

Exempt Well Options

Previously Discussed by WPIC

Prepared for the 2011-12 Water Policy Interim Committee
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For the September 2011 meeting, the WPIC directed staff to present previously discussed options related to exempt wells. This list is adapted from the 2008-09 paper labeled Water a la carte, which was produced in conjunction with DNRC, DEQ, Trout Unlimited, Montana Association of Realtors, and the Senior Water Rights Coalition. FWP and the MBMG also provided input. That menu dealt with water and wastewater management. This adaptation deals with options discussed that relate to exempt wells.

Exempt Wells

- 1) **No change.**
- 2) **Limit exemption**
 - a) Delete exemption
 - (1) Delete exemption in closed basins.
 - b) Revise 35 GPM/10 AF
 - c) Exemption for stock only on certain size acreage
 - d) Exemption for 1 well on a tract of record.
 - e) Exemption for domestic use only, 1/4 acre lawn/garden. No ponds or other uses
 - f) Establish minimum size – acreage or number of lots
 - g) Establish maximum density
 - h) Require 90% returned to aquifer
 - i) Limit on AF per house
 - j) Exemption for public water supply
- 3) **Enforce exemption**
 - a) Require meters or flow restriction devices
- 4) **Define “combined appropriation” in statute?**
 - b) Two or more wells from the same source where a single well would accomplish the same purpose. (Pre-1993 DNRC rule)
 - c) Two or more wells from same source in a project or development.
 - (1) Define project or development (Number of lots?)
 - d) Delete term from statute
 - e) Delete “same source” or define clearly
 - f) No change (keep current DNRC rule). Two or more wells physically manifold into the same system.

Establishment of Mitigation Area and Purpose

- 1) **Regulate or mitigate small wells in by area**
 - a) Exempt wells
 - (1) Statewide

- (2) Closed basins
- (3) Subbasins created by rule or law subject to 85-2-319
- (4) Controlled ground water areas
- (5) Newly-established mitigation areas
 - (a) Created by:
 - (i) Legislature (statute or DNRC rule making authority).
 - (ii) By request or petition of local government or some other entity. (DNRC rule making authority needed)
 - (b) Based upon:
 - (i) A radius outside a city limit
 - (ii) A certain density
 - (iii) Zoned areas (limited to areas where zoning in place).
 - (iv) Site specific criteria? (MBMG studies?)
 - (v) Availability of mitigation water storage.

Implementation of Mitigation

1) Minimal administration

- a) Revise marketing laws to allow for preapproved mitigation water, protected from abandonment and not considered speculation. **(Passed 2011- HB24)**
 - (1) Buyers and sellers find each other
 - (2) Create a listing service for preapproved mitigation water
- b) Provide incentives making mitigation water available
 - (1) Expedited change processing
 - (2) Waive fee for change application

2) Create a water bank to oversee and facilitate water marketing

- a) Include provisions of Option 1
- b) Entity that would administer water bank
 - (1) DNRC
 - (2) Entity that administers a mitigation area
 - (3) Water conservancy districts. (85-9-405 - acquire by purchase, exchange, gift, lease, grant, devise, or otherwise lands, water, water rights ...)
 - (4) Conservation districts (76-15-403 - execute projects for the conservation, development, storage, distribution, and utilization of water, including but not limited to ... supplying water for fire protection, livestock, or public, domestic, industrial, or other uses.
 - (5) County water districts (purchase, lease, or otherwise acquire and operate and maintain water rights – 7-13-2218).
 - (6) Private entity? (Nonprofit or for profit)
- c) Source of water to “hydrate” the water bank
 - (1) Voluntary deposits
 - (2) State or local entity purchase of water (or change from current use)
 - (a) Lease from Bureau of Reclamation
 - (b) Water from state projects
 - (c) State-owned rights (instream flow, trust lands, other).
- d) Monitoring of mitigation.

3) Price structure of water in bank

- a) Negotiated by buyer/seller.
- b) Set by state or other entity

Promote public water & sewer in subdivisions

- 1) Clarify county government authority to require public water and sewer
- 2) Increase 500 foot requirement for hook up to public systems. (Current rule)
- 3) Create a loan program to fund public water and sewer systems as an alternative to individual wells and septic systems in subdivisions
 - a) Revise RRGL program to allow loans to private entities
 - b) Create revolving loan program