

DISCUSSION DRAFT

First Draft of Potential Request Legislation

June 21, 2022

RCW 90.90.020 is amended to read:

(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 uninterrupted 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) ~~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 on June 30, 2021.

DISCUSSION DRAFT

A New Section is added to chapter 90.90 RCW

- (1) The Walla Walla Water 2050 strategic plan (adopted June 30, 2021) shall be used as an integrated water resource strategy, through a coordinated effort between the states of Washington and Oregon, affected tribes, affected federal, state, local agencies, and agricultural, environmental, 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 and seek to provide concurrent 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, and domestic water supply, consistent with the Walla Walla Water 2050 strategic plan.
- (3) 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.
- (4) In consultation with affected tribes, the department of ecology shall evaluate the development of a bi-state legal regulatory framework for allocation of new water resources, in collaboration with the State of Oregon.
- (5) The department shall submit a report to the relevant committees of the legislature by June 30, 2025 with a recommendation for the bi-state 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 strategic plan.
- (6) The department of ecology is authorized to fund the development and construction of projects to implement the Walla Walla Water 2050 strategic plan that may be located outside of Washington State, provided that the projects benefit instream and out-of-stream water demands in Washington State.
- (7) New water supplies developed under this section shall be allocated 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.
- (8) In financing projects to implement the Walla Walla Water 2050 strategic plan authorized under this section, the department of ecology shall obtain no more than fifty percent of the total project costs from state funding sources, with the remaining costs funded through local, federal, and private funding sources from entities that benefit from projects. The condition on state funding applies to the total of all costs toward implementation of the Walla Walla Water 2050 strategic plan and not to individual projects funded under this section.
- (9) 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.