

# SENATE BILL REPORT

## HB 2375

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As of February 19, 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:** Ecology & Parks: 2/21/96.

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### SENATE COMMITTEE ON ECOLOGY & PARKS

**Staff:** Kari Guy (786-7437)

**Background:** On December 20, 1991, the National Marine Fisheries Service (NMFS) listed Snake River sockeye salmon as an endangered species. Since that time, the NMFS has listed two additional species as endangered, the Snake River spring/summer chinook and the Snake River fall chinook.

In 1995 NMFS adopted the Proposed Recovery Plan for Snake River Salmon. The biological objectives identified in the plan included restoring habitat, improving fish passage, and providing adequate instream flows.

The Northwest Power Planning Council is responsible for coordinating the salmon recovery efforts in the states of Washington, Oregon, Idaho and Montana. In 1994, the Council adopted the Columbia River Basin Fish and Wildlife Program for the protection of all anadromous and resident fish and wildlife in the Columbia Basin. The plan was designed to balance competing river uses, with the intent of avoiding future Endangered Species Act listings and keeping contentious fish and energy disputes out of the courts. The plan's biological objectives for juvenile salmon migration include increasing Snake and Columbia River flow and velocity to decrease downstream migration time. To accomplish this objective, the plan calls for providing over one million additional acre feet of water by 1998 to augment flows in the April to September period. The plan recognizes that flow augmentation must occur within the context of state, federal, and Indian water rights.

In response to the December 20, 1991, listing of Snake River sockeye salmon as endangered, the Department of Ecology adopted rules withdrawing from further appropriation the waters of the main stems of the Columbia and Snake Rivers. The rules do not apply to applications that were filed with the department before December 20, 1991. The rules, WAC 173-563-015 and 173-564-040, are scheduled to expire on July 1, 1999, unless a new instream resources protection program is adopted by the department before that date.

The rules 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 exceptions to the moratorium, the rules permit the department to issue water withdrawal permits for the following uses: 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.

**Summary of Bill:** The Department of Ecology is prohibited from withdrawing Columbia or Snake River waters from further appropriation based upon uncertainty as to whether sufficient waters would be available to satisfy the needs of speculative future instream uses.

The rules adopted by the Department of Ecology to withdraw Columbia and Snake River waters from appropriation, WAC 173-563-015 and WAC 173-564-040, are declared void.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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