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**SUBSTITUTE HOUSE BILL 1327**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Kremen, Clements, McMorris, Mastin, Johnson, Chappell, Schoesler, Lisk, Cairnes, Boldt, L. Thomas, Thompson, Sheldon, Campbell, Mulliken and Mielke)

Read first time 02/27/95.

1 AN ACT Relating to water rights claim filing; amending RCW  
2 90.14.041 and 90.14.071; and adding new sections to chapter 90.14 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.14 RCW  
5 to read as follows:

6 (1) A new period for filing statements of claim for water rights is  
7 established. The filing period shall begin September 1, 1995, and  
8 shall end at midnight June 30, 1996. A statement filed during this  
9 filing period shall be filed as provided in RCW 90.14.051 and 90.14.061  
10 and shall be subject to the provisions of this chapter regarding  
11 statements of claim. This reopening of the period for filing  
12 statements of claim shall not affect or impair in any respect  
13 whatsoever any water right existing prior to the effective date of this  
14 section. A water right embodied in a statement of claim filed under  
15 this section is subordinate to any water right embodied in a permit or  
16 certificate issued under chapter 90.03 or 90.44 RCW prior to the date  
17 the statement of claim is filed with the department and is subordinate  
18 to any water right embodied in a statement of claim filed in the water  
19 rights claims registry before the effective date of this section.

1 (2) The department of ecology shall, at least once each week during  
2 the month of August 1995 and at least once each month during the filing  
3 period, publish a notice regarding this new filing period in newspapers  
4 of general circulation in the various regions of the state. The notice  
5 shall contain the substance of the following notice:

6 WATER RIGHTS NOTICE

7 Every person and entity, public or private, claiming water  
8 rights established under the laws of the state of Washington,  
9 are hereby notified that all water rights or claimed water  
10 rights relating to the withdrawal or diversion of public  
11 surface or ground waters of the state, except those water  
12 rights based upon the authority of a permit or certificate  
13 issued by the department of ecology or one of its predecessors  
14 or based upon a statement of claim that has previously been  
15 filed in the state's water rights claims registry during other  
16 registration periods, must be registered with the department of  
17 ecology, Olympia, Washington, on or after September 1, 1995,  
18 and not later than June 30, 1996. FAILURE TO REGISTER AS  
19 REQUIRED BY LAW WILL RESULT IN A WAIVER AND RELINQUISHMENT OF  
20 SAID WATER RIGHT OR CLAIMED WATER RIGHT. For further  
21 information contact the department of ecology, Olympia,  
22 Washington, for a copy of the law providing this filing period  
23 and an explanation of the law and its requirements.

24 The department shall also prepare, make available to the public,  
25 and distribute to the communications media information describing the  
26 types of rights for which statements of claim need not be filed, the  
27 effect of filing, the effect of RCW 90.14.071, and other information  
28 relevant to filings and statements of claim.

29 (3) The department of ecology shall ensure that employees of the  
30 department are readily available to respond to inquiries regarding  
31 filing statements of claim and that all of the information the  
32 department has at its disposal that is relevant to an inquiry regarding  
33 a particular potential claim, including information regarding other  
34 rights and claims in the vicinity of the potentially claimed right, is  
35 available to the person making the inquiry. The department shall  
36 dedicate additional staff in each of the department's regional offices  
37 and in the department's central office to ensure that responses and

1 information are provided in a timely manner during each of the business  
2 days during the month of August 1995 and during the new filing period.

