

Resource Contact: Program Development and Operations Support

References: RCW 43.21, RCW 90.03, RCW 90.14, RCW 90.16, RCW 90.42, RCW 90.44, RCW 90.54, RCW 90.66, RCW 90.90, WAC 173-152, WAC 173-165, WAC 173-173, WAC 197-11, WAC 508-12

WATER RIGHTS PROCESSING PROCEDURES

Purpose: To provide guidance and to ensure relevant factors are considered in pre-application conferences and in the processing of applications to appropriate water and applications for change or transfer of existing water rights.

Application: This procedure applies to all applications to appropriate water and applications for change or transfer of water rights, pursuant to Chapters 90.03 and 90.44 RCW.

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CHAPTER ONE: PRE-APPLICATION CONSULTATION

Department of Ecology (Ecology) Water Resources staff offer pre-application consultations to help prospective water right applicants better understand the challenges they may incur when seeking a new water right, or a change or transfer to an existing water right. This technical assistance provides an opportunity to educate applicants about water supply, water law, and the water rights process. Perhaps, most importantly, staff can help applicants gain an understanding of the water availability in their particular basin.

A pre-application consultation is often the best time to discuss issuing a preliminary permit ([POL 1030](#)) if the applicant proposes to drill a well for their project ([RCW 90.03.290](#) and [RCW 90.44.060](#)). Staff can also discuss whether the proposed project might qualify for priority processing ([WAC 173-152-050](#)), may be processed through a water conservancy board, the cost-reimbursement process, or by some other means.

Pre-application consultation requests are received electronically, by mail, telephone, or in person. If an applicant is seeking a pre-application consultation, Ecology staff should:

- A. Contact the applicant and determine the type and location of the project.
- B. Request that the applicant submit the Water Right [Pre-Application Consultation Form](#) *via email* to support tracking of the number of applicants requesting this service.
- C. Schedule a time for a telephone or in-office consultation and provide the applicant with relevant materials to help them prepare for the meeting.
- D. Review the appropriate internal pre-application consultation checklist for new applications or change applications. (Links to the checklists are located on the left hand side of the [Water Right Application Processing Sharepoint](#) page.)
- E. Conduct the pre-application consultation and enter tracking information on the SharePoint site, or current tracking procedures. (Pre-application tracking instructions are located at the top of the [Pre-Application Consultation Sharepoint](#) page).

CHAPTER TWO: PROCESSING NEW AND CHANGE APPLICATIONS

Anyone seeking a new water right must first submit a water right application to Ecology's Water Resources Program. Applications to change or transfer a water right are submitted to Ecology or to the local county water conservancy board. Ecology permit writers process most of the applications filed with Ecology. They also review the applications and decisions of the conservancy boards, and the work of contractors when the cost reimbursement program is used.

Application processing normally involves office and field examinations to determine whether the application should be recommended for approval or denial. Other permitting considerations may also be explored at the discretion of the regional office.

I. ACCEPTANCE OF APPLICATIONS

The following processes and considerations apply to water right applications received by Ecology:

- A. The applicant must submit the statutory minimum fee before Ecology may accept their application. If an additional exam fee is required, Ecology must make the request within five (5) days of receiving the application (RCW 90.03.470 and WAC 508-12-140).
- B. Applications receive a date stamp for the day received, which generally becomes the priority date (RCW 90.03.270, RCW 90.03.340).
- C. Headquarters staff scan each application received at Cashiering and distribute them electronically to the appropriate regional office (for sending procedure, see Scanning Water Rights to Sharepoint page).
- D. Prior to accepting the application, regional staff review the application (see Receiving Instructions).
 - a. An application is assigned a number, according to Water Rights Tracking System (WRTS) procedures, when received by the Region and entered into WRTS, even if the application is not considered complete.
 - b. The application must contain sufficient information to prepare a proper public notice (see Section II. Public Notice and Protests), or contact the applicant for clarification.
 - c. For applications requesting a new appropriation, check the list of closed sources and possible existing rights attached to the proposed place of use before accepting the application. If the source is closed to the proposed use, the applicant may be contacted with a letter of explanation describing the unlikelihood of approving the application. At the applicant's request, Ecology will accept the application for a formal determination to preserve due process and retain the priority date.
 - d. For applications to change or transfer a water right, compare information on the application to the existing certificate, permit, or claim proposed for change/transfer (quantities, use, legal descriptions, etc.).

