

Providing Notice of Water Right Applications to Indian Tribes

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¹ <https://ecology.wa.gov/About-us/Contact-Us>

Introduction

The Department of Ecology (Ecology) Water Resources Program (WRP) developed this guide to ensure we meet: (1) the spirit and intent of the *Centennial Accord between the Federally Recognized Indian Tribes in Washington State and the State of Washington*, (2) Government-To-Government Relationship with Indian Tribes (chapter 43.376 RCW) and (3) the shared interest in cooperatively managing the water resources within the state.

WRP works with Tribes in a government-to-government relationship to protect and manage shared water resources. The unique legal status of Tribes, including the presence of senior treaty-reserved rights (both unquantified and quantified) and cultural interests throughout the state, create a special and critically important relationship between Tribes and agencies responsible for managing and protecting the state's water resources.

Purpose

This guide identifies a consistent, transparent, and meaningful process that WRP will follow to engage with and notify Tribes with interest in Washington State water right applications received under the Water Code ([chapter 90.03 RCW](#)) and the Regulation of Public Groundwater ([chapter 90.44 RCW](#)).

WRP acknowledges that consultation and notification processes have been memorialized in separate memorandums of agreement, memorandums of understanding, and legal settlement agreements between WRP and individual tribal governments. This guide does not supersede those existing agreements.

Water Right Notifications

WRP is committed to providing a meaningful opportunity for Indian Tribes (Tribes) to consult on water right actions that affect waters that border, flow through, or are within the boundaries of a Tribe’s reservation, usual and accustomed fishing areas, or traditional use areas. This guide documents the process that WRP will follow to meet its commitment to meaningfully engage with Tribes on water right activities.

WRP seeks to be respectful of each Tribe’s unique concerns and specific preferences regarding notice frequency, process, and water resource inventory areas (WRIA or watersheds) of interest. WRP is establishing a process for Tribes to choose the frequency of notice and select their Ecology region(s) of interest (northwest, southwest, central, eastern) through a web-based email subscription. Regional staff will also seek to accommodate specific tribal requests, to the extent practicable.



Email notifications

Through a GovDelivery subscription, Tribes can receive automatic email notice and electronic access to information about:

- (1) new and change water right applications when accepted by WRP,²
- (2) draft reports of examinations (ROEs) posted for 30-day comment period, and
- (3) final ROEs.

