

Resource Contact: Coordination & Hydrology Section

Effective Date: 10-23-90

Revised: 10-23-90

References: Chapter 90.03 RCW
Chapter 90.44 RCW
Chapter 508.12 WAC

WATER RIGHTS

Purpose: To provide guidance and to ensure relevant factors are considered in the processing of applications to appropriate water and applications for change of water right.

Application: This procedure applies to all applications to appropriate water and applications for change of water right received pursuant to Chapters 90.03 and 90.44 RCW.

1. APPLICATIONS TO APPROPRIATE WATER

All applications to appropriate water will be processed in accordance with Chapter one (1) of this procedure.

2. APPLICATIONS FOR CHANGE OF WATER RIGHT

All applications for change of water right will be processed in accordance with Chapter two (2) of this procedure.

3. DOCUMENT RPOCESSING

Document processing to track water right records will be in accordance with Chapter three (3) of this procedure.

Hedia Adelsman
Program Manager
Water Resources Program

Table of Contents

Chapter One

Applications for Permits to Appropriate Water

	Page Number
I. Acceptance of Applications	1
II. Application Number.....	2
III. Public Notice.....	2
IV. Agency and Tribal Review of Applications	3
V. Protests.....	3
VI. Application Rejection	3
VII. Application Review by Permit Writer	4
VIII. Post Field Examination Checklist.....	5
IX. Report of Examination.....	6
X. Construction Schedule	8
XI. Permit Fee	8
XII. Thirty Day Appeal Provision.....	8
XIII. Issuance of Permits	8\
XIV. Beginning of Construction.....	9
XV. Completion of Construction.....	9
XVI. Proof of Appropriation.....	9
XVII. Extensions of Time on Permits	9
XVIII. Permit Cancellation Procedures.....	10
XIX. Assignments of Applications and Permits	10
XX. Proof Examination	11
XXI. Certificate.....	11
XXII. Corrections to Permits and Certificates	11
XXIII. Relinquishment and Recision	12
XXIV. Superseding Documents.....	12
XXV. Certificates of Change	12
XXVI. Reservoir Permits.....	12
XXVII. Dam Safety-Review of Engineering Plans	13

Chapter Two

Change of Water Right

I. Applications for Change	15
II. Control Number	15
III. Public Notice.....	16
IV. Agency and Tribal Review of Application	16
V. Protests.....	16
VI. Application Rejection	16
VII. Application Review by Permit Writer	17

VIII.	Post Field Examination Checklist.....	17
IX.	Generalized Outline for Report of Examination.....	17
X.	Construction Schedule	17
XI.	Permit Fee	17
XII.	Thirty Day Appeal Provision.....	18
XIII.	Issuance of Permits	18
XIV.	Beginning of Construction.....	18
XV.	Completion of Construction.....	18
XVI.	Proof of Appropriation.....	18
XVII.	Extensions of Time	18
XVIII.	Permit Cancellation Procedures.....	18
XIX.	Assignments of Applications	18
XX.	Certificate.....	19

Chapter Three
Document Processing

I.	WRIS Document Processing.....	20
II.	WRIS Control Numbers.....	20
III.	Document Microfilming	21

CHAPTER ONE

APPLICATIONS FOR PERMITS TO APPROPRIATE WATER

I. ACCEPTANCE OF APPLICATIONS

- A. Applications are date stamped on the day received. The date received will normally become the priority date if the application is accepted and has the correct filing fee. (See RCW 90.03.260 and RCW 90.03.270)
- B. The application is forwarded to the appropriate staff for review prior to acceptance. The application must contain sufficient information to prepare a proper public notice, or clarification must be obtained from applicant. Those public notice items are:
1. Name and city of residence.
 2. Date application received.
 3. Proposed source(s) and amount(s) of withdrawal/diversion.
 4. Purpose(s) of use.
 5. Period of use.
 6. Location of withdrawal/diversion.
- C. Check the list of closed sources and possible existing rights appurtenant to the proposed place of use before acceptance of applications. (See regional procedure.) If the source is closed to the proposed use, the application and fee are returned to the applicant with a letter of explanation. At the applicant's request, the application will be accepted for a formal determination so that appeal rights are preserved and priority date retained.
- D. In addition to the above items, the entire application should be reviewed to ensure that the application is complete and the information provided is appropriate. Those items include:
1. Signature(s) of applicant and legal landowner of place of use.
 2. Description of proposed place of use.
 3. Number of acres to be irrigated/number of domestic units.
- E. The statutory minimum fee must be received prior to application acceptance. If an additional exam fee is required, it must be requested within five (5) days of

- receipt of application. (See RCW 90.03.470 & WAC 508-12-140.)
- F. If the application is not complete, contact with applicant may be attempted or the application is returned by mail requesting all the needed information, including additional fees, due within thirty (30) days of filing the application to retain the original priority date.
- G. As stated in WAC 508-12-110, the general rule is that an application shall be filed for each separate source of water. This applies to ground water as well as surface water per WAC 508-12-220. The special instances stated for acceptance of an application for more than one source still apply; e.g., if two surface water sources join on the applicant's property.
- When a ground water application is made for more than one well on a single application, the proposed wells must withdraw from the same aquifer.
- H. Check status with regard to State Environmental Policy Act (SEPA, Chapter 43.21C RCW) and Environmental Coordination Procedure Act (ECPA, Chapter 90.62 RCW).

II. APPLICATION NUMBER

If an application is complete, it is formally accepted for processing by assigning an application number and filling in the priority date. (See Regional Procedures.)

III. PUBLIC NOTICE

- A. Public notice is prepared by the Regional office and sent to the applicant for publication in a newspaper of general circulation published in each county or counties where the proposed point(s) of withdrawal/diversion and place of use are located. The public notice must appear once a week for two (2) consecutive weeks. The public notice will contain the following information:
1. Name and city of residence.
 2. Application number and priority date.
 3. Proposed source and amount of withdrawal/diversion.
 4. Purpose(s) of use.
 5. Period of use
 6. Location of withdrawal/diversion.
 7. Manner and time limit for the filing of protests or objections to the application. (See RCW 90.03.280.)

B. Affidavit Review

An affidavit of publication, prepared by the newspaper, must be sent to the regional office. Check affidavit(s) to ensure that it contains the required information and that it is correct. A proper affidavit is an original document with a notary stamp.

IV. AGENCY AND TRIBAL REVIEW OF APPLICATIONS

In accordance with agreements with other agencies and tribes, copies of applications and other pertinent data are submitted to those agencies for their review and comments. (See POL-1105, and PRO-1105A for statewide notice and Regional Procedures for specific points of contact.)

V. PROTESTS

Written protests and objections to a specific application must be submitted with a \$2.00 filing fee and received within thirty (30) days of the last date of publication of notice. All other written or oral comments will be treated as concerns and may be addressed in the report of exam.

VI. APPLICATION REJECTION

A. Applicability

Rejection pertains only to applications that have file numbers assigned and for which no permit has been issued.

B. Reasons an application may be rejected

1. Affidavit of publication not received.
2. A field examination of project was not possible because applicant refused field examiner access to land.
3. Additional information was requested by the Department and not provided by applicant in the required time.
4. Failure to pay applicable fees.

C. Rejection Process

1. Send a letter requesting information or compliance and warning of possible rejection if there is no compliance within the specified time period.
2. Send a rejection letter if no response is received by the due date.

3. Retain all returned mail records (undeliverable, moved, etc.)
4. Wait thirty (30) days before processing files for archives.

D. Application Reinstatement

An application can be reinstated upon showing of good cause.

VII. APPLICATION REVIEW BY PERMIT WRITER

The field staff will conduct a review of the application to check: water availability; not detrimental to existing rights; if a beneficial use of the water is proposed; and if the proposal would be in the public interest. These four tests must be answered in the affirmative to issue a water right, and you address the four tests by doing A and B below. (See RCW 90.03.290)

A. Office Examination:

1. Verify public notice and expiration of thirty (30) day protest period.
2. Review all protests and comments including agency and tribal concerns.
3. Research existing rights.
4. Research potential for seawater intrusion for coastal wells, hydraulic continuity with closed or limited surface waters, etc.
5. If the Family Farm Act applies, ensure questionnaire has been completed.