- e. All applications must include the signature(s) of the applicant(s) and the legal landowner(s) of the place of use for new applications and the proposed place of use for transfers. (GUID 2040).
- E. If the application is not complete, contact the applicant by phone or email, or return the application with a request for the needed information, including additional fees. The applicant's response is due within 60 days of filing the application to retain the original priority date.
- F. The applicant must file an application for each separate source of water, with a few exceptions (WAC 508-12-110, WAC 508-12-220). A separate application must also be filed for each permit, certificate, or claim that the applicant proposes to change or transfer.
- G. Check status with regard to State Environmental Policy Act (SEPA). Details can be found in RCW 43.21C and Chapter 14 of the Water Right Investigator's Manual.
- H. To accept an application once it is complete and the required fees are paid, fill in the priority date, initial the application as accepted, and enter the WRTS data. Assigned staff will then create a paper file for the application, then scan it for electronic distribution.
- I. The application is mapped using GIS software showing the proposed location of the diversion or withdrawal and the place of use.
- J. Send notice to the program Listserv, which contains the email addresses of agencies, Tribes, and other interested parties wishing to review applications Ecology has accepted. Regions may also have special lists of stakeholders that request to be contacted when applications are accepted.
- K. Under limited circumstances, applications may be amended at the request of the applicant or permit writer.

II. PUBLIC NOTICE AND PROTESTS

Prior to issuing the ROE, the applicant must publish public notice for the application to give the public an opportunity to comment or protest.

Public Notice

The regional office prepares the public notice, which is then sent to the applicant for publication in a newspaper of general circulation in each county containing the proposed point(s) of withdrawal/diversion, or storage site, or any place of use (refer to regional approved lists of newspapers). The public notice must appear once a week for two consecutive weeks. The public notice should contain the following information:

- A. Applicant's name and city of residence.
- B. Application number and priority date.
- C. Proposed source water body (e.g., river name or well). For surface water, list source and tributaries, if applicable.
- D. Purpose(s) of use.
- E. Rate and/or quantity of withdrawal, diversion, or storage .
- F. Period of use (year-round or seasonal).

- G. Project location (e.g. county, city).
- H. Location of withdrawal, diversion, or storage.
- I. Place of use description.
- J. For change applications, include narrative description of the existing right and proposed change(s).
- K. Manner and time limit for the filing of protests or objections to the application.

Affidavit Review

After publication of the public notice, the newspaper will issue an affidavit of publication. The applicant must send the original affidavit to the regional office. Staff will check each affidavit to ensure it is an original document with a notary stamp, contains the required information, and there are no errors. If errors are found, the applicant must republish the public notice at their own expense.

Protests and Concerns

Parties wishing to formally protest a specific application must submit it in writing, together with a \$50 filing fee, to Ecology's cashing section. To be considered a formal protest, Ecology must receive the protest within 30 days of the last date of publication of notice. No fee is required to submit a comment, by mail or otherwise, regarding an application. Protests are placed in the application file along with the cashing receipt and are entered into the WRTS file. Ecology responds to the protestant with a letter, and the applicant is sent a copy of both the protest and the response letter.

All other comments received after the 30 days since last date of public notice, or without the required fee, are treated as concerns. Concerns are also added to the application file, but may or may not be addressed in the report of exam. No fees are required to submit concerns.

III. APPLICATION REJECTION OR WITHDRAWAL

Even after applications are accepted, rather than being processed through a Report of Examination, they may be rejected or withdrawn. Withdrawal of an application is initiated by the applicant, whereas Ecology initiates a rejection prior to public notice. The difference between these two actions are explained below.

