



Frequently Asked Questions about Replacement Wells Requiring A Water Right

from Ecology's Water Resources Program

When adding or replacing a well, the water right holder must apply to the Department of Ecology (Ecology) to have their water right changed. This process requires Ecology to perform an investigation to determine the extent and validity of the water right, the source of water and potential effects on other water rights. However, a 1997 law allows some water right holders to construct and use replacement or additional wells without going through the water right change application process.

Note: This publication focuses on ground water uses that **require** a water right. Ground water uses that are exempt from a water right are covered in a separate Ecology publication entitled "The Ground Water Permit Exemption," publication #F-WR-92-104.

Q: Under what circumstances can I avoid going through the water right change application process?

A: Under state law, new wells that are located in the same area described as the point of withdrawal in the original or most recent public notice published for the water right may not need to go through the water right change application process if the following criteria are also met:

- Your water use is authorized by an existing ground water permit or certificate. Rights that are documented by a water right claim can not use this alternative.
- Your new well must tap the same body of public ground water as the original well.
- The construction and use of your new well cannot interfere with any existing wells or impair water rights with an earlier priority date – including **both** surface and ground water rights that have more seniority.
- You have submitted a "showing of compliance" with these conditions to Ecology. (More information on "Showing of Compliance" is listed on page 3).

Note: You should contract with a licensed well driller before you even begin the process of adding a new well. In Washington, well drillers are licensed by Ecology and should be familiar with state and local well permitting and construction requirements, including submitting a start card to Ecology, proper well construction and decommissioning and submitting a well log to Ecology after the well is completed. It's a good idea to ask about these requirements when choosing to hire a well driller.

Q: If I don't meet the criteria, how do I apply to have my ground water right or claim changed?

A: The ground water right permit, certificate or valid water right claim holder may file an "Application for Change of a Water Right" to an existing water right. The water right change application can be downloaded from Ecology's Web site at: <http://www.ecy.wa.gov/programs/wr/rights/water-right-home.html> or you can call any Ecology regional office (listed at the end of this document) to request an application.

Q: Do I need to fill out a water right change application if I drill my replacement or additional well in the same location as my original well?

A: You are not required to file a water right change application if your replacement or additional well is in the same location as the original well or wells. (The location of the original well is defined as the area where "the location of the point of withdrawal" is in the original or most recent public notice published for the water right). The location is often described as a quarter-quarter section. Occasionally, the described area may be something larger like a quarter section or smaller such as a single lot within a subdivision. You may need to contact your local Ecology regional office to obtain a copy of the original or most recent public notice. If your new well is not in the same location described in the original or most recent public notice, you are required to submit a water right change application to Ecology.

Q: Can I increase the amount of water I pump by constructing additional or replacement wells?

A: You are not allowed to pump more water than you reasonably need to fulfill the beneficial use authorized under your existing water right or the amount of water that has been historically available to you through your current pumping facility. If you want to increase the amount of water that can be pumped, you must either acquire a new water right or acquire existing water rights and transfer them to your property. Both of these options require an application to Ecology.

Q: How will I know if my replacement or additional well is tapping the same body of public ground water as the original well?

A: If the new well or wells are located in close proximity to your original well and draw water at about the same depth, it is likely that the new well is withdrawing water from the same body of public ground water. If you are uncertain, the surest method is to hire a licensed hydrogeologist to make the determination. Please contact your local Ecology regional office for technical assistance and advice regarding ground water source determinations.

Q: How will I know if my replacement or additional wells will interfere with or impair surface water rights with an earlier priority date?

A: Water rights with earlier or "senior" priority dates can be either surface or ground water rights. To avoid impairing any senior surface water rights, Ecology advises that you not drill your new well closer to any nearby streams than your original well.

Q: How will I know if the new well has been drilled too close to my neighbor's well?

A: Generally, the new well should not impair other ground water wells if it:

- Pumps no more than the historic water withdrawal from the original well.
- Is located in close proximity to the original well.
- Is about the same depth.

