

# FINAL BILL REPORT

## ESSB 6151

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Synopsis as Enacted

**Brief Description:** Protecting aquifer levels.

**Sponsors:** Senate Committee on Water, Energy & Environment (originally sponsored by Senators Schoesler, Poulsen, Mulliken, Rasmussen, Jacobsen, Morton and Delvin).

**Senate Committee on Water, Energy & Environment**  
**House Committee on Economic Development, Agriculture & Trade**

**Background:** Ground Water Management Subareas may be established by Department of Ecology rule to address declining aquifer levels and regulate withdrawals of public ground water. The department has adopted rules establishing the Odessa Groundwater Management Subarea (subarea). Part of the subarea includes lands within the boundaries of the federal Columbia Basin Project (project). Deep well irrigation occurs in some subarea lands that never received federal project water as once anticipated even though they lie within project boundaries.

A water right may be forfeited for non-use. The forfeiture may be found under common law principles of abandonment or may result from the application of state statutes on relinquishment. The relinquishment laws provide exemptions from their forfeiture requirements. Exempted from relinquishment is the non-use of standby or reserve waters that are to be used in time of drought or other low flow periods as long as the withdrawal or diversion facilities for the right are maintained in good operating condition.

In 2004, the Legislature granted the department the authority to enter into agreements with the United States and the project irrigation districts to offset aquifer depletions due to ground water withdrawals. Such agreements allow surface water conserved within currently served project areas to be delivered to deep well irrigated lands in ground water management subareas within project boundaries. Where such deliveries occur, the department must issue a superseding water right permit or certificate to indicate that the unused portion of a replaced subarea ground water right is a reserve right with low flow protection from relinquishment. This reserve right may again be used if the delivery of conserved project water is curtailed or otherwise unavailable. The total acreage irrigated under the subarea ground water right and delivered project water must not exceed quantity or acreage limits described in the ground water permit of certificate.

The continued decrease in the level of the aquifer in the Odessa subarea requires additional solutions and approaches to help conserve water in the subarea.

**Summary:** The non-use of water in the Odessa subarea is explicitly protected for a period of 15 years from the relinquishment laws due to the conditions of drought or low flow as set forth under existing law. If certain conditions are met and the withdrawal facilities are maintained in good operating condition and no superseding standby or reserve water right permit has been

issued from the Columbia basin project, the unused water is considered standby or reserve water supply. Conditions that excuse non-use include:

- conservation practice;
- change in types or rotations of crops;
- economic hardship;
- pumping or system infrastructure cost;
- unavailability or unsuitability of water; or
- participation in cooperative efforts to reduce aquifer depletion.

Water users choosing not to use water must notify the department in writing within 180 days of stopping the water use. Notice must also be provided upon the recommencement of use. The water protected from relinquishment cannot be transferred outside of the Odessa subarea boundaries and transfers within the boundaries remain subject to the standard water transfer provisions of the law.

The department must submit a report to the Legislature describing the status of the aquifer, the participation in the non-use program, and the outcome of the United States Bureau of Reclamation's study on feasible alternatives to Odessa groundwater use within six months after the bureau completes its study. The report must also include recommendations for viable solutions and ways for the state to move forward with such solutions.

There is an expiration date to the law of July 1, 2021.

**Votes on Final Passage:**

Senate	46	0	
House	96	2	(House amended)
Senate	48	0	(Senate concurred)

**Effective:** March 22, 2006