

CHAPTER 89-03-02 WATER PERMIT MODIFICATION

Section	
89-03-02-01	Submission of an Application to add a Point of Diversion or for a Change in Purpose of Use
89-03-02-02	Return of Unsatisfactory Application
89-03-02-03	Application Amendment
89-03-02-04	Fee [Repealed]
89-03-02-05	Notice of Application
89-03-02-06	Publication of Notice of an Application for a Change in the Purpose of Use or to Add a Point of Diversion
89-03-02-07	Filing Proof of Publication and Mailing [Repealed]
89-03-02-08	Assignment of a Water Permit to Another Person
89-03-02-09	Transfer of a Water Permit to Another Parcel [Repealed]
89-03-02-10	Change in Location of Use
89-03-02-11	Increase in Pumping Rate
89-03-02-12	Water Permit for Irrigation - Limitation

89-03-02-01. Submission of an application to add a point of diversion or for a change in purpose of use.

An application to add a point of diversion or for a change in purpose of use must be submitted to the department on the form provided by the department. The department may require information not requested in the application. A change in purpose of use may only be granted for a use that has a higher priority than the use from which a change is sought, as specified in North Dakota Century Code section 61-04-06.1.

History: Amended effective April 1, 1989; July 1, 2014; January 1, 2023.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-04-04, 61-04-06.1, 61-04-15.2, 61-04-15.4

89-03-02-02. Return of unsatisfactory application.

If the change in purpose of use or to add a point of diversion application is not submitted on the proper form or if the form is improperly completed, it will be returned within thirty days, along with a statement of the required corrections.

History: Amended effective April 1, 1989; July 1, 2014; January 1, 2023.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-04-04, 61-04-15.2, 61-04-15.4

89-03-02-03. Application amendment.

An applicant for a change in purpose of use or to add a point of diversion, before being instructed to give notice as required by section 89-03-01-04, may amend an application. An amendment request may be made by letter or by submission of an amended application.

If any notice of an application for a change in the purpose of use or to add a point of diversion has been mailed before the request to amend, the department may require the applicant to mail a corrected notice of the application to all persons who were sent the original notice and must submit an affidavit of service of corrected notice to the department. If the notice of application has been published, the department may require a corrected notice to be published. The applicant must pay publication costs.

History: Amended effective April 1, 1989; April 1, 2000; July 1, 2014; January 1, 2023.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-04-04, 61-04-15.2, 61-04-15.4

89-03-02-04. Fee.

Repealed effective April 1, 1989.

89-03-02-05. Notice of application.

Notification of an application for change in purpose of use or to add a point of diversion must be handled in accordance with section 89-03-01-04.

History: Amended effective April 1, 1989; August 1, 1994; July 1, 2014; January 1, 2023.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-04-05, 61-04-15.1, 61-04-15.4

89-03-02-06. Publication of notice of an application for a change in the purpose of use or to add a point of diversion.

Notice of an application or an amendment to an application for a change in the purpose of use or to add a point of diversion must be published in accordance with section 89-03-01-05.

History: Amended effective April 1, 1989; April 1, 2000; July 1, 2014; January 1, 2023.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-04-05, 61-04-15.2, 61-04-15.4

89-03-02-07. Filing proof of publication and mailing.

Repealed effective April 1, 1989.

89-03-02-08. Assignment of a water permit to another person.

A request to assign a water permit to another person must be submitted to the department in writing. Either the transferee or the permit holder may request assignment of the water permit. The application must describe the transferee's interest in the water permit. The department may request additional documentation of the transferee's interest.

History: Effective April 1, 1989; amended effective February 1, 1997; April 1, 2000; July 1, 2014; January 1, 2023.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-04-15

89-03-02-09. Transfer of a water permit to another parcel.

Repealed effective January 1, 2023.

89-03-02-10. Change in location of use.

No change in location of use of a conditional or perfected water permit will be granted if other appropriators that rely upon the return flows from the permit holder's beneficial use of water would be adversely affected.

History: Effective April 1, 1989; amended effective July 1, 2014; January 1, 2023.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-01-01(3), 61-04-15

89-03-02-11. Increase in pumping rate.

A request to increase a permitholder's pumping rate must be made in writing to the department. The department, before making a decision on the request, will consider what effect the increase has on other appropriators from the water source.

History: Effective April 1, 1989; amended effective July 1, 2014; January 1, 2023.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-04-06.2

89-03-02-12. Water permit for irrigation - Limitation.

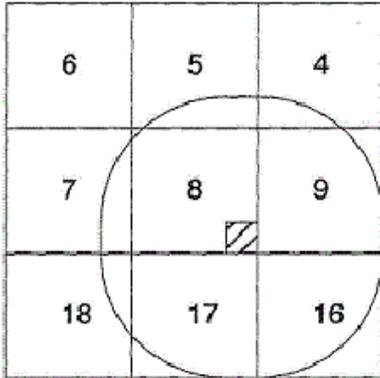
The department may increase the number of acres that may be irrigated on the tracts of land specified in a water permit to allow for more efficient operation of an irrigation system. A request for an increase in the number of acres must be evaluated in accordance with subdivisions a through c of subsection 1 of North Dakota Century Code section 61-04-06. Any increase in acreage cannot exceed ten acres or ten percent of the originally approved acreage, whichever is greater.

History: Effective April 1, 1989; amended effective August 1, 1994; July 1, 2014; January 1, 2023.

General Authority: NDCC 61-03-13

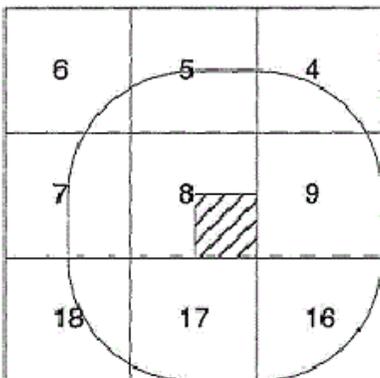
Law Implemented: NDCC 61-04-06.2

APPENDIX A
ARTICLE 89-03



Proposed point of diversion

SE1/4 SE1/4 of Section 8, Township 150 North, Range 83 West. All landowners within a one-mile (1.6 kilometer) radius of the exterior boundaries of the 40-acre (16-hectare) tract must be notified.



Proposed point of diversion

SE1/4 of Section 8, Township 150 North, Range 83 West. All landowners within a one-mile (1.6 kilometer) radius of the exterior boundaries of the 160-acre (65-hectare) tract must be notified.