Withdrawal

An applicant may withdraw an application by notifying Ecology of their intent in writing. The withdrawal request may be submitted at any time prior to Ecology issuing the Report of Examination. Application fees should not be refunded ([RCW 90.03.470](#)).

Rejection

Prior to public notice, Ecology may reject an application for a number of reasons including, but not limited to:

- A. The applicant did not provide requested information within the required time.
- B. The applicant failed to pay applicable fees.
- C. Ecology never received the original Affidavit of Publication.
- D. The applicant refused access to land for the field examination.

- E. For change/transfer applications, a finding that the applicant has no standing to make the change or transfer.
- F. Ecology was unable to contact or locate applicant.

If errors are discovered with the application after public notice, Ecology should consult with the applicant to correct those errors and republish public notice, if necessary.

To reject an application:

- A. Send a letter requesting information or compliance and warning of possible rejection of their application if they do not comply within the specified time period.
- B. Send a rejection letter if the applicant does not respond by the due date.
- C. Retain all returned mail records (undeliverable, moved, etc.)
- D. Ensure update of WRTS entry.
- E. Wait an additional 30 days before processing the application file for archiving.

Application Reinstatement

If an applicant shows good cause for failing to respond during the application rejection process, the regional office has the discretion to reinstate the application as long as the information is provided within a reasonable time (RCW 90.03.270). Reinstated applications retain the original priority date.

IV. ASSIGNMENT OF APPLICATIONS

An application may be assigned to another person or persons by the applicant, upon written consent of the department, using Ecology's Assignment of Application or Permit to Appropriate or Store Water form. No such assignment(s) shall be binding unless properly filed with Ecology along with the appropriate fee (RCW 90.03.310). Assignments are noted on either the application or permit.

Assignment is not required when an applicant or permit holder changes his/her name (e.g. due to marriage, divorce, or corporate name change). In these cases, a memorandum to the file is made and a ministerial amendment is made to the document.

V. APPLICATION INVESTIGATION

When processing a water right application, a permit writer will investigate specifics of the proposed water right to determine whether it should be recommended for approval or denial. An applicant may submit a new application for new appropriation of water, or an application for change or transfer to an existing water right.

Applications for a Water Right Permit

When processing a new application, permit writers assess the application to verify that the proposed water use meets the four part test:

1. Water is available;
2. The use will not impair existing rights;
3. The proposed use is a beneficial use of water; and

4. The use will not be detrimental to the public interest.¹

New applications must pass all four tests in order for Ecology to issue a water right permit (RCW 90.03.290)². The permit writer takes the following steps to answer the four part test³:

A. Office Examination

- a. Verify the accuracy of the published public notice and expiration of 30 day protest period.
- b. Review all protests and comments submitted by agencies, Tribes, and other interested parties.
- c. Research existing rights, local hydrogeology, nearby well locations, and other pertinent information.
- d. For groundwater, obtain well report and well development data if available.
- e. Research potential for seawater intrusion for coastal wells, hydraulic continuity with closed or limited surface waters, etc.
- f. If the Family Farm Act applies, ensure correct information has been provided (RCW 90.66).
- g. For all irrigation uses determine maximum and average water requirements. See the Washington Irrigation Guide (available from the National Resources Conservation Service) to determine irrigation needs in that area for the proposed crop type(s).
- h. Determine SEPA status of project for which the water right is requested – request assistance from the regional office SEPA coordinator if needed.
- i. If the application has been protested, acknowledge receipt of protest by informing the applicant and protestant.

B. Field Examination

- a. Contact the applicant to set up a site visit, verify intentions, and collect any other data that may be pertinent to the application (meet applicant on site if possible).
- b. Interview/meet with protestants.
- c. Note any existing project development.
- d. Assess physical availability of water:
 - i. Measure or estimate flow of surface water source.
 - ii. Check static water level of well(s), if accessible (obtain owner's permission).
 - iii. Describe the diversion/withdrawal/storage system and distribution system.
 - iv. Verify pump size.
 - v. Visually confirm compliance with well construction standards.
- e. Take GPS coordinates of the point of withdrawal or diversion or storage site.

