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**SENATE BILL 5318**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senators Morton, Haugen, West, Winsley, Deccio, Rasmussen, Palmer and Roach

Read first time 01/18/95. Referred to Committee on Senate Select Committee on Water Policy.

1 AN ACT Relating to adjudication and regulation of water rights;  
2 amending RCW 90.03.015, 90.03.110, 90.03.120, 90.03.130, 90.03.140,  
3 90.03.200, 43.21A.064, and 90.14.140; adding new sections to chapter  
4 90.03 RCW; adding a new section to chapter 43.27A RCW; creating a new  
5 section; and repealing RCW 90.03.160, 90.03.170, and 90.03.190.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that lack of certainty  
8 in water rights within the water resource basins of Washington impedes  
9 the management and planning for the use of the state's water in the  
10 interests of all of the residents of the state. Therefore, it is the  
11 intent of this act to establish a comprehensive program for the  
12 adjudication of water rights in all basins of the state over the next  
13 twenty years, and that this program will be consistent with and further  
14 the cooperative planning processes that may be undertaken in these  
15 basins.

16 **Sec. 2.** RCW 90.03.015 and 1987 c 109 s 65 are each amended to read  
17 as follows:

18 As used in this chapter:

1       (1) "Adjudication" or "water rights adjudication" means a  
2 proceeding for the determination of all claims to the use of water  
3 within a water resource basin, initiated under RCW 90.03.110;

4       (2) "Department" means the department of ecology;

5       ~~((+2))~~ (3) "Director" means the director of ecology; and

6       ~~((+3))~~ (4) "Person" means any firm, association, water users'  
7 association, corporation, irrigation district, or municipal  
8 corporation, as well as an individual.

9       NEW SECTION. Sec. 3. A new section is added to chapter 90.03 RCW  
10 to read as follows:

11       (1) The department shall prepare a plan for initiating and  
12 completing the adjudication of all water rights claims in the state by  
13 July 1, 2015. The plan shall include a division of the state into  
14 distinct hydrologic units to be called water resource basins, which  
15 shall define the areas to be the subject of proceedings for the  
16 adjudication of water rights under RCW 90.03.110. In defining the  
17 units the department shall consider surface and ground water hydrology  
18 and the physical characteristics of the area. Where possible the water  
19 resource basins shall be consistent with areas developed for planning  
20 and management purposes under RCW 90.54.040.

21       (2) The plan shall set forth a timeline for the filing and conduct  
22 of petitions for adjudication proceedings under RCW 90.03.110. The  
23 timeline shall be designed to meet the goal of the entry of final  
24 adjudication decrees for all basins in the state by July 1, 2015. The  
25 plan shall identify basins for early proceedings that exhibit the  
26 greatest potential for existing conflicts among water claimants and the  
27 greatest degree of potential overwithdrawal within the basin. In  
28 prioritizing basins the department shall also place higher priority  
29 upon basins with completed water resource plans or in which a plan is  
30 nearing completion.

31       (3) The plan shall include a proposed timeline and budget for  
32 adjudication proceedings in each basin, including a projection of the  
33 costs on an annual basis for the department's participation in the  
34 basin adjudication, and the costs to the superior court. The timeline  
35 shall be constructed so as to ensure that approximately one-twentieth  
36 of the adjudication work is done each year.

37       (4) In preparing the plan the department shall provide an  
38 opportunity to the public to comment upon a draft plan and to submit

1 suggestions for basins upon which to provide a priority in the  
2 initiation of water adjudication proceedings.

3 (5) The plan shall be completed on or before December 1, 1995, and  
4 submitted to the governor and the appropriate fiscal and standing  
5 committees of the legislature. The plan shall be revised no less than  
6 biennially and submitted to the governor and such committees of the  
7 legislature by December 1 of each even-numbered year. Plan revisions  
8 shall describe the progress in completing pending adjudications and any  
9 changes in circumstances since the previous revision that may bear upon  
10 the conduct and priority order of adjudication proceedings and the  
11 costs of such proceedings. The plan shall also recommend  
12 appropriations to fund water rights negotiations or comprehensive basin  
13 program development that may be conducted concurrently with or  
14 subsequent to a water adjudication within the basin.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.03 RCW  
16 to read as follows:

17 (1) Except as provided in subsection (2) of this section, the  
18 proceedings for water rights adjudications initiated under RCW  
19 90.03.110 shall include all claimants of rights to the beneficial use  
20 of waters within the basin, including surface and ground waters, and  
21 without regard to the legal source upon which the claim is grounded.