B. Field Examination (Recommended Checklist)

All applications must be field examined unless exempted by the regional supervisor. Pending applications may be field examined before the end of the protest period.

1. Note existing project development.
2. Assess physical availability of water:
 - a. Measure or estimate flow of surface water source.
 - b. For ground water, obtain well report and well development data if available at time of inspection. Check static water level.
3. Describe the diversion/withdrawal system and distribution system, including actual or anticipated pump size, and compliance with well construction standards.
4. Determine the accuracy of information in the public notice.

5. Verify legal description with actual or proposed place of use.
6. Determine the number of acres feasible for irrigation and type of crop, period of use, or the number and type of units or population to be served if for domestic purposes. For all uses consider maximum and average water requirements. (See Quantity Allocation Guidelines and Washington State University, Quantity Allocation Guidelines, Circular 5-12.)

If the application is for hydropower development, determine the average fall distance (for the water) utilized by the project.

7. Check for possible hydraulic continuity, interference with existing rights including instream flows. Note the location of other wells or nearby diversions from the same source.
8. Attempt personal contact to verify the applicant's intentions and any other data that may be pertinent to the application.
9. If the application has been protested, personal contact with applicant and protestant is required except upon waiver by regional supervisor. As a general rule, the applicant should be contacted first.
10. Observe and describe local geology, vegetation, and other environmental factors that may impact water use.

NOTE: See regional procedures.

VIII. POST FIELD EXAMINATION CHECKLIST

- A. The applicant should be advised as soon as possible of other permitting requirements. The investigation should include attention to the need for the following applicable approvals.
 1. HPA from the Departments of Wildlife or Fisheries.
 2. Waste discharge permit from the Water Quality Program, or other Ecology approvals.
 3. Special Use Permits.
 4. Other local, state, or federal approvals.
 5. Approval from Department of Health, if applicable.

When other approvals from Ecology are required, the report writer shall receive verbal confirmation from the appropriate program that the required permits are approvable prior to issuance of the report of exam.

When an HPA is required, a proviso on the permit shall state that the HPA is required from the appropriate agency.

When water system approval from Department of Health (DOH) is necessary, the report writer shall contact DOH and receive verbal confirmation that the plans and specifications for the water system are reasonable and approvable prior to issuance of the permit. The permit shall issue with a proviso stating that DOH approval of the water system plan is required prior to issuance of a certificate.

- B. Check with regional SEPA coordinator to ensure SEPA compliance before Report of Examination is issued. No report of exam should be issued until SEPA is satisfied.
- C. Determine the reasonableness and accuracy of all information provided on the application.
- D. Family Farm: If the application is for irrigated agriculture, determine which classification is applicable and insure appropriate provisions are explicit in the report of exam. (See RCW 90.66.050)

IX. REPORT OF EXAMINATION

A Report of Examination must be written on all water right applications after the application protest period has expired.

A. General Report Outline

1. Background: Required Items

- Name of applicant
- Priority date
- Application number
- The source of water
- Summary of proposal, refer to the applicant's description of the project if appropriate
- Public notice has occurred
- Brief reference to comments/objections
- SEPA compliance, if required

Other items to be included in the background statement shall follow REGIONAL SPECIFIC policy.

B. Report Substance

1. Investigation

Identify the field examiner and the date of the field exam; description of the proposal; reference to office research; name of person(s) interviewed; determination of priority date.

What was found - locations (absolute and relative), depths, availability, flows, acreage, other rights, source, proposed or existing distribution system description.

Historical data, geology-hydrology, hydraulic continuity, sea water intrusion assessment, instream flow assessment, history of water use in area, other REGION-SPECIFIC concerns.

General use of stream or aquifer(s), technical analysis (pump tests, Theis equation, exceedence hydrographs, etc.).

2. Consideration of objections

Discussion of protest(s) point-by-point, including protestants' rights. (See WAC 508-12-170)

3. Conclusions

Can be narrative or point-by-point, but basically should address the following:

- a. Availability of water for appropriation.
- b. Estimate of adverse effect upon existing rights.
- c. Beneficial use. (See RCW 90.54.020 & RCW 90.14.031.)
- d. Is water use detrimental to public interest?
- e. Assessment of points raised by protestant.

4. Recommendations

Denial; Partial Denial; Approval; and Conditions.

Quantities (instantaneous and annual), acreage irrigated, use(s), period of use, whether the water use is consumptive or nonconsumptive, and those provisions necessary to satisfy identified concerns and agency objectives or those items required by rules.

On applications for hydropower development, determine if annual power license fees are required (See RCW 90.16.050). Inform the applicant, if appropriate, that annual power license fees are required at the time the permit is filed and on or before January 1 of each year thereafter.

C. Distribution of Report of Examination

All reports of examination on applications that were protested are sent with an order to the applicant and protestant(s) by certified mail. Reports of exam that pose a substantial difference from the terms of the application may be sent certified mail upon the discretion of the report writer. If the application received no protests, the report of examination is sent with an order, by first class mail, to the applicant.

X. CONSTRUCTION SCHEDULE

A reasonable construction schedule shall be determined in consultation with applicant.

XI. PERMIT FEE

A. Schedule of fees. See policy POL-XXX for appropriate schedule of fees (See RCW 90.03.470.).

B. Collection of fees

1. Application protested. On water right applications that were protested, do not request permit fees until the protest period on the report of examination has expired.
2. Application not protested. Request permit fees at the time the report of examination is issued. Process the fees upon receipt.

XII. THIRTY DAY APPEAL PROVISION

The thirty (30) day appeal period starts upon applicant's and/or protestant's receipt of the report of examination (See RCW 43.21B.310).

XIII. ISSUANCE OF PERMITS

Upon payment of correct permit fees, the permit is issued after the thirty (30) day appeal period has expired. For reports of exam sent certified mail, use the certified receipt date as the beginning of the appeal period. For reports of exam sent first class mail, wait thirty-five (35) days from the date the exam was mailed before issuing the permit. If the permit fees are not received within thirty (30) days of date requested, initiate application rejection process (see page 3).

XIV. BEGINNING OF CONSTRUCTION

Beginning of well drilling or any development of the source or distribution system constitutes beginning of construction.

XV. COMPLETION OF CONSTRUCTION

The distribution system must be complete. If the appropriation is from ground water, ensure that a well report has been received.

XVI. PROOF OF APPROPRIATION

Upon complete beneficial use of the water under the terms of the permit, or any lesser amount, a proof of appropriation (PA) form shall be submitted by the permittee.

A. Acceptance of PA Forms

1. For ground water permits, verify that a well report has been submitted by the permittee or the driller.
2. Check to see if all required information is shown on form and is consistent with the permit.
3. Check that the form is notarized. If the PA form is accepted from permittee in person, notarization is not necessary. In those cases sign your name and write "Office" in notary block.

XVII. EXTENSIONS OF TIME ON PERMITS

On a case by case basis, see RCW 90.03.320 and POL-???

A. Extensions in time for phases of development may be approved by the issuing regional office. Extensions shall be based on a showing of good cause, due diligence, and good-faith effort by the permittee, through submission of a written request for the extension with the proper statutory extension fee. (See RCW 90.03.470(7))

B. Guideline for Granting Extensions:

Generally, permits should not be extended more than five (5) years from date of issuance.

C. Submission of applications for change, or other issues raised by the permittee, shall not be reason to avoid extension fees.

XVIII. PERMIT CANCELLATION PROCEDURES

If the terms of the permit are not satisfied, a letter warning of cancellation is sent which provides a thirty (30) day response period. If response is inadequate, cancellation is initiated by a 60-day "show-cause" letter. Cancellation can also be requested by permittee.

Types of Cancellation

1. Request by permittee before sixty (60) day show-cause letter sent.
2. Request by permittee after sixty (60) day show-cause letter sent.
3. No response to the sixty (60) day show-cause letter.
4. A response to show-cause letter is submitted and determined to be inadequate.

