



# Concepts for Clarifying Group Domestic Use

Citizens Workshop on Exempt Wells  
May 31, 2008

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Presented by Ken Slattery  
WDOE/ Water Resources Program

# Background

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The 1945 Groundwater code (RCW 90.44.050) provides an exemption from ground water permits for single and group domestic uses and for industrial uses not exceeding 5,000 gallons per day. Also for stockwater without any apparent limit. Also for up to one-half acre of non-commercial lawn and garden irrigation.

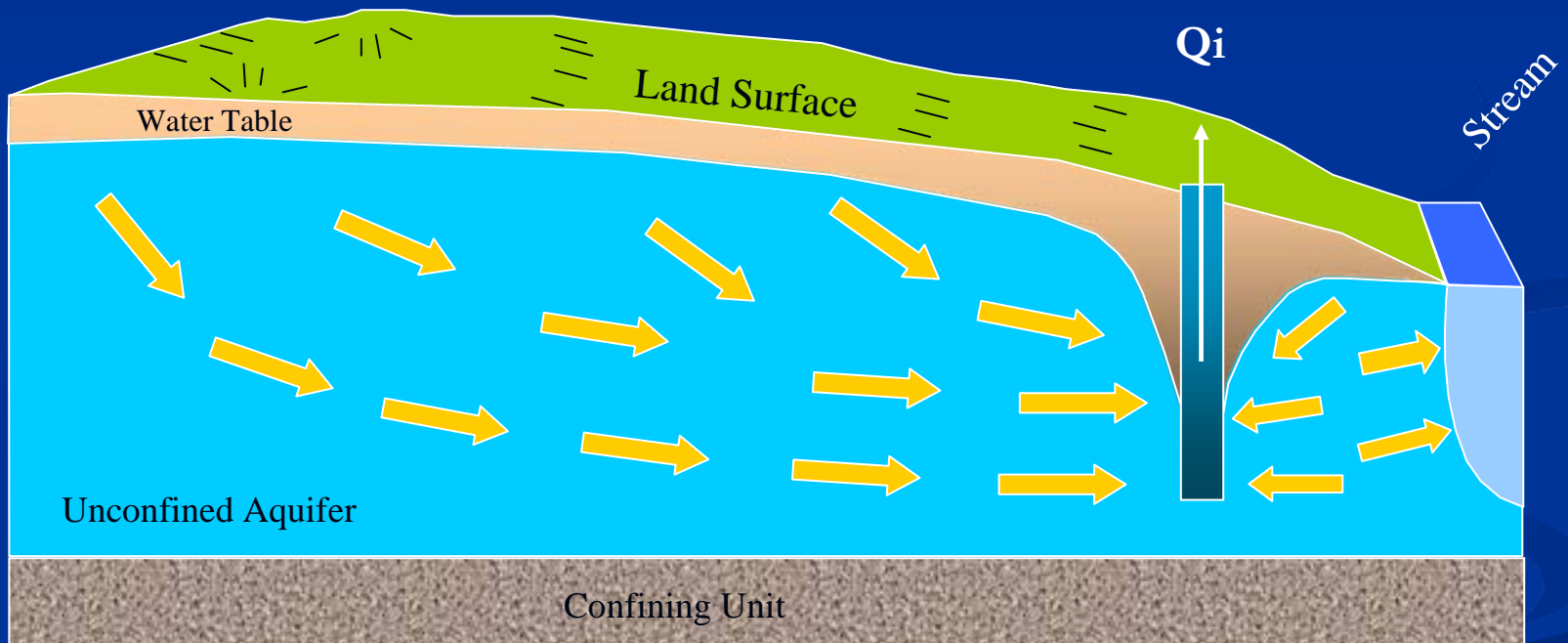
# Ground Water Permit Exemption

Uses	Quantity Limit	Acreage Limit
Stock-watering	None*	None
Lawn-watering/ Non-commercial Garden	None	1/2 acre
Domestic	5,000 gpd	None
Industrial (may include commercial irrigation)	5,000 gpd	None

\* Not tested in court, but based upon Attorney General Office formal opinion

# How Do Wells Capture Surface Water?

**B**



Pumping 1

USGS C1186

# Background

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In *Ecology v. Campbell & Gwinn* (2002), the Washington Supreme Court determined that a group of lots under common ownership for which the developer proposed individual wells would be one group domestic use and thereby limited to a total of 5,000 gpd under the exemption.



