

# Water Fact Sheets Terminology



## Water Fact Sheet #10

**Abandonment-** The intentional, prolonged, non-use of a perfected water right.

**Acre-Feet-** A unit of volume, commonly used in the United States, to describe large-scale water resources. It is the volume of one acre of surface area to a depth of one foot which is equal to 43,560 cubic feet.

**Adjudication of Water Rights-** In the context of Montana water law this refers to the statewide judicial proceeding to determine the type and extent of all water rights claimed to exist before July 1, 1973.

**Aquifer-** An underground layer of water bearing permeable rock or unconsolidated materials from which groundwater can be extracted.

**Appropriate-** To divert, impound, or withdraw, including by stock for stock water, a quantity of water for a beneficial use.

**Basin-** The area of land drained by a river and its tributaries, a watershed.

**Beneficial Use-** Use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses; use of water to maintain and enhance streamflows to benefit fisheries pursuant to conversion or lease of a consumptive use right.

**Claim/Statement of Claim** – The assertion that a water right exists under the laws of Montana or that a reserved water right exists under the laws of the United States in Montana’s general adjudication.

**Decree-** A final product of adjudication and a legal document issued by a district court or the Montana Water Court defining the priority, amount, use, and location of a water right or set of water rights. The

Montana Water Court adjudicates and prepares decrees for entire basins as part of the adjudication process.

**Diversion-** Structures, facilities, or methods used to appropriate, impound, or collect water including but not limited to a dike, dam, ditch, headgate, infiltration gallery, pipeline, pump, pit or well.

**Exempt Wells -** Under Montana water law, wells that divert 35 gallons per minute or less, and do not exceed 10 acre-feet per year in the total volume of water diverted are considered exempt from the permitting process. However, appropriators of water under these conditions are required to file a notice of completion with DNRC.

**Existing Water Rights-** “Existing right” or “existing water right” means a right to the use of water that would be protected under the law as it existed prior to July 1, 1973. The term includes federal non-Indian and Indian reserved water rights created under federal law and water rights created under state law

**Federal or Tribal Reserved Water Rights-** Established by an act of Congress, a treaty, or an executive order. Gives a right to use water; the amount of water reserved depends on the purpose for which the land was reserved.

**Groundwater-** Any water beneath the land surface.



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**Injunction-** A court order for an individual to do or refrain from certain acts.

**Instream Flow-** Water left in a stream for non-consumptive uses such as aquatic habitat, recreation, navigation, or hydropower.

**Junior Water Rights-** A general term referring to a water right or the owner of a water right with a priority date that is later in time than another water right.

**Montana Water Use Act-** An act passed in 1973 to regulate Montana's water rights. All water rights prior to July 1, 1973 are to be finalized through an adjudication process and all new water rights have a permit system through DNRC. Also systems for changing water rights, centralized records, and reserving water for future consumptive and minimum instream uses were established.

**Murphy Rights-** Established in 1976. Appropriated stream flow amounts necessary for the preservation of fish and wildlife habitats. Named for the legislative author, Jim Murphy of Kalispell. They date back to 1970 and 1971 on 12 Blue Ribbon trout streams and only protect flows when senior water rights have been satisfied.

**Prior Appropriation Doctrine-** In the West water law generally follows the Prior Appropriation Doctrine. The person having the earliest priority date on their water right gets first use of the water; "First in time is first in right."

**Priority Date-** The clock time, day, month, and year assigned to a water right application or notice upon DNRC acceptance of the application or notice. The priority date determines the ranking among water rights.

**Reasonable Use-** The use of a water right taking into account the suitability of the watercourse, economic value, social value, and impacts on other users in the watercourse.

**Reservoir-** Pond, lake or basin, either natural or artificial, for the storage, regulation and control of water.

**Return Flow-** Part of a diverted flow that is applied to irrigated land or other beneficial use and is not consumed and returns underground to its original source or another source of water. Other water users may be entitled to this water as part of their water right.

**Senior Water Rights-** Senior water right holders have an earlier priority date than junior right holders and have first access to divert water from a source.

**Surface Water-** Water on the surface of the ground (lakes, rivers, ponds, floodwater, oceans, etc.); precipitation which does not soak into the ground or return to the atmosphere by evaporation or transpiration.

**Storage-** Water artificially impounded in surface or underground reservoirs for further use; water naturally detained in a drainage basin.

**Unappropriated Water-** Water which has not been appropriated, and in which no other person has or claims superior rights and interests.

**Water Commissioner-** Appointed by a district court to distribute water according to the water rights decree to aid in solving a water rights dispute.

**Water Consumed-** Water that is no longer available for use because it has evaporated, transpired through natural vegetation, been consumed by humans or livestock, used in the production of crops, or used for industrial applications.

**Water Court-** Located in Bozeman, the Montana Water Court's primary function is to carry out the state-wide adjudication. Disputes between water right holders are still handled in local district court, and the local district courts oversee water commissioners in their area.

**Water Lease-** An agreement with a water user to allow a person or organization, for a fee, to lease water from the user. Water leases are often used in Montana to maintain instream flow.

**Water Withdrawn-** Water extracted from the ground or diverted from a surface source. Some withdrawn water reenters the water system further downstream as return flow.