

HOUSE BILL REPORT

HB 2375

As Passed House:

February 6, 1996

Title: An act relating to water resources.

Brief Description: Prohibiting a moratorium on new appropriations of Columbia or Snake river waters based on certain contingencies.

Sponsors: Representatives Chandler, Koster, Mastin, Honeyford, McMorris and Mulliken.

Brief History:

Committee Activity:

Agriculture & Ecology: 1/22/96, 1/24/96 [DP].

Floor Activity:

Passed House: 2/6/96, 66-31.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: Do pass. Signed by 12 members: Representatives Chandler, Chairman; Koster, Vice Chairman; Chappell, Ranking Minority Member; Boldt; Clements; Delvin; Honeyford; Johnson; Mastin; Ogden; Robertson and Schoesler.

Minority Report: Without recommendation. Signed by 4 members: Representatives Linville, Assistant Ranking Minority Member; Murray; Regala and Rust.

Staff: Kenneth Hirst (786-7105).

Background: Through the adoption of emergency rules, the Department of Ecology placed on hold applications for water right permits to withdraw water from the main stems of the Columbia and Snake Rivers. The emergency rules did not apply to applications that were filed with the department before December 20, 1991, which is the date the National Marine Fisheries Service listed Snake River sockeye salmon as endangered under the federal Endangered Species Act. The department subsequently adopted permanent rules withdrawing from further appropriation the waters of the main stems of these rivers. The rules were to have expired on June 30, 1994. The rules, WAC 173-563-015 and 173-564-040, are now scheduled to expire on July 1, 1999, unless a new instream resources protection program is adopted by the department before that date.

The rules establishing this "moratorium" policy apply to applications for the use of surface water and to applications for the use of groundwater that is in direct hydraulic continuity with the main stem of either river. As was the case with the emergency rules, the moratorium does not apply to water right applications accepted for filing before December 20, 1991. As exceptions to the moratorium, the rules permit the department to issue water withdrawal permits for applications filed by the United States for uses of water withdrawn for the Columbia Basin project with a priority date of 1938; nonrecurring temporary projects for up to six months duration, with a possible extension of no more than six additional months; certain nonconsumptive uses; uses necessary for emergency public health and safety needs, when all other reasonable methods of obtaining water have been exhausted; and uses which are specifically intended to benefit weak fish stocks.

The rules establishing the moratorium cite the 1991 federal listing of Snake River sockeye salmon as endangered and the 1992 listing of Snake River spring/summer and fall chinook salmon as threatened. The rules state that, since then, new information and changing conditions continue to place into question whether sufficient information and data are available for making sound decisions on water availability and the use from the main stems of these rivers.

Summary of Bill: The Department of Ecology is prohibited from withdrawing from further appropriation Columbia or Snake river waters based upon uncertainty as to whether sufficient waters would be available, following new appropriations, to satisfy the needs of unquantified or speculative future instream uses of the waters of these rivers.

Two rules adopted by the department, WAC 173-563-015 and 173-564-040, are declared to be in conflict with this policy and void.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (1) The Columbia River is the main source of water in a number of the counties of this state. It is the only source of water for many cities and citizens attempting to accommodate growth in those counties, but the department has established a moratorium that prohibits them from getting the water they need. The department has advised the city of Brewster that if it wants water, it should buy the rights to a farmer's orchard and tear out the orchard. The Columbia River is not low on water; the department's policy does not make sense. (2) Oregon's water policy permits domestic uses of the river's water; this state's policy does not. (3) The two biggest causes of the decline in fish runs are hatchery fish and the harvesting of fish.

Neither is addressed by the moratorium. (4) The department's policies regarding deep well irrigators near the Columbia Basin Project are forcing farmers to use more water to grow less productive crops, when a change in its acreage expansion policies would allow the farmers to grow more with less water.

Testimony Against: (1) The fish species being protected are on the brink of extinction. If, based on uncertainties, the state makes an error in its policies, these species will be gone forever. The moratorium holds this part of a recovery plan in place while more information is being gathered. (2) Local water planning groups should address whether the policy should be changed.

Testified: Representative Clyde Ballard, Speaker of the House; and Mark Booker (in favor). Bruce Wishart, Sierra Club; and Judy Turpin, Washington Environmental Council (opposed). Carol Fleskes, Department of Ecology (responded to questions).