

Water & Ecology Update

By Toni Meacham, Attorney at Law

Agencies in Washington only have the authority conferred by the laws of a governing regime, to exercise power, such as by statute. DOE has authority under the Water Pollution Control Act, RCW 90.48 to “maintain the highest possible standards to insure the purity of all waters of the state consistent with public health and public enjoyment thereof, the propagation and protection of wild life, birds, game, fish and other aquatic life, and the industrial development of the state, and to that end require the use of all known available and reasonable methods by industries and others to prevent and control the pollution of the waters of the state of Washington.” That same chapter also has limits on the power of DOE. RCW 90.48.422(3) specifically limits DOE's authority to impair water rights under RCW 90.44.050. That is important because RCW 90.44.050 is the statute that exempts “any withdrawal of public groundwaters for stock-watering purposes...” meaning we get to water our livestock without being required to go to DOE for a permit or permission.

I bring these two important statutes up because cattlemen everywhere need to be reminded that state agencies only have so much power and must follow the same statutes, we as citizens are required to follow. Another important statute that is often forgotten is RCW 90.48.450 which requires that the DOE give consideration if an enforcement action will contribute to the conversion of land to non-agriculture use. DOE is required to minimize that possible conversion. The mission statement of the WCA (which is at the front of the Policy book) states that WCA will, “Provide a unified voice for beef producers, promote innovative rangeland and livestock management, protect and preserve the cattle industry in the State of Washington.” Further, WCA has specific policy, long resolved, which requires the WCA to protect those statutes that protect our farmers and ranchers, whether a member or not. As the water and ecology chair, I am not stating my

opinion, I am giving the membership facts about this organization. My opinion is not relevant in the giving of information and specifically how proposed government action impacts our membership.

Our WCA board is required to carry “out the dictates of the membership.” Meaning to uphold the resolutions that our membership body has approved. As an example, in 2021 our WCA membership recognized that exempt wells are imperative to our cattle operations and passed resolution to “oppose any effort to limit groundwater withdrawals for livestock; and BE

IT FURTHER RESOLVED, the WCA support the historical legislative intent and administration of the exempt well statute that does not limit livestock watering and watering of lawns or noncommercial gardens not exceeding one-half acre to a daily quantity...”

In 2021 resolution was passed to protect water rights, both state water rights and federally reserved water rights. 2021 was a busy resolution year. The best resolution passed in 2021 from the Water and Ecology committee was this jewel:

"WCA Water Policy - WE 2021-9

WHEREAS, the cattlemen of our state are conscientious stewards of the resources they manage; and

WHEREAS, the ranchers understand better than anyone the value of a clean, adequate water supply; and



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WHEREAS, creating a healthy, sustainable, profitable ranch provides the best opportunity for a rancher to build wealth and leave his heirs with a better life; and

WHEREAS, a private property owner, operating in his own self-interest, is the best person to decide what management strategies to utilize; and

WHEREAS, the Washington State Department of Ecology's (DOE) attempt to apply very specific management practices to broad watersheds fails to support a landowner's ability to fit his management to his specific resource needs;

THEREFORE BE IT RESOLVED, the WCA shall oppose any application of the regulatory guidelines by the DOE for the management of livestock grazing; and

BE IT FURTHER RESOLVED, the WCA encourage its members to work with their chosen technical service provider to develop site-specific, locally determined, strategies for managing their water resources."

And this one:

"Stock Water Rights - WE 2021-11

WHEREAS, water rights are a constitutionally recognized and protected property right; and

WHEREAS, stock water, including historical access to watering areas, is one of the most important private property water rights;

THEREFORE BE IT RESOLVED, that the historical priority of livestock water and access shall be vigorously supported by the WCA."

And another great one:

"Regulatory Capacity of Department of Ecology - WE 2021-15

WHEREAS, the Washington State Constitution is based on the concept of division of powers within the Executive, Legislative and Judicial branches; and

WHEREAS, the Department of Ecology in recent regulatory interpretations of the law have given themselves the authority to grant water rights, extract partial rights, relinquish whole water rights, and levy fines without benefit of the court system;

THEREFORE BE IT RESOLVED, the WCA strongly recommend that the state legislature strictly define and limit the regulatory capacity of the Department of Ecology."

And the best one to come out of 2023:

"Environmental Policy - WE 2023-2

WHEREAS, agriculture is constantly exposed to external pressure questioning management procedures and resource utilization; and

WHEREAS, too frequently these questions are based upon a lack of understanding, confusion, and misinformation; and

WHEREAS, survival of Washington agriculture into the twenty-first century depends upon positive changes occurring in both the agricultural and non-agricultural sectors;

THEREFORE BE IT RESOLVED, that the WCA:

1. Is proactive rather than reactive.
2. Brings similar or different philosophies, whether public or private, together for discussion and evaluation.
3. Stresses communication and cooperation rather than confrontation without sacrificing present policy.
4. Reinforces the WCA's position as a leader in the coordination and resolution of environmental and natural resource issues."

Why are these policies important and why have I put way too many of them in my article? The policies are the backbone of our organization. The policies make sure that even with leadership turnover, the WCA message is consistent and reflects all issues that our membership faces. Water and Ecology is clearly an active committee that works hard to protect our ranching way of life.

The fair season is over and weaning is going strong. We still have a couple of cattle shows left before we take a break and start calving. I look forward to seeing everyone at the WCA Convention and hope that the date change doesn't prohibit attendance. Thanks for everyone's support and I look forward to seeing you at the Water and Ecology meeting. ♣

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