

2SHB 2860 - H AMD TO H AMD (H-5173.2/06) 919  
By Representative Ericksen

1 On page 7, after line 18 of the amendment, insert the following:

2 "Sec. 7. RCW 90.14.140 and 2001 c 240 s 1, 2001 c 237 s 27, and  
3 2001 c 69 s 5 are each reenacted and amended to read as follows:

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

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

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

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

12 (d) The operation of legal proceedings;

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

16 (f) Federal laws imposing land or water use restrictions either  
17 directly or through the voluntary enrollment of a landowner in a  
18 federal program implementing those laws, or acreage limitations, or  
19 production quotas;

20 (g) Temporarily reduced water need for irrigation use where such  
21 reduction is due to varying weather conditions, including but not  
22 limited to precipitation and temperature, that warranted the reduction  
23 in water use, so long as the water user's diversion and delivery  
24 facilities are maintained in good operating condition consistent with  
25 beneficial use of the full amount of the water right;

26 (h) Temporarily reduced diversions or withdrawals of irrigation  
27 water directly resulting from the provisions of a contract or similar  
28 agreement in which a supplier of electricity buys back electricity from  
29 the water right holder and the electricity is needed for the diversion

1 or withdrawal or for the use of the water diverted or withdrawn for  
2 irrigation purposes;

3 (i) Water conservation measures implemented under the Yakima river  
4 basin water enhancement project, so long as the conserved water is  
5 reallocated in accordance with the provisions of P.L. 103-434;

6 (j) Reliance by an irrigation water user on the transitory presence  
7 of return flows in lieu of diversion or withdrawal of water from the  
8 primary source of supply, if such return flows are measured or reliably  
9 estimated using a scientific methodology generally accepted as reliable  
10 within the scientific community; (~~or~~)

11 (k) The reduced use of irrigation water resulting from crop  
12 rotation. For purposes of this subsection, crop rotation means the  
13 temporary change in the type of crops grown resulting from the exercise  
14 of generally recognized sound farming practices. Unused water  
15 resulting from crop rotation will not be relinquished if the remaining  
16 portion of the water continues to be beneficially used; or

17 (l) The reduced use of irrigation water in the Columbia river basin  
18 resulting from the growing of crops used for alternative fuel  
19 production, including ethanol and biodiesel.

20 (2) Notwithstanding any other provisions of RCW 90.14.130 through  
21 90.14.180, there shall be no relinquishment of any water right:

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

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

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

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

34 (e) If such waters are not subject to appropriation under the  
35 applicable provisions of RCW 90.40.030;

36 (f) If such right or portion of the right is leased to another  
37 person for use on land other than the land to which the right is  
38 appurtenant as long as the lessee makes beneficial use of the right in

1 accordance with this chapter and a transfer or change of the right has  
2 been approved by the department in accordance with RCW 90.03.380,  
3 90.03.383, 90.03.390, or 90.44.100;

4 (g) If such a right or portion of the right is authorized for a  
5 purpose that is satisfied by the use of agricultural industrial process  
6 water as authorized under RCW 90.46.150; or

7 (h) If such right is a trust water right under chapter 90.38 or  
8 90.42 RCW.

9 (3) In adding provisions to this section by chapter 237, Laws of  
10 2001, the legislature does not intend to imply legislative approval or  
11 disapproval of any existing administrative policy regarding, or any  
12 existing administrative or judicial interpretation of, the provisions  
13 of this section not expressly added or revised."

14 Renumber the remaining sections consecutively and correct any  
15 internal references accordingly.

EFFECT: Lists the act of using less water in the Columbia River  
basin to grow crops for the production of ethanol or biodiesel as a  
sufficient cause for not using one's entire water right, thus  
preventing the relinquishment of the water right.

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