

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2993

Chapter 329, Laws of 2002

57th Legislature
2002 Regular Session

WATER POLICY

EFFECTIVE DATE: 6/13/02 - Except section 11, which becomes effective 4/3/02.

Passed by the House March 13, 2002
Yeas 95 Nays 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate March 13, 2002
Yeas 46 Nays 2

BRAD OWEN
President of the Senate

Approved April 3, 2002

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2993** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

FILED

April 3, 2002 - 10:34 a.m.

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 2993

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2002 Regular Session

By Representatives Linville and Kirby

Read first time 02/27/2002. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to water policy; amending RCW 90.46.010, 90.46.030,
2 90.46.130, 90.38.020, 90.42.040, 90.42.080, and 90.03.370; adding a new
3 section to chapter 90.54 RCW; adding a new section to chapter 90.03
4 RCW; adding a new section to chapter 90.46 RCW; adding a new section to
5 chapter 43.155 RCW; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.54 RCW
8 to read as follows:

9 The legislature recognizes the critical importance of providing and
10 securing sufficient water to meet the needs of people, farms, and fish.
11 The legislature finds that an effective way to meet the water needs of
12 people, farms, and fish is through strategies developed and implemented
13 at the local watershed level. The objectives of these strategies are
14 to supply water in sufficient quantities to satisfy the following three
15 water resource objectives:

- 16 (1) Providing sufficient water for residential, commercial, and
17 industrial needs;
18 (2) Providing sufficient water for productive fish populations; and
19 (3) Providing sufficient water for productive agriculture.

1 The legislature affirms its intent to provide continued support for
2 watershed strategies and provides the tools in this bill to assist
3 local watersheds in meeting these objectives.

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

6 (1) The department shall, through a network of water masters
7 appointed under this chapter, stream patrollers appointed under chapter
8 90.08 RCW, and other assigned compliance staff to the extent such a
9 network is funded, achieve compliance with the water laws and rules of
10 the state of Washington in the following sequence:

11 (a) The department shall prepare and distribute technical and
12 educational information to the general public to assist the public in
13 complying with the requirements of their water rights and applicable
14 water laws;

15 (b) When the department determines that a violation has occurred or
16 is about to occur, it shall first attempt to achieve voluntary
17 compliance. As part of this first response, the department shall offer
18 information and technical assistance to the person in writing
19 identifying one or more means to accomplish the person's purposes
20 within the framework of the law; and

21 (c) If education and technical assistance do not achieve compliance
22 the department shall issue a notice of violation, a formal
23 administrative order under RCW 43.27A.190, or assess penalties under
24 RCW 90.03.600 unless the noncompliance is corrected expeditiously or
25 the department determines no impairment or harm.

26 (2) Nothing in the section is intended to prevent the department of
27 ecology from taking immediate action to cause a violation to be ceased
28 immediately if in the opinion of the department the nature of the
29 violation is causing harm to other water rights or to public resources.

30 (3) The department of ecology shall to the extent practicable
31 station its compliance personnel within the watershed communities they
32 serve. To the extent practicable, compliance personnel shall be
33 distributed evenly among the regions of the state.

34 **Sec. 3.** RCW 90.46.010 and 2001 c 69 s 2 are each amended to read
35 as follows:

36 The definitions in this section apply throughout this chapter
37 unless the context clearly requires otherwise.

1 (1) "Greywater" means wastewater having the consistency and
2 strength of residential domestic type wastewater. Greywater includes
3 wastewater from sinks, showers, and laundry fixtures, but does not
4 include toilet or urinal waters.

5 (2) "Land application" means application of treated effluent for
6 purposes of irrigation or landscape enhancement for residential,
7 business, and governmental purposes.

8 (3) "Person" means any state, individual, public or private
9 corporation, political subdivision, governmental subdivision,
10 governmental agency, municipality, copartnership, association, firm,
11 trust estate, or any other legal entity whatever.

12 (4) "Reclaimed water" means effluent derived in any part from
13 sewage from a wastewater treatment system that has been adequately and
14 reliably treated, so that as a result of that treatment, it is suitable
15 for a beneficial use or a controlled use that would not otherwise occur
16 and is no longer considered wastewater.

17 (5) "Sewage" means water-carried human wastes from residences,
18 buildings, industrial and commercial establishments, or other places,
19 together with such ground water infiltration, surface waters, or
20 industrial wastewater as may be present.

21 (6) "User" means any person who uses reclaimed water.

