

HB 3275 - S COMM AMD

By Committee on Water, Energy & Environment

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 90.03.370 and 2003 c 329 s 1 are each amended to read
4 as follows:

5 (1)(a) All applications for reservoir permits are subject to the
6 provisions of RCW 90.03.250 through 90.03.320. But the party or
7 parties proposing to apply to a beneficial use the water stored in any
8 such reservoir shall also file an application for a permit, to be known
9 as the secondary permit, which shall be in compliance with the
10 provisions of RCW 90.03.250 through 90.03.320. Such secondary
11 application shall refer to such reservoir as its source of water supply
12 and shall show documentary evidence that an agreement has been entered
13 into with the owners of the reservoir for a permanent and sufficient
14 interest in said reservoir to impound enough water for the purposes set
15 forth in said application. When the beneficial use has been completed
16 and perfected under the secondary permit, the department shall take the
17 proof of the water users under such permit and the final certificate of
18 appropriation shall refer to both the ditch and works described in the
19 secondary permit and the reservoir described in the primary permit.
20 The department may accept for processing a single application form
21 covering both a proposed reservoir and a proposed secondary permit or
22 permits for use of water from that reservoir.

23 (b) The department shall expedite processing applications for the
24 following types of storage proposals:

25 (i) Development of storage facilities that will not require a new
26 water right for diversion or withdrawal of the water to be stored;

27 (ii) Adding or changing one or more purposes of use of stored
28 water;

29 (iii) Adding to the storage capacity of an existing storage
30 facility; (~~and~~)

1 (iv) Applications for secondary permits to secure use from existing
2 storage facilities; and

3 (v) Applications for projects to store one hundred acre feet or
4 less of water that demonstrate substantial late-season flow and habitat
5 improvement for resident or anadromous fish by eliminating the
6 diversion of water from the natural course of a stream or river during
7 its base flow period, provided, however, that the department shall not
8 grant such application unless both the department of fish and wildlife
9 and any affected tribe review the proposal and certify in writing that
10 the proposed small storage project would provide a substantial
11 improvement for resident or anadromous fish and does not impair
12 existing rights.

13 (c) A secondary permit for the beneficial use of water shall not be
14 required for use of water stored in a reservoir where the water right
15 for the source of the stored water authorizes the beneficial use.

16 (2)(a) For the purposes of this section, "reservoir" includes, in
17 addition to any surface reservoir, any naturally occurring underground
18 geological formation where water is collected and stored for subsequent
19 use as part of an underground artificial storage and recovery project.
20 To qualify for issuance of a reservoir permit an underground geological
21 formation must meet standards for review and mitigation of adverse
22 impacts identified, for the following issues:

- 23 (i) Aquifer vulnerability and hydraulic continuity;
- 24 (ii) Potential impairment of existing water rights;
- 25 (iii) Geotechnical impacts and aquifer boundaries and
26 characteristics;
- 27 (iv) Chemical compatibility of surface waters and ground water;
- 28 (v) Recharge and recovery treatment requirements;
- 29 (vi) System operation;
- 30 (vii) Water rights and ownership of water stored for recovery; and
- 31 (viii) Environmental impacts.

32 (b) Standards for review and standards for mitigation of adverse
33 impacts for an underground artificial storage and recovery project
34 shall be established by the department by rule. Notwithstanding the
35 provisions of RCW 90.03.250 through 90.03.320, analysis of each
36 underground artificial storage and recovery project and each
37 underground geological formation for which an applicant seeks the

1 status of a reservoir shall be through applicant-initiated studies
2 reviewed by the department.

3 (3) For the purposes of this section, "underground artificial
4 storage and recovery project" means any project in which it is intended
5 to artificially store water in the ground through injection, surface
6 spreading and infiltration, or other department-approved method, and to
7 make subsequent use of the stored water. However, (a) this subsection
8 does not apply to irrigation return flow, or to operational and seepage
9 losses that occur during the irrigation of land, or to water that is
10 artificially stored due to the construction, operation, or maintenance
11 of an irrigation district project, or to projects involving water
12 reclaimed in accordance with chapter 90.46 RCW; and (b) RCW 90.44.130
13 applies to those instances of claimed artificial recharge occurring due
14 to the construction, operation, or maintenance of an irrigation
15 district project or operational and seepage losses that occur during
16 the irrigation of land, as well as other forms of claimed artificial
17 recharge already existing at the time a ground water subarea is
18 established.

19 (4) Nothing in chapter 98, Laws of 2000 changes the requirements of
20 existing law governing issuance of permits to appropriate or withdraw
21 the waters of the state.

22 (5) The department shall report to the legislature by December 31,
23 2001, on the standards for review and standards for mitigation
24 developed under subsection (3) of this section and on the status of any
25 applications that have been filed with the department for underground
26 artificial storage and recovery projects by that date.

27 (6) Where needed to ensure that existing storage capacity is
28 effectively and efficiently used to meet multiple purposes, the
29 department may authorize reservoirs to be filled more than once per
30 year or more than once per season of use.

31 (7) This section does not apply to facilities to recapture and
32 reuse return flow from irrigation operations serving a single farm
33 under an existing water right as long as the acreage irrigated is not
34 increased beyond the acreage allowed to be irrigated under the water
35 right.

36 (8) In addition to the facilities exempted under subsection (7) of
37 this section, this section does not apply to small irrigation
38 impoundments. For purposes of this section, "small irrigation

1 impoundments" means lined surface storage ponds less than ten acre feet
2 in volume used to impound irrigation water under an existing water
3 right where use of the impoundment: (a)(i) Facilitates efficient use
4 of water; or (ii) promotes compliance with an approved recovery plan
5 for endangered or threatened species; and (b) does not expand the
6 number of acres irrigated or the annual consumptive quantity of water
7 used. Such ponds must be lined unless a licensed engineer determines
8 that a liner is not needed to retain water in the pond and to prevent
9 ground water contamination. Although it may also be composed of other
10 materials, a properly maintained liner may be composed of bentonite.
11 Water remaining in a small irrigation impoundment at the end of an
12 irrigation season may be carried over for use in the next season.
13 However, the limitations of this subsection (8) apply. Development and
14 use of a small irrigation impoundment does not constitute a change or
15 amendment for purposes of RCW 90.03.380 or 90.44.055."

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16 On page 1, line 2 of the title, after "impoundments;" strike the
17 remainder of the title and insert "and amending RCW 90.03.370."

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