WATER RIGHTS FEES

TASK FORCE

FINAL REPORT TO THE LEGISLATURE

January 6, 1994

WATER RIGHTS FEES TASK FORCE

MEMBERSHIP LIST

NAME	REPRESENTING
Kathleen Collins	Cities
Linda Crerar	Department of Ecology
Merle Gibbens	Agriculture
Jim Kirkpatrick	Water Utilities
Brooke Martic	Recreation
Paul Parker	Counties
Daniel Swecker	Aquaculture
Jan Teague	Business
John Thielke	Hydropower
Bruce Wishart	Environmental
Sen. Scott Barr	Senate Republican Caucus
Rep. Gary Chandler	House Republican Caucus
Rep. Wes Pruitt and Rep Margaret Rayburn	House Democratic Caucus
Sen. Marilyn Rasmussen	Senate Democratic Caucus

Recommendations of the Water Rights Fees Task Force

I. Better instructional and educational materials should be prepared to provide assistance to applicants and protesters, to reduce other technical assistance that must be provided, and to reduce communications regarding public notice requirements.

II. Different application forms and styles should be provided for different categories of water permit requests.

III. The date of priority for an application filed with the Department should be the date the information required on the face of the application is complete.

IV. With regard to protests and appeals, initiate the following changes: 1) establish the 30-day protest period in statute; 2) in appealing an agency decision to the Pollution Control Hearings Board or in appealing a PCHB decision to court, establish that the burden of proof is on the person making the appeal; 3) limit the standing of those who may file an appeal of a Department decision, using standing as defined by the Administrative Procedure Act; 4) allow construction of a project to proceed during judicial appeal if the PCHB upholds the Department's establishment of a water right; 5) allow one PCHB member to hear and decide an appeal from a water right applicant regarding the nature and extent of the information needed to evaluate an application; and 6) require parties to participate in mediation prior to being able to appear before the PCHB.

V. (Not adopted)

VI. Authorize the Department of Ecology to develop a general permit system for nonconsumptive/nonbypass uses and for diversion and use of marine waters.

VII. An applicant may employ the services of private entities to provide information necessary for processing an application. These activities should be performed within protocols established by the Department. The Department should retain the ability to review the information provided and audit the work performed but should not be permitted to duplicate activities conducted within its

protocols. The Department should not be permitted to require an applicant to provide information for an application that is not directly relevant to processing that application.

VIII. Workload standards, success measures, and cost accounting procedures for the program should be established to provide accountability. In establishing workload standards, the Legislature has an expectation that a simple, basic application can be processed by the Department in six months; an intermediate application, in one year.

IX. With regard to the permit construction schedule and certain notices: 1) reduce "hand-holding" by reducing the amount of required paperwork exchanges between an applicant and the Department; 2) have the Department establish the time allowed for the applicant to put water to beneficial use; 3) add to statute a definition of "good cause" and 4) send notices regarding an applicant's failure to comply with conditions for a permit, transfer, change, or extension by certified (rather than registered) mail.

X. Clarify in statute that changes and transfers may be allowed for a variety of reasons; establish an expedited process for some changes and transfers.

XI. Direct the Department of Ecology to adopt rules establishing the definition of a completed application, in consultation with commenting agencies, users of application data, and other stakeholders.

XII. Authorize the Department of Ecology to accept and process a single, consolidated application covering multiple sources for a new project. While one application is submitted, separate water rights certificates may be issued.

XIII. Provide for a ~~waiver of notice~~ and evaluation requirements for small uses developed under a reservation of water adopted by rule.

XIV. Provide for a waiver of notice and evaluation requirements for some short-term uses.

XV. The Department of Ecology shall establish a register which identifies larger applications for new water rights and for changes and transfers. The Department will produce the register once every two weeks and shall provide it in exchange for a fee to those who request it.

XVI. There should be no disincentives for conservation or the efficient use of water.

XVII. There should be no disincentives to the consolidation of public water systems.

XVIII. There needs to be recognition that it is in the public interest that municipal water use should be consistent with growth management objectives.

XIX. The Department of Ecology should not conduct dam safety reviews or inspections on federally licensed projects.

XX. The Department of Ecology should pursue emergency rule-making to implement the recommendations of the Task Force which require new rules.

XXI. With regard to fees, 1) fees should be established in statute; 2) there should be a one-time $75 registration fee for new exempt wells; 3) there should be established a permanent base fee level; 4) there should be a temporary (three-year) fee surcharge, with the temporary fees allocated to data management development and backlog reduction; and 5) the fee levels for the base fee and the surcharge should be as shown on the recommended fee schedules.

ADOPTED TO IMPLEMENT POLICY III

III. The date of priority for an application filed with the Department should be the date the information required on the face of the application is complete.

Sec. 1. RCW 90.03.340 and 1987 c 109 § 90 are each amended to read as follows:

July 1, 1994

After ~~January 1, 1995~~, the priority date of the right acquired by appropriation ((~~shall relate back to~~)) is the date ((~~of filing of~~)) the ((~~original~~)) completed application form for the right is filed with the department. For the purposes of this section and RCW 90.03.270, a completed application form is one which: Contains all of the information requested on the form, and is accompanied by the application fee.

Sec. 2. RCW 90.03.270 and 1987 c 109 § 85 are each amended to read as follows:

Upon receipt of ((~~an~~)) a completed water right application form, it shall be the duty of the department to ((~~make an endorsement thereon of the~~)) date ((~~of its receipt, and to~~)) stamp and keep a record of ((~~same~~)) it. If ((~~upon examination,~~)) an application form is filed with the department but the information requested on the application form is ((~~found to be defective, it~~)) not complete or the form is not accompanied by the proper application fee, the form and any application fee filed with it shall be returned to the applicant ((~~for correction or completion,~~)) and the date and the reasons for the return thereof shall be ((~~endorsed thereon and made a record in his office~~)) noted in the department's records and in a letter returning the form. ((~~No application shall lose its priority of filing on account of such defects, provided acceptable maps, drawings and such data as is required by the department shall be filed with the department within such reasonable time as it shall require.~~))

Sec. 3. Section 1 shall take effect on ~~January 2, 1995~~.

July 1, 1994

ADOPTED TO
IMPLEMENT POLICY IV

IV. With regard to protests and appeals, initiate the following changes: 1) establish the 30-day protest period in statute; 2) in appealing an agency decision to the Pollution Control Hearings Board or in appealing a PCHB decision to court, establish that the burden of proof is on the person making the appeal; 3) limit the standing of those who may file an appeal of a Department decision, using standing as defined by the Administrative Procedure Act; 4) allow construction of a project to proceed during judicial appeal if the PCHB upholds the Department's establishment of a water right; 5) allow one PCHB member to hear and decide an appeal from a water right applicant regarding the nature and extent of the information needed to evaluate an application; and 6) require parties to participate in mediation prior to being able to appear before the PCHB.

1) Establish 30-day protest period in statute

RCW 90.03.280 and --- are each amended to read as follows:

((~~Upon receipt of a proper application, t~~))<u>T</u>he department shall instruct the applicant to publish <u>a</u> notice ((~~thereof~~)) in a form and within a time prescribed by ((~~him~~)) <u>the department</u> in a newspaper of general circulation published in the county or counties in which the storage, diversion <u>or withdrawal</u>, and use is to be made, and in such other newspapers as ((~~he~~)) <u>the department</u> may direct, once a week for two consecutive weeks. <u>The notice shall include information pertinent to the proposed appropriation, including the location, the source, the purpose or purposes of use, and the quantity proposed to be diverted or withdrawn. The notice shall state that persons wishing to protest the proposed application must do so in writing to the department within thirty days of the last date of publication of the notice. In order to be considered by the department, a protest must be received by the department within thirty days of the last date of publication of the notice.

Upon receipt by the department of an application it shall send notice thereof containing pertinent information to the director of <u>the department of fish and</u> ((~~fisheries and the director of~~)) wildlife.

2) Burden of Proof:

A new section is added to Chapter 43.21B RCW to read as follows:

In any proceeding before the pollution control hearings board challenging a decision of the department relating to the issuance, conditioning, transfer, amendment, or denial of a water right permit under title 90 RCW, the burden of proof shall be on the person filing the appeal.

