

2 **E2SHB 2867** - S COMM AMD (S5027.1 AMD BY #210)
3 By Committee on Environmental Quality & Water Resources

4 ADOPTED AS AMENDED 3/1/00

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. Sec. 1. A new section is added to chapter 90.44 RCW
8 to read as follows:

9 The legislature recognizes the importance of sound water
10 management. In an effort to promote new and innovative methods of
11 water storage, the legislature authorizes the department of ecology to
12 issue reservoir permits that enable an entity to artificially store and
13 recover water in any underground geological formation, which qualifies
14 as a reservoir under RCW 90.03.370.

15 **Sec. 2.** RCW 90.44.035 and 1987 c 109 s 107 are each amended to
16 read as follows:

17 For purposes of this chapter:

18 (1) "Department" means the department of ecology;

19 (2) "Director" means the director of ecology;

20 (3) "Ground waters" means all waters that exist beneath the land
21 surface or beneath the bed of any stream, lake or reservoir, or other
22 body of surface water within the boundaries of this state, whatever may
23 be the geological formation or structure in which such water stands or
24 flows, percolates or otherwise moves. There is a recognized
25 distinction between natural ground water and artificially stored ground
26 water;

27 (4) "Natural ground water" means water that exists in underground
28 storage owing wholly to natural processes; ((and))

29 (5) "Artificially stored ground water" means water that is made
30 available in underground storage artificially, either intentionally, or
31 incidentally to irrigation and that otherwise would have been
32 dissipated by natural ((waste)) processes; and

33 (6) "Underground artificial storage and recovery project" means any
34 project in which it is intended to artificially store water in the
35 ground through injection, surface spreading and infiltration, or other

1 department-approved method, and to make subsequent use of the stored
2 water. However, (a) this subsection does not apply to irrigation
3 return flow, or to operational and seepage losses that occur during the
4 irrigation of land, or to water that is artificially stored due to the
5 construction, operation, or maintenance of an irrigation district
6 project, or to projects involving water reclaimed in accordance with
7 chapter 90.46 RCW; and (b) RCW 90.44.130 applies to those instances of
8 claimed artificial recharge occurring due to the construction,
9 operation, or maintenance of an irrigation district project or
10 operational and seepage losses that occur during the irrigation of
11 land, as well as other forms of claimed artificial recharge already
12 existing at the time a ground water subarea is established.

13 **Sec. 3.** RCW 90.03.370 and 1987 c 109 s 93 are each amended to read
14 as follows:

15 (1) All applications for reservoir permits shall be subject to the
16 provisions of RCW 90.03.250 through 90.03.320. But the party or
17 parties proposing to apply to a beneficial use the water stored in any
18 such reservoir shall also file an application for a permit, to be known
19 as the secondary permit, which shall be in compliance with the
20 provisions of RCW 90.03.250 through 90.03.320. Such secondary
21 application shall refer to such reservoir as its source of water supply
22 and shall show documentary evidence that an agreement has been entered
23 into with the owners of the reservoir for a permanent and sufficient
24 interest in said reservoir to impound enough water for the purposes set
25 forth in said application. When the beneficial use has been completed
26 and perfected under the secondary permit, the department shall take the
27 proof of the water users under such permit and the final certificate of
28 appropriation shall refer to both the ditch and works described in the
29 secondary permit and the reservoir described in the primary permit.

30 (2)(a) For the purposes of this section, "reservoir" includes, in
31 addition to any surface reservoir, any naturally occurring underground
32 geological formation where water is collected and stored for subsequent
33 use as part of an underground artificial storage and recovery project.
34 To qualify for issuance of a reservoir permit an underground geological
35 formation must meet standards for review and mitigation of adverse
36 impacts identified, for the following issues:

37 (i) Aquifer vulnerability and hydraulic continuity;

38 (ii) Potential impairment of existing water rights;

1 (iii) Geotechnical impacts and aquifer boundaries and
2 characteristics;

3 (iv) Chemical compatibility of surface waters and ground water;

4 (v) Recharge and recovery treatment requirements;

5 (vi) System operation;

6 (vii) Water rights and ownership of water stored for recovery; and

7 (viii) Environmental impacts.

8 (b) Standards for review and standards for mitigation of adverse
9 impacts for an underground artificial storage and recovery project
10 shall be established by the department by rule. Notwithstanding the
11 provisions of RCW 90.03.250 through 90.03.320, analysis of each
12 underground artificial storage and recovery project and each
13 underground geological formation for which an applicant seeks the
14 status of a reservoir shall be through applicant-initiated studies
15 reviewed by the department.

16 (3) For the purposes of this section, "underground artificial
17 storage and recovery project" means any project in which it is intended
18 to artificially store water in the ground through injection, surface
19 spreading and infiltration, or other department-approved method, and to
20 make subsequent use of the stored water. However, (a) this subsection
21 does not apply to irrigation return flow, or to operational and seepage
22 losses that occur during the irrigation of land, or to water that is
23 artificially stored due to the construction, operation, or maintenance
24 of an irrigation district project, or to projects involving water
25 reclaimed in accordance with chapter 90.46 RCW; and (b) RCW 90.44.130
26 applies to those instances of claimed artificial recharge occurring due
27 to the construction, operation, or maintenance of an irrigation
28 district project or operational and seepage losses that occur during
29 the irrigation of land, as well as other forms of claimed artificial
30 recharge already existing at the time a ground water subarea is
31 established.

32 (4) Nothing in this act changes the requirements of existing law
33 governing issuance of permits to appropriate or withdraw the waters of
34 the state.

35 (5) The department shall report to the legislature by December 31,
36 2001, on the standards for review and standards for mitigation
37 developed under subsection (3) of this section and on the status of any
38 applications that have been filed with the department for underground
39 artificial storage and recovery projects by that date."

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2 By Committee on Environmental Quality & Water Resources

3 ADOPTED 3/1/00

4 On page 1, line 1 of the title, after "storage;" strike the
5 remainder of the title and insert "amending RCW 90.44.035 and
6 90.03.370; and adding a new section to chapter 90.44 RCW."

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