas than the present boundaries. There were several different cession treaties which altered the boundaries of the various reservations. Many claims have been submitted with claimed priority dates preceding the date that the land was transferred out of tribal ownership. In other words, on the date of priority claimed, it appears the land was under Indian ownership.

Each office has been provided with a map showing successive changes in Indian reservation boundaries. Exhibit VI-15 is an explanation of the Indian cessions map and issue. When a claim has a priority date preceding the cession date for the area, add a priority date remark to the examination report.

Example: P490 PR51AT THE TIME OF THE CLAIMED PRIORITY DATE, IT APPEARS THAT THE PLACE OF USE WAS PART OF AN INDIAN RESERVATION.

k. Priority Date Of A Sprinkler System Predates 1955. When a claim for a sprinkler system lists a priority date

earlier than 1955 and does not indicate a prior flood system, check the WRS, aerial photographs, and other data sources for evidence of a prior flood system and to determine whether the POU could have been flood irrigated. If there is nothing supporting the likelihood or possibility of a prior flood system, contact the claimant. Discuss the apparent inconsistency between the type of system, priority date, and POU. If no prior flood irrigation existed, the claimant may wish to amend the priority date to the date of appropriation for the sprinkler system. If the issue is unresolved, add a priority date issue remark to the department's examination report.

Example: P550 PR51THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE. IT APPEARS THE PRIORITY DATE SHOULD BE THE DATE THE SPRINKLER SYSTEM WAS FIRST PUT TO USE.

If the sprinkler system was installed after June 30, 1973, and there was no pre-July 1, 1973 use, see "Claim Examination: Priority Date Issues: Priority Date Post-June 1973".

4. Claims Involving '62-'73 Groundwater (GW) Forms. This section provides guidelines for reviewing wells and developed springs (source type = G) for compliance with the 1961 Groundwater Code (89-2911 through 89-2913, RCM). The code discusses four different types of groundwater forms which were required to be filed at the courthouse. Examples of the GW1, GW2, GW3, and GW4 forms are Exhibits VI-10 through VI-13.

- GW1 Notice of Appropriation of Groundwater
- GW2 Notice of Completion of Groundwater Appropriation by Means of Well
- GW3 Notice of Completion of Groundwater Appropriation Without Well
- GW4 Declaration of Vested Groundwater Rights

The filing of these GW forms at the courthouse was allowed by laws in force prior to April 14, 1981 [§85-2-306(2), MCA].

Compliance with the 1961 Groundwater Code is not required for appropriations from surface water, including "undeveloped" springs (type code = S). Such claims will be treated as surface water appropriations for purposes of reviewing the claimed priority date.

Most of the situations involving groundwater rights will fall into one of three categories: (a) GW Forms Filed, (b) GW Forms Not Filed, and (c) No GW Form.

Throughout this groundwater section, reference is made to '62, '73 and '81. These years represent the following dates:

1/1/1962 - the effective date of the 1961 Groundwater Code
7/1/1973 - the effective date of the Montana Water Use Act
4/14/1981 - filing of GW forms in the courthouse was allowed prior to this date

a. GW Forms Filed. For groundwater claims based on a GW form filed at a courthouse between '62 and '81, examine the claimed priority date in accordance with subsections (1) through (5) below.

(1) GW1 Filed Only. Groundwater claims with a priority date between '62 and '73 that have a filed Notice of Appropriation (GW1) attached but no Notice of Completion (GW2 or GW3) will be pursued further.

- Check the GW microfiche or contact the claimant to determine if a GW2 or GW3 was also filed. If a filed GW2 or GW3 is found, confirm with the claimant that the filing matches the claim. If confirmed, add a copy of the GW2 or GW3 to the claim file and document the confirmation. Use the procedures in (2) below to examine the claimed priority date.

- Check new appropriations records for a possible new appropriation form that may have been filed but not attached to the claim. If such a document is found, confirm with claimant that the filing pertains to the claim. If confirmed, add a copy of the new appropriation form to the claim file and document confirmation. See "DNRC Post-June 30, 1973 Documents Attached" below for further processing instructions.

