

Resolution of the Flathead Reservation Water Management Board

#frwmb 05 (2024): Protection of Personal Information within Public Records

Date of Original Approval: _____

Purpose: Provide definitions for the protection of personal information within public records; establish procedures for redacting personal information that may be submitted to the Office of the Engineer or the Board; reference established procedures and/or policies pertaining to data security.

Authority Granted

The Board shall have the power to promulgate procedures, prescribe forms, develop additional materials and implement amendments thereto as may be necessary and proper to exercise its jurisdiction and carry out its assigned functions under this Compact and the Ordinance. Compact, art. IV.I.5.a.

The Engineer shall exercise the duties set forth in the Compact and Ordinance, which include but are not limited to: (1) the administration of water rights on the Reservation, and the enforcement of the terms of this Ordinance and the conditions of all Appropriation Rights, determinations, orders, regulations, plans, policies, guidelines, and other actions taken by the Engineer or the Board, pursuant to the Compact and the Ordinance. Ordinance, § 1-2-110(1).

While the Board has the authority to promulgate procedures, and the Engineer has the duty to enforce such procedures and policies, the Compact and Ordinance are silent as to the protection of personal information within public records submitted to either the Office or the Board.

Personal Information Defined

“Personal Information” shall mean a Person’s name in combination with any one or more of the following data elements, when the name and data elements are not encrypted: (1) a social security number; (2) a driver’s license number, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, or the American territories; (3) an account number or credit or debit card number in combination with any required security code, access code, or password that permits access to a Person’s financial account; (4) medical record information, i.e., information relating to a Person’s physical or mental condition, history, or treatment; (5) a taxpayer identification number; or (6) an identity protection personal identification number issued by the United States Internal Revenue Service.

The term shall not apply to publicly available information from federal, state, local, or tribal government records.

“Personal Information,” as defined in this Resolution, shall also be used to describe personal identifiable information, or PII, for the purpose of protection of PII within public records before the Office or Board.

Pursuant to Ordinance, § 1-1-104(44), “Person” means an individual or any other entity, public or private, including the Tribes, the State, and the United States, and all officers, agents and department of each sovereign.

Personal Information In Public Records

1. Identifying Information in the Public Record

Documents submitted to the Office or the Board, including but not limited to, water right application forms, letters, pleadings, notices, complaints, and public comments, are considered part of the public record and can be reviewed by members of the public upon request to the Office. Inclusion of a Person's identifying information that is not considered Personal Information, as defined in this Resolution, shall be considered public information readily available in other government records, and thus not subject to redaction from the public record.

Identifying information, such as a Person's name or address, is included on and requested in public records for the purpose of providing the public with notice in the event a Person wishes to provide public comment and/or notice, file a complaint or objection, etc.

For example, an applicant's name and address appears on an application form submitted to the Office. Because the application—a public record—only requires the name and address, and such information is publicly available through state records, an applicant's name and address are not considered Personal Information for purposes of redaction.

2. Redaction of Personal Information

The Board and Office are required under the Compact and Ordinance to provide the public with the ability to inspect its records. However, the Board or Office is not required to review, redact, or screen documents at the time they are submitted for Personal Information, protected or otherwise, whether filed electronically or on paper. It shall be the Person's responsibility to remove, redact, or truncate protected Personal Information inadvertently included on public documents submitted to it.

If a public document prepared or issued by the Board or Office contains Personal Information, the information must be redacted or truncated before it can be provided to the public, whether the document is provided upon request via a paper or electronic copy, as direct access via the Board website or local newspaper. Nothing in this Resolution prevents the Office from notifying the Person of the submission of Personal Information on a document part of the public record.

Personal Information inadvertently included on a document submitted by a Person shall be redacted on written request by the Person to whom it applies. Such a request may be mailed to the Office of the Engineer at PO Box 37, Ronan, MT 59864 or dropped off at the OE building, or electronically by emailing contact@frwmb.gov.

3. Office Policies

The Board and the Office recognize the importance of protecting Personal Information and, as such, the Office, which maintains all public records of the Board and Office, established a Digital Record policy, see OE Personnel Policy 12.04, for the purpose of ensuring the security of public records retained by the Office.

The Office reserves the right to incorporate new policies and/or alter, reduce, or expand upon existing policies pertaining to data security and management of public records or documents submitted to the Board or Office.

