

Memorandum

To: Members of the Stock Water Working Group

From: Senator Phil Rockefeller, Working Group co-chair

Date: January 11, 2010

Re: Need for Legislation in the 2010 Session

I would like to take this opportunity to provide my comments to the Stock Water Working Group. The Stock Water Working Group has met over the course of the interim to discuss the complex issue of permit exempt wells that are used for stock watering purposes. I believe there are a number of fundamental things upon which nearly all the Group would agree. Among them are:

- The livestock industry is an important part of our state's economy and an important part of many communities in our state.
- No one intends to use the state's water management programs to harm this industry, and this industry should be treated fairly as with all other sectors of the economy seeking an assured water supply for its activities.
- While there are many reasons for it, the simple fact is that the information about the state of the state's ground water resources is woefully lacking, and over time it is critical that the state make greater investments in collecting and analyzing ground water data.
- There are tens of thousands of exempt wells currently in use, and it would be impractical and unacceptable to bring these existing uses under the Code permit system. Where declining water sources are causing conflicts among users, which may include exempt well uses, other Water Code tools must be employed to resolve those conflicts.
- Some of these existing tools are limited in their effectiveness and ways should be explored to improve them (e.g., the supreme court's Rettkowski decision limiting administrative authority to protect senior rights during times of water shortage)

We have elements in place that would provide for balanced legislation. Some of these elements were the subject of brief discussion, including:

- A definition of "stock-watering purposes"
- Not affecting existing stock water permit exempt well users
- Adopting a sustainability policy for ground water
- Ground water data and management
- Establishing a volumetric cap for the stock water exemption

- Requiring water users that need additional ground water above the volumetric cap in the exemption to obtain a water right permit
- Regulation among water rights based upon priority dates (a Rettkowski fix)
- General stream adjudications
- Assisting new livestock operations to find water

These ideas were presented and discussed at the October 2, 2009 meeting of the Working Group. I believe that we need to pursue legislation at the earliest practicable opportunity. With the court case in Franklin County scheduled to be heard in late March, it would be my hope that we move legislation this session. I look forward to working with all of you in pursuit of that goal.

Sincerely,

Phil Rockefeller

State Senator, 23rd Legislative District

Chair, Senate Environment, Water & Energy Committee