

Standards For:

**EMERGENCY LOSS OF WATER SUPPLY  
COMPENSATION CLAIM PROCEDURE**

Under The:

**COAL BED METHANE PROTECTION PROGRAM**

Administered by the:

\_\_\_\_\_ **CONSERVATION DISTRICT**

(CD Contact Information)

**Overview:** The Coal Bed Methane Protection Act established the Coal Bed Methane Program as provided for in Title 76, Chapter 15, part 9 of the Montana Code Annotated. The Program was established by the 2001 Legislature for the purpose of "...compensating private landowners and water right holders for damage to land and to water quality and availability that is attributable to the development of coal bed methane wells." Mont. Code Ann. § 76-15-902(4). Pursuant to Mont. Code Ann. § 76-15-905, compensation is presently only available for emergency loss of water supply attributable to coal bed methane development.

**Conservation District Authority:** The Act assigns administrative authority over the Program to conservation districts, established under Title 76, Chapter 15 of the Montana Code Annotated, that have coal beds within the exterior boundary, or whose water sources may be adversely affected by the extraction of coal bed methane. Conservation districts meeting these criteria are directed to establish procedures for evaluating claims for compensation submitted by a landowner or a water right holder. Conservation districts have authority to approve or deny claims for compensation, and to receive state compensation for administrative expenses relating to the Coal Bed Methane Protection Program.

**Department of Natural Resources and Conservation Authority:** The Act appropriates funds in the Coal Bed Methane Protection Account to the Department of Natural Resources and Conservation ("DNRC") for use by the conservation districts. DNRC is also responsible for approving procedures established by the conservation districts for evaluating claims for compensation under the Act.

## **Application Criteria:**

1. The applicant must be a private landowner, valid water right holder, or lessee of private or public land with an identifiable and documented interest in the land or water subject to the application.
2. The applicant must provide evidence that an “emergency” loss of water supply, which is defined as “the loss of a water supply that must be replaced immediately to avoid substantial damage”.
3. The applicant must provide evidence that that the loss of water supply is attributable to or caused by coal bed methane development.
4. The applicant must provide a viable plan and cost estimate for replacement of the water supply, and a signed commitment to implement the plan if funds are authorized by the conservation district.
5. The applicant must provide evidence that the applicant has notified area coal bed methane developers or operators and it is unlikely that compensation will be made by the developers or operators within a time frame necessary to avoid substantial damage.
6. The applicant must provide evidence that that existing sources of state funding, including state-mandated payments that compensate for emergency loss of water supply damages, will not be timely available.
7. The maximum amount paid for emergency loss of water supply may not exceed \$50,000, and may not exceed 75% of the cost of restoring or replacing the water supply.
8. The applicant must agree to fully or partially reimburse the Coal Bed Methane Protection Account if the applicant receives compensation from another source relating to the same lost water supply occurrence, and such compensation exceeds the applicant’s total, out-of-pocket costs.

Application For:

**EMERGENCY LOSS OF WATER SUPPLY  
COMPENSATION**

Under The:

**COAL BED METHANE PROTECTION PROGRAM**

Administered by the:

\_\_\_\_\_ **CONSERVATION DISTRICT**  
(CD Contact Information)

Use this form to apply for compensation of emergency loss of water supply as provided under the Coal Bed Methane Protection Act, Title 76, Chapter 15, part 9 of the Montana Code Annotated. In general, an applicant must provide evidence in this application of an emergency loss of water supply due to coal bed methane (“CBM”) development that must be replaced immediately to avoid substantial damage. All information must be legibly printed or typed, except where signatures are required.

**A. APPLICANT INFORMATION**

I am submitting this application as: \_\_\_private landowner \_\_\_ water right holder \_\_\_ lessee

Name of Applicant \_\_\_\_\_

Mailing Address/City/State/Zip\_\_\_\_\_

Physical Address/City/State/Zip\_\_\_\_\_

Contact Person (if different from above) \_\_\_\_\_

Day Phone: \_\_\_\_\_ Evening Phone: \_\_\_\_\_

Name of Landowner (if different from Applicant)

\_\_\_\_\_

Mailing Address/City/State/Zip\_\_\_\_\_

Physical Address/City/State/Zip\_\_\_\_\_

Contact Person (if different from above) \_\_\_\_\_

Day Phone: \_\_\_\_\_ Evening Phone: \_\_\_\_\_

Name of Water Right Holder (if different from Applicant)

\_\_\_\_\_

Mailing Address/City/State/Zip\_\_\_\_\_

Physical Address/City/State/Zip\_\_\_\_\_

Contact Person: \_\_\_\_\_

Day Phone: \_\_\_\_\_ Evening Phone: \_\_\_\_\_

**Type of entity** (check all that apply)

Association\_\_\_\_ Partnership\_\_\_\_ Corporation\_\_\_\_ Limited Liability Entity \_\_\_\_\_  
Individual \_\_\_\_\_ Other\_\_\_\_\_

