

Proposed 2019 Session Legislation	DNRC Water Resources Division		Summary
	Division	Short Title	
	WRD	An act amending 85-5-110 ( better define when a water mediator can be appointed.)	The existing language allows for a water mediator be appointed to mediate a "water controversy" is overly broad and doesn't accurately reflect the intent of the statute which is settling water distribution disputes. "Controversy" should be struck and replaced with "distribution disputes" in 85-5-110(2)(e).
	WRD	An act amending 85-2-420 (mitigated water measurement)	The existing language does not allow flexibility in how the mitigation water would be delivered as it is required to be measured at the headgate. Using Grass Valley as an example, they would have been able to much more accurately measure the amount of water being delivered for mitigation at a location other than the head gate. The head gate was too large to measure small amounts of water that may have been purchased. Additionally, the language in the current statute does not allow for water to be run down unused lateral ditches as an infiltration gallery method.

	WRD	An act amending 85-2-402 (strike language to clarify when and what type of hearing is required for change applications)	The language in § 85-2-402(7) that requires hearings to be held in accordance with § 85-2-309 survived numerous amendments and remains in the current version of the statute. See MCA § 85-2-402(7) (2017). However, in 1985, § 85-2-309 was amended to state that if DNRC “determines that an objection to an application for a permit or change approval under 85-2-402 states a valid objection... it shall hold a public hearing...” Mont. Code Ann. § 85-2-309 (1985). Section 85-2-309 was amended again in 1999, and the amendment replaced the words “public hearing” with “contested case hearing.” 1999 Mont. Laws Ch. 422 § 3. Over time, the notice and hearing ostensibly required by § 85-2-402(7) have been accounted for in §§ 85-2-307, 309, and 310. Review of the amendments to §§ 85-2-307, 309, and 402, throughout time indicate that § 85-2-402(7) is a remnant of bygone years and is rendered unnecessary
	WRD	An act repealing section 85-2-331 (consolidate certain water reservation information)	Because water reservation applications are no longer accepted for the Missouri, 85-2-331 is not needed. The fact that the Missouri is closed to new applications can be consolidated into 85-2-316.
	WRD	An act amending 85-2-102 and repealing 85-2-422 (move definitions to one place)	From a formatting standpoint, it’s better to have definitions in one place if they apply to the chapter as a whole. The definition of non-consumptive use that is used for the closed basin statutes in 85-2-329, -340, nad -342 is one the department refers to for open basins. "Water Right" is defined in 85-2-422. This should be moved to 85-2-102 definitions

	WRD	Drought and Water Supply Advisory Committee	Statue currently requires a report to the Governor on or before April 15 identifying the potential for drought and flooding. That report is too late for flooding and as last year has shown much too early for identifying the potential for drought. In 2017, the committee was radically off the mark with respect to drought potential as a result of this too early deadline.
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