



Yakima County Water Resource System

A Countywide Utility for mitigating domestic groundwater withdrawals

“ Exempt Well Statute

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.



Recent Legal Issues

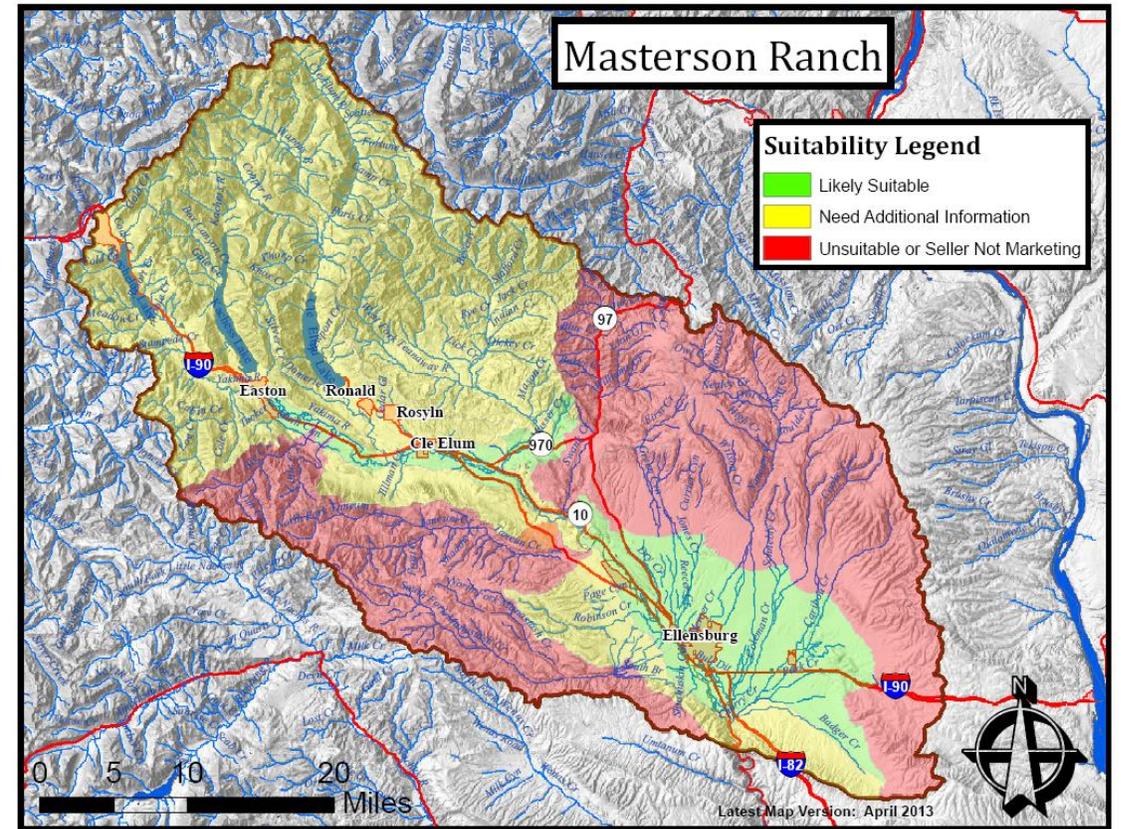
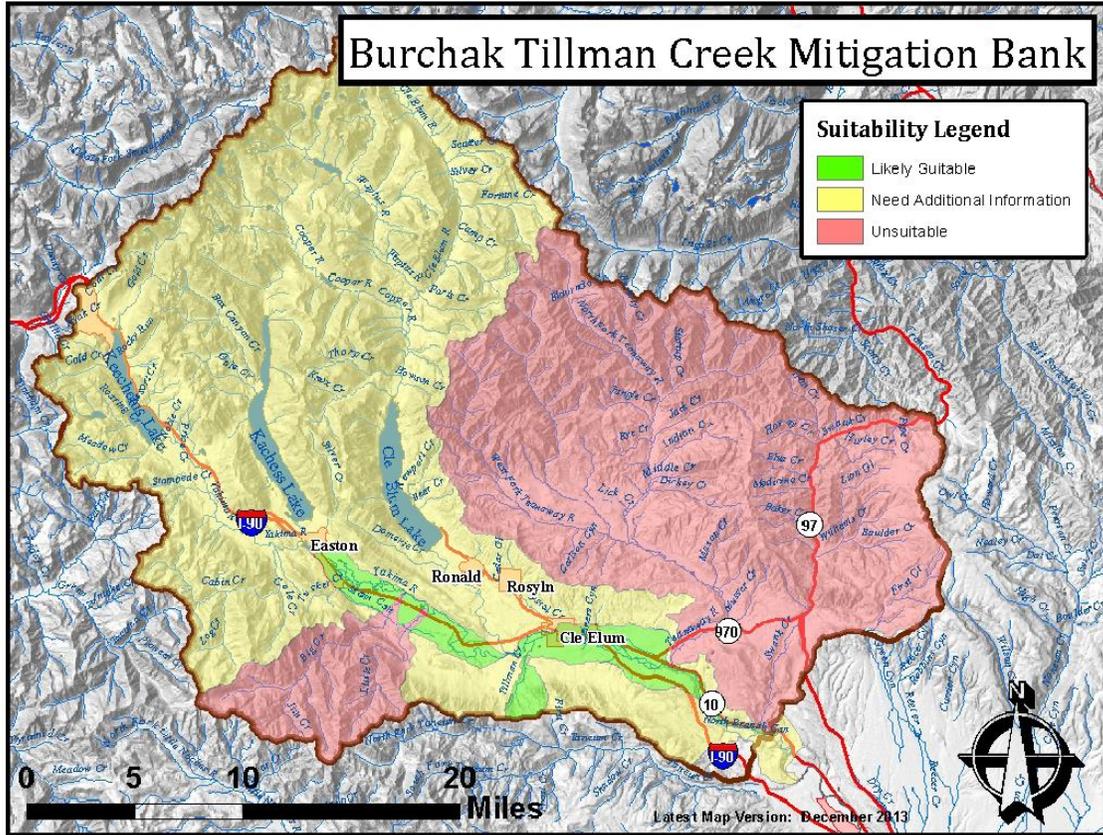
- ▶ Upper Kittitas County - Agua Permanente and the effect of exempt wells on Senior Water rights in the Yakima Basin. Upper Kittitas County is closed to further non-mitigated withdrawal, a means to provide mitigation for some users is developed.
- ▶ Kittitas County GMA Hearings Board Decisions – Must take limits of exempt wells into account in subdivision code, County has affirmative duty to look at groundwater practical and legal availability. And later, Counties should look at conservation of the groundwater resource.
- ▶ Swinomish and Spokane Decisions (water rights) – illegal to use OCPI to carve out a quantity of water for exempt wells after instream flows have been set.
- ▶ Whatcom County Decision – Hold on there Counties and Growth Hearings Board, don't go making stuff up on your own. There is not a problem until Ecology says there is a problem and enacts a rule to enforce it.