Procedures

- A. The following items need to be in the file when reviewing it to prepare an Order of Cancellation:
 1. A letter from the permittee specifically requesting that the permit be canceled if the Type 1 or Type 2 Cancellation above is being used.
 2. A copy of the sixty (60) day show-cause letter for the Type 2, Type 3, or Type 4 cancellations.
 3. A response to the letter, if any.
- B. In the case where the Department has knowledge that development has been completed, telephone or personal contact with the applicant must be made before proceeding further.
- C. In all cases where a sixty (60) day show-cause letter has been sent, ensure that the sixty (60) days has elapsed before preparing Order of Cancellation.
- D. Orders of Cancellation prepared because of noncompliance with the development schedule need to indicate that construction has not begun, not been completed, or water not put to full use. Do not use language that merely indicates that notices of these events have not been filed.

XIX. ASSIGNMENTS OF APPLICATIONS AND PERMITS

- A. An application may be assigned to another person or persons by the applicant, with written consent of the department. A permit to appropriate water shall be assigned subject to the conditions of the permit. A partial assignment of a permit may result in multiple documents, each reflecting the extent of the assignment. Assignments of applications and permits are effected via an amended application/permit. No such assignment(s) shall be binding unless properly filed with the Department along with appropriate fee. (See RCW 90.03.310.)

- B. Assignment is not required when an applicant or permit holder changes his/her name (e.g. due to marriage). A memorandum to the file is made and an amendment is made to the document.

XX. PROOF EXAMINATION

- A. Determine extent of actual development in terms of uses, place of use, quantities, diversion locations, acreage irrigated (if any), etc. Proof examination is required unless exempted by Regional Supervisor.
- B. Check file for completeness and compliance with permit.
- C. Request fees. If there is a reduction in the right reflected by the certificate, notify the permittee when requesting fees.

XXI. CERTIFICATE

A certificate is issued after statutory state and county filing fees have been received.

After preparation of the certificate, it is forwarded to the county auditor(s), together with the appropriate recording fee, for entry into the county's permanent records. The auditor then forwards the recorded document to the certificate holder.

XXII. CORRECTIONS TO PERMITS AND CERTIFICATES

- A. Corrections of administrative and/or clerical errors in data determined solely from the departmental records which do not alter conditions of the permit or certificate, will not require the submission of a change application or the issuance of a superseding document. A memorandum to the file will be prepared and made a permanent part of the permit/certificate file.
- B. Corrections of departmental errors which do alter the conditions of a permit and/or certificate will be made via a superseding permit or certificate with the same number, referencing the date of issuance of the original. Such a correction must be checked for consistency with public notice and re-advertised if not consistent.
- C. Correction of information provided by the permittee or right holder which is different from the information in the notice of publication, or the description of place of use under which the permit or certificate issued, requires an application of change and will result in a superseding document if approved.

XXIII. RELINQUISHMENT AND RECISION

- A. Relinquishment is voluntary surrendering of a right or the loss of a water right, or

part of the right, for failure to beneficially use all or any part of the right for five years. This failure to use the right can be by abandonment or voluntary non-use without sufficient cause for non-use. (See Chapter 90.14 RCW.)

- B. Recision is an administrative process whereby a water right is rescinded (revoked) because the water use was never perfected. This is different from relinquishment because no water right was ever properly developed.

XXIV. SUPERSEDING DOCUMENTS

Actions that result in superseding documents are the following:

- A. Corrections which alter conditions of a permit or certificate.
- B. Corrections in information from the applicant as described in section XXII, C above.
- C. Relinquishment (either whole or in part).
- D. Recision.
- E. Change of fact. (See "Applications for change" below.)
- F. Partial assignments affecting permits only.

NOTE: Superseding documents will have the same number and reference the date of issuance of the original. For partial assignments, the letters A through Z are used after the stage designation to indicate a split record.

XXV. CERTIFICATES OF CHANGE

Certificates of change will issue only on claims under Chapter 90.14 RCW and on prior certificates of change where insufficient information is available for issuing a superseding document.

XXVI. Reservoir Permits

For the storage of ten acre-feet or more of water in either an onstream or offstream reservoir, a reservoir permit is required. A reservoir is defined as an impoundment with a dam or dike retaining water to a depth of 10 or more feet (as measured at its deepest point), and/or retaining more than 10 acre-feet of water. A reservoir permit is applied for on a reservoir application form and processed the same as a normal water right.

Unless otherwise specified, a reservoir permit authorizes the filling of the reservoir once a year and the permit shall explicitly state the time period for filling. Reservoir permits

shall be issued for an annual quantity stated in acre-feet equal to the volume of the reservoir at normal pool elevation. If the applicant proposes additional filling, i.e. more than once a year, further application for the additional water must be made (See WAC 508-12-270).

In summary, a reservoir permit is necessary when:

1. Water is stored in a reservoir.
2. Water in excess of ten acre-feet or ten feet deep is stored in an excavation even if only a small portion of the reservoir is contained by a dam or dike above the original land surface.

A reservoir permit is not required:

1. For the storage of water in a quantity less than 10 acre-feet and/ or the depth of the pool is not greater than 10 feet.
2. For the storage of water in an excavation with no above grade water retaining structures.
3. When water previously diverted under a separate appropriative water right is stored, when the storage facility does not meet the definition of a reservoir.

Although no reservoir permit may be required in the above cases, a diversionary permit may be applicable. For example, the filling of below grade excavations by a surface diversion or use of ground water from a well requires a water right for the source. The filling of below grade excavations does not required a water right permit, if the filling is accomplished by natural overland flow or ground water infiltration.

For the beneficial use of water beyond the confines of the reservoir a water right permit is needed. The application for such a water right shall refer to the reservoir as its source. When the reservoir is not owned by the applicant, the applicant shall show documentary evidence that an agreement has been entered into with the owners of the reservoir for a permanent and sufficient interest in said reservoir to impound enough water for the purposes set forth in the application. A certificate issued on such a permit shall refer to the reservoir as its source.

XXVII. DAM SAFETY - REVIEW OF ENGINEERING PLANS

Any person intending to construct or modify any dam or controlling works capable of impounding ten acre-feet or more of water at dam crest shall submit plans and specifications of the same to the Dam Safety section for examination and approval as to its safety (See RCW 90.03.350). For dams constructed without prior approval of construction plans, conditional approval of a reservoir storage permit may be issued with

a proviso requiring the applicant to prove the structure is safe. The following is an example proviso:

Permit is issued contingent upon demonstration that the dam or controlling work meets current engineering standards for structural stability, hydraulic capacity, and safe operation.

If the applicant does not comply with the proviso within a reasonable time, the permit is canceled.

CHAPTER TWO

CHANGE OF WATER RIGHT

I. APPLICATIONS FOR CHANGE

Applications for change can be used to correct a document as described under XXII, C above and to change a water use as documented by a recorded water right, permit, claim, or previously issued certificate of change. Changes for this purpose are:

Change of place of use.

Change of purpose of use.

Change of POD and POW.

Adding point(s) of diversion/ withdrawal.

All changes, including seasonal changes, will represent a "change in fact." In other words, only an actual use can be changed while retaining the priority date. It follows that no undeveloped portion of a permit may be considered for transfer or change, except for a change in the POD or POW for geologic or engineering reasons.

Seasonal changes may be approved.

Those applications for change which are subject to denial should first be returned to the applicant with a letter stating that the application will be denied; however, it will be accepted upon the insistence of the applicant. A formal order of denial is issued where applicable.

Applications for change may be approved for use only within the original period of use and may not result in an enhancement of the original use.

Applications to change the source of supply from surface water to ground water and vice versa may be accepted under certain circumstances. (This may be changed pending hydraulic continuity outcome.)

The processing of applications for change is similar to that of new water right applications, with certain exceptions as noted below. An application shall be filed for each separate permit, certificate, or claim that the applicant proposes to change.

II. CONTROL NUMBER

An application for change number is assigned according to regional procedures. See regional procedure.

III. PUBLIC NOTICE

A. A public notice is prepared by the Regional office and sent to the applicant for publication in a newspaper of general circulation published in the county/counties where the withdrawal/diversion and place of use takes place. The public notice must appear once a week for two (2) consecutive weeks. The public notice must contain at least the following information:

1. Name of applicant.
2. Permit, certificate or claim number to be changed and a narrative description of the existing right and proposed change(s).
3. Manner and time limit for the filing of protests or objections to said application.

