

Members of WPIC

The purpose of this memo is to simplify the conversation about solutions to the ownership update problem.

There are two primary causes of the problem. The first is the use of geocodes. Water users and the water court rarely use geocodes to describe water rights. As a result, geocodes and the places of use for water rights often don't match. This causes problems when geocodes are relied on to determine water ownership. Geocodes can be helpful, but they also cause inaccuracy and confusion. The Department's reliance on geocodes to update ownership and describe places of use is one of the reasons the data base is inaccurate.

The second cause of ownership problems is delay. There are multiple reasons for delay, but the three primary causes are reliance on DOR for transaction information; delays caused by the Department's refusal to update records until it receives a fee; and failure of some field offices to update ownership records in a timely manner.

The following solutions address problems with geocodes and delays.

1. Eliminate 85-2-424(2)(a)(i) and (2)(d). These two changes will decrease department reliance on geocodes as well as its reliance on information from DOR. These changes also help address the problem of the Department adding new owners to water rights based solely on geocodes. The Department would still have the authority to update ownership based on a deed and ownership update form.
2. The legislature should add language to the ownership update statute directing the Department not to delay ownership updates if the Department does not receive its fees. Fees can still be paid, and penalties assessed, but non-payment of fees should not cause delay.
3. The legislature should require the Department to complete ownership updates within a reasonable time, rather than allowing updates to languish for months or years after information needed to process the update is received.