

RCW 87.80.130 Powers of board of joint control—Limitation. (1)

A board of joint control created under the provisions of this chapter shall have full authority within its area of jurisdiction to enter into and perform any and all necessary contracts; to accept grants and loans, including, but not limited to, those provided under chapter 43.83B [RCW] and RCW 43.83.340, to appoint and employ and discharge the necessary officers, agents, and employees; to sue and be sued as a board but without personal liability of the members thereof in any and all matters in which all the irrigation entities represented on the board as a whole have a common interest without making the irrigation entities parties to the suit; to represent the entities in all matters of common interest as a whole within the scope of this chapter; and to do any and all lawful acts required and expedient to carry out the purposes of this chapter. A board of joint control may, subject to the same limitations as an irrigation district operating under chapter 87.03 RCW, acquire any property or property rights for use within the board's area of jurisdiction by power of eminent domain; acquire, purchase, or lease in its own name all necessary real or personal property or property rights; and sell, lease, or exchange any surplus real or personal property or property rights. Any transfers of water, however, are limited to transfers authorized under subsection (2) of this section.

(2) (a) A board of joint control is authorized and encouraged to pursue conservation and system efficiency improvements to optimize the use of appropriated waters and to either redistribute the saved water within its area of jurisdiction, or transfer the water to others, or both. A redistribution of saved water as an operational practice internal to the board of joint control's area of jurisdiction, may be authorized if it can be made without detriment or injury to rights existing outside of the board of control's area of jurisdiction, including instream flow water rights established under state or federal law.

(b) Prior to undertaking a water conservation or system efficiency improvement project that will result in a redistribution of saved water, the board of joint control must consult with the department of ecology and, if the board's jurisdiction is within a United States reclamation project, the board must obtain the approval of the bureau of reclamation. The purpose of such consultation is to assure that the proposal will not impair the rights of other water holders or bureau of reclamation contract water users.

(c) A board of joint control does not have the power to authorize a change of any water right that would change the point or points of diversion, purpose of use, or place of use outside the board's area of jurisdiction, without the approval of the department of ecology pursuant to RCW 90.03.380 and, if the board's jurisdiction is within a United States reclamation project, the approval of the bureau of reclamation. Any change in place of use that results from a transfer of water between the individual entities of the board of joint control shall not result in any reduction in the total water supply available in a federal reclamation project. In making the determination of whether a change of place of use in an area covered by a federal reclamation project will result in a reduction in the total water supply available, the board of joint control shall consult with the bureau of reclamation.

(d) The board of joint control shall notify the department of ecology, and any Indian tribe requesting notice, of transfers of water

between the individual entities of the board of joint control. This subsection (2)(d) applies only to a board of joint control created after January 1, 2003.

(3) A board of joint control is authorized to design, construct, and operate either drainage projects, or water quality enhancement projects, or both.

(4) Where the board of joint control area of jurisdiction is totally within a federal reclamation project, the board is authorized to accept operational responsibility for federal reserved works.

(5) Nothing contained in this chapter gives a board of joint control the authority to abridge the existing rights, responsibilities, and authorities of an individual irrigation entity or others within the area of jurisdiction; nor in a case where the board of joint control consists of representatives of two or more divisions of a federal reclamation project shall the board of joint control abridge any powers of an existing board of control created through federal contract; nor shall a board of joint control have any authority to abridge or modify a water right benefiting lands within its area of jurisdiction without consent of the party holding the ownership interest in the water right.

(6) A board of joint control created under this chapter may not use any authority granted to it by this chapter or by RCW 90.03.380 to authorize a transfer of or change in a water right or to authorize a redistribution of saved water before July 1, 1997. [2015 1st sp.s. c 4 § 53; 2003 c 306 § 3; 1998 c 84 § 2; 1996 c 320 § 11; 1949 c 56 § 12; Rem. Supp. 1949 § 7505-31.]