¹ Additional guidance for processing new and change applications can be found in the draft Water Right Investigators Manual.

² If sufficient information is not available, Ecology may issue a preliminary permit per POL 1030.

³ Additional guidance for processing new and change applications can be found in the draft Water Right Investigators Manual.

- f. Verify that actual point of withdrawal or diversion locations are consistent with the locations in the public notice.
- g. Verify legal description with actual or proposed place of use.
- h. For irrigation, determine the number of acres feasible for irrigation; type of crop; period of use; irrigation infrastructure; and/or any other factors related to irrigation.
- i. Determine the number and type of units or estimate the population to be served if for domestic/municipal purposes; refer to Water System Plan, if available (this can also be done in the office prior to the field visit).
- j. Note the location of other wells or nearby diversions from the same source (this can also be done in the office prior to the field visit).
- k. Observe and describe local geology, vegetation, and other environmental factors that may impact proposed and existing water use and water rights, including stream flows.
- l. Take photographs of relevant water intakes, wells, and other identifying structures.
- m. Check any existing onsite wellheads for an Unique Ecology Well ID Tag. Follow regional procedure for getting the well owner into compliance if no ID tag exists.

If additional information is required prior to making a permit decision, a preliminary permit may be issued to the applicant. The preliminary permit allows the applicant to conduct studies, surveys, and investigations necessary to provide information needed to properly assess their application (POL 1030).

Applications for Change or Transfer of Existing Water Right

Applications for change or transfer are requests to alter an attribute of an existing water use as documented by a recorded water right certificate, permit, claim, or previously issued certificate of change (RCW 90.03.380). Change applications are processed similarly to new applications (above), but require additional analysis as outlined in the Program's policy on evaluating changes or transfers to water rights (POL 1200).

Changes to a water right's attributes that can be considered include:

- A. Changing the place of use.
- B. Changing or adding purpose(s) of use.
- C. Adding irrigated acres or new uses (POL 1210).
- D. Changing or adding point(s) of diversion or withdrawal.
- E. Changing season of use (typically combined with a change of purpose of use).
- F. Changing the source of supply from surface water to groundwater and vice versa (may be accepted under certain circumstances; see POL 2010).
- G. Consolidating exempt wells with an existing water right.
- H. Placing water into Trust.

Some of the more notable restrictions on changes or transfers to *surface water rights* include:

- A. No unperfected portion of a surface water permit may be considered for transfer or change (RCW 90.03.380), except as authorized under RCW 90.03.397 or RCW 90.03.570.
(Unperfected portions of groundwater permits are eligible for changes to the point of withdrawal, place of use, and the manner of use (RCW 90.44.100(1)).
- B. The purpose of use of any unperfected permit may not be transferred or changed.
- C. The public interest test is not applicable to changes or transfers of surface water rights, except as described in RCW 90.42.040.
- D. Transfers or changes of water rights under the Family Farm Water Act (RCW 90.66).

The use of development schedules on changes should be consistent with POL-1280 and evaluated on a case-by-case basis.

In addition to the considerations for processing a new application, examinations for change or transfer applications may include additional elements:

Office Examination:

- A. Availability of metering information.
- B. Analysis of full or partial relinquishment.
- C. Aerial photo analysis of acreage, crop types, etc.
- D. Review file history for compliance and correspondence.
- E. Date of first use for changes to claims.

Field Examination:

- A. Verify existing water right provisions have been complied with.
- B. Verify that a meter is installed and functioning.
- C. Ensure current use is consistent with existing rights.

Other Potential Requirements for New or Change/Transfer Applications

The permit writer should advise the applicant whether any other permitting requirements may be needed and include the appropriate proviso on the permit, if necessary. Other permitting requirements may include:

- A. Hydraulic Project Approval (HPA) or appropriate screening provisions from the Department of Fish and Wildlife.
- B. Other approvals from Ecology. The permit writer should consult with the appropriate program(s) to identify required permits.
- C. Special Use Permits.
- D. Other local, state, or federal approvals.
- E. Approval from Department of Health (DOH). When DOH water system approval is necessary:
 - a. Consult regional office files to determine if DOH has approved a water system plan.