22 (2) A person with a claim to the beneficial use of waters with a  
23 claimed priority date on or before June 30, 1974, and who has  
24 relinquished such right, title, or interest in a water right for  
25 failure to file a statement of claim pursuant to RCW 90.14.041 or  
26 90.14.043, may not assert a claim for any portion of the relinquished  
27 right.

28 **Sec. 5.** RCW 90.03.110 and 1987 c 109 s 72 are each amended to read  
29 as follows:

30 ~~((Upon the filing of a petition with the department by one or more  
31 persons claiming the right to divert any waters within the state or  
32 when, after investigation, in the judgment of the department, the  
33 interest of the public will be subserved by a determination of the  
34 rights thereto,))~~ The department shall prepare and file with the  
35 appropriate superior court petitions for the adjudication of claims  
36 within water resource basins, in accordance with the plan for  
37 adjudication proceedings developed under section 3 of this act. In so

1 doing it shall be the duty of the department to prepare a statement of  
2 the facts, together with a plan or map of the (~~(locality)~~) basin under  
3 investigation, and file such statement and plan or map in the superior  
4 court of the county in which said water is situated, or, in case such  
5 water flows or is situated in more than one county, in the county which  
6 the department shall determine to be the most convenient to the parties  
7 interested therein. Such statement shall contain substantially the  
8 following (~~(matter, to wit)~~):

9 (1) The names of all known persons claiming the right to divert  
10 said water, the right to the diversion of which is sought to be  
11 determined(~~(, and)~~);

12 (2) Claims or other sources of authority for the right to maintain  
13 instream flows;

14 (3) Claims based upon federal or tribal-reserved water rights;

15 (4) A description of any agreements relating to water rights or  
16 water resource management within the basin entered among the state,  
17 federal government, tribal governments, or water users within the  
18 basin; and

19 (5) A brief statement of the facts in relation to such water(~~(, and~~  
20 ~~the necessity for a determination of the rights thereto)~~).

21 **Sec. 6.** RCW 90.03.120 and 1987 c 109 s 73 are each amended to read  
22 as follows:

23 Upon the filing of the statement and map as provided in RCW  
24 90.03.110 the judge of such superior court shall make an order  
25 directing summons to be issued, and fixing the return day thereof,  
26 which shall be not less than sixty nor more than ninety days, after the  
27 making of such order: PROVIDED, That for good cause, the court(~~(, at~~  
28 ~~the request of the department,)~~) may modify said time period. A  
29 summons shall thereupon be issued out of said superior court, signed  
30 and attested by the clerk thereof, in the name of the state of  
31 Washington, as plaintiff, against all known persons claiming the right  
32 to divert the water involved and also all persons unknown claiming the  
33 right to divert the water involved, which said summons shall contain a  
34 brief statement of the objects and purpose of the proceedings and shall  
35 require the defendants to appear on the return day thereof, and make  
36 and file a statement of claim to, or interest in, the water involved  
37 and a statement that unless they appear at the time and place fixed and  
38 assert such right, judgment will be entered determining their rights

1 according to the evidence: PROVIDED, HOWEVER, That any persons  
2 claiming the right to the use of water by virtue of a contract with  
3 claimant to the right to divert the same, shall not be necessary  
4 parties to the proceeding.

5 **Sec. 7.** RCW 90.03.130 and 1987 c 109 s 74 are each amended to read  
6 as follows:

7 Service of said summons shall be made in the same manner and with  
8 the same force and effect as service of summons in civil actions  
9 commenced in the superior courts of the state: PROVIDED, That for good  
10 cause, the court(~~(, at the request of the department,)~~) as an  
11 alternative to personal service, may authorize service of summons to be  
12 made by certified mail, with return receipt signed by defendant, a  
13 spouse of a defendant, or another person authorized to accept service.  
14 If the defendants, or either of them, cannot be found within the state  
15 of Washington, (~~(of which the return of the sheriff of the county in  
16 which the proceeding is pending shall be prima facie evidence,)~~) upon  
17 the filing of an affidavit by the department, or its attorney, in  
18 conformity with the statute relative to the service of summons by  
19 publication in civil actions, such service may be made by publication  
20 in a newspaper of general circulation in the county in which (~~(such  
21 proceeding is pending, and also publication of said summons in a  
22 newspaper of general circulation in each county in which any portion of  
23 the water)~~) the defendant's last known residence address is  
24 situated(~~(,)~~) once a week for (~~(six)~~) two consecutive weeks (~~(six)~~)  
25 two publications(~~(,)~~). In cases where personal service can be had,  
26 such summons shall be served at least twenty days before the return day  
27 thereof. The summons by publication shall state that statements of  
28 claim must be filed within twenty days after the last publication or  
29 before the return date, whichever is later.