B. Affidavit review.

Same as an application for permit.

IV. AGENCY AND TRIBAL REVIEW OF APPLICATION

Same as an application for permit.

V. PROTESTS

Same as an application for permit.

VI. APPLICATION REJECTION

A. Applicability:

To any change application that has been accepted and processed.

B. Reasons:

Same as an application for permit. Additionally, the application for change may be rejected upon a finding that the applicant has no standing to change the use or that the water use to be changed has no legal basis. At the applicants insistence a formal denial may be issued where appropriate.

C. Administrative Process:

Same as an application for permit.

D. Application reinstatement:

Same as an application for permit.

VII. APPLICATION REVIEW BY PERMIT WRITER

The field staff will conduct a review of the application to determine the following: if a right eligible for change exists; water availability; interference with existing rights; if a beneficial use of water is proposed; and if the proposed change would be detrimental to the public interest. (See RCW 90.03.380.)

Nothing in the change process shall impose a reduction or diminishment to any existing right(s). If the proposed change would impair existing rights, either deny the change or offer a compromise that ensures the proposed change will not impair existing rights. The compromise may include flow restrictions.

The remainder of this section is the same as cited in Section VII, Chapter I.

VIII. POST FIELD EXAMINATION CHECKLIST

Same as an application for permit.

IX. GENERALIZED OUTLINE FOR REPORT OF EXAMINATION

Report of Examination is handled according to regional procedures.

CONSIDERATION OF OBJECTIONS:

Discussion of protest(s) point-by-point.

CONCLUSIONS:

Must address whether or not the proposed change(s) will impair existing rights and, in the case of a ground water right, that the new well(s) will tap the same body of ground water. The writer should specifically address the rights of protestant and the probable effect thereon, but others' rights should be considered. (See RCW 90.44.100.)

RECOMMENDATIONS:

Same as an application for permit.

X. CONSTRUCTION SCHEDULE

Same as an application for permit.

XI. PERMIT FEE

No fee required.

XII. THIRTY DAY APPEAL PROVISION

The Report of Examination and Order do not have the effect of an authorization for change until after expiration of the thirty (30) day appeal period.

XIII. ISSUANCE OF PERMITS

If the change is to a permit, a superseding permit is issued. This may impact the original development schedule. If the change is to water uses represented by another document, a permit is not issued but a development schedule may be imposed upon the applicant.

XIV. BEGINNING OF CONSTRUCTION

Same as an application for permit.

XV. COMPLETION OF CONSTRUCTION

Same as an application for permit.

XVI. PROOF OF APPROPRIATION

Same as an application for permit.

XVII. EXTENSIONS OF TIME

On a case by case basis, see 90.03.320 RCW and POL-???

- A. Extensions in time for phases of development may be approved by the issuing regional office. Extensions shall be based on a showing of good cause, due diligence, and good-faith effort by the permittee, through submission of a written request for the extension with the proper statutory extension fee. (See RCW 90.03.470(7))
- B. Submission of applications for change, or other issues raised by the permittee, shall not be reason to avoid extension fees.

XVIII. PERMIT CANCELLATION PROCEDURES

A superseding permit issued upon an application for change may be canceled if the permittee does not comply with all conditions. See section "Permit Cancellation Procedures" in the application for permit section. Any other authorization for change can be revoked and the application for change rejected.

XIX. ASSIGNMENTS OF APPLICATIONS

Same as an application for permit.

XX. CERTIFICATE

The end product of the change process is:

	<u>Item to be Changed</u>	<u>Resulting Document</u>
A.	Certificated Water Right	Superseding Certificate
B.	Water Right Permit	Superseding Permit
C.	Vested Water Rights and Certificate of Change	Certificate of Change

After preparation of a document, other than a permit, it is filed with the state then forwarded to the county auditor(s), together with the appropriate recording fee, for entry into the county's permanent records. The auditor then forwards the recorded document to the right holder.

CHAPTER THREE

DOCUMENT PROCESSING

These procedures are to ensure that documents pertaining to water rights are recorded in the Water Rights Information System (WRIS) and the documents are microfilmed appropriately. These two activities are performed by different sections within the agency. The WRIS system is maintained by the Administrative and Data Management Section within the Water Resources Program and the microfilming is done by the Records Management Section within the Budget, Accounting & Support Services Program.

I. WRIS DOCUMENT PROCESSING

- A. The following documents are to be sent to the WRIS Coordinator: Copies of applications, amended applications, amended permits, superseding permits, permits, certificates, superseding certificates, certificates of change, relinquishments, and cancellations of applications or permits.
- B. Do not send copies of partial relinquishments which are covered by superseding documents or temporary permits. These are not traced in WRIS.
- C. The following information should be noted on all documents transmitted to the WRIS Coordinator:
 1. Water Resource Inventory Area (WRIA) designations.
 2. WRIS control number (i.e., G4-26954C).
 3. In the case of modifications to an existing document (certificate of change, etc.), note the WRIS control number of the document being notified.
 4. For each purpose of use listed on the document, note whether that use is supplemental, consumptive, or nonconsumptive.
 5. For each water right, note the number of points of diversion or withdrawals.
 6. For all water right certificates that have provisos, cite all of the provisos that apply to the certificate.

II. WATER RIGHT INFORMATION SYSTEM CONTROL NUMBERS

This alpha-numeric field is used to identify and track water rights in WRIS. An

example number would be: G4-22245P. The first character in the field identifies the water source type: (G) ground; (S) surface; or (R) reservoir water. The second character identifies the Ecology regional office issuing the right: (1) NWRO; (2) SWRO; (3) ERO; (4) CRO. The third character identifies the status of the number: (*) old number issued before the development of WRIS; (-) new number - issued since the development of WRIS; (+) split number - issued in ERO before the creation of the CRO and the right is administered out of CRO. The next five digits represent the number assigned to the right when it was accepted as an application (these numbers are issued sequentially). Following the five digit number is the stage designation: (A) application; (P) permit; (C) certificate; (J) adjudicated certificate; (D) declaration claim; (S) declaration certificate; (T) temporary permit; (F) energy facilities site evaluation council application, permit, or certificate; (B) family farm permit; (G) family farm certificate; (I) family farm development permit; (K) family farm development certificate; (M) publicly owned land permit; (N) publicly owned land certificate; (V) public water entity permit; (W) public water entity certificate. Stage designations change as the right proceeds through the system.

If an application or permit is divided between several entities, a split record results. The letters A through Z are used after the stage designation to indicate a split record.

A small percentage of water rights need to have their CONTROL #'s modified to allow their entry into WRIS. The water right may have to be entered more than once to allow proper coding (i.e. split records - multiple points of diversion from multiple sections). When this happens, two to three additional letters may be added to the CONTROL # as a suffix to facilitate tracking. These codes are the Record Modifier and the Reason for Modifier.

Prior to the development of WRIS, a different numbering system was used by the regions to track water rights. Under the old system, each water right was issued a new number as its stage changed (i.e. when an Application was processed and a Permit was issued, the right was given a separate Permit number; likewise, if the Permit went to a Certificate, it received a Certificate number. These numbers were issued sequentially within their respective stages, and were not cross-referenced to their previous stage, nor were they unique from a statewide perspective. This numbering system was discontinued when WRIS was developed.

III. Document Microfilming

A. The following should be done before a water right file is forwarded to Records Management Programs for microfilming. Please make sure that the file contains the following material when appropriate:

1. Progress sheet.

2. Certificate.
 3. Notices of beginning of construction, completion of construction, etc.
 4. Proof of appropriation.
 5. Well log.
 6. Permit.
 7. Report of examination.
 8. Affidavit of publication.
 9. Form letter for publication.
 10. Application.
- B. Authorization to issue permit or certificate should be noted on a letter or other document rather than on an envelope or small scrap of paper. This will eliminate one extra image. Notes on little scraps of paper are difficult to film and are sometimes missed completely.
- C. Within the water right process, if a permit is canceled or changed, that information must be filmed also.
- D. Make sure all material is of filmable quality. Make explicit reference to copies of documents that are from a microfilm reader-printer, for example, water right claims. If this material is important to the file, please make a note of the document control number so it can be referenced.
- E. Remove or stamp "DO NOT FILM" on all personal notes. Please remember all records are public documents and will be around a long time.
- F. Remove all staples and paper clips. Tear apart any connecting sheets, the water right application is a good example.
- G. Make sure all green certified mail cards are taped (please remember no staples) to the correspondence below the signature or signature space.
- H. Remove data processing transaction sheet. Do not send with file for filming (mag card).
- J. Remove all duplicates. Handwritten original report of exam and/or field notes should be kept in the file unless an exact duplicate has been typed.

