
SECOND SUBSTITUTE SENATE BILL 6267

State of Washington

61st Legislature

2010 Regular Session

By Senate Ways & Means (originally sponsored by Senators Rockefeller and Honeyford; by request of Department of Ecology)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to water right processing improvements; amending
2 RCW 90.03.265, 90.03.255, 90.14.065, and 90.44.055; adding new sections
3 to chapter 90.03 RCW; adding new sections to chapter 90.44 RCW; and
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** Water is an essential element for economic
7 prosperity and it generates new, family-wage jobs and state revenues.
8 However, a substantial backlog exists for water right applications.
9 Competition for water is increasing in the face of additional growth
10 and the decision-making process has become more complex. It is the
11 intent of the legislature to provide the department of ecology with the
12 necessary tools to eliminate the backlog of applications while
13 retaining the staff at the department with expertise in processing
14 permit applications.

15 **Sec. 2.** RCW 90.03.265 and 2003 c 70 s 6 are each amended to read
16 as follows:

17 (1)(a) Any applicant for a new withdrawal or a change, transfer, or
18 amendment of a water right pending before the department((~~r~~)) may

1 initiate a cost-reimbursement agreement with the department to provide
2 expedited review of the application. A cost-reimbursement agreement
3 may (~~only~~) be initiated under this section if the applicant agrees to
4 pay for, or as part of a cooperative effort agrees to pay for, the cost
5 of processing his or her application and all other applications from
6 the same source of supply which must be acted upon before the
7 applicant's request because they were filed prior to the date of when
8 the applicant filed.

9 (b) The requirement to pay for the cost of all other applications
10 from the same source of supply under (a) of this subsection does not
11 apply if the application for a new appropriation or a change, transfer,
12 or amendment of a water right would not diminish the water available to
13 earlier pending applicants from the same source of supply, such as an
14 application that provides a water impoundment or other water resource
15 management mitigation technique under RCW 90.03.255 or 90.44.055
16 acceptable to the department.

17 (c) The department may enter into cost-reimbursement agreements
18 provided resources are available and shall use the process established
19 under RCW 43.21A.690 for entering into cost-reimbursement agreements.
20 The department's share of work related to a cost-reimbursement
21 application, such as final certificate approval, must be prioritized
22 within the framework of other water right processing needs and as
23 determined by agency rule.

24 (d) Each individual applicant is responsible for his or her own
25 appeal costs that may result from a water right decision made by the
26 department. In the event that an applicant's water right approval is
27 appealed under chapter 43.21B RCW by a third party, the applicant for
28 the water right in question must reimburse the department for the cost
29 of defending the decision.

30 (2) In pursuing a cost-reimbursement project, the department must
31 determine the source of water proposed to be diverted or withdrawn
32 from, including the boundaries of the area that delimits the source.
33 The department must determine if any other water right permit
34 applications are pending from the same source. A water source may
35 include surface water only, groundwater only, or surface and
36 groundwater together if the department finds they are hydraulically
37 connected. The department shall consider technical information

1 submitted by the applicant in making its determinations under this
2 subsection.

3 NEW SECTION. Sec. 3. A new section is added to chapter 90.03 RCW
4 to read as follows:

5 The water rights processing account is created in the state
6 treasury. All receipts from the fees collected under sections 4 and 10
7 of this act must be deposited into the account. Money in the account
8 may be spent only after appropriation. Expenditures from the account
9 may only be used to support the processing of water right applications
10 for a new appropriation, change, transfer, or amendment of a water
11 right or for the examination, certification, and renewal of
12 certification of water right examiners as provided in this chapter and
13 chapters 90.42 and 90.44 RCW.

14 NEW SECTION. Sec. 4. A new section is added to chapter 90.03 RCW
15 to read as follows:

16 (1) The department may expedite processing of applications within
17 the same water source:

18 (a) On its own volition;

19 (b) Upon receipt of written requests from at least one-half of the
20 applicants with pending applications from a water source;

21 (c) Upon receipt of a written request or recommendation from a
22 watershed planning unit; or

23 (d) Upon receipt of a resolution of a county or city legislative
24 authority with jurisdiction over the area in which the water source is
25 located.

