

RCW 89.12.170 Columbia Basin project—Authorization for agreements to allocate water—Conditions. The department of ecology is authorized to enter into agreements with the United States for the allocation of groundwaters that exist as a result of the Columbia Basin project. Such agreements will be used for purposes of allocating that groundwater and shall not require compliance with the procedures set forth in RCW 90.44.130 for declarations of claims of ownership of artificially stored groundwater within a groundwater area or subarea. Before entering into an agreement with the United States for the allocation of groundwaters that exist as a result of the Columbia Basin project, the department of ecology shall first establish a groundwater area or subarea under the procedure provided in RCW 90.44.130. Agreements for the allocation of groundwater that exist as a result of the Columbia Basin project fulfill the requirements of RCW 90.44.130 for determinations of the availability of public groundwater. The agreements and any allocation of water pursuant to the agreements must be consistent with authorized project purposes, federal and state reclamation laws, including federal rate requirements, and provisions of United States' repayment contracts pertaining to the project. The agreements must provide that the department grant an application to beneficially use such water only if the department determines that the application will not impair existing water rights or project operations or harm the public interest. Use of water allocated pursuant to the terms of the agreements must be contingent upon issuance of licenses by the United States to approved applicants. This section is not intended to alter or affect any ownership interest or rights in groundwaters that are not allocated pursuant to the agreements. Before implementing any such agreements, the department, with the concurrence of the United States, shall adopt a rule setting forth the procedures for implementing the agreements and the priorities for processing of applications. The department is authorized to accept funds for administrative and staff expenses that it incurs in connection with entering into or implementing the agreements. [2021 c 185 s 1; 2002 c 330 s 3.]

Finding—2002 c 330: "The legislature finds that delivery of Columbia Basin project water through canals and its application to land through irrigation over approximately the past fifty years has dramatically affected groundwater in the Pasco basin, located in western Franklin county, along the Columbia river and north of the city of Pasco. According to studies conducted by the United States geological survey, the volume of groundwater has increased by about five million acre feet. About eighty-five 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. The studies provide the information needed to determine which groundwater is a result of the project and which is naturally occurring. Potential problems associated with the raised groundwater levels include landslides and loss of arable land through ponding. Benefits include dilution of concentrations of nitrate and increase in volume of water potentially available for beneficial use over the naturally occurring volume otherwise available." [2002 c 330 s 1.]

Intent—2002 c 330: "It is the intent of the legislature to grant authority to the department of ecology to enter into agreements with the United States for allocation of groundwaters that exist as a result of the Columbia Basin project, adopt rules for implementing the agreements and establishing priorities for processing applications, and accept funds for expenses incurred, consistent with applicable state and federal law. Inasmuch as rules adopted by the department will be significant legislative rules, the legislature intends to assure that it will be able to properly carry out its responsibility to both give direction and review the rules after their adoption by requiring periodic reports by the department." [2002 c 330 s 2.]