Ecology has a well-log database that can be accessed by the public (please visit the Ecology Web site at: <http://apps.ecy.wa.gov/welllog/>.) You can use this database to determine if there are other wells in the vicinity that may be affected by pumping from the new well. If the new well is located a distance away from the original well, it is strongly recommended that you hire a licensed hydrogeologist to perform an investigation. If your new well adversely affects a nearby ground or surface water right, you can be held responsible for the impairment. Please contact Ecology for technical assistance.

Q: What needs to be done with the well or wells I am no longer using?

A: Once the new well construction is complete, please decommission the original well if it is no longer being used. If you continue to use the original well, the total combined withdrawal from the original and new well can not exceed the amount of water described in the original water right permit or certificate. You cannot simply quit using your original well. The well must either be used as a production well, emergency well, monitor well, etc., or it must be properly decommissioned by a licensed well driller. This is done to protect pollutants from getting into area ground water supplies. If the original well is decommissioned, the decommissioning must meet state requirements. Your well driller should be familiar with these requirements.

Q: Can I deepen my original well or replacement well?

A: You may deepen the original well or replacement well, as long as you remain in the same body of ground water. You should consult Ecology or a licensed hydrogeologist for advice about how best to deepen your new well. Merely deepening an existing well does not require you to notify Ecology, provided you remain within the same body of ground water.

Q: Can I add a new well or construct a replacement well that is exempt from the state water right requirement?

A: Many small ground water uses are exempt from the ground water permit system (see RCW 90.44.050). On November 18, 2005, the state Attorney General's Office issued a formal opinion regarding how the groundwater exemption, especially for watering livestock, should be applied. There are four types of groundwater uses exempt from the 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 groundwater withdrawals.

Q: I understand that Ecology has a "Showing of Compliance" form. Will I need to use it?

A: The form entitled "Showing of Compliance with RCW 90.44.100(3)" can be submitted after the additional or replacement wells are constructed. Please contact your local Ecology regional office to request the form. The staff will also be able to assist you with any questions you might have. In lieu of the form, you

can also write Ecology a letter that addresses all the requirements under state law. Be sure to **sign the letter and have it notarized.**

Q: What happens once my compliance form or letter is submitted to Ecology?

A: Ecology reviews the form or letter to make sure it has been completed fully and identifies the appropriate well log and compares the information for accuracy. Once the review is finished and the new point of withdrawal is recorded in the department’s water right tracking system, the form and well log are filed with the water right records kept by Ecology. If you request it, the agency will send you a letter confirming we have received and recorded your “Showing of Compliance” form.

Note: With a “Showing of Compliance,” Ecology does not perform an investigation of the proposed change. The document will be reviewed and the information recorded. It is your responsibility to make sure that the information supplied to Ecology is correct. Your notarized signature will be on the form or letter submitted to Ecology and you will be responsible to defend the document if its accuracy is ever questioned.

Q: Is there other information that should be submitted along with my “Showing of Compliance” form or letter?

A: Yes, please submit the well log – also called the “Water Well Report” – prepared by your well driller as well as any additional information (hydrogeologic reports, decommissioned well log, etc.) you have to support your “Showing of Compliance.”

Q: Can a “Showing of Compliance” or equivalent be used to replace or add a well if the original well is being operated under a water right claim?

A: No, state law only allows the “Showing of Compliance” to be used for ground water right permits and certificates. Water right claims do not require a public notice or the usual investigation by Ecology. However, you should be aware that any wells that are added or replaced under a documented water right claim require you to file a water right change or transfer application.

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

Northwest Regional Office

3190 - 160th 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

More information on wells and well construction can be accessed through Ecology’s Web site at:

<http://www.ecy.wa.gov/programs/wr/wells/wellhome.html>

If you require this publication in an alternate format, please contact the Water Resources Program at (360) 407-6600 or TTY (for the speech or hearing impaired) at 711 or 800-833-6388.