

Impacts of exempt well rulings on agriculture:

Although opponents of individual wells have tried to make the issue out to be one of development versus agriculture, nothing could be further from the truth.

In fact, agriculture has much to lose should the definition of “combined appropriation” be significantly modified as it stands to be if the October 2014 district court ruling remains in place.

- **NO NEW WELLS-** if an agricultural operation already has a well for domestic use on the farm, but wants to put in a new well for stock water use within the same 40 acre parcel as the domestic well, that use would be severely curtailed under the rule mandated by the October 2014 court ruling.
- **NO SUBDIVIDING FOR RETIREMENT-** even if land was to be further subdivided, DNRC has made it clear that under the rule mandated by the district court, further subdivision would be irrelevant—the wells would still be considered to be part of the same “project or development” and, therefore, additional wells would be expressly limited, if not prohibited all together.
- **LAND RICH-CASH POOR-** it is no secret that many farmers and ranchers who are “land rich and cash poor” depend upon the prospect of being able to sell land for residential use for purposes of producing a retirement income. In limiting the use of individual wells, the rule put in place by the October 2014 district court ruling would exceptionally limit options for all rural development.
- **SENIOR WATER RIGHTS ARE PROTECTED-** There is a myth about individual wells that they cannot be enforced against and are outside the prior appropriation system. Nothing could be further from the truth. All individual wells are assigned a priority date, which priority date for the most part is extremely junior to surrounding water rights. Should a nearby right be impacted by an individual well, the senior right can most definitely make call on the individual wells to shut down and stop production, provided that the call is not futile (i.e., the call will actually result in water making it to the senior appropriator). This is no different than a call on any other right, surface or groundwater. Individual wells operate within the prior appropriation system just like everyone else.

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PRECIOUS RESOURCE: MONTANA FAMILIES**



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