3) Standing

A new section is added to Chapter 43.21B RCW to read as follows:

Only a person with standing as defined in RCW 34.05.530 may appeal to the pollution control hearings board a decision of the department to issue, condition, transfer, amend, or deny a water right under title 90 RCW.

4) Construction During Judicial Appeal

A new section is added to Chapter 43.21B RCW to read as follows:

If the department proposes to issue a water right permit or transfer or change authorization pursuant to title 90 RCW and (1) the decision of the department is appealed to the pollution control hearings board within thirty days of the date of filing; (2) the hearings board upholds the department's decision; and (3) an appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.05 RCW, the applicant for the water right may request, within ten days of the filing of the appeal with the court, a hearing before the court to determine whether construction and operation may begin pursuant to the water right permit or authorization. If at the conclusion of the hearing, the court finds that construction and operation pursuant to such a permit or authorization would not involve a significant damaging of the environment or impair existing water rights, the court may allow the permittee to begin construction and operation pursuant to the permit or authorization as the court deems appropriate. The court may require the permittee to post bonds, in the name of the department, sufficient to remove the construction or to restore the environment if the permit or authorization is ultimately disapproved by the courts, or to alter the construction or operation if the alteration is ultimately ordered by the courts. In such a hearing before the court, the burden of proving whether the construction or operation may involve significant damage to the

environment or impair existing water rights and demonstrating whether such construction would or would not be appropriate is on the appellant.

5) Allow one PCHB member to hear and decide an appeal from a water right applicant regarding the nature and extent of the information needed to evaluate an application

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21B RCW to read as follows:

One member of the pollution control hearings board may hear and render a decision on an appeal from a water right applicant regarding the nature and extent of the information needed to make determinations regarding the application for or the processing of a water right permit.

NEW SECTION. **Sec. 2.** A new section is added to chapter 90.03 RCW to read as follows:

A water right applicant may appeal to the pollution control hearings board a determination by the department of ecology regarding the nature and extent of the information needed to make determinations regarding the application for or the processing of a water right permit.

6) Requiring mediation

ADOPTED TO IMPLEMENT POLICY VI.

VI. Authorize the Department of Ecology to develop a general permit system for nonconsumptive/nonbypass uses and for diversion and use of marine waters.

NEW SECTION. Sec. 1. A new section is added to chapter 90.03 RCW to read as follows:

(1) The department shall develop a general permit system for appropriating water for nonconsumptive, nonbypass uses and a general permit system for appropriating marine waters for use on upland sites. These systems shall be designed and used to streamline the consideration of applications for nonconsumptive, nonbypass water uses and marine water uses which by their nature do not raise issues regarding water availability or the impairment of other water rights. The evaluation and report required for an application by RCW 90.03.290 are not required for applications processed under such a general permit system. For the purposes of this section:

(a) A "nonconsumptive, nonbypass use" means a use of water in which water is diverted from a stream or withdrawn from an aquifer and following its use is discharged back to or very near the point of diversion or withdrawal without diminishment in quantity or quality.

(b) "Without diminishment of quality" means that, before being discharged back to its source, the water being discharged meets state water quality standards adopted under Chapter 90.48 RCW.

(c) "Marine waters" means the coastal saline waters under the jurisdiction of the state of Washington.

(2) The department shall establish the general permit systems by rules adopted in accordance with Chapter 34.05 RCW. Prior to the adoption of rules for such a system, no fewer than four public hearings shall be held at various locations around the state . The hearings on the general permit system for marine water use shall be held in appropriate coastal communities. The rules shall identify criteria for proposed uses of water for which applications may be processed under each such system and shall establish procedures for filing and processing applications under the general permit systems.

NEW SECTION. Sec. 2. A new section is added to chapter 90.03 RCW to read as follows:

An application for appropriating water under a general permit system established under section 1 of this act shall be made on a form provided by the department. Within 60 days of the

publication of a notice for such an application in accordance with RCW 90.03.280, the department shall determine whether the proposed use is eligible to be processed under the general permit system. If the department determines that the proposed use is eligible to be processed under the system, the application shall be so processed. If the department determines that the proposed use is not eligible for such processing, the department shall explain to the applicant in writing the reasons for its determination. If, in the latter case, the department finds that the information contained on the application form substantially satisfies the information requirements for an application for such a use that would normally be filed for processing the application outside of a general permit system, the department shall notify the applicant of its finding and shall process the application as if it were filed for processing outside of the system. If the department finds that the information does not substantially satisfy such requirements, the application shall be considered to be incomplete for such processing and the applicant shall be so notified.

ADOPTED TO IMPLEMENT POLICY VII

VII. An applicant may employ the services of private entities to provide information necessary for processing an application. These activities should be performed within protocols established by the Department. The Department should retain the ability to review the information provided and audit the work performed but should not be permitted to duplicate activities conducted within its protocols. The Department should not be permitted to require an applicant to provide information for an application that is not directly relevant to processing that application.

Sec. 1. RCW 90.03.290 and 1988 c 36 § 66 are each amended to read as follows:

(1) When an application complying with the provisions of this chapter and with the rules ((~~and regulations~~)) of the department has been filed, the ((~~same~~)) application shall be placed on record with the department, and it shall be ((~~its~~)) the department's duty to ((~~investigate the application, and~~)) determine what water, if any, is available for appropriation, and find and determine to what beneficial use or uses it can be applied.

The department shall investigate the application. It is the duty of the applicant to provide a completed application form. In addition to providing the information requested on the form, however, the applicant shall also provide such information as may be required for the department's investigation, determinations and findings regarding the application and may provide additional information. Any such information provided by the applicant shall satisfy the protocols (i.e., study plans and criteria) established by the department for obtaining and providing the information. If an applicant provides such information and the protocols set by the department for obtaining and providing it have been satisfied, the department shall review the information and may take actions to verify that the information is accurate, but it may not, except to replace inaccurate information, take actions which would constitute obtaining major portions of the information anew.

(2) With regard to an application:

(a) If it is proposed to appropriate water for irrigation purposes, the department shall investigate, determine and find what lands are capable of irrigation by means of water found available for appropriation.

(b) If it is proposed to appropriate water for the purpose of power development, the department shall investigate, determine and find whether the proposed development is likely to prove detrimental to the public interest, having in mind the highest feasible use of the waters belonging to the public.

(3) If the application does not contain, and the applicant does not promptly furnish sufficient information on which to base such findings, the department may issue a preliminary permit, for a period of not to exceed three years, requiring the applicant to make such surveys, investigations, studies, and progress reports, as in the opinion of the department may be necessary. If the applicant fails to comply with the conditions of the preliminary permit, it and the application or applications on which it is based shall be

automatically canceled and the applicant so notified. If the holder of a preliminary permit shall, before its expiration, file with the department a verified report of expenditures made and work done under the preliminary permit, which, in the opinion of the department, establishes the good faith, intent and ability of the applicant to carry on the proposed development, the preliminary permit may, with the approval of the governor, be extended, but not to exceed a maximum period of five years from the date of the issuance of the preliminary permit.

(4) The department shall make and file as part of the record in the matter, written findings of fact concerning all things investigated, and if it shall find that there is water available for appropriation for a beneficial use, and the appropriation thereof as proposed in the application will not impair existing rights or be detrimental to the public welfare, it shall issue a permit stating the amount of water to which the applicant shall be entitled and the beneficial use or uses to which it may be applied: PROVIDED, That where the water applied for is to be used for irrigation purposes, it shall become appurtenant only to such land as may be reclaimed thereby to the full extent of the soil for agricultural purposes. But where there is no unappropriated water in the proposed source of supply, or where the proposed use conflicts with existing rights, or threatens to prove detrimental to the public interest, having due regard to the highest feasible development of the use of the waters belonging to the public, it shall be duty of the department to reject such application and to refuse to issue the permit asked for. If the permit is refused because of conflict with existing rights and such applicant shall acquire same by purchase or condemnation under RCW 90.03.040, the department may thereupon grant such permit. Any application may be approved for a less amount of water than that applied for, if there exists substantial reason therefor, and in any event shall not be approved for more water than can be applied to beneficial use for the purposes named in the application. In determining whether or not a permit shall issue upon any application, it shall be the duty of the department to investigate all facts relevant and material to the application. After the department approves said application in whole or in part and before any permit shall be issued thereon to the applicant, such applicant shall pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the event a permit is issued by the department upon any application, it shall be its duty to notify ((~~both~~)) the director of the department of ((~~fisheries~~)) fish and ((~~the director of~~)) wildlife of such issuance.

