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HOUSE BILL 1938

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By Representatives Hailey, Haler, Newhouse, Kretz, Warnick, Buri, Ahern, Grant, Kristiansen, Ericksen, Blake, Chandler, Walsh and Hinkle

Read first time 02/01/2007. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to eliminating the partial relinquishment of water  
2 rights; and amending RCW 90.14.130, 90.14.160, 90.14.170, and  
3 90.14.180.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 90.14.130 and 1987 c 109 s 13 are each amended to read  
6 as follows:

7 When it appears to the department of ecology that a person entitled  
8 to the use of water has not beneficially used his or her water right  
9 (~~(or some portion thereof,)~~) and it appears that said right has or may  
10 have reverted to the state because of such nonuse, as provided by RCW  
11 90.14.160, 90.14.170, or 90.14.180, the department of ecology shall  
12 notify such person by order: PROVIDED, That where a company,  
13 association, district, or the United States has filed a blanket claim  
14 under the provisions of RCW 90.14.060 for the total benefits of those  
15 served by it, the notice shall be served on such company, association,  
16 district or the United States and not upon any of its individual water  
17 users who may not have used the water (~~(or some portion thereof)~~) which  
18 they were entitled to use. The order shall contain: (1) A description  
19 of the water right, including the approximate location of the point of

1 diversion, the general description of the lands or places where such  
2 waters were used, the water source, the amount involved, the purpose of  
3 use, and the apparent authority upon which the right is based; (2) a  
4 statement that unless sufficient cause be shown on appeal the water  
5 right will be declared relinquished; and (3) a statement that such  
6 order may be appealed to the pollution control hearings board. Any  
7 person aggrieved by such an order may appeal it to the pollution  
8 control hearings board pursuant to RCW 43.21B.310. The order shall be  
9 served by registered or certified mail to the last known address of the  
10 person and be posted at the point of division or withdrawal. The order  
11 by itself shall not alter the recipient's right to use water, if any.

12 **Sec. 2.** RCW 90.14.160 and 1981 c 291 s 1 are each amended to read  
13 as follows:

14 (1) Any person entitled to divert or withdraw waters of the state  
15 through any appropriation authorized by enactments of the legislature  
16 prior to enactment of chapter 117, Laws of 1917, or by custom, or by  
17 general adjudication, who abandons the same, or who voluntarily fails,  
18 without sufficient cause, to beneficially use ~~((all or any part of))~~  
19 said right to divert or withdraw for any period of five successive  
20 years after July 1, 1967, shall relinquish such right ~~((or portion~~  
21 ~~thereof,))~~ and said right ~~((or portion thereof))~~ shall revert to the  
22 state, and the waters affected by said right shall become available for  
23 appropriation in accordance with RCW 90.03.250.

24 (2) For purposes of this section, a person shall not be deemed to  
25 have voluntarily failed to beneficially use said water right if the  
26 person has continued to use at least a portion of said right for the  
27 established purpose of use.

28 **Sec. 3.** RCW 90.14.170 and 1967 c 233 s 17 are each amended to read  
29 as follows:

30 (1) Any person entitled to divert or withdraw waters of the state  
31 by virtue of his or her ownership of land abutting a stream, lake, or  
32 watercourse, who abandons the same, or who voluntarily fails, without  
33 sufficient cause, to beneficially use ~~((all or any part of))~~ said right  
34 to withdraw or divert said water for any period of five successive  
35 years after July 1, 1967, shall relinquish such right ~~((or portion~~

1 ~~thereof,~~) and such right (~~or portion thereof~~) shall revert to the  
2 state, and the waters affected by said right shall become available for  
3 appropriation in accordance with the provisions of RCW 90.03.250.

4 (2) For purposes of this section, a person shall not be deemed to  
5 have voluntarily failed to beneficially use said water right if the  
6 person has continued to use at least a portion of said right for the  
7 established purpose of use.

8 **Sec. 4.** RCW 90.14.180 and 1987 c 109 s 101 are each amended to  
9 read as follows:

10 (1) Any person hereafter entitled to divert or withdraw waters of  
11 the state through an appropriation authorized under RCW 90.03.330,  
12 90.44.080, or 90.44.090 who abandons the same, or who voluntarily  
13 fails, without sufficient cause, to beneficially use (~~all or any part~~  
14 ~~of~~) said right to withdraw for any period of five successive years  
15 shall relinquish such right (~~or portion thereof,~~) and such right (~~or~~  
16 ~~portion thereof~~) shall revert to the state, and the waters affected by  
17 said right shall become available for appropriation in accordance with  
18 RCW 90.03.250. All certificates hereafter issued by the department of  
19 ecology pursuant to RCW 90.03.330 shall expressly incorporate this  
20 section by reference.

21 (2) For purposes of this section, a person shall not be deemed to  
22 have voluntarily failed to beneficially use said water right if the  
23 person has continued to use at least a portion of said right for the  
24 established purpose of use.

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