Yikes!!!

- ▶ We know from the USGS groundwater model that the surface and groundwater systems are interconnected, that the Yakima Basin is overappropriated when you consider both ground and surface water rights. (High legal risk of closing the whole basin to exempt well withdrawals).
- ▶ Senior water right holders (Yakama Nation, BOR and irrigators) and Ecology are rightly concerned about this small, but ongoing erosion of water rights.
- ▶ In theory, existing and future exempt wells are junior to the YN and BOR rights. That could result in Ecology or Court orders to curtail or stop use of exempt wells, which would be a **significant public health crisis**.
- ▶ And the mitigation strategy developed for application in Kittitas County is.....

Clunky at best.



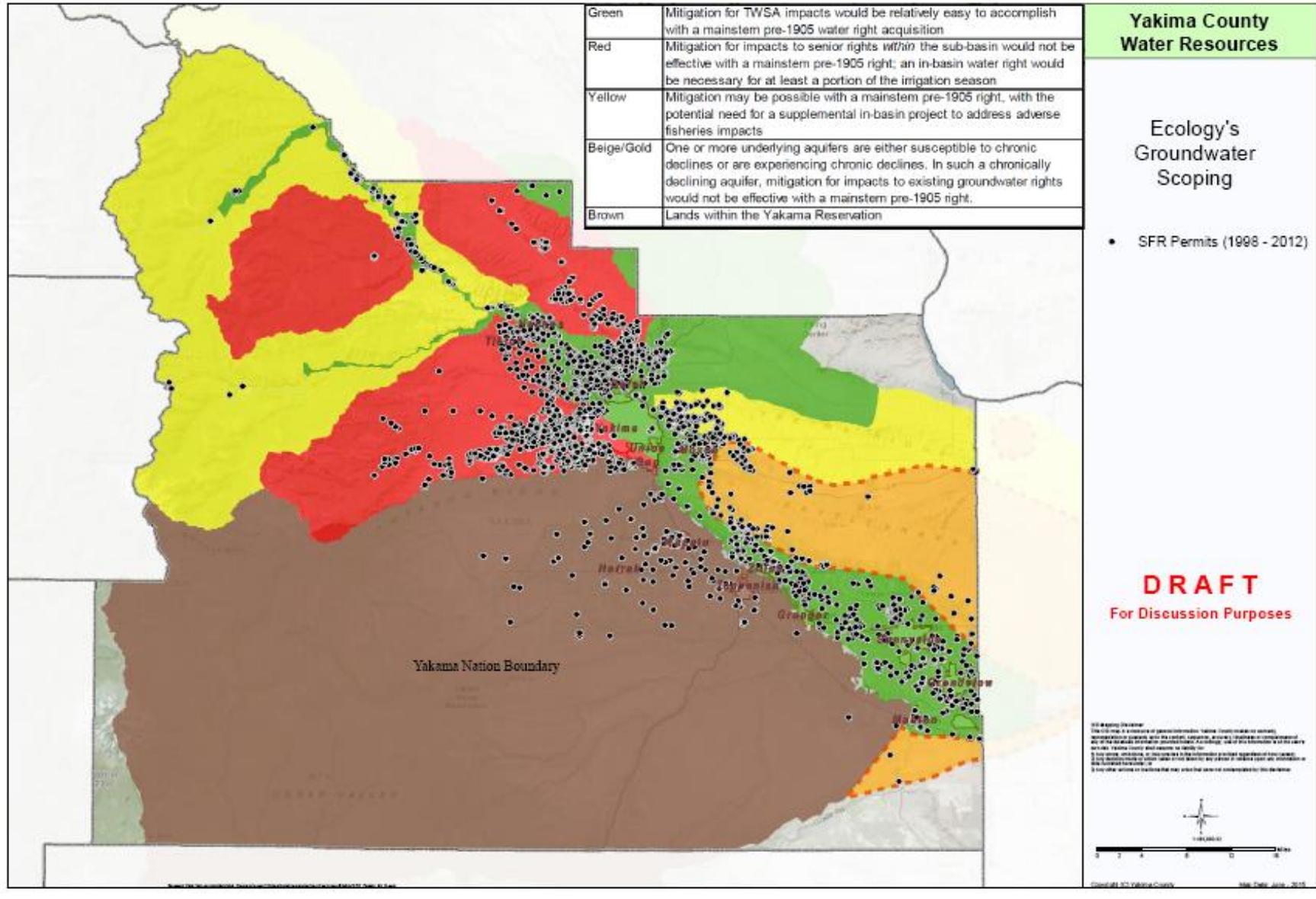
Green	Mitigation for TWSA impacts would be relatively easy to accomplish with a mainstem pre-1905 water right acquisition
Red	Mitigation for impacts to senior rights <i>within</i> the sub-basin would not be effective with a mainstem pre-1905 right; an in-basin water right would be necessary for at least a portion of the irrigation season
Yellow	Mitigation may be possible with a mainstem pre-1905 right, with the potential need for a supplemental in-basin project to address adverse fisheries impacts



Upper Kittitas GW rule

- ▶ New groundwater withdrawals will be limited to those that are water budget neutral
- ▶ Applications for withdrawal must identify an existing trust water right .. This trust water right must have priority earlier than May 10, 1905, and be eligible to be used for instream flow protection and mitigation of out-of-priority uses. (Private Bank)
- ▶ Upon determining that the application or request is eligible for expedited processing, ecology will do the following:
 - ▶ (a) Review the application or request to withdraw groundwater to ensure that groundwater is available from the aquifer without detriment or injury to existing rights, considering the mitigation offered.
 - ▶ (b) Condition the permit or determination to ensure that existing water rights, including instream flow water rights, are not impaired
- ▶ If impairment cannot be prevented, ecology must deny the

Yakima County's Own Clunkiness





Yakima County Goals

- Prevent Public Health Emergency
- More Comprehensive Program
- Less expensive, less subsidized
- Has some level of analysis to square known groundwater conditions with known surface water conditions.
- Avoid impacts to tributaries if possible.
- Less ad hoc, clunky.



