WASHINGTON STATE
DEPARTMENT OF
ECOLOGY

Report to the Legislature

Water Rights Application Processing

A Year of Progress

February 2003

Publication No. 03-11-006

This report is available on the Department of Ecology website at:
http://www.ecy.wa.gov/biblio/0311006.html

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WASHINGTON STATE
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ECOLOGY

2002 Report to the Legislature

Water Rights Application Processing
A Year of Progress

Water Resources Program

Prepared by
Ben Bonkowski
Data support provided by Melissa Mitchell and Roger von Gohren
Water Resources Program
P.O. Box 47600
Olympia, WA 98504

February 2003
Publication No. 03-11-006

printed on recycled paper

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SUMMARY: 2002 WATER RIGHTS APPLICATION PROCESSING

This report to the legislature describes progress the Department of Ecology has made in processing applications for both changes to existing water rights and applications for new water rights which is called for by RCW 90.80.901. It also describes the strategy for progress, service delivery options and costs as well as future prospects.

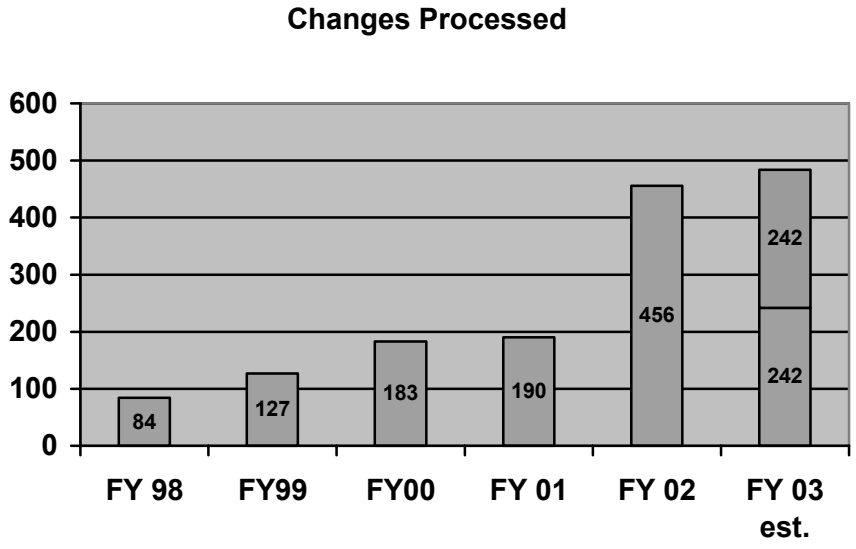
Water-rights processing is an important element of a broader set of activities to manage water. Making headway on the long line of pending water rights applications is an important substantive and symbolic step. It can open the door to progress on other key activities required for more effective overall water management.

There has been a sharp increase in water rights decisions following increases in funding, staffing, and policy flexibility provided by the 2001 legislature as part of the State Water Strategy. Ecology, along with local water conservancy boards and cost reimbursement contractors, has substantially increased the processing rate of water-rights applications.

Big jump in water rights change decisions

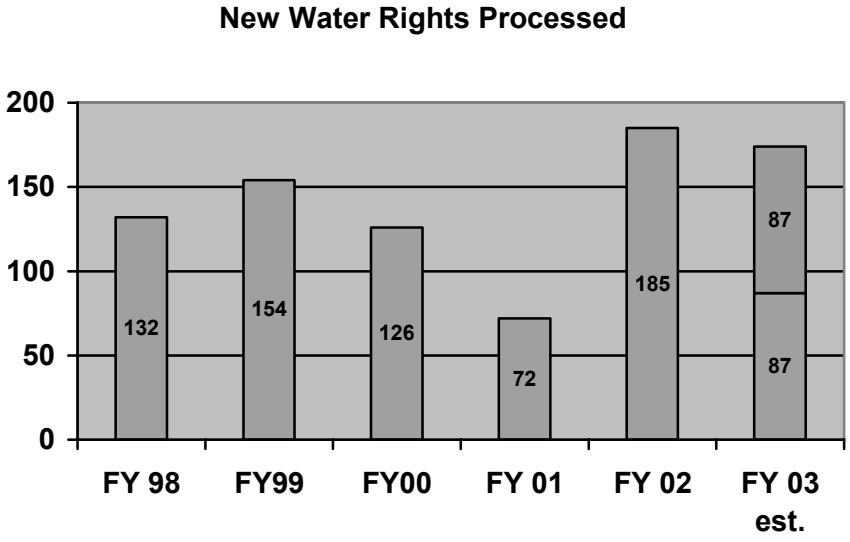
Water rights change application processing has been the Water Resources Program's top operational priority since receiving the additional funding, staffing, and policy flexibility.

- 456 permanent water rights change applications were processed in Fiscal Year (FY) 2002. This is triple the previous average rates and 91 percent of the Water Resources Program goal of 500 applications per fiscal year. If current processing rates continue, FY 2003 production is expected to increase to 484.



More new water rights decisions

New water rights decisions have also increased, even though the primary focus has been on processing water rights changes. In FY 2002, 185 new water rights applications were processed. This is 257 percent higher than fiscal year 2001 and 247 percent of the Water Resources Program goal of 75 applications per fiscal year. At current processing rates, FY 2003 production levels are expected to reach nearly the same level.



Water rights change applications compared to new water rights applications

The number of pending new water rights applications (5,000 FY 2002) is more than three times the number of pending water rights change applications (1,566 FY 2002). However, demand is shifting. Demand for additional new water rights has steadily declined (167 FY 2002) while demand for changes to water rights (324 FY 2002) has remained strong. Emerging change application demand is nearly double that of new water rights (as measured by additional applications submitted). This may be a function of applicants going to the line that is shorter, moving faster, and where the probability of "yes" is higher. It may also indicate that additional water needs can increasingly be met via water rights changes, water use efficiencies and water markets rather than new sources.

Conservancy boards and cost reimbursement contractors aid production

Local water conservancy boards and private cost reimbursement contractors have made a significant contribution to the production of water rights decisions. Of the 970 permanent water rights applications processed in FY 2002 and the first half of FY 2003, conservancy boards (changes only) and cost reimbursement contractors accounted for 14 percent of the production (9 and 5 percents, respectively).

Service costs

Service costs for application processing varied greatly by service provider (local water conservancy boards, cost reimbursement contractor, Department of Ecology). Responsibility for paying the bill for service also varied widely (applicant, taxpayer, donated service, combination).

Process improvements

Progress in the water rights policy arena could improve the climate to develop updated rules and bring greater predictability, clarity, openness and efficiency to water-right processing. Absent the ability to systematize practices, procedures, definitions, forms, etc., water rights processing is likely to remain a customized process rather than an efficient decision making process capitalizing on capabilities of people and modern information systems.

WATER RIGHTS APPLICATION PROCESSING

Purpose

This report to the legislature describes the progress the Department of Ecology has made in processing water rights changes over the past year as called for in RCW 90.80.901. During its 2001 session, the state legislature expanded Ecology's funding and staffing levels and provided greater flexibility to process applications to change existing water rights. Ecology now has a year-and-a-half of experience using the additional funding and new law designed to facilitate water rights change processing. While the focus of this report is on changes to water rights, the report also describes progress on new water rights applications.

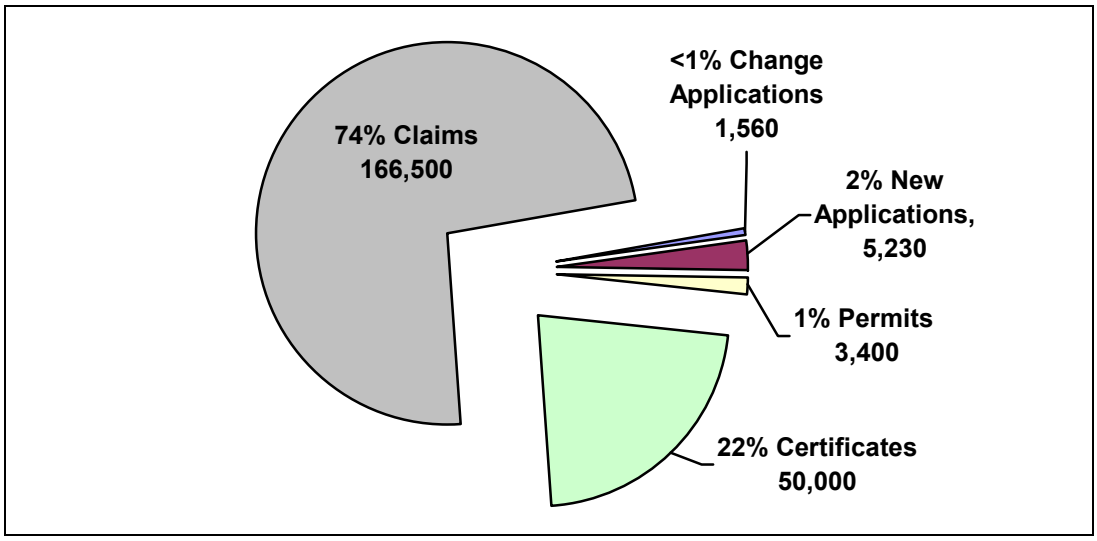
Water rights applications: A slice of the larger water picture

Anyone seeking new uses of surface and ground water must apply Ecology for a new water right, unless the proposed use is covered by the exempt withdrawal provisions for use of less than 5,000 gallons of water daily. An existing water right holder who wishes to make a change to their existing right must apply to Ecology or a local water conservancy board. Water rights changes applications can include purpose, place of use or point of withdrawal, and/or diversion.

