

### The Ground Water Permit Exemption RCW 90.44.050

In Washington State, prospective water users must obtain authorization from the Department of Ecology (Ecology) before diverting surface water or withdrawing ground water, with the one exception discussed below.

Authorization to use surface or ground water is granted by Ecology in the form of a water right permit or certificate.

#### How the Permit Exemption Works

The permit exemption allows certain users of small quantities of ground water (most commonly, single residential well owners) to construct wells and develop their water supplies without first obtaining a water right permit from Ecology. Here are some other facts ground water users should know:

- All wells for a given project apply toward the limits of the exemption. For example, you cannot irrigate two acres by installing four wells (each serving 1/2 acre). If you wish to develop land and supply the commercial or domestic development with water from several wells, all the wells of the development together must pump 5,000 gallons a day or less to be covered under this exemption. Remember, the cumulative total of withdrawn ground water for a commercial or domestic project exceeding 5,000 gallons a day, you need to secure a water right from Ecology.
- Water users have the option of applying for a water right permit from Ecology even if their uses fall under the permit exemption.
- Water users withdrawing ground water under the exemption establish a water right that is subject to the same privileges and restrictions as a water right permit or certificate obtained directly from Ecology.
- Although exempt ground water withdrawals don't require a water right permit, they are always subject to state water law. In some instances, Ecology has had to regulate, stop or reduce ground water withdrawals when they interfere with prior or "senior" water rights, including instream flow rules.

#### Definitions

*Surface water* is water located above the ground, such as a river, stream, spring, or lake.

*Ground water* is water located under the ground.

#### For More Information

If you have additional questions, please contact the Ecology regional office nearest you.

Northwest Regional Office  
3190-160<sup>th</sup> Avenue SE  
Bellevue, WA 98008-5452  
(425) 649-7000

Central Regional Office  
15 W. Yakima Ave., Suite 200  
Yakima, WA 98902-3452  
(509) 575-2490

Southwest Regional Office  
P.O. Box 47775  
Olympia, WA 98504-7775  
(360) 407-6300

Eastern Regional Office  
N. 4601 Monroe  
Spokane, WA 99205-1295  
(509) 329-3400

#### Special accommodations:

If you need this publication in an alternative format, call the Water Resources Program at 360-407-6600. Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.

- The permit exemption is not available to prospective water users in certain areas that have been closed to further appropriation because there is limited or no water available. Check with Ecology staff at the regional offices (listed below) for limits that may apply to your development site.

### Ground water right exemption

On November 18, 2005, the state Attorney General's Office issued a formal opinion regarding how the ground water exemption, especially for watering livestock, should be applied. There are four types of ground water uses exempt from state water-right permitting requirements:

- Providing water for livestock (no gallon per day limit or acre restriction).
- Watering a non-commercial lawn or garden one-half acre in size or less (no gallon per day limit).
- Providing water for a single home or groups of homes (limited to 5,000 gallons per day).
- Providing water for industrial purposes, including irrigation (limited to 5,000 gallons per day but no acre limit).

Water use of any sort is subject to the "first in time, first in right" clause, originally established in historical western water law and now part of Washington State law. This means that a senior right cannot be impaired by a junior right. Seniority is established by priority date - the date an application was filed for a permitted or certificated water right - or the date that water was first put to beneficial use in the case of claims and exempt ground water withdrawals.

### Other laws and regulations: well-drilling

It is important to remember that although you are exempt from the water right permit process under the ground water exemption, all other water laws and regulations still apply. For example, there are a number of rules and regulations associated with the actual drilling of the well. To begin, it is mandatory under state law to submit a Notice of Intent to Construct a Water Well form to Ecology, accompanied by the appropriate fee, at least 72-hours prior to the beginning of construction.

State law requires that all wells meet certain minimum standards for construction. Information on well construction laws and requirements can be accessed at Ecology's Well Construction and Licensing website at <http://www.ecy.wa.gov/programs/wr/wells/wellhome.html>

This publication and others about water rights and well-drilling are available at: <http://www.ecy.wa.gov/programs/wr/wrhome.html>

