
HOUSE BILL 2385

State of Washington

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1994 Regular Session

By Representative Pruitt

Read first time 01/14/94. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to water right permits; amending RCW 90.03.340,
2 90.03.270, 90.03.260, 90.44.060, 90.03.250, 90.03.290, 90.03.320,
3 90.03.380, 90.03.390, 90.44.100, 90.03.280, 90.03.470, 90.03.470, and
4 90.03.350; adding new sections to chapter 90.03 RCW; adding new
5 sections to chapter 43.21B RCW; creating a new section; providing
6 effective dates; providing an expiration date; and declaring an
7 emergency.

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

9 **Sec. 1.** RCW 90.03.340 and 1987 c 109 s 90 are each amended to read
10 as follows:

11 After January 1, 1995, the priority date of the right acquired by
12 appropriation ((shall relate back to)) is the date ((of filing of)) the
13 ((original)) completed application form for the right is filed with the
14 department. For the purposes of this section and RCW 90.03.270, a
15 completed application form is one that contains all of the information
16 requested on the form and is accompanied by the application fee.

17 **Sec. 2.** RCW 90.03.270 and 1987 c 109 s 85 are each amended to read
18 as follows:

1 Upon receipt of ((an)) a completed water right application form, it
2 shall be the duty of the department to ((make an endorsement thereon of
3 the)) date ((of its receipt,)) stamp and ((to)) keep a record of
4 ((same)) it. If ((upon examination,)) an application form is filed
5 with the department but the information requested on the application
6 form is ((found to be defective,)) not complete or the form is not
7 accompanied by the proper application fee, the form and any application
8 fee filed with it shall be returned to the applicant ((for correction
9 or completion,)) and the date and the reasons for the return thereof
10 shall be ((endorsed thereon and made a record in his office. No
11 application shall lose its priority of filing on account of such
12 defects, provided acceptable maps, drawings and such data as is
13 required by the department shall be filed with the department within
14 such reasonable time as it shall require)) noted in the department's
15 records and in a letter returning the form. The department may not
16 require an applicant to provide information in support of an
17 application for a water right permit that is not directly necessary for
18 the department's investigations, determinations, or findings regarding
19 that particular application.

20 **Sec. 3.** RCW 90.03.260 and 1987 c 109 s 84 are each amended to read
21 as follows:

22 ((Each application for permit to appropriate water shall set forth
23 the name and post office address of the applicant, the source of water
24 supply, the nature and amount of the proposed use, the time during
25 which water will be required each year, the location and description of
26 the proposed ditch, canal, or other work, the time within which the
27 completion of the construction and the time for the complete
28 application of the water to the proposed use. If for agricultural
29 purposes, it shall give the legal subdivision of the land and the
30 acreage to be irrigated, as near as may be, and the amount of water
31 expressed in acre feet to be supplied per season. If for power
32 purposes, it shall give the nature of the works by means of which the
33 power is to be developed, the head and amount of water to be utilized,
34 and the uses to which the power is to be applied. If for construction
35 of a reservoir, it shall give the height of the dam, the capacity of
36 the reservoir, and the uses to be made of the impounded waters. If for
37 municipal water supply, it shall give the present population to be
38 served, and, as near as may be, the future requirement of the

1 municipality. ~~If for mining purposes, it shall give the nature of the~~
2 ~~mines to be served and the method of supplying and utilizing the water;~~
3 ~~also their location by legal subdivisions. All applications shall be~~
4 ~~accompanied by such maps and drawings, in duplicate, and such other~~
5 ~~data, as may be required by the department, and such accompanying data~~
6 ~~shall be considered as a part of the application.))~~ The department
7 shall adopt rules in accordance with chapter 34.05 RCW by January 1,
8 1995, that specify the contents of completed water right application
9 forms. The rules must include specific timelines for the department to
10 follow in making a determination as to whether an application is
11 complete and notifying the applicant of its determination. The rules
12 shall also identify the kinds of inaccuracies that render an
13 application incomplete.

14 **Sec. 4.** RCW 90.44.060 and 1987 c 109 s 109 are each amended to
15 read as follows:

16 Applications for permits for appropriation of underground water
17 shall be made in the same form and manner provided in RCW 90.03.250
18 through 90.03.340, as amended, the provisions of which sections are
19 hereby extended to govern and to apply to ground water, or ground water
20 right certificates and to all permits that shall be issued pursuant to
21 such applications, and the rights to the withdrawal of ground water
22 acquired thereby shall be governed by RCW 90.03.250 through 90.03.340,
23 inclusive(~~(: PROVIDED, That each application to withdraw public ground~~
24 ~~water by means of a well or wells shall set forth the following~~
25 ~~additional information: (1) the name and post office address of the~~
26 ~~applicant; (2) the name and post office address of the owner of the~~
27 ~~land on which such well or wells or works will be located; (3) the~~
28 ~~location of the proposed well or wells or other works for the proposed~~
29 ~~withdrawal; (4) the ground water area, sub-area, or zone from which~~
30 ~~withdrawal is proposed, provided the department has designated such~~
31 ~~area, sub-area, or zone in accord with RCW 90.44.130; (5) the amount of~~
32 ~~water proposed to be withdrawn, in gallons a minute and in acre feet a~~
33 ~~year, or millions of gallons a year; (6) the depth and type of~~
34 ~~construction proposed for the well or wells or other works: AND~~
35 ~~PROVIDED FURTHER, That)).~~ The department shall adopt rules in
36 accordance with chapter 34.05 RCW by January 1, 1995, that specify the
37 contents of completed water right application forms. The rules shall
38 include specific timelines for the department to follow in making a

1 determination as to whether an application is complete and notifying
2 the applicant of its determination. The rules shall also identify the
3 kinds of inaccuracies that render an application incomplete. Any
4 permit issued pursuant to an application for constructing a well or
5 wells to withdraw public ground water may specify an approved type and
6 manner of construction for the purposes of preventing waste of said
7 public waters and of conserving their head.

8 **Sec. 5.** RCW 90.03.250 and 1987 c 109 s 83 are each amended to read
9 as follows:

10 Any person, municipal corporation, firm, irrigation district,
11 association, corporation or water users' association hereafter desiring
12 to appropriate water for a beneficial use shall make an application to
13 the department for a permit to make such appropriation, and shall not
14 use or divert such waters until he has received a permit from the
15 department as in this chapter provided. The construction of any ditch,
16 canal or works, or performing any work in connection with said
17 construction or appropriation, or the use of any waters, shall not be
18 an appropriation of such water nor an act for the purpose of
19 appropriating water unless a permit to make said appropriation has
20 first been granted by the department: PROVIDED, That a temporary
21 permit may be granted upon a proper showing made to the department to
22 be valid only during the pendency of such application for a permit
23 unless sooner revoked by the department: PROVIDED, FURTHER, That
24 nothing in this chapter contained shall be deemed to affect RCW
25 90.40.010 through 90.40.080 except that the notice and certificate
26 therein provided for in RCW 90.40.030 shall be addressed to the
27 department, and the department shall exercise the powers and perform
28 the duties prescribed by RCW 90.40.030.

