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ENGROSSED SUBSTITUTE HOUSE BILL 1111

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State of Washington

55th Legislature

1997 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Koster, Delvin, Mulliken, Johnson, B. Thomas and Honeyford)

Read first time 02/12/97.

1 AN ACT Relating to granting water rights; and adding a new section  
2 to chapter 90.03 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.03 RCW  
5 to read as follows:

6 If a person placed surface or ground water to beneficial use for  
7 irrigation or stock watering purposes before January 1, 1993, for which  
8 a permit or certificate was not issued by the department or its  
9 predecessors, the person or the person's successor holds a water right  
10 for that use in the amount beneficially used and with a priority date  
11 that is the date a statement of claim is filed for the right under this  
12 section if:

13 (1) The person or the person's successor files with the department  
14 of ecology a statement of claim for the right during the period  
15 beginning September 1, 1997, and ending midnight June 30, 1998, using  
16 the standard form prescribed by RCW 90.14.051;

17 (2) The person or the person's successor has used the water to the  
18 full extent stated in the statement of claim during at least each of

1 three of the five years preceding the date the statement is filed and  
2 the person attests to having done so on the statement; and

3 (3) The person or the person's successor files with the statement  
4 of claim evidence that the water described in the claim was used  
5 beneficially before January 1, 1993, in the form of any two of the  
6 following:

7 (a) A statement signed by two persons other than the person filing  
8 the statement of claim verifying that the water was beneficially used  
9 by the claimant before January 1, 1993, as described in the statement  
10 of claim;

11 (b) A copy of a dated photograph clearly demonstrating the presence  
12 of grass or a crop requiring irrigation in the amounts asserted in the  
13 statement of claim or of livestock requiring water in such amounts; or  
14 records of receipts of the sale of crops by the person or the person's  
15 successor indicating that irrigation in the amount claimed was required  
16 to produce the crops;

17 (c) Receipts or records of irrigation or stockwatering equipment  
18 purchases or repairs associated with the water use specified in the  
19 statement of claim;

20 (d) Water well construction records identifying the date the well  
21 specified in the statement of claim as the point of withdrawal was  
22 constructed;

23 (e) Records of electricity bills directly associated with the  
24 withdrawal of water as specified in the statement of claim;

25 (f) Personal records such as photographs, journals, or  
26 correspondence indicating the use of water as asserted in the statement  
27 of claim.

28 A right granted under this section shall not affect or impair in  
29 any respect whatsoever a water right existing prior to September 1,  
30 1997. A right granted under this section shall be junior in every  
31 respect to a right with a more senior date of priority. No right  
32 granted under this section may be exercised in a manner that impairs or  
33 interferes with a water right that is senior to it. The filing of a  
34 statement of claim under this section does not constitute an  
35 adjudication of any claim to the right to the use of waters as between  
36 the claimant and the state, or as between one or more water use  
37 claimants and another or others. A statement of claim filed under this  
38 section shall be admissible in a general adjudication of water rights  
39 as prima facie evidence of the times of use and the quantity of water

1 the claimant was withdrawing or diverting to the same extent as is  
2 provided by RCW 90.14.081 for a statement of claim in the water rights  
3 claims registry on the effective date of this section.

4 The department of ecology shall establish a registry of claims for  
5 rights conferred under this section. Statements of claim filed under  
6 this section shall be filed in the registry alphabetically,  
7 consecutively by date of filing, and by such other manner as the  
8 department deems appropriate.

9 This section does not apply to ground water withdrawn in an area  
10 that is, during the period established by subsection (3) of this  
11 section, the subject of a general adjudication proceeding for water  
12 rights in superior court under RCW 90.03.110 through 90.03.245 and the  
13 proceeding applies to ground water rights. This section does not apply  
14 to surface water withdrawn in an area that is, during the period  
15 established by subsection (3) of this section, the subject of a general  
16 adjudication proceeding for water rights in superior court under RCW  
17 90.03.110 through 90.03.245 and the proceeding applies to surface water  
18 rights.

19 This section does not apply to rights embodied in a water right  
20 permit or certificate issued by the department of ecology or its  
21 predecessors, a water right represented by a claim in the water rights  
22 claims registry, created under RCW 90.14.111, prior to September 1,  
23 1997, or a water right exempted from permit and application  
24 requirements by RCW 90.44.050.

25 This section does not apply to claims for the use of water in a  
26 ground water area or subarea for which a management program adopted by  
27 the department by rule and in effect on the effective date of this  
28 section establishes acreage expansion limitations for the use of ground  
29 water.

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