- b. If water system plan has not been approved, issue permit with a proviso stating that DOH approval of the water system plan is required prior to issuance of a certificate.
- F. Approval from Federal Energy Regulatory Commission (FERC) for hydropower development:
 - a. Determine if applicant has submitted Request for Jurisdiction Determination to FERC.
 - b. Determine if annual power license fees are required (RCW 90.16.050). If so, add proviso on ROE to indicate annual fees.
 - c. Inform the applicant, if appropriate, that annual power license fees are required at the time the permit is issued and on or before January 1 of each year thereafter.
- G. State Environmental Policy Act (SEPA): Check with the regional SEPA coordinator to determine SEPA requirements for the proposal. If the city or county will be the SEPA lead agency, but currently has no application to act on, discuss options with them on SEPA compliance. If SEPA is required but the water right permit is exempt (WAC 197-11-800 (4) and RCW 43.21C.035), it may only be issued prior to completion of SEPA if the lead agency agrees that it would not limit the choice of reasonable alternatives (WAC 197-11-070). In all other cases where SEPA is required, Ecology must wait to issue the permit until after the SEPA process is complete.
- H. Family Farm Act: If the application is for irrigated agriculture, determine which classification is applicable and ensure appropriate provisions are explicit in the report of exam (RCW 90.66.050).

CHAPTER THREE: REPORT OF EXAMINATION (ROE)

Permit writers document their findings and recommendations in an ROE. The ROE may recommend approval that a water right permit be issued on the application, or may recommend that the application be denied. an application is subject to denial, Ecology may issue a formal order of denial rather than a ROE. Before issuing the formal order of denial, the permit writer should first provide a letter to the applicant justifying the decision.

ROEs can be produced using currently accepted templates (e.g. ActiveDocs wizards) and consist of the Investigator's Report and the Cover Sheet/Order (see the [ROE Tool Box](#) for additional guidance and templates). The draft ROE is posted on Ecology's website for public review and comment before Ecology issues the final ROE. Additional guidance can be found in the [Water Right Investigator's Manual](#).

I. INVESTIGATOR'S REPORT

The investigator's report documents the findings of the permit writer's investigation of the application. The report should address the following:

- A. Background Information
 - a. Proposal description
 - b. Project background
 - c. Legal authorization for processing (e.g. authority under chapters 90.03, 90.14, 90.42, 90.44, or 90.90 RCW)
 - d. Public notice
 - e. Any protests or concerns
 - f. SEPA status
 - g. Consultation with the Department of Fish and Wildlife
- B. Investigation
 - a. Identify the date and who performed the field exam.
 - b. References used in office research.
 - c. Name(s) of person(s) interviewed.
 - d. Determination of priority date.
 - e. Observations:
 - i. Source location(s) (absolute and relative)
 - ii. Well depth (compare to well report; look for the Unique Well ID#)
 - iii. Water availability
 - iv. Observed or measured surface water flows
 - v. Feasible irrigable acreage
 - vi. Other water rights appurtenant to proposed place of use
 - vii. Other water rights near proposed place of use
 - viii. Source characteristics
 - ix. Proposed or existing distribution system description.

- x. Geology-hydrology
 - xi. Hydraulic continuity
 - xii. Sea water intrusion assessment
 - xiii. Instream flow assessment
 - xiv. History of water use in area.
- f. Other region-specific concerns.
- g. General use of stream or aquifer(s).
- h. Hydrogeologic technical analysis (including but not limited to):
 - i. evaluation of groundwater flow regime
 - ii. surface water/groundwater hydraulic continuity
 - iii. well pumping effects on both surface water and groundwater wells.
- C. Consideration of objections and discussion of protest(s) (WAC 508-12-170).
- D. Conclusions⁴:
 - a. Availability of water for appropriation.
 - b. Estimate of effect on existing rights.
 - c. Beneficial use (RCW 90.54.020 and RCW 90.14.031).
 - d. Whether proposed use is detrimental to public interest.
 - e. Assessment of points raised by protestant(s) or commentor(s).
- E. Recommendations:
 - a. Denial; partial denial; approval.
 - b. Proposed beneficial use(s).
 - c. Additive or non-additive (POL 1040) for each proposed use.
 - d. Quantities (instantaneous and annual, or maximum storage limit).
 - e. Acreage irrigated.
 - f. Number of proposed housing units to be served.
 - g. Period of use for each proposed use (year-round or seasonal).
 - h. Whether the water use is consumptive or non-consumptive (POL 1020).
 - i. Reference to the provisions listed with the cover sheet.
 - j. Place of Use Map

