

**FLATHEAD RESERVATION WATER MANAGEMENT BOARD
AND THE OFFICE OF THE WATER ENGINEER**

DRAFT WATER POLICIES & PROCEDURES



NOTICE

THE BOARD APPROVED THE SECTIONS OF THE WP&P BELOW FOR A 15-DAY PUBLIC COMMENT PERIOD ON 8/8/2024. THESE SECTIONS INCLUDE:

- CHAPTER II – WATER USE
 - PART 2 – PERMIT AND CHANGE APPLICATION PROCESS

WP&P 22-118. Process for development of new uses from Flathead System Compact Water.

WP&P 22-118. Process for development of new uses from Flathead System Compact Water.

- 1) An application for new uses of the Flathead System Compact Water must consider water use information, including:
 - a. Diverted volume(s) for each month of the year for each proposed use;
 - b. Consumed volume(s) for each month of the year for each proposed use; and
 - c. Flow Rate maximum(s) for each month of the year for each proposed diversion.
 - d. If any of the amounts from a-c above, when added to all cumulative prior issuances, exceed the total water right volume described in the Flathead System Compact Water right, the application may be denied.
- 2) Burden of Proof
 - a. An applicant is not required to provide information demonstrating physical and legal availability of the Flathead System Compact Water ~~source except that an applicant must demonstrate that a conveyance from the Flathead System Compact Water source to the place of use will not deplete other sources or adversely affect other water users;~~
 - b. An applicant must demonstrate the proposed use will have an adequate means of diversion;
 - c. An applicant must provide a plan to adhere to minimum flow requirements, ramping rates, and other ecological flow requirements set forth in the abstract of the Flathead System Compact Water Right;
 - i. The plan must include monitoring to track minimum flow and ramping rates; and
 - ii. The plan must include consideration for cessation of use when applicable.
 - d. An applicant must provide proof of written consent of the Tribal Council or its delegate to use a portion of the Flathead System Compact Water. The written consent must be attached to the application form.
 - e. Water Quality Provisions
 - i. An applicant must demonstrate by a preponderance of the evidence that the proposed use will not adversely affect the Water Quality of another Appropriator pursuant Ordinance §, 2-2-102(1);
 1. The OE will not evaluate water quality considerations beyond the direct effects of the proposed water use and application of water.
 2. The OE will notify the Water Quality Department of the CSKT of all FSCW applications it receives.
 1. ~~The OE will not evaluate water quality considerations [but instead will forward notify new applications to the Water Quality Dept. for CSKT water quality regulatory agency or governing body with jurisdiction for their comment] beyond the direct effects of the proposed water use and application of water and will not consider water quality degradation issues regulated by another agency or governing body.~~

- ii. An applicant is required to comply with Water Quality Management Ordinance, Tribal Ordinance 89B and the CSKT water quality standards. ~~The OE may request the applicant obtain a written verification from the CSKT Natural Resources Department to confirm compliance.~~
 - 1. ~~The OE may communicate with the Water Quality Department of the CSKT on a technical basis as it pertains to water quality standards of the CSKT.~~
 - 2. ~~The OE may request the applicant obtain a written verification from the Water Quality Department of the CSKT to confirm compliance.~~
 - 2. ~~The OE may revoke, temporary or permanently, FSCW uses if they are informed by the Water Quality Department of the CSKT that a previously issued FSCW has fallen out of compliance with the water quality standards set by that Department.~~

- 3) Public notice of uses of the Flathead System Compact Water will be limited to:
- a. Interested parties who have registered with the OE to be notified of all water right applications;
~~—Water right owners of record with a place(s) of use within an area potentially impacted by the applicant as described in the application;~~
 - b. The Water Quality Department of the CSKT;
 - c. Publication in at least one local newspaper; and
 - d. Posted on the FRWMB website (FRWMB.GOV).

- 4) Process for application and completion:
- a. An applicant may not commence construction of the diversion or use of Flathead System Compact Water without first obtaining approval of the application from the OE;
 - b. A granted application will receive a completion deadline(s) from the OE for construction of the point(s) of diversion and putting the Flathead System Compact Water to use;
 - c. An applicant must complete the point of diversion(s) and put the water to use by the deadline(s) set forth ~~by the OE as per in~~ (b) of ~~the (4) section~~. At the discretion of the OE, a timeline extension may be granted for completion.
 - e.d. Failure to meet the timeline for completion and failure to obtain an extension may result in revocation of the issuance for the use of the Flathead System Compact Water.

- 5) 5) The OE may determine that uses of the Flathead System Compact Water require water measurement as set forth in Ordinance § 1-1-105. Any such water measurement requirements will be set forth in remarks on the issuance of a Use Authorization for Flathead System Compact Water and the associated abstract. OE water measurement requirements are distinct from any water measurement requirements that may be imposed by the Tribes.

6) The OE may temporarily or permanently revoke FSCW uses if the OE is informed by the Water Quality Department of the CSKT that a previously issued FSCW has fallen out of compliance with the CSKT water quality standards.

Discussed this section at the 4/10 meeting **UPDATED FOR 5/28**