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HOUSE BILL 1730

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Chandler, Schoesler and Grant

Read first time 02/06/97. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to sufficient cause for nonuse of water rights; and  
2 amending RCW 90.03.320 and 90.14.140.

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

4 **Sec. 1.** RCW 90.03.320 and 1987 c 109 s 67 are each amended to read  
5 as follows:

6 Actual construction work shall be commenced on any project for  
7 which permit has been granted within such reasonable time as shall be  
8 prescribed by the department, and shall thereafter be prosecuted with  
9 diligence and completed within the time prescribed by the department.  
10 The department, in fixing the time for the commencement of the work, or  
11 for the completion thereof and the application of the water to the  
12 beneficial use prescribed in the permit, shall take into consideration  
13 the cost and magnitude of the project and the engineering and physical  
14 features to be encountered, and shall allow such time as shall be  
15 reasonable and just under the conditions then existing, having due  
16 regard for the public welfare and public interests affected: and, for  
17 good cause shown, including suspension of activity imposed under  
18 federal or state laws that prevent or restrict water use, it shall  
19 extend the time or times fixed as aforesaid, and shall grant such

1 further period or periods as may be reasonably necessary, having due  
2 regard to the good faith of the applicant and the public interests  
3 affected. Any extension of time for any period of nonuse caused under  
4 federal or state laws that prevents or restricts water use shall not be  
5 less than the period of nonuse caused by those federal or state laws.  
6 If the terms of the permit or extension thereof, are not complied with  
7 the department shall give notice by registered mail that such permit  
8 will be canceled unless the holders thereof shall show cause within  
9 sixty days why the same should not be so canceled. If cause be not  
10 shown, said permit shall be canceled.

11 **Sec. 2.** RCW 90.14.140 and 1987 c 125 s 1 are each amended to read  
12 as follows:

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

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

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

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

21 (d) The operation of legal proceedings;

22 (e) Federal laws imposing land or water use restrictions either  
23 directly or through the voluntary enrollment of a landowner in a  
24 federal program implementing those laws, or acreage limitations, or  
25 production quotas.

26 (2) Notwithstanding any other provisions of RCW 90.14.130 through  
27 90.14.180, there shall be no relinquishment of any water right:

28 (a) If such right is claimed for power development purposes under  
29 chapter 90.16 RCW and annual license fees are paid in accordance with  
30 chapter 90.16 RCW(~~(7-07)~~);

31 (b) If such right is used for a standby or reserve water supply to  
32 be used in time of drought or other low flow period so long as  
33 withdrawal or diversion facilities are maintained in good operating  
34 condition for the use of such reserve or standby water supply(~~(7-07)~~);

35 (c) If such right is claimed for a determined future development to  
36 take place either within fifteen years of July 1, 1967, or the most  
37 recent beneficial use of the water right, whichever date is later(~~(7-07)~~);

1 (d) If such right is claimed for municipal water supply purposes  
2 under chapter 90.03 RCW(~~(7-03)~~);

3 (e) If such waters are not subject to appropriation under the  
4 applicable provisions of RCW 90.40.030 (~~(as now or hereafter amended)~~);  
5 or

6 (f) If such right is claimed for the water supply of an irrigation  
7 district organized under chapter 87.03 RCW and the purpose of use is  
8 authorized by that chapter.

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