

AFFIDAVIT OF BENEFICIAL USE FAQ

Q: How do I know if I can file an affidavit instead of a regular proof?

A: If your water uses do not exceed one residence, a quarter acre of irrigation, and ten head of livestock then generally you can file an affidavit instead of a regular proof.

Q: Does my water right have to supply a residence for me to submit an affidavit?

A: You may submit an affidavit for irrigation or stock watering only as long as those uses are associated with an existing residence. (The residence may be supplied under a different water right or from a municipal connection.) A certificate of occupancy is still required in these cases.

Q: What advantages are there for me in filing an affidavit rather than a regular proof?

A: A regular proof must be completed by a registered professional engineer or licensed land surveyor who will charge a fee for his or her services. An affidavit is completed by you, the applicant.

Q: Can I hire a proof professional to submit a normal proof instead of an affidavit?

A: Yes.

Q: How do I calculate my irrigated acreage?

A: You will need a measuring tape, a pencil, paper and a calculator for this exercise. Sketch the layout of the irrigated area of your yard. You will need to divide these areas into a series of rectangles and triangles in your sketch. Use the tape measure to get the height and width of each rectangle and triangle. The area of each rectangle is its height times its width. The area of each triangle is one half its height times its width. Add up the areas of each rectangle and triangle to get the total area. To convert this number to acres, divide by 43,560. That number is your irrigated acreage. A good way to check your answer is to compare your total lot size to the area you calculated. The irrigated area should be smaller than your lot size by a reasonable amount, which will depend on the amount of non-irrigated area on your lot. Suggestion: If you do not feel completely comfortable doing this procedure, have a capable neighbor or family member help you out.

Q: What is a Certificate of Occupancy and how do I get one?

A: Before your residence was constructed the builder had to get a building permit from the city or county that oversees construction. After the residence is constructed, the municipality will do a final inspection to ensure that all building requirements have been met. They will then issue a Certificate of Occupancy which means that the residence is ready to be occupied. These certificates are usually kept on file at the city or county that issued the building permit and certificate. Contact them to get a copy of the Certificate of Occupancy.

Q: What is a plat map and how do I get one?

A: Virtually every parcel of land in a county has been surveyed such that the boundaries of the parcel are firmly established. To make the property boundaries a matter of public record, a map of this survey is recorded in the county recorder's office. This is a plat map, and a copy of it is available to anyone requesting it, usually for a small fee. The plat map you provide does not

have to be the entire map. If you obtain a partial map, though, it must show a monumented section corner (shown as  or similar) as well as your parcel. If a monumented section corner is not shown we may not be able to determine the coordinates of your well or spring.

Q: What is a Tax ID or Serial Number?

A: This is a number that uniquely identifies virtually every parcel of land in a given county. It is usually used in conjunction with the assessment of property taxes. In some counties the format of this number is Book No. – Page No. – Entry No, but it varies from county to county. Contact your county recorder for the Tax Serial Number of your parcel.

Q: What types of applications can an affidavit be submitted for?

A: An affidavit can be submitted for an Application to Appropriate, a Change Application, or an Exchange Application.

Q: Does filing an extension prevent me from filing an affidavit later on?

A: No.

Q: Does the affidavit have to be notarized.

A: Yes. Note: Having the affidavit notarized is essentially the same as attesting to the facts under oath in a court of law.

Q: If my water right is based on shares of stock in an irrigation company, does the company need to sign the affidavit?

A: Yes. You will need to get a notarized signature on your affidavit from a representative of the irrigation company. The company will be sent a copy of your Certificate of Beneficial Use.

Q: My water right is for a quarter acre of irrigation but I currently only have half that. Should I still file an affidavit?

A: If all of your beneficial uses are not fully developed you have the option of filing an extension of time. If approved, this would allow you additional time to develop all of the uses you are approved for. You may opt to file the affidavit showing less use than you are approved for. However, the certificate we issue you will be only for the developed portion of your water right.

Q: What if I can't get a Certificate of Occupancy? Is a Building Permit good enough?

A: A Building Permit only gives authority to begin construction whereas a Certificate of Occupancy indicates that the work has been completed. Thus, a Building Permit is generally not sufficient. However, there may be cases where a municipality does not have a Certificate of Occupancy on file. You may be able to obtain a Tax Notice for your property, instead, which will indicate whether a residence has been constructed. If you believe you have a bona fide residence constructed for which you cannot obtain a Certificate of Occupancy or Tax Notice, contact our office for more information.