

Reserving Water for Instream Use

What is a 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.

Water can be reserved for one or more uses on a particular part of a stream or lake during a certain period of time. Under AS 46.15.145, instream water uses for which water may be reserved are:

- 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 result in 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. It cannot be relinquished, 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 and the public need it for any of those instream uses provided for by statute 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 can 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 a reservation of water at any Water Resources Section office or visit www.dnr.state.ak.us/mlw/water/index.htm. Your application must be submitted to the Anchorage office at the address listed at the end of this fact sheet.

Before submitting an application, you should talk with the 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 impact 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 Department of Natural Resources every ten years, but may be reviewed more frequently than every ten years if necessary, and may be revoked or modified if found to be in the best interests of the state.

What costs are involved?

A filing fee of \$1,500 must accompany an application for reservation of water. 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 is required for diverting, impounding, or withdrawing a significant amount of water for beneficial use from a surface or ground water source. An application form and the fee listed in 11 AAC 05.010(a)(8) should be filed with the Department of Natural Resources.
- Dam Safety: A certificate of approval is required for constructing or modifying 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. An application form and the fee listed in 11 AAC 05.010(a)(8) should be filed with the Department of Natural Resources.

Where can I get more information?

More information is available in the Department of Natural Resources' fact sheets on Water Rights in Alaska, Administrative Service Fee, Dam Safety in Alaska, Federal Reserved Water Rights, and Alaska Hydrologic Survey. Further information and application forms may be obtained from the following office or visit www.dnr.state.ak.us/mlw/water/index.htm.

**Department of Natural Resources
Water Resources Section**

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