

How did Ecology respond to AGO 2009 No. 6, September 21, 2009, during adoption of WAC 173-517?

The AGO concluded that when Ecology withdraws groundwater because of insufficient information, it does not have the authority to limit quantities of water available under the exemption. The agency believes that when it has closed a basin to future appropriations based on sufficient information, and has made a decision to reserve some water for new uses based on a determination that overriding considerations of the public interest warrant such reservations, we do have the authority to limit uses and quantities of use under the permit exemption.

The agency's response to the AGO was to retract the section of the proposed rule that would have allowed limited new uses of water, through a restriction on permit-exempt well use, as an exception to the closure in the coastal areas. We did not set instream flows and create reserves in these areas and the AGO indicated we could not allow these kind of "exceptions" to a closure. We also dropped the closure of surface and ground water in the coastal areas. We intend to consider protections for small coastal drainages in future rule-making.

For more information contact:

Ann Wessel

Phone: (360) 407-6785

Email: awes461@ecy.wa.gov