The Hirst decision is the worst example of urban Washington forcing its priorities on rural Washington.

By Vincent Buys and Jim Walsh
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With much recent attention on the state Supreme Court case Whatcom County v. Western Washington Growth Management Hearings Board, often called Hirst, we would like the opportunity to express the views of those affected the most: Those of us who live in and represent rural areas of our state.

The court issued a decision requiring counties to do something the Department of Ecology (DOE) is legally required to do, and now people cannot drill wells on private property that is, by statute, permit exempt. These wells are permit exempt because they impact less than 1 percent of all water consumed.

In fact, if you turned off the faucet to every permit-exempt well in the state today, the impact to instream flows would be imperceptible, according to the head of DOE.
The other side

“The Hirst suit was brought on behalf of agricultural interests that sued over counties allowing wells to be drilled despite not knowing whether adequate water is available. Such wells threaten the livelihood of farms and violate the rights of others who already have water rights,” wrote state Reps. Derek Stanford and David Sawyer in a Dec. 14 Op-Ed.

State Rep. Vincent Buys, R-Lynden, is the ranking member on the House Agriculture and Natural Resources Committee and also serves on the House Appropriations and the House Environment committees.

State Rep. Jim Walsh, R-Aberdeen, is the assistant ranking member on the House Business and Financial Services Committee. He also serves on the House Agriculture and Natural Resources Committee and the House Capital Budget Committee.

If you’re concerned about having enough water for fish — which we believe there is — why would you go after something with immeasurable impact?

Keep in mind the state provides millions of dollars annually for projects that improve instream flows as well as hundreds of millions in habitat restoration for fish. This important detail was not a factor in the court’s decision but is relevant in analyzing whether environmental impacts are actually being addressed.

The Hirst decision was flawed from the beginning.

It is based on an assumption that all groundwater is linked to surface water despite ample scientific proof of variances in watersheds, geography, aquifers and historic stream and river beds.

It pits fish against families by using flawed data about historic instream flows that, in many cases, the state can’t prove have consistently been met. It is irresponsible for government officials to block a family’s access to potable water in the hopes of chasing aspirational stream levels with no historical backing.
In addition, many urban dwellers are drawing water from sources to which our constituents no longer have access. How is it OK for a new 400-home development to have access to water, but a single well tapping into that same source does not? The inequity is staggering.

Some proponents of Hirst would like to stake a claim for sticking up for the minority. Yet, that’s exactly what we’re doing in the state Legislature by tying the state’s capital budget to a permanent Hirst solution.

The capital budget funds government construction projects via billions of dollars of state debt. In tying this budget to the permanent solution to Hirst, we had to ask ourselves, “Why is it OK for state government to construct a building and have access to water when a state citizen owning land across the street may not?”

If Republicans don’t leverage the opportunities we have — that of approving construction bonds, which require a 60 percent approval vote from the Legislature — then the majority will run roughshod over rural communities.

We’re protecting the families who’ve invested life savings; the migrant worker who wants a place of his own; the young couple who can’t afford to live in the city or who would prefer to raise their children in a more rural community.

We have a governor and other politicians who like to talk about one Washington, yet actions speak louder than words. The Hirst decision is the worst example of urban Washington forcing its priorities on rural Washington.

When Boeing needs a tax break, or Amazon needs a zoning alteration, the impacted economic activity is the rallying cry for change. Well, folks, the Hirst decision is rural Washington’s Boeing and Amazon, combined.

We continue to work toward a permanent, bipartisan solution that would allow counties to rely on the state’s designated water resource manager to determine the legal availability of water for the purposes of the Growth Management Act. This solution would remove the double layer of bureaucracy imposed by the state Supreme Court and allow a family to build a home based on a well report, as has historically been the case, instead of expensive and unnecessary hydrology studies.

A simple, permanent Hirst solution is doable. It’s within reach. Legislators just have to separate themselves from special interests and take the interests of our rural families to heart.