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HOUSE BILL 2735

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State of Washington

56th Legislature

2000 Regular Session

By Representatives B. Chandler, G. Chandler, Linville, Clements, Lisk and Sump

Read first time 01/19/2000. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to clarifying "voluntarily fails" for water rights  
2 relinquishment purposes; and amending RCW 90.14.140.

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) The definitions in this section apply for the purposes of RCW  
7 90.14.130 through 90.14.180~~((7))~~:

8 (a) "Sufficient cause" ~~((shall be defined as))~~ means the nonuse of  
9 all or a portion of the water by the owner of a water right for a  
10 period of ~~((five))~~ twenty-five or more consecutive years where such  
11 nonuse occurs as a result of:

12 ~~((a))~~ (i) Drought, or other unavailability of water;

13 ~~((b))~~ (ii) Active service in the armed forces of the United  
14 States during military crisis;

15 ~~((c))~~ (iii) Nonvoluntary service in the armed forces of the  
16 United States;

17 ~~((d))~~ (iv) The operation of legal proceedings;

1       (~~(e)~~) (v) Federal or state agency leases of or options to  
2 purchase lands or water rights which preclude or reduce the use of the  
3 right by the owner of the water right;

4       (~~(f)~~) (vi) Federal laws imposing land or water use restrictions  
5 either directly or through the voluntary enrollment of a landowner in  
6 a federal program implementing those laws, or acreage limitations, or  
7 production quotas.

8       (b) "Voluntarily fails" means the nonuse of all or a portion of  
9 the water by the owner of a water right for a period of twenty-five or  
10 more consecutive years where such nonuse occurs as a result of factors  
11 within the control of the water user. A failure to use water is  
12 involuntary when the exercise of such right is in response to factors  
13 beyond the control of the water user, such as cyclical weather patterns  
14 or the unintended presence of water from a source not within the  
15 control of the water user.

16       (2) Notwithstanding any other provisions of RCW 90.14.130 through  
17 90.14.180, there shall be no relinquishment of any water right:

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

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

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

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

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

32       (f) If such right or portion of the right is leased to another  
33 person for use on land other than the land to which the right is  
34 appurtenant as long as the lessee makes beneficial use of the right in  
35 accordance with this chapter and a transfer or change of the right has  
36 been approved by the department in accordance with RCW 90.03.380,  
37 90.03.383, 90.03.390, or 90.44.100.

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