

Fact Sheet:



Alaska Department of
**NATURAL
RESOURCES**

Division of Mining & Water Management • October 1996

Water Rights in Alaska

What Are Water Rights?

A water right is a legal right to use surface or ground water under the Alaska Water Use Act (Alaska Statute 46.15). A water right allows a specific amount of water from a specific water source to be diverted, impounded, or withdrawn for a specific use. When a water right is granted, it becomes attached to the land where the water is being used for as long as the water is used. If the land is sold, the water right transfers with the land to the new owner, unless the Department of Natural Resources (DNR) approves its separation from the land. In Alaska, land owners do not have automatic rights to ground water or surface water. For example, if a farmer has a creek running through his property, he will need a water right to protect his use. Using water without a permit or certificate does not give the user a legal right to use the water.

How Do I Obtain Water Rights?

To obtain water rights in Alaska, you should submit an application for water rights to the DNR office in the area of the water use. After your application is processed, you will be issued a permit to drill a well or divert the water. Once you have established the full amount of water that you use beneficially and have complied with all of the permit conditions, a Certificate of Appropriation will be issued. This is the legal document that establishes water rights.

What Costs Are Involved?

An application for water rights must be accompanied by the filing fee of \$50 for the use of 5,000 gallons per day (gpd) or less; \$100 for the use of more than 5,000 gpd but less than 30,000 gpd; \$200 for the use of 30,000 gpd or more but less than 100,000 gpd; \$300 for the use of 100,000 gpd or more but less than 500,000 gpd; \$500 for the use of 500,000 gpd or more but less than 1,000,000 gpd; \$1,000 for the use of 1,000,000 gpd or more except \$1,500 for the use of 1,000,000 gpd or more outside of the hydrologic unit from which it was removed (hydrologic units are based on the most current U.S.G.S. Hydrologic

Unit Map of Alaska). To ensure that the public is notified of proposed water uses, you are required to pay the cost of a legal advertisement in at least one issue of a local newspaper in the area of the proposed water use. Public notice is required if the appropriation is over 5,000 gallons per day; if it comes from an anadromous fish stream; or if the water source has a high level of competition among water users. In addition, water right permit, certificate, and temporary water use permit holders are subject to an annual \$50 administrative service fee for any non-domestic use of 500 more than 500 gpd. Domestic water users of less than 1,500 gallons per day are exempt from the annual fee.

Why Should I Apply For Water Rights?

1. If you have water rights, you have legal standing to assert those rights against conflicting water users who do not have water rights.
2. A person with water rights has priority to use water over persons who later file for water rights from the same source.
3. Anyone who diverts, impounds, or withdraws water, or uses a significant amount of water without a permit or certificate is guilty of a misdemeanor (AS 46.15.180). A significant amount of water is defined by 11 AAC 93.970(14) as:
 - ▶ The use of more than 5,000 gallons of water in a single day from a single water source; or,
 - ▶ The regular daily or recurring seasonal use of more than 500 gallons of water per day for 10 days or more per year from a single water source; or,
 - ▶ The non-consumptive use of more than 30,000 gallons of water per day (0.05 cubic feet per second) from a single water source; or,

- ▶ Any water use that might adversely affect the water rights of other appropriators or the public interest.
- 4. By filing for water rights, you provide valuable information about water use and water availability in Alaska. This information allows state water managers to estimate present uses of water, determine how much water is available from streams and aquifers in the state, protect established water right holders, prevent over-appropriation of water sources, and manage the state's water resources.

What Other Water Resources Authorizations Are Available From The Department of Natural Resources?

Dam Safety: If your water use requires you to construct 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 certificate of approval is needed. A separate application form and the fee prescribed by 11 AAC.05 should be filed with the Division of Mining & Water Management.

Instream Reservation: If you do not want to remove water from its source, but want to make sure that enough water is available for a particular use, you should apply for an instream reservation to maintain a specific flow in a stream or water level in a lake. An instream flow reservation application can be made to protect fish and wildlife habitat, migration, and propagation; recreation and park purposes; navigation and transportation purposes; and sanitary and water quality purposes.

How Do I Obtain Authorization For Short-Term Water Use? (Temporary Water Use Permit)

A temporary water use permit may be needed if the amount of water to be used is a significant amount, the use continues for less than five consecutive years, and the water to be used is not already appropriated. This permit does not establish a water right but will avoid conflicts with fisheries and existing water right holders. The application fee for a temporary water use permit is the same as for a water right.

Where Can I Get More Information?

More information about water rights is available in the Department of Natural Resources' "Water User's Handbook", and from fact sheets on Glacier Ice Harvesting, Instream Water Reservations, Dam Safety, Federal Reserved Water Rights, Water Right Administrative Service Fee, and the Water Resources Board. Copies of this information and application forms are available at the offices listed below. Applications should be submitted to the DNR office in the area of the water use.

Department of Natural Resources

Public Information Center
3601 C Street, Suite # 200
Anchorage, AK 99503-5929
Telephone: (907) 269-8400
Fax: (907) 269-8901

Division of Mining & Water Management

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

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

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

Mat-Su / Copper Basin Area
1800 Glenn Highway, Suite 12
Palmer, AK 99645
Telephone: (907) 745-7200
Fax: 745-7112