- K. To avoid duplication of effort and to ensure material is not duplicated in the microfiche please:
1. Send Records Management only original material (whenever possible). WRIS Coordinator should receive only copies for entry into WRIS.
 2. Check your copy of microfiche before sending miscellaneous material to be added as an update into microfiche. Duplication of these efforts is becoming costly.
 3. Please follow all procedures outlined here. Your cooperation is needed to ensure all water right filming and updating processes can proceed smoothly and in a timely manner. Thank you.

- L. Put files into boxes in numerical order in the following categories:

New files—list in the following manner:

GW & SW CERT'S—NEW #S
GW & SW CANCELED APPLICATIONS—#S
GW & SW CANCELED PERMITS—NEWS #S

GW & SW CERT'S—OLD #S
GW & SW CANCELED APPLICATIONS—OLD #S
GW & SW CANCELED PERMITS—OLD #S

CANCELED APPLICATIONS FOR CHANGE
CERT'S FOR CHANGE—NEW #S
CERT'S FOR CHANGE—OLD #S

Updates

GW & SW CERT'S—NEW #S
GW & SW CERT'S—OLD #S
GW & SW CANCELED APPLICATIONS—NEW #S
GW & SW CANCELED APPLICATIONS—OLD #S
GW & SW CANCELED PERMITS—NEW #S
GW & SW CANCELED PERMITS—OLD #S
DECLARATIONS

PARTIAL RELINQUISHMENTS—NEW #S
PARTIAL RELINQUISHMENTS—OLD #S

FULL RELINQUISHMENTS—NEW #S

FULL RELINQUISHMENTS—OLD #

SUPERSEDING CERT'S—NEW #S

SUPERSEDING CERT'S—OLD #S

WATER RIGHT CLAIM FILES—LIST SEPARATELY
UNDER EACH CATEGORY

ADJUDICATED CERT'S—USE SAME PROCEDURE

Special Note: These policies and procedures are used to guide and ensure consistency among water resources program staff in the administration of laws and regulations. These policies and procedures are not formal administrative regulations that have been adopted through a rule-making process. In some cases, the policies may not reflect subsequent changes in statutory law or judicial findings, but they are indicative of the department's practices and interpretations of laws and regulations at the time they are adopted. If you have any questions regarding a policy or procedure, please contact the department.

STATE AND TRIBAL COMMENTS ON WATER RIGHT APPLICATIONS, DISPUTE RESOLUTION

Resource Contact: Coordination and Technical Services Section

Effective Date: 2-11-90

Revised: 2-11-90

References: POL- 1105
MOU Among Ecology/WDW/WDF

Purpose: To outline a resolution process for disagreements between Ecology and the Washington State Department of Fish and Wildlife or an Indian Tribe, when they have commented on a proposed appropriation and there is a dispute.

Application: This policy applies only to comments received on water right applications filed pursuant to chapters 90.03 and 90.44 RCW.

1. The permit writer will ensure comments are understood

If clarification of comments is required, the commenting official will be contacted by the permit writer assigned to the application in question. The permit writer and the commenting official will attempt to resolve any differences related to the factual situation of the application. Joint field reviews will be conducted, if necessary. The permit writer will use all available resources, including staff from other programs within Ecology, to develop information necessary for the commentor to properly evaluate the application.

2. The permit writer is the first level of dispute resolution

If differences of opinion exist as to the effects of the proposed appropriation, the permit writer will attempt to work those differences out with the commenting official. If differences cannot be resolved, the permit writer will seek guidance from the section supervisor and again attempt to resolve any differences with the commenting official.

3. The section supervisor is the second level of dispute resolution

When the permit writer is unsuccessful at resolving the dispute, the section supervisor will attempt dispute resolution with the commenting official. If differences of opinion cannot be worked out between the regional office and the commenting official, the section supervisor will seek guidance from the program manager.

4. The program manager is the final level of dispute resolution

Because of different statutory mandates or interests, all disputes may not be resolved. A report of examination, which significantly deviates from the substantive comments provided by the Department of Fish and Wildlife or an Indian Tribe, may be issued only upon approval of the program manager.

Hedia Adelsman
Program Manager
Water Resources Program

Special Note: These policies and procedures are used to guide and ensure consistency among water resources program staff in the administration of laws and regulations. These policies and procedures are not formal administrative regulations that have been adopted through a rule-making process. In some cases, the policies may not reflect subsequent changes in statutory law or judicial findings, but they are indicative of the department's practices and interpretations of laws and regulations at the time they are adopted. If you have any questions regarding a policy or procedure, please contact the department.

PROCEDURE FOR NOTIFICATION OF WATER RIGHT ACTIONS TO THE DEPARTMENT OF REVENUE

Resource Contact: Information Technology Section

References: *Memorandum of Understanding between the Washington State Department of Ecology and the Washington State Department of Revenue related to the sharing of information by the Department of Ecology with the Department of Revenue related to water rights transactions that may be subject to the real estate excise tax (REET).*

Purpose: To implement the *Memorandum of Understanding between the Washington State Department of Ecology and the Washington State Department of Revenue related to the sharing of information by the Department of Ecology with the Department of Revenue related to water rights transactions that may be subject to the real estate excise tax (REET).*

Application: This procedure applies to Ecology staff processing 1) water right change applications changing the place of use or consolidating exempt withdrawals, 2) trust water right forms permanently changing the place of use 3) approval or partial approval of those change requests, 4) assignments of applications and permits, all pursuant to chapters 90.03, 90.44 and 90.80 RCW.

1. Documents for Department of Revenue

- a. Scanned images of permanent trust, Water Conservancy Board and Ecology change and assignment documents should be provided to the Department of Revenue by Water Resources staff. This procedure applies to the following documents:
 - i) **Copies of change applications.** Mark in the progress sheet that copies were sent to Revenue by writing "REET" and the date the document was sent next to other related entries. SEND WITHIN 30 DAYS.
 - ii) **Copies of the orders approving changes and the underlying Report of Examination (ROE).** Wait until the appeal period has expired, then SEND WITHIN 5 DAYS. Mark in the progress sheet that copies were sent to Revenue by writing "REET" and the date the document was sent next to other related entries.
 - iii) **Copies of Water Conservancy Board Record of Decisions (ROD), ROEs and orders approving those decisions.** Wait until the appeal has expired, then SEND WITHIN 5 DAYS.
 - iv) **If any order is appealed, wait until the appeal is resolved.** Copies of orders upheld on appeal (partially or wholly), ROEs and board or court decisions should be SENT WITHIN 5 DAYS.
 - v) **Completed assignment forms.** Mark in the progress sheet that copies were sent to Revenue by writing "REET" and the date the document was sent next to other related entries. SEND WITHIN 30 DAYS.

- b. Scan images in TIFF format. If the following options are available, please use them:
 - i) "Dots per inch" or DPI equals 300
 - ii) "Group four compression" or TIFF4
 - iii) Grayscale
 - iv) If the document is more than one page, create multi-page files rather than a separate file for each page.
 - c. Copy the scanned images in TIF format to the following internet server:
<\\ecylcyapwr03\dor\NWRO> or SWRO or ERO or CRO.
 - i) Permission must be granted to post to the server; contact the Water Resources IT Section to change access rights.
 - ii) Contact the Water Resources IT Section for assistance, if needed, with mapping a drive letter on your PC to the internet server.
 - d. Place the documents in the folder for your region.
 - e. Name the files however you want, but insure that no name is used more than once. Using the default names assigned by the scanner is an easy option. Multiple page documents scanned into multiple files should be named to indicate the files are related.
 - f. Internet postings can be viewed at <https://fortress.wa.gov/ecy/wrx/wrx/export/dor>
2. Notification of permittees (this does not include permanent trusts)
- a. When approving change requests, staff shall notify the applicant or permittee that the decision may have tax implications.
 - b. The notice should use this language (without the quotation marks):

“This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore will be given notice of this decision, including document copies. Please contact the state Department of Revenue to obtain specific requirements for your project. Phone: (360) 570-3265. The mailing address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia WA 98504-7477 Internet: <http://dor.wa.gov/> E-mail: REETSP@DOR.WA.GOV.”
 - c. The notice can be in the form of a separate insert or as language inserted into a cover letter that accompanies other documents (e.g., copy of the ROE in the case of non-trust decision or a copy of the 45-day Conservancy Board Notice letter in the case of Conservancy Board Decisions).

