



PUBLIC COMMENT ON APPLICATION

§85-2-307, MCA
Form No. 654 (Revised 01/2024)

For Department Use Only

Instructions

Use this form to file a public comment about an application for a water use permit, change authorization, or forest service water reservation.

Use one form for each application about which you are filing a public comment. Individual water right owners must file separate public comments. **This form must be received on or before the deadline specified in the public notice.**

Submit form to:
Montana Department of Natural Resources and Conservation (DNRC)
Water Rights Bureau
1424 9th Avenue, PO Box 201601, Helena, MT 59620-1601

Date Received _____
Received By _____

Comment # _____
Entered By _____
Date _____

1. Name of Commenter _____
Mailing Address _____
City _____ State _____ Zip _____
Home Phone _____ Other Phone _____
Email: _____

2. On which application are you filing a public comment? Application Number _____
Applicant Name _____

3. How do you have standing to file this public comment? A person has standing if his or her property, water rights, or interests would be adversely affected by the proposed appropriation. Explain your interest and how it would be adversely affected.

4. Will your water right be affected? If so, provide the water right number.

- (W) Statement of Claim No. _____
- (P) Permit to Appropriate Water No. _____
- (C) Certificate of Water Right No. _____
- (D) Powder River Final Decree No. _____
- (M/R) Reservation of Water No. _____
- (E) Exempt Notice No. _____
- (F) Non-recorded Exempt Right (For a filing not on record with the DNRC, complete the information below).
 Type of Use Stock Domestic Date of First Use _____
 Groundwater (For example, well or developed spring)
 Instream Surface water Source _____
 Amount Used Flow Rate _____ Gallons Per Minute Volume _____ Acre-Feet
 Point of Diversion ____ 1/4 ____ 1/4 ____ 1/4 Section ____, Township _____ N S, Range _____ E W
 County _____
 Lot/Tract _____ Block _____ Subdivision Name _____



5. Why are you filing a public comment?

Statute requires that a commenter identify how one or more of the application criteria is not adequately addressed in the draft preliminary determination (PD) for the application. Please note that for applications received by the Department on or after January 1, 2024, there will be an opportunity to object to an application only if public comments are received (§85-2-307(5)(c), MCA). Objections will be limited to only those issues on which a public comment was received (§85-2-308(1)(b), MCA).

Complete section A, B, or C below for the type of application to which you are filing a public comment.

Sections A and B: Complete information for only Section A (public comments on a permit application) OR Section B (public comments on a change application). Attach a separate sheet and provide the following information:

1. The application number, applicant name, and your name.
2. The corresponding numbers shown below to clearly indicate on which criteria you are submitting a public comment.
3. For each criterion on which you are submitting a public comment, identify how the draft preliminary determination does not adequately address that criterion.

A) Public Comment About a Permit Application– For each box that is checked, identify how one or more of the criteria in §85-2-311, MCA, is not adequately addressed in the draft PD for the application.

- 1. Physical Availability – Identify how the draft PD does not adequately address how water can be considered physically available.
- 2. Legal Availability – Identify how the draft PD does not adequately address how water can be considered legally available.
- 3. Adverse Effect – Identify how the draft PD does not adequately address how this proposed use will not adversely affect your water right.
- 4. Diversion Works – Identify how the draft PD does not adequately address why the construction of the project is adequate.
- 5. Beneficial Use – Identify how the draft PD does not adequately address why the use (purpose) or flow rate and volume may be considered beneficial.
- 6. Possessory Interest – Identify how the draft PD does not adequately address how the applicant has possessory interest in the place of use.
- 7. Water Quality – Note that an applicant is required to prove these criteria only if a valid objection is received (§85-2-311(2), MCA). Therefore, the Department will not respond to public comments on these criteria but will provide notice of the opportunity to object to the application if public comments on these criteria are received. Identify why you believe the criteria cannot be met:
 - a. Water Quality Issue §85-2-311(1)(f), MCA
 - b. Effect on effluent limitations of discharge permit holder §85-2-311(1)(h), MCA

Only DEQ or local water quality district may object to:

- c. Effect on classification of water §75-5-301(1), MCA and §85-2-311(1)(g), MCA
- 8. Reasonable Use – (only for applications for an appropriation of 4,000 or more acre-feet of water a year and 5.5 cubic feet per second of water) Identify how the draft PD does not adequately address why the proposed appropriation is a reasonable use based on consideration of § 85-2-311(3), MCA.