26 (2) If the department determines that the public interest is best
27 served by expediting applications within a water source, the department
28 must notify in writing all persons who have pending applications on
29 file for a new appropriation, change, transfer, or amendment of a water
30 right from that water source. A water source may include surface water
31 only, groundwater only, or surface and groundwater together if the
32 department determines that they are hydraulically connected. The
33 notice must be made by way of mail and by publication in a newspaper of
34 general circulation in the area where affected properties are located.
35 The notice must:

1 (a) Inform those applicants that expedited processing of
2 applications with the described water source is being initiated;

3 (b) Provide to individual applicants an estimate of factors
4 affecting whether the application as filed will be approved or denied;

5 (c) Provide to individual applicants the estimated cost for having
6 an application processed on an expedited basis;

7 (d) Provide an estimate of how long the expedited process will take
8 before an application is approved or denied; and

9 (e) Provide at least sixty days for the applicants to respond in
10 writing regarding the applicant's decision to participate in the
11 expedited processing of their applications.

12 (3) The department must determine the full cost to process all the
13 applications within the water source on an expedited basis and those
14 costs must be recovered through expedited processing fees. The
15 department shall calculate an expedited processing fee based on the
16 quantity of water requested by the applicant, except that no expedited
17 processing fee may be more than twenty-five thousand dollars. The
18 department may adjust the estimated costs for each participant based on
19 those applicants electing to participate.

20 (4) The expedited processing fee must be collected by the
21 department prior to the expedited processing of an application. An
22 applicant who has stated in writing that he or she wants his or her
23 application processed using the expedited procedures in this section
24 must transmit the processing fee within thirty days of the written
25 request. Failure to do so will result in the applicant not being
26 included in expedited processing for that water source. The department
27 shall waive the expedited processing fee for good cause shown.

28 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.03 RCW
29 to read as follows:

30 (1)(a) The department shall place a pending application for
31 appropriation from a particular water source into project-dependent
32 status where a proposed water supply development project or projects
33 could feasibly make water available for the application. The
34 department may make such a determination:

35 (i) On its own volition;

36 (ii) Upon receipt of a written request from an applicant;

1 (iii) Upon receipt of a written request or recommendation from a
2 watershed planning unit; or

3 (iv) Upon receipt of a resolution of a county or city legislative
4 authority with jurisdiction over the area in which the water source is
5 located.

6 (b) The department shall notify all persons holding pending
7 applications of that determination. Each applicant retains his or her
8 priority date while in project-dependent status. Pending applications
9 in project-dependent status terminate automatically ten years after
10 placement into project-dependent status unless extended by the
11 department for good cause shown. In no case may the department extend
12 project-dependent status for any application by more than twenty years
13 from the date such an application was initially placed into project-
14 dependent status.

15 (2)(a) The department shall place pending applications for
16 appropriation from a particular water source from a municipal water
17 applicant into municipal pending status when the municipal water
18 applicant has an approved water system plan under chapter 43.20 RCW
19 that outlines projected future water demand and how the applicant
20 intends to acquire the water to supply those demands. The department
21 may make such a determination:

22 (i) On its own volition;

23 (ii) Upon receipt of a written request from a municipal water
24 applicant;

25 (iii) Upon receipt of a written request or recommendation from a
26 watershed planning unit; or

27 (iv) Upon receipt of a resolution of a county or city legislative
28 authority with jurisdiction over the area in which the water source is
29 located.

30 (b) The department shall notify all municipal water applicants
31 holding pending applications of that determination. Each municipal
32 water applicant retains its priority date while in municipal pending
33 status.

34 (3) The department shall place pending applications for
35 appropriation from a particular water source into dormant status when
36 an applicant fails to pay the expedited processing fee under section 4
37 of this act and the application will not be placed in project-dependent
38 status or municipal pending status as specified in this section. The

1 department shall notify an applicant holding pending applications of
2 that determination. Each applicant retains his or her priority date
3 while in dormant status. An applicant may later request in writing,
4 upon payment of an expedited processing fee, that the department
5 process the applicant's application.

6 (4) A final determination made by the department under this section
7 is appealable to the pollution control hearings board as authorized
8 under chapter 43.21B RCW.

9 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.03 RCW
10 to read as follows:

11 (1) The department shall establish and maintain a list of certified
12 water right examiners. Certified water right examiners on the list are
13 eligible to perform final proof examinations of permitted water uses
14 leading to the issuance of a water right certificate. The list must be
15 updated annually and must be made available to the public through
16 written and electronic media.

