

WHAT IS AN EXEMPT WELL?

- A WELL AUTHORIZED FOR WATER WITHDRAWAL/PUMPING WITHOUT OBTAINING A WATER RIGHT PERMIT- EXEMPT FROM THE PERMITTING PROCESS
- STATUTE ALLOWING EXEMPT WELLS WAS ENACTED IN 1945
- LEGISLATURE RECOGNIZED
 - NEED FOR WELLS FOR RURAL DEVELOPMENT THAT WOULD TAKE “SMALL AMOUNTS” OF WATER
 - PERMIT PROCESS WAS COMPLICATED AND NOT NECESSARY FOR SUCH WELLS

WHAT IS ALLOWED FOR AN EXEMPT WELL?

- SINGLE OR GROUP DOMESTIC
 - LIMITED TO NO MORE THAN 5,000 GALLONS PER DAY
- IRRIGATION OF ½ ACRE LAWN OR NON-COMMERCIAL GARDEN
 - LIMITED BY BENEFICIAL USE (NO GPD LIMIT)
- STOCK WATERING
 - UNLIMITED QUANTITY
- INDUSTRIAL USE
 - UP TO 5,000 GPD (NO ACRE LIMIT)

EXEMPT WELL WATER USE

- DOMESTIC OR INDUSTRIAL – 5,000 GPD
 - = 3.47 GALLONS PER MINUTE
 - = .0077 CUBIC FEET PER SECOND
 - = 5.6 ACRE-FEET PER YEAR
- IRRIGATION OF ½ ACRE LAWN OR NON-COMMERCIAL GARDEN-QUANTITY LIMITED BY BENEFICIAL USE
 - E.G., WATER DUTY 4 AF/A = 2 AF/YR FOR ½ ACRE
 - IRRIGATION SEASON IS MAY- SEPT 15 = 138 DAYS
 - 0.015 AF/DAY = .007 CUBIC FEET PER SECOND OR 3.28 GPM

USE AND MISUSE OF EXEMPT WELLS

- THE GO-TO SOLUTION IN AN ERA WHEN WATER RIGHTS ARE DIFFICULT TO COME BY AND APPLICATIONS ARE PROCESSED VERY SLOWLY.
- *CAMPBELL V. GWINN* PUT THE BRAKES ON DEVELOPERS USING EXEMPT WELLS – DEVELOPMENT RESTRICTED TO ONE EXEMPT WITHDRAWAL TO SERVE ALL LOTS.
- KITTITAS CASE PUT THE SPOTLIGHT ON IMPAIRMENT OF SENIOR WATER RIGHTS BY RAMPANT USE OF EXEMPT WELLS – RESULTED IN REQUIRED MITIGATION FOR NEW EXEMPT WELLS

THE METHOW RULE

- ENACTED IN 1976 – LOCAL OVERLAY TO GENERAL STATE LAW
 - BASE FLOWS
 - SEVEN REACHES
 - CLOSED BASINS
 - 2 CFS RESERVATION FOR SINGLE DOMESTIC AND STOCK WATER OF HIGHER PRIORITY THAN BASE FLOW
PUBLIC WATER SUPPLY, IRRIGATION AND “OTHER USES”
 - ADMINISTRATIVE RULE CREATED BY ECOLOGY
- ISSUES:
 - WHAT DOES THE METHOW RULE MEAN? NOT EVEN ECOLOGY IS CERTAIN

HIRST V. WHATCOM COUNTY

- UNEQUIVOCALLY PUT THE BURDEN ON COUNTIES RE USE OF EXEMPT WELLS FOR BUILDING PERMITS, SUBDIVISIONS, ETC

WHAT DOES IT ALL MEAN?

- COUNTY HAS TO MAKE A LEGAL WATER AVAILABILITY DECISION AND INTERPRET THE METHOW RULE – REQUIRES CLOSE COORDINATION WITH ECOLOGY
- EACH COUNTY IS TAKING DIFFERENT APPROACH
- ECOLOGY IS LOOKING INTO WHAT THE METHOW RULE REQUIRES – MANY UNANSWERED QUESTIONS
- COURT CASES COULD PUSH THE ISSUES
 - SINGLE DOMESTIC
 - CLOSED BASIN BOUNDARIES
 - RESERVATION

POSSIBLE SOLUTIONS

- LITIGATION – LET THE COURTS ANSWER THE QUESTIONS FOR US
 - ENFORCE THE LETTER OF THE LAW, NOT THE SPIRIT OF THE LAW
- COLLABORATION / MEDIATION WITH ALL KEY PLAYERS
- WATER BANKING AND MITIGATION
- OVERHAUL OF WASHINGTON STATE WATER LAW