Joe Stohr, Program Manager
Water Resources Program

PROCEDURE FOR NOTIFICATION OF WATER RIGHT APPLICATIONS TO INDIAN TRIBES

Resource Contact: Coordination and Technical Services Section

Effective Date: 5-1-90

Revised: 5-1-90

References: POL-1105
PRO-1043A

Purpose: To implement POL-1105

Application: This procedure applies to all water right applications received pursuant to chapters 90.03 and 90.44 RCW.

1. Notify the appropriate Indian Tribe

The Department of Ecology, Water Resources Program, will notify the appropriate Indian tribe of water right activities which affect waters that border, flow through, or are within the exterior boundaries of their Indian reservation, their usual and accustomed fishing areas, or traditional use areas. Notification concerning new water right applications and applications to change existing water rights will consist of a copy of the application and a map with the point of diversion demarcated.

2. Notification is Tribal specific

Each tribe has specific concerns related to water resource management. The attached table is a list of the tribes organized alphabetically, their area of interest listed as water resource inventory areas (WRIAs), the person to whom the notification is sent, and any special notes. The region specific procedure should also be reviewed for special notes, etc., concerning each tribe.

When a water right application or application for change to an existing water right is received, personnel will determine the WRIA in which the source is located. If the proposed source is within a WRIA listed as a tribal area of concern, and the proposed appropriation is greater than any tribal specific threshold, then the tribal contact will be sent notification.

3. Tribes may update their areas of concern

The Tribes may update their areas of concern at any time. When a tribe contacts the Coordination and Technical Services Section to request a change in areas of interest, a revised tribal table will be sent out. If a tribe requests a change in an area of interest through a regional office, please inform the Coordination and Technical Services Section.

Hedia Adelsman
Program Manager
Water Resources Program

Special Note: These policies and procedures are used to guide and ensure consistency among water resources program staff in the administration of laws and regulations. These policies and procedures are not formal administrative regulations that have been adopted through a rule-making process. In some cases, the policies may not reflect subsequent changes in statutory law or judicial findings, but they are indicative of the department's practices and interpretations of laws and regulations at the time they are adopted. If you have any questions regarding a policy or procedure, please contact the department.

Revised 6/19/90

TRIBE	WRIAS OR INTEREST AREA	REGION	SURFACE OR GROUND	WHOM TO SEND INFORMATION TO	SPECIAL NOTES
Colville	45, 46, 47, 48, 49, 50, 51, 52, 53, 58, 59, 60,61	ERO & CRO	Both	Gary Passmore, Director Environmental Trust Colville Confederated Tribes P.O. Box 150 Nespelem, WA 99155	Both surface and groun for WRIAs 50, 51, 52,53, 58, 60, 61. Surface water only for WRIAs 45, 46, 47, 48, 49. Two special areas in WRIA 47 & 49. Palmer Lake and Wapato Point for ground water applications only.
Confederated Tribes and Bands of the Yakima Indian Nation	29, 30, 31, 32, 33, 35, 38, 39, 40, 45, 46, 47, 48	ERO & CRO	Both	Carroll Palmer, Director Natural Resources Division Yakima Indian Nation P.O. Box 151, Fort Road Toppenish, WA 98948	
Elwha	14, 16, 17, 18, 19, 20, 21	SWRO	Both	Ralph Kipansky Tribal Planner Lower Elwha Tribal Council 1666 Lower Elwha Road Port Angeles, WA 98362	
Jamestown Klallam Tribe	17 & 18	SWRO	Both	Ann Seiter Fisheries Manager Jamestown Klallam Tribe 305 Old Blyn Highway Sequim, WA 98382	
Kalispel	62	ERO	Both	Dale Chess Timber, Fish and Wildlife Biologist Upper Columbia United Tribes Fisheries Center Eastern Washington University Department of Biology Cheney, WA 99004 Glen Nenema, Chairman Kalispel Tribe P.O. Box 38 Usk, WA 99180	All surface water and ground water exceeding 10 spm.

Pro-1105A Procedure for Notification of Water Right Applications to Indian Tribes

TRIBE	WRIAS OR INTEREST AREA	REGION	SURFACE OR GROUND	WHOM TO SEND INFORMATION TO	SPECIAL NOTES
Lummi Indian Business Council	1	NWRO	Both	Water Resource Planner Lummi Indian Fisheries 2616 Kwina Road Bellingham, WA 98226	
Muckleshoot Indian Tribe	8, 9, 10	SWRO & NWRO	Both	Holly Coccoli Muckleshoot Indian Tribe 39015 – 172nd Avenue SE Auburn, WA 98002 Walter Pacheco Muckleshoot Indian Tribe 39015 172nd Avenue SE Auburn, WA 98002	Must send two notices. Also send monthly summary of well drilling activity.
Point No Point Treaty Council	14, 15, 16, 17, 18, 19	SWRO & NWRO	Both	Margie Schirato Point No Point Treaty Council Skokomish Fisheries Office North 541 Tribal Center Rd Shelton, WA 98584 Bob Heinith Water Resource Biologist Point No Point Treaty Council 7850 NE Klallam Road Kingston, WA 98346	
Puyallup	10 & 12	SWRO	Both	Russ Ladley Environmental Biologist 2002 East 28th Street Tacoma, WA 98404	Not interested in applications for ground water less than 500 gpm or surface less than 1 cfs.
Shoalwater Bay	24	SWRO		J. Bruce Pedersen Shoalwater Bay Indian Tribe Tokeland, WA 98590	No need to send notification as of now.
Skagit System Cooperative	3	NWRO	Both	Joe Shedlock Skagit System Cooperative P.O. Box 368 LaConner, WA 98257-0368	

Pro-1105A Procedure for Notification of Water Right Applications to Indian Tribes

TRIBE	WRIAS OR INTEREST AREA	REGION	SURFACE OR GROUND	WHOM TO SEND INFORMATION TO	SPECIAL NOTES
Skokomish	14, 15, 16	SWRO/NWRO	Both	Skokomish Indian Tribe N. 80 Tribal Center Road Shelton, WA 98584	
Spokane	53, 54, 58, 59	ERO	Both	Dr. Alan Scholz Upper Columbia United Tribes Fisheries research Center Eastern Washington University Cheney, WA 99004	
Squaxin Island Tribe	13, 14, & part of 15	SWRO/NWRO	Both	Jeff Dickison, Biologist Squaxin Island Tribe Natural Resources Department West 81 Highway 108 Shelton, WA 98584	
Stillaguamish	5	NWRO	Both	Pat Stevenson Environmental Biologist Stillaguamish Tribe of Indians 3439 Stoluckquamish Lane Arlington, WA 98223	
Suquamish	15	NWRO	Both	Phyllis Meyers Environmental Biologist The Suquamish Tribe P.O. Box 498 Suquamish, WA 98392	
Swinomish	3	NWRO	Both	On Reservation: Allan Olsen & A.J. Kuntze II Office of Tribal Council P.O. Box 817 950 Moorage Way LaConner, WA 98257	Prior to visiting the reservation contact Planning Office so they can coordinate activities
Tulalip	5, 6, 7		Both	Bell & Ingram Attn: Allen H. Sanders Wall Street Building Suite 1000 2930 Wetmore Avenue Everett, WA 98201	

Pro-1105A Procedure for Notification of Water Right Applications to Indian Tribes

TRIBE	WRIAS OR INTEREST AREA	REGION	SURFACE OR GROUND	WHOM TO SEND INFORMATION TO	SPECIAL NOTES
Tulalip (continued)				<p>Mr. Chris Spens Watershed Specialist Tulalip Fisheries Dept Tulalip Tribes of Washington 3901 Totem Beach Road Marysville, WA 98270</p> <p>Pirtle, Morisset, Schlosser & Ayer Mr. Mason Morisset Suite 1500 Seattle Trust Tower 1002 Avenue Settle, WA 98104 PH 386-5200</p>	

PRO-1210 WATER RESOURCES PROGRAM PROCEDURE

CALCULATING AND APPLYING THE ANNUAL CONSUMPTIVE QUANTITY (ACQ)

Contact: Policy and Planning Section

Effective Date: 07/12/04

Revised: 10/12/10

References: Chapter 90.03.380(1) RCW, RCW 90.03.615, RCW 90.44.100, GUID-1210

Purpose: In accordance with RCW 90.03.380(1), the Water Resources Program is required to determine that the annual consumptive quantity under a water right proposed for a change to add acreage to an irrigation right or to add purposes of use is no greater after the change.