22 (7) "Wastewater" means water and wastes discharged from homes,
23 businesses, and industry to the sewer system.

24 (8) "Beneficial use" means the use of reclaimed water, that has
25 been transported from the point of production to the point of use
26 without an intervening discharge to the waters of the state, for a
27 beneficial purpose.

28 (9) "Direct recharge" means the controlled subsurface addition of
29 water directly to the ground water basin that results in the
30 replenishment of ground water.

31 (10) "Ground water recharge criteria" means the contaminant
32 criteria found in the drinking water quality standards adopted by the
33 state board of health pursuant to chapter 43.20 RCW and the department
34 of health pursuant to chapter 70.119A RCW.

35 (11) "Planned ground water recharge project" means any reclaimed
36 water project designed for the purpose of recharging ground water, via
37 direct recharge or surface percolation.

1 (12) "Reclamation criteria" means the criteria set forth in the
2 water reclamation and reuse interim standards and subsequent revisions
3 adopted by the department of ecology and the department of health.

4 (13) "Streamflow augmentation" means the discharge of reclaimed
5 water to rivers and streams of the state or other surface water bodies,
6 but not wetlands.

7 (14) "Surface percolation" means the controlled application of
8 water to the ground surface for the purpose of replenishing ground
9 water.

10 (15) "Wetland or wetlands" means areas that are inundated or
11 saturated by surface water or ground water at a frequency and duration
12 sufficient to support, and that under normal circumstances do support,
13 a prevalence of vegetation typically adapted to life in saturated soil
14 conditions. Wetlands generally include swamps, marshes, bogs, and
15 similar areas. Wetlands regulated under this chapter shall be
16 delineated in accordance with the manual adopted by the department of
17 ecology pursuant to RCW 90.58.380.

18 (16) "Constructed beneficial use wetlands" means those wetlands
19 intentionally constructed on nonwetland sites to produce or replace
20 natural wetland functions and values. Constructed beneficial use
21 wetlands are considered "waters of the state."

22 (17) "Constructed treatment wetlands" means those wetlands
23 intentionally constructed on nonwetland sites and managed for the
24 primary purpose of wastewater or storm water treatment. Constructed
25 treatment wetlands are considered part of the collection and treatment
26 system and are not considered "waters of the state."

27 (18) "Agricultural industrial process water" means water that has
28 been used for the purpose of (~~agriculture~~[agricultural])
29 agricultural processing and has been adequately and reliably treated,
30 so that as a result of that treatment, it is suitable for other
31 agricultural water use.

32 (19) "Agricultural processing" means the processing of crops or
33 milk to produce a product primarily for wholesale or retail sale for
34 human or animal consumption, including but not limited to potato,
35 fruit, vegetable, and grain processing.

36 (20) "Agricultural water use" means the use of water for irrigation
37 and other uses related to the production of agricultural products.
38 These uses include, but are not limited to, construction, operation,
39 and maintenance of agricultural facilities and livestock operations at

1 farms, ranches, dairies, and nurseries. Examples of these uses
2 include, but are not limited to, dust control, temperature control, and
3 fire control.

4 (21) "Industrial reuse water" means water that has been used for
5 the purpose of industrial processing and has been adequately and
6 reliably treated so that, as a result of that treatment, it is suitable
7 for other uses.

8 **Sec. 4.** RCW 90.46.030 and 1992 c 204 s 4 are each amended to read
9 as follows:

10 (1) The department of health shall, in coordination with the
11 department of ecology, adopt a single set of standards, procedures, and
12 guidelines on or before August 1, 1993, for the industrial and
13 commercial use of reclaimed water.

14 (2) The department of health may issue a reclaimed water permit for
15 industrial and commercial uses of reclaimed water to the generator of
16 reclaimed water who may then distribute the water, subject to
17 provisions in the permit governing the location, rate, water quality,
18 and purposes of use.

19 (3) The department of health in consultation with the advisory
20 committee established in RCW 90.46.050, shall develop recommendations
21 for a fee structure for permits issued under subsection (2) of this
22 section. Fees shall be established in amounts to fully recover, and
23 not exceed, expenses incurred by the department of health in processing
24 permit applications and modifications, monitoring and evaluating
25 compliance with permits, and conducting inspections and supporting the
26 reasonable overhead expenses that are directly related to these
27 activities. Permit fees may not be used for research or enforcement
28 activities. The department of health shall not issue permits under
29 this section until a fee structure has been established.

30 (4) A permit under this section for use of reclaimed water may be
31 issued only to a municipal, quasi-municipal, or other governmental
32 entity or to the holder of a waste discharge permit issued under
33 chapter 90.48 RCW.

