

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2867

Chapter 98, Laws of 2000

56th Legislature
2000 Regular Session

UNDERGROUND WATER STORAGE

EFFECTIVE DATE: 6/8/00

Passed by the House March 6, 2000
Yeas 98 Nays 0

CLYDE BALLARD
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate March 1, 2000
Yeas 46 Nays 0

BRAD OWEN
President of the Senate

Approved March 24, 2000

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2867** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 24, 2000 - 2:49 p.m.

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2867

Passed Legislature - 2000 Regular Session

AS AMENDED BY THE SENATE

State of Washington

56th Legislature

2000 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Linville, G. Chandler, Miloscia, Mitchell, Koster and Cooper)

Read first time 02/07/2000. Referred to Committee on .

1 AN ACT Relating to underground water storage; amending RCW
2 90.44.035 and 90.03.370; and adding a new section to chapter 90.44 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.44 RCW
5 to read as follows:

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

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

14 For purposes of this chapter:

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

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

17 (3) "Ground waters" means all waters that exist beneath the land
18 surface or beneath the bed of any stream, lake or reservoir, or other

1 body of surface water within the boundaries of this state, whatever may
2 be the geological formation or structure in which such water stands or
3 flows, percolates or otherwise moves. There is a recognized
4 distinction between natural ground water and artificially stored ground
5 water;

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

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

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

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

29 (1) All applications for reservoir permits shall be subject to the
30 provisions of RCW 90.03.250 through 90.03.320. But the party or
31 parties proposing to apply to a beneficial use the water stored in any
32 such reservoir shall also file an application for a permit, to be known
33 as the secondary permit, which shall be in compliance with the
34 provisions of RCW 90.03.250 through 90.03.320. Such secondary
35 application shall refer to such reservoir as its source of water supply
36 and shall show documentary evidence that an agreement has been entered
37 into with the owners of the reservoir for a permanent and sufficient
38 interest in said reservoir to impound enough water for the purposes set

1 forth in said application. When the beneficial use has been completed
2 and perfected under the secondary permit, the department shall take the
3 proof of the water users under such permit and the final certificate of
4 appropriation shall refer to both the ditch and works described in the
5 secondary permit and the reservoir described in the primary permit.

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

13 (i) Aquifer vulnerability and hydraulic continuity;

14 (ii) Potential impairment of existing water rights;

15 (iii) Geotechnical impacts and aquifer boundaries and
16 characteristics;

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

18 (v) Recharge and recovery treatment requirements;

19 (vi) System operation;

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

21 (viii) Environmental impacts.

22 (b) Standards for review and standards for mitigation of adverse
23 impacts for an underground artificial storage and recovery project
24 shall be established by the department by rule. Notwithstanding the
25 provisions of RCW 90.03.250 through 90.03.320, analysis of each
26 underground artificial storage and recovery project and each
27 underground geological formation for which an applicant seeks the
28 status of a reservoir shall be through applicant-initiated studies
29 reviewed by the department.

30 (3) For the purposes of this section, "underground artificial
31 storage and recovery project" means any project in which it is intended
32 to artificially store water in the ground through injection, surface
33 spreading and infiltration, or other department-approved method, and to
34 make subsequent use of the stored water. However, (a) this subsection
35 does not apply to irrigation return flow, or to operational and seepage
36 losses that occur during the irrigation of land, or to water that is
37 artificially stored due to the construction, operation, or maintenance
38 of an irrigation district project, or to projects involving water
39 reclaimed in accordance with chapter 90.46 RCW; and (b) RCW 90.44.130

1 applies to those instances of claimed artificial recharge occurring due
2 to the construction, operation, or maintenance of an irrigation
3 district project or operational and seepage losses that occur during
4 the irrigation of land, as well as other forms of claimed artificial
5 recharge already existing at the time a ground water subarea is
6 established.

7 (4) Nothing in this act changes the requirements of existing law
8 governing issuance of permits to appropriate or withdraw the waters of
9 the state.

10 (5) The department shall report to the legislature by December 31,
11 2001, on the standards for review and standards for mitigation
12 developed under subsection (3) of this section and on the status of any
13 applications that have been filed with the department for underground
14 artificial storage and recovery projects by that date.

Passed the House March 6, 2000.

Passed the Senate March 1, 2000.

Approved by the Governor March 24, 2000.

Filed in Office of Secretary of State March 24, 2000.