Sec. 2. RCW 90.03.270 and 1987 c 109 § 85 are each amended to read as follows:

[Note: The following is added to this section of law as the section is altered under policy III (date of priority).]

The department may not require an applicant to provide information in support of an application for a water right permit which is not directly necessary for the department's investigations, determinations, or findings regarding that particular application.

NEW SECTION. Sec. 3. As used in RCW 90.03.290, "the director of the department of fish and wildlife" means the director of fisheries and the director of wildlife.

This section shall expire on June 30, 1994.

ADOPTED TO
IMPLEMENT POLICY VIII.

Workload standards, success measures, and cost accounting procedures for the program should be established to provide accountability. In establishing workload standards, the Legislature has an expectation that a simple, basic application can be processed by the Department in six months; an intermediate application, in one year.

NEW SECTION. Sec. 1. A new section is added to chapter 90.03 RCW to read as follows:

(1) The department of ecology shall develop a budget process for its water rights administration program which accomplishes the following:

a) identifies targets for permitting activities for the biennium;
b) identifies workload standards;
c) prepares a draft budget;
d) provides for timely public review of the draft budget; and
e) circulates a final budget.

(2) The department of ecology shall also establish an advisory committee of stakeholders. This group of stakeholders shall establish and periodically review the following:

a) workload standards and proposed incentives to improve such standards;
b) program expenditure categories to account for and track costs related to the water rights administration program; and
c) success measures based upon programmatic results designed to evaluate program effectiveness and standards for defining such measures.

In establishing the initial workload standards, the legislature has an expectation that the department of ecology will process a simple, basic application in six months and an application of intermediate difficulty in one year.

(3) The department of ecology shall report annually on the success measures established, the number of water right permit decisions made and the associated costs of administering the water rights program.

(4) The legislature shall provide for another state entity or an independent contractor to conduct periodic performance audits or evaluations of the effectiveness and efficiency of the department of ecology in meeting its workload standards and achieving programmatic success.

ADOPTED TO IMPLEMENT POLICY IX.

IX. With regard to the permit construction schedule, 1) reduce "hand-holding" by reducing the amount of required paperwork exchanges between an applicant and the Department; 2) have the Department establish the time allowed for the applicant to put water to beneficial use; 3) add to statute a definition of "good cause" and 4) send notices regarding an applicant's failure to comply with conditions for a permit, transfer, change, or extension by certified (rather than registered) mail.

Sec. 1. RCW 90.03.320 and ----- are each amended to read as follows:

(1) Actual construction work shall be commenced on any project for which permit has been granted within such reasonable time as shall be prescribed by the department, and shall thereafter be prosecuted with diligence and completed within the time prescribed by the department. The department, in fixing the time for the commencement of the work, or for the completion thereof and the application of the water to the beneficial use prescribed in the permit, shall take into consideration the cost and magnitude of the project and the engineering and physical features to be encountered, and shall allow such time as shall be reasonable and just under the conditions then existing, having due regard for the public welfare and public interests affected: and, for good cause shown, it shall extend the time or times fixed as aforesaid, and shall grant such further period or periods as may be reasonably necessary, having due regard to the good faith of the applicant and the public interests affected.

(2) For the purposes of this section, good cause includes but is not limited to the following circumstances:

a) Active service in the armed forces of the United States during military crisis;

b) Nonvoluntary service in the armed forces of the United States;

c) The operation of legal proceedings;

d) Delays in securing other permits necessary to proceed with the development;

e) A single transfer in ownership of the property;

f) Encountering unanticipated physical impediments to construction; and

g) Encountering generally depressed economic conditions.

ADOPTED TO
IMPLEMENT POLICY X.

Clarify in statute that changes and transfers may be allowed for a variety of reasons; establish an expedited process for some changes and transfers.

Sec. 1. RCW 90.03.380 and --- are each amended to read as follows:

(1) The right to the use of water which has been applied to a beneficial use in the state shall be and remain appurtenant to the land or place upon which the same is used((~~: PROVIDED, HOWEVER, That said~~)). However, all or a portion of a water right may be transferred to another ((~~or to others~~)) person or persons and become appurtenant to any other land or place of use without loss of priority of right ((~~theretofore established~~)) if ((~~such change~~)) the transfer can be made without detriment or injury to existing rights.

(2) The point of diversion or withdrawal of water for beneficial use or the purpose of use under an existing water right or permit may be changed ((~~,~~)) if ((such)) the change or changes can be made without detriment or injury to existing water rights.

The season of use under an existing water right or permit may be changed if the change involves the same general category of water use and the change can be made without detriment or injury to existing water rights. An example of a general category of water use for the purposes of this paragraph, but not a limit to such categories, is an agricultural use of water.

(3) The source of water for an existing water right or permit may be changed from a surface water diversion to a groundwater withdrawal or vice versa if the two sources are in direct hydraulic continuity and if the change can be made without detriment or injury to existing water rights.

(4) The right embodied in a permit for water that has not yet been put to beneficial use may be transferred or changed. For a certificate, only the amount of water that has been beneficially used in accordance with the laws of the state may be transferred or changed. Any excess quantities shall be relinquished as provided by Chapter 90.14 RCW. When a water right permit or certificate is transferred or changed, the amount diverted or withdrawn for beneficial use may not be enlarged as to annual quantity.

(5) Before any transfer or change of ((~~such~~)) a water right or permit, ((~~to use water or change of the point of diversion of~~

~~water or change of purpose of use~~)) can be made, any person having an interest in the transfer or change((~~,~~)) shall file a written application ((~~therefor~~)) with the department((~~, and said application~~)) on a form provided by the department.

(6) A person proposing to relocate a point of diversion of surface water shall not be required to file an application if the diversion point is moved no more than one quarter mile from its original location and no other water rights will be impaired. At least fifteen days prior to construction of a replacement diversion point, the water right holder shall inform the department in writing of the intention to move the diversion point.

(7) Authorization for the requested transfer or change shall not be granted until notice of ((~~said~~)) the application ((~~shall be~~)) has been published as provided in RCW 90.03.280.

(8) If it ((~~shall~~)) appears that ((~~such~~)) the transfer or ((~~such~~)) change may be made without injury or detriment to existing rights, the department shall issue to the applicant an authorization to proceed with the transfer or change. The department may include in its authorization any necessary conditions or limitations under which the transfer or change may be made, including a reasonable time for completion. The time may be extended upon request and a showing of good cause in accordance with the provisions of RCW 90.03.320 and 470. If the person authorized to make a transfer or change of right fails to do so within the time allowed, including extensions granted for good cause, the department shall cancel the authorization and the water right or permit shall revert to its original form and substance.

(9) If the department determines that the proposed transfer or change may periodically operate to impair an existing right, the department's authorization may be made contingent on the proponent's willingness to subordinate the use to the potentially impaired right or rights and the authorization shall be so conditioned.

(10) The person authorized to make the transfer or change shall notify the department upon completion of the transfer or change. After verifying that the transfer or change has been completed in accordance with its authorization, the department shall issue to those persons having an interest in the resulting water right or rights a certificate, certificate of change, or superseding certificate as appropriate in duplicate ((~~granting~~)) which reflects the nature of the water right or rights ((~~for such~~)) as transferred or ((~~for such~~)) changed ((~~of point of diversion or of use~~)). The certificate or certificates so issued shall be filed and be made a record with the department and the duplicate certificate issued to the applicant ((~~may~~)) shall be

filed with the county auditor in like manner and with the same effect as provided in the original certificate or permit to divert water.

Sec. 2. RCW 90.03.390 and --- are each amended to read as follows:

(1) ((~~RCW 90.03.380 shall not be construed to prevent~~)) A water right holder may make ((~~users from making~~)) a seasonal or temporary change of a water right ((~~point of diversion or place of use of water~~)) when ((~~such~~)) the change can be made without detriment to existing rights, but in no case shall such change be made without the permission of ((~~the water master of the district in which such proposed change is located, or of~~)) the department.

(2) ((~~Nor shall RCW 90.03.380 be construed to prevent rotation in the use of water for~~)) To bring((~~ing~~)) about a more economical use of the available supply((~~,~~)), ((~~W~~))water users owning lands to which water rights are attached may rotate in the use of water to which they are collectively entitled, or an individual water user having lands to which are attached water rights of a different priority, may in like manner rotate in use when ((~~such~~)) rotation can be made without detriment to other existing water rights, and has the approval of the ((~~water master or~~)) department.