To grant a new water right or change, reviewers must determine: whether water is available for allocation; if it would impair senior rights; if it would be put to beneficial use; and whether the proposed use would be in the public interest (no public interest test for surface water change). For a water right change proposal, a tentative determination on the extent and validity of the current right must be completed, indicating how much has been put to beneficial use and therefore eligible for change.

Applications for water rights and changes are one segment of the larger portfolio of actual and potential legal water use portrayed below. Not represented below, are tribal treaty rights, federal reserved rights, and more than 750,000 exempt withdrawals.

Washington water portfolio



This report focuses on processing water rights applications – the front end of water management. This report does not address the various other activities that are part of larger picture of water management (adjudication of rights, compliance, metering and gauging, setting and achieving instream flows, watershed planning, policy and management, information systems). To make water allocation meaningful requires that the other elements of a water management system are in place and operating effectively.

Historic Gap: Service demand and water rights production capacity

For years, the service demand for water-rights processing far exceeded the agency's application processing capability. This resulted in a line-up of over 7,000 water rights application waiting to be processed. Applicants had to wait years to get decisions. As a part of a continuing multi-year joint executive and legislative effort to implement a State Water Strategy in 2001, the legislature sought to reduce the gap between service demand and water rights application production by providing Ecology with new tools and funding.

Priority: Processing changes to water rights

As part of the State Water Strategy, the 2001 legislature provided Ecology with additional funding and staffing for water rights processing. The enactment of ESHB 1832 was a breakthrough for improving Ecology's ability to process water-right change requests. The Act included a variety of water law changes ranging from watershed management to trust water rights. Section 5 of the act contained key provisions that facilitate the use and processing of changes to existing water rights:

- **"Two-line" processing option.** Under the new law, water-right change applications can be processed independently of applications for new water rights within the same water supply source without first having to evaluate the effects on new water-right applications. It allows, but does not require Ecology to process applications for water right changes ahead, and independent of applications for new water rights. This is a modification of the strict "first-in-time, first-in-right" doctrine of Western water law.
- **No line blocking.** Applications for changes to existing water rights can proceed ahead of previously-filed change applications when sufficient information is not available to make a decision on older applications. The practical effect is that older water-right change applications with inadequate information do not delay newer, complete change applications.

With these actions and funding priorities the legislature placed primary emphasis on reducing the number of applications for changes to existing water rights. The focus on water rights changes also reflected an increasing awareness concerning the benefits of making better use of water already legally appropriated. In areas where water is fully allocated, water rights changes are key to meeting local needs and yielding higher economic returns.

STRATEGY FOR PROGRESS

The Water Resources Program has continued to make processing of water water-rights change applications its top operational priority in the second year of the current biennium. The program is closely following the original implementation strategy adopted at the beginning of the biennium after receiving the additional funding and change processing flexibility.

Clear, challenging and quantitative goals

- **Short-term goal** – Make 500 change-applications decisions per fiscal year. This is more than three times the previous average rate.
- **Long-term goal** – Eliminate the *current* backlog of approximately 2,000 water-right change and transfer applications by 2005 (the number pending July 2001, excluding additional applications submitted.
- **New water rights** – Continue to process a substantial number of new water rights decisions - 75 decisions per year and 150 for the biennium.

Increase staffing and training

Ecology moved quickly to start the hiring process to rebuild the water rights staffing even before the new fiscal year began. The agency increased its staffing to about 50 permit employees, more than doubling the previous biennium year end count of about 20 staff. The current increased permit staffing level is below the early 1990s level when it peaked to nearly 70 before an approximate two-thirds budget cut.

Deploying staff regionally

- Deploy staff in areas of the state where the change backlog is highest. The largest build-up has been in Ecology's regional office in Yakima, but water rights processing employees have been added in all four regions across the state.
- Rebuild the organizational structure and tailor it to regional conditions.
- Assign approximately 39 staff to process water-right change applications, nine for new water rights, and up to three to support water conservancy boards (FTEs).

Strategically target efforts

- Work in areas where we can make progress.
- Where possible, defer actions in basins with many unresolved policy and legal issues pending legislative resolution or clarification.
- Continue to make some decisions on new water rights as resources allow – for health, emergency, drought, environmental benefit, and work efficiency reasons.
- Work with applicants to withdraw obsolete applications.
- Support and rely on local water conservancy boards to work on water rights transfers and change applications for additional service coverage.
- Use cost reimbursement contract staff to backfill work for large, out-of-sequence projects (applications for new water and transfer/changes).

Areas targeted for water-right application processing in past year (shaded)

Defer most water rights rule-making

- The "two-line" bill and expanded funding provide sufficient direction for initial implementation – except as required for conservancy boards. A rule on conservancy board procedures was adopted in December 2002.
- Rule-making would delay implementation given the controversial nature of rules affecting water rights processing.
- Look toward Water Strategy legislation to address issues likely to require rule-making.

Communicate progress

- Meet with interested parties on progress and issues.
- Monitor progress within Ecology's Water Resources Program and review with upper management.
- Post performance information on Ecology's web site and communicate with media.

THREE SERVICE PROVIDER OPTIONS

There are three options available for applying for water rights, depending on the circumstances of the application. These are:

Conventional Ecology approach

Under this approach, applicants for new water rights and changes apply to one of the four regional Department of Ecology offices providing services in their area. Ecology staff completes all the work necessary to process applications from beginning through decision making. Historically, this is how all water rights applications have been processed. Most decisions are still being made using the conventional approach. In response to the large number of pending water rights applications and interest in other models of service delivery, two alternative service provider approaches have been added in recent years.

Local water conservancy boards

The legislature authorized local water conservancy boards to assist Ecology in processing the large inventory of water right change applications. Starting in 1998, water conservancy boards were formed as local partners in processing water right changes in many areas of the state. There are currently 21 boards operating throughout the state – five are located in Western Washington and 16 in Eastern Washington.

Ecology has responsibility for processing water right changes in areas of the state without water conservancy boards. In areas with conservancy boards, applicants have the option of submitting their applications for water right changes to their local board or Ecology. Applications being considered by a board are also concurrently filed with Ecology but not processed by the department. Boards make records of decisions (RODs) on water right change applications. These decisions are reviewed by Ecology for compliance with state water law. Each conservancy board is an independent unit of local government established by resolution of the county or counties it serves and approved by the Ecology director.

A conservancy board can serve a single watershed, multiple watersheds, a single county or even multiple counties. Depending on work demand, two to three Ecology staff are assigned to support board activities, including training. Ecology has final review authority to review board RODs. After review, Ecology issues administrative orders to affirm, modify or reverse them. For more information see "Report to the Legislature: Water Conservancy Boards" (http://www.ecy.wa.gov/biblio/0211017.html or publication no. 02-11-017).

