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Local News   

Published: Tuesday, September 4, 2007

Julie Muhlstein

Columnist Julie Muhlstein's take on life in Snohomish County.



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WEEK IN REVIEW

Thursday



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# Abuse of water laws jeopardizes supply for people, fish

## Counties are asked to pay closer attention to housing projects claiming not to need a permit.

By Jeff Switzer, Herald Writer

Many rural housing projects in Snohomish County and elsewhere appear to be getting their drinking water by abusing state law in a way that could threaten water access for people and fish, state Department of Ecology officials said.

Hoping to avoid a future water war, state officials are asking counties across the state to increase the scrutiny given to rural housing projects that claim to be exempt from seeking a permit for water rights.

"We have concerns about the way counties are approving new subdivisions," said Ken Slattery, water resource program manager for the state Ecology Department. "We think it's kind of scary that counties are approving these things. It puts people at risk."

The county also has agreed to boost the scrutiny of permits, county planning and development services director Craig Ladiser said. The issue is complicated and needs clearly defined rules, he said.

"It's a mess. It's a big mess," Ladiser told the County Council this week.

The pressure of development is part of the problem, Ladiser added.

"People living in areas relying on wells are nervous about this," he said. "This is just another indication of rapid growth."

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**Number of wells**

**Number drilled statewide:**

2004: 7,504  
2005: 8,229  
2006: 7,237

**In Snohomish County:**

2004: 519 wells completed for the year  
2005: 498  
2006: 488  
2007: 337 as of Aug. 30

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### Wednesday



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### Tuesday



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### Monday



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### Sunday

Since 1945, state law has said rural homes and farmsteads aren't required to seek a water right permit if they are drawing 5,000 gallons or less annually from a well. By some calculations, that's enough water for about 14 homes.

But for years, builders have increasingly used the exemption for housing projects, Slattery said. The technique avoids getting in the years-long line for a water right permit.

Builders also have carved up projects into separate but adjacent neighborhoods, sometimes under shell companies, in an effort to claim several exemptions under state law, Slattery said.

"The exemption is being abused in much the same way around the state," he said. "People are continuing to find ways to find cracks between the seams on this without trying to get a water right."

The last straw for the state came in 1999. A developer proposed to build 20 homes on 20 lots with 20 wells in the Yakima River Basin, and claimed to be exempt from seeking a water right permit. The state Department of Ecology sued and won a ruling from the state Supreme Court that said there are limits to the water right exemption.

Despite the victory, it appears no one was in a position to closely monitor the ongoing problem.

County officials say the state has the authority to review and object to county-approved permits. State officials said the counties have a duty to carefully review applications for water availability. Health districts only review tests to make sure the water is safe to drink.

As development has boomed, especially in Snohomish County, the number of new wells drilled each year has held steady.

State records show about 500 new wells drilled in Snohomish County each year since 2004, and the numbers are holding that pace this year, as well.

Statewide, the figure is around 7,000 to 8,000 new drinking water wells drilled each year.

Meanwhile, hundreds of homes are in the works across rural Snohomish County. Applications just to build clusters of rural housing in Snohomish County have increased fivefold in three years. In 2004, the figure was 332; in 2006, it grew to 1,805.

It's unclear exactly how many will rely on well systems.

It's safe to say about 90 percent of new wells drilled across the state are claiming to be exempt from water right permits, Slattery said.

"In places where there are endangered fish and existing water rights downstream, our concern is we're heading for a real water supply crisis," Slattery said.

The worst case, he said, is that people someday will be told they aren't allowed to turn on their taps from their wells.

"That's a tough message," Slattery said. "We're working with the counties and making sure they're not approving development in inappropriate places."

The state bears some of the blame for the problem, Slattery said.

"Ideally, we should have had guidance out there a long time ago," he said. "We may be repairing damage from this for years, trying to catch up with these inappropriate developments relying on exemptions and legalize them with water rights."

The problem is most acute along the I-90 corridor, where resort projects and new housing have already maxed out available water, Slattery said.



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**Saturday**



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- KRKO begins work on new radio towers
- State Patrol gives a warning for weekend

**Friday**



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- Lynnwood man killed in motorcycle accident
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Builders are hard-pressed to go through the system to get water right permits for their projects. Slattery said it takes years, and the permit still might not be granted after all the effort and time.

The line is "so long it is not a realistic hope," Slattery said. Instead, builders sometimes try to transfer water rights, which is a faster process.

That leaves water permit exemptions as a method to move ahead.

A decade of rapid growth across the state has accelerated the construction of rural housing and compounded the problem, Slattery said.

In Western Washington, you can "drill a well almost anywhere and find water," Slattery said. "Is it legally available? Is it already spoken for? As a society, we're acting as though there's no limit to any of this, when really there are physical and legal limits to this."

The fight over water is never-ending.

"These water wars are as old as the Western United States itself," said Mike Pattison of the Master Builders of King and Snohomish Counties. "We don't have a lot of leverage in this battle."

The building industry has monitored the issue as the state has increasingly clamped down on water rights, and this move by the Ecology Department is just the latest effort, he said.

"It's part of a long-running dispute between Ecology and property owners," Pattison said. "Ecology won't stop until they get their way. It's part of an ongoing effort on their part to limit or completely eliminate the use of wells."

Ecology officials have already stepped up their scrutiny of some county building permits this spring, questioning paperwork on a 63-lot rural housing project in Arlington that appeared to be claiming an unlawful use of water.

The county is watching more closely for abuses of the water right exemption, Ladiser said.

Ladiser and Slattery said collaboration is necessary.

"The consumption of water one of the bigger issues we'll face in the future," Ladiser added. "Because of the pressure of development on land uses, it's timely for us to get into this before it becomes a problem."

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