If a filed GW2, filed GW3, or new appropriations document is not found, the claimed priority date may be questionable. As the claim is a notice of completion pursuant to 85-2-306(2), the issue is whether the claimant may relate his priority date back to the GW1. Add a priority date issue remark to the department's examination report.

Example: P500 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. NO NOTICE OF COMPLETION WAS FILED. THE NOTICE OF APPROPRIATION OF GROUNDWATER (FORM GW1) WAS FILED ON JUNE 10, 1965.

If the claimed priority date is prior to '62 and the attached GW1 states a date of first use prior to '62, follow the procedures in (4) below to examine the claimed priority date.

(2) GW1 And GW2 (Or GW3) Both Filed. The priority date for groundwater claims between '62 and '73 that have both a Notice Of Appropriation (GW1) and a Notice Of Completion (GW2 or GW3) should be the filing date of the GW1. When the claimed priority date does not match the filing date of the GW1, contact the claimant. If contact is inconclusive, add a priority date issue remark to the department's examination report.

Example: P505 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE DATE OF FILING THE NOTICE OF APPROPRIATION OF GROUNDWATER (FORM GW1) IS DECEMBER 6, 1963.

(3) GW2 Or GW3 Filed Only. The priority date for groundwater claims between '62 and '73 that have a Notice Of Completion (GW2 or GW3) filed prior to '73 but no Notice Of Appropriation (GW1) should be the filing date of the GW2 or GW3. If a discrepancy in priority date exists between the claim form and GW2 or GW3, contact the claimant. If contact is inconclusive, add a priority date issue remark to the department's examination report.

Example: P510 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE DATE OF FILING THE FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION, IS JANUARY 3, 1964.

If the claimed priority date is prior to '62 and the attached GW2 or GW3 states a date of first use prior to '62, follow the procedures in (4) below to examine the claimed priority date.

(4) GW4 Filed Only. The intent of this form was to document and record groundwater use appropriated prior to '62. The priority date for groundwater claims that have a filed Declaration of Vested Groundwater Right (GW4) attached is the date of first use. A GW1, 2, or 3 used as a GW4 is acceptable.

Following are guidelines for certain situations where the use of the GW4 is inconsistent with its intent.

- The claimed priority date does not match a date on the GW4. Contact the claimant to determine the claimed intent. If the contact is inconclusive, the claimed priority date will be accepted.

- A GW4 form is attached and a '62 to '73 priority date is claimed. Three different situations may be encountered.

  (i) If the date of first use described on the GW4 is prior to '62, the claim may be clarified to reflect the earlier date. See "Priority Dates: Examining Priority Dates: Changing Claimed Priority Dates".

  (ii) If the date of first use described on the GW4 post-dates 12/31/61 and the claimed priority date reflects the date the GW4 was filed in the county courthouse, accept the claimed priority date and add the following remark to the department's examination report.

Example: P515 PR51A FORM GW4, DECLARATION OF VESTED GROUNDWATER RIGHTS, WAS FILED AND SUBMITTED WITH THIS CLAIM AS A FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION.

  (iii) If the date of first use described on the GW4 post-dates 12/31/61, and the claimed priority date does not match the date the GW4 was filed at the county courthouse, a priority date issue exists. Contact

the claimant to discuss the issue. If the contact is inconclusive, add the following remark to the department's examination report.

Example: P516 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. IT APPEARS THE FORM GW4, DECLARATION OF VESTED GROUNDWATER RIGHTS, FILED JUNE 5, 1966, WAS USED IN LIEU OF A FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION.

(5) GW Forms Filed After 6/30/73. Groundwater claims with a priority date between '62 and '73 that have a Notice of Completion (GW2 or GW3) filed after '73 will be examined as follows:

- GW2 or GW3 filed between '73 and '81 with a GW1 filed prior to '73 should be examined using the procedures in (2) above.

- GW2 or GW3 filed between '73 and '81 without a GW1 filed prior to '73 should be examined in accordance with "No GW Form" below.

- GW forms filed on 4/14/1981 or later are not considered proper filings and should be examined in accordance with "No GW Form" below.

b. GW Form Not Filed. For groundwater claims with a priority date between '62 and '73 where the submitted GW form does not appear to have been filed, pursue the following steps.