30 Personal service of summons may be made by department of ecology  
31 employees for actions pertaining to water rights.

32 **Sec. 8.** RCW 90.03.140 and 1987 c 109 s 75 are each amended to read  
33 as follows:

34 (1) On or before the return day of such summons, each defendant  
35 shall file in the office of the clerk of said court a statement, and  
36 therewith a copy thereof for the department, containing substantially  
37 the following:

1       ~~((1) The name and post office address of defendant.~~

2       ~~(2) The full nature of the right, or use, on which the claim is~~  
3 ~~based.~~

4       ~~(3) The time of initiation of such right and commencement of such~~  
5 ~~use.~~

6       ~~(4) The date of beginning and completion of construction.~~

7       ~~(5) The dimensions and capacity of all ditches existing at the time~~  
8 ~~of making said statement.~~

9       ~~(6) The amount of land under irrigation and the maximum quantity of~~  
10 ~~water used thereon prior to the date of said statement and if for~~  
11 ~~power, or other purposes, the maximum quantity of water used prior to~~  
12 ~~date of said statement.~~

13       ~~(7) The legal description of the land upon which said water has~~  
14 ~~been, or may be, put to beneficial use, and the legal description of~~  
15 ~~the subdivision of land on which the point of diversion is located.))~~

16       (a) The person's name and mailing address;

17       (b) The name of the water source from which the right to divert or  
18 make use of water is claimed;

19       (c) The quantity of water used based on an instantaneous rate of  
20 withdrawal in cubic feet per second or gallons per minute and on a  
21 yearly quantity in acre feet per year for each year since 1967. All  
22 documentation available to the person that supports the quantity of use  
23 shall be provided, including but not limited to flow meter records and  
24 electrical records;

25       (d) The legal description of the area where the water has been  
26 beneficially used for each of the last ten years from 1994. The area  
27 of use shall be described with specificity by metes and bounds,  
28 sections or a portion thereof, or by parcel numbers within a platted  
29 area, and represented on a map drawn to scale;

30       (e) The legal description of the point or points of diversion or  
31 withdrawal, the method of diversion or withdrawal, and the method of  
32 conveying the water to the place of use, including the dimension and  
33 capacity of all ditches, pipelines, and other diversion works, existing  
34 at the time of making the statement;

35       (f) The purposes of the water use for each of the last ten years  
36 from 1994, and specifying the number of residences, if any, served by  
37 the water;

38       (g) The legal basis of the water right claimed, whether by permit,  
39 certificate, or rule issued by the state, a statement of claim filed

1 under chapter 90.14 RCW, the right to use ground water by exemption  
2 under RCW 90.44.050, reserved rights under federal law, or other legal  
3 basis;

4 (h) The date of initiation of such right and commencement of such  
5 use;

6 (i) The date of beginning and completion of construction;

7 (j) The amount of land under irrigation and the maximum quantity of  
8 water used therein for the previous ten years from 1994 and, if for  
9 power or other purposes, maximum quantity of water used on an annual  
10 basis for the previous ten years from 1994.

11 (2) Such statement shall be verified on oath by the defendant, and  
12 in the discretion of the court may be amended.

13 NEW SECTION. Sec. 9. A new section is added to chapter 90.03 RCW  
14 to read as follows:

15 (1) Upon the filing of the statement and map by the department  
16 under RCW 90.03.110, the court shall by order direct the department to  
17 commence an investigation of all uses of and demands for water in the  
18 basin. The court upon motion by the department may stay the order  
19 pending the resolution of any ongoing negotiations relating to water  
20 rights in the basin whose resolution may expedite the resolution of the  
21 adjudication proceeding.

22 (2) In conducting the investigation the department shall notify all  
23 persons having filed an appearance in the proceeding, advising them of  
24 the manner in which information relevant to the investigation may be  
25 submitted to the department.

26 (3) The department shall have all powers necessary to fully  
27 investigate the claims made in the proceeding, including the conduct of  
28 field investigations by the entry onto real property following  
29 landowner permission, and the power to subpoena and inspect all books,  
30 papers, or other records pertaining to the claims.

