

**WAC 173-532-050 Protection of surface water rights from future permit-exempt groundwater appropriations from the gravel aquifer.**

Where connection to an existing municipal water supply cannot be provided in a timely and reasonable manner, the following exceptions to the gravel aquifer closures in WAC 173-532-040 shall apply:

(1) Permit exempt withdrawals for purposes other than stockwatering may occur in the area that drains to the Snake and Columbia rivers (Burbank area), consistent with the requirements set in RCW 90.44.050.

(2) Permit exempt withdrawals may occur in areas with a zoned density equal to or more dense than one residence per ten acres (high density areas). However, future withdrawals from the gravel aquifer in the high density areas shall be limited to only domestic uses and outdoor uses, such as irrigation of lawn and noncommercial garden, outdoor washing, etc. Outdoor uses for the purposes of this subsection do not include stockwatering. The total amount of water that may be withdrawn shall not exceed the amounts specified in (a) and (b) of this subsection.

(a) For any one residence, one thousand two hundred fifty gallons a day (1,250 gpd).

(b) For multiple residences that are part of a group use in addition to the limitations in (a) of this subsection, the combined maximum water withdrawal for the development shall not exceed five thousand gallons per day (5,000 gpd).

(3) Permit exempt withdrawals for purposes other than stockwatering may occur in areas where the zoned density is less than one residence per ten acres, but must be consistent with the requirements set in RCW 90.44.050.

(4) Permit exempt withdrawals for stockwatering may occur as long as the water use from an exempt well in the gravel aquifer does not exceed: Seven hundred gallons per day (700 gpd) on a legal lot of record size of ten acres or less; two thousand five hundred gallons per day (2,500 gpd) on a legal lot of record size between ten and twenty acres; or five thousand gallons per day (5,000 gpd) on a legal lot of record size twenty acres and greater. Feedlots or other activities not related to normal grazing land uses are not considered stockwatering for the purpose of this chapter.

(5) All future appropriation from the gravel aquifer in the high density areas, including for stockwatering, shall be required to install and maintain a water measuring device (water source meters) meeting specifications provided by the department. The user must report to the department, by December 31 of each year, monthly water use from May 1 to November 30.

(6) To avoid and/or mitigate cumulative impacts on existing water rights (which for purposes of this chapter are considered to include the instream flows established herein and the seasonally closed water sources), new permit-exempt users from the gravel aquifer in the high density areas must provide water-for-water mitigation, meaning equivalent quantities of water, for any outdoor water use from May 1 to November 30. The effect of this mitigation requirement shall be delayed until May 1, 2008; however, if the ecology director finds that despite diligent and committed efforts, mitigation arrangements for new users cannot be reasonably obtained by that date, the director may grant an extension of up to one year. After May 1, 2008, any such withdrawal for outdoor uses commenced after the effective date of this rule must have mitigation in place during all times that the withdrawal occurs. This means that even if a withdrawal for outdoor uses commenced before May 1, 2008, that withdrawal is subject to the outdoor mitigation re-

quirement after that date. Any such outdoor water use that occurs prior to mitigation being in place is deemed illegal and the department may order the water user to cease and desist outdoor water use immediately as well as seek any other available administrative or judicial remedies.

(7) The department will keep records of all future permit-exempt groundwater appropriations from the gravel and basalt aquifers.

(8) In consultation with Walla Walla and Columbia counties, the planning unit and the Confederated Tribes of the Umatilla Indian Reservation, the department will develop a mitigation plan identifying methods and means, such as the use of the trust water right program under chapter 90.42 RCW, to assist future permit-exempt users to offset the impacts of their proposed water use, either individually or jointly.

(9) If the department determines, in consultation with Walla Walla and Columbia counties, the planning unit and the Confederated Tribes of the Umatilla Indian Reservation, that the impacts of outdoor water use from new permit-exempt wells in the gravel aquifer are not fully mitigated as required in WAC 173-532-050(6) and may impair existing rights, the department shall issue an order and public notice stopping all such use. The order and notice shall define the area for which the stoppage applies. The order shall continue until such time that adequate and reliable mitigation is in place.

(10) For purposes of this chapter the priority date of a withdrawal under the permit exemption in RCW 90.44.050, shall be the date upon which water is put to actual beneficial use on the subject property for the purpose of use in question. For domestic use, actual beneficial use shall not be considered to occur until water is used within a residential structure.

[Statutory Authority: Chapters 90.82, 90.54, 90.22, 90.03, and 90.44 RCW. WSR 07-17-007 (Order 04-08), § 173-532-050, filed 8/2/07, effective 9/5/07; Order DE 77-30, § 173-532-050, filed 12/14/77.]