**WATER SUPPLY INFORMATION**

Type of Water Supply: \_\_\_Well \_\_\_Spring \_\_\_Surface Water Diversion

Name of Water Source: \_\_\_\_\_, Nearest Town\_\_\_\_\_

Point of Diversion: \_\_\_1/4\_\_\_1/4\_\_\_1/4, Section\_\_\_\_, Township\_\_\_\_, Range\_\_\_\_,  
County\_\_\_\_\_

(Attach Documentation of Valid Water Right or Interest)

**B. GENERAL DESCRIPTION OF LOSS OF WATER SUPPLY**

Provide a brief description of the loss of water supply, including the date the supply was lost:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**C. EMERGENCY SITUATION**

Explain why the water supply must be replaced immediately or in the immediate future:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**D. LOST WATER SUPPLY RESULTS IN SUBSTANTIAL DAMAGES**

What substantial damages will be avoided by immediately replacing the water supply?

---

---

---

---

---

---

---

---

---

---

**E. LOSS ATTRIBUTABLE TO COAL BED METHANE DEVELOPMENT**

1) Discuss how the lost water supply is attributable to coal bed methane development. To the extent known, please include the geologic or surface water connection of the coal bed methane development to the water supply, including well logs or other documentation.

---

---

---

---

---

---

---

---

---

---

2) Attach a statement of inspection from a qualified water supply professional indicating that the lost supply is not attributable to insufficient or deteriorated water supply facilities.

3) If drought conditions have persisted in the area, include (a) historic use or monitoring information which demonstrates that the water source has previously supplied water under similar drought conditions or (b) other information which demonstrates that the lost supply is not attributable to current drought conditions.

---

---

---

---

---

---

---

---

---

---



I \_\_\_\_\_ hereby attest that the information provided is accurate and complete. Further, I acknowledge that reimbursement from any funds approved by the conservation district as a result of this application will be based on completed work addressing the emergency loss of water supply, with submittal of documented paid receipts of the expenses. I also understand that past approval of claims by a conservation district does not bind the district to approve future, like claims.

Applicant: \_\_\_\_\_

NAME: (signature) \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

## **APPLICATION PROCESS TIMELINES:**

A party may submit an application at any time.

The Board of Conservation District Supervisors and designated technical advisors, as non-voting members, will constitute the Application Review Team.

The conservation district administrator will undertake a preliminary review of the application, and identify to the applicant major deficiencies concerning the completeness of the application. Acceptance by the administrator does not indicate that the application is complete.

Upon acceptance of an application, the conservation district administrator will distribute copies of the application to the Application Review Team. The application must be distributed within two working days, and an initial review meeting or teleconference must be conducted within five working days of application acceptance.

The Application Review Team will identify additional information requirements or application deficiencies and communicate this information to the applicant within 3 working days of the initial review. The Application Review Team may extend the review period for the application until such time as the Application is deemed substantially complete.

Upon receipt of a substantially complete application the Application Review Team will render a decision within 10 working days.

The applicant may request the conservation district supervisors to re-evaluate their decision based on additional information provided within 10 working days of the initial decision. If the applicant fails to submit additional information within the ten day period, the decision will be deemed final and a new application must be submitted if further review is sought.

## **APPLICATION APPROVAL, FUND DISBURSEMENT AND APPLICATION RANKING**

### **Application Approval:**

In order to authorize funding from the Coal Bed Methane Protection Act for an emergency loss of water supply compensation claim, the conservation district must:

1. Determine that the applicant's claim is complete.
2. Conclude that the applicant has affirmatively satisfied the Application Criteria.
3. Complete a funding agreement containing the purpose, scope of work, and budget for the approved compensation.
4. Past approval of claims by a conservation district does not bind the district to approve future, like claims.

### **Disbursement of Funds:**

- A. The conservation district shall record the date upon which each application was deemed correct and complete.
- B. Upon approval of the application, the district shall submit to the Department a copy of the application and the approval.
- C. The Department shall disburse funds available from the coal bed methane protection account on a first-come first-served basis to the conservation district as established by the correct and complete dates of each conservation district approved claim.
- D. In the event that available funds are less than the amount of approved applications having the same correct and complete date, the Department shall allocate the funds according to the following criteria, as assessed by the conservation district:
  1. Loss of water supply poses a significant threat to human health, safety, or welfare. (40 points)
  2. Loss of water supply will result in verifiable financial loss. (30 points)
  3. Loss of water supply will result in significant financial loss. (20 points)
  4. Earliest application date. (10 points)

To the extent more funds become available, the conservation district may allocate these additional funds to the approved applicants.