31 (4) In making its investigation, the department shall develop  
32 findings regarding:

33 (a) The quantity of water available under reasonable predictions of  
34 annual yield or flow, for use in the basin, including the safe  
35 sustaining yield of all ground water sources;

36 (b) The necessary base flows in all rivers and streams in the basin  
37 and the water level of other water bodies in the basin based on and in  
38 recognition of the public's interest in the protection of wildlife,

1 fish, scenic, aesthetic, and other environmental values, and  
2 navigational values; and

3 (c) The uses of water stated in the statements of water use filed  
4 under RCW 90.03.140, and provide a preliminary determination as to the  
5 existence, priority, quantity, places of use, and points of diversion  
6 for each water use.

7 (5) In conducting the investigation the department shall hold at  
8 least one public hearing within the basin, in which all interested  
9 parties may comment upon the issues and claims identified by the  
10 department as within the scope of the investigation. The department  
11 shall also afford any interested party an opportunity to submit  
12 comments in writing for consideration by the department in developing  
13 its preliminary report.

14 NEW SECTION. Sec. 10. A new section is added to chapter 90.03 RCW  
15 to read as follows:

16 (1) The attorney general shall represent the interests of the state  
17 of Washington in each adjudication proceeding regarding:

18 (a) The public's interest in maintaining the base flows necessary  
19 to provide for the preservation of wildlife, fish, scenic, aesthetic,  
20 and other environmental values, and navigational values.

21 (b) The furtherance of the fundamental water resource policies as  
22 expressed in chapter 90.54 RCW, including maximizing the beneficial  
23 uses of the state's waters and encouraging water use efficiency and  
24 water reuse.

25 (2) In performing its responsibilities under this section the  
26 attorney general shall solicit the views and information of other  
27 agencies of state government having expertise or jurisdiction regarding  
28 water uses and water resource management.

29 (3) This section shall not affect the court's authority to permit  
30 other persons or organizations to participate in adjudication  
31 proceedings based upon established judicial principles of standing.

32 NEW SECTION. Sec. 11. A new section is added to chapter 90.03 RCW  
33 to read as follows:

34 (1) Within twenty-four months of initiating the investigation, the  
35 department shall prepare and file a preliminary report containing the  
36 determinations relating to water use and water rights claims within the  
37 basin.

1 (2) Upon filing of the preliminary report and the conclusion of any  
2 negotiations initiated under section 12 of this act, the court shall  
3 set a time for hearing of the report. The court shall cause to be  
4 served upon all persons having appeared in the proceeding, their  
5 agents, or attorneys, a copy of a notice of the date and location of  
6 the hearing, together with a copy of the report.

7 NEW SECTION. **Sec. 12.** A new section is added to chapter 90.03 RCW  
8 to read as follows:

9 (1) Upon the filing of a petition for an adjudication proceeding  
10 under RCW 90.03.110, the department shall advise the governor as to  
11 whether initiating negotiations for the development of a comprehensive  
12 water resources program within the basin may materially assist in  
13 resolving issues presented in the water rights adjudication. The  
14 department shall consult with all interested parties in developing its  
15 recommendations to the governor, including water users and water rights  
16 claimants in the basin, appropriate state and federal agencies, Indian  
17 tribes, and local governments.

18 (2) Following receipt of the department's recommendations, the  
19 governor may direct the department to initiate negotiations for the  
20 development of a comprehensive water resources program under RCW  
21 90.54.040. Where an adjudication proceeding is pending in the basin,  
22 the department shall by motion, with notice to all parties, request the  
23 court to stay the proceeding for a reasonable time, not to exceed  
24 twenty-four months, in order to complete the negotiations and to seek  
25 agreements among the parties regarding water use and allocation that  
26 may facilitate resolution of outstanding issues in the adjudication  
27 proceeding.

28 (3) The department shall include the results of the negotiations  
29 and program development in its preliminary report filed with the court  
30 in the adjudication proceeding. The court shall accord substantial  
31 deference to the findings and agreements contained in the report that  
32 bear upon the issues presented in the adjudication proceeding.

