

ANALYSIS OF SSB 5030

House Agriculture & Ecology Committee

March 24, 1997

BACKGROUND:

A person must apply to the Department of Ecology for a water right for any surface water withdrawal. This process may be lengthy. Current law allows a person to use less than 5,000 gallons of water per day for certain purposes without first obtaining a water right. However, this exemption from obtaining a water right applies only in the case of groundwater withdrawals.

SUMMARY:

A specific process is created by which the Department of Ecology (DOE) must determine if there is enough water in lakes and reservoirs over 20,000 surface acres to allow single-family residents that live along the lakes and reservoirs to use lake water to irrigate their lawns and noncommercial gardens. If the DOE determines there is enough water for such use, the DOE must allow the use of lake water, by rule, subject to certain conditions.

Ecology's Process. In making its determination, the DOE is to consider at least the following factors:

- (1) whether there is water available for appropriation;*
- (2) whether allowing additional appropriation will have a significant adverse impact on existing water-right holders and instream resources;*
- (3) the existing and future potential uses of water from the lake or reservoir;*
- (4) the effect on upstream resources of allowing or not allowing withdrawal from the lake or reservoir; and*
- (5) the physical characteristics of the lake or reservoir.*

If the DOE does determine that there is sufficient water, the DOE must hold one or more public hearings. After the public hearing or hearings, the DOE must make a final decision on whether or not there is sufficient water available for lawn and garden watering by single-family residences living along the lakes.

Use Restrictions. If the DOE makes a final determination that there is sufficient water, the agency must adopt rules allowing persons, living in single-family residences along lakes and reservoirs over 20,000 surface acres in size, to use lake water for lawn and noncommercial

garden watering. These rules must also include conservation requirements and provisions to protect existing uses of the water.

The DOE is also authorized to temporarily suspend the right to use water for lawns and gardens if there is a drought, or if the lawn and garden watering is causing adverse impacts to fish, existing water rights, navigation, power generation, or to shoreline facilities.

Persons withdrawing water under a rule adopted under this act may apply for a water right permit. The right to withdraw water under this section has a priority date of the effective date of the rule.

Timing. The DOE is to conduct the determination required by this legislation in a manner that allows it to adopt rules by June 1, 1998. Rules are necessary only if the DOE decides there is enough water to allow lawn and garden watering.

If water is appropriated subject to the provisions of this legislation, the DOE is required to evaluate the advantages and disadvantages of using this process to appropriate water from other urban lakes and reservoirs and report its findings to the Legislature by June 30, 2000.

Other Provisions. A person withdrawing water under such a rule adopted by the DOE may, but is not required to, apply for a water-right permit.

A person withdrawing water who uses an irrigation system that is also connected to a potable water supply system must comply with all applicable health, safety, and building code requirements.

Eastern Washington Lakes and Reservoirs. In Eastern Washington, the DOE process to evaluate adequate water supply in lakes and reservoirs greater than 20,000 surface acres is initiated only if a petition of at least 10 percent of the landowners around a particular lake or reservoir is submitted to the DOE.