

HB 432: Exceptions to the Change Process

<p>NEW SECTION 1 (1) Redundant Wells</p>	<ul style="list-style-type: none"> • Moves requirements for redundant wells, currently in 85-2-402(16), to this section. • Requirements are identical to existing law except that subsection (6) applies to this provision, clarifying that a correct and complete notice must be filed. This is clean-up for consistency with other DNRC forms.
<p>(2) Replacement Wells</p>	<ul style="list-style-type: none"> • Moves requirements for replacement wells, currently in 85-2-402(15), to this section. • Requirements are identical to existing law except that instead of flow rate and volume limitations on eligibility for the exception, this bill includes a proximity requirement: replacement well must be drilled within 200 feet of the old well to qualify for the permit exception. • Proximity is a better limitation for eligibility than flow rate/volume because proximity matters when ensuring no impacts to other water users and staying within the same source aquifer. Without a proximity limitation, there could be impacts to other water users. • This change also will increase the number of water uses that are eligible for the replacement well.
<p>(3) Replacement Points of Diversion (POD)</p>	<ul style="list-style-type: none"> • Moves requirements for replacement points of diversion, currently in 85-2-402 (18), to this section. • Does not change requirements for replacement points of diversion.
<p>(4) Municipality-Change in Place of Use</p>	<p>Creates a new exception to the change authorization process.</p> <ul style="list-style-type: none"> • Provides that a municipality or a county water and sewer district organized under Title 7, Chapter 13, Part 22 may change the place of use for an unperfected municipal use permit or water reservation if certain criteria are met: <ul style="list-style-type: none"> ▪ Flow rate will not be exceeded. ▪ Volume will not be exceeded. ▪ The place of use is within the municipality’s land use plan and future land use map boundary; its growth policy boundary; or county water and sewer district’s service area boundary. ▪ All water being diverted by the system is being measured, and ▪ There are no other changes to the water right or rights. • Multiple water rights may be changed on the same application under this section under circumstances identified in the section.
<p>(5) Add or move Stock Tanks</p>	<p>Creates a new permit exception for adding or moving stock tanks (permanently or temporarily). Provides that:</p> <ul style="list-style-type: none"> • An appropriator with a water right for stock use may add or move stock tanks if: <ul style="list-style-type: none"> ▪ Stock tanks are added to a livestock direct from source right, ▪ Additional stock tanks are added, OR ▪ Moved on an existing stock watering system. • The following requirements must be met: <ul style="list-style-type: none"> ▪ The diverted flow rate may not exceed the historical rate. ▪ Stock tanks being added to a livestock direct from source right have a maximum flow rate of 35 GPM.

	<ul style="list-style-type: none"> ▪ The number of livestock animal units (AU) cannot be increased. ▪ Water delivery system must take measures to prevent waste of water. ▪ The applicant has a possessory interest, or the written consent of the person with the possessory interest in the place of use (stock tank locations), whether it's a private party or Govt. agency. • Must file correct & complete form within 60 days of project completion. • A Temporary change for stock tanks may be authorized under the criteria set forth in 85-2-407.
(6) Correct and Complete	<p>Clarifies that the notices filed pursuant to this section, like all forms submitted to DNRC, must be correct and complete. Provides that:</p> <ul style="list-style-type: none"> • If the dept. determines a notice of change in appropriation is not correct and complete, it shall return the notice to the appropriator, along with notification describing the defects. <ul style="list-style-type: none"> ○ Change must be corrected within 60 days, or it will be terminated. • Within 90 days of determination of correct and complete the dept. will determine if the applicable criteria are satisfied. <ul style="list-style-type: none"> ○ If criteria in subsections 1-5 have been satisfied the dept will authorize the change in right. ○ If the dept deems that the criteria have NOT been satisfied it will notify the appropriator, and they must file a change application under 85-2-402.
(7) Public Notice	<p>Provides a process for public notice summarizing changes authorized under subsections (3), (4), and (5) (replacement points of diversion of surface water, change of municipal place of use, and additional stock tanks).</p>
(8) Objection	<p>Provides a process for filing and evaluating objections to changes authorized under subsections (3), (4), and (5) (replacement points of diversion of surface water, change of municipal place of use, and additional stock tanks).</p> <ul style="list-style-type: none"> • Grants DNRC authority to adopt rules about requirements for a correct and complete objection and how objection deficiencies will be handled.
Section 2 Amending 3-7-224 (Jurisdiction of the chief water judge and associate water judge)	<p>Provides that a water judge may require joinder of parties who were not parties to an administrative hearing under [New Section 1] if needed to resolve an issue certified pursuant to 85-2-309(2).</p>
Section 3 Amending 85-2-309 (Hearings on objections – jurisdiction)	<p>Provides that the objection hearing process applies to valid objections to notices of change filed pursuant to [New Section 1]</p>
Section 4 Changes in appropriation rights-definitions	<p>The current exceptions to the change process for replacement wells, redundant wells, and replacement points of version are removed from 85-2-402 and inserted into [New Section 1], with adjustments as noted above.</p>

85-2-402 (15), (16), and (18)	
Section 5 (1) Temporary change in appropriation rights 85-2-407	Provides that temporary changes may be authorized for qualifying change exceptions in [New Section 1].
Throughout Bill	Cross references are adjusted throughout the bill to reflect that all exceptions to the change process will now be grouped together in [New Section 1].