34 (5) The authority and duties created in this section are in
35 addition to any authority and duties already provided in law with
36 regard to sewage and wastewater collection, treatment, and disposal for
37 the protection of health and safety of the state's waters. Nothing in

1 this section limits the powers of the state or any political
2 subdivision to exercise such authority.

3 (6) The department of health may implement the requirements of this
4 section through the department of ecology by execution of a formal
5 agreement between the departments. Upon execution of such an
6 agreement, the department of ecology may issue reclaimed water permits
7 for industrial and commercial uses of reclaimed water by issuance of
8 permits under chapter 90.48 RCW, and may establish and collect fees as
9 required for permits issued under chapter 90.48 RCW.

10 **Sec. 5.** RCW 90.46.130 and 2001 c 69 s 4 are each amended to read
11 as follows:

12 (1) Except as provided in subsection (2) of this section,
13 facilities that reclaim water under this chapter shall not impair any
14 existing water right downstream from any freshwater discharge points of
15 such facilities unless compensation or mitigation for such impairment
16 is agreed to by the holder of the affected water right.

17 (2) Agricultural water use of agricultural industrial process water
18 and use of industrial reuse water under this chapter shall not impair
19 existing water rights within the water source that is the source of
20 supply for the agricultural processing plant or the industrial
21 processing and, if the water source is surface water, the existing
22 water rights are downstream from the agricultural processing plant's
23 discharge points existing on July 22, 2001, or from the industrial
24 processing's discharge points existing on the effective date of this
25 section.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.46 RCW
27 to read as follows:

28 (1) The permit to use industrial reuse water shall be the permit
29 issued under chapter 90.48 RCW to the owner of the plant that is the
30 source of the industrial process water, who may then distribute the
31 water according to provisions in the permit governing the location,
32 rate, water quality, and purpose. In cases where the department of
33 ecology determines that a proposed use may pose a significant risk to
34 public health, the department shall refer the permit application to the
35 department of health for review and consultation.

36 (2) The owner of the industrial plant who obtains a permit under
37 this section has the exclusive right to the use of any industrial reuse

1 water generated from the plant and to the distribution of such water.
2 Use and distribution of the water by the owner is exempt from the
3 permit requirements of RCW 90.03.250, 90.03.380, 90.44.060, and
4 90.44.100.

5 (3) Nothing in this section affects any right to reuse industrial
6 process water in existence on or before the effective date of this
7 section.

8 **Sec. 7.** RCW 90.38.020 and 2001 c 237 s 28 are each amended to read
9 as follows:

10 (1)(a) The department may acquire water rights, including but not
11 limited to storage rights, by purchase, lease, gift, or other
12 appropriate means other than by condemnation, from any person or entity
13 or combination of persons or entities. Once acquired, such rights are
14 trust water rights. A water right acquired by the state that is
15 expressly conditioned to limit its use to instream purposes shall be
16 administered as a trust water right in compliance with that condition.

17 (b) If ~~((an aquatic species is listed as threatened or endangered
18 under federal law for a body of water, or is listed as depressed or
19 threatened by reason of inadequate stream flows under state law, and))~~
20 the holder of a right to water from ~~((the))~~ a body of water chooses to
21 donate all or a portion of the person's water right to the trust water
22 system to assist in providing ~~((these))~~ instream flows on a temporary
23 or permanent basis, the department shall accept the donation on such
24 terms as the person may prescribe as long as the donation satisfies the
25 requirements of subsection (4) of this section and the other applicable
26 requirements of this chapter and the terms prescribed are relevant and
27 material to protecting any interest in the water right retained by the
28 donor. Once accepted, such rights are trust water rights within the
29 conditions prescribed by the donor.

30 (2) The department may make such other arrangements, including
31 entry into contracts with other persons or entities as appropriate to
32 ensure that trust water rights acquired in accordance with this chapter
33 can be exercised to the fullest possible extent.

34 (3) The trust water rights may be acquired on a temporary or
35 permanent basis.

