

Ecology's Perspective

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## Municipal Water Law Implementation and Litigation: Policy Documents, Rules and Other Implementation Efforts

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Mission

Department of Ecology:

Support sustainable water resources management to meet the present and future water needs of people and the natural environment, in partnership with Washington communities.



Overview

- 💧 Background
- 💧 Ecology's approach
- 💧 Interpretive & Policy Statement



- DOH/Ecology MOU
- Joint Review Procedures
- DOH Policy Papers



- Legal Issues

Background

- 💧 Water suppliers were looking for certainty in water supplies
- 💧 Desire for more conservation
- 💧 MWL passed – Effective September 9, 2003
- 💧 Links to local planning
- 💧 See our web page

Basic ideas from the MWL

- 💧 Applies to municipal water suppliers
- 💧 Clarifies provisions of the water code
- 💧 Water system service area and water right place of use
- 💧 Additional coordination
- 💧 “Pumps & pipes” certificates
- 💧 Water use efficiency (conservation)
- 💧 Miscellaneous provisions

Underlying concepts in Ecology's Approach

- Implement legislative direction
- Water right-by-water right approach
- Coordinate with DOH
- Coordination with local entities
- Develop Interpretive & Policy Statement

Ecology's Interpretive and Policy Statement

Important Concepts:

- 💧 Describes what we think the law means
- 💧 Describes how we intend to implement
- 💧 Organized corresponding to the sections of the Water Code

Interpretive and Policy Statement

- Based on the Administrative Procedure Act
- Clarifies Ecology's interpretation and implementation – NOT a rule
- Gives guidance to staff
- Allows the water rights “world” to see Ecology's approach

Definitions: “Municipal Water Supplier” and “Municipal Water Supply Purposes”

- 💧 15 or more residential connections
- 💧 25 people for at least 60 days/year
- 💧 Municipal water suppliers can hold water rights for municipal water supply or for other purposes
- 💧 Ecology evaluates on a water right-by-water water right basis – NOT portfolio

Governmental entities:

- cities,
- towns,
- PUDs,
- counties,
- sewer districts, or
- water districts

Governmental Purposes:

- commercial,
- industrial,
- irrigation of parks & open spaces,
- institutional,
- landscaping,
- fire flow,
- water system maintenance & repair, or
- related purposes

Connections and Population

- 💧 A Group B water system has less than 15 residential connections
- 💧 For Group A systems for municipal water supply purposes, the number of connections or population on the water right are not limiting
- 💧 Instantaneous quantity (Q^i) and annual quantity (Q^a) are the controlling numbers

Revoking or Diminishing Municipal Water Rights

Ecology may not revoke or diminish a municipal water right except:

- 💧 Issuing changes, certificates or amendments, or
- 💧 Certificate was issued with errors or obtained through misrepresentation

“Pumps and Pipes” certificates

- Ecology is not authorized to revoke or diminish these certificates except in a few circumstances – as noted before.
- Inchoate portions of water rights found to be in good standing are eligible for change or transfer – *this could allow the inchoate part to be transferred to another municipal water supplier or integrated into a regional water system*

Coordination

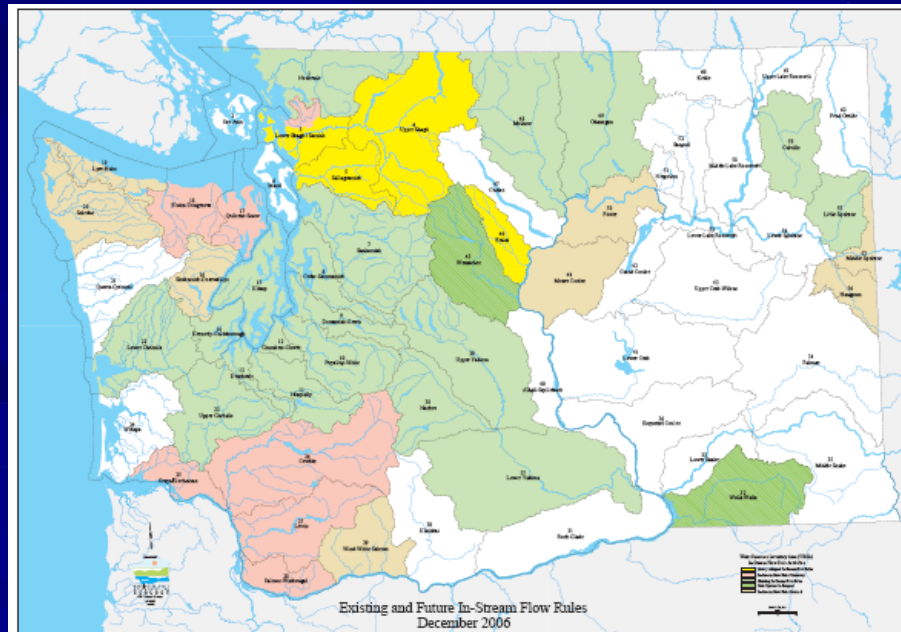
- DOH and Ecology to coordinate review & approval
- DOH & Ecology have developed an MOU
- DOH & Ecology have developed Joint Review Procedures

*.....More on the MOU and
Joint Review Procedures later*

Place of Use Expansion

A municipal water supplier can receive an expanded place of use (service area), provided:

1. Approved planning or engineering document
2. In compliance with their approved plan, and
3. The new place of use is “not inconsistent” with other local planning documents.



Water Conservation

- Ecology supports the DOH water use efficiency rule
- Ecology intends to be consistent with DOH rules, but due to its other mandates, there may be exceptions where more stringent requirements may be necessary
- In these rare cases, Ecology will consult DOH

Special Items

- Ecology may expedite water rights review if public health & safety concern
- Water Use Efficiency rule promulgated – effective January 22, 2007

Web Information

Water Resources Program
Municipal Water Law information:

<http://www.ecy.wa.gov/programs/wr/wrhome.html>

Includes:

1. The Municipal Water Law
2. Interpretive and Policy Statement
3. Law suit information
4. MOUs
5. And more

For More Information

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