Water conservancy boards (shaded areas)

Cost reimbursement contracting

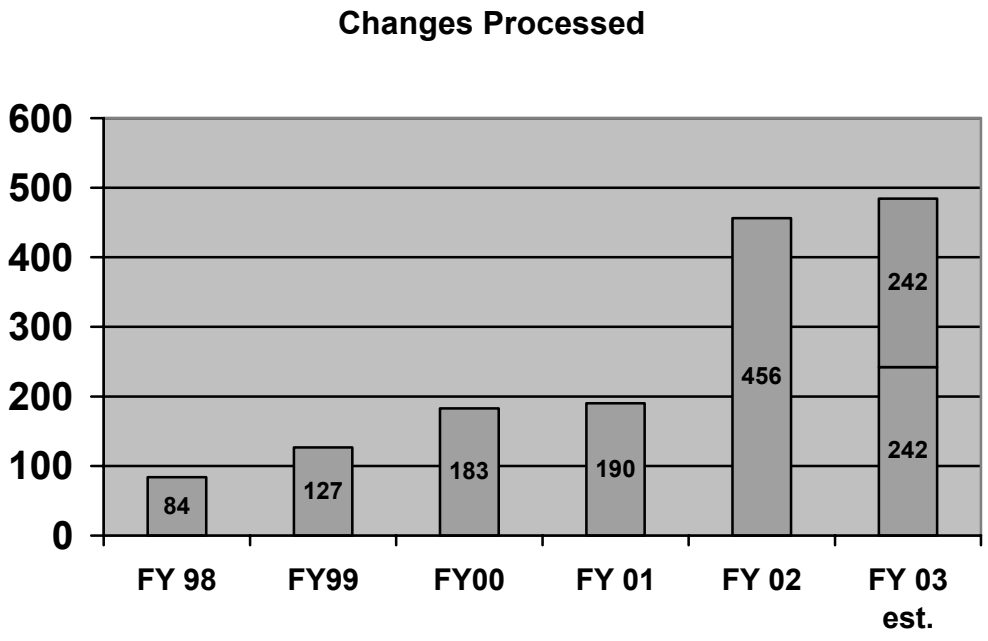
Under this approach, applicants for water rights (both new and changes) have the option of speeding up their water rights decisions by paying the costs of processing their applications. They must also pay the processing costs for other water rights applications in line ahead of theirs that are proposing to draw from the same water source. This is required to satisfy state water law that requires applications to be processed in the order they are received. Applicants seeking expedited permit decision-making can use this optional, voluntary cost-reimbursement arrangement.

Under terms of an applicant initiated cost-reimbursement arrangement, an applicant enters into an agreement with Ecology to pay Ecology's cost of hiring, managing and overseeing an independent consultant to do Ecology's routine and technical permit processing work (not approval or policy work). Final decisions are made by Ecology rather than the consultant.

PRODUCTION RESULTS

Big jump in water rights change decisions

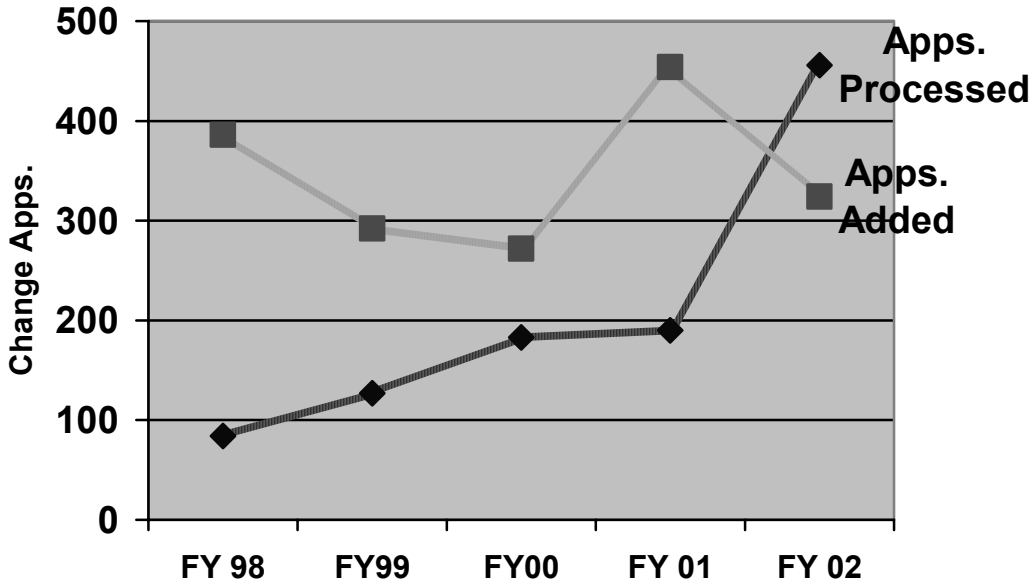
Water rights change decisions have been the top operational goal for the department's Water Resources Program since receiving the additional funding, staffing and policy flexibility to process water rights changes in July 2001.



- Production in fiscal year 2002 more than tripled previous average fiscal year production rates (permanent decisions).
- Combined FY 2002 and half of FY 2003 production totals 698 water rights change applications.
- FY 2003 production will exceed FY 2002 levels if current rates continue.
- These figures exclude processing of temporary, drought, and seasonal applications.
- FY 2002 processing rate reached 91 percent of the Water Resources Program goal of processing 500 applications per fiscal year. Fiscal year 2003 could see production rise to 97 percent and 484 changes.
- Highest production is being achieved in the Yakima Central Regional Office, followed by the Spokane, Eastern Regional Office, the Bellevue Northwest Regional Office and the Lacey, Southwest Regional Office. This pattern directly reflects the strategy to target the deployment of additional new staff in proportion to the inventory of pending change applications, by region.

Service gap for water rights change application: Pattern shifts

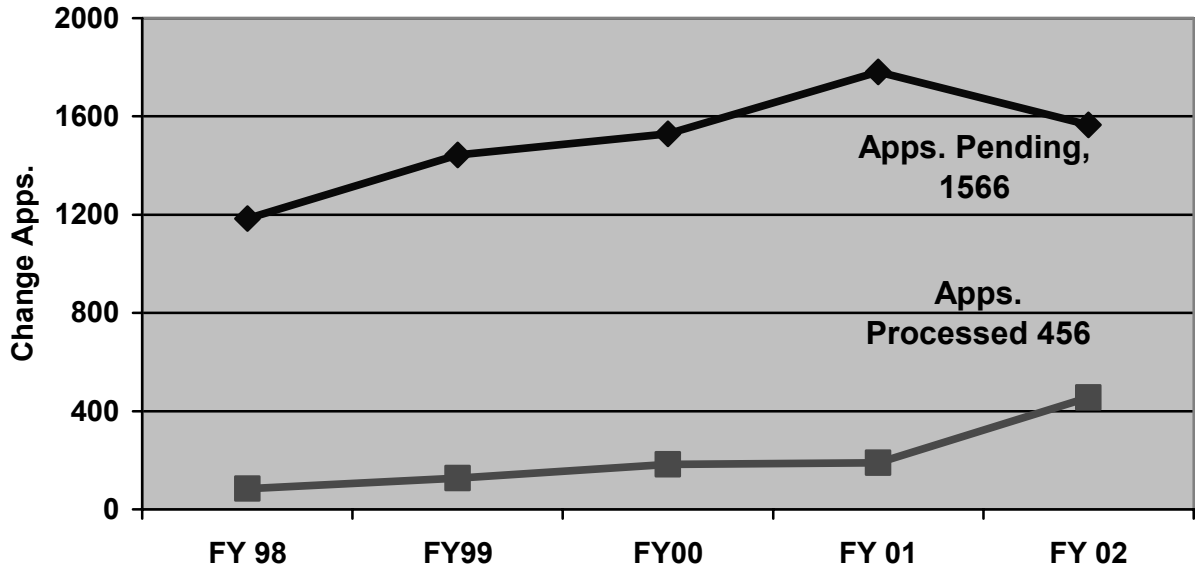
The higher processing rate for changes is narrowing the gap between *additional* service demand and service capacity.



- *Additional* service demand (as measured by the additional submissions for water rights change applications per fiscal year) dipped below water rights processing capacity (as measured by rate of processing), reversing the previous pattern.
- In FY 2002, production capacity (456 application processed) exceeded additional service demand (324 additional change applications) by 132 applications or about 140 percent.
- If this pattern continues, it will result in the steady reduction of change applications lingering in line for long periods of time waiting to be processed. The timing of this will be driven not only by the processing rate but also by the rate of additional applications submitted.