36 (4) A water right donated under subsection (1)(b) of this section
37 shall not exceed the extent to which the water right was exercised
38 during the five years before the donation nor may the total of any

1 portion of the water right remaining with the donor plus the donated
2 portion of the water right exceed the extent to which the water right
3 was exercised during the five years before the donation. A water right
4 holder who believes his or her water right has been impaired by a trust
5 water right donated under subsection (1)(b) of this section may request
6 that the department review the impairment claim. If the department
7 determines that exercising the trust water right resulting from the
8 donation or exercising a portion of that trust water right donated
9 under subsection (1)(b) of this section is impairing existing water
10 rights in violation of RCW 90.38.902, the trust water right shall be
11 altered by the department to eliminate the impairment. Any decision of
12 the department to alter or not alter a trust water right donated under
13 subsection (1)(b) of this section is appealable to the pollution
14 control hearings board under RCW 43.21B.230. A donated water right's
15 status as a trust water right under this subsection is not evidence of
16 the validity or quantity of the water right.

17 (5) Any water right conveyed to the trust water right system as a
18 gift that is expressly conditioned to limit its use to instream
19 purposes shall be managed by the department for public purposes to
20 ensure that it qualifies as a gift that is deductible for federal
21 income taxation purposes for the person or entity conveying the water
22 right.

23 (6) If the department acquires a trust water right by lease (~~(in an~~
24 ~~area in which a drought order has been issued under RCW 43.83B.405 and~~
25 ~~is in effect at the time the department leases the water right)), the
26 amount of the trust water right shall not exceed the extent to which
27 the water right was exercised during the five years before the
28 acquisition was made nor may the total of any portion of the water
29 right remaining with the original water right holder plus the portion
30 of the water right leased by the department exceed the extent to which
31 the water right was exercised during the five years before the
32 acquisition. A water right holder who believes his or her water right
33 has been impaired by a trust water right leased under this subsection
34 may request that the department review the impairment claim. If the
35 department determines that exercising the trust water right resulting
36 from the leasing or exercising (~~{of}~~) of a portion of that trust
37 water right leased under this subsection is impairing existing water
38 rights in violation of RCW 90.38.902, the trust water right shall be
39 altered by the department to eliminate the impairment. Any decision of~~

1 the department to alter or not to alter a trust water right leased
2 under this subsection is appealable to the pollution control hearings
3 board under RCW 43.21B.230. The department's leasing of a trust water
4 right under this subsection is not evidence of the validity or quantity
5 of the water right.

6 (7) For a water right donated to or acquired by the trust water
7 rights program on a temporary basis, the full quantity of water
8 diverted or withdrawn to exercise the right before the donation or
9 acquisition shall be placed in the trust water rights program and shall
10 revert to the donor or person from whom it was acquired when the trust
11 period ends.

12 **Sec. 8.** RCW 90.42.040 and 2001 c 237 s 30 are each amended to read
13 as follows:

14 (1) All trust water rights acquired by the state shall be placed in
15 the state trust water rights program to be managed by the department.
16 Trust water rights acquired by the state shall be held or authorized
17 for use by the department for instream flows, irrigation, municipal, or
18 other beneficial uses consistent with applicable regional plans for
19 pilot planning areas, or to resolve critical water supply problems. To
20 the extent practicable and subject to legislative appropriation, trust
21 water rights acquired in an area with an approved watershed plan
22 developed under chapter 90.82 RCW shall be consistent with that plan if
23 the plan calls for such acquisition.

24 (2) The department shall issue a water right certificate in the
25 name of the state of Washington for each permanent trust water right
26 conveyed to the state indicating the reach or reaches of the stream,
27 the quantity, and the use or uses to which it may be applied. A
28 superseding certificate shall be issued that specifies the amount of
29 water the water right holder would continue to be entitled to as a
30 result of the water conservation project. The superseding certificate
31 shall retain the same priority date as the original right. For
32 nonpermanent conveyances, the department shall issue certificates or
33 such other instruments as are necessary to reflect the changes in
34 purpose or place of use or point of diversion or withdrawal.

35 (3) A trust water right retains the same priority date as the water
36 right from which it originated, but as between them the trust right
37 shall be deemed to be inferior in priority unless otherwise specified

1 by an agreement between the state and the party holding the original
2 right.

3 (4) Exercise of a trust water right may be authorized only if the
4 department first determines that neither water rights existing at the
5 time the trust water right is established, nor the public interest will
6 be impaired. If impairment becomes apparent during the time a trust
7 water right is being exercised, the department shall cease or modify
8 the use of the trust water right to eliminate the impairment.

9 (5) Before any trust water right is created or modified, the
10 department shall, at a minimum, require that a notice be published in
11 a newspaper of general circulation published in the county or counties
12 in which the storage, diversion, and use are to be made, and in other
13 newspapers as the department determines is necessary, once a week for
14 two consecutive weeks. At the same time the department shall send a
15 notice containing pertinent information to all appropriate state
16 agencies, potentially affected local governments and federally
17 recognized tribal governments, and other interested parties.