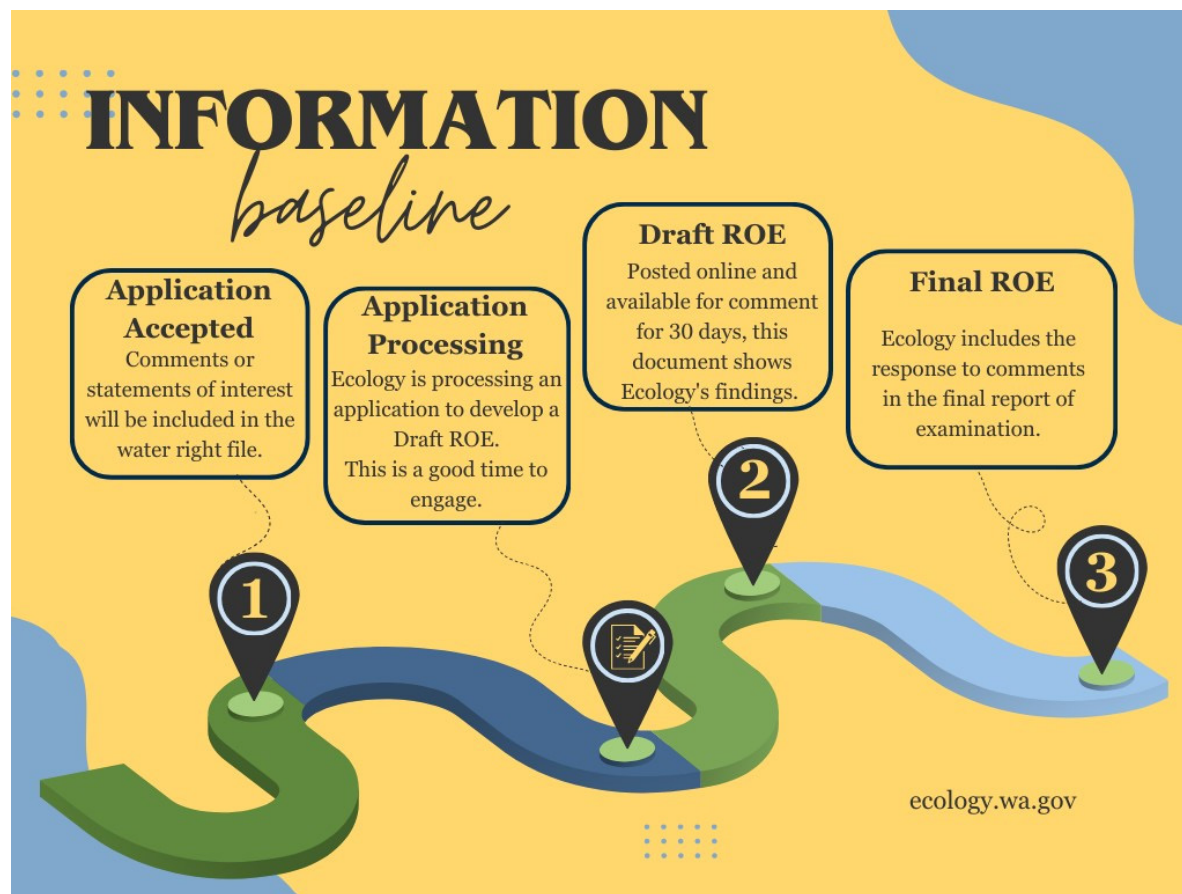


Figure 1 Ecology is committed to meaningful consultation. This chart outlines the starting point for notification and engagement with Tribes in Washington State. The best time to engage is during application processing or reviewing the draft ROE. The full process is outlined in the [New Water Right Permit Process Schematics](#).

² This may not apply to seasonal change/transfer, drought temporary permits, or short-term authorizations, or any emergency situations covered by POL-1035 Temporary and Emergency Drought Permits or POL-1045 Emergency Water Source Authorization.

Notice of new or change water right applications when accepted

Once subscribed, Tribes will receive email notice of the acceptance of any new or change applications within their selected region(s) of interest. WRP accepts applications when an application's required fields are complete. Acceptance does not mean that the application will be actively processed, nor is it an indication of approval or denial. This tribal notice is distinct from and in addition to the existing public notice of application in the local newspaper for 30 days.

Notice of draft reports of examination

Subscribed Tribes will receive emailed notice when draft reports of examination (ROEs) are posted for comment to Ecology's web portal. This includes new water right ROEs and ROEs for water right changes.

Notice of final reports of examination

Subscribed Tribes will receive email notice when final ROEs are posted to Ecology's web portal.

Additional Tribal notice

Notice of new or change water right application processing

In watersheds where there are a significant number of pending applications due to a backlog in processing, WRP may initiate processing at the watershed or WRIA scale. For these larger processing projects, regional staff will provide federally recognized Tribes that have usual and accustomed harvest area or reservation land within the water resource inventory area with a list of all applications in the watershed prior to processing. The list will exclude those applications where the applicant did not express interest in having their application processed. This will be in lieu of individual notifications for each application.

For water rights processed through cost reimbursement (RCW 90.03.265), notification will come from WRP staff, on behalf of the pre-approved consultant teams contracted to investigate water right applications and make recommendations to WRP.

Subscribe to receive GovDelivery notice

The electronic notifications are sent to an email address based on a subscription to a GovDelivery list. Tribes will receive email for the list(s) to which they subscribe (see figure 2).

If WRP updates its notification system and uses something other than GovDelivery, it will notify all Washington State Tribes and provide an alternate notification process.³



Visit the portal page to find the GovDelivery signup link.

[Northwest](#) | [Southwest](#) | [Central](#) | [Eastern](#)

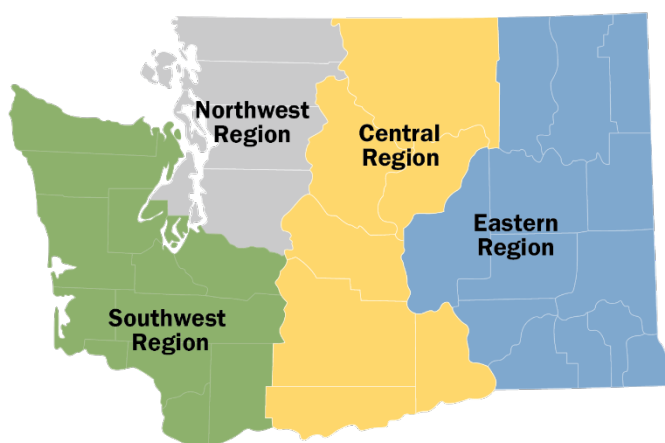


Figure 2 There is an email list for each of the four Ecology regions.