(3) A person or persons wishing to make a seasonal or temporary change or to rotate use in the manner provided in this section shall file an application with the department on a form provided by the department. The department shall waive the notice provisions of RCW 90.03.280 unless it has reason to believe that fish habitat or the water rights of other persons are likely to be affected by the proposed change. The department shall respond to the request by letter setting forth its approval or denial, including the reason for denial. The department shall retain a record of its decision as part of the records of the water right or rights being changed. To the extent practicable, the department shall expedite its consideration of requests under this section.

Sec. 3. RCW 90.44.100 and --- are each amended to read as follows:

((~~After an application to, and upon the issuance by the department of an amendment to the appropriate permit or~~

~~certificate of ground water right, the holder of a valid right to withdraw public ground waters may, without losing his priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or he may change the manner or the place of use of the water: PROVIDED, HOWEVER, That such amendment shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that:~~))

(1) A ground water permit or certificate may be transferred or changed in the manner provided in RCW 90.03.380 if: (((~~1~~))a) ((~~The~~)) Any additional or substitute well or wells shall tap the same body of public ground water as the original well or wells; (((~~2~~))b) use of the original well or wells shall be discontinued upon construction of the substitute well or wells; (((~~3~~))c) the construction of an additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (((~~4~~))d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(2) No authorization from the department is required for construction of a replacement well of the same size, depth and capacity which will tap the same aquifer as the original well if the new well is within one-quarter mile of the original well and if the well being replaced is properly decommissioned in accordance with Chapter 18.104 RCW. The well owner shall notify the department in writing of the intent to replace the original well and to describe the change in location.

ADOPTED TO IMPLEMENT
POLICY XI.

XI. Direct the Department of Ecology to adopt rules establishing the definition of a completed application, in consultation with commenting agencies, users of application data, and other stakeholders.

RCW 90.03.260 and ---- are each amended to read as follows:

((~~Each application for permit to appropriate water shall set forth the name and post office address of the applicant, the source of water supply, the nature and amount of the proposed use, the time during which water will be required each year, the location and description of the proposed ditch, canal, or other work, the time within which the completion of the construction and the time for the complete application of the water to the proposed use. If for agricultural purposes, it shall give the legal subdivision of the land and the acreage to be irrigated, as near as may be, and the amount of water expressed in acre feet to be supplied per season. If for power purposes, it shall give the nature of the works by means of which the power is to be developed, the head and amount of water to be utilized, and the uses to which the power is to be applied. If for construction of a reservoir, it shall give the height of the dam, the capacity of the reservoir, and the uses to be made of the impounded waters. If for municipal water supply, it shall give the present population to be served, and, as near as may be, the future requirement of the municipality. If for mining purposes, it shall give the nature of the mines to be served and the method of supplying and utilizing the water; also their location by legal subdivisions. All applications shall be accompanied by such maps and drawings, in duplicate, and such other data, as may be required by the department, and such accompanying data shall be considered as a part of the application.~~))

The department shall adopt rules in accordance with chapter 34.05 RCW no later than January 1, 1995 which specify the contents of completed water right application forms. The rules shall include specific timelines for the department to follow in making a determination as to whether an application is complete and notifying the applicant of its determination. The rules shall also identify the kinds of inaccuracies which shall render an application incomplete.

RCW 90.44.060 and --- are each amended to read as follows:

Applications for permits for appropriation of underground water shall be made in the same form and manner provided in RCW 90.03.250 through 90.03.340, as amended, the provisions of which sections are hereby extended to govern and to apply to ground water, or ground water right certificates and to all permits that shall be issued pursuant to such applications, and the rights to

the withdrawal of ground water acquired thereby shall be governed by RCW 90.03.250 through 90.03.340, inclusive((~~; PROVIDED, That each application to withdraw public ground water by means of a well or wells shall set forth the following additional information: (1) the name and post office address of the applicant; (2) the name and post office address of the owner of the land on which such well or wells or works will be located; (3) the location of the proposed well or wells or other works for the proposed withdrawal; (4) the ground water area, sub-area, or zone from which withdrawal is proposed, provided the department has designated such area, sub-area, or zone in accord with RCW 90.44.130; (5) the amount of water proposed to be withdrawn, in gallons a minute and in acre feet a year, or millions of gallons a year; (6) the depth and type of construction proposed for the well or wells or other works; AND PROVIDED FURTHER, That a~~)). The department shall adopt rules in accordance with chapter 34.05 RCW no later than January 1, 1995 which specify the contents of completed water right application forms. The rules shall include specific timelines for the department to follow in making a determination as to whether an application is complete and notifying the applicant of its determination. The rules shall also identify the kinds of inaccuracies which shall render an application incomplete. Any permit issued pursuant to an application for constructing a well or wells to withdraw public ground water may specify an approved type and manner of construction for the purposes of preventing waste of said public waters and of conserving their head.

ADOPTED TO IMPLEMENT
POLICY XII.

XII. Authorize the Department of Ecology to accept and process a single, consolidated application covering multiple sources for a new project. While one application is submitted, separate water rights certificates may be issued.

The following language is added to RCW 90.03.250:

The department shall encourage the filing of a consolidated application for a complex project under a single ownership which proposes to divert or withdraw water from more than one source, including a combination of surface and ground water sources. The filing of a consolidated application for transfer or change of one or more water rights involving multiple sources shall also be encouraged if all of the affected diversions or withdrawals are intended to serve a single project with a single ownership. The department shall provide forms for consolidated applications.

ADOPTED TO IMPLEMENT
POLICY XIII.

XIII. Provide for a waiver of notice and evaluation requirements for small uses developed under a reservation of water adopted by rule.

NEW SECTION. **Sec. 1.** A new section is added to Chapter 90.03 RCW to read as follows:

(1) Future de minimus appropriations of surface water may be developed under streamlined procedures, provided the department has adopted a reservation of water for such uses pursuant to RCW 90.54.050. For purposes of this chapter, "de minimus appropriation" means diversion and use of surface water in an amount not exceeding 450 gallons per day and not exceeding an instantaneous diversion rate of 0.02 cubic feet per second.

(2) Applications for appropriating water under this section shall be made on a form provided by the department. Within 60 days of the publication of a notice in accordance with RCW 90.03.280, the department shall issue or deny a permit for the requested appropriation. If the department denies the application, it shall explain its determination in writing.

(3) The department shall waive the evaluation and report requirements of RCW 90.03.290 if during the establishment of the reservation it was conclusively determined that water is available and that no impairment of existing water rights or the public interest will occur.

(4) This section shall not be utilized in areas that are within urban growth areas as designated pursuant to RCW 36.70A.110 or within the service areas of an existing public water supply system as defined in chapter 70.119A RCW that has an available water supply.

ADOPTED TO IMPLEMENT
POLICY XIV.

XIV. Provide for a waiver of notice and evaluation requirements for some short-term uses.

A new section is added to Chapter 90.03 RCW to read as follows:

Short term uses of water may be authorized by the department without publication of the notice required by RCW 90.03.280 and without the report required by RCW 90.03.290. However, prior to approving a short term use, the department shall determine to its satisfaction that the substantive criteria in RCW 90.03.290 are met and that any stream affected by a short term use will be retained with sufficient flows to maintain instream uses and to protect existing water rights. For purposes of this chapter, "short term use" means a use of water that will not exceed one year in duration. Short term uses include but are not limited to use in construction, dust control, dewatering, and short term planned fire suppression activities. The department shall provide application forms for persons applying for a short term use and shall expedite its consideration of short term use requests to the extent practicable.

ADOPTED TO IMPLEMENT POLICY XV.

XV. The Department of Ecology shall establish a register which identifies larger applications for new water rights and for changes and transfers. The Department will produce the register once every two weeks and shall provide it in exchange for a fee to those who request it.