17 (2) In order to qualify, an individual must be registered in
18 Washington as a professional engineer, professional land surveyor, or
19 registered hydrogeologist, demonstrate at least five years of
20 applicable experience to the department, or be a board member of a
21 water conservancy board. Qualified individuals must also pass a
22 written examination prior to being certified by the department. Such
23 an examination must be administered by either the department or an
24 entity formally approved by the department. Each certified water right
25 examiner must demonstrate knowledge and competency regarding:

- 26 (a) Water law in the state of Washington;
- 27 (b) Measurement of the flow of water through open channels and
28 enclosed pipes;
- 29 (c) Water use and water level reporting;
- 30 (d) Estimation of the capacity of reservoirs and ponds;
- 31 (e) Irrigation crop water requirements;
- 32 (f) Aerial photo interpretation;
- 33 (g) Legal descriptions of land parcels;
- 34 (h) Location of land and water infrastructure through the use of
35 maps and global positioning;
- 36 (i) Proper construction and sealing of well bores; and

1 (j) Other topics related to the preparation and certification of
2 water rights in Washington state.

3 (3) Except as provided in subsection (8) of this section, upon
4 completion of a water appropriation and putting water to beneficial
5 use, in order to receive a final water right certificate, the permit
6 holder must secure the services of a certified water right examiner who
7 has been tested and certified by the department. The examiner shall
8 carry out a final examination of the project to verify its completion
9 and to determine and document for the permit holder and the department
10 the amount of water that has been appropriated for beneficial use, the
11 location of diversion or withdrawal and conveyance facilities, and the
12 actual place of use. The examiner shall take measurements or make
13 estimates of the maximum diversion or withdrawal, the capacity of water
14 storage facilities, the acreage irrigated, the type and number of
15 residences served, the type and number of stock watered, and other
16 information relevant to making a final determination of the amount of
17 water beneficially used. The examiner shall make photographs of the
18 facilities to document the use or uses of water and the photographs
19 must be submitted with the examiner's report to the department. The
20 department shall specify the format and required content of the reports
21 and may provide a form for that purpose.

22 (4) The department may suspend or revoke a certification based on
23 poor performance, malfeasance, failure to acquire continuing education
24 credits, or excessive complaints from the examiner's customers. The
25 department may require the retesting of an examiner. The department
26 may interview any examiner to determine whether the person is qualified
27 for this work. The department shall spot-check the work of examiners
28 to ensure that the public is being competently served. Any person
29 aggrieved by an order of the department including the granting, denial,
30 revocation, or suspension of a certificate issued by the department
31 under this chapter may appeal pursuant to chapter 43.21B RCW.

32 (5) The decision regarding whether to issue a final water right
33 certificate and in what amounts and other particulars is solely the
34 responsibility and function of the department.

35 (6) Each certified water right examiner must complete eight hours
36 annually of qualifying continuing education in the water resources
37 field. The department shall determine and specify the qualifying
38 continuing education and shall inform examiners of the opportunities.

1 The department shall track whether examiners are current in their
2 continuing education and may suspend the certification of an examiner
3 who has not complied with the continuing education requirement.

4 (7) Each certified water right examiner must be bonded for at least
5 fifty thousand dollars.

6 (8) The department may waive the requirement to secure the services
7 of a certified water right examiner in situations in which the
8 department deems it unnecessary for purposes of issuing a certificate
9 of water right.

10 (9) The department shall establish and collect fees for the
11 examination, certification, and renewal of certification of water right
12 examiners. Revenue collected from these fees must be deposited into
13 the water rights processing account created in section 3 of this act.
14 Pursuant to RCW 43.135.055, the department is authorized to set fees
15 for examination, certification, and renewal of certification for water
16 right examiners.

17 (10) The department may adopt rules appropriate to carry out the
18 purposes of this section.

19 **Sec. 7.** RCW 90.03.255 and 1997 c 360 s 2 are each amended to read
20 as follows:

21 (1) The department shall, when evaluating an application for a
22 water right, transfer, or change filed pursuant to RCW 90.03.250 or
23 90.03.380 that includes provision for any water impoundment or other
24 resource management technique, take into consideration the benefits and
25 costs, including environmental effects, of any water impoundment or
26 other resource management technique that is included as a component of
27 the application. The department's consideration shall extend to any
28 increased water supply that results from the impoundment or other
29 resource management technique, including but not limited to any
30 recharge of groundwater that may occur, as a means of making water
31 available or otherwise offsetting the impact of the diversion of
32 surface water proposed in the application for the water right,
33 transfer, or change. Except as provided in subsection (2) of this
34 section, provision for an impoundment or other resource management
35 technique in an application shall be made solely at the discretion of
36 the applicant and shall not otherwise be made by the department as a

1 condition for approving an application that does not include such
2 provision.

