

# Water Availability for Proposed Marijuana Grow Operations in the Dungeness Rule Area

**Dungeness River Management Team Meeting  
December 10, 2014**

# Regulation of Public Groundwaters

- **RCW 90.44.050**
- **Permit to withdraw.**

After June 6, 1945, no withdrawal of public groundwaters of the state shall be begun, nor shall any well or other works for such withdrawal be constructed, unless an application to appropriate such waters has been made to the department and a permit has been granted by it as herein provided: EXCEPT, HOWEVER, That **any withdrawal of public groundwaters for stock-watering purposes, or for the watering of a lawn or of a noncommercial garden not exceeding one-half acre in area, or for single or group domestic uses in an amount not exceeding five thousand gallons a day, or as provided in RCW 90.44.052, or for an industrial purpose in an amount not exceeding five thousand gallons a day, is and shall be exempt from the provisions of this section,** but, to the extent that it is regularly used beneficially, shall be entitled to a right equal to that established by a permit issued under the provisions of this chapter: PROVIDED, HOWEVER, That the department from time to time may require the person or agency making any such small withdrawal to furnish information as to the means for and the quantity of that withdrawal: PROVIDED, FURTHER, That at the option of the party making withdrawals of groundwaters of the state not exceeding five thousand gallons per day, applications under this section or declarations under RCW 90.44.090 may be filed and permits and certificates obtained in the same manner and under the same requirements as is in this chapter provided in the case of withdrawals in excess of five thousand gallons a day.

# What can I use water from an exempt well for? [Exempt Well = <5000 Gallons/Day]

- Providing water for **livestock** (stockwater)
  - (no gallon per day limit or acre restriction)
- Watering a **non-commercial lawn or garden one-half acre** in size or less
  - (no gallon per day limit)
- Providing water for a **single home or groups of homes**
  - (limited to 5,000 gallons per day)
- • Providing water for **commercial or industrial purposes, including irrigation**
  - (limited to 5,000 gallons per day but no acre limit)
- It is important to remember that although you are exempt from the water right permit process under the ground water exemption, **all other water laws and regulations still apply**. For example, there are a number of rules and regulations associated with the actual drilling of the well.

# Marijuana Growing Tier Size: Compared to Football Field



**Tier 1** – Less than two thousand square feet - Goal Line to the 4<sup>th</sup> yard line or less than 5 percent of an acre

2000 sq ft

**Tier 2** – Two thousand square feet to ten thousand square feet – Goal Line to the 21<sup>st</sup> yard line or 23 percent of an acre

10,000 sq ft

**Tier 3** – Ten thousand square feet to thirty thousand square feet – Goal Line to the 63<sup>rd</sup> yard line or 69 percent of an acre

30,000 sq ft

1 ACRE  
Goal Line to 91 Yard Line

# Marijuana Grow Operations

- **Tier 1 (originally 2,000 sq ft, now 1,400 sq ft)**
  - **Estimated water need 182 GPD\***
- **Tier 2 (originally 10,000 sq ft, now 7,000 sq ft)**
  - **Estimated water need 910 GPD\***
- **Tier 3 (originally 30,000 sq ft, now 21,000 sq ft)**
  - **Estimated water need 2,730 GPD\***
- **\*Based on anecdotal information from Washington State Liquor Control Board that a 30,000 sq ft grow operation required approximately 3,900 gallons per day of water**

# Proposed Mitigation Fee structure for marijuana grow operations in Dungeness Rule Area

	Tier 1	Tier 2	Tier 3
<b>Regulated Grow Area</b> (in square feet)	2,000 / 1,400	10,000 / 7,000	30,000/ 21,000
<b>Daily Usage Rate*</b> (in gallons per day)	260/ 182	1,300/ 910	3,900/ 2730
<b>Consumptive Rate**</b>	90%	90%	90%
<b>Mitigation Fee***</b>	<b>\$3,400</b>	<b>\$13,500</b>	<b>\$38,600</b>

\* Water use rate based on anecdotal information from the Washington State Liquor Control Board.

\*\* 90% consumptive rate based on WAC 173-518-085 (4) (C).

\*\*\* Mitigation fees only established for original Tier sizes and not yet established for updated Tiers sizes.