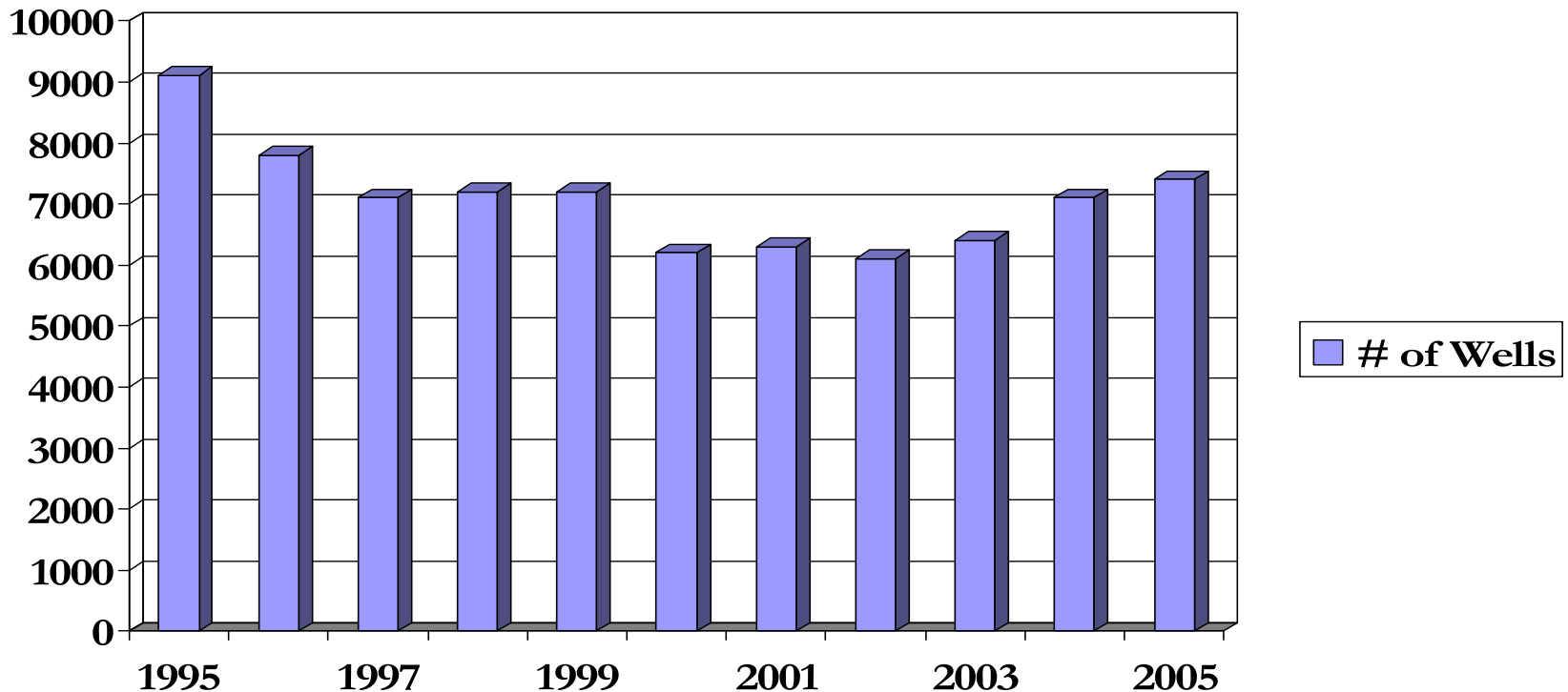
# Problem Statement

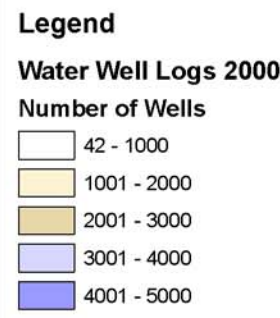
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It's unclear how to determine whether a single lot is part of a “group domestic use” under the exemption and C&G decision.



# Water Well Construction in Washington State





Water Well Logs by County from 2000-07

# Kittitas County MOA

- Commitment to a ground water study for Western Kittitas County (WKK)
- Interim development standards pending study
- All subdivisions in WKK subject to SEPA review
- New residential subdivisions limited to 5,000 gpd total pumping

# Kittitas County MOA

- 350 gpd per residence for new plats
- New plats may have SEPA requirements and mitigation requirements
- Additional water for a development may come from a transfer or be provided by an irr. dist.
- New group B systems must be managed by a satellite system management agency

# Kittitas County MOA

- Voluntary mitigation program will allow consumptive use impact to be offset, thus protect the participating user(s) from possible future call against junior ground water
- All new lots will have a recorded statement regarding the risk of possible regulation inherent in establishing a junior water right in that area

# Kittitas County MOA


- New house on existing lots < 10 acres platted after 3/28/02 allowed 1,250 gpd or the amount specified in the plat approval or provided by a water system.
- New house on existing lots <10 acres platted before 3/28/02 have no limitation on quantity per lot.

