

Practical Implementation of the Groundwater Permit Exemption

Bill Sullivan, LHG, CWRE
American Land and Water Consulting
Wenatchee, WA



Considerations for using the Exemption

- Legal authorization (Can I use it and how?)
- Area-specific restrictions (Is water legally available?)
- Lot size and well siting (Will my project even work?)
- Public water systems (Will my project be profitable?)

Authorization- What is a Project?

Ecology v. Campbell & Gwinn = One Exemption per Project

- Does not define a project

What. Co. v. Hirst, et al. = Counties determine water availability

- Does not require them to define a project

Ecology

- No Policy Document
- No Guidance Document
- No Attorney General Opinion

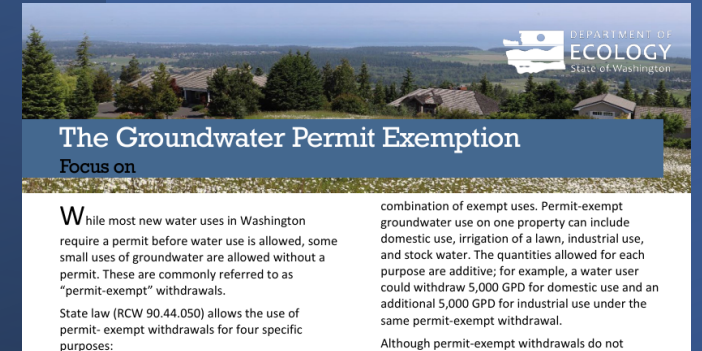
So, what is a project?

Authorization - What is a Project?

Ecology “Focus Sheet”, Publication 19-11-090

- Common Ownership
Nearby lots and subdivisions
- Common Effort
Infrastructure, agreements, marketing
- Common Timing
Sales, permits, construction

Revised in 2025 providing additional detail



Helpful, but...

Authorization - What is a Project?

Some Questions Remain:

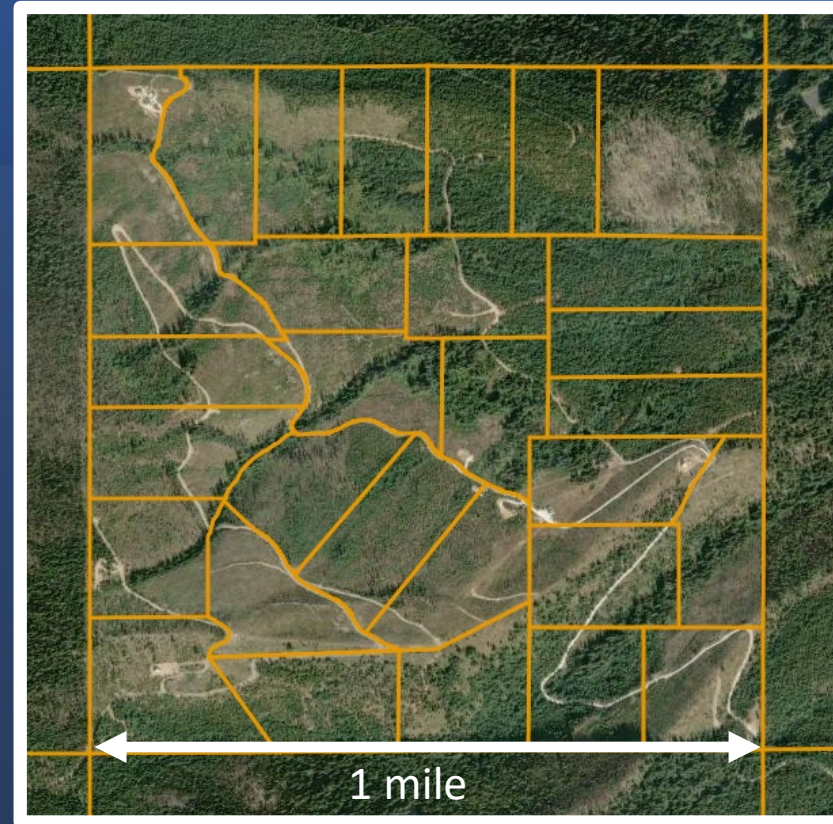
- Must one or all three criteria apply?
- Is there a lot-size threshold?
- How far back does ownership apply?
- Is a common road allowed?
- Can new lot owners develop on their own timeline?
- What about non-subdivision projects (e.g. Farm Worker Housing)?

Lack of clarity = disparity

Authorization- Is this a Project?



Small Lot Subdivision



Large Lot Subdivision (20+ ac)



Farm Worker Housing on Large Ranch

What Can I do with it?

