

*WPIC Panel Discussion:
Necessity of Providing an Exemption
from the Permitting Process*

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The REALTOR® Viewpoint

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REALTOR® Position Statement

- “REALTORS® support no changes to the exempt well statutes, regulations, or interpretation of those statutes or regulations as of January 1, 2006. REALTORS® believe that exempt wells must be preserved as a source of water supply for those who cannot connect to an existing public water system. The use of exempt wells is, in part, a response to the difficulties associated with permitting new water rights and transferring existing water rights. Until and unless the water right permitting process is made more efficient, exempt wells will remain the only practical, and frequently the only, source of water in rural areas.”

Benefits of Exemption

- De minimis net consumption
- Enables property owners to subdivide in rural areas
- Allows small subdividers to achieve housing affordability
- Facilitates family transfers without getting bogged down in a costly and uncertain permit process

Detriments of Exemption

- Insofar as exempt wells are associated with septic systems, water quality could become a problem in the future for some high-growth areas
 - Site- or area-specific
 - There are options

Impacts of No Exemption

- Public systems are not practical or feasible for the vast majority of small subdivisions
- Subjecting small subdividers to costly permit process
 - HB831 – hydrogeologic assessment for exempt wells in closed basins?
- One-size-fits-all policy could be detrimental to local economies, e.g. housing affordability
- VOID – general lack of local gov't planning = no alternatives

Alternatives – Permit Process Reform

- Create a fast-track permitting process for public systems?
- Other possibilities
 - Objections (address frivolous objections)
 - Criteria to determine credibility of objections
 - Objectors must demonstrate hydrologic connection
 - Process
 - Set specific process timelines
 - Correct and complete application with no objections = permit

Alternatives – Local Land Use Planning

- Local communities generally are not planning ahead for growth, especially *infrastructure planning* in high growth areas
- REALTOR® Position Statement on Infrastructure:
 - “Infrastructure, including repair and maintenance of existing infrastructure as well as building new infrastructure, is an important investment in the growth of society, the economy, and our quality of life. Infrastructure – roads, bridges, **water and sewer systems**, along with schools and parks – provides the essential foundation to a healthy economy. Investing in well-planned, properly financed public infrastructure helps accommodate and direct growth to benefit the whole community.” (emphasis added)
- Opportunities
 - Senate Bill 201 – city/county coordinated planning
 - Legal impact fees
 - Establish state infrastructure fund

Is Change Necessary? – Water Quantity Perspective

- Surface water flows – consumptive use of exempt wells (af/y) compared to annual stream flow (af/y):
 - Gallatin County (Gallatin River) = .2%
- Gallatin County – subdivision net consumption of ground water has not caused a detectable change in stream flow data in the Gallatin River from 1930s to 2000s

Is Change Necessary? – Water Quantity Perspective

- Other high growth areas (estimated)
 - Missoula County (Clark Fork River) = .18%
 - Flathead County (Flathead River) = .09%
 - Lake County (Flathead River) = .02%
 - Ravalli County (Bitterroot River) = .58%
 - Jefferson County (Jefferson River) = .11%
 - Broadwater County (Missouri River) = .02%
 - Lewis and Clark County (Missouri River) = .12%
 - Stillwater County (Yellowstone River) = .07%
- Expand Gallatin analysis to other high growth areas

Is Change Necessary? – Water Quantity Perspective

- **Water balance**

- Historical irrigation from ag compared to current irrigation from subdivisions
- Subdivisions going in on formerly irrigated ground actually result in less net consumption than what was historically consumed for irrigation
- Less impact on surface water flows

- **Ground water levels**

- MBMG statewide monitoring program demonstrates a general lack of decline of ground water levels from well pumping (exempt, public, and irrigation)

Is Change Necessary? – Water Quality Perspective

- Studies of nutrients and microbial trends from domestic and monitoring wells located in mature subdivisions in the Gallatin Valley (Dr. Custer)
 - Nitrate levels range from .9 to 2.2 mg/l
 - Fertilizer and organic soils predominant contributors
 - Some mature subdivisions show upward trend over 25 year period, but well below human health standards
- Conduct similar studies in other high growth areas
- Challenge – pharmaceuticals

Is Change Necessary? – Water Quality Perspective

- Water quality issues are generally site- or area-specific
- Options to address water quality concerns locally
 - Controlled ground water area (MCA 85-2-506 through 508)
 - 16 CGWAs in the state
 - Local water quality districts (MCA 7-13-45)
 - Local land use planning – infrastructure planning to encourage public systems or hookup to municipal services

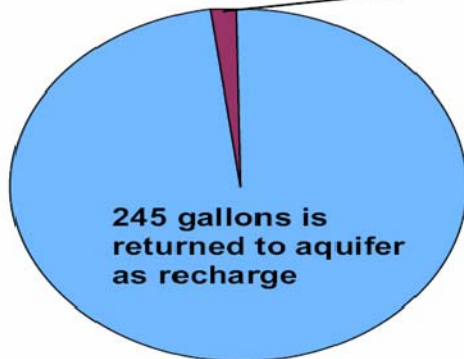
Types of Uses - Residential - Household and Lawn & Garden Irrigation

- Household net consumptive use
 - Generally 2% of use
 - .006 acre feet per household per year
 - Remainder is returned to aquifer
- Lawn and garden net irrigation consumptive use
 - $\frac{1}{4}$ acre = .24 af/y
 - $\frac{3}{4}$ acre = .71 af/y
 - 3 acre = 2.86 af/y

Types of Uses - Residential - Household and Lawn & Garden Irrigation

Summary of What Happens Typical Residential Pumping Well (0.25 acres of lawn/garden)