- Check the GW microfiche or contact the claimant to determine if the form was actually filed. If filed, add a copy of the filing date documentation to claim file. Review the priority date according to the procedures pertinent to the type of form.

- Check new appropriations records for a possible new appropriations form that may have been filed but not attached to the claim. If such a document is found, confirm with claimant that the filing pertains to the claim. If confirmed, add a copy of the new appropriations form to the claim file and document confirmation. See "DNRC Post-June 30, 1973 Documents Attached" below for further processing instructions.

If proper filing of the GW form cannot be confirmed, process the claim according to the procedures in "No GW Form" below.

c. No GW Form. Groundwater claims with a priority date between '62 and '73 will be encountered which contain no documentation, or documentation other than a GW form. First determine if proper documentation can be found.

- Check the GW microfiche to see if a GW form was filed but not attached. If a GW form is found, contact the claimant to confirm that the filing pertains to the claim. Upon confirmation by the claimant, add the GW form to the claim file and document the confirmation. Review the priority date according to procedures pertinent to the type of GW form.

- Check new appropriation records for a possible new appropriation form that may have been filed but not attached to the claim. If such a form is found, confirm with the claimant that the filing pertains to the claim. If confirmed, add a copy of the new appropriations form to the claim file and document confirmation. See "DNRC Post-June 30, 1973 Documents Attached" below for further processing instructions.

Where a properly filed GW form or new appropriations document cannot be found, the processing of the claim will depend on several variables as outlined below.

- For federal agency claims where no other problems require contact, use Exhibit VI-16 to notify them of the deficiency. Add a priority date issue remark to the department's examination report as shown in (iv) below.

- For all other claims, contact the claimant. If the claimant confirms the claimed priority date, one of five options are available to the claimant.

  (i) Claimant submits appropriate GW documentation. Review the priority date according to procedures pertinent to the type of GW form.

  (ii) Claimant amends the priority date to the earlier of the following two situations:

    - the date the claim was received, or

    - the date a GW2 or GW3 was filed at a courthouse between '73 and '81 without a GW1 filed prior to '73.

  Add the following remark to the department's examination report.

Example: P354 PR01THIS IS AN EXISTING RIGHT. ITS POST-1973 PRIORITY DATE IS DECREED PURSUANT TO SECTION 85-2-306(2) MCA.

  (iii) Claimant withdraws claim and completes a new appropriation Form 602. No filing fee is required. See "Special Provisions: Termination Of A Claim" for instructions for withdrawing the claim.

It is advised the claimant work with the new appropriations specialist prior to withdrawing the claim, as their guidelines and standards are different. Give a copy of the claim file to the new appropriations specialist.

The priority date on the Form 602 will be the received date of the claim form, or the filing date of a GW2 or GW3 form if filed between '73 and '81, whichever is earlier.

The flow rate on the Form 602 depends on the priority date.

- If the priority date is pre-7/1/91, the flow must be less than 100 gpm.

- If the priority date is post-6/30/91, the flow rate cannot exceed 35 gpm

(iv) The claimed priority date is retained without documentation and a new appropriations Form 602 is not pursued. Add a remark to the department's examination report denoting the lack of documentation for the claim.

Examples: P520 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. NO DOCUMENTATION AS REQUIRED BY THE 1961 GROUNDWATER CODE WAS SUBMITTED TO SUPPORT THIS CLAIM.

P525 PR51A SURFACE WATER NOTICE OF APPROPRIATION WAS SUBMITTED TO SUPPORT THIS CLAIM TO GROUNDWATER APPROPRIATED BETWEEN JANUARY 1, 1962 AND JULY 1, 1973.

P530 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE SUBMITTED FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION, WAS FILED AFTER APRIL 13, 1981. SEE SECTION 85-2-306(2), MCA.

P535 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE SUBMITTED FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION, WAS FILED AFTER 6/30/1973. NO NOTICE OF APPROPRIATION OF GROUNDWATER (FORM GW1) WAS FILED AS REQUIRED BY THE 1961 GROUNDWATER CODE.

