

Kittitas County to appeal ban on new wells

by DAVID LESTER
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ELLENSBURG, Wash. -- Kittitas County is asking Gov. Chris Gregoire to overrule the ban on well drilling imposed by the state Department of Ecology.

County commissioners say the temporary ban on new drilling in the upper county area is unnecessary -- possibly illegal -- and causing economic stress.

Commissioners will deliver the request to Gregoire's office in Olympia today.

"This could approach a crisis level in the county. We have projects on the ground that are waiting and people whose jobs are affected," said Commissioner Paul Jewell.

Ecology Director Jay Manning imposed a 120-day moratorium on new drilling in upper Kittitas County last week after two years of talks with county commissioners broke down over a plan to reduce the impact new wells are having on groundwater.

In a news release Tuesday, Kittitas County commissioners said they are acting now because they have seven working days since the ban went into effect to ask the governor to intervene.

A spokeswoman for Gregoire said her office is aware the request is coming. She was in Washington, D.C., testifying on federal legislation dealing with climate change and steps the state is taking to help create "green jobs."

Gregoire, who served four years as director of the Department of Ecology under former Gov. Booth Gardner, has made no public statements about the well-drilling ban or the increasingly contentious political fight over water in Kittitas County.

But commissioners made it clear which side they believe she should take. They called Ecology's ban "a strong-arm tactic" that is creating economic harm to local residents who are caught in the middle of the dispute between the agency and the county.

Under a 1945 state law, no state permit is required for new wells for single-family homes that draw up to 5,000 gallons a day. Wells for industrial uses and noncommercial home gardens and livestock are also exempt from permits.

Wells drilled for dairies and cattle operations has kicked up a similar battle over water; state law has always been interpreted as allowing unlimited water use for watering livestock.

The state estimates 750,000 exempt wells may exist statewide -- nearly 3,000 of them drilled in Kittitas County since 1998. Many of those new wells are supplying water for homes and weekend retreats for wealthy residents from the Seattle area. The Suncadia resort purchased senior surface water rights to supply its 6,400-acre development.

The Department of Ecology issued the well-drilling ban after senior rights holders -- including the Yakama Nation, irrigators and the city of Roslyn -- expressed concern that the uncontrolled growth of unregulated wells

constitutes a taking of their water and is affecting overall water supplies, including streamflows, in the upper county area west of Indian John Hill along Interstate 90.

Critics say state officials have no evidence that exempt wells are affecting surface water and senior rights.

Jewell said only 41 wells have been drilled in the county this year -- proof, he believes, that the ban is unnecessary -- and that the county remains willing to continue negotiating with Ecology on a groundwater management plan.

The talks broke down, he said, over an Ecology proposal to redefine the residential well and garden-watering exemptions as a single exemption for domestic use.

Ecology also challenged the county's request to the state attorney general for an opinion on that proposed change, Jewell said.

Joye Redfield-Wilder, spokeswoman for the Department of Ecology in Yakima, said she couldn't comment on details of the negotiations. But she said the agency also is willing to talk more with Kittitas County.

She said agency officials suggested that the county and Department of Ecology make a joint request to the attorney general for an opinion on the entire memorandum of agreement that was being negotiated.

"We felt it would be more productive to go forward together," Redfield-Wilder said. "We recognized the county has reservations."

As for objections to the well-drilling ban, Ecology officials are confident they're on firm legal ground and say they have a responsibility to protect the interests of senior water rights users.

"We believe we have the authority," Redfield-Wilder said.

Jewell contends the department is contradicting what the Legislature intended when the well exemptions were added in state law in 1945.

"This is clearly an attempt to do that ..." he said. "If Ecology wants to change the exemption, it needs to do so in the Legislature and not go county-by-county to achieve a political agenda. The county has no authority to enforce that."

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