



REASONABLE USE ADDENDUM FOR APPLICATION TO A CHANGE OF WATER RIGHT FOR APPROPRIATIONS GREATER THAN 5.5 CFS AND 4,000 AF §85-2-402(2); §85-2-402(4); §85-2-402(5) MCA

The information requested by this Form 606-B is supplemental to the required application for a change of water right (Form 606). This addendum must be completed, and the required information attached to a change application, if the application is to change the purpose of use or place of use of an appropriation of 4,000 or more acre-feet of water a year and 5.5 or more cubic feet per second. It is the applicant's responsibility to provide credible, relevant, and factual information that meets the relevant evidentiary standard (*see statute language and Note, below*) upon which the Department may rely to support the issuance of a provisional permit.

Section 85-2-402(4), MCA, provides the Department may not approve a change in purpose of use or place of use for a diversion that results in 4,000 or more acre-feet (AF) of water a year and 5.5 or more cubic feet per second (CFS) of water only unless the applicant proves by a preponderance of evidence that the following criteria are met.

Section 85-2-402(5), MCA, provides the Department may not approve a change in purpose of use or place of use for a diversion that results in 4,000 or more AF of water a year and 5.5 or more CFS of water being consumed unless the applicant proves by clear and convincing evidence that the following criteria are met.

Note: There are different evidentiary standards for the evidence provided, depending on whether the appropriations result in greater than 4,000 AF and 5.5 or more CFS of water diverted or greater than 4,000 AF and 5.5. or more CFS of water being consumed.

- For appropriations that result in greater than 4,000 AF and 5.5 or more CFS of water diverted, the applicant must provide a **preponderance of evidence** proving that the appropriation is a reasonable use pursuant to §85-2-402(4)(b)(i-vi).
- For appropriations that result in greater than 4,000 AF and 5.5. or more CFS of water being consumed the applicant must provide **clear and convincing evidence** proving that the appropriation is a reasonable use pursuant to §85-2-402(5); §85-2-402(4)(b)(i-vi), MCA.

ON A SEPARATE ATTACHMENT, PROVIDE APPROPRIATE (*see above Note*) EVIDENCE PROVING THAT THE PROPOSED APPROPRIATION IS A REASONABLE USE PURSUANT TO THE CRITERION DESCRIBED IN §85-2-402(4)(b)(i-vi), MCA:

- i. Attach an analysis and description of the existing demands of the state water supply as well as projected demands of water for future beneficial purposes including municipal water supplies, irrigation systems, and minimum stream flows for the protection of existing water rights and aquatic life.
- ii. Attach evidence of the benefits to the applicant and the state.
- iii. Attach an analysis and description of the effects on quantity and quality of water for existing uses in the source of supply.



- iv. Attach an analysis and description of the availability and feasibility of using low-quantity water (meaning not potable for human consumption) for the purpose for which application has been made.
- v. Attach an analysis and description of the effects on private property rights by any creation of or contribution to saline seep.
- vi. Attach an analysis and description of any probable significant adverse environmental impacts of the proposed use of water and outline the appropriate mitigation measures of any expected adverse effects. Adverse environmental impacts should be concluded through a thoughtful environmental assessment of the proposed water use as determined by the Department pursuant to §75-1-20, MCA.

