Proposed Change to Stock Water Policy

WSCC Regular Meeting – December 2, 2021
Jon Culp, SCC Water Resources Program
Ron Shultz, SCC Policy Director
In many areas of the state, landowners will allow cattle and livestock to have direct access to streams and surface waters. Such access may cause negative impacts to water quality and riparian habitat. However, for landowners, such access to water is critical to maintain their cattle and livestock herds.

Conservation districts work with landowners to identify approaches to remove surface water access for cattle and livestock. These strategies have historically included the use of exclusion fencing, and small pumps or other mechanical means to move surface water to watering facilities away from the riparian area.
BACKGROUND

• In Washington, use of surface waters of the state requires a water right consistent with the state water code (Title 90.03 RCW).

• Appropriation or diversion of any amount of surface water for a beneficial use requires a water right.

• The current water code does not include an allowance for a *de minimus* use without a water right.
In 1994, Ecology issued a policy for conveying stock water away from streams to protect water quality. (POL-1025)

The purpose of this policy is: “To provide a simple, consistent response to water right related issues when conveying [stock water] away from streams to protect water quality and stream habitat.”

The policy states: “The change of water right process (90.03.380 RCW) will not be required when small amounts of water consistent with historic practice are diverted (screened and piped) to nearby [stock water] tanks for consumption by livestock.”
BACKGROUND

• Conservation districts have been utilizing this policy when engaging with landowners to develop plans for removing livestock from streams and surface waters.

• This approach has been an important tool to incentivize landowners by allowing stock water use away from the surface water.
BACKGROUND

• Ecology is proposing a change to POL-1025 to clarify that any such diversion of surface water for stock water purposes requires a water right or claim, and if no water right exists, one must be obtained by the landowner.

• Ecology is seeking comment on this proposed policy change. Originally comments were due December 5, but Ecology has recently posted a new deadline of February 3, 2022.
RECOMMENDATION

Commission staff recommend the following:

1. The Commission offers to convene a stakeholder group to discuss how stock water could be provided in a manner consistent with state law, but still meet the needs of the landowner.

2. Examine existing instream flow rules to determine whether they include an exemption for stock water use.

3. Examine existing adjudicated watersheds to determine if they include a non-diversionary stock water reserve.

4. Explore possible statutory changes for legislative consideration to allow for a de minimus use for stock water.

5. Allow for a phased implementation of the new policy.
Thank you! Questions?

Jon Culp, SCC Water Resources Program
jculp@scc.wa.gov
(509) 385-7509

Ron Shultz, SCC Policy Director
rshultz@scc.wa.gov
(360) 790-5994