29 The department shall encourage the filing of a consolidated
30 application for a complex project under a single ownership that
31 proposes to divert or withdraw water from more than one source,
32 including a combination of surface and ground water sources. The
33 filing of a consolidated application for transfer or change of one or
34 more water rights involving multiple sources shall also be encouraged
35 if all of the affected diversions or withdrawals are intended to serve
36 a single project with a single ownership. The department shall provide
37 forms for consolidated applications.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.03 RCW
2 to read as follows:

3 The department shall establish a register that identifies, by water
4 resource inventory area, applications for new water rights and
5 applications for water right transfers and changes. The applications
6 appearing in the register shall be limited to those requesting a new
7 appropriation or change or transfer of more than three cubic feet per
8 second of water. The register shall identify the location of the
9 proposed use, change, or transfer; whether the application is for
10 surface or ground water; and, for surface water applications, the water
11 source. The department shall produce the register once every two weeks
12 and shall make the register available to interested parties for a fee
13 that is based on the cost of producing and mailing the register. One
14 year after the effective date of this section, the department may cease
15 production of the register if the number of requests for the register
16 are not adequate to cover the costs of producing and mailing it.

17 **Sec. 7.** RCW 90.03.290 and 1988 c 36 s 66 are each amended to read
18 as follows:

19 (1) When an application complying with the provisions of this
20 chapter and with the rules (~~(and regulations)~~) of the department has
21 been filed, the (~~(same)~~) application shall be placed on record with the
22 department, and it shall be (~~(its)~~) the department's duty to
23 (~~(investigate the application, and)~~) determine what water, if any, is
24 available for appropriation, and find and determine to what beneficial
25 use or uses it can be applied.

26 The department shall investigate the application. It is the duty
27 of the applicant to provide a completed application form. In addition
28 to providing the information requested on the form, however, the
29 applicant shall also provide such information as may be required for
30 the department's investigation, determinations, and findings regarding
31 the application and may provide additional information. The
32 information provided by the applicant shall satisfy the protocols, that
33 is, study plans and criteria, established by the department for
34 obtaining and providing the information. If an applicant provides the
35 information and the protocols set by the department for obtaining and
36 providing it have been satisfied, the department shall review the
37 information and may take actions to verify that the information is
38 accurate, but it may not, except to replace inaccurate information,

1 take actions that would constitute obtaining major portions of the
2 information anew.

3 (2) With regard to an application:

4 (a) If it is proposed to appropriate water for irrigation purposes,
5 the department shall investigate, determine and find what lands are
6 capable of irrigation by means of water found available for
7 appropriation.

8 (b) If it is proposed to appropriate water for the purpose of power
9 development, the department shall investigate, determine and find
10 whether the proposed development is likely to prove detrimental to the
11 public interest, having in mind the highest feasible use of the waters
12 belonging to the public.

13 (3) If the application does not contain, and the applicant does not
14 promptly furnish sufficient information on which to base such findings,
15 the department may issue a preliminary permit, for a period of not to
16 exceed three years, requiring the applicant to make such surveys,
17 investigations, studies, and progress reports, as in the opinion of the
18 department may be necessary. If the applicant fails to comply with the
19 conditions of the preliminary permit, it and the application or
20 applications on which it is based shall be automatically canceled and
21 the applicant so notified. If the holder of a preliminary permit
22 shall, before its expiration, file with the department a verified
23 report of expenditures made and work done under the preliminary permit,
24 which, in the opinion of the department, establishes the good faith,
25 intent and ability of the applicant to carry on the proposed
26 development, the preliminary permit may, with the approval of the
27 governor, be extended, but not to exceed a maximum period of five years
28 from the date of the issuance of the preliminary permit.

29 (4) The department shall make and file as part of the record in the
30 matter, written findings of fact concerning all things investigated,
31 and if it shall find that there is water available for appropriation
32 for a beneficial use, and the appropriation thereof as proposed in the
33 application will not impair existing rights or be detrimental to the
34 public welfare, it shall issue a permit stating the amount of water to
35 which the applicant shall be entitled and the beneficial use or uses to
36 which it may be applied: PROVIDED, That where the water applied for is
37 to be used for irrigation purposes, it shall become appurtenant only to
38 such land as may be reclaimed thereby to the full extent of the soil
39 for agricultural purposes. But where there is no unappropriated water

1 in the proposed source of supply, or where the proposed use conflicts
2 with existing rights, or threatens to prove detrimental to the public
3 interest, having due regard to the highest feasible development of the
4 use of the waters belonging to the public, it shall be duty of the
5 department to reject such application and to refuse to issue the permit
6 asked for. If the permit is refused because of conflict with existing
7 rights and such applicant shall acquire same by purchase or
8 condemnation under RCW 90.03.040, the department may thereupon grant
9 such permit. Any application may be approved for a less amount of
10 water than that applied for, if there exists substantial reason
11 therefor, and in any event shall not be approved for more water than
12 can be applied to beneficial use for the purposes named in the
13 application. In determining whether or not a permit shall issue upon
14 any application, it shall be the duty of the department to investigate
15 all facts relevant and material to the application. After the
16 department approves said application in whole or in part and before any
17 permit shall be issued thereon to the applicant, such applicant shall
18 pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the
19 event a permit is issued by the department upon any application, it
20 shall be its duty to notify (~~both the director of fisheries and~~) the
21 director of fish and wildlife of such issuance.

22 **Sec. 8.** RCW 90.03.320 and 1987 c 109 s 67 are each amended to read
23 as follows:

24 (1) Actual construction work shall be commenced on any project for
25 which permit has been granted within such reasonable time as shall be
26 prescribed by the department, and shall thereafter be prosecuted with
27 diligence and completed within the time prescribed by the department.
28 The department, in fixing the time for the commencement of the work, or
29 for the completion thereof and the application of the water to the
30 beneficial use prescribed in the permit, shall take into consideration
31 the cost and magnitude of the project and the engineering and physical
32 features to be encountered, and shall allow such time as shall be
33 reasonable and just under the conditions then existing, having due
34 regard for the public welfare and public interests affected: and, for
35 good cause shown, it shall extend the time or times fixed as aforesaid,
36 and shall grant such further period or periods as may be reasonably
37 necessary, having due regard to the good faith of the applicant and the
38 public interests affected.

1 (2) For the purposes of this section, "good cause" includes but is
2 not limited to the following circumstances:

3 (a) Active service in the armed forces of the United States during
4 a military crisis;

5 (b) Nonvoluntary service in the armed forces of the United States;

6 (c) The operation of legal proceedings;

7 (d) Delays in securing other permits necessary to proceed with the
8 development;

9 (e) A single transfer in ownership of the property;

10 (f) Encountering unanticipated physical impediments to
11 construction; and

12 (g) Encountering generally depressed economic conditions.