NEW SECTION. Sec. 1. A new section is added to chapter 90.03 RCW to read as follows:

The department of ecology shall establish a register which identifies, by water resource inventory area, applications for new water rights and applications for water right transfers and changes. The applications appearing in the register will be limited to those requesting a new appropriation or change or transfer of more than three cubic feet per second of water. The register will identify the location of the proposed use, change or transfer; whether the application is for surface or ground water; and, for surface water applications, the water source. The department shall produce the register once every two weeks and shall make the register available to interested parties for a fee which is based on the cost of producing and mailing the register. One year after the effective date of this act, the department may cease production of the register if the number of requests for the register are not adequate to cover the costs of producing and mailing it.

'ATER RIGHTS FEES TASK FORCE FEE SCHEDULE RECOMMENDATIONS

'ATER RIGHTS ADMINISTRATION

URCHARGE FEE (Improve Data Mgmt & Reduce Backlog)							BASE FEE	
ffective July 1, 1994 through June 30, 1997							Effective July 1, 1997	
	FY 95		FY 96		FY 97		FY 98	
XPENDITURE ASSUMPTIONS	$	FTES	$	FTES	$	FTES	$	FTES
1 (Adjusted for Inflation beginning in FY 96)								
Ecology FY 94 program costs	3,750,000	61.5	$3,866,250	61.5	$3,986,104	61.5	$4,109,673	61.5
Data Management	1,000,000		$1,031,000		$1,062,961		$273,978	
Less Efficiencies	($176,829)	(2.9)	($625,515)	(9.95)	($1,085,646)	(16.8)	($1,119,301)	(16.8)
Added costs fee admin & accountability	$150,000	1.3	$97,945	1.3	$100,981	1.3	$104,112	1.3
Subtotal Expenditures	4,723,171	59.9	$4,369,680	52.8	$4,064,400	46.0	$3,368,462	46.0
Total Amount Reinvested in the program	176,829	2.9	$625,515	9.95	$1,085,646	16.8	$0	0.0
* Backlog Enhancement	558,600	0.0	$575,917	0.0	$593,770	0.0	$0	0.0
GRAND TOTAL EXPENDITURES	$5,458,600	62.8	$5,571,111	62.8	$5,743,816	62.8	$3,368,462	46.0
$ Change from FY 95 and Percent change from FY 95			$112,512	2.1%	$285,216	5.2%	($2,090,138)	−38.3%
REVENUE ASSUMPTIONS	$		$		$		$	
Revenue goal: Supports 50% of Grand Total Expenditures	2,729,300		$2,785,556		$2,871,908		$1,684,231	
'2 Ecology Fee Schedule (Scenario 94−24)	2,134,528		$2,285,360		$2,425,368		$1,197,240	
'3 Exempt well registration fee @ $75.00	600,000		$562,500		$525,000		$487,500	
GRAND TOTAL REVENUES	$2,734,528		$2,847,860		$2,950,368		$1,684,740	

Note: Assumptions regarding these items changed from the Draft Report. An explanation is provided on the next page.

* The Task Force discussed contracting for interns. The Department, however, may require 12.0 FTE's per year if contracting is not feasible.

Water Right Administration Efficiency Improvements

Efficiencies (Refer to October 19, 1993, Draft Proposed Efficiency Improvements Matrix.)	**Efficiency Improvements by Fiscal Year**			
	FY 95	FY 96	FY 97	TOTAL
▪ Centralize initial application processing. [1]		1.00 FTEs	1.00 FTEs	2.00 FTEs
▪ Other efficiencies. [1] Workload efficiencies for research, technical information, preparation of reports of examination, and headquarters support resulting from improved data management.	1.50 FTEs	1.00 FTEs	1.50 FTEs	4.00 FTEs
▪ Policies and procedures. [1] Setting instream flow levels will result in efficiencies starting in FY 96. Will benefit 10% of applications in FY 96. Will benefit 20% of applications in FY 97. Savings shown are net savings. Staffing will be needed to set instream flow levels and to develop and adopt rules.		0.50 FTEs	0.50 FTEs	1.00 FTEs
Total Efficiency Savings	**2.90 FTEs**	**7.85 FTEs**	**6.80 FTEs**	**16.75 FTEs**

1 These efficiency measures are proposed by Ecology but have not yet been considered by the Water Rights Fees Task Force.

FEE SCHEDULE EXAMPLES

(All examples are groundwater applications. A surface water example would be less.)

1. 0 to .2 cubic feet per second (CFS) or up to aproximately 90 gallons per minute.
   Single Family, Rural Residential, Very small public system, or Irrigation of up to 10 acres

	Surcharge Fee Effective FY 95,96,97	Base Fee Effective FY 98
Application	$100	$100
Examination	$120	$120
Certification	$100	$100
Total	**$320**	**$320**

2. 0.5 to 3 cubic feet per second (CFS) or aproximately 225 to 1350 gallons per minute
   Irrigation up to 160 acres, Circle Irrigation, Municipal Systems serving aproximately 5,000 people

	Surcharge Fee Effective FY 95,96,97	Base Fee Effective FY 98
Application	$570	$320
Examination	$1,130	$640
Certification	$570	$320
Total	**$2,270**	**$1,280**

3. 5 to 20 cubic feet per second (CFS) or aproximately 2,250 to 9,000 gallons per minute
   Large Irrigation, Large Municipal, Hatcheries, Small Hydropower

	Surcharge Fee Effective FY 95,96,97	Base Fee Effective FY 98
Application	$940	$530
Examination	$2,040	$1,150
Certification	$940	$530
Total	**$3,920**	**$2,210**

(File: S94-24FS.XLS) (1/7/94)

Proposed Water Appropriation Fees for FY 95, 96, and 97

Type and Size of Water Right or Change Request	Proposed Surcharge Fees				Total Fees	
	Application Filing Fee	Examination Fee		Certificate Fee	Surface Water	Ground Water
		Surface Water	Ground Water			
New Surface Water and Ground Water Applications						
> 0 and <= 0.20 cfs	$100	$100	$120	$100	$300	$320
> 0.2 and <= 0.5 cfs	$330	$520	$620	$330	$1,180	$1,280
> 0.5 and <= 3 cfs	$570	$940	$1,130	$570	$2,080	$2,270
> 3 and <= 5 cfs	$750	$1,320	$1,580	$750	$2,820	$3,080
>5 and <= 20 cfs	$940	$1,700	$2,040	$940	$3,580	$3,920
> 20 and <= 100 cfs	$1,130	$2,070	$2,480	$1,130	$4,330	$4,740
Over 100 cfs	$1,320	$2,450	$2,940	$1,320	$5,090	$5,580
New Reservoir Applications						
>0 and <= 10 Acre-feet	$100	$100		$100	$300	
>10 and <= 100 Acre-feet	$570	$940		$570	$2,080	
>100 and <= 1,000 Acre-feet	$940	$1,700		$940	$3,580	
Over 1,000 Acre-feet	$1,320	$2,450		$1,320	$5,090	
New Change Applications						
Easy Change Applications	$100	$100	$100	$100	$300	$300
Difficult Change Applications	$330	$520	$520	$330	$1,180	$1,180

Proposed Water Appropriation Fees Beginning in FY 98

Type and Size of Water Right or Change Request	Proposed Base Fees				Total Fees	
	Application Filing Fee	Examination Fee		Certificate Fee	Surface Water	Ground Water
		Surface Water	Ground Water			
New Surface Water and Ground Water Applications						
> 0 and <= 0.20 cfs	$100	$100	$120	$100	$300	$320
> 0.2 and <= 0.5 cfs	$210	$320	$380	$210	$740	$800
> 0.5 and <= 3 cfs	$320	$530	$640	$320	$1,170	$1,280
> 3 and <= 5 cfs	$420	$740	$890	$420	$1,580	$1,730
>5 and <= 20 cfs	$530	$960	$1,150	$530	$2,020	$2,210
> 20 and <= 100 cfs	$640	$1,170	$1,400	$640	$2,450	$2,680
Over 100 cfs	$740	$1,380	$1,660	$740	$2,860	$3,140
New Reservoir Applications						
>0 and <= 10 Acre-feet	$100	$100		$100	$300	
>10 and <= 100 Acre-feet	$320	$530		$320	$1,170	
>100 and <= 1,000 Acre-feet	$530	$960		$530	$2,020	
Over 1,000 Acre-feet	$740	$1,380		$740	$2,860	
New Change Applications						
Easy Change Applications	$100	$100	$100	$100	$300	$300
Difficult Change Applications	$210	$320	$320	$210	$740	$740

