

# **County and State – Exempt Withdrawal Working Group**

**PowerPoint presentation October 19, 2006**

## **Draft Proposal for Clarifying Group Domestic Use Environmental Health Directors Meeting**

### **1. Formation of the Working Group**

Working Group formed to improve coordination between state county agencies on water management.

Includes Ecology, AGO, Health, County Environmental Health. Working to include County Planners and CTED

Working Group products may vary from communication tools (focus sheets, etc.) to rule amendment proposals to state change ideas.

Need for a common application of Campbell and Gwinn case identified as the first area of focus (Task #!).

### **2. Task #1 - Purpose**

Provide practical legal guidance to clarify whether specific lots would be considered one group domestic use, or

Considered separate single domestic uses eligible for a 5,000 gpd exemption under RCW 90.44.050

### **3. Task #1 Background**

RCW 90.44.050 provides an exemption from ground water permits for single and group domestic uses not exceeding 5,000 gpd.

### **4. Task #1 Background**

In Ecology v. Campbell & Gwinn, 146 Wn. 2d 1 (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

### **5. Task #1 Problem**

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

### **6. Task #1 Problem**

Example:

Jones applied for a building permit for a lot platted in CY 2000 as part of a 20 lot development.

Does Jones have a right to use a separate 5,000 gpd exemption or does he share the 5,000 gpd group with the entire 20 lot development?

## **7. Task #1 Problem**

Another complexity of C&G – What is “group” anyway?

To respond, Ecology currently looks at many factors which introduce even more complexity including:

- Is lot part of larger plat/with adjacent lots/same owner?
- Is lot developed under contract with same entity developing adjacent lots?
- Was lot combined with other for SEPA review?
- Is lot marketed as part of a common development?
- Are there common roads and/or utilities?

## **8. Task #1 Conceptual Solution**

Working Group/subcommittee met 4 times to develop a proposal.

Only conceptual at this point in time, lots of additional info to consider

Many people to talk to as concept evolves.

Current thinking is to develop a legislative proposal for the 2008 session.

## **9. Task #1 Proposal The Simple Rule:**

Each lot may use the domestic ground water exemption based on the following formula:

- 5,000 gallons per day for every 40 acres of land or a proportionate amount of use if the parcel is smaller or larger.

## **10. Simple Rule – Two Details**

-Detail 1: “Domestic use” includes all indoor uses and outdoor lawn and garden exempt uses associated with the residence (currently lawn/non-commercial garden less than ½ acre unlimited).

-Detail 2: “Domestic use” limit for a parcel may be increased/decreased via covenant to dedicate certain adjoining acreage to domestic use on that parcel or another parcel.

## **11. Benefits to the “Simple Rule”**

-Formula is easy to apply.

-Health departments would determine available exempt water rights by using the simple formula.

-It doesn't matter if the use is a ‘group’ or a ‘single’ exemption, the same formula applies to both.

## **12. Benefits to the “Simple Rule”**

-The concept is rational – density based – larger parcels get more water rather than basing allowances on how many times a person can divide the land.

## **13. Why 5,000 gpd per 40 acres?**

-It provides some level of 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.

-It is 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.

-40 acres is our initial concept and can be refined through stakeholder outreach.

**14. Next steps...**

-Obtain further feedback from more health and land use agencies, Ecology, and the executive branch.

-If support for a Simple Rule concept exists, plan an outreach effort for legislators and stakeholders for introducing legislation in the 2008 session.

**15. Next steps...**

Working Group may choose to move on to address additional challenges i.e.:

-Clarity about water supply quantities (use of 800 gpd vs. 400 gpd vs. ...).

-Development of outreach projects.

-Coordination around instream flow setting.

-Coordination regarding building permit issuance.