

Montana residents are encouraged to speak their piece regarding the use of ground water without the requirement of a permit during a series of meetings in June.

The committee meets in Bozeman, Kalispell, and Hamilton. Those areas experienced an influx of exempt wells in recent years. That activity, along with proposals to revise the law and administrative rules, prompted the 2011 Legislature to require the WPIC to study exempt wells. The committee shall provide a report to the 2013 Legislature "that provides clear policy direction and necessary legislation to guide Montana's policy" on exempt wells.

While the meetings take place in western Montana, the issue and proposed legislation could have statewide effects.

An exempt well is a water well that pumps at a rate of less than 35 gallons per minute and produces less than 10 acre feet of water a year does not require a permit prior to drilling. It is estimated that a home with an acre of lawn uses less than 2.5 acre-feet a year. (An acre foot is equivalent to a foot of water covering a football field).

Water use permitting is dictated by law and administered by the Department of Natural Resources and Conservation. The agency determines if water is physically available and if existing water users would be harmed by the proposed diversion. This includes an analysis of the effect a ground water well may have on a river or stream.

Current water users may object to the permit application and the applicant may have to change the proposal or perform mitigation in order to obtain a permit. That analysis does not apply to exempt wells.

There are more than 113,000 exempt wells statewide. About 56,000 exempt wells have been drilled since the current law took effect in 1991. Of those, about 26,000 were drilled for domestic purposes in areas of the state that are closed to most types of surface water appropriations.

The WPIC study must:

- ▶ determine the number of existing wells and estimate how many wells may be drilled over the next decade;
- ▶ summarize the beneficial uses of water from exempt wells;
- ▶ analyze the amount of water necessary for various uses compared to the amount allowed by law;
- ▶ explore options to provide accurate measurement of exempt well water use;
- ▶ examine options to ensure exempt wells don't exceed allowed limits or affect other users;

- ▶ examine applicable research and analysis conducted by the ground water investigation program at the Montana Bureau of Mines and Geology;
- ▶ analyze how the water appropriated by exempt wells may affect surface water appropriations; and
- ▶ examine the legal options for integrating exempt wells into the principle that first in time is first in right when senior water rights are not fulfilled.

The WPIC also shall study:

- ▶ the statutes, rules, programs, and policies of other states for exempt wells, including legal challenges;
- ▶ the adequacy of existing programs and tools including controlled ground water areas, mitigation banks, community water system incentives, and in-lieu-of-fee programs;
- ▶ the relationship between exempt wells and land use decisions, including the relationship between exempt wells and individual septic systems, the cost comparison of installing public water systems or extending existing water infrastructure, and the role of local governments in requiring alternatives to exempt wells; and
- ▶ the rulemaking authority of the DNRC in relation to the statutory policy and purpose provided for in law.

The committee wants public comment on five proposed bills related to exempt wells as well as other ideas.

The proposed bill drafts are:

- Establishing by law that the water used by exempt wells in the counties of certain size must be offset with mitigation water. (LC8000)
- Requiring that larger, denser subdivisions install public water systems, which would most likely also require a water use permit. (LC8001)
- Reducing the volume allowed under the exemption. (LC8002)
- Lowering the exemption limit on volume for wells drilled in unconfined aquifers, which are more likely to be connected to surface water used by senior water right holders. (LC8003)
- Limiting new subdivisions to an exemption of 35 gallons a minute and 10 acre-feet a year using one or more wells. Appropriations of more water would be subject to permitting. (LC8004)

The scheduled meetings to provide comment are:

- ▶ June 19, Bozeman, Gallatin County Courthouse, 311 W. Main St., Rm. 306, 7:00 p.m.
- ▶ June 20 - Kalispell, Red Lion Inn, 20 N. Main St., 7:00 p.m.
- ▶ June 21, Hamilton, Bitterroot River Inn, 139 Bitterroot Plaza Dr., 7:00 p.m.
- ▶ July 12-13, Rm. 172, State Capitol
- ▶ Sept. 10-11 Rm. 172, State Capitol

Comments also may be made in writing:

- ▶ jkolman@mt.gov
- ▶ Water Policy Interim Committee
Rm. 171B, State Capitol Building
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For more information visit www.leg.mt.gov/water or contact Joe Kolman, committee staff, at 406-444-3747 or jkolman@mt.gov.