Water Right Fees (Surcharge)
Fiscal Year 1995 Revenue Projections
Reduce Backlog to 1 Year in THREE YEARS

Water Right Administration Activity	Projected Actions	Proposed Fee	Projected Fee Revenue
Application Filing Fees			
New Water Appropriation Applications			
> 0 and <= 0.20 cfs	725	$100	$72,500
> 0.2 and <= 0.5 cfs	243	$330	$80,200
> 0.5 and <= 3 cfs	374	$570	$213,200
> 3 and <= 5 cfs	80	$750	$60,000
>5 and <= 20 cfs	62	$940	$58,300
> 20 and <= 100 cfs	23	$1,130	$26,000
Over 100 cfs	13	$1,320	$17,200
New Reservoir Applications			
>0 and <= 10 Acre-feet	2	$100	$200
>10 and <= 100 Acre-feet	5	$570	$2,900
>100 and <= 1,000 Acre-feet	1	$940	$900
Over 1,000 Acre-feet	2	$1,320	$2,600
New Change Applications			
Easy Change Applications			
(Changing a single element)	149	$100	$14,900
Difficult Change Applications			
(Changing multiple elements)	122	$330	$40,300
Filing Fee Total			**$589,200**
Examination Fees			
Surface Water Applications			
> 0 and <= 0.20 cfs	308	$100	$30,800
> 0.2 and <= 0.5 cfs	44	$520	$22,900
> 0.5 and <= 3 cfs	84	$940	$79,000
> 3 and <= 5 cfs	14	$1,320	$18,500
>5 and <= 20 cfs	20	$1,700	$34,000
> 20 and <= 100 cfs	23	$2,070	$47,600
Over 100 cfs	16	$2,450	$39,200
Ground Water App's (20% surcharge.)			
> 0 and <= 0.20 cfs	570	$120	$68,400
> 0.2 and <= 0.5 cfs	251	$620	$155,600
> 0.5 and <= 3 cfs	369	$1,130	$417,000
> 3 and <= 5 cfs	83	$1,580	$131,100
>5 and <= 20 cfs	56	$2,040	$114,200
> 20 and <= 100 cfs	6	$2,480	$14,900
Over 100 cfs	0	$2,940	$0

Water Right Fees (Surcharge)
Fiscal Year 1995 Revenue Projections
Reduce Backlog to 1 Year in THREE YEARS

Water Right Administration Activity	Projected Actions	Proposed Fee	Projected Fee Revenue
Examination Fees (Continued)			
Reservoir Applications			
>0 and <= 10 Acre-feet	2	$100	$200
>10 and <= 100 Acre-feet	5	$940	$4,700
>100 and <= 1,000 Acre-feet	1	$1,700	$1,700
Over 1,000 Acre-feet	2	$2,450	$4,900
Changes to Permits and Certificates			
Change Applications (Single)	180	$100	$18,000
Change Applications (Multiple)	147	$520	$76,400
Examination Fee Total			$1,279,100
Certificate Fees			
Water Appropriation Applications			
> 0 and <= 0.20 cfs	588	$100	$58,800
> 0.2 and <= 0.5 cfs	197	$330	$65,000
> 0.5 and <= 3 cfs	304	$570	$173,300
> 3 and <= 5 cfs	65	$750	$48,800
>5 and <= 20 cfs	50	$940	$47,000
> 20 and <= 100 cfs	19	$1,130	$21,500
Over 100 cfs	11	$1,320	$14,500
Reservoir Applications			
>0 and <= 10 Acre-feet	1	$100	$100
>10 and <= 100 Acre-feet	3	$570	$1,700
>100 and <= 1,000 Acre-feet	1	$940	$900
Over 1,000 Acre-feet	1	$1,320	$1,300
Changes to Permits and Certificates			
Change Applications (Single)	121	$100	$12,100
Change Applications (Multiple)	98	$330	$32,300
Certificate Fee Total			$477,300
Water Right Permit Extensions	500	$100	$50,000
Protests to Applications	400	$50	$20,000
Decision Appeals	50	$200	$10,000
Total Projected FY 95 Revenue			$2,425,600
12% Fall Off Factor for Non-Payment, Application Withdrawal, or Reduction in Amount of Water Requested.			($291,072)
Total Anticipated FY 95 Revenue			$2,134,528

Projected Revenue (Scenario 94-24)

Water Right Fees (Surcharge)
Fiscal Year 1996 Revenue Projections
Reduce Backlog to 1 Year in THREE YEARS

Water Right Administration Activity	Projected Actions	Proposed Fee	Projected Fee Revenue
Application Filing Fees			
New Water Appropriation Applications			
> 0 and <= 0.20 cfs	724	$100	$72,400
> 0.2 and <= 0.5 cfs	243	$330	$80,200
> 0.5 and <= 3 cfs	374	$570	$213,200
> 3 and <= 5 cfs	80	$750	$60,000
>5 and <= 20 cfs	62	$940	$58,300
> 20 and <= 100 cfs	23	$1,130	$26,000
Over 100 cfs	13	$1,320	$17,200
New Reservoir Applications			
>0 and <= 10 Acre-feet	2	$100	$200
>10 and <= 100 Acre-feet	5	$570	$2,900
>100 and <= 1,000 Acre-feet	1	$940	$900
Over 1,000 Acre-feet	2	$1,320	$2,600
New Change Applications			
Easy Change Applications (Changing a single element)	149	$100	$14,900
Difficult Change Applications (Changing multiple elements)	122	$330	$40,300
Filing Fee Total			**$589,100**
Examination Fees			
Surface Water Applications			
> 0 and <= 0.20 cfs	338	$100	$33,800
> 0.2 and <= 0.5 cfs	48	$520	$25,000
> 0.5 and <= 3 cfs	93	$940	$87,400
> 3 and <= 5 cfs	15	$1,320	$19,800
>5 and <= 20 cfs	21	$1,700	$35,700
> 20 and <= 100 cfs	25	$2,070	$51,800
Over 100 cfs	17	$2,450	$41,700
Ground Water App's (20% surcharge.)			
> 0 and <= 0.20 cfs	626	$120	$75,100
> 0.2 and <= 0.5 cfs	275	$620	$170,500
> 0.5 and <= 3 cfs	405	$1,130	$457,700
> 3 and <= 5 cfs	91	$1,580	$143,800
>5 and <= 20 cfs	62	$2,040	$126,500
> 20 and <= 100 cfs	7	$2,480	$17,400
Over 100 cfs	1	$2,940	$2,900

(1/7/94)

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Water Right Fees (Surcharge)
Fiscal Year 1996 Revenue Projections
Reduce Backlog to 1 Year in THREE YEARS

Water Right Administration Activity	Projected Actions	Proposed Fee	Projected Fee Revenue
Examination Fees (Continued)			
Reservoir Applications			
>0 and <= 10 Acre-feet	2	$100	$200
>10 and <= 100 Acre-feet	5	$940	$4,700
>100 and <= 1,000 Acre-feet	1	$1,700	$1,700
Over 1,000 Acre-feet	2	$2,450	$4,900
Changes to Permits and Certificates			
Change Applications (Single)	197	$100	$19,700
Change Applications (Multiple)	162	$520	$84,200
Examination Fee Total			**$1,404,500**
Certificate Fees			
Water Appropriation Applications			
> 0 and <= 0.20 cfs	646	$100	$64,600
> 0.2 and <= 0.5 cfs	216	$330	$71,300
> 0.5 and <= 3 cfs	333	$570	$189,800
> 3 and <= 5 cfs	71	$750	$53,300
>5 and <= 20 cfs	55	$940	$51,700
> 20 and <= 100 cfs	21	$1,130	$23,700
Over 100 cfs	12	$1,320	$15,800
Reservoir Applications			
>0 and <= 10 Acre-feet	1	$100	$100
>10 and <= 100 Acre-feet	3	$570	$1,700
>100 and <= 1,000 Acre-feet	1	$940	$900
Over 1,000 Acre-feet	1	$1,320	$1,300
Changes to Permits and Certificates			
Change Applications (Single)	132	$100	$13,200
Change Applications (Multiple)	109	$330	$36,000
Certificate Fee Total			**$523,400**
Water Right Permit Extensions	500	$100	$50,000
Protests to Applications	400	$50	$20,000
Decision Appeals	50	$200	$10,000
Total Projected FY 96 Revenue			**$2,597,000**
12% Fall Off Factor for Non-Payment, Application Withdrawal, or Reduction in Amount of Water Requested.			($311,640)
Total Anticipated FY 96 Revenue			**$2,285,360**