P540 PR51THE PRIORITY DATE MAY BE QUESTIONABLE. THE SUBMITTED FORM GW2/FORM GW3, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION, WAS NOT FILED AT THE COURTHOUSE AS REQUIRED BY THE 1961 GROUNDWATER CODE.

(v) The claimed priority date is retained without documentation and a new appropriation Form 602 is

filed. This option should not be encouraged as it creates duplicate rights.

A filing fee for the Form 602 is required. The priority date will be the date the form is received and the flow rate cannot exceed 35 gpm.

It is advised the claimant work with the new appropriations specialist, as their guidelines and standards are different. Give a copy of the claim file to the new appropriations specialist.

Add a copy of the Form 602 to the claim file. Also, add a remark to the department's examination report to denote the duplication.

Example: P545 PR51THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE BECAUSE NO DOCUMENTATION AS REQUIRED BY THE 1961 GROUNDWATER CODE WAS SUBMITTED TO SUPPORT THIS CLAIM. THIS CLAIM APPEARS TO BE DUPLICATED BY/REDUNDANT WITH WATER RIGHT NO. C000000-00.

5. DNRC Post-June 30, 1973 Documents Attached. This section provides guidelines for when a pre-'73 priority date has been claimed and a new appropriations document has been submitted for the same water right. Ultimately the claim or new appropriations document will be recognized, but not both.

Confirm that the claim and new appropriations document are both actually describing the same water right. This may require claimant contact. Also, confirm that processing of the document has been completed by the new appropriations section.

After it is confirmed the claim and new appropriations document describe the same water right, the processing of these documents will depend on several variables as outlined below.

a. Claimed Priority Date Is Correct. When the claimed priority date appears to be correct (i.e., the date of appropriation is prior to '73 and proper documentation was filed to establish the priority date), the claimant should be encouraged to retain the claim and terminate the redundant new appropriations document.

If the new appropriations document is to be terminated, notify the new appropriation specialist or regional manager for procedures.

If the claim and new appropriations document are both retained, add the following remark to the department's examination report.

Example: D92 DU51THIS CLAIM AND WATER RIGHT NO. C000000-00 APPEAR TO BE DUPLICATE/REDUNDANT FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED.

Also, complete an 'Associated' flag (Figure VI-2) as follows:

WATER RIGHT NO. C000000-00
IS ASSOCIATED WITH
WATER RIGHT NO. W000000-00

WR's ARE ASSOCIATED BECAUSE: This Certificate and Claim No. W000000-00 appear to be redundant filings.

Put a copy of the flag (clearly marked "COPY") in the claim file. Send the original to the Processing Unit in Helena, where an AS remark will be entered and the flag put in the new appropriations file.

b. Claimed Priority Date Is Not Correct. When the claimed priority date appears to be incorrect, (i.e. no GW documentation or GW not filed), the claimant can either: (i) amend the claimed priority date or, (ii) retain the new appropriations document; whichever of the two options would result in an earlier priority date.

(i) Claimant amends the priority date to the earlier of the following two situations:

- the date the claim was received, or
- the date a GW2 or GW3 was filed at a courthouse between '73 and '81 without a GW1 filed prior to '73.

Add the following remark to the department's examination report.

Example: P354 PR01THIS IS AN EXISTING RIGHT. ITS POST-1973 PRIORITY DATE IS DECREED PURSUANT TO SECTION 85-2-306(2) MCA.

The claimant should be encouraged to terminate the new appropriations document. If the new appropriations document is to be terminated, notify the new appropriation specialist or regional manager for procedures.

(ii) If the new appropriations document is retained, the claimant should then be encouraged to withdraw the claim. See "Special Provisions: Termination Of A Claim" for instructions for withdrawing the claim.

If the claim and new appropriations document are both retained, add a remark to the department's examination report.

Examples: P545 PR51THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE BECAUSE NO DOCUMENTATION AS REQUIRED BY THE 1961 GROUNDWATER CODE WAS SUBMITTED TO SUPPORT THIS CLAIM. THIS CLAIM APPEARS TO BE DUPLICATED BY/REDUNDANT WITH WATER RIGHT NO. C000000-00.

