

WATER WELLS & WATER RIGHTS



In 1957 the Legislature decided that it would aid the development of sound ground water policy if **all water wells in the state were registered**. The **Nebraska Department of Natural Resources (NDNR)** maintains this water well registry at its Lincoln headquarters. All of the well registrations are now entirely computerized which makes it an even better tool for the development of groundwater policy. State law requires any person who constructs a water well to register it and provide certain information collected during the excavation of the well. By law, only licensed water well contractors and landowners may dig a well so it is their responsibility to register the water well.

There are situations when someone other than the landowner hires the water well contractor to dig the well and pays for the well. However, simply paying for the construction of the water well does not make someone other than the landowner the owner of the well. The legal definition of a water well is the excavation constructed for the purpose of extracting water (and other purposes not relevant here). See Nebraska Revised Statutes, Section 46-601.01. In other words, **the well is the hole in the ground—not the equipment placed in the hole**. Only the landowner can own the hole in the ground so only the landowner can own the water well.

Sometimes, a person acquires an easement from a landowner to construct and maintain a water well. In that situation the owner of the easement is the owner of the water well since he or she has a legal real property interest in the ground and the hole in the ground. However, unless the person constructing the water well has an easement, the landowner remains the owner of the water well and is responsible for following the laws regarding the registration of water wells.

NDNR is responsible for maintaining a database of registered groundwater wells that can be found and checked for accuracy at <http://dnrdata.dnr.ne.gov/wellssql/> . **The ownership and/or change in ownership of wells is usually not recorded with the deed when land is bought, sold, or transferred. It is the responsibility of the landowner(s) to make sure their water well information is registered both accurately and properly.**

People who use Nebraska's **surface water resources are required** in most instances **to obtain a surface water right/permit** from the **Nebraska Department of Natural Resources**. The permit(s)/water right(s) are approved for a specific location, amount of water and purpose. **Surface water rights are administered by NDNR, and are NOT recorded with the deed when land is bought, sold, or transferred**. Many permits/rights were originally granted to previous landowners maybe one, two or sometimes three generations back. Permits/rights do not transfer with land titles. Often subsequent generations of owners are not familiar or aware of the surface water permit/right for their land. This can be especially true if the land is now irrigated using a groundwater well. While not always the case, it is not uncommon to find landowners with surface water permits/rights who have no idea that a permit/right exists for their land.

State statutes require all landowners to file a written notice with NDNR of any changes in ownership, and/or address for surface water rights and registered groundwater wells. The forms required to update this information are available on NDNR's web site at www.dnr.ne.gov . Surface water appropriation information can be checked at <http://dnrdata.dnr.ne.gov/SWRCombined/SelectSearchOptions.aspx> . Forms for both surface water rights and well registrations are also available from NDNR upon request at the address or phone number found below.

NDNR would like all parties involved with land ownership, whether it be owners, buyers or sellers to be aware of the procedures necessary to be in compliance with Nebraska's surface water laws and groundwater well registration laws. If you have questions concerning groundwater well registrations, water permits/rights, changes in required ownership information or questions about Nebraska's water laws, please contact the

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Published by the
Nebraska Department of Natural Resources

August 2007
tlc 8.07.indd