3 (2) If the department has made a final determination by adoption of
4 rules, order, or other appealable agency action that no water remains
5 available for any unmitigated new appropriation from a water source,
6 the department shall notify all persons holding pending applications to
7 divert water from the source of the determination. The department's
8 determination and notice shall be specific in describing the affected
9 stream reaches, the extent of groundwater hydraulically connected to
10 those reaches, and, when applicable, the location and season in which
11 water is unavailable for use. The notice must be made by mail and by
12 publication in a newspaper of general circulation in the area where
13 affected properties are located and must include requirements as
14 prescribed in subsection (3) of this section.

15 (3)(a) Within one year after the date notification is mailed, the
16 department may issue an order requiring each applicant to amend his or
17 her application to include provisions for a water impoundment or other
18 resource management technique as provided in subsection (1) of this
19 section that would ensure that, if the application were granted, the
20 effects of the diversion would not impair any senior water right,
21 adopted instream flows, or closed water sources.

22 (b) An applicant must amend his or her application within three
23 years after the date of the order issued by the department in (a) of
24 this subsection to amend his or her application to include provisions
25 for a water impoundment or other resource management technique as
26 provided in subsection (1) of this section that would ensure that, if
27 the application were granted, the effects of the diversion would not
28 impair any senior water right, adopted instream flows, or closed water
29 sources. If an applicant fails to amend his or her application within
30 the prescribed time, the department shall issue an order denying the
31 application.

32 (c) The department shall issue a decision on a water right
33 application that has been amended to include provisions for a water
34 impoundment or other resource management technique as provided in
35 subsection (1) of this section that would ensure that, if the
36 application were granted, the effects of the diversion would not impair
37 any senior water right, adopted instream flows, or closed water
38 sources.

1 (d) For good cause shown, including demonstrated diligence in
2 working to identify a water impoundment or resource management
3 technique, the department may, in response to a written request from an
4 applicant, extend the time to submit the amended application required
5 in this subsection by no more than five additional years.

6 (e) Upon the written request of any applicant who requests it, the
7 department shall provide a contact list of all other applicants who
8 received notification under this subsection for purposes of enabling
9 applicants to coordinate among each other to develop plans for water
10 impoundment or other resource management technique required by this
11 subsection.

12 (4) This section does not lessen, enlarge, or modify the rights of
13 any riparian owner, or any existing water right acquired by
14 appropriation or otherwise.

15 (5) A final determination made by the department under this section
16 is appealable to the pollution control hearings board as authorized
17 under chapter 43.21B RCW.

18 **Sec. 8.** RCW 90.14.065 and 1987 c 93 s 1 are each amended to read
19 as follows:

20 (1)(a) Any person or entity, or successor to such person or entity,
21 having a statement of claim on file with the water rights claims
22 registry (~~on April 20, 1987,~~) may submit to the department of ecology
23 for filing(~~(7)~~) an amendment to such a statement of claim if the
24 submitted amendment is based on:

25 (~~(1)~~) (i) An error in estimation of the quantity of the
26 applicant's water claim prescribed in RCW 90.14.051 if the applicant
27 provides reasons for the failure to claim such right in the original
28 claim;

29 (~~(2)~~) (ii) A change in circumstances not foreseeable at the time
30 the original claim was filed, if such change in circumstances relates
31 only to the manner of transportation or diversion of the water and not
32 to the use or quantity of such water; or

33 (~~(3)~~) (iii) The amendment is ministerial in nature.

34 (b) The department shall accept any such submission and file the
35 same in the registry unless the department by written determination
36 concludes that the requirements of (a)(i), (ii), or (iii) of this

1 subsection (~~(1), (2), or (3) of this section~~) have not been
2 satisfied.

3 (2) A surface water right claim may be changed or transferred in
4 the same manner as a permit or certificate under RCW 90.03.380, and a
5 water right claim for groundwater may be changed or amended in the same
6 manner as a permit or certificate under RCW 90.44.100. However, RCW
7 90.44.100(4) applies as follows: For a water right claim, the
8 "location of the original well or wells" is the area up to one-quarter
9 mile radius from the current well or wells.