II. COVER SHEET/ORDER

The cover sheet is an Administrative Order that provides a summary of key water right parameters in Ecology's decision to approve or deny the application. The cover sheet/Order should include the following items at a minimum:

- A. Name and address of applicant
- B. Priority date

⁴ Legal considerations may differ for changes or transfer of existing water rights and changes to Trust Water rights. For procedures in changes and transfers of water right, refer to POL 1200. For changes to Trust Water Rights, refer to GUID 1220.

- C. Application number
- D. Source of water
- E. Quantities (instantaneous and annual)
- F. Period of use (year-round or seasonal)
- G. Purpose(s)
 - a. Irrigated acreage
 - b. Public water system information
 - c. Clarifying terms of the water right (for example: primary, additive, stand-by/reserve, non-additive, consumptive, non-consumptive, and so on; see [POL 1040](#)).
- H. Source limitations
- I. Source location(s) of point(s) of diversion or withdrawal
- J. Place of use (including legal description)
- K. Proposed works
- L. Development schedule (determined in consultation with the applicant)
- M. Cumulative quantity of water use (If the water right is part of a portfolio of rights, consider listing all the rights and the total quantities authorized in the portfolio.)
- N. Any provisions:
 - a. necessary to satisfy identified concerns and agency objectives
 - b. required by rules (such as water use measurement provisions per [WAC 173-173](#))
 - c. addressing regionally specific conditions (see the [ROE Tool Box](#))
- O. Current appeal language (use agency standards on [Compliance and Enforcement Intranet](#))
- P. Signature block for appropriate regional section manager.

III. REVIEW AND POSTING OF DRAFT REPORT OF EXAMINATION

Draft ROEs undergo an internal review and approval process, before being posted to the internet for a 30-day comment/review period (see [Posting of Draft and Final Reports of Examination](#)). The permit writer and section manager/permit unit supervisor should evaluate the comments received during the review period and incorporate them into the ROE as appropriate.

IV. SIGNATURES AND POSTING OF FINAL REPORT OF EXAMINATION

When the draft ROE has been approved, clerical staff prepare the final document. The final investigator's report is signed by the permit writer, and the cover page Order is signed by the section manager. The final ROE is then scanned and posted to the internet.

V. DISTRIBUTION OF REPORT OF EXAMINATION

ROEs are sent by certified mail to both the applicant(s) and any protestant(s). There is a 30 day appeal period. It starts upon applicant's or protestant's receipt of the ROE ([RCW 43.21B.310](#)).

VI. AMENDMENT OF REPORT OF EXAMINATION

Ecology may amend an ROE to make any necessary correction(s) to the original ROE. Corrected errors in an amended ROE should be administrative and/or clerical in nature and not alter the approval or denial

of the original ROE. The permit writer will prepare a memorandum to describe the reason for the amendment, which is made a permanent part of the file.

CHAPTER FOUR: WATER RIGHT PERMITS

A water right permit grants the permittee a legal authorization to begin putting water to beneficial use. Permits are typically issued with a number of provisions and deadlines. As identified in the development schedule, the permittee is responsible for providing Ecology with notice when they begin and complete construction of their project, and when they have fully applied the water to the proposed beneficial use(s).

I. ISSUANCE OF PERMITS

For new applications, a permit is generally issued after the 30-day appeal period has passed. Ecology has discretion to issue a permit even if appeals are received, but generally waits until the appeal is resolved.

