

SHB 1337 - H AMD 222

By Representative Chandler

WITHDRAWN 03/18/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 90.44.100 and 1997 c 316 s 2 are each amended to read
4 as follows:

5 (1) After an application to, and upon the issuance by the
6 department of an amendment to the appropriate permit or certificate of
7 ground water right, the holder of a valid right to withdraw public
8 ground waters may, without losing the holder's priority of right,
9 construct wells or other means of withdrawal at a new location in
10 substitution for or in addition to those at the original location, or
11 the holder may change the manner or the place of use of the water.

12 (2) Except as provided in subsection (5) of this section, an
13 amendment to construct replacement or a new additional well or wells at
14 a location outside of the location of the original well or wells or to
15 change the manner or place of use of the water shall be issued only
16 after publication of notice of the application and findings as
17 prescribed in the case of an original application. Such amendment
18 shall be issued by the department only on the conditions that: (a) The
19 additional or replacement well or wells shall ~~((tap the same body of~~
20 ~~public ground water))~~ be located within the same water resource
21 inventory area, as defined in chapter 173-500 WAC as it exists on the
22 effective date of this act, or an adjoining water resource inventory
23 area as the original well or wells; (b) where a replacement well or
24 wells is approved, the use of the original well or wells shall be
25 discontinued and the original well or wells shall be properly
26 decommissioned as required under chapter 18.104 RCW; (c) where an
27 additional well or wells is constructed, the original well or wells may
28 continue to be used, but the combined total withdrawal from the
29 original and additional well or wells shall not ~~((enlarge the right))~~

1 increase the annual or instantaneous quantity conveyed by the original
2 permit or certificate; and (d) other existing rights shall not be
3 impaired. The department may specify an approved manner of
4 construction and shall require a showing of compliance with the terms
5 of the amendment, as provided in RCW 90.44.080 in the case of an
6 original permit.

7 (3) The construction of a replacement or new additional well or
8 wells at the location of the original well or wells shall be allowed
9 without application to the department for an amendment. However, the
10 following apply to such a replacement or new additional well: (a) The
11 well shall tap the same body of public ground water as the original
12 well or wells; (b) if a replacement well is constructed, the use of the
13 original well or wells shall be discontinued and the original well or
14 wells shall be properly decommissioned as required under chapter 18.104
15 RCW; (c) if a new additional well is constructed, the original well or
16 wells may continue to be used, but the combined total withdrawal from
17 the original and additional well or wells shall not (~~enlarge the~~
18 ~~right~~) increase the annual or instantaneous quantity conveyed by the
19 original water use permit or certificate; (d) the construction and use
20 of the well shall not interfere with or impair water rights with an
21 earlier date of priority than the water right or rights for the
22 original well or wells; (e) the replacement or additional well shall be
23 located no closer than the original well to a well it might interfere
24 with; (f) the department may specify an approved manner of construction
25 of the well; and (g) the department shall require a showing of
26 compliance with the conditions of this subsection (3).

27 (4) As used in this section, the "location of the original well or
28 wells" is the larger of: (a) The area described as the point of
29 withdrawal in the original public notice published for the application
30 for the water right for the well; or (b) the area up to one-quarter
31 mile radius from the current well or wells.

32 (5)(a) A water right holder may construct a replacement or new
33 additional well or wells at a location outside the location of the
34 original well or wells but not more than two miles from the current
35 well or wells without obtaining approval from the department under the
36 following conditions:

37 (i) That, at least sixty days before starting construction of the
38 well or wells, the water right holder provides written notice to the

1 department of the intention to construct the replacement or additional
2 well or wells and publishes a legal notice prescribed by the department
3 describing the location of the proposed well or wells, the amounts of
4 water to be withdrawn, and other details deemed necessary by the
5 department. The notice must state that a person wishing to assert a
6 claim of impairment of another water right may do so by filing the
7 claim with the department and the deadline for doing so. The notice
8 must be published once a week for two consecutive weeks in a newspaper
9 of general circulation in the area in which the well or wells would be
10 located;

11 (ii) That, within thirty days of the last date of publication of
12 the legal notice, no claims of impairment are filed with the department
13 relating to the proposed replacement or additional well or wells; and

14 (iii) That the conditions of subsection (3)(a) through (g) of this
15 section are met.

16 (b) If any claims of impairment are filed with the department, the
17 department shall make a determination regarding the impairment claim or
18 claims and shall issue its determination in writing, stating either
19 that it finds that there will be impairment (a "finding of impairment")
20 or that it finds there will not be impairment (a "finding of no
21 impairment"). The department's written determination may be appealed
22 to the pollution control hearings board as provided in chapter 43.21B
23 RCW.

24 (c) Where an impairment claim has been filed, a replacement well
25 may only be constructed under this subsection (5) after a final
26 resolution of the impairment claim results in a finding of no
27 impairment. Final resolution of an impairment claim occurs at the
28 expiration of the appeal period following a final determination by the
29 department, the pollution control hearings board, and any reviewing
30 court."

31 Correct the title.

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