

**Chapter 90.90 RCW
COLUMBIA RIVER BASIN WATER SUPPLY**

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RCW 90.90.005 Finding. (1) The legislature finds that a key priority of water resource management in the Columbia river basin is the development of new water supplies that includes storage and conservation in order to meet the economic and community development needs of people and the instream flow needs of fish.

(2) The legislature therefore declares that a Columbia river basin water supply development program is needed, and directs the department of ecology to aggressively pursue the development of water supplies to benefit both instream and out-of-stream uses. [2006 c 6 s 1.]

RCW 90.90.010 Columbia river basin water supply development account—Use for storage facilities and access to water supplies—Evaluation—Public comment—Use of net water savings—Water service contracts. (1) The Columbia river basin water supply development account is created in the state treasury. The account may receive direct appropriations from the legislature, receipts of any funds pursuant to RCW 90.90.020 and *90.90.030, or funds from any other sources. The account is intended to fund projects using tax exempt bonds.

(2) (a) Expenditures from the Columbia river basin water supply development account may be used to assess, plan, and develop new storage, improve or alter operations of existing storage facilities, implement conservation projects, develop pump exchanges, or any other actions designed to provide access to new water supplies within the Columbia river basin for both instream and out-of-stream uses. Except

for the development of new storage projects and pump exchanges, there shall be no expenditures from this account for water acquisition or transfers from one water resource inventory area to another without specific legislative authority. For purposes of this chapter, "pump exchanges" means water supply development projects that exchange water from one source to another or relocate an existing diversion downstream, with resulting instream benefit.

(b) Two-thirds of the funds placed in the account shall be used to support the development of new storage facilities and pump exchanges; the remaining one-third shall be used for the other purposes listed in this section.

(3) (a) Funds may not be expended from this account for the construction of a new storage facility until the department of ecology evaluates the following:

(i) Water uses to be served by the facility;

(ii) The quantity of water necessary to meet those uses;

(iii) The benefits and costs to the state of meeting those uses, including short-term and long-term economic, cultural, and environmental effects; and

(iv) Alternative means of supplying water to meet those uses, including the costs of those alternatives and an analysis of the extent to which long-term water supply needs can be met using these alternatives.

(b) The department of ecology may rely on studies and information developed through compliance with other state and federal permit requirements and other sources. The department shall compile its findings and conclusions, and provide a summary of the information it reviewed.

(c) Before finalizing its evaluation under the provisions of this section, the department of ecology shall make the preliminary evaluation available to the public. Public comment may be made to the department within thirty days of the date the preliminary evaluation is made public.

(4) Net water savings achieved through conservation measures funded by the account shall be placed in trust in proportion to the state funding provided to implement a project.

(5) Net water savings achieved through conservation measures funded by the account developed within the boundaries of the federal Columbia river reclamation project and directed to the Odessa subarea to reduce the use of groundwater for existing irrigation is exempt from the provisions of subsection (4) of this section.

(6) The department of ecology may enter into water service contracts with applicants receiving water from the program to recover all or a portion of the cost of developing the water supply. Costs recovered under water service contracts does not include staff time expended by the department on developing the water supply. With the applicant's concurrence, the department may receive power revenue generated by the water supply developed by the department through water service contracts. The department may deny an application if the applicant does not enter into a water service contract. Revenue collected from water service contracts must be deposited into the Columbia river basin water supply revenue recovery account created in RCW 90.90.100. The department may adopt rules describing the methodology as to how charges will be established and direct costs recovered for water supply developed under the Columbia river basin water supply program. Water service contracts with federal agencies under RCW 90.42.150 are not required to be established by rule.

(7) Moneys in the Columbia river basin water supply development account created in this section may be spent only after appropriation.

(8) Interest earned by deposits in the account will be retained in the account. [2011 c 83 s 1; 2006 c 6 s 2.]

***Reviser's note:** RCW 90.90.030 expired June 30, 2024.

RCW 90.90.020 Allocation and development of water supplies.