Definition: Annual Consumptive Quantity means the estimated or actual annual amount of water diverted pursuant to the water right, reduced by the estimated annual amount of return flows, averaged over the two years of greatest use within the most recent five-year period of continuous beneficial use of the water right.

1. **Data Sources:** Calculation of the ACQ can be made through analysis of one or more of the following: (1) flow meter, (2) power meter, (3) crop production or sales, (4) aerial photography or maps combined with Washington Irrigation Guide (WIG)/consumptive use estimates (i.e. Penman-Monteith calculation, Public Agricultural Weather System (PAWS), etc.), or (5) affidavits demonstrating water use. The most accurate data sources should be used based upon the best professional judgment of the permit writer. Accordingly, water use estimates should be compared across a variety of multiple data sources to obtain the most accurate assessment of water use. For example, the use of aerial photography and crop irrigation requirement (CIR) data generally would be less preferable than flow meter or power meter data, unless the power or flow meter data was deemed to be flawed or unreliable. However, flow meter or power meter data could be corroborated by aerial photos or crop data.
2. **Continuous Beneficial Use:** Five years of continuous use are required by RCW 90.03.380(1), although use during some or all of the five years may be only a small fraction of the claim or right. Complete nonuse of a water right in a year or season, even if excused due to a qualifying sufficient cause for relinquishment, does not constitute continuous use, but rather is a discontinuous use. Because a five-year period of continuous use of the water is required, applications for change where there is no five-year period of continuous beneficial use cannot be approved.
3. **Period of Evaluation:** Evaluation of the “most recent five-year period of continuous beneficial use” is required by RCW 90.03.380(1). Where more than one five-year period of continuous beneficial use of the water right has historically occurred, the most recent period shall be used in this calculation. The first period to consider is the five years immediately

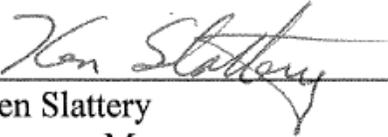
preceding the decision date of the application for change or from the date of a Water Conservancy Board Record of Decision. The first year to be included in the period of evaluation will generally be the full season or year immediately preceding the decision date of the application for change. Depending on the method of calculation and the availability of metering or power consumption data, it may not be possible to use the most recent season or year because the data is not reasonably available. The permit writer may exercise judgment when determining the availability of data to support the ACQ calculation. However, the principle to be adhered to is, if the data is or should be reasonably available at the time the decision is made, the most recent year should be used. If discontinuous use occurred in the five years immediately preceding the decision date of the application for change, then the permit writer may investigate historic water use to find the “most recent” period of use that is 5 years in length, and is continuous.

Exception: If, when calculating the annual consumptive quantity, the water right has been in the trust water rights program or a water bank under RCW 90.92, or the nonuse of the water right has been excused from relinquishment under RCW 90.14.140 or RCW 90.44.520, the department shall look to the most recent five-year period of continuous beneficial use preceding the date where the excuse for nonuse under RCW 90.14.140 or RCW 90.44.520 was established and remained in effect.

4. “Estimated” or “actual” consumptive use: For all practical purposes, every calculated ACQ is an estimate. Always be aware of the limitations in the data and the resulting error in the analysis. Ecology’s water measurement rule (Chapter 173-173 WAC) provides for certain flow meter errors up to ten percent. If questions involving measurement error arise, permit writers are encouraged to seek technical assistance from qualified technical staff.
5. Return flow calculation: Use the WIG, PAWS, or other crop consumptive use estimates to determine evapotranspiration (ET) rates for crops. Use Department of Health, water system planning, or other data and literature to estimate consumptive use for other “units” (i.e. people, cows, etc.). Compare total use to consumptive use estimates. If the total use is less than or equal to the consumptive use, then it may be reasonable to assume nearly all applied water was consumptively used (i.e. deficit irrigation). Use the site inspection to gather information on application methods and system infrastructure to determine the extent of conveyance losses or application inefficiencies. All systems leak. Subsurface leaks are generally considered nonconsumptive because they occur below the root zone. If the total use is far in excess of the consumptive use, then an adjustment may be made for application efficiency that is consumed (i.e. some water from sprinklers evaporates). GUID-1210, manufacturer’s data and research literature can provide specific estimates of efficiencies that can aid in the return flow calculation.
6. Averaging the two years of greatest use: Once the “most recent,” “five-year period” of “continuous beneficial use” of the water right has been selected, the return flow from each year is subtracted from the estimated annual quantity diverted or withdrawn, and the two years of greatest consumptive use are averaged. The statute is protective of the environment in that, unless the consumptive use has not varied, then the consumptive use after the change will be less than the historic peak consumptive use by virtue of a simple

mathematical two-year average. This averaging, and indeed the quantification of the consumptive portion of the right, does not alter or diminish the total water right, but rather restricts the consumptive nature of the right after the change. The permit writer has discretion to add a reasonable return flow for the new use, provided that the quantity does not exceed the authorized amount of the water right.

7. Identifying the Annual Consumptive Quantity on Water Rights: The calculated ACQ of the water right should be identified on the face of any superseding documents issued for the water right. The ACQ should also be identified as a condition of approval in the report of examination and the permit (e.g. consumptive use shall not exceed X acre-feet). If a consumptive use limit only applies to certain lands authorized by the water right (e.g. in the case of spreading of a partially-perfected groundwater permit), then the lands to which the consumptive use limit applies should be clearly identified on the permit, and the permit shall include a provision requiring the permittee to demonstrate compliance with the consumptive use limit as a part of annual metering submittals.



Ken Slattery
Program Manager
Water Resources Program

Special Note: *These policies and procedures are used to guide and ensure consistency among water resources program staff in the administration of laws and regulations. These policies and procedures are not formal administrative regulations that have been adopted through a rule-making process. In some cases, the policies may not reflect subsequent changes in statutory law or judicial findings, but they are indicative of the department's practices and interpretations of laws and regulations at the time they are adopted. If you have any questions regarding a policy or procedure, please contact the department.*

**HYDROELECTRIC PROJECTS: WATER RIGHTS PERMITTING AND ESTABLISHING
INSTREAM FLOWS**

Resource Contact: Policy and Planning Section Effective Date: 02/12/10

References: CWA Section 401; Chapter 172-201A WAC; Chapter 90.48 RCW;
Chapter 90.03 RCW; Chapter 90.22 RCW; Chapter 90.54 RCW

Purpose: Identify roles; improve and maintain coordination within the Water
Resources Program regarding hydropower permitting.

Procedures for WR Regions: Water Rights

- Minimum Instream Flows will be established either through a condition of a water right or through the rule process (90.22 & 90.54) prior to issuing a water right; or by a change to a water right for existing projects.
- Minimum flows will be included as a condition or provision on water rights issued for a project that would reduce the flow of a perennial river or stream by bypassing flows around all or part of the stream or by manipulation of storage.
- Evaluate and define minimum instream flow requirements for all accepted water right applications after consulting with the departments of Fish and Wildlife, Tribes, and the Water Resources Program headquarters.
- Consult and coordinate with WDFW as needed and appropriate in connection with the evaluation of hydropower projects, including providing notice to WDF&W as required by RCWs 90.03.280 and 77.57.020 in a manner consistent with normal water right application notification procedures.
- Provide notification of water right applications to tribes with interests in the area of the project.
- Review applications for FERC licenses and Exemptions and provide comments to the Water Resources Program for incorporation by HQ into agency comment letters.

