
HOUSE BILL 3095

State of Washington

56th Legislature

2000 Regular Session

By Representatives B. Chandler and G. Chandler

Read first time 01/31/2000. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to clarifying vocabulary used with regard to
2 relinquishment of water rights; amending RCW 90.14.140; adding a new
3 section to chapter 90.14 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that certain terms
6 used in chapter 90.14 RCW are subject to differing interpretations.
7 The purpose of this act is to assist state courts and administrative
8 agencies by clarifying the meaning of those terms.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.14 RCW
10 to read as follows:

11 The definitions in this section apply to RCW 90.14.140 through
12 90.14.180, unless the context clearly requires otherwise.

13 (1) "Beneficially use" for irrigation purposes means that quantum
14 of water which is reasonably required for irrigation depending upon
15 many different conditions such as the character of the soil; the area
16 sought to be irrigated; the climatic conditions, including but not
17 limited to precipitation, temperature, and humidity; the location,
18 quality, and altitude of the lands; the kinds of crops to be raised;

1 and the length of the irrigation season; as well as such other
2 conditions as may be peculiar to each particular case. The amount of
3 water required to produce crops through irrigation may vary greatly
4 from year to year depending upon circumstances not within the control
5 of the irrigator.

6 (2) "Other unavailability of water" includes, but is not limited to
7 water use that is less than the quantity of the water right when such
8 reduced water use arises from factors beyond the control of the water
9 user, or when reduced water use is due to lower water demand resulting
10 from a change in cropping patterns or changes in agricultural markets,
11 or temporarily reduced need where such reduction is due to climatic
12 conditions such as precipitation, temperature, humidity, or other
13 growing factors as long as the user's diversion and delivery facilities
14 are maintained in good operating condition consistent with the full
15 amount of the water right.

16 (3) "Voluntarily fails" means the nonuse of all or a portion of the
17 water by the owner of the water right, where the nonuse occurs as a
18 result of factors within the control of the water user. A failure to
19 use all or a portion of the full water right is involuntary when the
20 nonuse of such right is in response to factors beyond the control of
21 the water user, such as cyclical weather patterns, changes in crop
22 production due to economic conditions, or the presence of water from a
23 source not within the control of the water user, as long as the
24 diversion and delivery facilities are maintained in good operating
25 condition consistent with the full amount of the water right.

26 **Sec. 3.** RCW 90.14.140 and 1998 c 258 s 1 are each amended to read
27 as follows:

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

- 32 (a) Drought, or other unavailability of water;
33 (b) Active service in the armed forces of the United States during
34 military crisis;
35 (c) Nonvoluntary service in the armed forces of the United States;
36 (d) The operation of legal proceedings;

1 (e) Federal or state agency leases of or options to purchase lands
2 or water rights which preclude or reduce the use of the right by the
3 owner of the water right;

4 (f) Federal laws imposing land or water use restrictions either
5 directly or through the voluntary enrollment of a landowner in a
6 federal program implementing those laws, or acreage limitations, or
7 production quotas.

8 (2) Notwithstanding any other provisions of RCW 90.14.130 through
9 90.14.180, there shall be no relinquishment of any water right:

10 (a) If such right is claimed for power development purposes under
11 chapter 90.16 RCW and annual license fees are paid in accordance with
12 chapter 90.16 RCW;

13 (b) If such right is used for a standby or reserve water supply to
14 be used in time of drought or other low flow period so long as
15 withdrawal or diversion facilities are maintained in good operating
16 condition for the use of such reserve or standby water supply;

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

20 (d) If such right is claimed for municipal water supply purposes
21 under chapter 90.03 RCW;

22 (e) If such waters are not subject to appropriation under the
23 applicable provisions of RCW 90.40.030; (~~(e)~~)

24 (f) If such right or portion of the right is leased to another
25 person for use on land other than the land to which the right is
26 appurtenant as long as the lessee makes beneficial use of the right in
27 accordance with this chapter and a transfer or change of the right has
28 been approved by the department in accordance with RCW 90.03.380,
29 90.03.383, 90.03.390, or 90.44.100;

30 (g) If after the effective date of this section the superior court
31 issues an order excusing or prohibiting a person or entity from
32 exercising such right during the pendency of:

33 (i) A general adjudication of water rights initiated by the
34 department under RCW 90.03.120 or 90.44.220; or

35 (ii) A quiet title action under RCW 7.28.010; or

36 (h) If during the pendency of the proceeding for the determination
37 of the surface water rights of the Yakima river basin, retroactive to

1 the commencement of that proceeding on October 12, 1977, such right is
2 the subject of a claim in the proceeding.

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