33 **Sec. 13.** RCW 90.03.200 and 1988 c 202 s 91 are each amended to  
34 read as follows:

35 (1) Upon the filing of the ~~((evidence and the))~~ preliminary report  
36 ~~((of the department))~~, any interested party may, on or before five days  
37 prior to the date of said hearing, file exceptions to such report in

1 writing and such exception shall set forth the grounds therefor and a  
2 copy thereof shall be served personally or by registered mail upon all  
3 parties who have appeared in the proceeding. If no exceptions be  
4 filed, the court shall enter a decree determining the rights of the  
5 parties according to the ~~((evidence and the))~~ preliminary report ~~((of  
6 the department, whether such parties have appeared therein or not))~~ and  
7 the report shall be made final. If exceptions are filed the action  
8 shall proceed as in case of reference of a suit in equity and the court  
9 may in its discretion take further evidence ~~((or, if necessary, remand  
10 the case for such further evidence to be taken by the department's  
11 designee, and may require further report by him. Costs, not including  
12 taxable attorneys fees, may be allowed or not; if allowed, may be  
13 apportioned among the parties in the discretion of the court))~~.  
14 Appellate review of the decree shall be in the same manner as in other  
15 cases in equity, except that review must be sought within sixty days  
16 from the entry thereof.

17 (2) Upon entry of the decree, the court shall by order establish a  
18 schedule by which the department shall periodically file with the court  
19 a summary of all subsequent actions in the basin relating to water  
20 rights, including the issuance of new permits, transfers, and  
21 relinquishments. The court's order shall inform all parties to the  
22 proceeding of the manner in which to obtain such information, but  
23 notice thereafter of each filing by the department is not necessary.

24 NEW SECTION. Sec. 14. A new section is added to chapter 90.03 RCW  
25 to read as follows:

26 (1) The decree entered in an adjudication proceeding shall be  
27 conclusive as to all rights to the use of water in the watershed in any  
28 proceeding in which such rights are at issue.

29 (2) The department shall establish a registry containing  
30 information relating to the water rights confirmed in the decree, and  
31 that contains all subsequent actions in each basin affecting water  
32 rights, including transfers, relinquishments, and issuance of new  
33 permits. The registry shall be accessible by the public and  
34 information in the registry shall be made available to each county for  
35 consolidation with its real property records.

36 NEW SECTION. Sec. 15. A new section is added to chapter 43.27A  
37 RCW to read as follows:

1       The purpose of this section is to set forth the powers of the  
2 department to regulate the withdrawal or diversion of public waters and  
3 water or water rights related thereto including regulation based on  
4 dates of priority or other pertinent factors. Regulatory actions taken  
5 under this section shall be based on examination and determination by  
6 the department or the court, as applicable, of the various water rights  
7 involved according to the department's records and other records and  
8 pertinent facts. The powers set forth in this section may be exercised  
9 whether or not a general adjudication relating to the water rights  
10 involved has been conducted.

11       (1) In a regulatory situation (a) where a water right or all water  
12 rights proposed for regulation by the department, as well as any right  
13 or rights of a senior priority that the proposed regulation is designed  
14 to protect, is or are embodied in a certificate or certificates issued  
15 under RCW 90.03.240, 90.03.330, 90.38.040, 90.42.040, or 90.44.060 or  
16 a permit or permits issued pursuant to RCW 90.03.290 or 90.44.060; or  
17 (b) where a flow or level has been established by rule pursuant to  
18 chapter 90.22 or 90.54 RCW; or (c) where it appears to the department  
19 that public waters are being withdrawn without any right or other  
20 appropriate authority whatsoever, the department in its discretion is  
21 authorized to regulate the right or rights under either RCW 43.27A.190  
22 or subsection (2) of this section.

23       (2) In a regulatory situation where one or more of the water rights  
24 proposed for regulation by the department, as well as any right or  
25 rights of a senior priority that the proposed regulation is designed to  
26 protect, is not or are not embodied in a permit or certificate as  
27 described in subsection (1) of this section, the department, as its  
28 sole and exclusive power to regulate, is authorized to bring an  
29 appropriate action at law or in equity, including seeking injunctive  
30 relief, as it may deem necessary. Where actions are brought in a state  
31 court, the actions shall be initiated in the superior court of the  
32 county where the point or points of diversion of the water right or  
33 rights proposed for regulation are located. If the points of diversion  
34 are located in more than one county, the department may bring the  
35 action in a county where a point of diversion is located.

36       (3) Nothing in this section authorizes the department to accomplish  
37 a general adjudication of water rights proceeding or the substantial  
38 equivalent of a general adjudication of water rights. The exclusive

1 procedure for accomplishing a general adjudication of water rights is  
2 under RCW 90.03.110 through 90.03.245 or 90.44.220.