Procedures for WR HQ: Instream Flows

- Timely review and evaluation of hydropower project flow related activities and proposals under Ecology jurisdiction.
- Evaluate and define minimum instream flow requirements for all the accepted water right applications after consulting with WDFW, tribes and others as necessary. Give final flow conditions to 401 writer for incorporation into the 401. 401 conditions below hydropower facilities will always have minimum flows, usually have process flows and ramping flows, and may have other types of flows such as recreational, aesthetic,

temperature conditioning. Other flow-related conditions may be included such as gravel augmentation, stream channel design, and other environmental values.

- Identify hydropower-related FTEs in the Annual Program Plan.
- No project will be approved that will by nature of its operation cause a perennial stream or river to be dewatered at any time during the year, except where it is clear that overriding considerations of the public interest will be served.
- If instream flows are needed for the protection of fish, wildlife, recreation, scenic/aesthetic values, navigation, or water quality, instream flow conditions must be included in the water quality certification. An instream flow conditions in a 401 certification is placed in a federal license and preempts a state water right instream flow condition and an instream flow rule.
- Participate in settlement agreements when flow conditions are negotiated.
- Participate in adaptive management groups that deal with hydropower-related flows and flow-related issues.
- Keep abreast of hydropower activities in Washington through FERC service lists and communication with the industry and fish agencies.
- Work closely with the WDFW habitat group to evaluate correct flows for hydropower use and instream flow use.



Ken Slattery
Program Manager
Water Resources Program

Special Note: These policies and procedures are used to guide and ensure consistency among water resources program staff in the administration of laws and regulations. These policies and procedures are not formal administrative regulations that have been adopted through a rule-making process. In some cases, the policies may not reflect subsequent changes in statutory law or judicial findings, but they are indicative of the department's practices and interpretations of laws and regulations at the time they are adopted. If you have any questions regarding a policy or procedure, please contact the department.

WELL DRILLING LICENSE RENEWAL AND ENFORCEMENT ACTIONS

Resource Contact: Coordination and Hydrology Section

Effective Date: 1/25/94

Revised: NEW

References: Chapter 18.104 RCW
Chapter 43.27A RCW
Chapter 173-160 WAC
Chapter 173-162 WAC

Purpose: In accordance with RCW 18.104.100, the Water Resources Program will not renew a well driller's license if there is an outstanding enforcement action against the driller. This document will provide Water Resources Program with procedures for tracking the status of well drilling violations, and making licensing decisions when enforcement actions are outstanding.

1. An enforcement action is outstanding if total payment or regular scheduled payments have not been made toward a civil penalty, or if the directives of an administrative order have not been completed within the required timeframe.
2. The Central Program Enforcement Unit tracks the status of civil penalties, and will notify the regions and the Headquarters Enforcement Coordinator of the status of penalties against well drillers.
3. The Regional Well Drilling Coordinator will notify Headquarters of the status of administrative orders against well drillers by pursuing enforcement actions until completion. Orders of Satisfaction will be issued in a timely manner when a driller completes the directives of an order, (see Ecology's Enforcement Policy). The Order of Satisfaction uses the same docket number as the original order. The Regional Coordinator may write a Memo to File in lieu of an Order of Satisfaction. This is acceptable in the case where an order is open-ended, with no specified timeframe:

Example: "Do not fail to comply with well log requirements in the future."

Copies of the Order of Satisfaction, or Memo, will be routed to the Enforcement Coordinator and to the Central Program Enforcement Unit.

4. The Enforcement Coordinator will track Water Resources enforcement actions against licensed well drillers, and subsequent appeals to the Pollution Control Hearings Board. On a monthly basis, the information will be supplied to the Headquarters Licensing Coordinator.
5. The Licensing Coordinator will review the enforcement status of drillers in the month before license renewal. The license of a driller with outstanding enforcement actions will not be renewed in accordance with RCW 18.104.100. The driller will be notified by certified letter

of the decision to not renew the license. This decision is appealable to the Pollution Control Hearings Board. A conditional license may be granted to enable a driller with a lapsed license to comply with the directives of an order.

6. When the driller is in compliance with the outstanding enforcement action, the license may be renewed upon application by the driller.
7. Special procedures for appeals: If a driller has appealed an enforcement action, and the license is due for renewal during the appeal period, the Licensing Coordinator will renew the license in accordance with RCW 18.104.100. The driller's enforcement status will be reviewed again when the appeal is resolved, and a decision made accordingly.

Hedia Adelsman
Water Resources Program Manager
Department of Ecology

Special Note: These policies and procedures are used to guide and ensure consistency among water resources program staff in the administration of laws and regulations. These policies and procedures are not formal administrative regulations that have been adopted through a rule-making process. In some cases, the policies may not reflect subsequent changes in statutory law or judicial findings, but they are indicative of the department's practices and interpretations of laws and regulations at the time they are adopted. If you have any questions regarding a policy or procedure, please contact the department.

BASIC STEPS FOR EVALUATING MAXIMUM NET BENEFITS

Resource Contact: Policy & Planning Section

Effective Date: 1/31/05

Revised: NEW

References: RCW 90.54.020, Ch. 90.82 RCW, Water Resources Policy POL-2025

Purpose: To provide guidance to the Water Resources Program on the procedures to be followed in conjunction with the conduct of maximum net benefits analyses.

Application: This procedure applies only to those water resources actions that are the subject of Water Resources Policy POL-2025. In accordance with RCW 90.54.020(2), the program is required to generally base its allocations of waters among potential uses and users on the securing of the maximum net benefits for the people of the state.

1. The maximum net benefits analysis will provide decision makers with as much information as possible about the potential set of rule options, so that decision makers can identify the rule that generates the *maximum estimated present value of net benefits*. In developing rules on water allocation, this information will be considered along with other information, such as any proposed or adopted watershed plan which includes a reservation or a quantification of the remaining water available for appropriation in a basin, except for purposes of potable water for domestic use.
2. Ecology will use standard methods of performing cost benefit analysis. The objective will be to maximize net benefits based on available data.
3. Maximizing net benefits treats water as a valuable asset and, within the context of Washington's present water allocation system, is intended to ensure that Washington citizens, as a whole, get as much value as possible from "the waters of the state."
4. The total costs and total benefits for all Washington citizens,¹ including the opportunities available to them or lost to them through the allocation of water resources, will be considered. The law constrains how Ecology generally can allocate the water, but constraints regularly apply to maximization in most economic models.
5. Ecology will follow these steps in doing the analysis:
 - a. Make an initial determination of the nature and scope of the evaluation;
 - b. List the benefits and the costs;

¹ Analyses will consider the values for Washington citizens. Effects outside of Washington can be reported separately but will not be incorporated in the calculation of maximum net benefits. This includes the effects of joint agreements with other states and Canada on water issues. However, care should be taken to explicitly incorporate possible solutions in the analysis. In negotiations with other entities on mutually exclusive use of a public good such as water resources, it is highly likely that a greater net benefit can be achieved by coordinated use, rather than competitive uncoordinated use. Game theory indicates that the latter can produce both stable and unstable outcomes that reduce the gains to all parties. This is important for settings in which major rivers are down-stream from other users.

BASIC STEPS FOR EVALUATING MAXIMUM NET BENEFITS

- c. Do a preliminary evaluation of the changes to assure that the cost of the analysis is likely to be less than the value of the affected resources;
- d. Decide on a level of effort that is in proportion to the size of the reservation, the portion of the water body affected, and the approximate value of the resources affected;
- e. Evaluate existing data and collect additional data using the Instructions to Economists Completing the Maximum Net Benefits Analysis;
- f. Perform the evaluation using the Instructions to Economists Completing the Maximum Net Benefits Analysis;
- g. Make a decision on which option provides the maximum net benefits; and
- h. Provide documentation for the analysis.

/s/ Joe Stohr
Joe Stohr, Manager
Water Resources Program

1/19/05
Date