13 (3) If the terms of the permit or transfer or change authorization
14 or extension thereof, are not complied with, the department shall give
15 notice by ((registered)) certified mail that ((such)) the permit will
16 be canceled unless the ((holders thereof shall)) permittee shows cause
17 within sixty days why the ((same)) permit should not be ((so))
18 canceled. If cause ((be)) is not shown, ((said)) the permit shall be
19 canceled.

20 NEW SECTION. Sec. 9. A new section is added to chapter 90.03 RCW
21 to read as follows:

22 (1) Future de minimis appropriations of surface water may be
23 developed under streamlined procedures if the department has adopted a
24 reservation of water for such uses under RCW 90.54.050.

25 (2) Applications for appropriating water under this section shall
26 be made on a form provided by the department. Within sixty days of the
27 publication of a notice in accordance with RCW 90.03.280, the
28 department shall issue or deny a permit for the requested
29 appropriation. If the department denies the application, it shall
30 explain its determination in writing.

31 (3) The department shall waive the evaluation and report
32 requirements of RCW 90.03.290 if during the establishment of the
33 reservation it was conclusively determined that water is available and
34 that no impairment of existing water rights or the public interest will
35 occur.

36 (4) This section may not be used in areas that are within urban
37 growth areas as designated under RCW 36.70A.110 or within the service

1 areas of an existing public water system as defined in chapter 70.119A
2 RCW that has an available water supply.

3 (5) Unless the context clearly requires otherwise, as used in this
4 chapter, "de minimis appropriation" means diversion and use of surface
5 water in an amount not exceeding four hundred fifty gallons per day and
6 not exceeding an instantaneous diversion rate of two one-hundredths
7 cubic feet per second.

8 NEW SECTION. Sec. 10. A new section is added to chapter 90.03 RCW
9 to read as follows:

10 (1) The department may authorize short-term uses of water without
11 publication of the notice required under RCW 90.03.280 and without the
12 report required under RCW 90.03.290. However, before approving a
13 short-term use, the department shall determine to its satisfaction that
14 the substantive criteria in RCW 90.03.290 are met and that a stream
15 affected by a short-term use will be retained with sufficient flows to
16 maintain instream uses and to protect existing water rights. The
17 department shall provide application forms for persons applying for a
18 short-term use and shall expedite its consideration of short-term use
19 requests to the extent practicable.

20 (2) For the purposes of this chapter, "short-term use" means a use
21 of water that will not exceed one year in duration. Short-term uses
22 include but are not limited to use in construction, dust control,
23 dewatering, and short-term planned fire suppression activities.

24 NEW SECTION. Sec. 11. A new section is added to chapter 90.03 RCW
25 to read as follows:

26 (1) The department shall develop a general permit system for
27 appropriating water for nonconsumptive, nonbypass uses and a general
28 permit system for appropriating marine waters for use on upland sites.
29 These systems shall be designed and used to streamline the
30 consideration of applications for nonconsumptive, nonbypass water uses
31 and marine water uses that by their nature do not raise issues
32 regarding water availability or the impairment of other water rights.
33 The evaluation and report required for an application under RCW
34 90.03.290 are not required for applications processed under the general
35 permit system. For the purposes of this section:

36 (a) "Nonconsumptive, nonbypass use" means a use of water in which
37 water is diverted from a stream or withdrawn from an aquifer and

1 following its use is discharged back to or very near the point of
2 diversion or withdrawal without diminishment in quantity or quality;

3 (b) "Without diminishment of quality" means that, before being
4 discharged back to its source, the water being discharged meets state
5 water quality standards adopted under chapter 90.48 RCW; and

6 (c) "Marine waters" means the coastal saline waters under the
7 jurisdiction of the state.

8 (2) The department shall establish the general permit systems by
9 adopting rules in accordance with chapter 34.05 RCW. Before the
10 adoption of rules for a system, at least four public hearings shall be
11 held at various locations around the state. The hearings on the
12 general permit system for marine water use shall be held in appropriate
13 coastal communities. The rules shall identify criteria for proposed
14 uses of water for which applications may be processed under each system
15 and shall establish procedures for filing and processing applications
16 under the general permit systems.

17 NEW SECTION. **Sec. 12.** A new section is added to chapter 90.03 RCW
18 to read as follows:

19 An application for appropriating water under a general permit
20 system established under section 11 of this act shall be made on a form
21 provided by the department. Within sixty days of the publication of a
22 notice for the application in accordance with RCW 90.03.280, the
23 department shall determine whether the proposed use is eligible to be
24 processed under the general permit system. If the department
25 determines that the proposed use is eligible to be processed under the
26 system, the application shall be processed under it. If the department
27 determines that the proposed use is not eligible for the processing,
28 the department shall explain to the applicant in writing the reasons
29 for its determination. For a proposed use determined ineligible for
30 the processing, if the department finds that the information contained
31 on the application form substantially satisfies the information
32 requirements for an application for a use that would normally be filed
33 for processing the application outside of the general permit system,
34 the department shall notify the applicant of its finding and shall
35 process the application as if it were filed for processing outside of
36 the system. If the department finds that the information does not
37 substantially satisfy the requirements, the application shall be

1 considered to be incomplete for the processing and the applicant
2 notified of this consideration.

3 **Sec. 13.** RCW 90.03.380 and 1991 c 347 s 15 are each amended to
4 read as follows:

5 (1) The right to the use of water which has been applied to a
6 beneficial use in the state shall be and remain appurtenant to the land
7 or place upon which the same is used(~~(:—PROVIDED, HOWEVER, That~~
8 said)). However, all or a portion of a water right may be transferred
9 to another (~~(or to others)) person or persons~~ and become appurtenant to
10 any other land or place of use without loss of priority of right
11 (~~(theretofore established)) if (~~(such change)) the transfer~~ can be made~~
12 without detriment or injury to existing rights.

13 (2) The point of diversion or withdrawal of water for beneficial
14 use or the purpose of use under an existing water right or permit may
15 be changed(~~(-)) if (~~(such)) the change or changes~~ can be made without~~
16 detriment or injury to existing water rights.

17 The season of use under an existing water right or permit may be
18 changed if the change involves the same general category of water use
19 and the change can be made without detriment or injury to existing
20 water rights. An example of a general category of water use for the
21 purposes of this subsection, but not a limit to the categories, is an
22 agricultural use of water.

23 (3) The source of water for an existing water right or permit may
24 be changed from a surface water diversion to a ground water withdrawal
25 or vice versa if the two sources are in direct hydraulic continuity and
26 if the change can be made without detriment or injury to existing water
27 rights.

