



OUT-OF-STATE USE ADDENDUM

§85-2-311(4), MCA and §85-2-402(6), MCA

When applying for a permit for or change in appropriation right to withdraw and transport water for use outside the state, the applicant shall submit to and comply with the laws of the state of Montana governing the appropriation and use of water. The applicant must provide clear and convincing evidence proving that they meet the criteria for permit or change issuance pursuant to §85-2-311(4)b) or §85-2-402 (6). *Please note, an Application for Change of a Water Right for out-of-state use may have an additional requirement of approval by the legislature, which may include one or more public hearings.* The following criteria must be met before out-of-state use may occur. Label all attachments with the question number.

Application for Out-of-State Beneficial Water Use (§85-2-311(4), MCA) or Out-of-State Change in Appropriation Rights (§85-2-402(6), MCA).

Provide **clear and convincing evidence** sufficient to prove the following:

1. The proposed out-of-state use of water is not contrary to water conservation in Montana pursuant to §85-2-311, MCA (for a permit), or §85-2-402, MCA (for a change);
2. The proposed out-of-state use of water is not otherwise detrimental to the public welfare of the citizens of Montana pursuant to §85-2-311, MCA (for a permit), or §85-2-402, MCA (for a change).

In determining whether the applicant has proved by **clear and convincing evidence** that the requirements of subsections §85-2-311 (4)(b)(ii) (iii) are met for Beneficial Water Use permits or §85-2-402 (6)(a)(ii) and (iii) are met for Changes in Appropriation Rights, the department shall consider the following factors:

3. Whether there are present or projected water shortages within the state of Montana;
4. Whether the water that is the subject of the application could feasibly be transported to alleviate water shortages within the state of Montana;
5. The supply and sources of water available to the applicant in the state where the applicant intends to use the water;
6. The existing legal demands of water rights placed on the applicant's supply in the state where the applicant intends to use the water.