Number of pending change applications declines

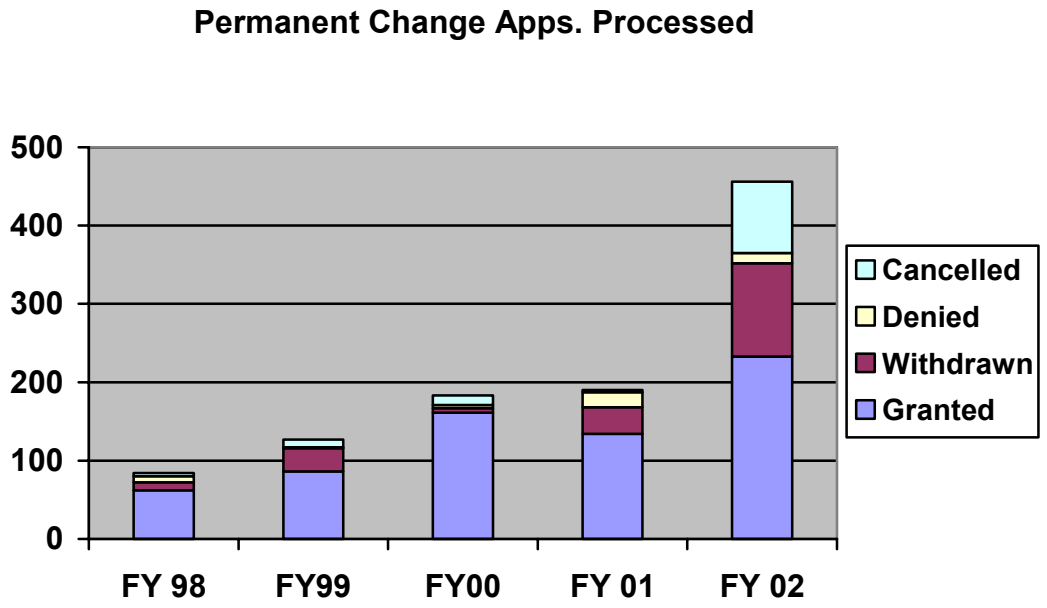
Even with the number of additional submissions of water rights change applications, current production rates are reducing the net number of water rights change applications waiting to be processed.



- There is a reversal of the long standing pattern of year-to-year increases in the number of water rights change application waiting for processing.
- At current processing rates, the Water Resources Program would come close to achieving the goal of eliminating the equivalent of the original approximately 2,000 change applications pending July 2001 in 2005. However, given the rate of additional incoming applications for change and current processing rates, it would require about 11 years to get to a "zero" wait for application processing.
- Note: The pending change figures do not include drought and temporary applications, the bulk of which were processed in fiscal year 2001-02 and no longer pending action.

Approval rates for permanent change applications

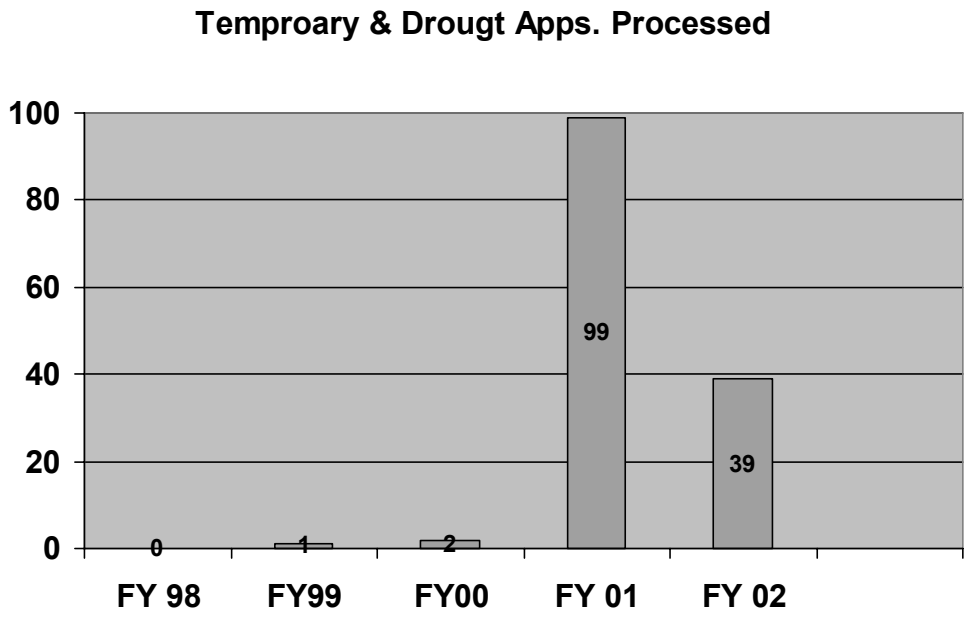
- Change application processing can result in applications being approved or denied. Applications can also be cancelled if requested information, fees, or some other basic threshold problem exists with the application. Also, applications can be withdrawn during processing if applicants change plans.
- In FY 2002, over half (233) of the total water rights change applications processed (456) were approvals 223 of 456.



- In FY 2002, only about three percent (13) of the total water rights change applications processed (456) were denied.
- In FY 2002, an increasing proportion of applications were canceled or withdrawn. This may be due, in part, to efficiency efforts by the Water Resources Program not to fully process some applications. This occurs when it can be determined that there are substantial reasons to cancel applications prior to full processing or the applicant chooses to withdraw it. It may also be a reflection of the basins in which processing is now occurring.

Temporary and drought change applications also processed

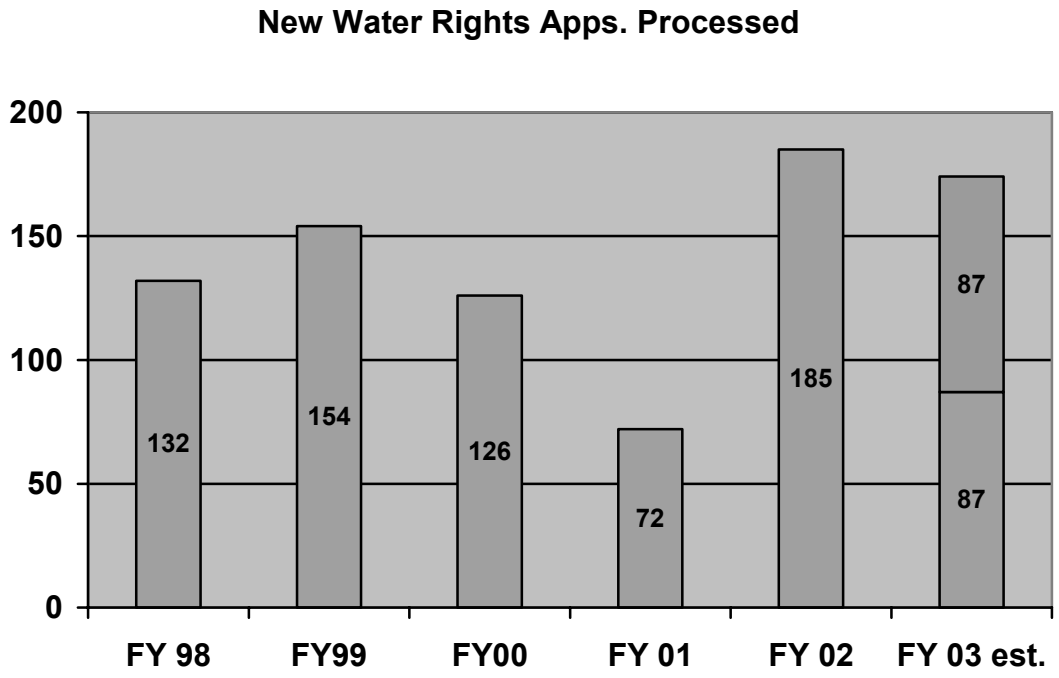
In addition to processing permanent applications for water rights changes, temporary and droughts related applications were also processed.



- The 2001 drought produced a big jump in temporary and drought-related water rights applications.
- Most of the drought and temporary changes were processed in the Central Regional Office in Yakima.
- In addition to temporary and drought related changes, 140 seasonal changes, mostly for irrigation crop rotation, were processed by the Eastern Regional Office in Spokane. They are not represented in these totals.

New water rights decisions also boosted

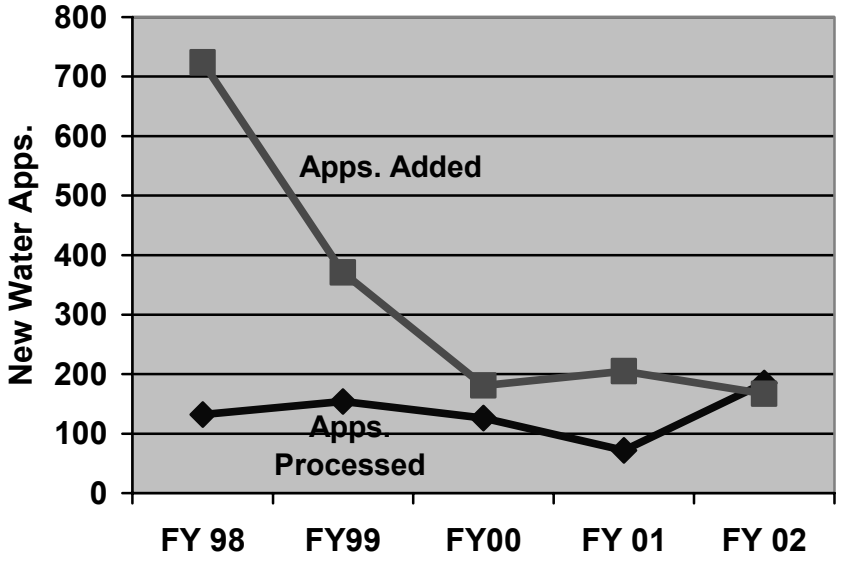
New water rights decisions also increased, even though the primary focus has been on water right changes.



