
SENATE BILL 6447

State of Washington 54th Legislature 1996 Regular Session

By Senators Fraser, Swecker and Rasmussen

Read first time 01/15/96. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to water permit processing; and amending RCW
2 90.03.290.

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

4 **Sec. 1.** RCW 90.03.290 and 1994 c 264 s 84 are each amended to read
5 as follows:

6 (1) When an application complying with the provisions of this
7 chapter and with the rules ((and regulations)) of the department has
8 been filed, the ((same)) application shall be placed on record with the
9 department, and it shall be ((its)) the department's duty to
10 ((investigate the application, and)) determine what water, if any, is
11 available for appropriation, and find and determine to what beneficial
12 use or uses it can be applied. The department shall investigate the
13 application. It is the duty of the applicant to provide a completed
14 application form. In addition to providing the information requested
15 on the form, however, the applicant shall also provide such information
16 as may be required for the department's investigation, determinations,
17 and findings regarding the application and may provide additional
18 information. The information provided by the applicant must satisfy
19 the protocols, that is, study plans and criteria, established by the

1 department for obtaining and providing the information. If an
2 applicant provides the information and the protocols set by the
3 department for obtaining and providing it have been satisfied, the
4 department shall review the information and may take actions to verify
5 that the information is accurate.

6 (2) With regard to an application:

7 (a) If it is proposed to appropriate water for irrigation purposes,
8 the department shall investigate, determine, and find what lands are
9 capable of irrigation by means of water found available for
10 appropriation((-))i

11 (b) If it is proposed to appropriate water for the purpose of power
12 development, the department shall investigate, determine, and find
13 whether the proposed development is likely to prove detrimental to the
14 public interest, having in mind the highest feasible use of the waters
15 belonging to the public.

16 (3) If the application does not contain, and the applicant does not
17 promptly furnish sufficient information on which to base such findings,
18 the department may issue a preliminary permit, for a period of not to
19 exceed three years, requiring the applicant to make such surveys,
20 investigations, studies, and progress reports, as in the opinion of the
21 department may be necessary. If the applicant fails to comply with the
22 conditions of the preliminary permit, it and the application or
23 applications on which it is based shall be automatically canceled and
24 the applicant so notified. If the holder of a preliminary permit
25 shall, before its expiration, file with the department a verified
26 report of expenditures made and work done under the preliminary permit,
27 which, in the opinion of the department, establishes the good faith,
28 intent, and ability of the applicant to carry on the proposed
29 development, the preliminary permit may, with the approval of the
30 governor, be extended, but not to exceed a maximum period of five years
31 from the date of the issuance of the preliminary permit.

32 (4) The department shall make and file as part of the record in the
33 matter, written findings of fact concerning all things investigated.
34 The department shall make a summary of the record of examination, and
35 the proposed permit if the department proposes to issue the permit,
36 available to the public and provide a period of at least sixty days for
37 the public to submit comments thereon. The department shall consider
38 the comments received and the entire record, and if it shall find that
39 there is water available for appropriation for a beneficial use, and

1 the appropriation thereof as proposed in the application will not
2 impair existing rights or be detrimental to the public welfare, it
3 shall issue a permit stating the amount of water to which the applicant
4 shall be entitled and the beneficial use or uses to which it may be
5 applied: PROVIDED, That where the water applied for is to be used for
6 irrigation purposes, it shall become appurtenant only to such land as
7 may be reclaimed thereby to the full extent of the soil for
8 agricultural purposes. But where there is no unappropriated water in
9 the proposed source of supply, or where the proposed use conflicts with
10 existing rights, or threatens to prove detrimental to the public
11 interest, having due regard to the highest feasible development of the
12 use of the waters belonging to the public, it shall be duty of the
13 department to reject such application and to refuse to issue the permit
14 asked for. If the permit is refused because of conflict with existing
15 rights and such applicant shall acquire same by purchase or
16 condemnation under RCW 90.03.040, the department may thereupon grant
17 such permit. Any application may be approved for a less amount of
18 water than that applied for, if there exists substantial reason
19 therefor, and in any event shall not be approved for more water than
20 can be applied to beneficial use for the purposes named in the
21 application. In determining whether or not a permit shall issue upon
22 any application, it shall be the duty of the department to investigate
23 all facts relevant and material to the application. After the
24 department approves said application in whole or in part and before any
25 permit shall be issued thereon to the applicant, such applicant shall
26 pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the
27 event a permit is issued by the department upon any application, it
28 shall be its duty to notify the director of fish and wildlife of such
29 issuance.

--- END ---