

Responses to the Top Five Issues Survey:

Representative Blake:

- 1) History of stock watering use.
- 2) History of the Washington livestock industry.

Representative McCoy:

- 1) History of exempt wells.
- 2) History of Stock watering.

Representative Warnick:

- 1) History of the stock watering exemptions in comparison to current law.
- 2) Is there sufficient data regarding stock watering under exempt well statutes?
- 3) Is there a real problem? If there is a problem, then where is it?
- 4) The CELP lawsuit is a concern – will the work done by this workgroup be relevant? How do we avoid impacting the lawsuit?
- 5) Work group members should have agreement by consensus before proposals are released for public consideration (ie. a bill before the legislature).

Representative Warnick's additional thought:

Depending on the outcome of our discussions, I would also like to see the work group and/or staff gather reliable information regarding sufficient water amounts for healthy daily livestock management. The information I have found to date includes a wide range of amounts per animal.

Senator Hatfield:

- 1) What are the existing statutory protections to protect senior water rights, including those held by holders of other exempt water rights? Are these protections sufficient to protect neighboring exempt wells from impairment?
- 2) How should “stock watering purposes” be defined in recognition to changing societal expectations and changes in the industry (dust control, misting, sanitation, and nutrient management)?
- 3) With constant fluctuations in the livestock industry, seasonal movement between pastures, and with overall livestock numbers in the State of Washington either in decline or modestly increasing, what alternative concept to the current variable water right for livestock would work?
- 4) If Washington State desires to support local farms and local food production, what policies can be adopted to reverse the current decline in locally based livestock production sectors?
- 5) How do we retain and improve the viability of the state’s livestock industry while also protecting senior water users and environmental values?

Senator Honeyford and Senator Morton:

- 1) Identify whether there is an actual problem with the use of the stock water exemption that can be documented.
- 2) If there is a problem, where is the evidence of impairment from the use of the stock water exemption?

- 3) Study the history and current use of the nature of the stock watering exemption (definition of livestock, number of livestock watered in state, acres in state grazed by livestock, and economic impact of grazers).
- 4) Need to ensure that anything done by this workgroup avoids impacting the CELP stock watering lawsuit.
- 5) Any decision of the work group needs to be by consensus.

Senator Rockefeller:

- 1) Stock watering is but one of three exemptions and I feel the group needs to know the broader context of all three for its efforts to be realistic: including legislative history and implementation since enacted and court interpretations.
- 2) Policy options for updating the stock water exemption should be our focus. If members merely want to preserve status quo, there is no useful purpose served. I look to Department of Ecology in particular to describe its concerns for managing the state's finite groundwater resource with regard to upholding perfected rights as well as sustaining aquifers and water quality.
- 3) It would be constructive if we could arrive at a consensus "vision" statement of the balancing of interests and then proceed to consideration of strategies to achieve that vision. Could Department of Ecology identify the components which it feels need to be integrated in such statement and invite the group to create the statement?
- 4) I suggest we look at how water recycling and reclamation technology has progressed and whether best practices can be brought to bear when the stock water exemption or any modification the group may eventually endorse is relied upon. My thought is that this may help get us to a consensus.

Senator Rockefeller's additional thoughts:

- 1) Should a volume limit (per day, instantaneous, or annually) be adopted for use of the stock water permit exemption? If so, what should that limit be?
- 2) If a volume limit is appropriate, should it vary by basin and the particular water availability conditions in that basin?
- 3) If a volume limit is adopted, how would it be calculated? What variables should be considered?
- 4) What types of water uses should be exempt under the "stock watering" exemption? IE—a definition of "stock watering" is needed. For example, should it extend to dust control?
- 5) If only "smaller" operations are to be permit exempt (such as by adopting a volume limit), should the state adopt a means to provide for expedited permit decisions for larger stock operations? If stock water applicants must "get in line" under the current permit system, what can be done to reduce or eliminate the huge permit application backlog?
- 6) How should existing wells for stock watering be treated under any new policies or policy clarifications that are adopted?

