
HOUSE BILL 2094

State of Washington

56th Legislature

1999 Regular Session

By Representatives G. Chandler and Linville

Read first time 02/15/1999. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to water rights claims; amending RCW 90.14.068; and
2 adding a new section to chapter 90.14 RCW.

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

4 **Sec. 1.** RCW 90.14.068 and 1997 c 440 s 1 are each amended to read
5 as follows:

6 (1) A new period for filing statements of claim for water rights is
7 established. The filing period shall begin September 1, 1997, and
8 shall end at midnight June 30, 1998. Each person or entity claiming
9 under state law a right to withdraw or divert and beneficially use
10 surface water under a right that was established before (~~the effective~~
11 ~~date of water code established by chapter 117, Laws of~~) June 7, 1917,
12 and any person claiming under state law a right to withdraw and
13 beneficially use ground water under a right that was established before
14 (~~the effective date of the ground water code established by chapter~~
15 ~~263, Laws of~~) June 7, 1945, shall register the claim with the
16 department during the filing period unless the claim has been filed in
17 the state water rights claims registry before July 27, 1997. A person
18 who claims such a right and fails to register the claim as required is
19 conclusively deemed to have waived and relinquished any right, title,

1 or interest in the right. A statement filed during this filing period
2 shall be filed as provided in RCW 90.14.051 and 90.14.061 and shall be
3 subject to the provisions of this chapter regarding statements of
4 claim. However, any statement of claim filed with the department of
5 ecology during the period of September 1, 1997, through June 30, 1998,
6 shall be considered to have been filed in substantial procedural
7 compliance with these procedural requirements, whether the claim has or
8 has not been filed by the department in the water rights claims
9 registry.

10 This reopening of the period for filing statements of claim shall
11 not affect or impair in any respect whatsoever any water right existing
12 prior to July 27, 1997. A water right embodied in a statement of claim
13 filed under this section is subordinate to any water right embodied in
14 a permit or certificate issued under chapter 90.03 or 90.44 RCW prior
15 to the date the statement of claim is filed with the department and is
16 subordinate to any water right embodied in a statement of claim filed
17 in the water rights claims registry before July 27, 1997.

18 (2) The department of ecology shall, at least once each week during
19 the month of August 1997 and at least once each month during the filing
20 period, publish a notice regarding this new filing period in newspapers
21 of general circulation in the various regions of the state. The notice
22 shall contain the substance of the following notice:

23 WATER RIGHTS NOTICE

24 Each person or entity claiming a right to withdraw or divert
25 and beneficially use surface water under a right that was
26 established before June 7, 1917, or claiming a right to
27 withdraw and beneficially use ground water under a right that
28 was established before June 7, 1945, under the laws of the
29 state of Washington must register the claim with the department
30 of ecology, Olympia, Washington. The claim must be registered
31 on or after September 1, 1997, and not later than five o'clock
32 on June 30, 1998.

33 FAILURE TO REGISTER THE CLAIM WILL RESULT IN A
34 WAIVER AND RELINQUISHMENT OF THE WATER RIGHT OR
35 CLAIMED WATER RIGHT

36 Registering a claim is NOT required for:

1 1. A water right that is based on the authority of a permit or
2 certificate issued by the department of ecology or one of its
3 predecessors;

4 2. A water right that is based on the exemption from permitting
5 requirements provided by RCW 90.44.050 for certain very limited
6 uses of ground water; or

7 3. A water right that is based on a statement of claim that has
8 previously been filed in the state's water rights claims
9 registry during other registration periods.

10 For further information, for a copy of the law establishing
11 this filing period, and for an explanation of the law and its
12 requirements, contact the department of ecology, Olympia,
13 Washington.

14 The department shall also prepare, make available to the public,
15 and distribute to the communications media information describing the
16 types of rights for which statements of claim need not be filed, the
17 effect of filing, the effect of RCW 90.14.071, and other information
18 relevant to filings and statements of claim.

19 (3) The department of ecology shall ensure that employees of the
20 department are readily available to respond to inquiries regarding
21 filing statements of claim and that all of the information the
22 department has at its disposal that is relevant to an inquiry regarding
23 a particular potential claim, including information regarding other
24 rights and claims in the vicinity of the potentially claimed right, is
25 available to the person making the inquiry. The department shall
26 dedicate additional staff in each of the department's regional offices
27 and in the department's central office to ensure that responses and
28 information are provided in a timely manner during each of the business
29 days during the month of August 1997 and during the new filing period.

30 (4) To assist the department in avoiding unnecessary duplication,
31 the department shall provide to a requestor, within ten working days of
32 receiving the request, the records of any water right claimed, listed,
33 recorded, or otherwise existing in the records of the department or its
34 predecessor agencies, including any report of a referee in a water
35 rights adjudication. This information shall be provided as required by
36 this subsection if the request is provided in writing from the owner of
37 the water right or from the holder of a possessory interest in any real
38 property for water right records associated with the property or if the

1 requestor is an attorney for such an owner. The information regarding
2 water rights in the area served by a regional office of the department
3 shall also be provided within ten working days to any requestor who
4 requests to review the information in person in the department's
5 regional office. The information held by the headquarters office of
6 the department shall also be provided within ten working days to any
7 requestor who requests to review the information in person in the
8 department's headquarters office. The requirements of this subsection
9 that records and information be provided to requestors within ten
10 working days may not be construed as limiting in any manner the
11 obligations of the department to provide public access to public
12 records as required by chapter 42.17 RCW.

13 (5) This section does not apply to claims for the use of ground
14 water withdrawn in an area that is, during the period established by
15 subsection (2) of this section, the subject of a general adjudication
16 proceeding for water rights in superior court under RCW 90.03.110
17 through 90.03.245 and the proceeding applies to ground water rights.
18 This section does not apply to claims for the use of surface water
19 withdrawn in an area that is, during the period established by
20 subsection (2) of this section, the subject of a general adjudication
21 proceeding for water rights in superior court under RCW 90.03.110
22 through 90.03.245 and the proceeding applies to surface water rights.

23 (6) This section does not apply to claims for the use of water in
24 a ground water area or subarea for which a management program adopted
25 by the department by rule and in effect on July 27, 1997, establishes
26 acreage expansion limitations for the use of ground water.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.14 RCW
28 to read as follows:

29 This section applies to the water rights embodied in a statement
30 filed under RCW 90.14.068 but not filed by the department of ecology in
31 the water rights claims registry. In conducting its regulatory
32 activities, the department of ecology shall make no distinction between
33 such water rights and those embodied in statements of claim filed under
34 RCW 90.14.068 and also filed in the water rights claims registry until
35 and unless the pollution control hearings board determines that such a
36 water right, or a portion or aspect of the water right, is invalid, in
37 which case the department may do so to the extent that the water right

1 or portion or aspect has been determined to be invalid by the board or
2 by a court upon appeal.

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