

SENATE BILL REPORT

SHB 2874

As Reported By Senate Committee On:
Environment, Energy & Water, March 1, 2002

Title: An act relating to agreements for allocation of Columbia basin project water that exists in underground storage and is available as a result of irrigation in the Columbia basin project.

Brief Description: Authorizing the department of ecology to enter into agreements to allocate Columbia basin project waters.

Sponsors: House Committee on Agriculture & Ecology (originally sponsored by Representatives Schoesler and Grant).

Brief History:

Committee Activity: Environment, Energy & Water: 2/26/02, 3/1/02 [DPA-WM].

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & WATER

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Fraser, Chair; Regala, Vice Chair; Eide, Hale, Honeyford, Jacobsen, Keiser, McDonald and Morton.

Staff: Genevieve Pisarski (786-7488)

Background: The Columbia Basin Project was authorized by the U.S. Congress in 1943 to make Columbia River water stored at Grand Coulee Dam and Banks Lake available for irrigation. The state has supported the project by granting water rights to the Bureau of Reclamation and authorizing irrigation districts to contract with the bureau and manage land within the districts.

The delivery of project water through canals and its application to land through irrigation has dramatically affected groundwater in, among other areas, the Pasco Basin. According to studies conducted by the USGS, volume of groundwater has increased by about five million acre-feet as a result of the project. About 85 percent of this increase is the result of percolation following irrigation and seepage from the distribution system. Groundwater levels have also risen as a result of reservoirs formed behind the dams on the Columbia and Snake Rivers. As a result of drainage management, the system is reported to be at equilibrium now.

Problems associated with the raised groundwater levels include septic system failures, damage to roads, landslides, and loss of arable land through ponding. Benefits include dilution of large concentrations of nitrate and pesticides and increase in volume of water potentially available for beneficial use over the naturally occurring volume otherwise available.

The respective jurisdiction of the state and of the bureau over the water has remained unsettled, however. Under its general authority over water resources and water rights and through regulations adopted in WAC-508-14, the Department of Ecology has, nonetheless, issued permits to withdraw groundwater in the Pasco Basin for over 30 years. These permits have been issued on the basis of a tentative determination that public ground water within the state's jurisdiction was available and have been expressly conditioned that, if new information indicated otherwise, the permits would not be certificated and would be modified or cancelled.

USGS studies have now provided the information needed to determine which groundwater is a result of the project and which is naturally occurring. The department and the bureau desire to enter into an agreement for a ten-year pilot program to allocate the groundwater in the Pasco Basin among the existing permittees, process new applications, and mitigate any impacts on the Columbia River.

Summary of Amended Bill: The Legislature finds that delivery of Columbia Basin Project water has resulted in accumulation of a large volume of groundwater in the Pasco Basin in Franklin County due mainly to percolation from irrigation and seepage from the distribution system. Studies by the United States Geological Survey provide information needed to identify groundwater that is the result of the project and groundwater that is naturally occurring. The studies also indicate groundwater contamination and problems including landslides and ponding.

The Legislature intends to provide authority to the Department of Ecology to conduct negotiations and enter into agreements with the United States for allocation of accumulated groundwater, adopt rules for implementing the agreements, and accept funds to recover expenses, as soon as the Legislature has information on which to base a specific grant of legislative authority and review of rules.

The department must develop a proposed scope for negotiations for entering into agreements to allocate the water, a plan for conducting the negotiations, and report to the Legislature by December 1, 2002. The department must address consistency with project purposes, federal and state reclamation laws, federal rate requirements, repayment contracts, impairment of existing water rights or project operations or the public interest, ability to issue federal licenses, effect on ownership of other water, implementation procedures, priorities for processing of applications, expenses, relative amounts of water that will be recharged or depleted, various beneficial uses, effects of conservation and efficiency measures within the project, reduction of withdrawals by the project, water quality, preservation of project environmental benefits, effects on land use and their impacts, public process and inclusion of affected interests, watershed planning and other processes, liability, environmental review, pending litigation, and duration of the agreements.

Amended Bill Compared to Substitute Bill: Findings regarding how Columbia Basin Project water has accumulated as groundwater, where, and with what result are added. Also added is a statement of intent to authorize negotiations for the proposed agreements, rulemaking, and cost recovery, pending receipt and evaluation of information sufficient for legislative oversight. The Department of Ecology must develop the scope of negotiations and a plan and report to the Legislature. Matters to be addressed by the department are listed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The Department of Ecology and Bureau of Reclamation have been issuing water rights permits and licenses in the Quincey Basin for many years and have survived legal challenge. The Pasco Basin is a similar situation, except that ownership of the water is not clear. The proposed authority will allow Ecology and the Bureau to allocate water through an orderly process, without fighting over ownership, permit by permit. Groundwater contaminants are routinely found in the Columbia Basin and are handled case by case and under the Columbia Basin Groundwater Management Area. This will be a ten-year pilot project, subject to adopted rules and requirements.

Testimony Against: The proposal is ignoring other processes that are dealing with water resources in the area; the Governor made a commitment to the Columbia River Initiative, and this proposal should be a part of that process. The proposal is not addressing environmental concerns, notably the groundwater contamination, and related liability concerns.

Testified: Representative Schoesler, prime sponsor; Mike Moran, CECP (con); Mike Schwisow, WA State Water Resources Assn. (pro).