- Production in FY 2002 of new water rights actions was 257 percent higher than fiscal year 2001.
- FY 2002 processing rate is 247 percent above the Water Resources Program goal of processing 75 new water rights applications per fiscal year.
- FY 2003 processing rates are similar to FY 2002 but may see a slight decline if current rates continue (-5 percent).
- These figures exclude temporary and drought applications.

Service gap: New water rights

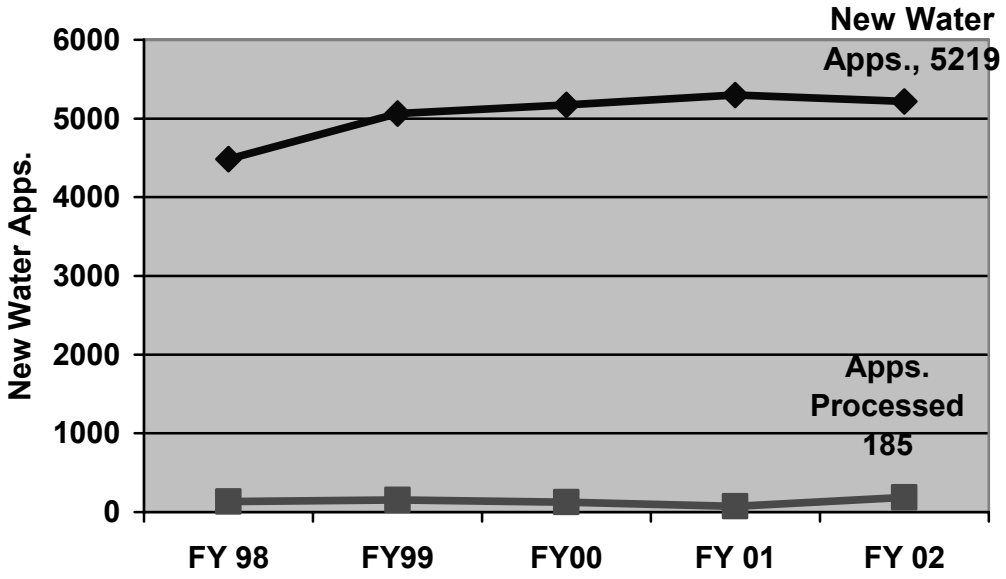
The recent higher processing rate coupled with a reduction in the number of new water rights applications submitted over the past fiscal years, has resulted in narrowing the gap between new application processing service demand and service capacity.



- *Additional* service demand (as measured by the additional submissions for new water rights applications per fiscal year) dipped below water rights processing capacity (as measured by rate of processing), reversing the pattern of previous years.
- In FY 2002, production capacity (185 application processed) exceeded additional service demand (167 new applications submitted) at about 110 percent.
- While demand for additional new water rights has steadily declined (167 FY 2002) demand for changes to water rights (324 FY 2002) has remained strong and is nearly double that of new water rights. This may be a function of applicants going to the line that is shorter and moving and where the probability of a "yes" is higher. It may also indicate that additional water needs can be met increasingly via water rights changes and water markets rather than new sources.

Slight decline in pending applications for new water rights

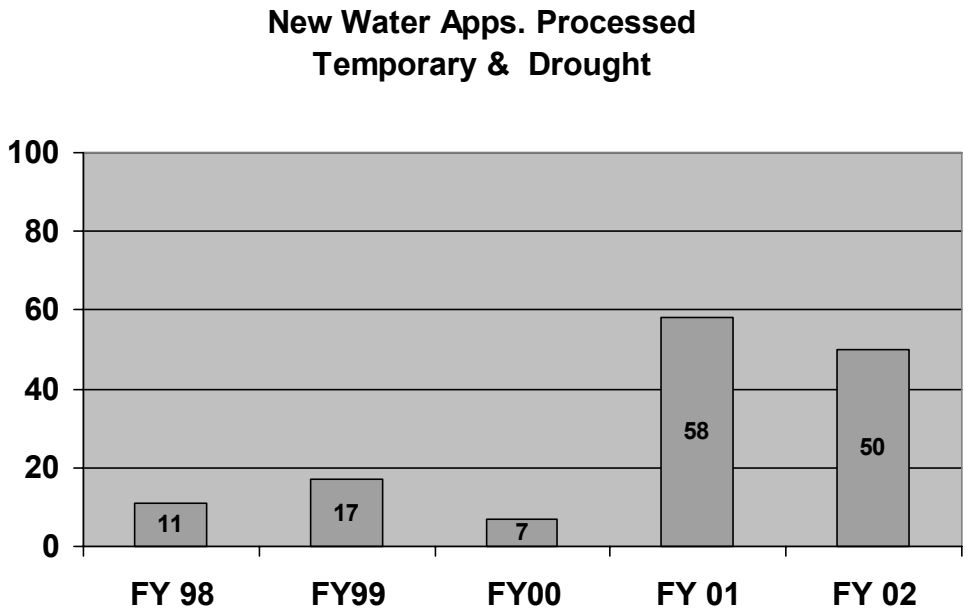
Even with additional submissions of new water change applications, the department experienced a slight reduction in the number of water rights change applications waiting to be processed in FY 2002.



- The FY 2002 reduction is a reversal of the long standing pattern of increases to the number of new water rights applications waiting to be processed.
- Though partial FY 2003 figures show a slight bump up from FY 2002, this could change before the end of the fiscal year.
- Note: Figures do not include new drought and temporary applications, the bulk of which were processed in fiscal year 2001-02 and no longer pending action.

Temporary and drought new water rights applications also processed

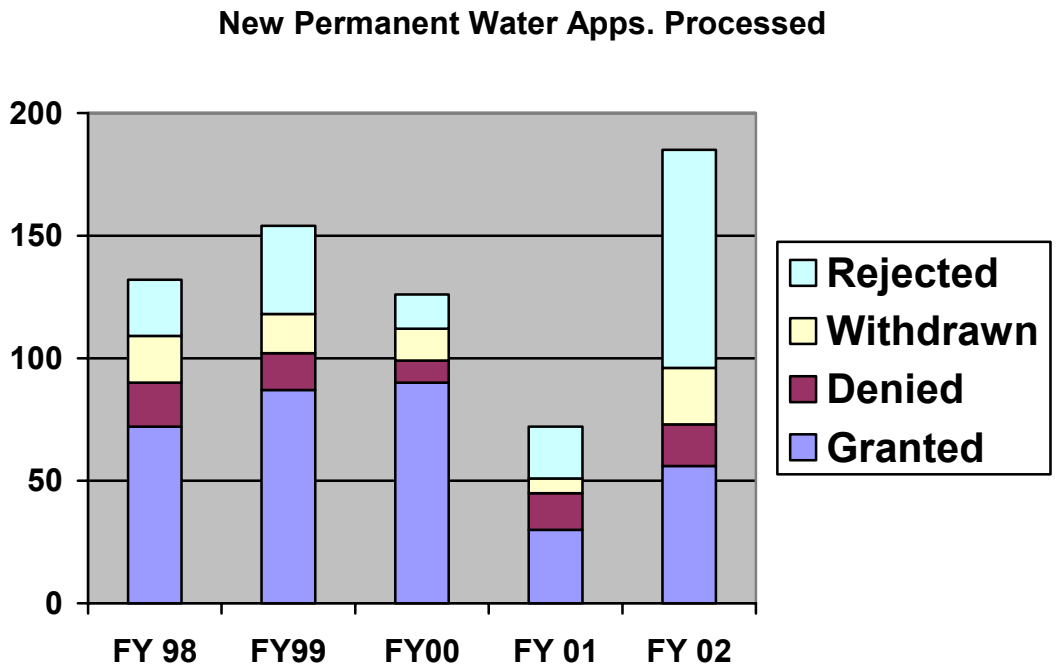
In addition to processing permanent applications for new water rights, new temporary and droughts related applications were also processed.



