

Memorandum

To: Members of the Stock Water Working Group
From: Senator Phil Rockefeller, Working Group co-chair
Date: October 1, 2009
Re: Proposals for consideration by the Work Group

It is my hope that at the October 2 meeting the Work Group will take up specific proposals for policy and/or budgetary legislation on the stock water issue. I have tried to listen very closely to each member of the Work Group, and, while there are certainly different perspectives and interests among the Group, I believe there are a number of fundamental things upon which nearly all the Group would agree. Among them are:

- 1) The livestock industry is an important part of our state's economy and an important part of many communities in our state.
- 2) 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.
- 3) 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.
- 4) 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.
- 5) 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)

Beyond these common ground beliefs there are differences that we must work through. For example, there are widely differing opinions of the intent of the 1945 Legislature regarding the Code permit exemption for "stock-watering purposes", and whether it was intended that it be limited to relatively "small" withdrawals or was intended to be unlimited. But ultimately we've been tasked by the 2009 Legislature to make recommendations for policy adoption by the 2010 Legislature, and what makes the most sense now. And while I believe the current policy gridlock is best resolved by placing a quantity limit upon the permit exemption, I believe it should do so *prospectively* only, and it should be done only in the context of enacting a very strong program to assist future livestock operations in obtaining water supplies in a way that provides assurance of that supply in the future and avoids causing conflicts with other water users dependent upon the same source of supply.

For this reason I would like to offer a number of proposals for consideration by the Work Group, which are attached. They are all in some way related to uses of water for stock watering, although some by their nature make the most sense to approach in a manner that may affect other uses as well. While many could be enacted independently and may stand individually upon their own merits, they

are offered as a "package" of ideas intended to provide a fair and balanced resolution of this very complex and controversial topic. The proposals address the following topics:

1. A definition of "stock-watering purposes"
2. Not affecting existing stock water permit exempt well users
3. Adopting a sustainability policy for ground water
4. Ground water data and management
5. Establishing a volumetric cap for the stock water exemption
6. Requiring water users that need additional ground water above the volumetric cap in the exemption to obtain a water right permit
7. Regulation among water rights based upon priority dates
8. General stream adjudications
9. Assisting new livestock operations to find water

By bringing these proposals forward, I hope they will elicit additional proposals or variations upon these for thorough discussion by the Work Group or the Department of Ecology or individual legislators. While our December 1 deadline for a report to the Legislature is beginning to loom larger over us, we still have the opportunity to craft a balanced package that, with support from the Work Group, would have a good prospect of enactment, even in the upcoming short session of the Legislature. I look forward to our meeting of October 2 when we can share our ideas for moving forward.