10 (3) Any person aggrieved by a determination of the department may
11 obtain a review thereof by filing a petition for review with the
12 pollution control hearings board within thirty days of the date of the
13 determination by the department. The provisions of RCW 90.14.081 shall
14 apply to any amendment (~~(filed)~~) approved under this section.

15 NEW SECTION. Sec. 9. A new section is added to chapter 90.44 RCW
16 to read as follows:

17 Applications to appropriate groundwater under a cost-reimbursement
18 agreement must be processed in accordance with RCW 90.03.265 when an
19 applicant requests the assignment of a cost-reimbursement consultant as
20 provided in RCW 43.21A.690.

21 NEW SECTION. Sec. 10. A new section is added to chapter 90.44 RCW
22 to read as follows:

23 (1) The department may expedite processing of applications within
24 the same water source:

25 (a) On its own volition;

26 (b) Upon receipt of written requests from at least one-half of the
27 applicants with pending applications from a water source;

28 (c) Upon receipt of a written request or recommendation from a
29 watershed planning unit; or

30 (d) Upon receipt of a resolution of a county or city legislative
31 authority with jurisdiction over the area in which the water source is
32 located.

33 (2) If the department determines that the public interest is best
34 served by expediting applications within a water source, the department
35 must notify in writing all persons who have pending applications on
36 file for a new appropriation, change, transfer, or amendment of a water

1 right from that water source. A water source may include surface water
2 only, groundwater only, or surface and groundwater together if the
3 department determines that they are hydraulically connected. The
4 notice must be made by way of mail and by publication in a newspaper of
5 general circulation in the area where affected properties are located.
6 The notice must:

7 (a) Inform those applicants that expedited processing of
8 applications with the described water source is being initiated;

9 (b) Provide to individual applicants an estimate of factors
10 affecting whether the application as filed will be approved or denied;

11 (c) Provide to individual applicants the estimated cost for having
12 an application processed on an expedited basis;

13 (d) Provide an estimate of how long the expedited process will take
14 before an application is approved or denied; and

15 (e) Provide at least sixty days for the applicants to respond in
16 writing regarding the applicant's decision to participate in expedited
17 processing of their applications.

18 (3) The department must determine the full cost to process all the
19 applications within the water source on an expedited basis and those
20 costs must be recovered through expedited processing fees. The
21 department shall calculate an expedited processing fee based on the
22 quantity of water requested by the applicant, except that no expedited
23 processing fee may be more than twenty-five thousand dollars. The
24 department may adjust the estimated costs for each participant based on
25 those applicants electing to participate.

26 (4) The expedited processing fee must be collected by the
27 department prior to the expedited processing of an application. An
28 applicant who has stated in writing that he or she wants his or her
29 application processed using the expedited procedures in this section
30 must transmit the processing fee within thirty days of the written
31 request. Failure to do so will result in the applicant not being
32 included in expedited processing for that water source. The department
33 shall waive the expedited processing fee for good cause shown.

34 NEW SECTION. **Sec. 11.** A new section is added to chapter 90.44 RCW
35 to read as follows:

36 (1)(a) The department shall place a pending application for
37 appropriation from a particular water source into project-dependent

1 status where a proposed water supply development project or projects
2 could feasibly make water available for the application. The
3 department may make such a determination:

4 (i) On its own volition;

5 (ii) Upon receipt of a written request from an applicant;

6 (iii) Upon receipt of a written request or recommendation from a
7 watershed planning unit; or

8 (iv) Upon receipt of a resolution of a county or city legislative
9 authority with jurisdiction over the area in which the water source is
10 located.

11 (b) The department shall notify all persons holding pending
12 applications of that determination. Each applicant retains his or her
13 priority date while in project-dependent status. Pending applications
14 in project-dependent status terminate automatically ten years after
15 placement into project-dependent status unless extended by the
16 department for good cause shown. In no case may the department extend
17 project-dependent status for any application by more than twenty years
18 from the date such an application was initially placed into project-
19 dependent status.

20 (2)(a) The department shall place pending applications for
21 appropriation from a particular water source from a municipal water
22 applicant into municipal pending status when the municipal water
23 applicant has an approved water system plan under chapter 43.20 RCW
24 that outlines projected future water demand and how the applicant
25 intends to acquire the water to supply those demands. The department
26 may make such a determination:

27 (i) On its own volition;

28 (ii) Upon receipt of a written request from a municipal water
29 applicant;

30 (iii) Upon receipt of a written request or recommendation from a
31 watershed planning unit; or

32 (iv) Upon receipt of a resolution of a county or city legislative
33 authority with jurisdiction over the area in which the water source is
34 located.