- The 2001 drought produced a big jump in new temporary and drought-related water rights applications.
- Most of the drought and temporary changes were processed in the Central Regional Office in Yakima.

Approval rates for new water rights applications

- Applications for new water rights result in permits being granted or denied by Ecology. Applications are also rejected if required information, fees, or some other basic threshold problem exists with the application. Also, applications can be withdrawn by the applicant during processing.

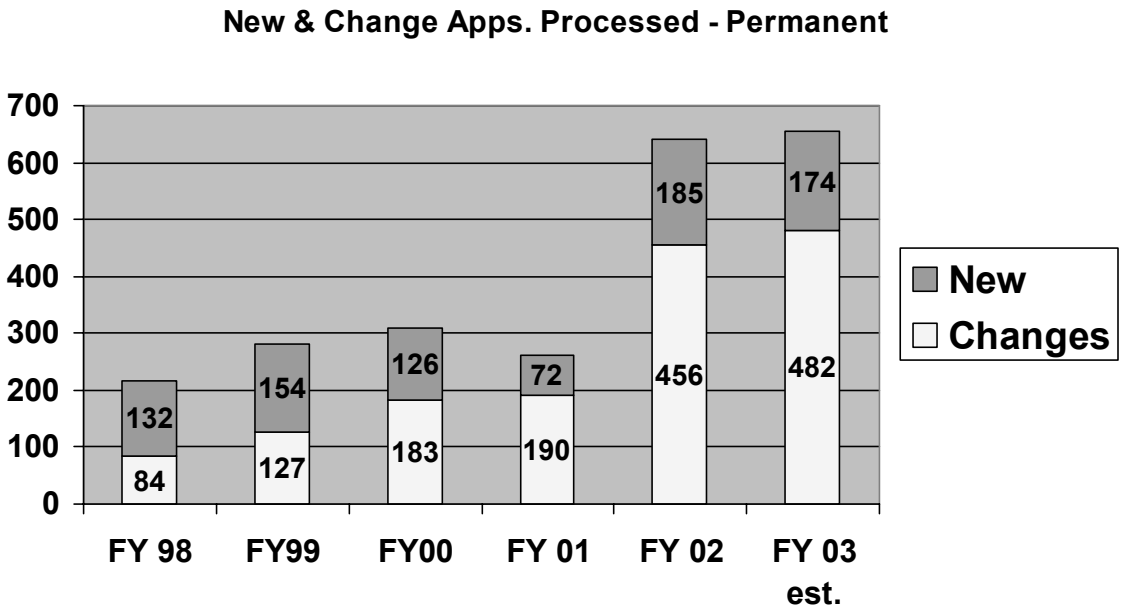


- In fiscal year 2002, a little over 30 percent (56) of the new water rights change applications processed (185) were granted permits.
- In fiscal year 2002, only about 9 percent (17) of the total water rights change applications processed (185) were denied.
- In fiscal year 2002, an increasing proportion of applications were rejected or withdrawn. This may in part be due to efficiency efforts by the Water Resources Program to not fully process applications where the applicant may withdraw or where it can be determined that there are substantial reasons to reject applications prior to full processing. It may also be a reflection of the basins in which processing is now occurring.

Combined production rate: New and change requests

Overall production totals for processing water rights changes and new applications nearly tripled in FY 2002 compared to the FY 1998 low.

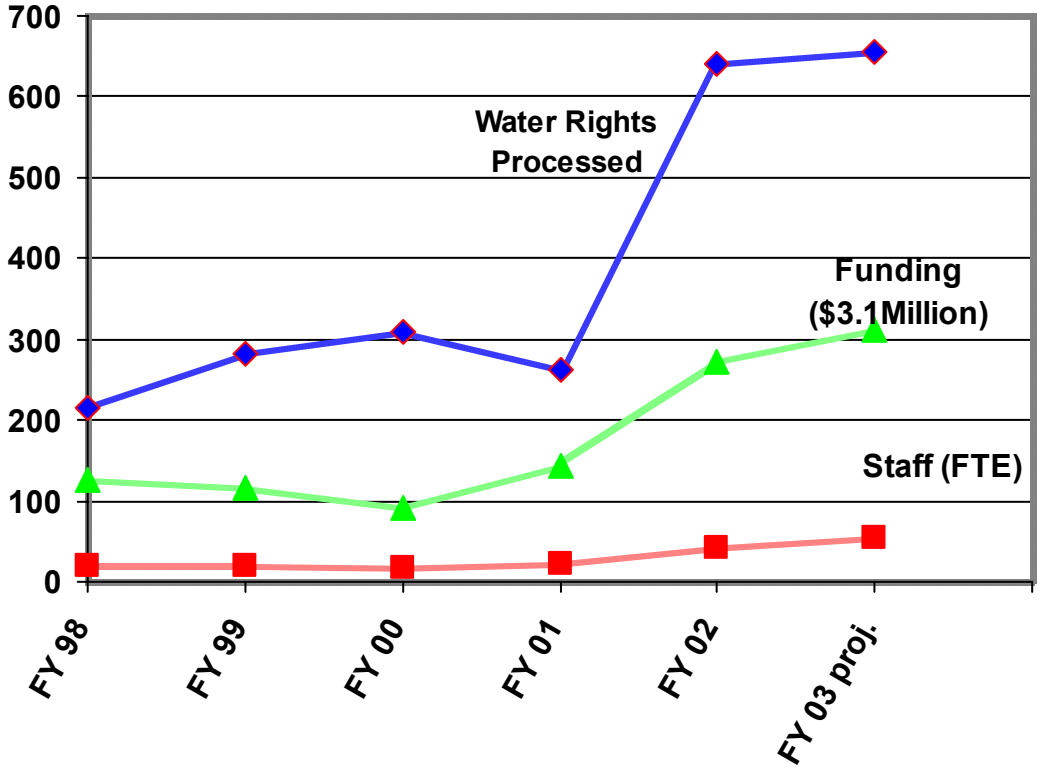
- Combined change and new water rights application processing jumped from 262 in FY 2001 to 641 in FY 2002.
- If first half FY 2003 production levels continue for the remainder of the year, combined new and water rights change production would slightly exceed FY 2002 levels.



- Note: These figures exclude drought applications, temporary applications which weren't converted to permanent applications later in process, drought applications, and seasonal change applications.

Application processing production increases with staff and funding boost

The production jump in water rights processing (combined changes and new) correlates strongly with increased staffing and funding. It also coincides with new policy tools, the contribution of water conservancy boards (changes only) and cost reimbursement contractors (changes and new).

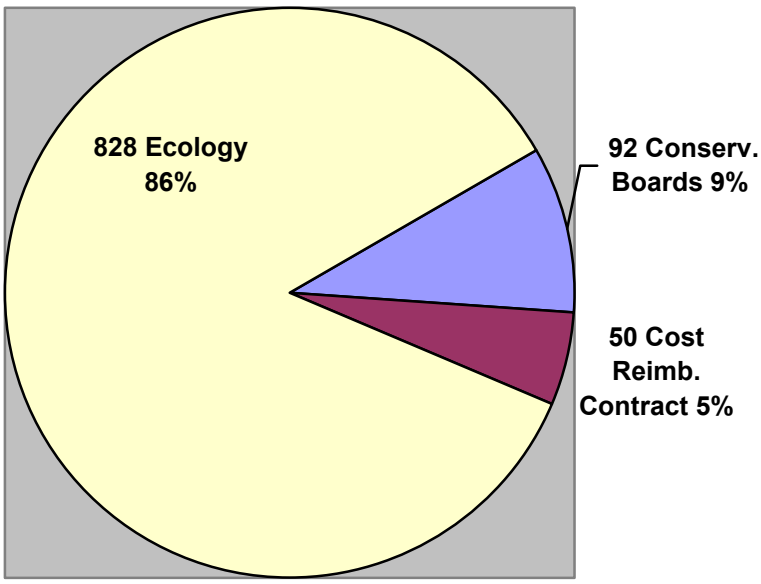


- Water rights processing tripled - from a low of 216 in FY 1998 to 641 in FY 2002.
- Staffing increased from low of 18 in FY '00 to a projected peak at 55 in FY 2003 (if fully staffed and all vacancies are filled - direct processing staff only).
- Funding tripled from a low of $910,000 in FY 2000 to $2.71 million in FY 2002 (direct processing staff excluding, data, support, interagency cost, indirect and other overhead costs).
- Increased staffing allowed Ecology's Water Resources Program to rebuild a management structure for water rights processing, improve support for the work of conservancy boards and cost reimbursement contractors and develop processing economies of scale.