28 (4) The right embodied in a permit for water that has not yet been
29 put to beneficial use may be transferred or changed. For a
30 certificate, only the amount of water that has been beneficially used
31 in accordance with the laws of the state may be transferred or changed.
32 Excess quantities shall be relinquished as provided under chapter 90.14
33 RCW. If a water right permit or certificate is transferred or changed,
34 the amount diverted or withdrawn for beneficial use may not be enlarged
35 as to annual quantity.

36 (5) Before any transfer or change of (~~(such)) a water right (~~(to~~~~
37 use water or change of the point of diversion of water or change of
38 purpose of use)) or permit can be made, any person having an interest

1 in the transfer or change(~~(7)~~) shall file a written application
2 (~~((therefor))~~) with the department(~~((, and said application))~~) on a form
3 provided by the department.

4 (6) A person proposing to relocate a point of diversion of surface
5 water is not required to file an application if the diversion point is
6 moved no more than one-quarter mile from its original location and no
7 other water rights will be impaired. At least fifteen days before
8 construction of a replacement diversion point, the water right holder
9 shall inform the department in writing of the intention to move the
10 diversion point.

11 (7) Authorization for the requested transfer or change shall not be
12 granted until notice of ((said)) the application ((shall be)) has been
13 published as provided in RCW 90.03.280.

14 (8) If it ((shall)) appears that ((such)) the transfer or ((such))
15 change may be made without injury or detriment to existing rights, the
16 department shall issue to the applicant an authorization to proceed
17 with the transfer or change. The department may include in its
18 authorization necessary conditions or limitations under which the
19 transfer or change may be made, including a reasonable time for
20 completion. The time may be extended upon request and a showing of
21 good cause in accordance with RCW 90.03.320 and 90.03.470. If the
22 person authorized to make a transfer or change of right fails to do so
23 within the time allowed, including extensions granted for good cause,
24 the department shall cancel the authorization and the water right or
25 permit reverts to its original form and substance.

26 (9) If the department determines that the proposed transfer or
27 change may periodically operate to impair an existing right, the
28 department's authorization may be made contingent on the proponent's
29 willingness to subordinate the use to the potentially impaired right or
30 rights and the authorization must be so conditioned.

31 (10) The person authorized to make the transfer or change shall
32 notify the department upon completion of the transfer or change. After
33 verifying that the transfer or change has been completed in accordance
34 with the authorization, the department shall issue to those persons
35 having an interest in the resulting water right or rights a
36 certificate, certificate of change, or superseding certificate, as
37 appropriate, in duplicate ((granting)) that reflects the nature of the
38 water right ((for such transfer)) or rights as transferred or ((for
39 such change of point of diversion or of use)) changed. The certificate

1 or certificates so issued shall be filed and be made a record with the
2 department and the duplicate certificate issued to the applicant
3 (~~may~~) shall be filed with the county auditor in like manner and with
4 the same effect as provided in the original certificate or permit to
5 divert water.

6 If an application for change proposes to transfer water rights from
7 one irrigation district to another, the department shall, before
8 publication of notice, receive concurrence from each of the irrigation
9 districts that such transfer or change will not adversely affect the
10 ability to deliver water to other landowners or impair the financial
11 integrity of either of the districts.

12 A change in place of use by an individual water user or users of
13 water provided by an irrigation district need only receive approval for
14 the change from the board of directors of the district if the use of
15 water continues within the irrigation district.

16 This section shall not apply to trust water rights acquired by the
17 state through the funding of water conservation projects under chapter
18 90.38 RCW or RCW 90.42.010 through 90.42.070.

19 **Sec. 14.** RCW 90.03.390 and 1991 c 350 s 3 are each amended to read
20 as follows:

21 (~~RCW 90.03.380 shall not be construed to prevent~~) (1) A water
22 (~~users from making~~) right holder may make a seasonal or temporary
23 change of (~~point of diversion or place of use of water~~) a water right
24 when (~~such~~) the change can be made without detriment to existing
25 rights, but in no case shall such change be made without the permission
26 of (~~the water master of the district in which such proposed change is~~
27 ~~located, or of~~) the department. (~~Nor shall~~)

28 (2) RCW 90.03.380 shall not be construed to prevent construction of
29 emergency interties between public water systems to permit exchange of
30 water during short-term emergency situations, or rotation in the use of
31 water for bringing about a more economical use of the available supply,
32 provided however, that the department of health in consultation with
33 the department of ecology shall adopt rules or develop written
34 guidelines setting forth standards for determining when a short-term
35 emergency exists and the circumstances in which emergency interties are
36 permitted. The rules or guidelines shall be consistent with the
37 procedures established in RCW 43.83B.400 through 43.83B.420. Water
38 users owning lands to which water rights are attached may rotate in the

1 use of water to which they are collectively entitled, or an individual
2 water user having lands to which are attached water rights of a
3 different priority, may in like manner rotate in use when ((such))
4 rotation can be made without detriment to other existing water rights,
5 and has the approval of the ((water master or)) department.

6 (3) A person or persons wishing to make a seasonal or temporary
7 change or to rotate use in the manner provided in this section must
8 file an application with the department on a form adopted and provided
9 by the department. The department shall waive the notice provisions of
10 RCW 90.03.280 unless it has reason to believe that fish habitat or the
11 water rights of other persons are likely to be affected by the proposed
12 change. The department shall respond to the request by letter setting
13 forth its approval or denial, including the reason for denial. The
14 department shall retain a record of its decision as part of the records
15 of the water right or rights being changed. To the extent practicable,
16 the department shall expedite its consideration of requests under this
17 section.

18 **Sec. 15.** RCW 90.44.100 and 1987 c 109 s 113 are each amended to
19 read as follows:

20 ~~((After an application to, and upon the issuance by the department~~
21 ~~of an amendment to the appropriate permit or certificate of ground~~
22 ~~water right, the holder of a valid right to withdraw public ground~~
23 ~~waters may, without losing his priority of right, construct wells or~~
24 ~~other means of withdrawal at a new location in substitution for or in~~
25 ~~addition to those at the original location, or he may change the manner~~
26 ~~or the place of use of the water: PROVIDED, HOWEVER, That such~~
27 ~~amendment shall be issued only after publication of notice of the~~
28 ~~application and findings as prescribed in the case of an original~~
29 ~~application. Such amendment shall be issued by the department only on~~
30 ~~the conditions that:)) (1) ((The)) A ground water permit or~~
31 certificate may be transferred or changed in the manner provided in RCW
32 90.03.380 if: (a) Any additional or substitute well or wells shall tap
33 the same body of public ground water as the original well or wells;
34 ~~((+2)) (b) use of the original well or wells shall be discontinued~~
35 upon construction of the substitute well or wells; ((+3)) (c) the
36 construction of an additional well or wells shall not enlarge the right
37 conveyed by the original permit or certificate; and ((+4)) (d) other
38 existing rights shall not be impaired. The department may specify an

1 approved manner of construction and shall require a showing of
2 compliance with the terms of the amendment, as provided in RCW
3 90.44.080 in the case of an original permit.