Yakima County Water Resource System

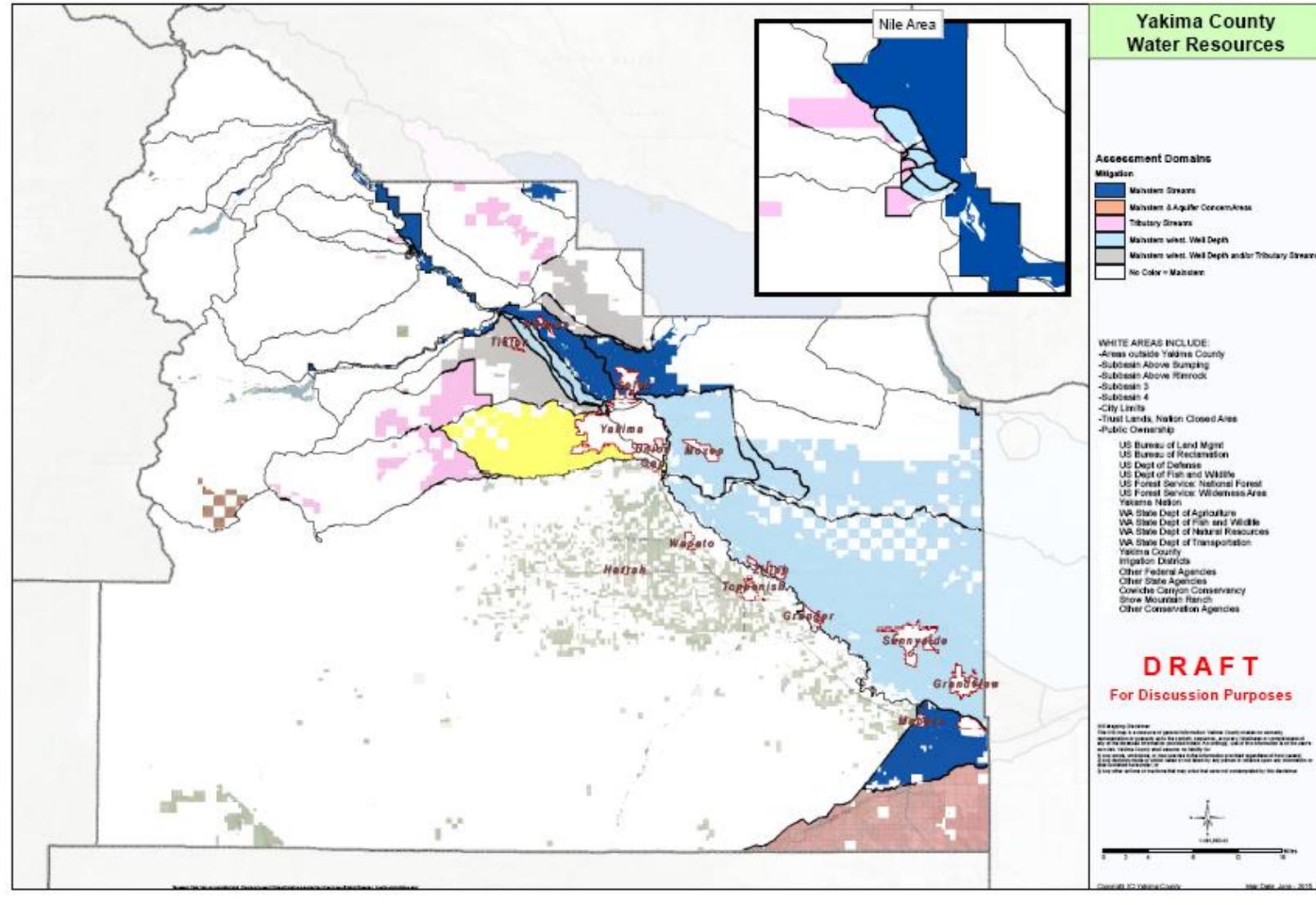
- ▶ Established Dec. 10, 2013 through RCW 90.51
- ▶ Recognizes the interconnectedness of surface and groundwaters
- ▶ County owned Water Utility serving the rural areas of Yakima County.
- ▶ Anticipates the acquisition of water rights - pre-1905 or new water budget neutral (storage) water rights, and the payment of a monthly or annual fee for use of water
- ▶ Use of these rights for rural domestic is linked to existing permit processes and is subject to conditions on that use such as:
 - ▶ Maximum Daily Use of 350 gpd
 - ▶ Limited outdoor use
 - ▶ Specified well depth and well location
 - ▶ Monitoring.
- ▶ Probably require some (large?) amount of fisheries mitigation.

How to do the analysis?

Hydrogeologic Framework of the Yakima River Basin Aquifer System, Washington

By J.J. Vaccaro, M.A. Jones, D.M. Ely, M.E. Keys, T.D. Olsen, W.B. Welch, and
S.E. Sox

Really, it looks like this....





How does it meet goals?