# Utilizing the “Commercial-Industrial” Groundwater Permit Exemption in the Dungeness Watershed

(for commercial or industrial applications other than marijuana)

- If property has access to irrigation water, can use that source during irrigation season only
  - Will need to secure a different source of water if growing occurs outside the irrigation season
- If property has previous (documented) use of the “commercial-industrial permit exemption” (<5000 gpd) prior to effective date of rule – grandfathered in
- If property does not have this documented use, will need to mitigate, likely negotiating a “mitigation fee” with Dungeness Water Exchange
- The ½ acre **non-commercial** lawn or garden exemption **cannot be transferred to marijuana growing or to other commercial or industrial exemptions.**

# Example 1

## 1332 Marine Drive – Thomas Ash

- Applicant proposes to grow marijuana in a former milking parlor and adjacent existing metal frame building – utilizing 3,055 square feet of the 14,300 square foot building. No sale or processing of product on site.
- Facility served by irrigation water between April – September.
- Well on property drilled in 2006 – 300 feet deep.
- **Since Commercial-Industrial permit exemption used prior to Dungeness Rule effective date, no mitigation fee necessary.** (The Commercial-Industrial exemption on this parcel is not a new use of water.)

## Example 2

### 322 Cassidy Road

- Applicant purchased vacant parcel of land at 322 Cassidy Road. Parcel has access to irrigation water between April – September. Applicant also constructed a well on the parcel.
- Applicant wished to establish a 7,000 square foot grow operation.
- Ecology determined that mitigation fees would need to be paid for exercise of the Commercial-Industrial groundwater permit exemption of up to 5000 gpd.
- Application rejected by Clallam County for other reasons.

## Example 3

### 162 Linderman Road

- Applicant proposes to construct a 24' by 32' by 16' high wood framed processing structure to allow for 1,400 square feet of grow operation.
- Parcel is 5 acres and has no well. Possible that the water could be provided by a well on adjacent property, however, no evidence of water ever used for “commercial-industrial” purposes under the groundwater permit exemption.
- So applicant will need to mitigate for likely use of 182 gallons per day – and will need to negotiate with the Dungeness Water Exchange on appropriate mitigation fee.

# Ecology and LCB Websites

- **Department of Ecology**

- See:

- <http://www.ecy.wa.gov/topics/marijuana.html>

- **Washington State Liquor Control Board**

- See

- <http://liq.wa.gov/mjlicense/permitting>

NB: LCB permitted grow operations limited to **45 acres statewide**

## Marijuana Licensing and the Environment

With the passage of [I-502](#), businesses and communities are seeking information about what impacts recreational marijuana (cannabis) growers and processors may have on the state of Washington.

### Licensing

[General licensing questions](#) are addressed by the state [Liquor Control Board](#).

### Permits are site specific

As with all proposed projects, I-502 licensees should start by considering local regulations and ask what approvals may be needed through their county or city per location and operation information.

A pre-approval meeting will help determine whether to complete an environmental checklist ([SEPA](#)). This checklist provides an initial snapshot of a project's environmental impacts.

As projects move forward, proponents may want to coordinate with Ecology, [Liquor Control Board](#) (LCB) and the [Governor's Office for Regulatory Innovation and Administration](#).

### Possible permits and environmental considerations

This is not a comprehensive list, but designed to prompt consideration as projects evolve.

#### Air Quality

- A greenhouse growing or processing operation may need an [air quality permit](#) for the heating system. The need would be based on the size of the heating system.
- Odors may need to be controlled.

#### Water Quality

- Growers and processors may be able to discharge wastewater to local sewage treatment plants. Growers and product processors can contact their regional wastewater treatment plant.
- If they cannot, they can seek information from Ecology to determine if they need a water quality permit to protect surface and groundwater.

#### Water Resources

- Marijuana growers may or may not need a [water right permit](#) to water plants.
  - **NEW!** [Frequently Asked Questions](#): Water Resource rules and regulations for marijuana growing in Washington state.
- Water availability can vary significantly from county to county or water source to water source.
- Industrial greenhouses and outdoor growers may be able to hook up to an existing water purveyor, such as a city utility or irrigation district.
- Growing operations and greenhouses are limited in size by the Liquor Control Board and as a small use may qualify under a [permit exemption](#) for a groundwater well.
- There may be local rules or requirements related to a new permit exempt well or new surface water uses, depending on the watershed.
- On May 20, 2014, the [U.S. Bureau of Reclamation](#) issued a [policy statement](#) prohibiting the use of federal water or facilities for the cultivation of marijuana.