(1)(a) Water supplies secured through the development of new storage facilities made possible with funding from the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, and the Columbia river basin water supply revenue recovery account shall be allocated as follows:

(i) Two-thirds of active storage shall be available for appropriation for out-of-stream uses; and

(ii) One-third of active storage shall be available to augment instream flows and shall be managed by the department of ecology. The timing of releases of this water shall be determined by the department of ecology, in cooperation with the department of fish and wildlife and fisheries comanagers, to maximize benefits to salmon and steelhead populations.

(b) Water available for appropriation under (a)(i) of this subsection but not yet appropriated shall be temporarily available to augment instream flows to the extent that it does not impair existing water rights.

(2) Water developed under the provisions of this section to offset out-of-stream uses and for instream flows is deemed adequate mitigation for the issuance of new water rights provided for in subsection (1)(a) of this section and satisfies all consultation requirements under state law related to the issuance of new water rights.

(3) The department of ecology shall focus its efforts to develop water supplies for the Columbia river basin on the following needs:

(a) Alternatives to groundwater for agricultural users in the Odessa subarea aquifer;

(b) Sources of water supply for pending water right applications;

(c) A new uninterruptible supply of water for the holders of interruptible water rights on the Columbia river mainstem that are subject to instream flows or other mitigation conditions to protect streamflows; and

(d) New municipal, domestic, industrial, and irrigation water needs within the Columbia river basin.

(4) The one-third/two-thirds allocation of water resources between instream and out-of-stream uses established in this section does not apply to:

(a) Applications for changes or transfers of existing water rights in the Columbia river basin; or

(b) Applications for water rights in the Walla Walla river basin implementing the Walla Walla water 2050 plan adopted June 30, 2021. [2023 c 239 s 1; 2011 c 83 s 4; 2006 c 6 s 3.]

RCW 90.90.040 Columbia river water supply inventory—Long-term water supply and demand forecast. (1) To support the development of new water supplies in the Columbia river and to protect instream flow, the department of ecology shall work with all interested parties,

including interested county legislative authorities and watershed planning groups in the Columbia river basin, and affected tribal governments, to develop a Columbia river water supply inventory and a long-term water supply and demand forecast. The inventory must include:

(a) A list of conservation projects that have been implemented under this chapter and the amount of water conservation they have achieved; and

(b) A list of potential water supply and storage projects in the Columbia river basin, including estimates of:

- (i) Cost per acre-foot;
- (ii) Benefit to fish and other instream needs;
- (iii) Benefit to out-of-stream needs; and
- (iv) Environmental and cultural impacts.

(2) The department of ecology shall complete the first Columbia river water supply inventory by November 15, 2006, and shall update the inventory annually thereafter.

(3) The department of ecology shall complete the first Columbia river long-term water supply and demand forecast by November 15, 2006, and shall update the report every five years thereafter. [2011 c 83 s 6; 2006 c 6 s 5.]

RCW 90.90.050 Columbia river mainstem water resources information system. (1) In order to better understand current water use and instream flows in the Columbia river mainstem, the department of ecology shall establish and maintain a Columbia river mainstem water resources information system that provides the information necessary for effective mainstem water resource planning and management.

(2) To accomplish the objective in subsection (1) of this section, the department of ecology shall use information compiled by existing local watershed planning groups, federal agencies, the Bonneville power administration, irrigation districts, conservation districts in the basin, and other available sources. The information shall include:

(a) The total aggregate quantity of water rights issued under state permits and certificates and filed under state claims on the Columbia river mainstem and for groundwater within one mile of the mainstem; and

(b) The total aggregate volume of current water use under these rights as metered and reported by water users under current law.

(3) The department of ecology shall publish the aggregate data on the department's website no later than June 30, 2009, and shall periodically update the data.

(4) For purposes of this section, the definition of Columbia river mainstem in *RCW 90.90.030(11) shall apply and the use of the definition is solely limited to the purpose of collecting data to meet the information requirements of this section. [2018 c 72 s 2; 2006 c 6 s 6.]

