

Emerging Issue: Municipal Water Law and Permit-Exempt Wells

Under RCW 90.44.050, certain specific groundwater uses are authorized without requiring a water right permit (also referred to as “permit exempt wells”):

- Any withdrawal for stock-watering purposes (unlimited quantity);
- Watering of a lawn or of a noncommercial garden not exceeding one-half acre;
- Single or group domestic uses not exceeding 5,000 gallons a day; and
- Industrial purposes not exceeding 5,000 gallons a day.

RCW 90.03.015 defines a "Municipal water supplier" as an entity that supplies water for municipal water supply purposes. "Municipal water supply purposes" is defined as a beneficial use of water for:

- Residential purposes through 15 or more residential service connections;
- Providing residential use of water for a nonresidential population that is, on average, at least 25 people for at least 60 days a year; or
- Governmental or governmental proprietary purposes by a city, town, public utility district, county, sewer district, or water district.

A “residential service connection” is specific to where a water system provides water through pipes and other interconnected infrastructure to separate residences. Washington [Department of Health rules](#) provide more details for this term.

The law does not authorize “municipal water supply purposes” under a water right permit exemption. Thus, any water system that meets the definition of a municipal water supplier requires a water right, even if the quantities of water used are less than 5,000 gallons per day. Several types of development projects are affected by this limitation on the use of permit-exempt wells.

H-2A Farmworker Housing

Under the [H-2A visa program](#), employers must provide safe and clean housing at no cost to H-2A workers who are not able to return to their residence daily, or ensure workers have access to adequate housing. Housing provided for farmworkers meets the definition of municipal water supply purposes if it serves a nonresidential population of at least 25 people for at least 60 days per year.

A landowner must obtain a water right for the building’s water supply when proposing to construct new housing for H-2A farmworkers if the use meets the municipal supply definition. A water right is required for municipal supply uses even when the quantity of water used will be less than 5,000 gallons per day. In some circumstances, a municipal supply purpose water right may be obtained through a transfer and change of a small portion of an irrigation water right. When possible and with early coordination, Ecology will expedite these applications to facilitate landowners providing safe housing for H-2A farmworkers.

Small facilities owned by local governments

Local government facilities are needed for a range of uses, such as for office buildings, equipment or supply storage, etc. The water supply for those facilities is often obtained by connecting to a larger municipal water supply system. Sometimes, those facilities are in areas not served by an existing water system and a new water system must be developed for the use. If the local government is a city, town, public utility district, county, sewer district, or water district, any water supply system owned by that entity for governmental or governmental proprietary purposes is a municipal water supply (RCW 90.03.015(4)).

Ecology and the Department of Health have an agreement on the review and approval of the water system plans required for municipal water suppliers. When a local government is required to create or modify a water system plan to develop a new facility, Ecology will evaluate the associated water right portfolio.

Due to limited water availability, obtaining a new water right may be challenging for a new facility that is outside of an existing municipal water system. When possible, local governments identified in RCW 90.03.015(4) developing new facilities are encouraged to work with their local permitting authorities to plan their projects so that they do not require Ecology review of a water system plan.

Subdivisions

All subdivisions must include provisions for adequate water supply. Water supply for a subdivision can come from an existing municipal water supply system, through the creation of a new municipal water supply system, or from permit-exempt wells.

Subdivisions may rely on permit exempt wells, when **all** of these conditions are met:

- Total quantity of domestic water use (all homes combined) will not exceed 5,000 gallons per day on peak use days;
- Total amount of irrigated acreage for lawn and garden (all homes combined) does not exceed ½ acre; and
- No single water system will serve 15 or more residences, or be used for residential use by a non-residential population of 25 people for more than 60 days per year.

More details about the use of permit-exempt wells for subdivisions is found in Ecology's [Publication on the Groundwater Permit Exemption](#).

Contact:

Water Resources Program at 360-407-6872

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