For change applications, a superseding document may be issued after the appeal period, or according to the development schedule ([POL 1280](#)).

II. PERMIT MAINTENANCE

The period during which a permittee initiates and appropriates water under the water right permit is known as permit development. During this time, the permittee is obligated to meet specific milestones. Permit maintenance is the process by which water resources staff periodically evaluates the permittee's progress on these milestones. Applicants not in compliance with their development schedules may face permit cancellation or other compliance actions.

Beginning of Construction

Beginning of construction may include, but is not limited to, actions such as well drilling or development of the diversion or the distribution system. The permittee should submit a Begin Construction Notice to Ecology by the date designated on their development schedule.

Completion of Construction

In order to demonstrate completion of construction, all proposed and required infrastructure and measuring devices must be in place, including the water distribution system. If the appropriation is from groundwater, ensure that a well report has been received. The permittee should complete these steps and submit a Complete Construction Notice to Ecology by the designated date on their development schedule.

Proof of Appropriation

Upon establishing full beneficial use of the water under the terms of the permit, or any lesser amount, the permittee must submit a notarized proof of appropriation form to the appropriate regional office. Staff must confirm that the form is notarized.

A field proof examination may be necessary to demonstrate beneficial use. If so, the permit writer sends a letter instructing the permittee to secure the services of a Certified Water Rights Examiner, see [WAC 173-165](#).

Permit Extensions

Extensions for any phase of the development schedule may be approved by the issuing regional office on a case-by-case basis (RCW 90.03.320 and POL 1050). 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 [RCW 90.03.470(6)]. Extensions may be granted based on the size and the scope of the project. Submission of an application for change, or other issues raised by the permittee, are not sufficient reason to avoid extension fees.

Cancellation of Permits

If the terms of the permit are not pursued with due diligence, a letter warning of permit cancellation may be sent. The letter provides a 30-day response period. If the response to the warning letter is inadequate, Ecology should send a 60-day "show cause" letter by certified mail. The permittee then has 60 days from receipt to provide justification for their failure to abide by the agreed development schedule. Ecology may grant an extension for just cause, or the letter may be followed by an Order of Cancellation. Cancellation can also be requested at any time by the permittee.

Types of cancellation may include:

- Type 1 Cancellation: Request by permittee before or after 60-day show-cause letter sent.
- Type 2 Cancellation: No response to the 60-day show cause letter.
- Type 3 Cancellation: A response to show cause letter is submitted, but determined to be inadequate.

The following need to be in the file when preparing an Order of Cancellation:

- When requested by the permittee (Type 1, as defined above): Written documentation from the permittee specifically requesting that the permit be canceled.
- At agency discretion (Type 2 or Type 3, as defined above): Copies of the 30-day warning letter and the 60-day show cause letter, as well as any response(s) received

The following items should be considered when preparing to issue an Order of Cancellation:

- A. An Order of Cancellation resulting from noncompliance with the development schedule should indicate the specific facts in the case that warrant permit cancellation.
- B. If it is believed or known that any stage(s) of permit development have been completed, telephone or personal contact with the applicant should be made before proceeding further. A site visit may be appropriate if the permittee cannot be located.
- C. In all cases where a 60-day show cause letter has been sent, ensure that the 60 days has elapsed before preparing the Order of Cancellation (except in cases where the permittee has already requested cancellation).

III. ASSIGNMENT OF PERMITS

A permit is considered personal property and can be assigned to another person or person(s) by the permittee, with Ecology's written consent. Refer to "Assignment of Applications" (page 8) for applicable

procedures. Once assigned, a superseding document is issued which retains all necessary provisions contained in the original document. Assignments to multiple parties may be made so long as no enlargement occurs.