***Reviser's note:** RCW 90.90.030 expired June 30, 2024.

RCW 90.90.060 Additional releases of water from Lake Roosevelt. (1) In 2006, the legislature enacted chapter 6, Laws of 2006, an act relating to water resource management in the Columbia river basin. In

its enactment, the legislature established that a key priority of water resource management in the Columbia river basin is the development of new water supplies to meet economic and community development needs concurrent with instream flow needs.

(2) Consistent with this intent, the governor and the legislature are in agreement with the Confederated Tribes of the Colville Reservation and the Spokane Tribe of Indians to support additional releases of water from Lake Roosevelt. Because the sovereign and proprietary interests of these tribal governments are directly affected by water levels in Lake Roosevelt, the state intends to share a portion of the benefits derived from Lake Roosevelt water releases and to mitigate for any impacts such releases may have upon the tribes.

(3) These new releases of Lake Roosevelt water of approximately eighty-two thousand five hundred acre feet of water, increasing to no more than one hundred thirty-two thousand five hundred acre feet of water in drought years, will bolster the state economy and will meet the following critical needs: New surface water supplies for farmers to replace the use of diminishing groundwater in the Odessa aquifer; new water supplies for municipalities with pending water right applications; enhanced certainty for agricultural water users with water rights that are interruptible during times of drought; and water to increase flows in the river when salmon need it most.

(4) Nothing in chapter 82, Laws of 2008 expands, impairs, or otherwise affects the existing status and sovereignty of the tribal governments involved in Lake Roosevelt water releases pursuant to this section and RCW 90.90.070. [2008 c 82 s 1.]

Effective date—2008 c 82: "This act takes effect July 1, 2008."
[2008 c 82 s 4.]

RCW 90.90.070 Columbia river water delivery account—Creation—Distribution. (1) The Columbia river water delivery account is created in the state treasury. Moneys in the account may be spent only after appropriation. The account consists of all moneys transferred or appropriated to the account by law. The legislature may appropriate moneys in the account:

(a) For distributions for purposes of RCW 90.90.060 as provided in this section; and

(b) To the department of ecology for other purposes relating to implementation of RCW 90.90.060 and 90.90.080.

(2) On July 1, 2008, and each July 1st thereafter for the duration of the agreements described in RCW 90.90.060, the state treasurer shall transfer moneys from the general fund into the Columbia river water delivery account in the amounts described in subsection (3) of this section.

(3) Subject to appropriations, on July 1, 2008, and each July 1st thereafter, the state treasurer shall distribute moneys from the Columbia river water delivery account as follows:

(a) To the Confederated Tribes of the Colville Reservation, on July 1, 2008, the sum of three million seven hundred seventy-five thousand dollars; and on July 1, 2009, the sum of three million six hundred twenty-five thousand dollars. Each July 1st thereafter for the duration of the agreement, the treasurer shall distribute an amount equal to the previous year's distribution adjusted for inflation. The

inflation adjustment shall be computed using the percentage change on the implicit price deflator for personal consumption expenditures for the United States for the previous calendar year, as compiled by the bureau of economic analysis of the United States department of commerce and reported in the most recent quarterly publication of the economic and revenue forecast council or successor agency.

(b) To the Spokane Tribe of Indians, on July 1, 2008, the sum of two million two hundred fifty thousand dollars. Each July 1st thereafter for the duration of the agreement, the treasurer shall distribute an amount equal to the previous year's distribution adjusted for inflation. The inflation adjustment shall be computed using the percentage change in the consumer price index for the Washington state Seattle-Tacoma-Bremerton consolidated metropolitan statistical area for the previous calendar year as compiled by the bureau of labor statistics, United States department of labor, and reported in the most recent quarterly publication of the economic and revenue forecast council or successor agency.

