

VETO MESSAGE ON HB 2867

April 2, 1994

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington
Ladies and Gentlemen:

I am returning herewith, without my approval, House Bill No. 2867 entitled:

"AN ACT Relating to Water Resources;"

The Department of Ecology regulates dams in this state as part of its general responsibilities in the area of water resources. Its mission is to "inspect construction of all dams ... to assure safety to life and property..." (RCW 43.21A.064). A number of dams in this state are regulated by the Federal Energy Regulatory Commission (FERC). Although FERC has jurisdiction over federally licensed hydro-power facilities, the federal agency must recognize the Department of Ecology regarding certain issues specific to the state's interest in protecting the public's safety.

In 1992, FERC and the Department of Ecology entered into a Memorandum of Agreement which defined the roles of each agency so that applicants/licensees would deal with FERC exclusively for the purposes of regulation. The Department of Ecology now provides engineering review of existing dams regarding the ability to withstand earthquakes and major floods and provides input to FERC regarding issues specific to the state of Washington.

Because of the important role the Department of Ecology plays in protecting the safety of the 100,000 citizens who live downstream from these dams, there is a compelling argument to maintain the state's role in dam construction and inspection. As a result of the agreement with FERC, there is no overlap in regulation, and applicants/licensees are not required to provide duplicative information or to be subjected to redundant inspections. The Department of Ecology's budget for regulation of FERC licensed dams is almost insignificant. To withdraw the state from the regulation of these dams would risk public safety for no valid reason.

The Washington State Supreme Court recently found that under current law, the state has the authority to impose conditions in a FERC certification which are designed to protect fish and wildlife. In no way should the state retreat from its responsibilities to its citizens and its resources.

For these reasons I am vetoing House Bill No. 2867 in its entirety.

Respectfully submitted,
Mike Lowry
Governor