4 (2) No authorization from the department is required for
5 construction of a replacement well of the same size, depth, and
6 capacity that will tap the same aquifer as the original well if the new
7 well is within one-quarter mile of the original well and if the well
8 being replaced is properly decommissioned in accordance with chapter
9 18.104 RCW. The well owner shall notify the department in writing of
10 the intent to replace the original well and to describe the change in
11 location.

12 **Sec. 16.** RCW 90.03.280 and 1988 c 36 s 65 are each amended to read
13 as follows:

14 ~~((Upon receipt of a proper application,))~~ The department shall
15 instruct the applicant to publish notice ~~((thereof))~~ in a form and
16 within a time prescribed by ~~((him))~~ the department in a newspaper of
17 general circulation published in the county or counties in which the
18 storage, diversion or withdrawal, and use is to be made, and in such
19 other newspapers as ~~((he))~~ the department may direct, once a week for
20 two consecutive weeks. The notice shall include information pertinent
21 to the proposed appropriation, including the location, the source, the
22 purpose or purposes of use, and the quantity proposed to be diverted or
23 withdrawn. The notice shall state that persons wishing to protest the
24 proposed application must do so in writing to the department within
25 thirty days of the last date of publication of the notice. In order to
26 be considered by the department, a protest must be received by the
27 department within thirty days of the last date of publication of the
28 notice. Upon receipt by the department of an application it shall send
29 notice thereof containing pertinent information to ~~((the director of~~
30 ~~fisheries and))~~ the director of fish and wildlife.

31 NEW SECTION. **Sec. 17.** A new section is added to chapter 43.21B
32 RCW to read as follows:

33 In a proceeding before the pollution control hearings board
34 challenging a decision of the department relating to the issuance,
35 conditioning, transfer, amendment, or denial of a water right permit
36 under Title 90 RCW, the burden of proof is on the person filing the
37 appeal.

1 NEW SECTION. **Sec. 18.** A new section is added to chapter 43.21B
2 RCW to read as follows:

3 Only a person with standing as defined in RCW 34.05.530 may appeal
4 to the pollution control hearings board a decision of the department to
5 issue, condition, transfer, amend, or deny a water right under Title 90
6 RCW.

7 NEW SECTION. **Sec. 19.** A new section is added to chapter 43.21B
8 RCW to read as follows:

9 If the department proposes to issue a water right permit or
10 transfer or change authorization under Title 90 RCW and: (1) The
11 decision of the department is appealed to the pollution control
12 hearings board within thirty days of the date of filing; (2) the
13 hearings board upholds the department's decision; and (3) an appeal for
14 judicial review of the hearings board decision is filed under chapter
15 34.05 RCW, the applicant for the water right may request, within ten
16 days of the filing of the appeal with the court, a hearing before the
17 court to determine whether construction and operation may begin under
18 the water right permit or authorization. If at the conclusion of the
19 hearing the court finds that construction and operation pursuant to the
20 permit or authorization would not involve a significant damaging of the
21 environment or impair existing water rights, the court may allow the
22 permittee to begin construction and operation pursuant to the permit or
23 authorization as the court deems appropriate. The court may require
24 the permittee to post bonds, in the name of the department, sufficient
25 to remove the construction or to restore the environment if the permit
26 or authorization is ultimately disapproved by the courts, or to alter
27 the construction or operation if the alteration is ultimately ordered
28 by the courts. In the hearing before the court, the burden of proving
29 whether the construction or operation might involve significant damage
30 to the environment or impair existing water rights and demonstrating
31 whether the construction would or would not be appropriate is on the
32 appellant.

33 NEW SECTION. **Sec. 20.** A new section is added to chapter 43.21B
34 RCW to read as follows:

35 One member of the pollution control hearings board may hear and
36 render a decision on an appeal from a water right applicant regarding
37 the nature and extent of the information needed to make determinations

1 regarding the application for or the processing of a water right
2 permit.

3 NEW SECTION. **Sec. 21.** A new section is added to chapter 90.03 RCW
4 to read as follows:

5 A water right applicant may appeal to the pollution control
6 hearings board a determination by the department regarding the nature
7 and extent of the information needed to make determinations regarding
8 the application for or the processing of a water right permit.

9 NEW SECTION. **Sec. 22.** A new section is added to chapter 43.21B
10 RCW to read as follows:

11 (1) Except as provided in subsection (2) of this section, a party
12 appealing a water right decision to the pollution control hearings
13 board shall make a good faith effort to participate in mediation before
14 receiving a hearing before the board. The pollution control hearings
15 board shall adopt rules to implement this section. The rules shall
16 include provisions for identification of the other parties invited to
17 mediation, the duration of mediation, and payment of mediation costs.

18 (2) A water right applicant appealing a department of ecology
19 decision regarding the nature and extent of the information needed to
20 make a determination on the application is not required to participate
21 in mediation before receiving a hearing.

22 NEW SECTION. **Sec. 23.** A new section is added to chapter 90.03 RCW
23 to read as follows:

24 (1) The department of ecology shall develop a budget process for
25 its water rights administration program that accomplishes the
26 following:

- 27 (a) Identifies targets for permitting activities for the biennium;
- 28 (b) Identifies workload standards;
- 29 (c) Prepares a draft budget;
- 30 (d) Provides for timely public review of the draft budget; and
- 31 (e) Circulates a final budget.

32 (2) The department of ecology shall also establish an advisory
33 committee of stakeholders. This group of stakeholders shall establish
34 and periodically review the following:

- 35 (a) Workload standards and proposed incentives to improve such
36 standards;

1 (b) Program expenditure categories to account for and monitor costs
2 related to the water rights administration program; and

3 (c) Success measures based upon programmatic results designed to
4 evaluate program effectiveness and standards for defining such
5 measures.

6 In establishing the initial workload standards, the legislature has
7 an expectation that the department of ecology will process a simple,
8 basic application in six months and an application of intermediate
9 difficulty in one year.

10 (3) The department of ecology shall report annually on the success
11 measures established, the number of water right permit decisions made,
12 and the associated costs of administering the water rights program.

13 (4) The legislature shall provide for another state entity or an
14 independent contractor to conduct periodic performance audits or
15 evaluations of the effectiveness and efficiency of the department of
16 ecology in meeting its workload standards and achieving programmatic
17 success.