(4) The state treasurer may not distribute moneys from the Columbia river water delivery account to a tribe pursuant to this section unless the director of ecology has certified in writing to the state treasurer and the legislature that the agreement with the tribes is still in effect. [2008 c 82 s 2.]

Effective date—2008 c 82: See note following RCW 90.90.060.

RCW 90.90.080 Impacts of water release—Department of ecology's duties. (1) Because the potential impacts of water releases under agreements reached under this chapter on affected counties are unknown, the department of ecology shall, by November 15, 2009:

(a) Conduct an assessment of the potential impacts, including recommendations for mitigation, and report to [the] appropriate committees of the legislature; and

(b) Establish a process for identifying and reporting on future impacts on the affected counties, and for making recommendations for mitigation.

(2) Within the framework of Columbia river basin water resources management under this chapter, the department of ecology shall:

(a) Provide technical assistance to help affected counties identify and develop competitive project applications to benefit both instream and out-of-stream uses;

(b) Assist affected counties in exploring options to ensure water resources are available for their current and future needs. Such options include pursuing a memorandum of understanding with the affected counties that is consistent with RCW 90.90.005 to effectuate the purposes of this section. The memorandum of understanding shall be available for public comment for a period of thirty days before being signed by the department; and

(c) Consider regional equity when making funding decisions on water supply applications.

(3) As used in this section, "affected counties" means those counties east of the crest of the Cascade mountains with an international border, or those counties east of the crest of the Cascade mountains that border both a county with an international border and a county with four hundred thousand or more residents. [2008 c 82 s 3.]

Effective date—2008 c 82: See note following RCW 90.90.060.

RCW 90.90.090 Columbia river basin taxable bond water supply development account—Water service contracts. (1) The Columbia river basin taxable bond water supply development account is created in the state treasury. All receipts from direct appropriations from the legislature, moneys directed to the account pursuant to RCW 90.90.020 and *90.90.030, or moneys directed to the account from any other sources must be deposited in the account. Moneys in the account may be spent only after appropriation. The account is intended to fund projects using taxable bonds. Expenditures from the account may be used only as provided in this section.

(2)(a) Expenditures from the Columbia river basin taxable bond water supply development account may be used to assess, plan, and develop new storage, improve or alter operations of existing storage facilities, implement conservation projects, develop pump exchanges, or any other actions designed to provide access to new water supplies within the Columbia river basin for both instream and out-of-stream uses. Except for the development of new storage projects and pump exchanges, there may be no expenditures from the account for water acquisition or transfers from one water resource inventory area to another without specific legislative authority. For the purposes of this section, the term "pump exchanges" means water supply development projects that exchange water from one source to another or relocate an existing diversion downstream, with resulting instream benefit.

(b) Two-thirds of the moneys placed in the account must be used to support the development of new storage facilities and pump exchanges; the remaining one-third of the moneys must be used for the other purposes listed in this section.

(3)(a) Funds may not be expended from the account for the construction of a new storage facility until the department of ecology evaluates the following:

(i) Water uses to be served by the facility;

(ii) The quantity of water necessary to meet those uses;

(iii) The benefits and costs to the state of meeting those uses, including short-term and long-term economic, cultural, and environmental effects; and

(iv) Alternative means of supplying water to meet those uses, including the costs of those alternatives and an analysis of the extent to which long-term water supply needs can be met using these alternatives.

(b) The department of ecology may rely on studies and information developed through compliance with other state and federal permit requirements and other sources. The department shall compile its findings and conclusions, and provide a summary of the information it reviewed.

(c) Before finalizing its evaluation under the provisions of this section, the department of ecology shall make the preliminary evaluation available to the public. Public comment may be made to the department within thirty days of the date the preliminary evaluation is made public.

(4) Net water savings achieved through conservation measures funded by the account shall be placed in trust in proportion to the state funding provided to implement a project.

(5) Net water savings achieved through conservation measures funded by the account developed within the boundaries of the federal Columbia river reclamation project and directed to the Odessa subarea to reduce the use of groundwater for existing irrigation is exempt from the provisions of subsection (4) of this section.

