



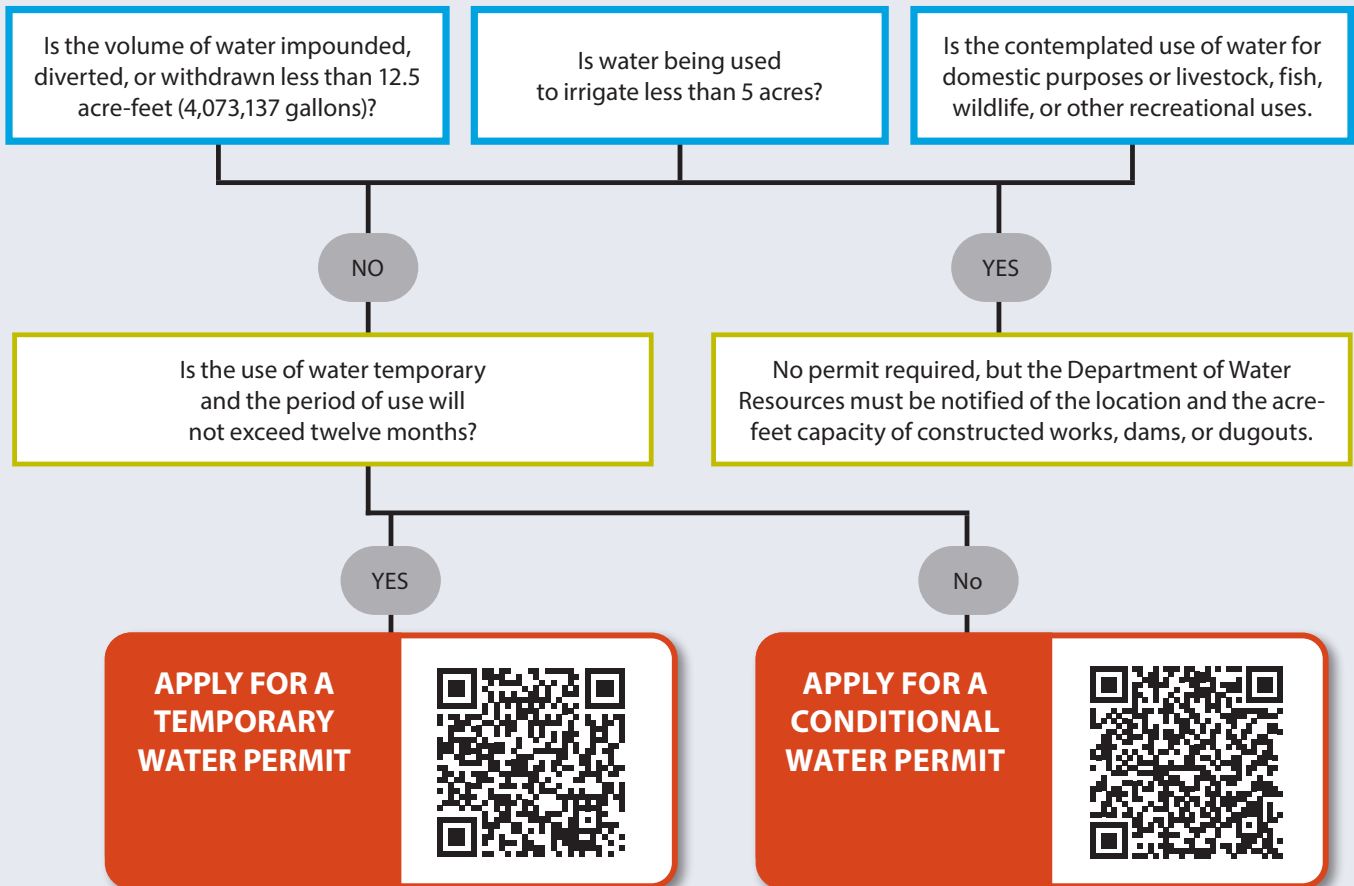
# ND WATER PERMITTING

## About ND Water Permitting & Use

North Dakota uses the prior appropriation doctrine as the foundation for establishing water rights. Under this doctrine, the first user of water acquires a priority for the use of that water, typically referred to as **“first in time is first in right.”** The location of a landowner’s property with respect to the water source is not a factor in determining water rights.

## Do You Need A Water Permit?

A permit is required from the Department of Water Resources (DWR) for all uses of water, except in cases when both the amount of water to be impounded, diverted, or withdrawn is less than 12.5 acre-feet (4,073,137 gallons), and the contemplated use is for **domestic purposes, or livestock, fish, wildlife, and other recreational uses.** If the water use does not require a permit, the DWR must be notified of the location and the acre-feet capacity of such constructed works, dams, or dugouts.



# Steps To Apply For A Conditional Water Permit

## APPLICATION SUBMITTAL

1. Submit application, map, and fees to the Department of Water Resources (DWR), which will establish the application's priority date.

## NOTICE OF APPLICATION

2. Applicant is then required to send a "Notice of Application" to record title owners of real estate, water permitholders within one mile of the point of diversion(s), and public water supply facilities within 12 miles.

## AFFIDAVIT OF NOTICE

3. Applicant provides the DWR with an affidavit of notice listing the names and addresses of those sent the "Notice of Application."

## PUBLISH NOTICE

4. The Notice of Application is published for two weeks in the official County newspaper. Any person has 30 days from date of first publication to submit written comments to DWR regarding the application.

## REVIEW APPLICATION

5. DWR makes a recommendation on the application (i.e. approve, deny, defer). A copy of the recommendation is mailed to applicant and those who commented on application (parties of record), and are given 30 days to comment on the recommended decision.

## COMMENT PERIOD

6. DWR addresses additional comments from parties of record or the applicant and makes final decision on application.

## PERMITTING

7. If the permit is issued the permitholder is generally given one to three years to develop their water project. A water right will accrue to the permitholder upon beneficial use of water.

## CONDUCT AN INSPECTION

8. After the water project is developed and water is being put to beneficial use, the DWR will conduct an inspection. A perfected water permit will be issued if water is being applied to beneficial use in accordance with the prescribed conditions of the permit.

## RECORDS

9. Perfected water permit should be recorded with the County Recorder's office. A water right is a property right.



## If The Permit Is Issued

- The permit holder is generally given one to three years to develop their water project and put water to beneficial use. This creates a water right.
- After the water project is developed and water is being put to beneficial use, the DWR will conduct an inspection. A perfected water permit will be issued if water is being applied to beneficial use in accordance with the prescribed conditions of the permit.
- A perfected water permit should be recorded with the County Recorder's office. A water right is a property right.

## Water Permit Summary

In summary, a right to appropriate water can be acquired for beneficial use only as provided under North Dakota Century Code chapter 61-04, which in part states that beneficial use shall be the basis, the measure, and the limit of the right to the use of water. It should also be noted that if water is not put to beneficial use for a period of three successive years without good and sufficient cause, the permit is subject to cancellation.

## For More Information Or To Apply For A Permit

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