



## [Stop Flathead Water Compact](#)

# Seeking Stakeholder and Public Suggestions to Ensure Accuracy of Water Rights Database

**Thompson Falls TEA Party | March 18, 2020**

The [Water Policy Interim Committee](#) seeks stakeholder and public suggestions to ensure the accuracy of the water rights database. A committee-appointed working group will consider the submitted suggestions during a mid-April conference call.

The Geocodes Working Group met in March to discuss the database and consider the use of geocodes as an identifier of a water right's place of use. The Department of Natural Resources and Conservation administers the database, which includes information about more than 366,000 water rights. In past meetings, the committee heard testimony that the use of geocodes may be the source of inaccuracies, which complicate land sales, property improvements, probate proceedings, and water use.

At WPIC's March meeting, the committee adopted an initial framework of 15 suggestions. The working group is asking the public and stakeholders to respond to the framework and/or provide other written suggestions by mail or email to committee staff by April 13. The working group will forward recommendations to WPIC for consideration at its May 18-19 meeting. (The 15 suggestions are at the end of this document.)

The committee previously asked for public comment on geocodes and the water right database in December. These comments are posted on the committee website. (See "committee topics" in middle of page.)

The WPIC is led by Rep. Zach Brown, D-Bozeman, chairman, and Sen. Jeffrey Welborn, R-Dillon, vice-chairman. Other members of the committee are: Sen. Jill Cohenour (D-E. Helena), Sen. Bruce "Butch" Gillespie (R-Ethridge), Sen. Jon Sesso (D-Butte), Rep. Bob Brown (R-Thompson Falls), Rep. Carl Glimm (R-Kila), Rep. Bradley Maxon Hamlett (D-Cascade), Rep. Shane Morigeau (D-Missoula), and Rep. Walt Sales (R-Manhattan).

Members of the Geocodes Working Group include all committee members and Krista Lee Evans, Association of Gallatin Area Irrigator and Senior Water Rights Coalition; James Ferch, Department of Natural Resources and Conservation; Bill Gowen, Jr., Montana Land Title Association; Evan Hammer, Natural Resources Information Service; Kory Hofland, Department of Revenue; Hon. Russ McElyea, Montana Water Court; Regina Plettenberg, Montana Association of Clerks and Recordors; Shantil Siaperas, Montana Association of Counties; and Liane Taylor, Montana Association of Realtors.

For more information on the committee's or working group's activities and meetings, including notice of the working group's April meeting, please visit the committee's website or contact Jason Mohr, committee staff.

Committee Website: [leg.mt.gov/water](http://leg.mt.gov/water)

Committee Staff: [jasonmohr@mt.gov](mailto:jasonmohr@mt.gov) or 406-444-1640

Committee mailing address:

Water Policy Interim Committee  
Capitol Building, room 171D  
P.O. Box 201704  
Helena, MT 59620-1704

Framework of improvements to water right ownership updates:

1. Clarify that "written consent" means "chain of title."
2. If the water right owner and seller are not the same entity then a chain of title must be provided before an ownership update may occur.
3. Require a water right split if the entire property/water right is not sold. (See also #9.)
4. If an entity responds to a DNRC postcard asserting ownership in a portion of a water right, require that entity to provide chain of title to prove the ownership interest.
5. Owners may not be removed from a water right abstract unless a chain of title shows the entity is no longer an owner. The Water Court must resolve conflicts between a decree and chain of title.
6. DNRC shall keep all records, maps, and research used to determine ownership in each water right claim file.
7. DNRC shall revise letter sent to "potential" water right owners to better describe the circumstances. The letter must not reference Department of Revenue records.
8. The Water Court shall provide a map and a marked up abstract when submitting the result of a court order to the DNRC.
9. If a portion of a property is sold, an appurtenant water right shall be a divided interest. Co-ownership of water right must be clarified in the deed and other forms. A split of a water right must be clarified in the deed. Educate sellers that an appurtenant water right not split or divided (if a portion of a property is sold) will have the buyer as a co-owner. A seller must file a form 641 (DNRC ownership update divided interest) to show a split of water right. All splits or divisions are contingent upon adjudication and a final decree.
10. Amend Section 85-2-424, MCA, to provide for submission of a "recorded" deed.
11. Amend Section 85-2-424, MCA, to provide for a "correct and complete" form during an ownership transfer.
12. The DNRC and Water Court shall develop rules and process to identify how to rectify errors related to ownership on abstracts.
13. The Water Court shall outline a policy for addressing claims errors identified by the DNRC and submitted to the court.
14. The WPIC shall request a legislative audit of the underlying processes associated with ownership updates, the water rights database, and Water Court platform requirements.
15. The DNRC shall update its 1993 policy on ownership updates to facilitate consistency between employees and regional offices.