# Kittitas County MOA

- Hydrogeological report may be required for new plat proposals
- Ecology will provide technical assistance to Kittitas County and others regarding the potential impacts of new wells on ground and surface water
- Ecology will adopt emergency rules followed by permanent rules

# Kittitas County MOA

- All new development county-wide will have a water use metering requirement (each lot).
- Kittitas County will read the meters
- Ecology and Kittitas County will collaborate on enforcement of the MOA provisions
- The county and Ecology will develop a long term management plan based on ground water study results



# Concepts for possible statewide rules, policies or legislation

# Working with the Counties

- Ecology met for over a year with county health directors and planners
- Developed a model MOU between county and state government
- Worked on rule and legislation concepts
- Subcommittees developed guidelines on time, area, and Campbell & Gwinn issues, and design standards

# The Working Group...

- 10 – County health officials
- 12 – County planning officials
- 5 – State Department of Health
- 8 – State Department of Ecology
- 1 – Attorney Generals Office

# Time and Lot Size Problems

- Campbell and Gwinn addressed a 20 lot subdivision of one acre lots all served by common roads and utilities (except water – each lot would have had its own well).
- It has raised some new questions, including:

# Time and Lot Size Problems

- Is there a logical time period after which a new subdivision within land previously subdivided may occur that can qualify for a new group domestic exemption?
- Is there a logical parcel size, above which a new subdivision of that parcel should qualify for a new group domestic exemption?

# Time Example

- 80 acres subdivided into four 20 acre parcels in 1980.
- The owner of one parcel now wants to subdivide his 20 into four 5 acre parcels.
- Are these new lots still part of an original group domestic exemption for all 80 acres or may they now enjoy a new group exemption separate from the original group?

# Lot Size Problem

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- Should lot size be a relevant factor in determining eligibility for or the amount of an exemption?
- Owner subdivides 640 acres into 4 parcels of 160 acres. Must the four resulting “lots” share one group exemption? What if the resulting “lots” were 1,000 acres each?

# Time and Lot Size Proposal

- Ecology – County group believes that a time period of 15 years between serial plats and one exemption per 40 acres would be appropriate standards for the time and lot size questions.
- Such numeric statewide standards would likely require either legislation or Ecology rule-making to effectuate.

# Why 15 years?

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- Same time used by legislature for determined future developments – RCW 90.14.140(2)(c)
- Same time used by Supreme Court for riparian users to make beneficial use after the water code was passed – *Dept. of Ecology v Abbott*

# Why 5,000 gpd per 40 acres?

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- Provides some protection to aquifers and streams that would be appropriate for most areas in the state.
- 40 acres is a common size for a subdivision contemplating water supply needs.
- Consistent with the density used in the Whitman County pilot project statute, which uses a minimum 10 acre lot size with 1,250 gpd per lot.

# Benefits of the “40 Acre Rule”

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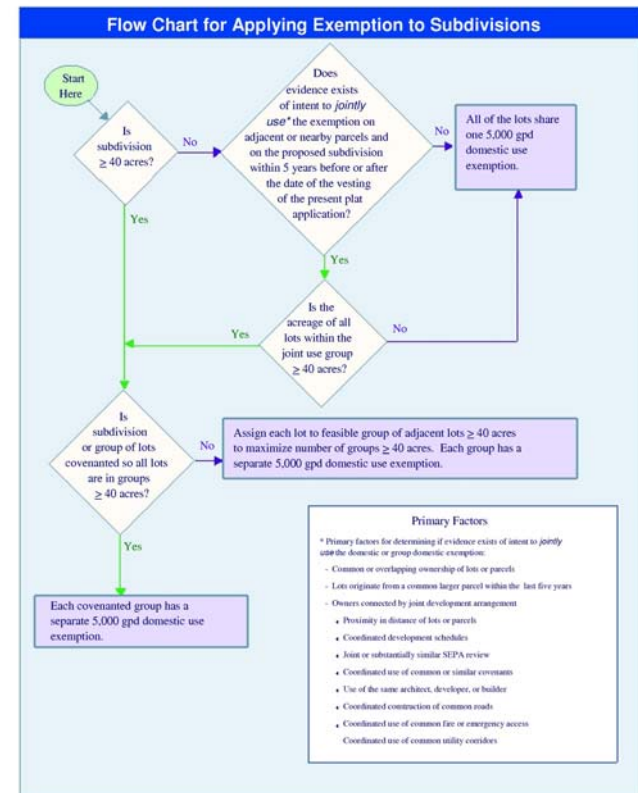
- Formula is easy for owners, planners, and health departments to apply---you need only know the lot size and whether it is part of a subdivision within the past 15 years.
- It doesn't matter if the use is a ‘group’ or a ‘single’ exemption, the same formula applies to both.

# Working Group Products

A. The Exempt Well working group applied these concepts and developed 2 flow charts for applying the exemption:

- Subdivision stage
- Building permit stage

B. The working group also discussed the need/value for an MOU for Ecology assistance to local governments and a commitment of AGO support defending the guidance



# Model MOU

Help local jurisdictions make findings related to water supply by establishing...

- A process to obtain non-binding written guidance from Ecology
- Assurances from Ecology that the AG's Office will assist in defending the guidance if challenged

# Contact Information

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WASHINGTON STATE

Department of Ecology

<http://www.ecy.wa.gov/ecyhome.html>

*Solduc Falls*