

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5910

Chapter 240, Laws of 2001

57th Legislature
2001 Regular Session

WATER RIGHTS--NONUSE

EFFECTIVE DATE: 5/11/01

Passed by the Senate April 18, 2001
YEAS 42 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 12, 2001
YEAS 94 NAYS 0

FRANK CHOPP
**Speaker of the
House of Representatives**

CLYDE BALLARD
**Speaker of the
House of Representatives**

Approved May 11, 2001

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5910** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

May 11, 2001 - 9:10 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5910

AS AMENDED BY THE HOUSE

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Senate Committee on Environment, Energy & Water (originally sponsored by Senators Fraser and Honeyford)

READ FIRST TIME 02/22/01.

1 AN ACT Relating to temporary nonuse of water by the owner of a
2 water right; amending RCW 90.14.140; and declaring an emergency.

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

4 **Sec. 1.** RCW 90.14.140 and 1998 c 258 s 1 are each amended to read
5 as follows:

6 (1) For the purposes of RCW 90.14.130 through 90.14.180,
7 "sufficient cause" shall be defined as the nonuse of all or a portion
8 of the water by the owner of a water right for a period of five or more
9 consecutive years where such nonuse occurs as a result of:

10 (a) Drought, or other unavailability of water;

11 (b) Active service in the armed forces of the United States during
12 military crisis;

13 (c) Nonvoluntary service in the armed forces of the United States;

14 (d) The operation of legal proceedings;

15 (e) Federal or state agency leases of or options to purchase lands
16 or water rights which preclude or reduce the use of the right by the
17 owner of the water right;

18 (f) Federal laws imposing land or water use restrictions either
19 directly or through the voluntary enrollment of a landowner in a

1 federal program implementing those laws, or acreage limitations, or
2 production quotas;

3 (g) Temporarily reduced water need for irrigation use where such
4 reduction is due to varying weather conditions, including but not
5 limited to precipitation and temperature, that warranted the reduction
6 in water use, so long as the water user's diversion and delivery
7 facilities are maintained in good operating condition consistent with
8 beneficial use of the full amount of the water right;

9 (h) Temporarily reduced diversions or withdrawals of irrigation
10 water directly resulting from the provisions of a contract or similar
11 agreement in which a supplier of electricity buys back electricity from
12 the water right holder and the electricity is needed for the diversion
13 or withdrawal or for the use of the water diverted or withdrawn for
14 irrigation purposes;

15 (i) Water conservation measures implemented under the Yakima river
16 basin water enhancement project, so long as the conserved water is
17 reallocated in accordance with the provisions of P.L. 103-434;

18 (j) Reliance by an irrigation water user on the transitory presence
19 of return flows in lieu of diversion or withdrawal of water from the
20 primary source of supply, if such return flows are measured or reliably
21 estimated using a scientific methodology generally accepted as reliable
22 within the scientific community; or

23 (k) The reduced use of irrigation water resulting from crop
24 rotation. For purposes of this subsection, crop rotation means the
25 temporary change in the type of crops grown resulting from the exercise
26 of generally recognized sound farming practices. Unused water
27 resulting from crop rotation will not be relinquished if the remaining
28 portion of the water continues to be beneficially used.

29 (2) Notwithstanding any other provisions of RCW 90.14.130 through
30 90.14.180, there shall be no relinquishment of any water right:

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

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

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

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

6 (e) If such waters are not subject to appropriation under the
7 applicable provisions of RCW 90.40.030; or

8 (f) If such right or portion of the right is leased to another
9 person for use on land other than the land to which the right is
10 appurtenant as long as the lessee makes beneficial use of the right in
11 accordance with this chapter and a transfer or change of the right has
12 been approved by the department in accordance with RCW 90.03.380,
13 90.03.383, 90.03.390, or 90.44.100.

14 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 immediately.

Passed the Senate April 18, 2001.

Passed the House April 12, 2001.

Approved by the Governor May 11, 2001.

Filed in Office of Secretary of State May 11, 2001.