Water Right Fees (Surcharge)
Fiscal Year 1997 Revenue Projections
Reduce Backlog to 1 Year in THREE YEARS

Water Right Administration Activity	Projected Actions	Proposed Fee	Projected Fee Revenue
Application Filing Fees			
New Water Appropriation Applications			
> 0 and <= 0.20 cfs	724	$100	$72,400
> 0.2 and <= 0.5 cfs	243	$330	$80,200
> 0.5 and <= 3 cfs	374	$570	$213,200
> 3 and <= 5 cfs	80	$750	$60,000
>5 and <= 20 cfs	62	$940	$58,300
> 20 and <= 100 cfs	23	$1,130	$26,000
Over 100 cfs	13	$1,320	$17,200
New Reservoir Applications			
>0 and <= 10 Acre-feet	2	$100	$200
>10 and <= 100 Acre-feet	5	$570	$2,900
>100 and <= 1,000 Acre-feet	1	$940	$900
Over 1,000 Acre-feet	2	$1,320	$2,600
New Change Applications			
Easy Change Applications (Changing a single element)	149	$100	$14,900
Difficult Change Applications (Changing multiple elements)	122	$330	$40,300
Filing Fee Total			$589,100
Examination Fees			
Surface Water Applications			
> 0 and <= 0.20 cfs	368	$100	$36,800
> 0.2 and <= 0.5 cfs	52	$520	$27,000
> 0.5 and <= 3 cfs	101	$940	$94,900
> 3 and <= 5 cfs	17	$1,320	$22,400
>5 and <= 20 cfs	23	$1,700	$39,100
> 20 and <= 100 cfs	27	$2,070	$55,900
Over 100 cfs	18	$2,450	$44,100
Ground Water App's (20% surcharge.)			
> 0 and <= 0.20 cfs	679	$120	$81,500
> 0.2 and <= 0.5 cfs	299	$620	$185,400
> 0.5 and <= 3 cfs	440	$1,130	$497,200
> 3 and <= 5 cfs	99	$1,580	$156,400
>5 and <= 20 cfs	66	$2,040	$134,600
> 20 and <= 100 cfs	7	$2,480	$17,400
Over 100 cfs	1	$2,940	$2,900

Water Right Fees (Surcharge)
Fiscal Year 1997 Revenue Projections
Reduce Backlog to 1 Year in THREE YEARS

Water Right Administration Activity	Projected Actions	Proposed Fee	Projected Fee Revenue
Examination Fees (Continued)			
Reservoir Applications			
>0 and <= 10 Acre-feet	2	$100	$200
>10 and <= 100 Acre-feet	5	$940	$4,700
>100 and <= 1,000 Acre-feet	1	$1,700	$1,700
Over 1,000 Acre-feet	2	$2,450	$4,900
Changes to Permits and Certificates			
Change Applications (Single)	214	$100	$21,400
Change Applications (Multiple)	175	$520	$91,000
Examination Fee Total			**$1,519,500**
Certificate Fees			
Water Appropriation Applications			
> 0 and <= 0.20 cfs	703	$100	$70,300
> 0.2 and <= 0.5 cfs	235	$330	$77,600
> 0.5 and <= 3 cfs	363	$570	$206,900
> 3 and <= 5 cfs	77	$750	$57,800
>5 and <= 20 cfs	61	$940	$57,300
> 20 and <= 100 cfs	22	$1,130	$24,900
Over 100 cfs	12	$1,320	$15,800
Reservoir Applications			
>0 and <= 10 Acre-feet	1	$100	$100
>10 and <= 100 Acre-feet	3	$570	$1,700
>100 and <= 1,000 Acre-feet	1	$940	$900
Over 1,000 Acre-feet	1	$1,320	$1,300
Changes to Permits and Certificates			
Change Applications (Single)	143	$100	$14,300
Change Applications (Multiple)	117	$330	$38,600
Certificate Fee Total			**$567,500**
Water Right Permit Extensions	500	$100	$50,000
Protests to Applications	400	$50	$20,000
Decision Appeals	50	$200	$10,000
Total Projected FY 97 Revenue			**$2,756,100**
12% Fall Off Factor for Non-Payment, Application Withdrawal, or Reduction in Amount of Water Requested.			($330,732)
Total Anticipated FY 97 Revenue			**$2,425,368**

Water Right Fees (Base)
Fiscal Year 1998 Revenue Projections

Water Right Administration Activity	Projected Actions	Proposed Fee	Projected Fee Revenue
Application Filing Fees			
New Water Appropriation Applications			
> 0 and <= 0.20 cfs	724	$100	$72,400
> 0.2 and <= 0.5 cfs	243	$210	$51,000
> 0.5 and <= 3 cfs	374	$320	$119,700
> 3 and <= 5 cfs	80	$420	$33,600
>5 and <= 20 cfs	62	$530	$32,900
> 20 and <= 100 cfs	23	$640	$14,700
Over 100 cfs	13	$740	$9,600
New Reservoir Applications			
>0 and <= 10 Acre-feet	2	$100	$200
>10 and <= 100 Acre-feet	5	$320	$1,600
>100 and <= 1,000 Acre-feet	1	$530	$500
Over 1,000 Acre-feet	2	$740	$1,500
New Change Applications			
Easy Change Applications (Changing a single element)	149	$100	$14,900
Difficult Change Applications (Changing multiple elements)	122	$210	$25,600
Filing Fee Total			$378,200
Examination Fees			
Surface Water Applications			
> 0 and <= 0.20 cfs	254	$100	$25,400
> 0.2 and <= 0.5 cfs	36	$320	$11,500
> 0.5 and <= 3 cfs	70	$530	$37,100
> 3 and <= 5 cfs	12	$740	$8,900
>5 and <= 20 cfs	16	$960	$15,400
> 20 and <= 100 cfs	18	$1,170	$21,100
Over 100 cfs	13	$1,380	$17,900
Ground Water App's (20% surcharge.)			
> 0 and <= 0.20 cfs	470	$120	$56,400
> 0.2 and <= 0.5 cfs	207	$380	$78,700
> 0.5 and <= 3 cfs	304	$640	$194,600
> 3 and <= 5 cfs	68	$890	$60,500
>5 and <= 20 cfs	46	$1,150	$52,900
> 20 and <= 100 cfs	5	$1,400	$7,000
Over 100 cfs	0	$1,660	$0

Water Right Fees (Base)
Fiscal Year 1998 Revenue Projections

Water Right Administration Activity	Projected Actions	Proposed Fee	Projected Fee Revenue
Examination Fees (Continued)			
Reservoir Applications			
>0 and <= 10 Acre-feet	2	$100	$200
>10 and <= 100 Acre-feet	5	$530	$2,700
>100 and <= 1,000 Acre-feet	1	$960	$1,000
Over 1,000 Acre-feet	2	$1,380	$2,800
Changes to Permits and Certificates			
Change Applications (Single)	149	$100	$14,900
Change Applications (Multiple)	122	$320	$39,000
Examination Fee Total			**$648,000**
Certificate Fees			
Water Appropriation Applications			
> 0 and <= 0.20 cfs	484	$100	$48,400
> 0.2 and <= 0.5 cfs	163	$210	$34,200
> 0.5 and <= 3 cfs	251	$320	$80,300
> 3 and <= 5 cfs	54	$420	$22,700
>5 and <= 20 cfs	42	$530	$22,300
> 20 and <= 100 cfs	16	$640	$10,200
Over 100 cfs	9	$740	$6,700
Reservoir Applications			
>0 and <= 10 Acre-feet	1	$100	$100
>10 and <= 100 Acre-feet	3	$320	$1,000
>100 and <= 1,000 Acre-feet	1	$530	$500
Over 1,000 Acre-feet	1	$740	$700
Changes to Permits and Certificates			
Change Applications (Single)	100	$100	$10,000
Change Applications (Multiple)	82	$210	$17,200
Certificate Fee Total			**$254,300**
Water Right Permit Extensions	500	$100	$50,000
Protests to Applications	400	$50	$20,000
Decision Appeals	50	$200	$10,000
Total Projected FY 98 Revenue			**$1,360,500**
12% Fall Off Factor for Non-Payment, Application Withdrawal, or Reduction in Amount of Water Requested.			($163,260)
Total Anticipated FY 98 Revenue			**$1,197,240**

MINORITY REPORT TO
THE RECOMMENDATIONS OF THE WATER RIGHT FEE TASK FORCE

Submitted by Bruce Wishart, Environmental Representative, and Brooke Martic, Recreational Representative

While, generally, we feel that some progress has been made during the last several months of discussion, we feel that the Task Force recommendations fall short of the mark, particularly in regard to the type and level of the fees themselves. We feel that, at the very least, the cost of permit processing, in which the state conveys what amounts to a perpetual property right to use water to a person, should be borne entirely by the applicant without general fund support. Unfortunately, our discussion of administrative efficiencies dominated the group's agenda. This made it difficult to debate fee options and alternatives.

