



## Exemptions, Combined Appropriation and the Permit Process in Montana Water Law

### What is the exemption to the permit process?

In Montana, an exempt well ([MCA 85-2-306](#)) is a groundwater well, spring, pit, or pond that is exempt from the permitting requirements of the Montana Water Use Act because it draws 35 gallons per minute or less and a total volume not exceeding 10 acre-feet per year. While exempt from individual permits, these groundwater developments are still subject to the "combined appropriation" rule, meaning that multiple groundwater developments (whether well, spring, pit, or pond) on the same source aquifer will be reviewed together and if, in combination, those developments exceed the 10 acre-feet per year limit, a permit will be required.

Key characteristics of exempt groundwater developments, commonly referred to as "exempt wells:

**Flow Rate:** Limited to a maximum of 35 gallons per minute.

**Total Volume:** A total appropriation of no more than 10 acre-feet per year from the same source aquifer.

**Permitting Exemption:** No permit is required from the Department of Natural Resources and Conservation (DNRC) for these individual wells, meaning there's no analysis of physical or legal water availability or potential impacts to neighboring water users.

**No Reporting:** Exempt groundwater developments are not subject to metering or reporting requirements to quantify or verify their volume use.

Following an exemption to the permit process being used and where the water has been put to beneficial use for the purposes identified in state law, a notice of completion of a groundwater development ([MCA 85-2-306](#)), known as a [602 form](#), must be filed with DNRC to review a certificate of water right.

To receive a certificate of water right, the appropriator must insure the following applies to the water use:

- The groundwater must have been put to use for the purpose(s) identified.
- The development is not located within the boundaries of a Controlled Groundwater Area, unless instructed otherwise by DNRC.
- The source is groundwater, meaning any water located beneath the ground surface. The water is typically diverted from the ground via a well, developed spring, or a collection of water in a groundwater pit or pond.
- The flow rate diverted from the development is 35 gallons per minute or less.
- The total volume used from the development does not exceed 10 acre-feet per year. If you share a well with other groundwater certificate holders, the total volume used by all users cannot exceed 10 acre-feet per year. When the water use exceeds that amount, you must file an Application for Beneficial Water Use Permit (Form 600).



### **What is the definition of beneficial use?**

In Montana, beneficial use ([MCA 85-2-102](#)) for water is a use that benefits the appropriator, other persons, or the public, encompassing a wide range of economic, social, and environmental purposes including but not limited to agricultural, stock water, domestic, instream flow for fish and wildlife, industrial, irrigation, mining, municipal, power, recreational uses, and aquifer storage.

### **What is the process to obtain a water permit through DNRC?**

The Montana Water Use Act of 1973 established a permit system for new uses of water. Anyone planning a new or expanded development for a beneficial use of water from surface water or groundwater after June 30, 1973, must obtain a Beneficial Water Use Permit ([Form 600](#)) to appropriate water if the criteria of an exemption is not met.

As part of the permit process, DNRC does analysis of physical or legal water availability and reviews potential impacts to neighboring water users. The permit process has an objection process where those whose property, water rights, or interests would be adversely affected by the proposed appropriation have standing to object. If an application is in a closed basin, mitigation is required to secure a water right.

Once an application is submitted, the process can take up to 105 days for approval if the application is deemed sufficient and there are no objections.

## WATER RIGHT APPLICATION PROCESS CHART

For Permit and Change Applications  
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