



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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To Whom it May Concern:

Over the past several months there has been some controversy, several media stories and now legislative hearings on the so-called "stockwater exemption" under the groundwater code. This exemption, enacted in 1945, exempts from water right permitting certain small uses of water. One of those is stockwatering.

Over time, different interpretations of the stockwater exemption have arisen. Some believe that there is no quantity limit associated with the stockwater exemption. Others believe that the stockwater exemption, just like the other permit exempt uses listed in the statute, is limited to 5000 gallons/day. A 2005 formal opinion of the Attorney General concluded that the stockwater exemption is, in fact, unlimited in quantity.

Recently, the Department of Ecology has stated its position that an exempt use – one that requires no water right permit and thus no review of water availability or potential impairment of senior water rights – does not make sense from a water management perspective. This statement from Ecology has prompted legislative proposals and hearings. Ecology is working with industry representatives to develop a legislative proposal that both could live with on the topic.

In the meantime, we believe it is important to make clear to the industry, to legislators and to financing institutions, that our intent here is not to harm the industry. We understand the economic importance of the dairy and livestock industries in Washington.

Given the recent economic uncertainty in domestic and global markets and livestock this is a particularly difficult time, and we intend to work with the industry to develop a legislative proposal that recognizes and protects existing dairies and livestock facilities that are currently using more than 5000 gallons/day from an exempt well or wells. Ecology will not take an enforcement or regulatory action, or any other kind of administrative action, against any such facility based on the fact that they are withdrawing more than 5000 gallons/day.

This pledge does not apply to or preclude an agency or third party action based on a claim that the exempt water use is impairing a senior right, a general stream adjudication or an enforcement or regulatory action based on alleged noncompliance with other laws or regulations administered by Ecology.

The Department of Ecology understands the value and importance of the economic contribution that the livestock and dairy industries make each year to Washington State's economy. We also realize that ambiguity in and differing interpretations of the stockwater exemption are a growing problem. We believe that these issues are best resolved by the legislature. I strongly support a focused stakeholder discussion to identify a legislative proposal that resolves the ambiguity we are all struggling with. My office will remain engaged in this issue and looks forward to resolving this in a manner and fashion that is acceptable to all parties.

Sincerely,

Jay J. Manning
Director

