



CASE STUDY (PART 1)

Navigating Shared Wells

A buyer is considering a home that receives water from what the seller calls a “party well,” an informal shared arrangement among several neighboring properties. The well is not associated with formal water rights, and the seller cannot provide clear documentation on who owns the well, who maintains it, or who is legally entitled to use it. The buyer expresses concern about reliability, access, and long-term risk, and asks what the agent can do to verify ownership and understand the legal standing of the shared well.

What are the water issues behind the scenario?

Background

Shared wells, sometimes informally referred to as "party wells"—can lack clear documentation outlining ownership, access rights, maintenance responsibilities, and cost-sharing obligations. Without recorded easements and a legally valid well-share agreement, buyers may have no legally enforceable right to use the well, even if the previous owner did.

When documentation is missing or unclear, buyers may need legal counsel to determine whether any enforceable rights exist or whether new agreements must be established and recorded to protect future use.

Step by step actions that the agent should take:

1. Verify the well information in the ADWR Well Registry
2. Obtain a complete copy of any well-share or “party well” agreements
3. Consult with your designated broker for guidance on risk and disclosure
4. Recommend that the client speak with a qualified water attorney
5. Coordinate with Title and Escrow to confirm recorded easements and documents
6. Verify that any well-share agreements and easements are recorded with the county recorder's office
7. Recommend that the buyer review the Arizona Seller Property Disclosure Statement (SPDS) for disclosures related to the shared well

Agency/Resource	Source Link	When can you use it
ADWR: Well Registry Search	https://app.azwater.gov/WellRegistry/SearchWellReg.aspx	Confirm water registration details.
Arizona Department of Water Resources (ADWR) - Shared Well Information FAQ from Real Estate Agents and Title Agents	https://www.azwater.gov/real-estate-agents-and-title-agents	Verify well registration, type, and authorized use

How should you talk to your client about this?

- *“A shared or ‘party’ well needs clear documentation showing who has the right to use it and how it’s maintained.”*
- *“We’ll check the ADWR registry review any recorded easements and well-share agreements, and obtain any recorded agreements to understand what rights come with this property.”*
- *“If documents are missing or unclear, it’s important to speak with a water attorney to protect your long-term access.”*



Potential questions to consider depending on nuances:

- What legal rights, if any, does a buyer have if the well-share agreement is unrecorded or incomplete?
- What minimum elements should a well-share agreement include to be considered enforceable?
- Are there situations where a “party well” arrangement violates state well-spacing or use-type rules?
- Does Arizona law require shared well agreements to be recorded for future owners to be protected?



CASE STUDY (PART 2)

Shared Well Member Not Paying Their Share

A buyer is considering a home in the Tucson area that relies on a shared well serving several neighboring properties. During due diligence, the seller discloses that one of the well-share members has stopped contributing to electricity, maintenance, and repair costs. The buyer asks whether the other well owners can legally simply shut off the non-paying neighbor's water or take action to force payment. The agent must help the buyer understand what is and is not legally allowed, what the well agreement should contain, and what steps a buyer should take before relying on a shared well with a non-performing participant.

What are the water issues behind the scenario?

Background

Shared wells depend on private agreements between participating property owners. If a member stops paying, the other members cannot legally shut off water service unless the agreement explicitly grants that authority, which is rare. Enforceable remedies typically depend on whether the recorded well-share agreement contains enforcement provisions, including lien rights where legally authorized, allowing the performing owners to recover unpaid costs by placing a lien on the non-paying owner's property. Without lien rights, enforcement becomes a legal matter and may require renegotiation or court involvement. Agents must ensure buyers understand the financial obligations of shared wells and the importance of reviewing agreements, especially since Title and escrow companies generally identify recorded documents but do not provide legal opinions regarding the adequacy or enforceability of well-share agreements.

Step by step actions that the agent should take:

1. Verify the well in the ADWR Well Registry
2. Obtain the recorded well-share agreement
3. Consult with your designated broker
4. Refer the buyer to a water attorney
5. Coordinate with Title & Escrow
6. Determine whether previous disputes, unpaid assessments, or pending litigation involving the shared well have been disclosed



How should you talk to your client about this?

Use of plain, professional language to convey the scenario:

- *“Shared wells work best when there’s a strong agreement that explains how costs are shared and enforced.” OR “Shared wells work best when there’s a written, recorded agreement explaining how costs are shared and enforced.”*
- *“We’ll review the agreement to see if it includes lien language, which is the main tool for dealing with non-paying well members.”*
- *“If anything is unclear or missing, a water attorney can help you understand your rights and long-term risks.”*



Potential questions to consider depending on nuances:

- What constitutes sufficient evidence that “no alternative water source exists” (e.g., well logs, ADWR data, water-provider boundaries)?
- Are there minimum technical standards for cistern inspections that USDA expects (e.g., tank material, venting, lids, sanitation requirements)?
- How recent must water-quality testing be for USDA acceptance, and must the lab be ADEQ-certified?

Disclaimer: *This case study is provided for educational purposes only and reflects information available at the time it was developed. Arizona water laws, regulations, policies, and agency guidance may change over time. Always verify the most current information through official sources, such as the Arizona Department of Water Resources (ADWR), Arizona Department of Real Estate (ADRE), and other applicable state agencies. The Real Water Arizona project and its contributors are not responsible for decisions made based solely on this educational material.*