P546 PR51THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE BECAUSE NO DOCUMENTATION AS REQUIRED BY THE 1961 GROUNDWATER CODE WAS SUBMITTED TO SUPPORT THIS CLAIM. THIS CLAIM IS SUPPORTED BY ACKNOWLEDGEMENT NO. K043022-00.

**** PR51THE CLAIMED PRIORITY DATE INDICATES AN APPROPRIATION OF WATER AFTER JUNE 30, 1973. THIS CLAIM APPEARS TO BE DUPLICATED BY/REDUNDANT WITH WATER RIGHT NO. P000000-00.

Also, complete an 'Associated' flag following the same procedures described above.

If during the review, it appears that the new appropriations document contains errors or discrepancies, notify the new appropriations specialist of the problems.

K. PERIOD OF USE.

The period of use is the period in a calendar year when water is used for the identified purpose. The period of use will be identified on the decree abstract by the earliest month and day to the latest month and day that water has been claimed for the claimed purpose in a calendar year.

1. Identifying The Claimed Period of Use. The claimed period of use is stored in the computer as an array of numbers (one number for each month of the year).

Array	Translation
0	not used during month
1	1-4
2	5-9
3	10-14
4	15-19
5	20-24
6	25-27
7	28-31
9	used entire month

The number 9 cannot be used to start or end a period of use array. Also, a claimed period of use consisting of a single month or portion of a single month must be coded using a two digit array (see Example 3).

Examples: 001999970000
water use begins March 1-4, ends August 28-31
Decree will state March 1 - August 31
995000399999
water use begins July 10-14, ends March 20-24
Decree will state July 10 - March 24
000074000000
claimed period of use is June 1-15
Decree will state May 28 - June 19
001970001940
claimed period of use is March 3 - May 29 and September 2 - November 15
Decree will state March 1 - May 31 and September 1 - November 19

Check that the period of use on the claim form does not exhibit clerical errors by the claimant, and is apparently consistent with the documentation. If the claimed period of use is unclear or cannot be identified for a purpose whose guideline is not year round, contact the claimant.

Check that the claimed period of use has been properly entered into the computer. The period of use on the examination worksheet may be slightly longer than claimed due to the array translation. When the decree is issued, the computer will give the maximum dates for the period of use as established by the array of numbers.

2. Period Of Use Guidelines. This section contains values to be used as benchmarks for initiating further department review or claimant contact for the different types of purposes.

a. Irrigation.

Flood Systems And Sprinkler Systems. The guidelines for flood systems and sprinkler systems (including such systems with reservoirs) will be:

(i)	Climatic Area I:	March 15 to November 19.
(ii)	Climatic Area II:	April 1 to October 31.
(iii)	Climatic Area III:	April 15 to October 19.
(iv)	Climatic Area IV:	April 20 to October 14.
(v)	Climatic Area V:	April 25 to October 9.

If the POU is located in more than one climatic zone, use the climatic zone which has the longer period of use guidelines. If a claim is located in climatic zone 6 (mountainous area), use either the guidelines for Climatic Area V or those for the climatic zone which is adjacent to the mountainous area.

Water Spreading, Natural Overflow, And Natural Subirrigation. The period of use guideline for claims involving these system types will be year round use.

Formerly Decreed Period Of Use. When an irrigation claim is based on a decree which specifically identifies a period of use for irrigation, the decreed dates will be the guideline.

b. Domestic.

Households. The period of use guideline for household use with or without lawn and garden will be year round. If the claimed period of use is other than year round, review the claim file for information indicating seasonal use, i.e., a cabin on Flathead Lake. When seasonal use isn't indicated, contact claimant. If claimant contact is inconclusive, accept the claimed period of use.

Domestic Irrigation. The period of use guidelines for domestic irrigation with no households (i.e., lawn and garden), will be the same as the irrigation period of use guidelines. If the claimed period of use is year round or greatly exceeds the irrigation period of use guidelines, contact the claimant.

Households And Domestic Irrigation. The period of use for a claim involving both household use and domestic irrigation will be year round use. If a shorter period of use is claimed, review the documentation or the claimant may be contacted. If claimant contact is inconclusive, accept the claimed period of use.