3 (4) Nothing in this section shall amend, reuse, or repeal RCW  
4 90.14.130 or 90.14.200.

5 (5) This section does not in any way modify regulatory powers  
6 previously placed with the department except as provided in subsections  
7 (1) and (2) of this section.

8 **Sec. 16.** RCW 43.21A.064 and 1977 c 75 s 46 are each amended to  
9 read as follows:

10 The director of the department of ecology shall have the following  
11 powers and duties:

12 (1) The supervision of public waters within the state and their  
13 appropriation, diversion, and use, and of the various officers  
14 connected therewith;

15 (2) Insofar as may be necessary to assure safety to life or  
16 property, he or she shall inspect the construction of all dams, canals,  
17 ditches, irrigation systems, hydraulic power plants, and all other  
18 works, systems, and plants pertaining to the use of water, and he or  
19 she may require such necessary changes in the construction or  
20 maintenance of said works, to be made from time to time, as will  
21 reasonably secure safety to life and property;

22 (3) He or she shall regulate and control the diversion of water in  
23 accordance with the rights thereto, as determined by adjudication  
24 decrees under the procedures required by section 15 of this act;

25 (4) He or she shall determine the discharge of streams and springs  
26 and other sources of water supply, and the capacities of lakes and of  
27 reservoirs whose waters are being or may be utilized for beneficial  
28 purposes;

29 (5) He or she shall keep such records as may be necessary for the  
30 recording of the financial transactions and statistical data thereof,  
31 and shall procure all necessary documents, forms, and blanks. He or  
32 she shall keep a seal of the office, and all certificates by him or her  
33 covering any of his or her acts or the acts of his or her office, or  
34 the records and files of his or her office, under such seal, shall be  
35 taken as evidence thereof in all courts;

36 (6) He or she shall render when required by the governor, a full  
37 written report of the work of his or her office with such

1 recommendations for legislation as he or she may deem advisable for the  
2 better control and development of the water resources of the state;

3 (7) The director and duly authorized deputies may administer oaths;

4 (8) He or she shall establish and promulgate rules governing the  
5 administration of chapter 90.03 RCW;

6 (9) He or she shall perform such other duties as may be prescribed  
7 by law.

8 **Sec. 17.** RCW 90.14.140 and 1987 c 125 s 1 are each amended to read  
9 as follows:

10 (1) For the purposes of RCW 90.14.130 through 90.14.180,  
11 "sufficient cause" shall be defined as the nonuse of all or a portion  
12 of the water by the owner of a water right for a period of five or more  
13 consecutive years where such nonuse occurs as a result of:

14 (a) Drought, or other unavailability of water;

15 (b) Active service in the armed forces of the United States during  
16 military crisis;

17 (c) Nonvoluntary service in the armed forces of the United States;

18 (d) The operation of legal proceedings other than an adjudication  
19 proceedings initiated under RCW 90.03.110;

20 (e) Federal laws imposing land or water use restrictions either  
21 directly or through the voluntary enrollment of a landowner in a  
22 federal program implementing those laws, or acreage limitations, or  
23 production quotas.

24 (2) Notwithstanding any other provisions of RCW 90.14.130 through  
25 90.14.180, there shall be no relinquishment of any water right:

26 (a) If such right is claimed for power development purposes under  
27 chapter 90.16 RCW and annual license fees are paid in accordance with  
28 chapter 90.16 RCW, or

29 (b) If such right is used for a standby or reserve water supply to  
30 be used in time of drought or other low flow period so long as  
31 withdrawal or diversion facilities are maintained in good operating  
32 condition for the use of such reserve or standby water supply, or

33 (c) If such right is claimed for a determined future development to  
34 take place either within fifteen years of July 1, 1967, or the most  
35 recent beneficial use of the water right, whichever date is later, or

36 (d) If such right is claimed for municipal water supply purposes  
37 under chapter 90.03 RCW, or

1 (e) If such waters are not subject to appropriation under the  
2 applicable provisions of RCW 90.40.030 as now or hereafter amended.

3 NEW SECTION. **Sec. 18.** The following acts or parts of acts are  
4 each repealed:

5 (1) RCW 90.03.160 and 1989 c 80 s 1, 1987 c 109 s 76, & 1917 c 117  
6 s 19;

7 (2) RCW 90.03.170 and 1987 c 109 s 77 & 1917 c 117 s 20; and

8 (3) RCW 90.03.190 and 1987 c 109 s 78 & 1917 c 117 s 22.

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