B) Public Comment About a Change Application – For each box that is checked, identify how one or more of the criteria in § 85-2-402, MCA, is not adequately addressed in the draft preliminary determination for the application.

- 1. Adverse Effect – Identify how the draft PD does not adequately address how this proposed change will not adversely affect your water right or interest or how the historical use of the water right proposed for change is different than described in the application.
- 2. Diversion Works – Identify how the draft PD does not adequately address why the construction of the project is adequate.
- 3. Beneficial Use – Identify how the draft PD does not adequately address why the use (purpose) or the flow rate and volume may be considered beneficial.
- 4. Possessory Interest – Identify how the draft PD does not adequately address how the applicant has possessory interest in the place of use.



- 5. Water Quality – Note that an applicant is required to prove these criteria only if a valid objection is received (§85-2-311(2), MCA). Therefore, the Department will not respond to public comments on these criteria but will provide notice of the opportunity to object to the application if public comments on these criteria are received. Identify why you believe the criteria cannot be met:
 - a. Water Quality Issue §85-2-402(2)(f), MCA
 - b. Effect on effluent limitations of discharge permit holder §85-2-402(2)(g), MCA
- 6. Reasonable Use – (only for applications to change a purpose of use or place of use of an appropriation of 4,000 or more acre-feet of water a year and 5.5 cubic feet per second of water) Identify how the draft PD does not adequately address why the proposed appropriation is a reasonable use based on § 85-2-402(4)(b), MCA.

Section C: Complete information if you are filing a public comment about a Forest Service Reservation Application. Attach a separate sheet and provide the following information:

1. The application number, applicant name, and your name.
2. The corresponding letters shown below to clearly indicate on which criteria you are filing a public comment.
3. For each criterion on which you are submitting a public comment, identify how one of the applicable objector proofs set forth in § 85-20-1401, Article VI, sec. B.3(a) or (b), MCA, is met. The comment must specifically describe why or how one of the objector proofs are met.

- (A) The amount of water under the wetted perimeter methodology or other methodology was not accurately measured or calculated;
- (B) The wetted perimeter methodology or other methodology could not suitably be applied to the stream reach applied for;
- (C) There is not an existing population of the fish species set forth in § 85-20-1401 Art. VI sec. B.1(a)(iii)(B), MCA, identified in the application in the stream reach applied for; or
- (D) There is a proposed or projected water development project: that is feasible; reliably projected to be commenced within 10 years or within 10 years after a basin closure is removed; in which the objector has or can reasonably obtain a possessory interest (or consent) in the property where the water is to be impounded, stored, transported and put to beneficial use; for which the amount of water needed for the project is reasonable; for which water is not reasonably available from any other water source; for which the water would be unavailable if the proposed reservation was granted; that would not be feasible with water either in a lesser amount or at a different location if the reservation was granted; and that serves a significant public need.

6. Are you represented by counsel? YES NO

Counsel Name _____
 Mailing Address _____
 City _____ State _____ Zip _____ Phone _____
 Email: _____

7. Person preparing this form, if different than commenter:

Name _____
 Mailing Address _____
 City _____ State _____ Zip _____ Phone _____
 Email: _____

8. Commenter's Signature: If you are represented by counsel, counsel may sign.

SIGNATURE _____ DATE _____

SIGNATURE _____ DATE _____

SIGNATURE _____ DATE _____