Contribution from boards and cost reimbursement contractors

Water conservancy boards and Private Cost reimbursement contractors have made a significant contribution to the production of water rights decisions.

Water rights production by service provider – New and changes
FY 2002 & 2003 partial



- Of the 970 water right applications processed, both new and changes in FY 2002 and the first six months of FY 2003, Conservancy Boards (changes only) and Cost reimbursement contractors contributed 14 percent of the production.
- When new water right are excluded, the relative contribution of Conservancy Boards to water rights change processing production rises to 13 percent and accounts for 92 of the 698 changes processed.
- Approximately 50 water rights applications, for both changes and new water rights, have been processed under cost the cost reimbursement arrangement since the legislation was first enacted in 2000. Thirty-six of these have been the applications of cost reimbursement clients ("target applications") and 16 have been applications that were ahead of them in line that have been swept along ("collateral applications"). Production could have been somewhat higher but the administrative structure to support the new program initially lagged behind.
- The contribution of conservancy boards and cost reimbursement contractors allowed Ecology to work on other applications that were pending. It also expanded and externalized the base of knowledge regarding water rights processing. While it made the management of water rights processing more time intensive and complex, it also contributed to opening up the often arcane and intricate area of water rights and building an expanded base of people with water rights skills.

COSTS OF WATER RIGHTS PROCESSING

Preliminary information indicates that the costs for providing water rights processing services vary greatly by service provider (local water conservancy boards, cost reimbursement contractor, Department of Ecology). They also vary by who bears the cost of service (applicant, taxpayer, donated service, combination). Three cost pictures are presented below to broaden the perspective, distinguish the costs and identify who pays them:

- Cost to water right applicant - per application by service delivery provider;
- Cost to taxpayer - per application by service delivery provider; and
- Combined cost - per application regardless of payment source

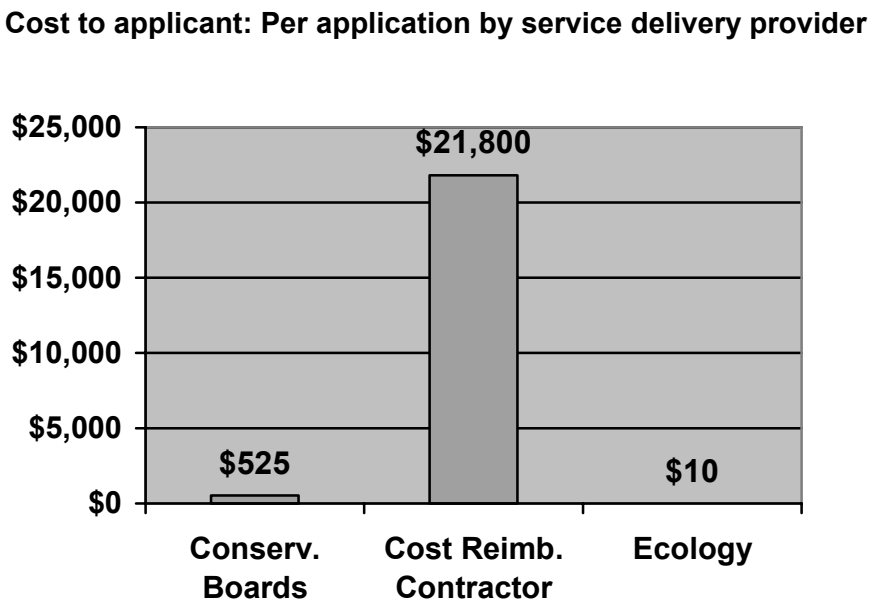
Note that the preliminary estimates that follow cover the substantial front-end, direct application processing costs up to the point of a decision or recommendation. They do not include program management, data, policy, and other support required to close out application processing following receipt of decisions and recommendations from cost reimbursement contractors, conservancy boards, or Ecology permit writers.

Legal costs are also excluded except for cost reimbursement contracts, up to the point of going to the state Pollution Control Hearings Board. While all of the excluded costs are also substantial and may well vary by service provider, it was not possible to distinguish them by type of service provider, and they are all borne by taxpayers.

The estimates also do not include the back-end costs to managing the water portfolio most of which are perpetual and ongoing. Excluded are administrative costs associated with moving from permit to certificate status, data systems, adjudication of rights, stream gauging, metering, compliance, watershed management, etc., which are borne by taxpayers. Also, these cost estimates are averages. Cost by service provider can range substantially based on complexity, size of the project, and other factors.

Costs to water rights applicants

The cost to water rights applicants varies greatly by service provider. From a strictly water rights applicant's perspective the least costly path is direct Ecology processing followed by conservancy board processing. The most costly to applicants is processing via a cost reimbursement contractor. More details are outlined below:



Local water conservancy boards – The cost to the applicant for conservancy board processing is estimated to be about $525 per application. Boards are authorized to charge fees to process water rights change applications. Charges vary based on the level of financial support received from grants and other forms of administrative support. Charges range from $250 to $1,450 with the far greatest number clustering between $400 and $650 per application. The $10 Ecology application fee is also required and assumed to be incorporated in these figures for this analysis.

Cost reimbursement contractors – A cost reimbursement applicant pays approximately $21,800 for their processed application ("target application"). This estimate includes the cost the client is required to pay to sweep along the senior applications ahead of them in line that would draw from the same water source ("collateral applications"). The estimate is base on the following factors:

- Approximately $750,000 in contractor payments for applications processed FY 2002 and first half of FY 2003 and $35,000 for Ecology associated cost reimbursement staffing costs yielding a total of $785,000.
- From a cost reimbursement client's payment perspective, their prime interest is in their own 36 applications ("target applications"), not the other 14 that have to be processed and that that they have to pay for because they are ahead of them in line ("collateral applications").

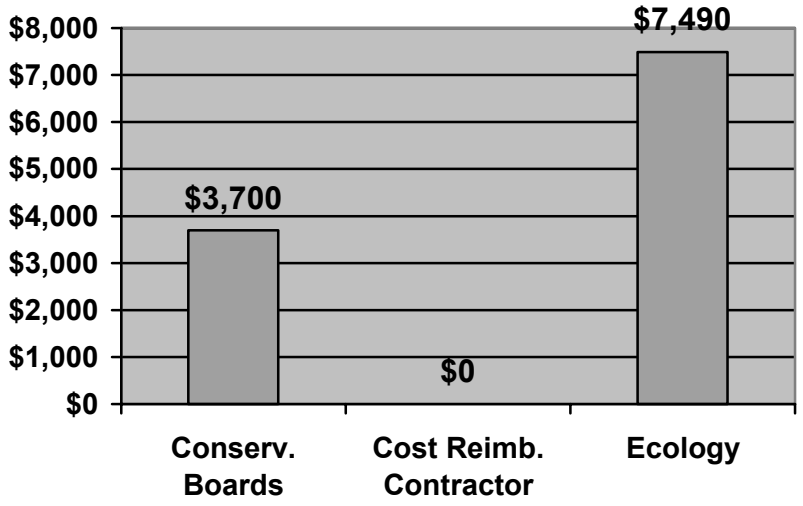
- Thus the cost to the contract reimbursement client of having their own 36 applications processed also includes the cost of the other 14 collateral applications for a net average cost of approximately $21,800 (total cost of $785,000 / 36 "target" applications).
- Determining the scale of the "same source of water" can have a big potential cost impact on the client. The larger the source, the more likely an increase in the number of potential senior applications ("collateral applications") that have to be processed and paid for to get tot the clients applications ("targeted application).
- Note: The cost reimbursement process is more complex than represented here in that the contractor does not directly work for the client. Instead Ecology process the requested applications while the contractor "backfills" by processing other applications in line that Ecology would otherwise have processed. Cost reimbursement applications also tend to be larger and more complex than other applications, thus adding to the cost.

Ecology – Typically, the cost to applicants for Ecology processing new and water rights change applications is $10. This fee is paid to Ecology and returns to the State General Fund. The typical $10 cost to the applicant for processing new and water rights change applications follows a complex schedule established in 1917 for surface water and 1945 for groundwater.

Cost to taxpayers

The cost of water rights application processing borne by taxpayers is inversely related to payments made by applicants for the service of water rights processing. By far the least costly to general taxpayers is service provided via the Cost Reimbursement model, followed by Conservancy Boards, and then Ecology.

