The group discussed the potential for conceptual agreement, using the intent section of Ecology's z-draft from last session as a starting point. Notes below reflect tentative draft changes discussed.

FINDINGS—INTENT: The legislature finds that effective water resource management and a stable livestock industry are vital to the economic and environmental well-being of the state. The legislature further finds that achievement of these goals is hindered by controversy (uncertainty?) surrounding the exemption from water right permit requirements for withdrawals of public groundwater for "stock-watering purposes" pursuant to RCW 90.44.050. Therefore, in order to promote the clarity needed for both a sustainable livestock industry and effective water resource management, the legislature intends to:

1) Define "stock-watering purposes"

2) Provide a process for Ecology to tentatively confirm (and register?) the extent and validity of the water rights put to beneficial use by existing operations under the authority of the exemption.
   
   Discussion: Issue 2 was flagged for future discussion. From the white board: Recognize/confirm that water put to beneficial use under the existing statute was/is lawful/valid. How do you determine priority date and quantity of existing users? There was discussion about the lawsuit, which directly raises the legal question of withdrawal quantities authorized under the exemption. Much depends on the package of provisions and the processes or protections involved.

3) Provide a process for existing operations that rely upon the exemption to have their authorized withdrawal quantities and beneficial uses of water registered and verified by Ecology.
   
   Discussion: Issue 3 flagged. Could simplify by combining #3 with #2. Some would like information about how much water is being used and prefer a mandatory confirmation/registration approach. Some prefer a voluntary confirmation/registration approach. Whether this level of detail belongs in an intent section is a procedural question for the group.

4) Establish clear quantity limits for new livestock operations that intend to rely upon the exemption in the future.
   
   Discussion: A broad range of potential prospective limits from various proposals was discussed - from under 5 acre feet to 350 acre feet per year. Much depends on the package of provisions and the processes or protections involved.

5) Provide a process to recognize and protect from relinquishment the reduced water use of registered livestock operations.
   
   Discussion: Think about using the existing Trust Water Rights Program for this (protection under 90.14.140 once in trust) instead of z-draft’s notice-in-notice-out approach (like Odessa RCW 90.44.520).
6) Facilitate more efficient consolidation and movement of livestock and their associated water requirements among registered livestock operations.

Discussion: This sounds similar to existing consolidation statutes – however current consolidation statute (RCW 90.44.105) limits consolidations to 5,000 gallons or less. Z promotes new water code flexibility for registered operations to grow and expand–easy process to protect unused stock-water from relinquishment, consolidation among registered operations, transfers of registered exempt stock water rights, and transfers from one body of groundwater to a different body of ground water if the move creates a net improvement to aquifer conditions. All are designed to provide needed flexibility.

It was noted that cows move across intrastate/international borders frequently, and operations grow through newborn calves. Such intrastate/International cattle and newborn calves don’t bring water with them, so the current permit-exempt statute maximizes flexibility needed to expand and contract with unpredictable markets. It was then noted that the courts might concur with the unlimited quantity and flexibility afforded under 2005 AGO #17’s reading of the permit-exemption for stock-watering. The courts could also read the statute to be limited, as the PCHB did. Discussion ensued about how clarifying legislation next session might reduce legal risk and find a policy balance, and how a precedential court decision could constrain a subsequent legislature. That’s a risk assessment for stakeholders, their attorneys and legislators to make.

Some suggested codifying the Ag-2-Ag concept to allow operations to obtain water more cheaply and quickly (see SSB 5106 from 2003). This would expedite transfers for ag-2-Ag water-- not just Stock-2-Stock water. Stock-water operations could be registered as Ag water which could only be moved to other Ag operations. The limits and history of the Family Farm Water Act were briefly discussed. Legal and political concerns were noted about limiting the market of potential buyers and lowering the value of transferable rights for existing Ag operations. Discussed the idea of assembling staff and financial resources (WSU, WSDA, OCR) to help new larger livestock operations find water or locate in areas where water supplies can be made available to serve the operation without conflict with existing water rights.

7) Create mechanisms to manage the use of the permit exemption and ensure that existing water rights are not impaired.

Discussion: Issue flagged. A sustainability policy – Senator Rockefeller’s proposal – was discussed. Need more information about what is going on with the groundwater resource. Mo- information is needed to make sound water management decisions. To avoid impact on senior rights - need to have an impairment analysis; Maia - could a map in statute guide where operations can be located?; Lee - would be nice to have a quick process; John - other aspect is that it goes both ways; Jay – Consider something like the Oregon statute re: impaired aquifers, to allow exemption quantities to be reduced in certain circumstances, where there is an impaired aquifer designation via Ecology order/rulemaking. Other potential hydrologic contexts and factors were discussed. Discussion about whether this goes beyond the scope of stock watering.

In closing the meeting, two primary group deliverables were noted:
1- December 1 report due to the legislature;
2- Legislative Assembly Days, Stock-water Workgroup Panel, Senate Committee, December 4, 15 mins.