- ▶ Much more comprehensive – Serves over 99% of historic rural domestic demand, over 99% of the undeveloped residential parcels outside Urban Growth areas.
- ▶ Should be less expensive – allows purchase of water in bulk without the need to break rights into smaller chunks, allows one time approval of water rights transfers
- ▶ Correlates development patterns with known groundwater conditions, successfully avoids tributary impacts.
- ▶ Uses other existing statutes, including holding of rights as municipal rights which are not subject to relinquishment.

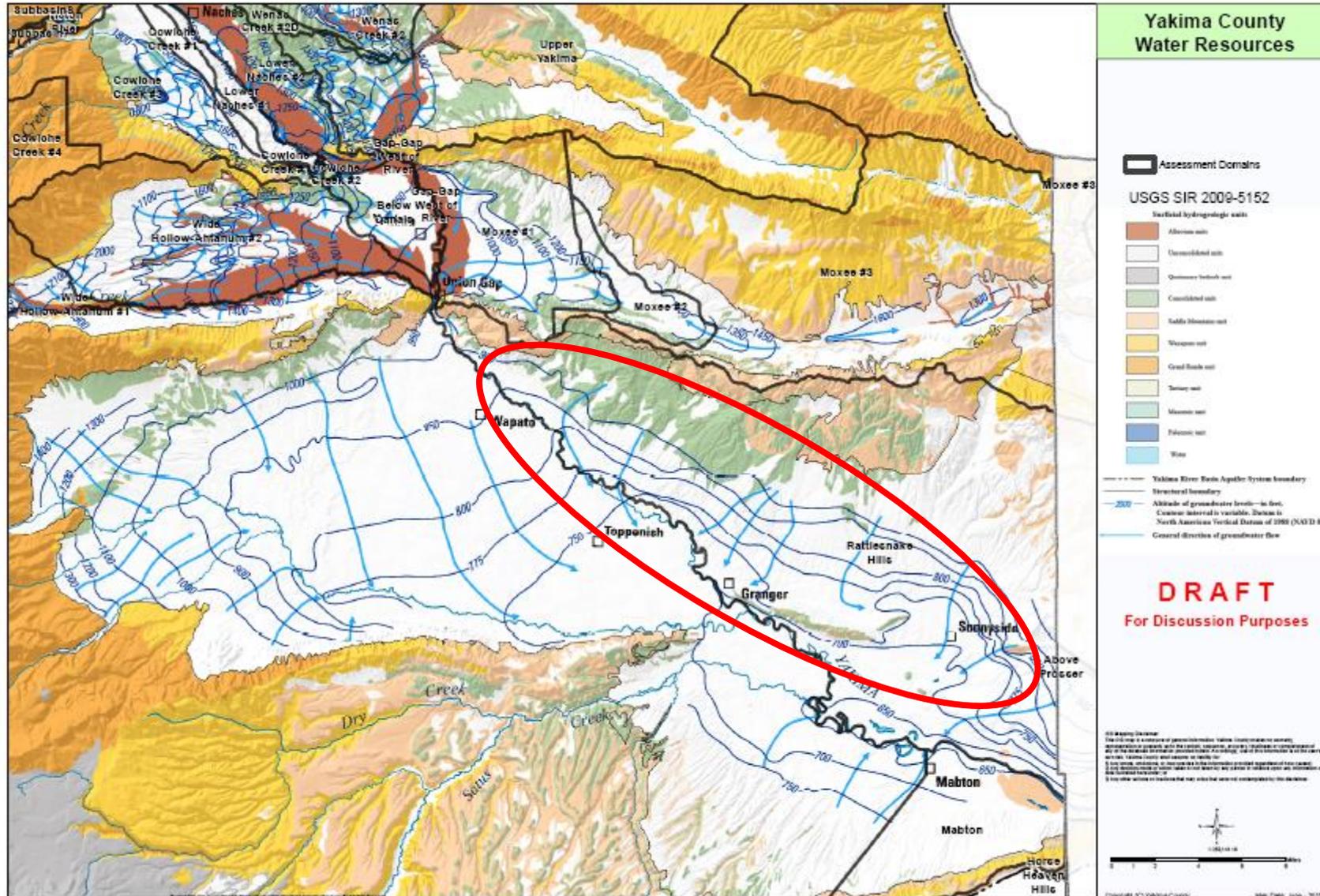


Next Steps..

- ▶ Seek concurrence from Ecology for water resource objectives and administration, then or simultaneously YN, BOR and Senior Holders.
- ▶ Finalize the report for use by Ecology and in the County's GMA process (need to recognize areas of groundwater decline in our Comprehensive Planning).
- ▶ Start buying water
- ▶ Finalize administrative structure.

Other thoughts...

- Current versus historical Groundwater Flow Paths





Questions?