Washington Cattle Feeders Association:

- 1) Current and projected usage of water from animal agricultural wells, especially relative to other agricultural uses.
- 2) Effects of limiting Stock water usage.
- 3) Definition of Stock water.

- 4) Causes and number of impairment issues in Washington relative to animal agricultural wells.
- 5) With any outcome, how we deal with existing exempt well users especially with regard to the "priority date".

Washington Cattleman's Association:

- 1) We need the problem clearly stated by the parties that claim that there is a problem. (list the number times and location where a stock water well has been documented to have impaired a senior right)
- 2) We must discuss what the definition on stock water.
- 3) We must discuss the current application of the law and the historical reliance the livestock industry has with 90.44.050.
- 4) We must discuss the economic impact that changing this statute will have on both the families that rely on this and on the state's economy.
- 5) We must discuss how we maintain an economically viable livestock industry in the future in Washington State.

Washington State Dairy Federation:

- 1) What's the problem that those that wish to curtail the industry see?
- 2) Is the livestock industry a good thing or a bad thing--should it be curtailed, eliminated or allowed to exist and hopefully prosper?
- 3) Should it be the states policy to severely restrict an industry that has lived under the existing statutes for over 60 years--regardless of what we may think the Legislature intended in 1945?
- 4) If food production is seen as a good thing, should not public policy entail promotion and enhancement of food production?

Additionally, by our calculations; the entire livestock industry, statewide (it is in all 39 counties to one degree or another and includes poultry), uses the same amount of water that it takes for 6,000 acres of potatoes annually.

Furthermore, according to published statistics: Dairy cow numbers peaked in 1944 at 380,000 today we're at about 235,000. Total steers peaked at 369,000 in 1980, in 2002, the latest figure, at 189,000, total beef cows peaked in 1984 at 436,000, in 2002, latest figure at 253,000. Total cattle and calves peaked in 1984 at 1,579,000 ...in 2002 at 1,130,000. Currently a "Washington Grown Chicken" will use 20 to 25 pounds of water (2.5 to 3 gallons) in its lifetime.

Farm Bureau:

- 1) Explore the scope and reality of any "problem" that the group desires to discuss regarding the use of exempt wells for stock watering purposes.
- 2) Review of factual data related to this "problem".
- 3) Review of the historic and current use of permit exempt wells for stock watering purposes.
- 4) Consideration of what the working group can accomplish in light of pending litigation.
- 5) In light of the first four items, assess what if any action is necessary.

Washington Environmental Council/Washington Rivers Conservancy

- 1) How much water is being withdrawn under the stock water exemption? Where are the withdrawals?
- 2) How is this water being used, and how much water is going to the various uses (drinking, dust control, irrigation, etc.)? How have these uses evolved in purpose and quantity since the exempt well provision was first enacted?
- 3) To what extent are withdrawals tracked and metered? What resources or tools does Ecology currently have to monitor individual withdrawals and to determine whether there is impairment of senior water rights, instream flows, groundwater levels, or whether withdrawals impede recovery of ESA listed fish stocks?
- 4) To what extent could these withdrawals harm senior water rights, instream flows, groundwater levels, or ESA listed fish stocks? What potential is there for harm in the future?
- 5) Are there barriers and burdens to instituting reporting and conservation requirements? If so, what are they?

Center for Environmental Law and Policy (CELP)

- 1) To what extent do livestock operations currently depend on the stock water exemption for water supply in excess of 5,000 gpd? In other words, how many dairies, feedlots and other livestock facilities are using water without a permit? How much water are they using?
- 2) Where are these operations located, and to what extent are they harming, or potentially harming, other water users, aquifer systems (e.g., groundwater levels), and/or instream flows?
- 3) What is the status of water resource permitting in areas where stock water uses are being used?
- 4) How are stock water facilities tracking and reporting their water usage?
- 5) To what extent could these operations be brought into the water resource permitting system? i.e., is water available to issue new water rights or are transferable existing rights available where these livestock facilities are located?