



Washington State Dairy Federation
P.O. Box 1768
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November 21, 2008

To: Gov. Chris Gregoire, and Executive Policy Office

Attorney General Rob McKenna

Speaker Frank Chopp, Representatives Bill Grant, Lynn Kessler, Brian Blake,
Kelly Linville, Dan Newhouse, Steve Hailey, Judy Warnick, Joel Kretz;

Senators Phil Rockefeller, Bob Morton Chris Marr, Ed Murray, Craig Pridemore,
Mike Hewitt, Jerome Delvin, Jenea Holmquist, Jim Honeyford, and Mark Schoesler

Jay Manning, Director of Ecology

Robert Gore, Acting Director of Agriculture

Fr: WSDF Board of Directors; Jay Gordon, Executive Director

Re: Stock watering letter from Mr. Ken Slattery, DOE Water Resources Program,
asserting "Ecology position" on stock watering exemption

The Department of Ecology (DOE) issued a letter to Mr. Bill Easterday on November 12th, 2008. We are very concerned about the grave consequences this letter may once again cause. We are disappointed DOE chose to make such a poorly substantiated policy interpretation in this letter. The unilateral policy shift by DOE away from several long held edicts by the Legislature, the PCHB and the Attorney General opinion is most troubling.

The Washington State Dairy Federation came to the Governors Office and the Legislature in 2001 with concerns that DOE was reinterpreting the 1945 statute concerning stock-watering, thus putting 70 plus percent of our producers in peril. Several bankers withheld their support for our industry until a reaffirmation of the statute as it was written or a "fix" put in place. Mr. Keith Philips now a policy advisor to the Governor was very helpful and instrumental in attempting a fix when he was at DOE. In July of 2005, Attorney General McKenna provided legislators with a clarifying Opinion regarding stock-watering under RCW 90.44.050.

In the same time frame the Pollution Control hearings Board (PCHB) in *Devries v DOE* (PCHB 01-073) very clearly concluded that:

"Since more than one purpose is contemplated, water use for stockwatering purposes covers all reasonable uses of water normally associated with the sound husbandry of

livestock. This includes, but is not limited to, drinking, feeding, cleaning their stalls, washing them, washing the equipment used to feed or milk them, controlling dust around them and cooling them."

The DOE letter to Mr. Easterday, is a dramatic departure from Legislative language as interpreted by the AG opinion and blatantly skips any reference to these PCHB findings.

We are witnessing historic levels of uncertainty. It is imperative the state makes it clear our doors are open for business. This kind of communication, apparently without consultation or a legal basis is sending the wrong message. We do not need to give bankers and others a reason to make it more difficult for our dairy and livestock farmers. While the population of our state has been growing, our livestock farmers have and are struggling; the number of milk cows has remained static for almost 20 years. We think a healthy prosperous dairy and livestock industry is good and beneficial for the citizens of WA. We face huge challenges these next few years. This type of arbitrary, poorly reasoned policy making has no place in our collective efforts to make Washington a great place to live, work and raise our kids and cows.

If you have any questions feel free to contact us at the Federation office, 360-482-3485.