

## Summary

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**Meeting dates:** December 12-13, 2014 Commission Meeting

**Agenda item:** Petition to enact rules associated with the provisions of RCW 77, WAC 232.12 and in accordance with Policy 6003 and House Bill 1309.

**Presenter(s):** Clay Sprague, Lands Division Manager

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### **Background summary:**

The Commission will consider a petition for rulemaking, pursuant to RCW 34.05.330, received on November 7, from Mr. Rob Kavanaugh. The petition requests that the Commission enact rules associated with the provisions of RCW 77, WAC 232-12 and "in accordance with Fish and Wildlife Policy 6003 and House Bill 1309 the following objectives and management principles shall be adopted." The petition further states "[t]he purpose of these amendments are to better insure that the strategic goals of the WDFW are defined, carried out and administered on all suitable Dept. lands. This includes Goal #1 'protect native fish and wildlife.'"

The petitioner requests that the following objectives and guiding principles be adopted into rule to, in the petitioner's view, ensure that effective best science methods are employed by Department staff responsible for carrying out the Department's livestock grazing permit actions.

### Objectives (from Kavanaugh petition)

1. All livestock grazing on WDFW lands must comply with Strategic Goal #1 to protect native fish and wildlife .....
2. All livestock grazing must clearly show that it will and actually does benefit wildlife. Sup. Court decision Herman v. WDFW, Quan, etc. Thurston Sup. Court
3. All livestock grazing on WDFW lands must comply, follow, and enact F&W Comm. Policy 6003 ie must benefit wildlife
4. All livestock grazing on WDFW lands must comply with the mandates of HB1309 Rangeland Standards sec.5 This pertains to protecting riparian areas and streamsidess to protect native fish.
5. Livestock grazing on WDFW lands must employ best available science in all permitting actions to include lessons learned from the WSU Pilot Grazing Project along with the projects quantitative and qualitative finds.
6. The grazing plan/permits must protect ESA species as a first priority and focal species as a second priority.

### Guiding Principles (from Kavanaugh petition)

1. The biological and environmental effects will be evaluated on an annual basis.
2. The grazing operations must be cost effective both in staff fte, cost benefit, materials used and weed control costs to the WMA and WDFW.
3. Effective mgt. procedures including AUM counts by staff, scientific range science monitoring will be enforced by WDFW staff.
4. An annual grazing training and permit evaluation will be accomplished by WDFW staff and the permittee at the close of the grazing treatment.
5. The timing of the grazing treatment and the AUMs will be determined based on the benefits to wildlife needs and vegetation soils and moisture conditions (turnon dates and AUM allowances).
6. Special economic favors will not be given to the permittee with respect to crossing permits and extensions of the grazing days specified on the permit.

In addition, the petitioner further states that "all livestock grazing must be conducted under and by Wa. [Washington] Dept. of Fish & Wildlife staff. All grazing permits must be covered by the wa. SEPA [State Environmental Policy Act] requirements and annual cost benefit reporting to

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the SAO [State Auditor's Office].”

### Department's Grazing Program

The Department's current grazing program is managed according to the Department's mission and strategic goals; Commission Policy C-6003; RCW 77.12.204, RCW 79.13.610, RCW 79.13.620; WAC 232.12.181; and the State Environmental Policy Act (SEPA).

Grazing, as well as all other land management activities are guided by the Department's mission and the Department's 2013-2015 Strategic Plan goals including:

- Goal #1: Conserve and protect native fish and wildlife; and
  
- Goal #3: Promote a healthy economy, protect community character, maintain an overall high quality of life, and deliver high-quality customer service.

Current Fish and Wildlife Commission Policy (C-6003) governs existing grazing and states that “Domestic livestock grazing on Department owned or controlled lands may be permitted if determined to be consistent with desired ecological conditions for those lands, or with the Department's strategic plan.” It also states the grazing may be permitted to:

- Manipulate vegetation for fish and wildlife
- Accomplish habitat objectives
- Facilitate coordinated resource management

The policy directs that when grazing is permitted it must meet the following requirements:

- Maintain ecological integrity
- Cross-program review to consider best available science
- Adaptive management
- Grazing plans
  - Ecological impacts an desired conditions
  - Fish and wildlife benefits
  - Monitoring and evaluation schedule

Revised Code of Washington (RCW) 77.12.204, 79.13.610, and 79.13.620 all relate to adhering to a set of ecosystem standards, often referred to as House Bill 1309, when grazing is permitted on WDFW owned or controlled lands.

Washington Administrative Code (WAC) 232-12-181 also governs grazing and is very similar to Commission Policy C-6003 in addressing consistency with ecological conditions and requiring a grazing plan.

The State Environmental Policy Act (SEPA) requires environmental assessment and public review of any new grazing permit that 1) covers more than 640 acres of land, and 2) has not been subject to a grazing lease or permit within the last 10 years.

The Department complies with these regulations and policies by conducting Ecosystem Standards evaluations, preparing appropriate grazing plans, and conducting monitoring. The Ecosystem Standards, or House Bill 1309 (as directed by RCW 77.12.204) focus on water quality, riparian health, and other habitat conditions, and are evaluated in advance of permit issuance or renewal. Grazing plans, which are reviewed by cross-program district teams, contain the elements stipulated above, and are in the process of being systematically updated to include recent science, maps, forage estimates, and monitoring results where applicable.

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The Department is beginning to implement ecological integrity monitoring, which is in addition to the usual twice-yearly monitoring required by WAC 232-12-181. Additionally, the Department continues to participate in multiple Coordinated Resource Management Plans that involve grazing.

Finally, as presented to the Commission at its November 7<sup>th</sup> meeting, the Department has launched a review of its grazing program to determine if any changes to existing policy or rules may be warranted based on new scientific studies or literature, such as the Pilot Grazing Study in Asotin County.

Based on the fact that current laws, rules and policy already address many of the objectives and guiding principles proposed for rule by the petitioner, and that the Department has just initiated a review of the program to identify any proposed changes based on new information that would come before the Commission; the Department recommends that the Commission deny the petition.

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**Policy issue(s) you are bringing to the Commission for consideration:**

A petition to enact rules for livestock grazing on Department owned and controlled lands associated with the provisions of RCW 77, WAC 232.12 and in accordance with Policy 6003 and House Bill 1309;

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**Public involvement process used and what you learned:**

There has been no formal public involvement since a CR102 rule proposal was not filed.

The Department and Washington State University have held two stakeholder meetings regarding the results of the Pilot Grazing Study and a third meeting is scheduled on Dec. 16<sup>th</sup>. These meetings, held with the Washington Cattleman's Association, the Nez Perce Tribe and Conservation Organizations and other agencies (Dec. 16), have summarized habitat results, described monitoring practices, and included a brief discussion of the Department's grazing program review initiative. Any proposed recommendations to the program as a result of this review will include public involvement and input and Commission review.

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**Action requested:**

The Department recommends that the petition be denied and the Department revisit the recommendation on whether to proceed with rule-making with the Fish and Wildlife Commission in 2015 or 2016 after completion of Department review of the grazing program.

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**Draft motion language:**

I move to deny Mr. Kavanaugh's November 7, 2014 petition to enact rules related to livestock grazing on Department owned or controlled lands; and direct the Department to continue its review of the grazing program to determine the appropriateness of any future rule making.

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**Justification for Commission action:**

Current laws, rules, policy and practice already address many of the objectives and guiding principles proposed for rule by the petitioner; and the Department has just started a review of the program to identify any proposed changes that would come before the commission.

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**Communications Plan:**

WDFW will respond formally in writing regarding the Commission's decision.

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