(6) The department of ecology may enter into water service contracts with applicants receiving water from the program to recover all or a portion of the cost of developing the water supply. Costs recovered under water service contracts does not include staff time expended by the department on developing the water supply. With the applicant's concurrence, the department may receive power revenue generated by the water supply developed by the department through water service contracts. The department may deny an application if the applicant does not enter into a water service contract. Revenue collected from water service contracts must be deposited into the Columbia river basin water supply revenue recovery account created in RCW 90.90.100. The department may adopt rules describing the methodology as to how charges will be established and direct costs recovered for water supply developed under the Columbia river basin water supply program. Water service contracts with federal agencies under RCW 90.42.150 are not required to be established by rule.

(7) Interest earned by deposits in the account will be retained in the account. [2011 c 83 s 2.]

***Reviser's note:** RCW 90.90.030 expired June 30, 2024.

RCW 90.90.100 Columbia river basin water supply revenue recovery account—Water service contracts. (1) The Columbia river basin water supply revenue recovery account is created in the state treasury. All receipts from direct appropriations from the legislature, moneys directed to the account pursuant to RCW 90.90.020 and *90.90.030, revenue from water service contracts described in this chapter, or moneys directed into the account from any other sources must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as provided in this section.

(2) (a) Expenditures from the Columbia river basin water supply revenue recovery account may be used to assess, plan, and develop new storage, improve or alter operations of existing storage facilities, implement conservation projects, develop pump exchanges, or any other actions designed to provide access to new water supplies within the Columbia river basin for both instream and out-of-stream uses. Except for the development of new storage projects and pump exchanges, there may be no expenditures from the account for water acquisition or transfers from one water resource inventory area to another without specific legislative authority. For the purposes of this section, the term "pump exchanges" means water supply development projects that exchange water from one source to another or relocate an existing diversion downstream, with resulting instream benefit.

(b) Two-thirds of the moneys placed in the account must be used to support the development of new storage facilities and pump exchanges; the remaining one-third of the moneys must be used for the other purposes listed in this section.

(3) (a) Funds may not be expended from the account for the construction of a new storage facility until the department of ecology evaluates the following:

(i) Water uses to be served by the facility;
(ii) The quantity of water necessary to meet those uses;
(iii) The benefits and costs to the state of meeting those uses, including short-term and long-term economic, cultural, and environmental effects; and
(iv) Alternative means of supplying water to meet those uses, including the costs of those alternatives and an analysis of the extent to which long-term water supply needs can be met using these alternatives.

(b) The department of ecology may rely on studies and information developed through compliance with other state and federal permit requirements and other sources. The department shall compile its findings and conclusions, and provide a summary of the information it reviewed.

(c) Before finalizing its evaluation under the provisions of this section, the department of ecology shall make the preliminary evaluation available to the public. Public comment may be made to the department within thirty days of the date the preliminary evaluation is made public.

(4) Net water savings achieved through conservation measures funded by the account shall be placed in trust in proportion to the state funding provided to implement a project.

(5) Net water savings achieved through conservation measures funded by the account developed within the boundaries of the federal Columbia river reclamation project and directed to the Odessa subarea to reduce the use of groundwater for existing irrigation is exempt from the provisions of subsection (4) of this section.

(6) The department of ecology may enter into water service contracts with applicants receiving water from the program to recover all or a portion of the cost of developing the water supply. Costs recovered under water service contracts does not include staff time expended by the department on developing the water supply. With the applicant's concurrence, the department may receive power revenue generated by the water supply developed by the department through water service contracts. The department may deny an application if the applicant does not enter into a water service contract. Revenue collected from water service contracts must be deposited into the Columbia river basin water supply revenue recovery account created in this section. The department may adopt rules describing the methodology as to how charges will be established and direct costs recovered for water supply developed under the Columbia river basin water supply program. Water service contracts with federal agencies under RCW 90.42.150 are not required to be established by rule.