Authorized Uses:

- Domestic (single and multiple) up to 5,000 gpd
- Industrial (inclusive of commercial) up to 5,000 gpd
- ½ acre of non-commercial lawn/garden – no gpd limit
- Stockwater – no gpd limit

Stackable (one of the last good deals)

What Can I do with it?

Subdivisions

- 14 Connections (5,000 gpd / 350 gpd)
- 1,555 sq-ft of lawn/garden (~30 x 50 ft)

Storage for Fire Fighting

- Small impoundments (RCW 90.03.370(8))



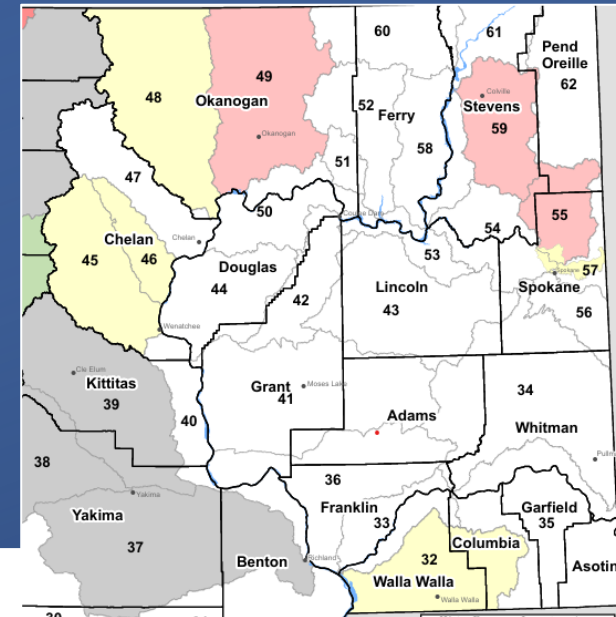
Actual Peak Water Use (14 lots)

Domestic ~4,900 gpd

Lawn ~5,200 gpd (Spokane in July)

Area-Specific Restrictions

- Closed basins (sediments, bedrock, both)
- Instream flow rule basins
 - ✓ Reservations, mitigation requirements, Hirst Fix (RCW 90.94)
- Appropriated basins (e.g Lake Chelan)
- Public water system service areas
 - ✓ Duty to Serve (WAC 246-290-106)



Lot Size and Well Siting

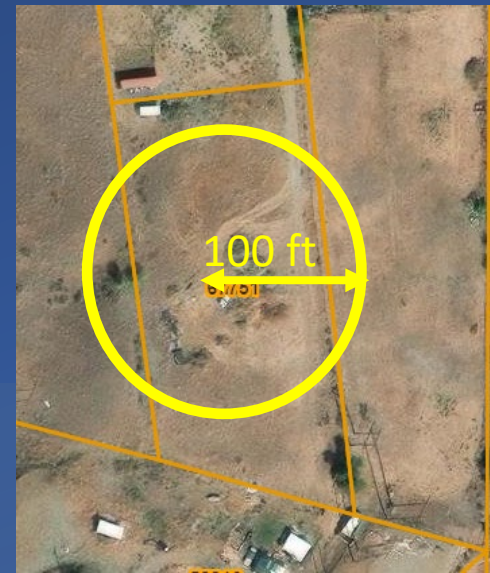
Minimum lot size

- ✓ Self-supplied + gravity septic = 2.5 acres (WAC 246-272A-0234)
- ✓ 100 –ft setback from drainfields (WAC 173-160-171)

Local agencies requiring 100-ft setback from property line

If using community well (public water system)

- ✓ Lots can be as small as 1/3 acre (~13,000 sq-ft)
- ✓ Depends on soil type and treatment



Public Water Systems Often Required

Public Water Systems

Exemption allows up to 14 connections

Group B = 14 connections or population of 24 (RCW 70A.125.010)

- ✓ Population limit of 24 = 9 connections
- ✓ Cost often the limiting factor – same requirements as City of Spokane
- ✓ Group B = local health district + <\$50k + < 1 year
- ✓ Group A = WA DOH + >\$100-200k + 1-2 years

For What it's Worth

Agencies: Provide specific guidance for what defines a project to ensure consistency - Ecology? - Department of Commerce?

Developers: Consider appealing decisions based on uneven application of project definition

Washington DOH: Consider creating a Group B+ category for Lots 10-14

Legislature: Consider exempting all water for drinking, cooking, and bathing from the Water Code



Bill Sullivan, LHG, CWRE
bill@americanLW.com