³ GovDelivery will allow tribes who opt into notifications to receive hourly, daily, or weekly updates on other application and decision types that are posted. For more information about [email lists with Washington State Department of Ecology](#).

Tribal comment process

The Water Resources Program is committed to meaningful consultation with Indian Tribes on applications for new water rights and applications to change existing water rights under chapters 90.03 and 90.44 RCW.⁴

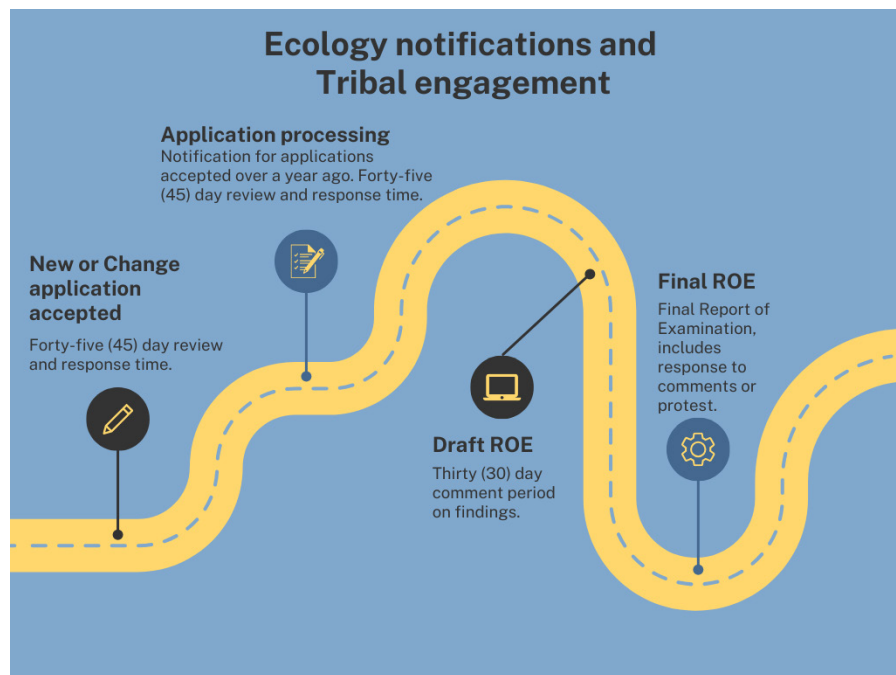
Review and comment time

The forty-five (45) day tribal review and response time on each water right application will follow electronic notice of application acceptance or of active application processing for older applications. Upon written requests, Tribes may request an extension beyond the initial forty-five (45) day period.

This application intake step is an opportunity for a Tribe to express general interest in or concerns about a specific water right application. Little or no analysis will have been completed at this step in the permitting process and thus, the WRP does not anticipate detailed comments on the application at this phase.

Tribes are also invited to submit comments during the thirty (30) day comment period following the online posting of draft Reports of Examination (ROEs).

WRP will contact the Tribe's commenting official if clarification is necessary. Tribal comments will be addressed in the final Report of Examination.



⁴ Tribes may also protest individual applications within 30 days of the last date of publication of notice posted under RCW 90.03.280. There is no fee associated with protests from Tribes.

Commenting

Preferred method of comment

WRP will maintain online comment forms that provide Tribes a way to comment directly to the region office about:

- (1) new and change water right applications.
- (2) draft reports of examinations (ROEs).

Comment forms can be found online:

- **Northwest Region:** <https://ecology.wa.gov/WR-Comment-NWRO>
- **Southwest Region:** <https://ecology.wa.gov/WR-Comment-SWRO>
- **Central Region:** <https://ecology.wa.gov/WR-Comment-CRO>
- **Eastern Region:** <https://ecology.wa.gov/WR-Comment-ERO>

If WRP updates its comment system and uses something other than Smart Comments, it will notify all Washington State Tribes and provide an alternative process.

Alternate method of comment

Tribes may also choose to provide written comments mailed to the Water Resources Program at the appropriate region office.

- **Northwest Region:** P.O. Box 330316, Shoreline WA 98133-9716
- **Southwest Region:** P.O. Box 47775, Olympia, WA 98504-7775
- **Central Region:** 1250 West Alder Street, Union Gap, WA 98903-0009
- **Eastern Region:** 4601 N Monroe, Spokane, WA 99205-1295

Government-to-government consultation

Outside of the notice and comment processes discussed in this guidance document, a Tribal government may always request government-to-government consultation with the Department of Ecology on water right applications and investigations, or water resource management topics.