(7) Interest earned by deposits in the account will be retained in the account. [2011 c 83 s 3.]

***Reviser's note:** RCW 90.90.030 expired June 30, 2024.

RCW 90.90.110 Use of certain water made available through reoperation of Sullivan lake. Two-thirds of the water made available through reoperation of Sullivan lake funded from the Columbia river basin water supply development account created in RCW 90.90.010 must be used to supply or offset out-of-stream uses described in RCW 90.90.020(3) in Douglas, Ferry, Lincoln, Okanogan, Pend Oreille, and Stevens counties. At least one-half of this quantity must be made

available for municipal, domestic, and industrial uses. [2011 c 83 s 5.]

RCW 90.90.120 Walla Walla water 2050 plan. (1) The Walla Walla water 2050 plan must be used as an integrated water resource strategy, through a coordinated effort between the states of Washington and Oregon, affected federally recognized tribes, affected federal, state, and local agencies, and agricultural, environmental, business, and other community stakeholders.

(2) In developing water supply solutions in the Walla Walla river basin, the department of ecology should employ an integrated water resource management strategy that will provide concurrent water supply benefits to both instream and out-of-stream uses and address a variety of water resource and ecosystem challenges affecting fish passage, habitat functions, and agricultural, municipal, industrial, and domestic water supply, consistent with the Walla Walla water 2050 plan.

(3) The department of ecology shall consider any increase in the quantity of water supply due to a project being implemented under the Walla Walla water 2050 plan that is completed after July 23, 2023, to be water supply developed under this section.

(4) In implementing subsection (2) of this section, the department of ecology will be advised by the Walla Walla basin advisory committee, including representatives from a broad range of interests, including agricultural, environmental, and other stakeholders, and tribal, local, state, and federal governments.

(5) In consultation with affected federally recognized tribes, the department of ecology shall evaluate the development of a bistate legal regulatory framework for allocation of developed water resources, in collaboration with the state of Oregon.

(6) The department of ecology shall submit a report to the relevant committees of the legislature by June 30, 2025, with a recommendation for the bistate legal regulatory framework necessary for equitable allocation and management of developed water resources from the build out of water supply projects envisioned in the Walla Walla water 2050 plan.

(7) Subject to the availability of amounts appropriated for this specific purpose, the department of ecology is authorized to fund the development, construction, and implementation of projects to implement the Walla Walla water 2050 plan that may be located outside of the state, provided that the projects benefit instream and out-of-stream water demands in the state.

(8) Water supplies developed under this section must be apportioned between the states consistent with any written agreements entered into with the state of Oregon and the confederated tribes of the Umatilla Indian reservation related to the management of water in the Walla Walla river basin.

(9) The department of ecology has the authority to designate water supplies developed under this section for instream flow purposes and placed into the trust water rights program authorized under chapter 90.42 RCW. Water supplies developed under this section that are designated for instream flow purposes are unavailable to satisfy existing water rights, including water rights with superior priority, and are exempt from provisions under RCW 90.42.070.

(10) Water supplies developed under this section must be managed consistent with the intent of the specific project being implemented.

(11) It is the intent of the legislature for the state to share in the cost to implement the Walla Walla water 2050 plan authorized under this section, subject to the availability of amounts appropriated for this specific purpose, with at least one-half of the total costs to finance the implementation of the Walla Walla water 2050 plan funded through federal, private, and other nonstate sources, including private funding sources from entities that benefit from projects. This section applies to the total costs of the Walla Walla water 2050 plan and not to individual projects within the plan and includes funding for projects that have been completed prior to July 23, 2023.

(12) Nothing in this section prevents the department of ecology from regulating water users consistent with existing adjudications to ensure that water use by holders of adjudicated surface water right certificates are not impaired by use under junior groundwater right certificates, claims, and permits. [2023 c 239 s 2.]

RCW 90.90.900 Effective date—2006 c 6. This act takes effect July 1, 2006. [2006 c 6 s 10.]