

2 **E2SHB 2867** - S COMM AMD

3 By Committee on Environmental Quality & Water Resources

4 ADOPTED 3/1/00

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. Sec. 1. A new section is added to chapter 90.44 RCW  
8 to read as follows:

9 The legislature recognizes the importance of sound water  
10 management. In an effort to promote new and innovative methods of  
11 water storage, the legislature authorizes the department of ecology to  
12 issue reservoir permits that enable an entity to artificially store and  
13 recover water in any underground geological formation, which qualifies  
14 as a reservoir under RCW 90.03.370.

15 **Sec. 2.** RCW 90.44.035 and 1987 c 109 s 107 are each amended to  
16 read as follows:

17 For purposes of this chapter:

18 (1) "Department" means the department of ecology;

19 (2) "Director" means the director of ecology;

20 (3) "Ground waters" means all waters that exist beneath the land  
21 surface or beneath the bed of any stream, lake or reservoir, or other  
22 body of surface water within the boundaries of this state, whatever may  
23 be the geological formation or structure in which such water stands or  
24 flows, percolates or otherwise moves. There is a recognized  
25 distinction between natural ground water and artificially stored ground  
26 water;

27 (4) "Natural ground water" means water that exists in underground  
28 storage owing wholly to natural processes; ~~((and))~~

29 (5) "Artificially stored ground water" means water that is made  
30 available in underground storage artificially, either intentionally, or  
31 incidentally to irrigation and that otherwise would have been  
32 dissipated by natural ~~((waste))~~ processes; and

33 (6) "Underground artificial storage and recovery project" means any  
34 project in which it is intended to artificially store water in the  
35 ground through injection, surface spreading and infiltration, or other

1 department-approved method, and to make subsequent use of the stored  
2 water. However, (a) this subsection does not apply to operational and  
3 seepage losses that occur during the irrigation of land, or to water  
4 that is artificially stored due to the construction, operation, or  
5 maintenance of an irrigation district project, or to projects involving  
6 water reclaimed in accordance with chapter 90.46 RCW; and (b) RCW  
7 90.44.130 applies to those instances of claimed artificial recharge  
8 occurring due to the construction, operation, or maintenance of an  
9 irrigation district project or operational and seepage losses that  
10 occur during the irrigation of land, as well as other forms of claimed  
11 artificial recharge already existing at the time a ground water subarea  
12 is established.

13 **Sec. 3.** RCW 90.03.370 and 1987 c 109 s 93 are each amended to read  
14 as follows:

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

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

37 (i) Aquifer vulnerability and hydraulic continuity;

38 (ii) Potential impairment of existing water rights;

1 (iii) Geotechnical impacts and aquifer boundaries and  
2 characteristics;

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

4 (v) Recharge and recovery treatment requirements;

5 (vi) System operation;

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

7 (viii) Environmental impacts.

8 (b) Standards for review and standards for mitigation of adverse  
9 impacts for an underground artificial storage and recovery project  
10 shall be established by the department by rule. Notwithstanding the  
11 provisions of RCW 90.03.250 through 90.03.320, analysis of each  
12 underground artificial storage and recovery project and each  
13 underground geological formation for which an applicant seeks the  
14 status of a reservoir shall be through applicant-initiated studies  
15 reviewed by the department.

16 (3) For the purposes of this section, "underground artificial  
17 storage and recovery project" means any project in which it is intended  
18 to artificially store water in the ground through injection, surface  
19 spreading and infiltration, or other department-approved method, and to  
20 make subsequent use of the stored water. However, (a) this subsection  
21 does not apply to operational and seepage losses that occur during the  
22 irrigation of land, or to water that is artificially stored due to the  
23 construction, operation, or maintenance of an irrigation district  
24 project, or to projects involving water reclaimed in accordance with  
25 chapter 90.46 RCW; and (b) RCW 90.44.130 applies to those instances of  
26 claimed artificial recharge occurring due to the construction,  
27 operation, or maintenance of an irrigation district project or  
28 operational and seepage losses that occur during the irrigation of  
29 land, as well as other forms of claimed artificial recharge already  
30 existing at the time a ground water subarea is established.

31 (4) The department shall report to the legislature by December 31,  
32 2001, on the standards for review and standards for mitigation  
33 developed under subsection (3) of this section and on the status of any  
34 applications that have been filed with the department for underground  
35 artificial storage and recovery projects by that date."

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4 On page 1, line 1 of the title, after "storage;" strike the  
5 remainder of the title and insert "amending RCW 90.44.035 and  
6 90.03.370; and adding a new section to chapter 90.44 RCW."

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