

2SSB 6117 - S AMD TO S AMD (S-2823.1/07) 204
By Senator Honeyford

NOT ADOPTED 03/10/2007

1 On page 16, after line 23 of the amendment, insert the following:

2 "Sec. 13. 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1 or withdrawal or for the use of the water diverted or withdrawn for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.

17 (2) Notwithstanding any other provisions of RCW 90.14.130 through
18 90.14.180, there shall be no relinquishment of any water right:

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

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

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

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

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

33 (f) If such right or portion of the right is leased to another
34 person for use on land other than the land to which the right is
35 appurtenant as long as the lessee makes beneficial use of the right in
36 accordance with this chapter and a transfer or change of the right has
37 been approved by the department in accordance with RCW 90.03.380,
38 90.03.383, 90.03.390, or 90.44.100;

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

4 (h) If such right is a trust water right under chapter 90.38 or
5 90.42 RCW; or

6 (i) If such a right or portion of the right is authorized for a
7 purpose that is satisfied by the use of reclaimed water as authorized
8 under the provisions of RCW 90.46.150.

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."

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14 On page 16, line 27 of the title amendment, after "(uncodified);"
15 insert "reenacting and amending RCW 90.14.140;"

EFFECT: Adds use of reclaimed water to the reasons why a water
right is not relinquished.

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