18 (6) RCW 90.14.140 through 90.14.230 have no applicability to trust
19 water rights held by the department under this chapter or exercised
20 under this section.

21 (7) RCW 90.03.380 has no applicability to trust water rights
22 acquired by the state through the funding of water conservation
23 projects.

24 (8) Subsections (4) and (5) of this section do not apply to a trust
25 water right resulting from a donation for instream flows described in
26 RCW 90.42.080(1)(b) or to a trust water right leased under RCW
27 90.42.080(8) if the period of the lease does not exceed five years.
28 However, the department shall provide the notice described in
29 subsection (5) of this section the first time the trust water right
30 resulting from the donation is exercised.

31 (9) Where a portion of an existing water right that is acquired or
32 donated to the trust water rights program will assist in achieving
33 established instream flows, the department shall process the change or
34 amendment of the existing right without conducting a review of the
35 extent and validity of the portion of the water right that will remain
36 with the water right holder.

37 **Sec. 9.** RCW 90.42.080 and 2001 c 237 s 31 are each amended to read
38 as follows:

1 (1)(a) The state may acquire all or portions of existing water
2 rights, by purchase, gift, or other appropriate means other than by
3 condemnation, from any person or entity or combination of persons or
4 entities. Once acquired, such rights are trust water rights. A water
5 right acquired by the state that is expressly conditioned to limit its
6 use to instream purposes shall be administered as a trust water right
7 in compliance with that condition.

8 (b) If ~~((an aquatic species is listed as threatened or endangered
9 under federal law for a body of water, or is listed as depressed or
10 threatened by reason of inadequate stream flow under state law, and))~~
11 the holder of a right to water from ~~((the))~~ a body of water chooses to
12 donate all or a portion of the person's water right to the trust water
13 system to assist in providing ~~((those))~~ instream flows on a temporary
14 or permanent basis, the department shall accept the donation on such
15 terms as the person may prescribe as long as the donation satisfies the
16 requirements of subsection (4) of this section and the other applicable
17 requirements of this chapter and the terms prescribed are relevant and
18 material to protecting any interest in the water right retained by the
19 donor. Once accepted, such rights are trust water rights within the
20 conditions prescribed by the donor.

21 (2) The department may enter into leases, contracts, or such other
22 arrangements with other persons or entities as appropriate, to ensure
23 that trust water rights acquired in accordance with this chapter may be
24 exercised to the fullest possible extent.

25 (3) Trust water rights may be acquired by the state on a temporary
26 or permanent basis.

27 (4) A water right donated under subsection (1)(b) of this section
28 shall not exceed the extent to which the water right was exercised
29 during the five years before the donation nor may the total of any
30 portion of the water right remaining with the donor plus the donated
31 portion of the water right exceed the extent to which the water right
32 was exercised during the five years before the donation. A water right
33 holder who believes his or her water right has been impaired by a trust
34 water right donated under subsection (1)(b) of this section may request
35 that the department review the impairment claim. If the department
36 determines that exercising the trust water right resulting from the
37 donation or exercising a portion of that trust water right donated
38 under subsection (1)(b) of this section is impairing existing water
39 rights in violation of RCW 90.42.070, the trust water right shall be

1 altered by the department to eliminate the impairment. Any decision of
2 the department to alter or not to alter a trust water right donated
3 under subsection (1)(b) of this section is appealable to the pollution
4 control hearings board under RCW 43.21B.230. A donated water right's
5 status as a trust water right under this subsection is not evidence of
6 the validity or quantity of the water right.

7 (5) The provisions of RCW 90.03.380 and 90.03.390 do not apply to
8 donations for instream flows described in subsection (1)(b) of this
9 section, but do apply to other transfers of water rights under this
10 section.

11 (6) No funds may be expended for the purchase of water rights by
12 the state pursuant to this section unless specifically appropriated for
13 this purpose by the legislature.

14 (7) Any water right conveyed to the trust water right system as a
15 gift that is expressly conditioned to limit its use to instream
16 purposes shall be managed by the department for public purposes to
17 ensure that it qualifies as a gift that is deductible for federal
18 income taxation purposes for the person or entity conveying the water
19 right.

