
Hot Water Issues in Washington State

Palouse Basin Water Summit

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Washington's Municipal Water Law

- Facial challenge to constitutionality of 2003 Municipal Water Law filed in King County Superior Court in 2006.
 - June 2008 – Judge Rogers declared three sections of the MWL unconstitutional and erased them from the water code:
 - ✓ Definition of “municipal water supplier”
 - ✓ Definition of “municipal water supply purposes”
 - ✓ The “good standing provision” for municipal water supply certificates issued based on system capacity (aka pumps & pipes certificates)
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Washington's Municipal Water Law

- Several appeals of the Superior Court's decision filed in state Supreme Court.
 - Supreme Court will decide whether to hear case or defer to Court of Appeals.
 - Decision cast cloud of uncertainty over validity and extent of municipal water rights (e.g., WSU, Pullman, Colton).
 - Until final resolution of the case, Ecology will not amend decisions made from 2003 to 2008 based on sections of the MWL now erased.
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Washington's Municipal Water Law

- Ecology currently drafting Interpretive and Policy Statement to clarify agency approach to making decisions on municipal water rights until final resolution of the case.
 - Ecology hopes to release IPS interim guidance to public in November/December 2008.
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Permit Exempt Groundwater Use

- Washington water code (RCW 90.44.050) includes exemption from water right permitting requirements for withdrawal of groundwater for the following purposes:
 - Single or group domestic uses (5,000 gpd max)
 - Non-commercial lawn & garden (1/2 acre max)
 - Commercial/industrial uses (5,000 gpd max)
 - Stock-watering (unlimited quantity)
 - Ecology must determine whether or not use of groundwater meets the permit-exempt criteria in RCW 90.44.050.
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Permit Exempt Groundwater Use

- Two Attorney General opinions (1997, 2005) and case law (DeVries, Campbell & Gwinn, Kim) clarify RCW 90.44.050, but interpretation still often challenging.
 - Recent proliferation of permit exempt wells with increased groundwater withdrawals applies increasing pressure to clarify groundwater permit exemption.
 - Ecology, Dept of Health, local governments, and water purveyors have been meeting for past few years to discuss issues.
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Permit Exempt Groundwater Use

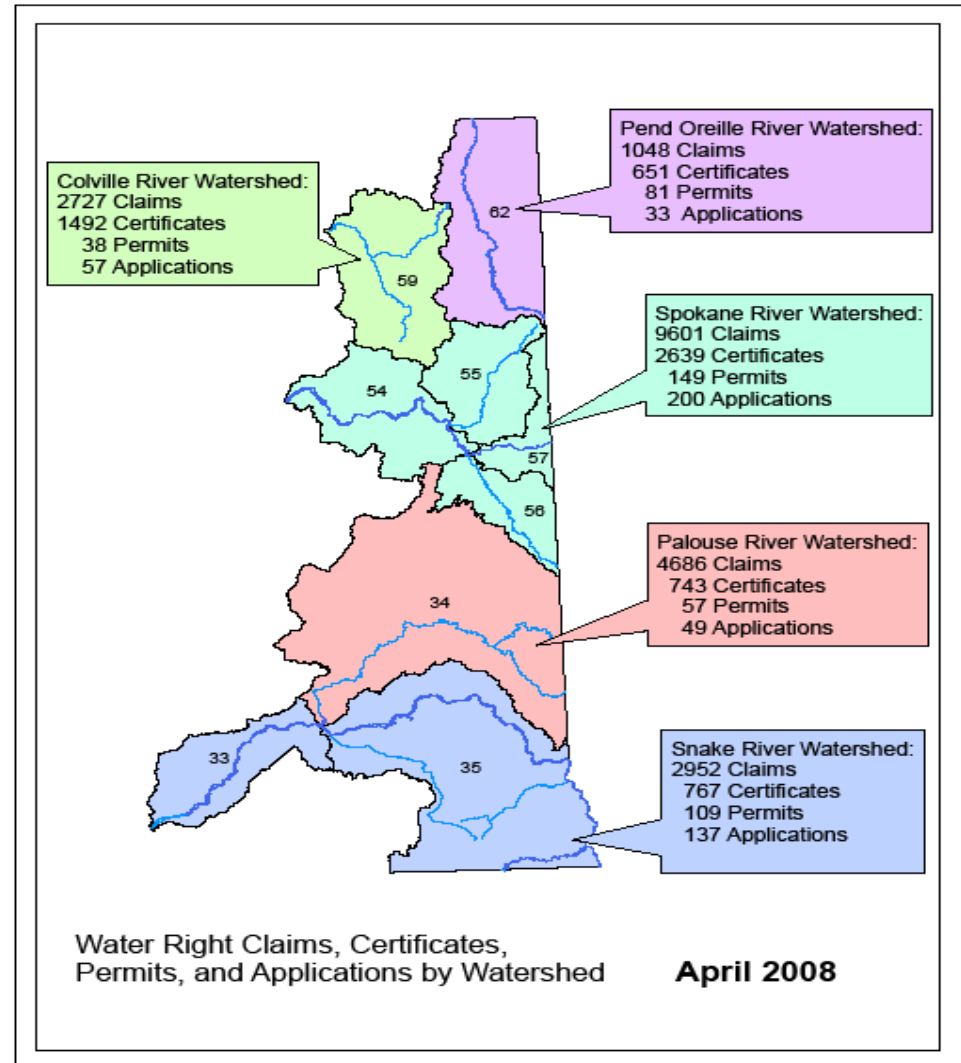
- Permit Exempt Well Advisory Group recently formed to further advance discussions, with intent of drafting guidance to provide direction for interpreting groundwater permit exemption.
 - Timeline for development of guidance uncertain.
 - Legislation may ultimately be required to clarify groundwater permit exemption.
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Adjudication of Eastern Washington water rights?

~ 6,700 certificates
and permits

> 21,000 claims

~ 475 applications



Pre-adjudication water rights analysis- 2007-08 funding

- \$575,000 for Spokane area water rights analysis, in response to agency request
 - \$167,000 for Colville Basin water rights analysis, in response to petition from Colville Watershed Planning Unit
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Pre-adjudication water rights analysis- 2007-08 Ecology staff activities

- Researching all water rights, including claims
 - Examining information in documents
 - Verifying water rights information currently held in statewide database
 - Mapping place of use of water rights- mapping location on water right documents, not actual place of use
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To adjudicate or not?

- Ecology recommending general adjudication of Spokane area water rights in FY 09-11.
 - Legislative approval and funding must be obtained.
 - Administrative and/or statutory changes may be needed.
 - Colville watershed planning unit withdrew their request for adjudication.
 - Ecology has no plan to adjudicate Palouse Basin water rights.
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Funding for Palouse Basin water projects

- Watershed planning implementation funds-operational and capital budgets
 - FY 07-09 approved projects
 - FY 09-11 project proposals
 - Ecology Water Resources Program budget
 - FY 09
 - FY 09-11
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