Water Availability in Thurston County

Hirst Decision, ESSB 6091, and beyond...

Allison Osterberg
Senior Planner, Thurston County CPED

Thurston County Planning Commission
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Overview

• What is the Hirst Decision and why should we care?
• What did the “Hirst Fix” bill (ESSB 6091) actually fix?
• What happens next?

PLEASE NOTE:
• This is a County planner perspective
• I am not a legal expert on water law
What is the Hirst decision?
What is the \textit{Hirst} decision?

\textit{Hirst} ≠ Water Rights (primarily)

\textit{Hirst} = Growth Management requirement
Regulatory Framework: A Well Oiled Machine?

- Water Code (RCW 90.03)
- Growth Management Act (RCW 36.70A)
- Building Permit Applications (RCW 19.27.097)
- Subdivision Code (RCW 58.17.110)
- TC Sanitary Code (Article III)
- TC Zoning Code (TCC 20)
Water Code (RCW 90.03)

Growth Management Act (RCW 36.70A)

Building Permit Applications (RCW 19.27.097)

TC Sanitary Code (Article III)

TC Zoning Code (TCC 20)

Subdivision Code (RCW 58.17.110)

Instream flow rules (WAC 173)
Water Code (RCW 90.03)

First in time, first in right

Growth Management Act (RCW 36.70A)

Plan for future growth
“The power of the state to regulate and control the waters within the state shall be exercised as hereinafter in this chapter provided. Subject to existing rights all waters within the state belong to the public, and any right thereto, or to the use thereof, shall be hereafter acquired only by appropriation for a beneficial use and in the manner provided and not otherwise; and, as between appropriations, the first in time shall be the first in right. Nothing contained in this chapter shall be construed to lessen, enlarge, or modify the existing rights of any riparian owner, or any existing right acquired by appropriation, or otherwise.”
Instream Flow Rules
Thurston County WRIA Boundaries

- Lower Chehalis: 22
- Kennedy-Goldsborough: 14
- Deschutes: 13
- Nisqually: 11
- Upper Chehalis: 23
Exemptions (no permit needed)

- Stock-watering
- Watering of lawn or noncommercial garden up to ½ acre
- Domestic uses up to 5,000 gallons/day
- Industrial uses up to 5,000 gallons/day
“A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.”
County Permitting Process - (Super-simplified)

1. Development proposal
2. County review
   - Certificate of Water Availability (COWA)
3. Issue a Building permit

County ≠ well permit
County Permitting Process - post-Hirst

Development proposal -> County review

Hirst Requirement: County to make an independent determination of water availability

Issue a Building permit
January 19, 2018

Responsibility → Ecology

- Collect $500 for each new permit-exempt well
- Recording requirements
<table>
<thead>
<tr>
<th>WRIA</th>
<th>Fee for New Permit-Exempt Domestic Use</th>
<th>Max Annual Average Water Use Restriction (gallons/day/connection)</th>
<th>LID Required?</th>
<th>Watershed Plan Lead</th>
<th>Watershed Plan Adoption Deadline</th>
<th>If no plan adopted by deadline?</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>$500</td>
<td>3,000</td>
<td></td>
<td>Nisqually River Council</td>
<td>Feb 1, 2019</td>
<td>Ecology adopts rules by August 1, 2020</td>
</tr>
<tr>
<td>13, 14</td>
<td>$500</td>
<td>950*</td>
<td>Y</td>
<td>Ecology and committee</td>
<td>June 30, 2021</td>
<td>Reviewed by Salmon Recovery Funding Board and adopted by Ecology</td>
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<tr>
<td>22, 23</td>
<td>$500</td>
<td>3,000</td>
<td></td>
<td>Chehalis Basin Partnership</td>
<td>Feb 1, 2021</td>
<td>Ecology adopts rules, no deadline specified</td>
</tr>
</tbody>
</table>
- Policy language in the Comprehensive Plan
- Watershed Planning groups
- Lists of Actions
- Pilot projects
- Rulemaking and policy changes
Thank You!

Allison Osterberg
Senior Planner, Thurston County
osterba@co.thurston.wa.us
360-867-2102