3 (4) To assist the department in avoiding unnecessary duplication,  
4 the department shall provide to a requestor, within ten working days of  
5 receiving the request, the records of any water right claimed, listed,  
6 recorded, or otherwise existing in the records of the department or its  
7 predecessor agencies, including any report of a referee in a water  
8 rights adjudication. This information shall be provided as required by  
9 this subsection if the request is provided in writing from the owner of  
10 the water right or from the holder of a possessory interest in any real  
11 property for water right records associated with the property or if the  
12 requestor is an attorney for such an owner. The information regarding  
13 water rights in the area served by a regional office of the department  
14 shall also be provided within ten working days to any requestor who  
15 requests to review the information in person in the department's  
16 regional office. The information held by the headquarters office of  
17 the department shall also be provided within ten working days to any  
18 requestor who requests to review the information in person in the  
19 department's headquarters office. The requirements of this subsection  
20 that records and information be provided to requestors within ten  
21 working days may not be construed as limiting in any manner the  
22 obligations of the department to provide public access to public  
23 records as required by chapter 42.17 RCW.

24 **Sec. 2.** RCW 90.14.041 and 1988 c 127 s 73 are each amended to read  
25 as follows:

26 All persons using or claiming the right to withdraw or divert and  
27 make beneficial use of public surface or ground waters of the state,  
28 except as (~~hereinafter~~) provided in this section, RCW 90.14.043, and  
29 section 1 of this act, shall file with the department of ecology not  
30 later than June 30, 1974, a statement of claim for each water right  
31 asserted on a form provided by the department. Neither this section  
32 (~~shall not~~) nor section 1 of this act apply to any water rights which  
33 are based on the authority of a permit or certificate issued by the  
34 department of ecology or one of its predecessors. Further, section 1  
35 of this act does not apply to the beneficial uses of ground water  
36 exempted from permit and application requirements by RCW 90.44.050.

1       **Sec. 3.** RCW 90.14.071 and 1969 ex.s. c 284 s 16 are each amended  
2 to read as follows:

3       Except as provided in section 5 of this act, any person claiming  
4 the right to divert or withdraw waters of the state as set forth in RCW  
5 90.14.041, who fails to file a statement of claim as provided in RCW  
6 90.14.041, 90.14.043, or section 1 of this act and in RCW 90.14.051 and  
7 90.14.061, shall be conclusively deemed to have waived and relinquished  
8 any right, title, or interest in said right.

9       NEW SECTION. **Sec. 4.** A new section is added to chapter 90.14 RCW  
10 to read as follows:

11       Any person or entity, or successor to such person or entity, having  
12 a statement of claim on file with the water rights claims registry on  
13 the effective date of this act, may submit to the department of ecology  
14 for filing an amendment to such a statement of claim as provided in  
15 this section. Such an amendment may be submitted only to correct an  
16 error in the statement filed and the person submitting the amendment  
17 shall attest in writing that the amendment does not constitute an  
18 expansion of the right for which the statement of claim was intended.  
19 Such an amendment may be submitted only during the period established  
20 in section 1 of this act for filing statements of claim.

21       The department shall accept any such submission and file the  
22 amendment in the registry unless the department by written  
23 determination concludes that the requirements of this section have not  
24 been satisfied. Any person aggrieved by a determination of the  
25 department may obtain a review thereof by filing a petition for review  
26 with the pollution control hearings board within thirty days of the  
27 date of the determination by the department. The provisions of RCW  
28 90.14.081 shall apply to any amendment filed under this section. This  
29 section shall not be construed as limiting the authority of a person or  
30 entity to submit an amendment under RCW 90.14.065.

31       NEW SECTION. **Sec. 5.** A new section is added to chapter 90.14 RCW  
32 to read as follows:

33       During the period beginning March 1, 1994, and ending at midnight  
34 June 30, 1996, neither the department of ecology nor the pollution  
35 control hearings board may determine or find that a water right has  
36 been waived or relinquished under this chapter based on the failure of  
37 any person or entity to file a statement of claim for the right under

1 this chapter. Any finding or determination issued contrary to this  
2 section is void. If the department or the board determined that a  
3 person waived or relinquished a water right during the time period  
4 specified in this section, but prior to the effective date of this act,  
5 the sole remedy for the person shall be to file a new claim or submit  
6 an amendment under section 1 or 4 of this act or RCW 90.14.065.

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