IV. PROOF EXAMINATION

Proof examinations shall be completed by a Certified Water Rights Examiner (CWRE) unless exempted at the discretion of regional management [RCW 90.03.665(9)]. Through a field inspection, the CWRE must determine the extent of actual development in terms of use(s), place of use, quantities, diversion locations, storage facilities, acreage irrigated (if any), etc. (WAC 173-165), and submit that information in a proof of examination report. Once a CWRE proof exam report is submitted [RCW 90.03.665(6)], the typical procedure is as follows:

A. Review the proof exam

- a. Compare the CWRE proof exam report to the permit file for completeness and compliance with the permit conditions.
- b. Review and comment on any inadequacies in the CWRE report and return it to the CWRE and applicant within 30 days.
- c. If after reviewing the CWRE report there are no inadequacies or corrections, issue a decision, by way of an Order, within 60 days of receipt of the report.
- d. Upon receipt of an amended proof exam report, issue a decision, by way of an Order, within 30 days.

B. Request fees

Notify the permittee when requesting fees if the certificate is to be issued for reduced quantities from those authorized by the permit.

CHAPTER FIVE: CERTIFICATES AND SUPERSEDING DOCUMENTS

Issuance of a water right certificate or superseding document is the final decision point in the permitting process.

I. CERTIFICATES

A water right certificate will not be issued until the permittee "perfects" the water right, and any appeals have been resolved.. To perfect the right, the permittee must show that they have applied the authorized quantity of water (or some lesser quantity) to beneficial use under the terms of the permit.

Verification of water use is typically done by the permittee hiring a Certified Water Right Examiner to conduct a proof examination. In these cases, Ecology issues the certification decision in an order, which includes a 30-day appeal period.

In some cases, the permittee has submitted adequate information with their Proof of Appropriation to satisfy Ecology on the quantity and use of water under the permit. Ecology may then choose to issue the certificate without requiring an additional proof examination by a Certified Water Right Examiner.

A certificate is issued after statutory state and county filing fees have been received by Ecology's Cashiering Section and a receipt is received by the regional office. The certificate 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.

II. CORRECTIONS TO PERMITS OR CERTIFICATES

Ecology may amend a permit or certificate to make any necessary correction(s) to the original. Corrected errors in an amended permit or certificate should be administrative and/or clerical in nature and not alter the conditions of the original certificate. The permit writer will prepare a memorandum to describe the reason for the amendment, which is made a permanent part of the file.

If the department identifies the need to make a correction to a permit or certificate that alters the conditions/attributes of a permit or certificate, it shall do so 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.

If the permittee or water right holder corrects or alters information that is different from the public notice or the place of use under which the permit or certificate issued, he/she must submit an application for change and will result in a superseding document, if approved.

III. SUPERSEDING DOCUMENTS

The water right change process results in different documents, depending on the original document type. Table 1 presents the types of superseding documents which result from changes of different types of water right documents.

Table 1. Superseding documents resulting from changes to different types of water rights.

Document to be Changed	Resulting Document
Water Right Certificate	Superseding Certificate
Water Right Permit	Superseding Permit
Vested Claim or Certificate of Change	Certificate of Change

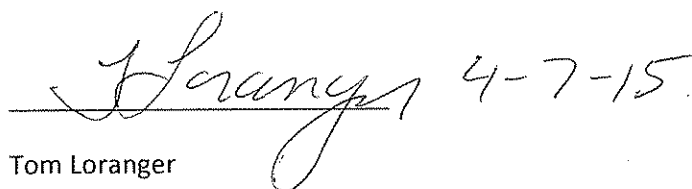
Actions that result in superseding documents include the following⁵:

- A. Corrections which alter conditions of a permit or certificate.
- B. Corrections in information from the applicant as described above.
- C. Partial relinquishment.
- D. Rescission.
- E. Corrections of clerical errors which alter the conditions/attributes of the permit or certificate.
- F. Approved change authorizations.
- G. Partial assignments affecting permits only.

In contrast, a permit or certificate can undergo a number of actions which do not result in superseding documents. These may include the following:

- A. Clerical errors which *do not* alter the conditions or attributes of the permit or certificate.
- B. Claim amendments.
- C. Showing of Compliance (POL 1260).

A superseding certificate 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 record. The auditor then forwards the recorded document to the right holder.

 4-7-15

Tom Loranger

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 rulemaking 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.

⁵ 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 to indicate a split record.