

CERTIFICATION OF ENROLLMENT

SENATE BILL 5333

Chapter 239, Laws of 2001

57th Legislature
2001 Regular Session

WATER--PRELIMINARY PERMIT TIMELINES

EFFECTIVE DATE: 7/22/01

Passed by the Senate April 19, 2001
YEAS 48 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 12, 2001
YEAS 82 NAYS 0

FRANK CHOPP
**Speaker of the
House of Representatives**

CLYDE BALLARD
**Speaker of the
House of Representatives**

Approved May 11, 2001

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5333** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

May 11, 2001 - 9:09 a.m.

**Secretary of State
State of Washington**

SENATE BILL 5333

AS AMENDED BY THE HOUSE

Passed Legislature - 2001 Regular Session

State of Washington

57th Legislature

2001 Regular Session

By Senators Honeyford, Hale, Morton, Hochstatter, Hewitt, Swecker and Sheahan

Read first time 01/19/2001. Referred to Committee on Environment, Energy & Water.

1 AN ACT Relating to preliminary permit timelines; 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 shall be placed on record with the department, and
9 it shall be its duty to investigate the application, and determine what
10 water, if any, is available for appropriation, and find and determine
11 to what beneficial use or uses it can be applied. If it is proposed to
12 appropriate water for irrigation purposes, the department shall
13 investigate, determine and find what lands are capable of irrigation by
14 means of water found available for appropriation. If it is proposed to
15 appropriate water for the purpose of power development, the department
16 shall investigate, determine and find whether the proposed development
17 is likely to prove detrimental to the public interest, having in mind
18 the highest feasible use of the waters belonging to the public.

1 (2)(a) If the application does not contain, and the applicant does
2 not promptly furnish sufficient information on which to base such
3 findings, the department may issue a preliminary permit, for a period
4 of not to exceed three years, requiring the applicant to make such
5 surveys, investigations, studies, and progress reports, as in the
6 opinion of the department may be necessary. If the applicant fails to
7 comply with the conditions of the preliminary permit, it and the
8 application or applications on which it is based shall be automatically
9 canceled and the applicant so notified. If the holder of a preliminary
10 permit shall, before its expiration, file with the department a
11 verified report of expenditures made and work done under the
12 preliminary permit, which, in the opinion of the department,
13 establishes the good faith, intent, and ability of the applicant to
14 carry on the proposed development, the preliminary permit may, with the
15 approval of the governor, be extended, but not to exceed a maximum
16 period of five years from the date of the issuance of the preliminary
17 permit.

18 **(b) For any application for which a preliminary permit was issued**
19 **and for which the availability of water was directly affected by a**
20 **moratorium on further diversions from the Columbia river during the**
21 **years from 1990 to 1998, the preliminary permit is extended through**
22 **June 30, 2002. If such an application and preliminary permit were**
23 **canceled during the moratorium, the application and preliminary permit**
24 **shall be reinstated until June 30, 2002, if the application and permit:**
25 **(i) Are for providing regional water supplies in more than one urban**
26 **growth area designated under chapter 36.70A RCW and in one or more**
27 **areas near such urban growth areas, or the application and permit are**
28 **modified for providing such supplies, and (ii) provide or are modified**
29 **to provide such regional supplies through the use of existing intake or**
30 **diversion structures. The authority to modify such a canceled**
31 **application and permit to accomplish the objectives of (b)(i) and (ii)**
32 **of this subsection is hereby granted.**

33 (3) The department shall make and file as part of the record in the
34 matter, written findings of fact concerning all things investigated,
35 and if it shall find that there is water available for appropriation
36 for a beneficial use, and the appropriation thereof as proposed in the
37 application will not impair existing rights or be detrimental to the
38 public welfare, it shall issue a permit stating the amount of water to
39 which the applicant shall be entitled and the beneficial use or uses to

1 which it may be applied: PROVIDED, That where the water applied for is
2 to be used for irrigation purposes, it shall become appurtenant only to
3 such land as may be reclaimed thereby to the full extent of the soil
4 for agricultural purposes. But where there is no unappropriated water
5 in the proposed source of supply, or where the proposed use conflicts
6 with existing rights, or threatens to prove detrimental to the public
7 interest, having due regard to the highest feasible development of the
8 use of the waters belonging to the public, it shall be duty of the
9 department to reject such application and to refuse to issue the permit
10 asked for.

11 (4) If the permit is refused because of conflict with existing
12 rights and such applicant shall acquire same by purchase or
13 condemnation under RCW 90.03.040, the department may thereupon grant
14 such permit. Any application may be approved for a less amount of
15 water than that applied for, if there exists substantial reason
16 therefor, and in any event shall not be approved for more water than
17 can be applied to beneficial use for the purposes named in the
18 application. In determining whether or not a permit shall issue upon
19 any application, it shall be the duty of the department to investigate
20 all facts relevant and material to the application. After the
21 department approves said application in whole or in part and before any
22 permit shall be issued thereon to the applicant, such applicant shall
23 pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the
24 event a permit is issued by the department upon any application, it
25 shall be its duty to notify the director of fish and wildlife of such
26 issuance.

Passed the Senate April 19, 2001.

Passed the House April 12, 2001.

Approved by the Governor May 11, 2001.

Filed in Office of Secretary of State May 11, 2001.