Ecology’s Perspective

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
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
- 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 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
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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