Formerly Decreed Period Of Use. When a domestic claim is based on a decree which specifically identifies a period of use for domestic purposes, the decreed dates will be the guideline.

c. Stockwater. The period of use guideline for stockwater use is year round. Generally, the claimed period of use will be accepted as claimed. The claimant may be contacted if apparent discrepancies exist.

Formerly Decreed Period Of Use. When a stockwater claim is based on a decree which specifically identifies a period of use for stockwater purposes, the decreed dates will be the guideline.

d. Other Uses. No specific guidelines have been developed to be applied to the period of use of other uses claims. The claimed period of use will be compared to what is usual and customary for the claimed purpose. The data sources and materials used to review the purpose will be used to establish the usual and customary period of use for the claimed purpose. Also, Murphy Rights are for specific flow rates for specific times of year.

Formerly Decreed Period Of Use. When an other uses claim is based on a decree which specifically identifies a period of use for the claimed purpose, the decreed dates will be the guideline.

e. Reservoirs. The period of use guidelines for reservoirs are the guidelines for the purposes for which the water is used. For example, a reservoir for sprinkler irrigation would have the irrigation guideline appropriate for the respective climatic area. If more than one use is associated with a reservoir, the period of use guideline may differ between the individual claims to the reservoir.

Period of Diversion For Reservoir. When a specific period of diversion into a reservoir is identified, it should be added to the department's examination report. Typically, this information will be obtained from claim documentation, reliable records (e.g., BLM project files), or claimant contact (e.g., reservoir questionnaire). Use a period of use (PE) remark to add a period of diversion.

Example: P95 PE01THE PERIOD OF DIVERSION FROM THE SOURCE INTO THIS RESERVOIR IS MARCH 1 THROUGH JULY 15.

There is no need to report a period of diversion that is the same as the period of use.

3. Examining Period Of Use. The examination of the period of use will be based on the period of use on the claim form, documentation, guidelines, and claimant contact where necessary.

Generally the claimed period of use will be accepted if reasonably close to the guidelines. The rule of thumb for "reasonably close" is up to one month before and one month after the guideline.

a. Changing Claimed Period Of Use. The claimed period of use will not be changed as a result of the examination unless:

- amended by the claimant
- clarified by the department

The following are provided as guidance about when the period of use may be clarified without claimant contact.

- If no period of use has been given on the claim form or documentation for a claim which has a guideline of year round, complete the period of use on the examination worksheet as year-round.

- If no period of use has been given on the claim form but is clearly identified in the documentation, complete the period of use on the examination worksheet to correspond with the documentation.

- If only months are claimed (e.g. April-October) and the submitted documentation does not specify a day date, add the first day of the initial month and last day of the final month to the examination worksheet (e.g. April 1 - October 31).

- If the period of use given is equivalent to year-round (e.g. May 1 - April 30), change the period of use on the examination worksheet to January 1 to December 31.

Changes may be made directly on the worksheet. If the period of use is changed so that the decree abstract will differ from the claim form or amendment, place an asterisk on the worksheet in the brackets to the left of the period of use heading. The basis of a change must be documented in the claim file.

b. Claimant Contact. If the claimed period of use is not within the guideline for the claimed purpose, or the claimant's intent is unclear, contact the claimant. For example, year-round diversion of water for an outdoor swimming pool or year-round use of water for a high elevation placer mining operation would require claimant contact. If the documentation attached to the claim supports a specific period of use, this should also be discussed.

- Information discussed confirms the claimed period of use. Document the information supporting the claimed period of use.

- A period of use different from that in the claim file is substantiated. The claimed period of use may be changed on confirmation by the claimant. Thoroughly document the discussions with the claimant and the data used to substantiate the new period of use. As an alternative, an amendment can be submitted to change the claimed period of use.

- If claimant contact is inconclusive or a discrepancy is unresolved, add an issue remark to the department's examination report.

4. Period Of Use Issues. Any pertinent issues discovered during the examination may be remarked on the department's examination report using a period of use (PE) remark.

a. Period Of Use Exceeds Guidelines. When the claimed period of use differs significantly from the guideline and is not supported by the documentation, contact the claimant. If the issue is unresolved, a period of use remark will be added to the department's examination report.