18 **Sec. 24.** RCW 90.03.470 and 1993 c 495 s 2 are each amended to read
19 as follows:

20 ~~((Except as otherwise provided in subsection (15) of this section,~~
21 ~~the following fees shall be collected by the department in advance:~~

22 ~~(1) For the examination of an application for permit to appropriate~~
23 ~~water or on application to change point of diversion, withdrawal,~~
24 ~~purpose or place of use, a minimum of ten dollars, to be paid with the~~
25 ~~application. For each second foot between one and five hundred second~~
26 ~~feet, two dollars per second foot; for each second foot between five~~
27 ~~hundred and two thousand second feet, fifty cents per second foot; and~~
28 ~~for each second foot in excess thereof, twenty cents per second foot.~~
29 ~~For each acre foot of storage up to and including one hundred thousand~~
30 ~~acre feet, one cent per acre foot, and for each acre foot in excess~~
31 ~~thereof, one fifth cent per acre foot. The ten dollar fee payable with~~
32 ~~the application shall be a credit to that amount whenever the fee for~~
33 ~~direct diversion or storage totals more than ten dollars under the~~
34 ~~above schedule and in such case the further fee due shall be the total~~
35 ~~computed amount less ten dollars.~~

36 ~~Within five days from receipt of an application the department~~
37 ~~shall notify the applicant by registered mail of any additional fees~~
38 ~~due under the above schedule and any additional fees shall be paid to~~

1 and received by the department within thirty days from the date of
2 filing the application, or the application shall be rejected.

3 (2) For filing and recording a permit to appropriate water for
4 irrigation purposes, forty cents per acre for each acre to be irrigated
5 up to and including one hundred acres, and twenty cents per acre for
6 each acre in excess of one hundred acres up to and including one
7 thousand acres, and ten cents for each acre in excess of one thousand
8 acres; and also twenty cents for each theoretical horsepower up to and
9 including one thousand horsepower, and four cents for each theoretical
10 horsepower in excess of one thousand horsepower, but in no instance
11 shall the minimum fee for filing and recording a permit to appropriate
12 water be less than five dollars. For all other beneficial purposes the
13 fee shall be twice the amount of the examination fee except that for
14 individual household and domestic use, which may include water for
15 irrigation of a family garden, the fee shall be five dollars.

16 (3) For filing and recording any other water right instrument, four
17 dollars for the first hundred words and forty cents for each additional
18 hundred words or fraction thereof.

19 (4) For making a copy of any document recorded or filed in his
20 office, forty cents for each hundred words or fraction thereof, but
21 when the amount exceeds twenty dollars, only the actual cost in excess
22 of that amount shall be charged.

23 (5) For certifying to copies, documents, records or maps, two
24 dollars for each certification.

25 (6) For blueprint copies of a map or drawing, or, for such other
26 work of a similar nature as may be required of the department, at
27 actual cost of the work.

28 (7) For granting each extension of time for beginning construction
29 work under a permit to appropriate water, an amount equal to one half
30 of the filing and recording fee, except that the minimum fee shall be
31 not less than five dollars for each year that an extension is granted,
32 and for granting an extension of time for completion of construction
33 work or for completing application of water to a beneficial use, five
34 dollars for each year that an extension is granted.

35 (8) For the inspection of any hydraulic works to insure safety to
36 life and property, the actual cost of the inspection, including the
37 expense incident thereto.

1 ~~(9) For the examination of plans and specifications as to safety of~~
2 ~~controlling works for storage of ten acre feet or more of water, a~~
3 ~~minimum fee of ten dollars, or the actual cost.~~

4 ~~(10) For recording an assignment either of a permit to appropriate~~
5 ~~water or of an application for such a permit, a fee of five dollars.~~

6 ~~(11) For preparing and issuing all water right certificates, five~~
7 ~~dollars.~~

8 ~~(12) For filing and recording a protest against granting any~~
9 ~~application, two dollars.~~

10 ~~(13))~~ The legislature finds it necessary to assess additional fees
11 for a three-year period in order to address the water right application
12 backlog and data management development. For the period July 1, 1994,
13 through June 30, 1997, the department shall collect the following fees
14 in advance:

15 (1) Application filing fees for the following:

16 (a) Water appropriation applications:

17 (i) Greater than 0.0 and less than or equal to 0.2
18 cubic feet per second \$100

19 (ii) Greater than 0.2 and less than or equal to 0.5
20 cubic feet per second \$330

21 (iii) Greater than 0.5 and less than or equal to 3
22 cubic feet per second \$570

23 (iv) Greater than 3 and less than or equal to 5 cubic
24 feet per second \$750

25 (v) Greater than 5 and less than or equal to 20
26 cubic feet per second \$940

27 (vi) Greater than 20 and less than or equal to 100
28 cubic feet per second \$1,130

29 (vii) Greater than 100 cubic feet per second \$1,320

30 (b) Reservoir applications:

31 (i) Greater than 0.0 and less than or equal to 10
32 acre-feet \$100

33 (ii) Greater than 10 and less than or equal to 100
34 acre-feet \$570

35 (iii) Greater than 100 and less than or equal to 1,000
36 acre-feet \$940

37 (iv) Greater than 1,000 acre-feet \$1,320

38 (c) Change applications:

1	(i) <u>Changing a single element</u>	<u>\$100</u>
2	(ii) <u>Changing multiple elements</u>	<u>\$330</u>
3	(2) <u>Examination fees for the following:</u>	
4	(a) <u>Surface water applications:</u>	
5	(i) <u>Greater than 0.0 and less than or equal to 0.2</u>	
6	<u>cubic feet per second</u>	<u>\$100</u>
7	(ii) <u>Greater than 0.2 and less than or equal to 0.5</u>	
8	<u>cubic feet per second</u>	<u>\$520</u>
9	(iii) <u>Greater than 0.5 and less than or equal to 3</u>	
10	<u>cubic feet per second</u>	<u>\$940</u>
11	(iv) <u>Greater than 3 and less than or equal to 5 cubic</u>	
12	<u>feet per second</u>	<u>\$1,320</u>
13	(v) <u>Greater than 5 and less than or equal to 20</u>	
14	<u>cubic feet per second</u>	<u>\$1,700</u>
15	(vi) <u>Greater than 20 and less than or equal to 100</u>	
16	<u>cubic feet per second</u>	<u>\$2,070</u>
17	(vii) <u>Greater than 100 cubic feet per second</u>	<u>\$2,450</u>
18	(b) <u>Ground water applications:</u>	
19	(i) <u>Greater than 0.0 and less than or equal to 0.2</u>	
20	<u>cubic feet per second</u>	<u>\$120</u>
21	(ii) <u>Greater than 0.2 and less than or equal to 0.5</u>	
22	<u>cubic feet per second</u>	<u>\$620</u>
23	(iii) <u>Greater than 0.5 and less than or equal to 3</u>	
24	<u>cubic feet per second</u>	<u>\$1,130</u>
25	(iv) <u>Greater than 3 and less than or equal to 5 cubic</u>	
26	<u>feet per second</u>	<u>\$1,580</u>
27	(v) <u>Greater than 5 and less than or equal to 20</u>	
28	<u>cubic feet per second</u>	<u>\$2,040</u>
29	(vi) <u>Greater than 20 and less than or equal to 100</u>	
30	<u>cubic feet per second</u>	<u>\$2,480</u>
31	(vii) <u>Greater than 100 cubic feet per second</u>	<u>\$2,940</u>
32	(c) <u>Reservoir applications:</u>	
33	(i) <u>Greater than 0.0 and less than or equal to 10</u>	
34	<u>acre-feet</u>	<u>\$100</u>
35	(ii) <u>Greater than 10 and less than or equal to 100</u>	
36	<u>acre-feet</u>	<u>\$940</u>
37	(iii) <u>Greater than 100 and less than or equal to 1,000</u>	
38	<u>acre-feet</u>	<u>\$1,700</u>
39	(iv) <u>Greater than 1,000 acre-feet</u>	<u>\$2,450</u>

