

# Fact Sheet:



Division of Mining & Water Management • October 1996

## **Reserving Water For Instream Use**

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### **What Is Reservation Of Water For Instream Use?**

A reservation of water for instream use is a water right that protects specific instream water uses, such as fish spawning or recreation. It sets aside the water necessary for these activities and keeps later water users from appropriating water that may affect the instream activity. This is an optional water right, not a required permit.

Water can be reserved for one or more permissible uses on a particular part of a stream or lake during a certain period of time. Under Alaska Statute 46.15.145, permissible instream uses include:

- ▶ protection of fish and wildlife habitat, migration, and propagation
- ▶ recreation and parks
- ▶ navigation and transportation
- ▶ sanitation and water quality

A reservation of water for one use may also allow that same water to be used or reserved for another purpose. For example, a reservation for recreation may also benefit fish spawning.

Like an out-of-stream water right, an instream reservation of water is similar to a property right. However, it cannot be abandoned, transferred, assigned, or converted to another use without approval of the Department of Natural Resources.

### **Who Can Apply For A Reservation Of Water?**

Private individuals, organizations, and government agencies may apply for a reservation of water for instream use.

### **Why Should I Apply For A Reservation Of Water?**

You should apply if you want to ensure that a lake level or stream flow will be available when and where you need it for specific instream uses, and the water will not be appropriated or diverted for another use.

If you have an instream water right, you have priority use of that water over people who file later for water rights. You also have legal standing in case of conflicting uses of water by people without water rights.

### **How Can I Apply For A Reservation Of Water?**

You can get an Application for Reservation of Water at any Department of Natural Resources, Division of Mining & Water Management regional office. Your application must be submitted to the regional office in the area where the proposed reservation of water is to occur.

Before submitting an application, you should talk with the regional office staff about the information needed in your application, including the estimation of the amount of instream water use. If your application is accepted, you will have up to three years to complete the data collection and analysis needed to justify the requested instream reservation.

When your application is complete, it will be reviewed to determine the need for the reservation of water and its impacts on other water right holders and the public interest. An assessment will be made to determine if water is available for the reservation and if the information in the application

is accurate and adequate. Public notice of the application must be given.

After this process, a Certificate of Reservation may be issued to you. A Certificate of Reservation must be reviewed by the Division of Mining & Water Management every ten years, but may be reviewed in less than ten years, if necessary.

### **What Costs Are Involved?**

An Application for Reservation of Water must be accompanied by a filing fee of \$500. You will also be required to pay the cost of a legal advertisement to notify the public of the proposed reservation of water. If a certificate is issued, you may be required to install and maintain stream gages, weirs, or staff gages, and to monitor and report on the reserved instream flow or level of water. You may also be responsible for additional data collection or analysis during the certificate's review.

### **What Other Water Resources Authorizations Are Available From The Department Of Natural Resources?**

- ▶ **Water Appropriation:** A permit or certificate of appropriation is required for diverting, impounding, or withdrawing water (including glacier ice) for use from a surface or ground water source for out-of-stream use.
  
- ▶ **Dam Safety:** A certificate of approval is required if you want to construct or modify a dam that impounds 50 acre-feet of water and is at least 10 feet high, or is at least 20 feet high, or poses a threat to life and property. A separate application form and the fee listed in 11 AAC 05 should be filed with the Division of Mining & Water Management.

### **How Can I Get More Information?**

Further information and application forms may be obtained from the offices listed below. Fact sheets on Water Rights, Glacier Ice Harvesting, Water Administrative Service Fee, Dam Safety, Federal Reserved Water Rights, and the Water Resources Board are also available at these offices. Applications should be submitted to the DNR office in the area of the proposed reservation of water.

#### **Water Resources Section**

Southcentral Region  
3601 C Street, Suite 800  
Anchorage, AK 99503-5935  
(907) 269-8624  
Fax: 562-1384

Southeast Region  
400 Willoughby Avenue, 4th Floor  
Juneau, AK 99801  
(907) 465-3400  
Fax: 586-2954

Northern Region  
3700 Airport Way  
Fairbanks, AK 99709  
(907) 451-2700  
Fax: 451-2751