Examples: P130 PE51THE CLAIMED PERIOD OF USE EXCEEDS THE USUAL GROWING SEASON FOR THIS CLIMATIC AREA WHICH IS APRIL 15 TO OCTOBER 19.

P135 PE51THE CLAIMED PERIOD OF USE EXCEEDS THE USUAL PERIOD OF USE FOR THE CLAIMED PURPOSE WHICH IS MARCH 15 TO NOVEMBER 19.

P140 PE51THE CLAIMED PERIOD OF USE MAY BE QUESTIONABLE. USE OF THIS WATER MAY NOT BE FEASIBLE DURING WINTER MONTHS.

b. Period Of Use Inconsistent With Documentation. If the claimed period of use differs from a period of use clearly specified in the documentation, contact the claimant. If claimant contact is inconclusive, add the following remark to the department's examination report.

Example: **** PE51THE CLAIMED PERIOD OF USE IS INCONSISTENT WITH THE CLAIMED DOCUMENTATION. CASE NO. 0000, SANDERS COUNTY, DECREES THE PERIOD OF USE AS JUNE 15 THROUGH SEPTEMBER 1.

c. Period Of Use Too Short. On occasion, periods of use are claimed that seem to be short for the claimed purpose. Claimant contact will be initiated. If claimant contact is unsuccessful, add a period of use remark.

Examples: P150 PE51THE CLAIMED PERIOD OF USE APPEARS INADEQUATE FOR THE USUAL GROWING SEASON IN THIS AREA WHICH IS APRIL 1 TO OCTOBER 31.

P151 PE51THE CLAIMED PERIOD OF USE MAY BE QUESTIONABLE. THE CLAIMED PERIOD OF USE APPEARS TO BE INADEQUATE.

d. No Period Of Use Claimed. When no period of use has been given on the claim form or documentation for a claim that has a guideline other than year round, contact the claimant. If the contact is unsuccessful at obtaining a period of use, add a period of use remark.

Example: P155 PE51NO PERIOD OF USE HAS BEEN CLAIMED. THE USUAL AND REASONABLE PERIOD OF USE IN THIS AREA IS APRIL 20 TO OCTOBER 10.

5. Unique Period Of Use Features. Any unique aspects or features of the period of use should be called to the attention of the water court by adding a remark, e.g., PE01, to the department's examination report.

a. Limited Period Of Use Agreements. Sometimes the documentation (decree, filed notice, affidavit, deed, contract, etc.) will state an unusual period of use, such as a limited use agreement for certain days, certain times, etc. In these situations the claimed period of use will still apply. Add a period of use remark stating the particulars of the limited use as an aspect of the right. The remark should be added to appear on the decree abstract (PE01) if the information was clearly indicated as claimed. If the information was identified by the department or not clearly indicated as claimed by the claimant, add it to appear on the department's examination report (PE01).

Examples: **** PE01CASE NO. 0000, FERGUS COUNTY, LIMITS THIS RIGHT TO DIVERSION FOR THREE OF EVERY TEN DAYS.

**** PE01CASE NO. 0000, LAKE COUNTY, DECREES A ROTATING SYSTEM FOR USE OF THIS RIGHT BETWEEN FIVE PARTIES. EACH PARTY IS DECREED USE OF THIS RIGHT FOR 48 HOURS OF EVERY 240 HOURS.

b. High Or Flood Water Rights. When the claim or documentation states that the right includes high or flood water of a particular source, a period of use remark will be added to the department's examination report, noting the high or flood water right as an aspect of the right. This type of right normally occurs with filed or use rights. The period of use dates will normally be accepted as claimed.

Example: P120 PE01THIS RIGHT INCLUDES HIGH OR FLOOD WATERS OF DEER CREEK.

If the documentation with the claim states that the water right is only for high or flood waters, add a period of use remark noting the limitation as an aspect of the right. This type of water right generally occurs with decreed rights. Accept the period of use dates as claimed.

Examples: P125 PE01CASE NO. 0000, LINCOLN COUNTY, LIMITS THIS RIGHT TO HIGH OR FLOOD WATERS OF MUSKRAT CREEK.

P126 PE01THIS RIGHT IS LIMITED TO HIGH OR FLOOD WATER OF BEAVER CREEK.