

What is a priority date and why is it important?

Montana water law is based on the prior appropriation doctrine: "first in time is first in right."

Priority is determined by date of first use—the earlier the priority date, the more senior the right.

Senior surface water right holders can "call" junior rights to discontinue use if water is insufficient for all senior rights.

How are water rights transferred?

A water right goes with the land unless provisions are made at the time of a realty transaction to exclude the water rights.

After July 1, 2008, the process of updating DNRC ownership records will be done via a realty transfer certificate through the Department of Revenue and the DNRC. The following exceptions will require filing an ownership update form with the DNRC directly:

- Split: subdividing a parcel.
- Reserved/Severed: the seller keeps the water right, but sells the property; or the seller sells the water right and keeps the property.



Jesse Aber

What if I am being adversely affected or can't get water to fulfill my water right?

Foremost, the DNRC encourages talk among water users to attempt to resolve the issue. This can include making a call on junior water rights.

For water right dispute options, visit with any DNRC office or see

http://dnrc.mt.gov/wrd/water_rts/wr_general_info/wrforms/609-ins.pdf



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For further information, contact:

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http://dnrc.mt.gov/wrd/water_rts

Water Rights in Montana FAQs



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The Water Resource Division promotes and coordinates the wise use and conservation of Montana's water resources for current and future generations.

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What is a water right?

The State of Montana owns the waters within the state on behalf of its citizens.

Citizens do not own the water, but can possess a legal right to use the water within state guidelines.

The water must be put to beneficial use.

By law, a recorded water right is required for the majority of water uses to be valid, legal, and defensible against other water users.

A water right protects the use of that water from other uses later in time, from unrecorded, illegal uses, or from others who exceed their rights.

What types of water rights are there?

- Existing Rights
- New Appropriations
- Exempt Rights
- Federal Reserved and Indian Reserved Rights
- Water Reservations

What is an existing right?

A decreed, filed, or use right originating prior to July 1, 1973 filed on a Statement of Claim between 1979 and 1982 to document the water right.

A right to the use of water that would be protected under the law as it existed prior to July 1st, 1973.

What is a new appropriation?

A water use originating after June 30, 1973.

- Permit: groundwater use over 35 gpm or 10 acre-feet per year OR any surface water appropriation
- Groundwater Certificate: developed groundwater use under 35 gpm, not to exceed 10 acre-feet per year

Administered by the DNRC.

Some areas are closed to new appropriations. Visit with your DNRC Regional Office for details.



Wheel Line Irrigation

What is an exempt right?

Certain pre-July 1st, 1973 livestock and domestic uses from in-stream or groundwater sources were exempt from filing a Statement of Claim. Volunteer filings were accepted.

What is a change authorization?

A water right can be changed with prior approval from the DNRC. This applies to changes to the point of diversion, place of use, purpose of use, or place of storage.

Do I have a water right?

Visit the DNRC Water Right Query System website:

<http://nrismt.gov/dnrc/waterrights>

Check with the DNRC Regional Office servicing your county:

http://dnrc.mt.gov/field_operations/regionaloffices

Helpful information to have when researching water rights is to know your legal land description, including county, subdivision/lot, or previous owner's name.

If you live within a city, belong to a water user's association, are serviced by a ditch company or irrigation district, you may not have a water right for such use. However, the city, association, company or district owns water rights from which it supplies your water. You may own shares in such an association, company, or district.



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Deadman Basin