



Arizona State Senate Issue Brief

June 23, 2015

Note to Reader:

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ARIZONA'S GROUNDWATER MANAGEMENT CODE: *Exempt Wells*

INTRODUCTION

The Arizona Department of Water Resources (ADWR) regulates all groundwater wells in accordance with Arizona's Groundwater Management Code enacted in 1980. Well regulations differ depending on type; generally, exempt wells are less regulated than non-exempt wells.

An exempt well is defined as a well having a pump with a maximum capacity of not more than 35 gallons per minute (gpm) (A.R.S. § 45-402). Most exempt wells are used for residential and non-irrigation purposes, noncommercial irrigation of less than two acres of land and watering stock. If the well was drilled after April 1983, withdrawals for purposes other than domestic and stock watering are prohibited from exceeding 10 acre feet (af) per year; an af equals 326,000 gallons.

A non-exempt well has a pump capacity exceeding 35 gpm. This type of well is generally used for irrigation or industry.

WELL DRILLING RULES

Installation of a new well or deepening or modifying an existing well requires authority to drill from ADWR and payment of the corresponding filing fee (A.R.S. § 45-596). There are two types of applications for drilling authority: 1) a Notice of Intent to Drill (NOI) for all wells outside an Active Management Area (AMA) and exempt wells inside an AMA; or 2) a Drill Permit for non-exempt wells inside an AMA. The five AMAs include Phoenix, Tucson, Pinal, Prescott and Santa Cruz and are defined by the groundwater basin.

Required application information includes: 1) name, address and telephone number; 2) county assessor's parcel identification information; 3) location of the proposed well by legal description; 4) description of the proposed well to include an explanation of the well's water use; and 5) name, address and license number of the

well drilling firm. A new NOI must be filed if a well is not drilled within one year of filing. Although there is not a time limit for completing pump installation, a Completion Report must be filed within 30 days of equipping the well with a pump that includes the type of pump installed, the pump capacity and the results from the well yield test.

A landowner is required to use a well driller licensed by both ADWR and the Arizona Registrar of Contractors (C-35 license for residential or domestic water wells) and comply with ADWR's minimum well construction standards. The well driller must complete a well driller's report, including a well log, stating: 1) depth of the well; 2) depth to the water; 3) type and size of casing; and 4) material used in well construction.

If the well is intended for domestic purposes on a parcel of land less than five acres, a site plan must also be submitted to the county or local health authority for review to determine whether the well location complies with state and local laws pertaining to well proximity to septic tanks and sewer systems. Generally, a domestic well must be at least 100 feet from any septic tank or sewer system. Additionally, the property cannot be within 100 feet of a distribution line of a municipal provider with an assured water supply designation, with certain exceptions. The ADWR Director must deny the drilling of a well within certain distances of a remedial action site if the well will likely result in the migration of contaminated groundwater from the remedial action site to another well.

DISCLOSURE REQUIREMENTS

Exempt wells are commonly linked to land in which multiple homeowners share water from a single well. Arizona real estate law requires sellers of land that has been divided (a lot split) to disclose certain things to the buyer in an affidavit of disclosure (affidavit). The affidavit discloses pertinent information related to the property, including a disclosure of whether the property is served by a private well, a shared

well or no well. Shared wells are not regulated by the State of Arizona, rather they are a private agreement between the well owner and the parties they choose to share the well with. Generally, written agreements are filed with the county recorder. If the property is served by a shared well, the seller must disclose whether the shared well is a public water system. The buyer has the right to rescind the sales transaction for five days after the disclosure is provided to the buyer.

In 2006, the Legislature passed additional water disclosure requirements for land that has been divided. Among the elements added to the affidavit is a statement notifying the buyer that if the property is served by an exempt well then ADWR may not have made a water supply determination and advises the buyer to contact the water provider for more information.

SALE OF PROPERTY

When a piece of property has a well on it, the change of ownership on the property does not carry over to the ownership of the well. The new owner must file a Change of Well Information form with ADWR and pay the corresponding fee (A.R.S. § 45-593). Additionally, any water rights that are attached to a piece of property need to be conveyed to the new owner of the property.

WELL ABANDONMENT

Legal authorization from ADWR is required to abandon most types of wells in Arizona. Well abandonment means the modification of the structure of a well by filling or sealing the borehole so that water may not be withdrawn or obtained from the well (A.A.C. R12-15-801(28)). The abandonment of a well must be performed by a licensed well drilling contractor or a property owner who has obtained a single well license from ADWR. The well owner must file a Notice of Intention to Abandon a Well and receive approval. Well abandonment must be accomplished through filling or sealing the well and the annular space

outside the casing from being a channel allowing the vertical movement of water (A.A.C. R12-15-816(G)). No later than 30 days after abandonment has been completed, ADWR must receive a Well Owner’s Notification of Abandonment filed by the well owner and the Well Abandonment Completion Report filed by the well drilling contractor that describes the materials and method of abandonment.

EXEMPT WELL DATA

ADWR maintains a Well Registry Database and other interactive tools to obtain and view data on all registered wells in Arizona, including: 1) ownership information; 2) cadastral location; 3) well type; and 4) water use and pumping data. Water measuring and reporting is not required for exempt wells.

The following chart displays the number of exempt wells by county.

Exempt Wells by County August 2014		
County	Exempt Wells with NOIs	Exempt Wells with Drill Reports
Apache	4,909	4,218
Cochise	13,324	12,106
Coconino	2,925	2,499
Gila	5,847	5,128
Graham	2,695	2,639
Greenlee	1,188	1,115
La Paz	2,890	2,639
Maricopa	17,619	15,176
Mohave	8,346	7,182
Navajo	5,148	4,294
Pima	9,319	7,839
Pinal	6,992	6,078
Santa Cruz	3,246	2,931
Yavapai	29,862	26,959
Yuma	4,212	3,739
TOTAL	118,522	104,360

The following chart shows the amount of exempt wells drilled in AMAs.

Exempt Wells by AMA August 2014		
AMA	Exempt Wells with NOIs	Exempt Wells with Drill Reports
Phoenix	18,006	15,470
Pinal	2,851	2,447
Prescott	13,192	11,791
Santa Cruz	1,528	1,347
Tucson	8,760	7,331
TOTAL	44,337	38,386

ADDITIONAL RESOURCES

- Arizona Department of Water Resources
3550 N. Central Avenue
Phoenix, AZ 850012
(602) 771-8500
www.azwater.gov
- Arizona Department of Real Estate
2910 N. 44th Street, Suite 100
Phoenix, AZ 85018
www.re.state.az.us
- “Arizona’s Groundwater Management Code: Active Management Area,” Arizona State Senate Issue Brief
www.azleg.gov/briefs.asp
- Groundwater Code: Arizona Revised Statutes, Title 45, Chapter 2
- Arizona Administrative Code, Title 12, Chapter 15
- ADWR Well Abandonment Handbook
<http://www.azwater.gov/azdwr/WaterManagement/Wells/documents/AbandonmentHandbook2008.pdf>