1	<u>(d) Changes to permits and certificates:</u>	
2	<u>(i) Changing a single element</u>	<u>\$100</u>
3	<u>(ii) Changing multiple elements</u>	<u>\$520</u>
4	<u>(3) Certificate fees:</u>	
5	<u>(a) Water appropriation applications:</u>	
6	<u>(i) Less than 0.0 and greater than or equal to 0.2</u>	
7	<u>cubic feet per second</u>	<u>\$100</u>
8	<u>(ii) Less than 0.2 and greater than or equal to 0.5</u>	
9	<u>cubic feet per second</u>	<u>\$330</u>
10	<u>(iii) Less than 0.5 and greater than or equal to 3</u>	
11	<u>cubic feet per second</u>	<u>\$570</u>
12	<u>(iv) Less than 3 and greater than or equal to 5 cubic</u>	
13	<u>feet per second</u>	<u>\$750</u>
14	<u>(v) Less than 5 and greater than or equal to 20</u>	
15	<u>cubic feet per second</u>	<u>\$940</u>
16	<u>(vi) Less than 20 and greater than or equal to 100</u>	
17	<u>cubic feet per second</u>	<u>\$1,130</u>
18	<u>(vii) Less than 100 cubic feet per second</u>	<u>\$1,320</u>
19	<u>(b) Reservoir applications:</u>	
20	<u>(i) Less than 0.0 and greater than or equal to 10</u>	
21	<u>acre-feet</u>	<u>\$100</u>
22	<u>(ii) Less than 10 and greater than or equal to 100</u>	
23	<u>acre-feet</u>	<u>\$570</u>
24	<u>(iii) Less than 100 and greater than or equal to 1,000</u>	
25	<u>acre-feet</u>	<u>\$940</u>
26	<u>(iv) Less than 1,000 acre-feet</u>	<u>\$1,320</u>
27	<u>(c) Changes to permits and certificates:</u>	
28	<u>(i) Changing a single element</u>	<u>\$100</u>
29	<u>(ii) Changing multiple elements</u>	<u>\$330</u>
30	<u>(4) Water right permit extensions</u>	<u>\$100</u>
31	<u>(5) Protests to applications</u>	<u>\$50</u>
32	<u>(6) Appealing a water right decision</u>	<u>\$200</u>

33 The department shall provide timely notification by certified mail
34 with return receipt requested to applicants that fees are due. No
35 action may be taken until the fee is paid in full. Failure to remit
36 fees within sixty days of the department's notification shall be
37 grounds for rejecting the application or canceling the permit. Cash

1 shall not be accepted. Fees must be paid by check or money order and
2 are nonrefundable.

3 ~~((14))~~ For purposes of calculating fees for ground water filings,
4 one cubic foot per second shall be regarded as equivalent to four
5 hundred fifty gallons per minute.

6 ~~((15))~~ For the period beginning July 1, 1993, and ending June 30,
7 1994, there is imposed and the department shall collect a one hundred
8 dollar surcharge on all water rights applications or changes filed
9 under this section, and upon all water rights applications or changes
10 pending as of July 1, 1993. This charge shall be in addition to any
11 other fees imposed under this section.

12 **Sec. 25.** RCW 90.03.470 and 1994 c . . . s 24 (section 24 of this
13 act) are each amended to read as follows:

14 ~~((The legislature finds it necessary to assess additional fees for
15 a three year period in order to address the water right application
16 backlog and data management development. For the period July 1, 1994,
17 through June 30, 1997, the department shall collect the following fees
18 in advance:))~~ The department shall collect the following fees in
19 advance:

20 (1) Application filing fees for the following:

21 (a) Water appropriation applications:

22 (i) Greater than 0.0 and less than or equal to 0.2
23 cubic feet per second \$100

24 (ii) Greater than 0.2 and less than or equal to 0.5
25 cubic feet per second ~~((330))~~
26 \$210

27 (iii) Greater than 0.5 and less than or equal to 3
28 cubic feet per second ~~((570))~~
29 \$320

30 (iv) Greater than 3 and less than or equal to 5 cubic
31 feet per second ~~((750))~~
32 \$420

33 (v) Greater than 5 and less than or equal to 20
34 cubic feet per second ~~((940))~~
35 \$530

36 (vi) Greater than 20 and less than or equal to 100
37 cubic feet per second ~~((1,130))~~

1		<u>\$640</u>
2	(vii) Greater than 100 cubic feet per second	((\$1,320))
3		<u>\$740</u>
4	(b) Reservoir applications:	
5	(i) Greater than 0.0 and less than or equal to 10	
6	acre-feet	\$100
7	(ii) Greater than 10 and less than or equal to 100	
8	acre-feet	((\$570))
9		<u>\$320</u>
10	(iii) Greater than 100 and less than or equal to 1,000	
11	acre-feet	((\$940))
12		<u>\$530</u>
13	(iv) Greater than 1,000 acre-feet	((\$1,320))
14		<u>\$740</u>
15	(c) Change applications:	
16	(i) Changing a single element	\$100
17	(ii) Changing multiple elements	((\$330))
18		<u>\$210</u>
19	(2) Examination fees for the following:	
20	(a) Surface water applications:	
21	(i) Greater than 0.0 and less than or equal to 0.2	
22	cubic feet per second	\$100
23	(ii) Greater than 0.2 and less than or equal to 0.5	
24	cubic feet per second	((\$520))
25		<u>\$320</u>
26	(iii) Greater than 0.5 and less than or equal to 3	
27	cubic feet per second	((\$940))
28		<u>\$530</u>
29	(iv) Greater than 3 and less than or equal to 5 cubic	
30	feet per second	((\$1,320))
31		<u>\$740</u>
32	(v) Greater than 5 and less than or equal to 20	
33	cubic feet per second	((\$1,700))
34		<u>\$960</u>
35	(vi) Greater than 20 and less than or equal to 100	
36	cubic feet per second	((\$2,070))
37		<u>\$1,170</u>
38	(vii) Greater than 100 cubic feet per second	((\$2,450))
39		<u>\$1,380</u>