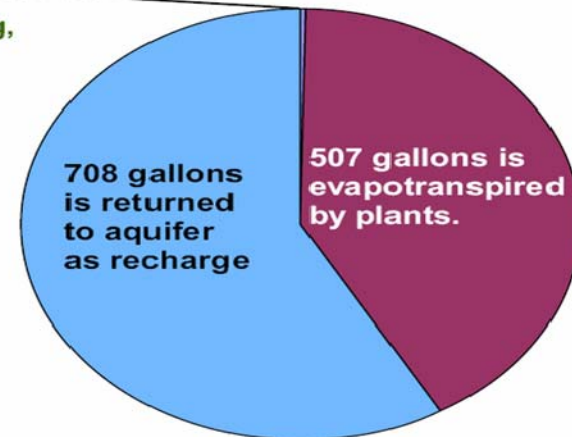
*250 gallons of water
pumped per day
(non-irrigation season)*



Daily Average Well Pumping Rate
= 0.17 gallons per minute (most
returning to ground water as recharge)

Total Annual Consumption = 0.006 ac-ft

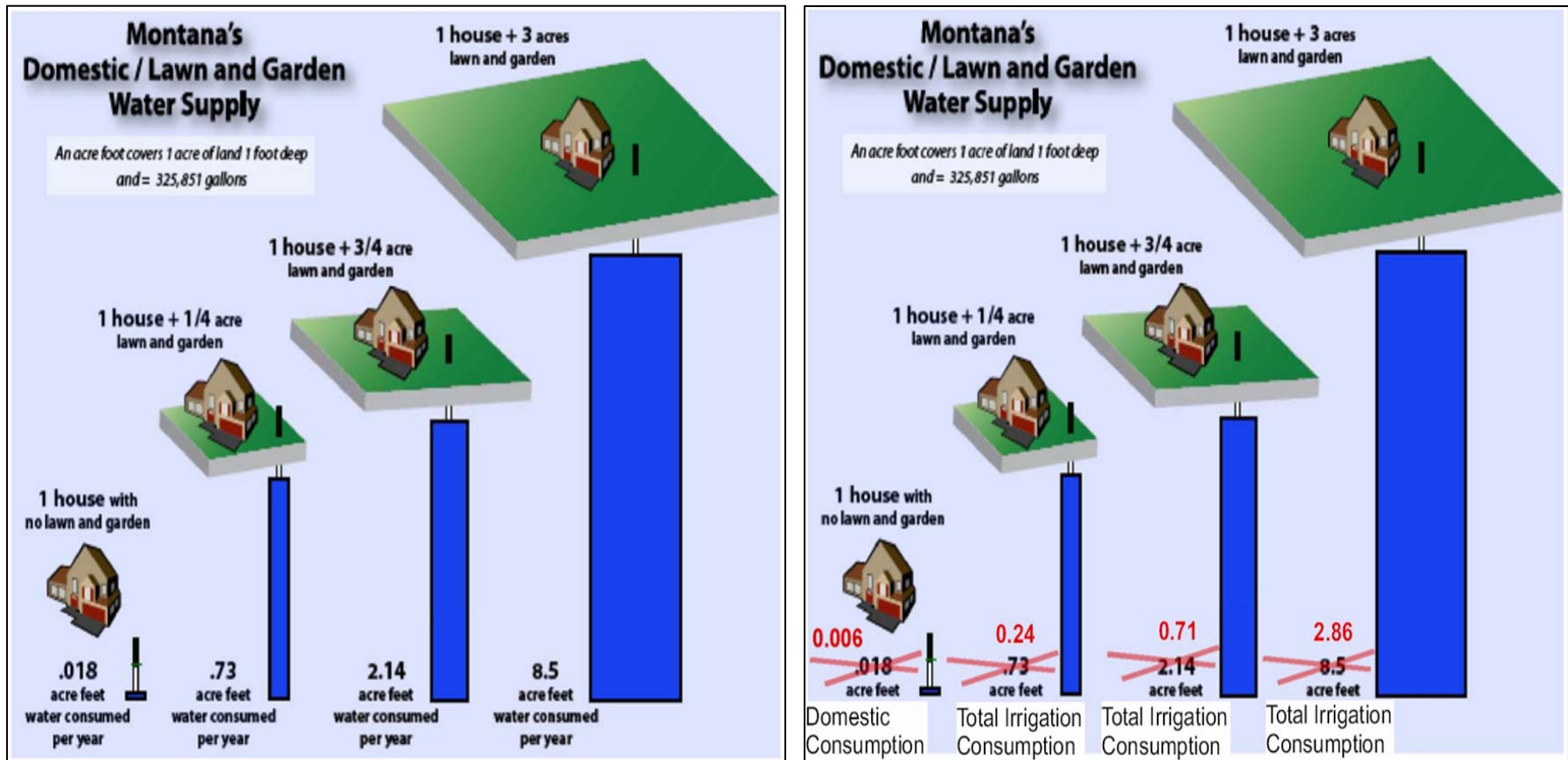
*1,220 gallons of water
pumped per day
(153 day irrigation season)*



Daily Average Well Pumping Rate = 0.85 gallons
per minute (more than one-half returning to ground
water as recharge)

Total Yearly Net Irrigation Consumption = 0.24 ac-ft

Types of Uses – Residential – Household and Lawn & Garden Irrigation



Considerations

- Water Use Act not appropriate tool to regulate growth
- Base policy on science – evidence of significant impacts or assumptions?
- Conduct water balancing
 - Historical irrigation versus current irrigation
 - Water balance in high growth basins
 - Provides info that local communities can utilize in their land use planning process
- Reform the permit process
- Avoid one-size-fits-all proposals – consider local options
- Cognizance of impact on local economies, especially housing affordability