35 (b) The department shall notify all municipal water applicants
36 holding pending applications of that determination. Each municipal
37 water applicant retains its priority date while in municipal pending
38 status.

1 (3) The department shall place pending applications for
2 appropriation from a particular water source into dormant status when
3 an applicant fails to pay the expedited processing fee under section 10
4 of this act and the application will not be placed in project-dependent
5 status or municipal pending status as specified in this section. The
6 department shall notify an applicant holding pending applications of
7 that determination. Each applicant retains his or her priority date
8 while in dormant status. An applicant may later request in writing,
9 upon payment of an expedited processing fee, that the department
10 process the applicant's application.

11 (4) A final determination made by the department under this section
12 is appealable to the pollution control hearings board as authorized
13 under chapter 43.21B RCW.

14 **Sec. 12.** RCW 90.44.055 and 1997 c 360 s 3 are each amended to read
15 as follows:

16 (1) The department shall, when evaluating an application for a
17 water right or an amendment filed pursuant to RCW 90.44.050 or
18 90.44.100 that includes provision for any water impoundment or other
19 resource management technique, take into consideration the benefits and
20 costs, including environmental effects, of any water impoundment or
21 other resource management technique that is included as a component of
22 the application. The department's consideration shall extend to any
23 increased water supply that results from the impoundment or other
24 resource management technique, including but not limited to any
25 recharge of groundwater that may occur, as a means of making water
26 available or otherwise offsetting the impact of the withdrawal of
27 groundwater proposed in the application for the water right or
28 amendment in the same water resource inventory area. Except as
29 provided in subsection (2) of this section, provision for an
30 impoundment or other resource management technique in an application
31 shall be made solely at the discretion of the applicant and shall not
32 be made by the department as a condition for approving an application
33 that does not include such provision.

34 (2) If the department has made a final determination by adoption of
35 rules, order, or other appealable agency action that no water remains
36 available for any unmitigated new appropriation from a water source,
37 the department shall notify all persons holding pending applications to

1 divert water from the source of the determination. The department's
2 determination and notice shall be specific in describing the affected
3 stream reaches, the extent of groundwater hydraulically connected to
4 those reaches, and, when applicable, the location and season in which
5 water is unavailable for use. The notice must be made by mail and by
6 publication in a newspaper of general circulation in the area where
7 affected properties are located and must include requirements as
8 prescribed in subsection (3) of this section.

9 (3)(a) Within one year after the date notification is mailed, the
10 department may issue an order requiring each applicant to amend his or
11 her application to include provisions for a water impoundment or other
12 resource management technique as provided in subsection (1) of this
13 section that would ensure that, if the application were granted, the
14 effects of the diversion would not impair any senior water right,
15 adopted instream flows, or closed water sources.

16 (b) An applicant must amend his or her application within three
17 years after the date of the order issued by the department in (a) of
18 this subsection to amend his or her application to include provisions
19 for a water impoundment or other resource management technique as
20 provided in subsection (1) of this section that would ensure that, if
21 the application were granted, the effects of the diversion would not
22 impair any senior water right, adopted instream flows, or closed water
23 sources. If an applicant fails to amend his or her application within
24 the prescribed time, the department shall issue an order denying the
25 application.

26 (c) The department shall issue a decision on a water right
27 application that has been amended to include provisions for a water
28 impoundment or other resource management technique as provided in
29 subsection (1) of this section that would ensure that, if the
30 application were granted, the effects of the diversion would not impair
31 any senior water right, adopted instream flows, or closed water
32 sources.

33 (d) For good cause shown, including demonstrated diligence in
34 working to identify a water impoundment or resource management
35 technique, the department may, in response to a written request from an
36 applicant, extend the time to submit the amended application required
37 in this subsection by no more than five additional years.

1 (e) Upon the written request of any applicant who requests it, the
2 department shall provide a contact list of all other applicants who
3 received notification under this subsection for purposes of enabling
4 applicants to coordinate among each other to develop plans for water
5 impoundment or other resource management technique required by this
6 subsection.

7 (4) This section does not lessen, enlarge, or modify the rights of
8 any riparian owner, or any existing water right acquired by
9 appropriation or otherwise.

10 (5) A final determination made by the department under this section
11 is appealable to the pollution control hearings board as authorized
12 under chapter 43.21B RCW.

--- END ---