Cost to taxpayer – Per application by service delivery provider



Conservancy Boards – The cost to taxpayers for Conservancy Board Processing is estimated at approximately $3,700 per application based on the following factors:

- The primary state taxpayer cost associated with Conservancy Board Processing is the 2.6 FTE staff assigned to assist Conservancy Boards (current average). Water Resources staff costs are calculated at $90,000 annually per FTE for a total of $234,000 (includes salary, benefits, space, equipment, travel, training, etc.).
- A FY 2002 production rate of 63 applications against a cost of $234,000 yields a per application cost of approximately $3,700.
- This estimated cost may be understated to the extent that contributions from other public entities, and provided by taxpayers, are not included in these totals.

Cost reimbursement contractors – The cost to the taxpayer for this water rights processing alternative is estimated to be $0. Because cost reimbursement applicants pay the cost of processing their own applications and other senior applications drawing from same water source ("collateral applications"), the cost reimbursement applicant is providing a contribution to the public for an expense that would otherwise be borne by taxpayers (or a subsidy to the other applicants and the public).

Ecology – The cost to the taxpayer of this processing alternative is estimated to be approximately $7,490 based on the following factors:

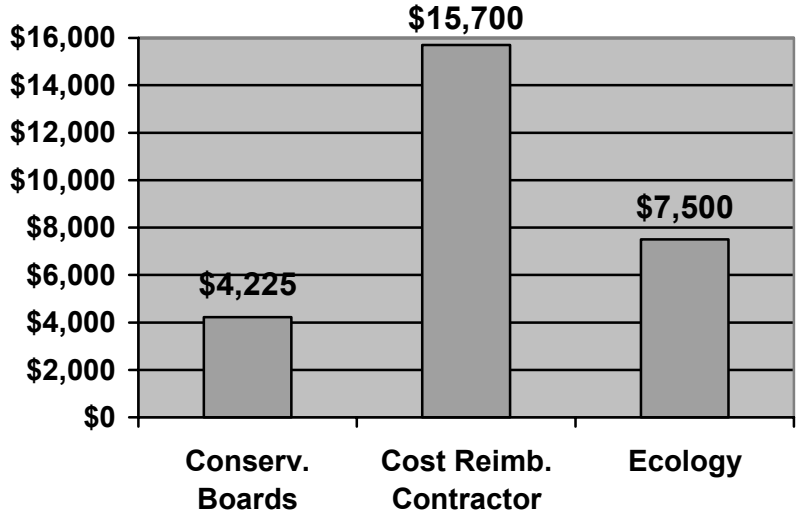
- The primary cost to the taxpayer is the approximately 47 Ecology Water Rights permit writing staff (subtracting out 2.6 FTE associated with Conservancy Boards processing and approximately 1/3 FTE associated with cost reimbursement).

- FY 2002 production of new and change application was 641. Subtracting out change application production by Conservancy Boards (63) and cost reimbursement applications (estimated at 17 if production were evenly distributed FY 2002 and into FY 2003), yields a solely Ecology production of 561. These were produced by approximately 47 staff, or nearly 12 applications per staff per year. This translates into a direct processing cost of $7,490 per applicant after the applicant's $10 fee is subtracted.
- This estimate of Ecology cost errs on the high side. Staff also worked on seasonal applications and all new staff members were not on board for the full period of record.

Combined cost: Regardless of payment source

Costs can also be viewed from an economic efficiency standpoint regardless of who pays the cost for the direct processing work associated with application processing. This presents a third cost picture.

Combined Cost - Per Application Regardless of Payment Source



Conservancy Boards – The combined direct processing cost for Conservancy Board applications are estimated at $4,225. This includes a fee of $525 and $3,700 in taxpayer costs for associated Ecology staff. This estimated cost may be slightly understated to the extent that contributions from other entities are not included in these totals.

Cost reimbursement contractor – The combined direct processing cost for the Cost reimbursement contractor path is estimated to be $15,700 based on the following:

- Approximately $750,000 in contractor payments for 50 applications processed in FY 2002 and first half of FY 2003 yield a gross average of $15,000 per applications (both "target" applications and "collateral applications") swept along in processing.
- An additional $700 per application is added in reimbursement for associated Ecology staffing.

Ecology – The combined direct processing cost, regardless of who pays, remains at $7,500. This is based on the same cost factors as in the previous "Cost to Taxpayers" description and the applicant's $10 application fee.

Cost observations

While cost estimates are limited in scope (direct front-end processing) and preliminary, some observations can be made:

- The primary direct costs associated with processing water rights applications are staffing costs.
- Regardless who bears the primary direct costs, conservancy board processing costs are lowest. Their costs are lower than Ecology processing costs (56 percent of Ecology cost) and cost reimbursement contractor processing (27 percent of contractor cost). They are likely lower because they rely on non-paid volunteers for substantial portions of the processing work.
- Cost reimbursement contracting costs are higher than Ecology processing because of the staff cost differential. Ecology water rights processing staff costs translate to a rate of approximately less than $50 dollars per hour (including salary, benefits, space, equipment, travel, training, etc.). Cost reimbursement contractor costs are about $110 an hour.
- While the cost reimbursement contracting costs the water rights applicant the most, it costs the taxpayer the least.
- Ecology processing of applications costs the water rights applicant the least and the taxpayer the most.
- This cost information could be analyzed further to inform public policy and budget choices.

PROSPECTS AND ISSUES AFFECTING WATER RIGHTS PROCESSING

Prospects for sustaining the current water right processing rate are good but a number of factors are in play that can affect water rights processing production:

- **Sustaining Momentum**. The sharp turn-around in water rights processing in part depended on going to "easy" areas and applications first. This was especially important because the large number of new processing staff. Moving to more difficult basins and applications could slow progress. However, this may be offset by a learning curve effect as the experience levels of Ecology staff, water conservancy boards, and cost reimbursement contractors increase.

- **Legal and Policy Clarity**. Water legislation under consideration during the 2003 legislative session may provide additional policy and legal clarity necessary for efficient decision-making on water right change applications (municipal water, relinquishment, inchoate water, etc.). Ecology has aligned its approach to water-right application processing with the Water Strategy Initiative. Ecology's approach to application processing has been to avoid jeopardizing pending applications with issues that can be resolved by the Water Strategy. If the Water Strategy Initiative does not provide additional policy and legal clarity, it could affect water-right application processing (municipal issues, inchoate water, relinquishment, etc.).

- **Process Improvements**. Progress in water rights policy areas could provide the climate to develop modern rules and bring greater predictability, clarity, openness and efficiency to water-right processing. Absent the ability to harmonize law, systematize practices, procedures, definitions, forms, etc. water rights processing is likely to remain a customized process rather than an efficient decision making system capitalizing on the power of people and new information systems.

- **Updating Information Systems**. Ecology has nearly completed the first phase of a project to replace its long-obsolete water rights information system. The agency has also made progress in converting water-right documents into electronically-accessible images and data cleaning. The first priority for these efforts is to provide improved tools for water rights permitting staff processing water rights applications. Over time, these improved systems will also provide improved access, timelines, and reliability of water information for local watershed planning, management and reporting, and policy making. It will take a sustained and ongoing commitment beyond the current biennium to build, maintain, and feed the information system.

- **Hydrologic and Stream Flow Information**. In many areas, information on hydrology, water use and stream flow needs is not sufficient to make decisions and must be developed. This is why the watershed assessment and stream flow work currently being undertaken by local watershed planning groups is vital.

- **Service and Expectation Gap**. Even with the sharp improvement in water rights application processing, there will be continued frustration over water right issues. It will likely take several years to reach some current change applications. Furthermore, as the line for processing applications moves faster, it may spur an increasing number of applications. Other sources of frustration will involve applications that have been denied or approved with conditions.

- **Maintaining Support.** It is important to build and maintain internal and external support for water-right processing over the long term if Ecology and its partners are to provide timely service to applicants. A sharp decrease in funding and staffing like that experienced in 1995 would result in service reductions and the loss of expertise. Water rights processing is an important element of a broader set of activities to manage water. Making headway on water rights applications can open the door to progress on the other key activities required for more effective overall water management.

CONCLUSION

One and a half years after receiving increased, funding, staffing, and policy flexibility, there has been a sharp turnaround in processing water rights applications. Ecology, along with conservancy boards and cost reimbursement contractors, have substantially increased the processing rate of water-right change applications as well as applications for new water rights. To assure continued progress a number of significant legal and policy areas need to be addressed. Legislative action on the 2003 Water Strategy may address some of the issues that, if left unresolved, could hamper decision-making on change applications.

For more information

If you have questions or would like further information about Ecology's progress on processing water-right change applications, please contact Ben Bonkowski at (360) 407-6990 (e-mail: bbon461@ecy.wa.gov). For information on water conservancy boards, please contact Janet Carlson at (360) 407-6274 (e-mail: jaca461@ecy.wa.gov).