20 (8) If the department acquires a trust water right by lease (~~((in an~~
21 ~~area in which a drought order has been issued under RCW 43.83B.405 and~~
22 ~~is in effect at the time the department leases the water right))), the
23 amount of the trust water right shall not exceed the extent to which
24 the water right was exercised during the five years before the
25 acquisition was made nor may the total of any portion of the water
26 right remaining with the original water right holder plus the portion
27 of the water right leased by the department exceed the extent to which
28 the water right was exercised during the five years before the
29 acquisition. A water right holder who believes his or her water right
30 has been impaired by a trust water right leased under this subsection
31 may request that the department review the impairment claim. If the
32 department determines that exercising the trust water right resulting
33 from the leasing or exercising (~~{ef}~~) of a portion of that trust
34 water right leased under this subsection is impairing existing water
35 rights in violation of RCW 90.42.070, the trust water right shall be
36 altered by the department to eliminate the impairment. Any decision of
37 the department to alter or not to alter a trust water right leased
38 under this subsection is appealable to the pollution control hearings
39 board under RCW 43.21B.230. The department's leasing of a trust water~~

1 right under this subsection is not evidence of the validity or quantity
2 of the water right.

3 (9) For a water right donated to or acquired by the trust water
4 rights program on a temporary basis, the full quantity of water
5 diverted or withdrawn to exercise the right before the donation or
6 acquisition shall be placed in the trust water rights program and shall
7 revert to the donor or person from whom it was acquired when the trust
8 period ends.

9 **Sec. 10.** RCW 90.03.370 and 2000 c 98 s 3 are each amended to read
10 as follows:

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

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

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

34 (ii) Adding or changing one or more purposes of use of stored
35 water;

36 (iii) Adding to the storage capacity of an existing storage
37 facility; and

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

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

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

13 (i) Aquifer vulnerability and hydraulic continuity;

14 (ii) Potential impairment of existing water rights;

15 (iii) Geotechnical impacts and aquifer boundaries and
16 characteristics;

17 (iv) Chemical compatibility of surface waters and ground water;

18 (v) Recharge and recovery treatment requirements;

19 (vi) System operation;

20 (vii) Water rights and ownership of water stored for recovery; and

21 (viii) Environmental impacts.

22 (b) Standards for review and standards for mitigation of adverse
23 impacts for an underground artificial storage and recovery project
24 shall be established by the department by rule. Notwithstanding the
25 provisions of RCW 90.03.250 through 90.03.320, analysis of each
26 underground artificial storage and recovery project and each
27 underground geological formation for which an applicant seeks the
28 status of a reservoir shall be through applicant-initiated studies
29 reviewed by the department.

30 (3) For the purposes of this section, "underground artificial
31 storage and recovery project" means any project in which it is intended
32 to artificially store water in the ground through injection, surface
33 spreading and infiltration, or other department-approved method, and to
34 make subsequent use of the stored water. However, (a) this subsection
35 does not apply to irrigation return flow, or to operational and seepage
36 losses that occur during the irrigation of land, or to water that is
37 artificially stored due to the construction, operation, or maintenance
38 of an irrigation district project, or to projects involving water
39 reclaimed in accordance with chapter 90.46 RCW; and (b) RCW 90.44.130

1 applies to those instances of claimed artificial recharge occurring due
2 to the construction, operation, or maintenance of an irrigation
3 district project or operational and seepage losses that occur during
4 the irrigation of land, as well as other forms of claimed artificial
5 recharge already existing at the time a ground water subarea is
6 established.

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

10 (5) The department shall report to the legislature by December 31,
11 2001, on the standards for review and standards for mitigation
12 developed under subsection (3) of this section and on the status of any
13 applications that have been filed with the department for underground
14 artificial storage and recovery projects by that date.

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

19 NEW SECTION. Sec. 11. A new section is added to chapter 43.155
20 RCW to read as follows:

21 The water conservation account is created in the custody of the
22 state treasurer. All receipts from federal funding dedicated to water
23 conservation under 16 U.S.C. Sec. 3831 shall be deposited in the
24 account. In addition, the legislature may appropriate money to the
25 account. The account is subject to allotment procedures under chapter
26 43.88 RCW, but an appropriation is not required for expenditures.
27 Expenditures from the account shall be used for the development and
28 support of water conservation as defined by 16 U.S.C. Sec. 3831. Only
29 the public works board or its designee may make expenditures from the
30 account.

31 NEW SECTION. Sec. 12. Section 11 of this act is necessary for the
32 immediate preservation of the public peace, health, or safety, or
33 support of the state government and its existing public institutions,
34 and takes effect immediately.

Passed the House March 13, 2002.

Passed the Senate March 13, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.