1	(b) Ground water applications:	
2	(i) Greater than 0.0 and less than or equal to 0.2	
3	cubic feet per second	\$120
4	(ii) Greater than 0.2 and less than or equal to 0.5	
5	cubic feet per second	((\$620))
6		<u>\$380</u>
7	(iii) Greater than 0.5 and less than or equal to 3	
8	cubic feet per second	((\$1,130))
9		<u>\$640</u>
10	(iv) Greater than 3 and less than or equal to 5 cubic	
11	feet per second	((\$1,580))
12		<u>\$890</u>
13	(v) Greater than 5 and less than or equal to 20	
14	cubic feet per second	((\$2,040))
15		<u>\$1,150</u>
16	(vi) Greater than 20 and less than or equal to 100	
17	cubic feet per second	((\$2,480))
18		<u>\$1,400</u>
19	(vii) Greater than 100 cubic feet per second	((\$2,940))
20		<u>\$1,660</u>
21	(c) Reservoir applications:	
22	(i) Greater than 0.0 and less than or equal to 10	
23	acre-feet	\$100
24	(ii) Greater than 10 and less than or equal to 100	
25	acre-feet	((\$940))
26		<u>\$530</u>
27	(iii) Greater than 100 and less than or equal to 1,000	
28	acre-feet	((\$1,700))
29		<u>\$960</u>
30	(iv) Greater than 1,000 acre-feet	((\$2,450))
31		<u>\$1,380</u>
32	(d) Changes to permits and certificates:	
33	(i) Changing a single element	\$100
34	(ii) Changing multiple elements	((\$520))
35		<u>\$320</u>
36	(3) Certificate fees:	
37	(a) Water appropriation applications:	
38	(i) Less than 0.0 and greater than or equal to 0.2	
39	cubic feet per second	\$100

1	(ii)	Less than 0.2 and greater than or equal to 0.5	
2		cubic feet per second	(((\$330))
3			<u>\$210</u>
4	(iii)	Less than 0.5 and greater than or equal to 3	
5		cubic feet per second	(((\$570))
6			<u>\$320</u>
7	(iv)	Less than 3 and greater than or equal to 5 cubic	
8		feet per second	(((\$750))
9			<u>\$420</u>
10	(v)	Less than 5 and greater than or equal to 20	
11		cubic feet per second	(((\$940))
12			<u>\$530</u>
13	(vi)	Less than 20 and greater than or equal to 100	
14		cubic feet per second	(((\$1,130))
15			<u>\$640</u>
16	(vii)	Less than 100 cubic feet per second	(((\$1,320))
17			<u>\$740</u>
18	(b)	Reservoir applications:	
19	(i)	Less than 0.0 and greater than or equal to 10	
20		acre-feet	\$100
21	(ii)	Less than 10 and greater than or equal to 100	
22		acre-feet	(((\$570))
23			<u>\$320</u>
24	(iii)	Less than 100 and greater than or equal to 1,000	
25		acre-feet	(((\$940))
26			<u>\$530</u>
27	(iv)	Less than 1,000 acre-feet	(((\$1,320))
28			<u>\$740</u>
29	(c)	Changes to permits and certificates:	
30	(i)	Changing a single element	\$100
31	(ii)	Changing multiple elements	(((\$330))
32			<u>\$210</u>
33	(4)	Water right permit extensions	\$100
34	(5)	Protests to applications	\$50
35	(6)	Appealing a water right decision	\$200

36 The department shall provide timely notification by certified mail
37 with return receipt requested to applicants that fees are due. No
38 action may be taken until the fee is paid in full. Failure to remit

1 fees within sixty days of the department's notification shall be
2 grounds for rejecting the application or canceling the permit. Cash
3 shall not be accepted. Fees must be paid by check or money order and
4 are nonrefundable.

5 For purposes of calculating fees for ground water filings, one
6 cubic foot per second shall be regarded as equivalent to four hundred
7 fifty gallons per minute.

8 ~~((For the period beginning July 1, 1993, and ending June 30, 1994,
9 there is imposed and the department shall collect a one hundred dollar
10 surcharge on all water rights applications or changes filed under this
11 section, and upon all water rights applications or changes pending as
12 of July 1, 1993. This charge shall be in addition to any other fees
13 imposed under this section.))~~

14 NEW SECTION. **Sec. 26.** A new section is added to chapter 90.03 RCW
15 to read as follows:

16 New users of public ground waters who are not required to submit an
17 application for appropriation of public ground waters under RCW
18 90.44.050 shall pay a seventy-five dollar one-time registration fee to
19 the department of ecology. The department shall adopt rules for the
20 collection of this fee; in doing so, the department shall take into
21 consideration the most efficient means of fee collection.

22 **Sec. 27.** RCW 90.03.350 and 1987 c 109 s 91 are each amended to
23 read as follows:

24 (1) Except as provided in subsection (2) of this section, any
25 person, corporation or association intending to construct or modify any
26 dam or controlling works for the storage of ten acre feet or more of
27 water, shall before beginning said construction or modification, submit
28 plans and specifications of the same to the department for examination
29 and approval as to its safety. Such plans and specifications shall be
30 submitted in duplicate, one copy of which shall be retained as a public
31 record, by the department, and the other returned with its approval or
32 rejection endorsed thereon. No such dam or controlling works shall be
33 constructed or modified until the same or any modification thereof
34 shall have been approved as to its safety by the department. Any such
35 dam or controlling works constructed or modified in any manner other
36 than in accordance with plans and specifications approved by the
37 department or which shall not be maintained in accordance with the

1 order of the department shall be presumed to be a public nuisance and
2 may be abated in the manner provided by law, and it shall be the duty
3 of the attorney general or prosecuting attorney of the county wherein
4 such dam or controlling works, or the major portion thereof, is
5 situated to institute abatement proceedings against the owner or owners
6 of such dam or controlling works, whenever he is requested to do so by
7 the department.

8 (2) The department of ecology shall not conduct dam safety reviews
9 or inspections of federally licensed dams or related controlling works.

10 NEW SECTION. Sec. 28. By January 1, 1995, the department of
11 ecology shall employ emergency rule-making procedures to implement this
12 act.

13 NEW SECTION. Sec. 29. Sections 2 through 24 and 26 through 28 of
14 this act are necessary for the immediate preservation of the public
15 peace, health, or safety, or support of the state government and its
16 existing public institutions, and shall take effect immediately.

17 NEW SECTION. Sec. 30. Section 1 of this act shall take effect
18 January 2, 1995.

19 NEW SECTION. Sec. 31. Section 25 of this act shall take effect
20 July 1, 1997.

21 NEW SECTION. Sec. 32. Section 24 of this act shall expire June
22 30, 1997.

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