
SENATE BILL 6792

State of Washington 57th Legislature

2002 Regular Session

By Senators T. Sheldon and Oke

Read first time 02/05/2002. Referred to Committee on Environment,
Energy & Water.

1 AN ACT Relating to mitigation of hydraulic continuity impact of
2 ground water on surface water in processing ground water right
3 applications; and amending RCW 90.44.070.

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

5 **Sec. 1.** RCW 90.44.070 and 1987 c 109 s 110 are each amended to
6 read as follows:

7 (1) No permit shall be granted for the development or withdrawal of
8 public ground waters beyond the capacity of the underground bed or
9 formation in the given basin, district, or locality to yield such water
10 within a reasonable or feasible pumping lift in case of pumping
11 developments, or within a reasonable or feasible reduction of pressure
12 in the case of artesian developments. The department shall have the
13 power to determine whether the granting of any such permit will injure
14 or damage any vested or existing right or rights under prior permits
15 and may in addition to the records of the department, require further
16 evidence, proof, and testimony before granting or denying any such
17 permits.

18 (2) Any impact upon the flow or level of any surface water body
19 that provides habitat for one or more salmonid stocks that are listed

1 or proposed for listing as threatened or endangered under the federal
2 endangered species act or with stocks listed as critical or depressed
3 under the state salmon and steelhead inventory, or any surface water
4 body that has flows regulated under chapter 90.22 RCW, which is likely
5 to be caused specifically by the exercise of a water right permit
6 issued after the effective date of this section, is subject to
7 mitigation, using the best available science to determine as nearly as
8 possible the actual amount of impact and effective long-term measures
9 to mitigate the impact.

10 (a) Mitigation measures prescribed must be in direct proportion to
11 the impact caused and may include any combination of the following in
12 addition to any other measures deemed effective by the department:

13 (i) Stream flow augmentation to replace measured or calculated loss
14 of water during periods specified under chapter 90.22 RCW, from an
15 impacted surface water body as a result of a ground water permit, and
16 subsequent ground water certificate, issued after the effective date of
17 this section. Such water will be returned to the impacted water body
18 at a time and at a point that is both economically feasible and that
19 has the required mitigating effect on stream flows;

20 (ii) Stream or watershed restoration, installation of vegetation or
21 runoff controls, preservation or restoration of wetlands, ground water
22 recharge area preservation or restoration, replacement of a water
23 source that has a direct hydraulic connection with a surface water body
24 with an alternative source that has a lesser or delayed impact upon the
25 impacted water body, or any other mitigation measures or combination of
26 measures agreed upon by the department and the applicant for a water
27 right;

28 (iii) Adoption of policies and programs designed to obviate
29 construction of new or reduction of existing exempt wells withdrawing
30 from the specific aquifers that contribute directly to the flow or
31 level of any surface water body that provides habitat for one or more
32 salmonid stocks that are listed or proposed for listing as threatened
33 or endangered under the federal endangered species act or with stocks
34 listed as critical or depressed under the state salmon and steelhead
35 inventory.

36 (b) Mitigation undertaken under the interlocal agreement shall
37 include:

1 (i) The provision for long-term assurance that mitigation measures
2 will be maintained and effective for the duration of the water right;
3 and

4 (ii) Enforcement measures through application of financial penalty,
5 injunction, or other remedy provided by law.

6 (c) Mitigation measures shall be subject to evaluation regarding
7 their effectiveness on an annual basis and may be modified, as
8 necessary, by joint agreement between the department and the water
9 right holder to maintain the agreed standard of performance.

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