



Newly Adopted Legislation Regarding Permit Exempt Wells and the Hirst Decision

Updated April 9, 2018

On January 18, 2018, the Washington State Legislature approved legislation to address the water availability issues resulting from the Washington Supreme Court's 2016 decision in *Whatcom County v. Hirst* (commonly known as the Hirst Decision). The following day Governor Jay Inslee signed Engrossed Substitute Senate Bill ("ESSB") 6091. Since the Bill was designated as an emergency action, the Bill went into effect on January 19, 2018. The adopted statute resolves the water availability issue for new domestic water withdrawals from exempt wells by transferring the responsibility for determining water availability and mitigating impacts from future water withdrawals to the Washington State Department of Ecology (DOE).

This legislation applies to all building and subdivision applications in unincorporated King County that rely on new connections to permit exempt wells installed after January 18, 2018 located in water resource inventory areas (WRIA) 7, 8, 9, 10 and 15. By June 30, 2021, DOE is required to prepare and adopt a watershed restoration and enhancement plan for each of these WRIA's. DOE has an additional two years to adopt rules implementing these plans.

Until these restoration plans have been developed and rules adopted, to comply with the other provisions of this statute, the King County Department of Local Services, Permitting Division (Permitting) will be requiring the following for each building permit or subdivision application that is dependent upon new connections to permit exempt wells installed after January 18, 2018:

- Payment of \$500 for each building permit application;
- Copy of the DOE Water Well Report;
- Permit conditions and recorded legal documents that:
 - Limit withdrawals to domestic use only to a maximum annual average of 950 gallons per day (gpd) per connection, up to a maximum of 5000 gpd per well.
 - Limit water withdrawals to 350 gpd for interior use only under declared drought conditions;
 - Require management of stormwater on-site, maximizing infiltration and low impact development techniques, to the extent practicable;
 - For properties located within an approved water service area, require connection to public water when service becomes available.

Permit Exempt Wells and the Hirst Decision, continued

Conditions restricting water use may not be removed until authorized through rules adopted by DOE implementing the watershed restoration and enhancement plans for the WRIA your property is located within.

If you have any questions, please call Permitting at 206-296-6600 or email DPERWebInquiries@KingCounty.gov .