In addition, several recommendations on administrative efficiency have, from our standpoint, damaging policy implications. While we wholeheartedly support streamlining and reducing unnecessary steps in the permit process, we cannot support measures which put water resources and fish habitat at risk.

I. FEE RECOMMENDATIONS

Recommendation XXI and the draft fee schedule contained at the back of the report represent a step forward from the fees established in statute by the legislature in 1913. They do not, unfortunately, adequately fund the program. The fees represent only 50% of the "fee eligible" portion of the water right permit fee program. The rest of these costs must then be paid for by the taxpayers of this state. We feel that the time has come to end this type of subsidy. Water rights permit fees should follow the pattern established under other user fee programs, such as the Air Operating Permit, where the full cost of processing a permit is paid by the applicant. Given the constraints posed by initiative 601, the state can no longer afford such a subsidy.

Requiring the applicant to pay the full cost will not cause significant financial hardship. The fee for a permit which conveys a water right in perpetuity and which would, in many cases, increase the value of the applicants land ten fold, would still be only several hundred dollars for most applicants.

We also object to the list of activities which have been identified as constituting the water rights permit program. This list, which then determines what portion of the Department's activities are fee eligible, is far too narrow. Many activities which Department staff are engaged in and which provide a benefit to users, are not recovered under the fees. We believe that activities such as "monitoring" should be included in the list of what is fee eligible.

We endorse the concept of true "use fees"; that is to say, a fee which is on-going and based on the amount of water used. This approach is already in place with residential use of water, which is metered and then a fee assessed based on the gallons used. This approach should be applied to all users. The benefits of such an approach are many. First, it would encourage conservation of water. If you pay for what you use, you are more likely to find ways to conserve; it now becomes cost-effective to do so. Second, this approach would allow the state to recover the cost of on-going services provided to users of water in an equitable fashion. Activities which fall within this category would include such things as enforcement against individuals who illegally divert water from a stream thereby reducing supplies available for other use . Third, this approach ends taxpayer subsidization of the Water Rights Program, although, clearly, general fund contribution might still be appropriate for some activities.

Finally, we object to the setting of fees in statute. Fees should be subject to legislative review under the appropriation process, but not set in concrete in statute. The last time this mistake was made was in 1913. Despite the increased cost to the Department and its predecessor agency, the fees have yet to be updated some 80 years later. Most user fees are established in rule and reviewed in the appropriation process.

II. EFFICIENCY RECOMMENDATIONS

Several of the efficiency recommendations have caused us concern. We will address the major problems in the order in which they are presented in the report.

1. Recommendation IV - Standing for Appeals:

The standing requirement for appeal of a permit is modified to limit the ability of non-users (i.e.-those appealing a decision to protect fish habitat) to have access to the process. We believe that the existing law is sufficient in this area. No concrete abuse of the appeals process by non-users were identified by the proponents of this change.

2. Recommendation VI- General Permits for Nonconsumptive/Nonbypass Use

While we support the use of general permits to expedite permitting of uses which pose no threat to fish habitat, the draft language developed to implement this recommendation is inadequate. In particular, we object to the definition of "nonbypass" in Section 1 (1)(a). We support a narrower definition which would guarantee that water would be returned to the stream close enough to the point of diversion so as not to constitute a threat to fish habitat. The draft language is vague. This is a significant concern in that a general permit will not be reviewed by agency staff.

3. Recommendation VII - Privatization of the Permit Process

While we support and, in fact, introduced the concept of "protocols" to assist applicants in complying with permit development, we are uncomfortable with privatization of the

process as outlined in this recommendation. The exact nature of the protocols is not established and we have no idea as to whether they will be adequate to protect the natural resource. Yet, this proposal would not allow further investigation by Department staff on a case-by-case basis if the protocols were met. Moreover, this system places a much greater emphasis on work done by the applicant or his agent, who have a significant interest in demonstrating that there are no impacts on the resource. We are uncomfortable with the state relinquishing this portion of its oversight role, particularly since this water right will be perpetual, as opposed to a renewable permit in which errors made at the time of issuance can be corrected when the permit is renewed. Also, we do not believe that the Department has adequately accounting for the cost of developing protocols of this nature, a process which can take years. Finally, we object to the restriction on the information gathering requirements which are not "directly related" to the application. This term is not defined, but may include information currently gathered on such things as instream flows.

4. Recommendation X - Changes and Transfers

The draft language should include language which guarantees that such changes and transfers will not be detrimental to the public interest or to the natural environment.

December 31, 1993

Dear Water Rights Fees Task Force Members:

This letter is offered as a minority opinion opposing the $75 charge on exempt wells which currently do not go through a water right permit application process.

The Water Rights Fees Task Force members have made an arduous and good faith effort to structure fees for water rights permits per the state legislature's directions under the 1993 law in ESHB 1236. But in an effort to keep the fees as low as possible, one distinction was blurred in who the legislature intended to collect fees from under ESHB 1236. In the proposed fee structure each individual domestic exempt well will now be charged $75. This fee goes beyond the legislature's intent in ESHB 1236 and is a hidden tax that a majority number of members on the Water Rights Fees Task Force agreed would be used to bolster the revenue for the water rights application program.

ESHB 1236 findings state that "water rights applicants pay less than two percent of the costs of the administration of the water rights program....and that water rights applicants should contribute more to the cost of administration of the water rights program." The law further states that water rights applicants have the right to know that "fees charged for various services relate directly to the cost of providing those services."

No where in ESHB 1236 does the legislature give the Water Rights Fees Task Force direction to collect fees from small wells not currently required to apply for a water right permit. This is simply a hidden tax not justifiable under the current law governing exempt wells.

While the Water Rights Fees Task Force looked at efficiencies in the water right application process, it did not evaluate the implications of processing 9,000 domestic exempt wells per year on regional offices, what priority these registrations would have in the work load, what legal implications these registrations might convey, and what would happen if a well owner did not have a well registration.

It was brought to the Water Rights Fees Task Force's attention that new fees were just added to domestic exempt wells during the 1993 legislative session of $100 per well to be paid to the Department of Ecology. It was also pointed out that fees have recently been instituted by many local governments. Pierce County has a domestic well site fee of $115 and a domestic well construction fee of $100. King County is soon to initiate a domestic well site fee of $80. Mandatory water sampling in counties varies from a low of $90 to a high of $310.

It is apparent that the proposed $75 dollar fee has not been thoroughly evaluated for its implications. While the majority voted to endorse this fee as a revenue source, I respectfully request the $75 dollar fee be removed from the fee schedule.

Sincerely,

Jan Teague,
Water Rights Fees Task Force Member

Washington State Legislature

Legislative Building • Olympia, Washington 98504

MINORITY REPORT ON WATER RIGHTS FEES TASK FORCE

To meet the expectations of stakeholders, the backlog must be taken care of much sooner than the report indicates.

The report lacks a provision requiring that funds and efforts related to data management through 6/95 be directed to information and assistance to removing the backlog.

Number Five should not have been dropped. A properly constituted administrative review board representing stakeholders is needed to ensure necessary checks and balances to accomplish objectives of the task force, and act as a water right issue mediator to speed up the process and minimize appeals.

Scott Barr

SENATOR SCOTT BARR

Margaret Rayburn

REPRESENTATIVE MARGARET RAYBURN

REPRESENTATIVE GARY CHANDLER

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
P.O. BOX 47600 • Olympia, Washington 98504-7600 • (206) 459-6000

December 29, 1993

TO: Water Rights Fees Task Force

FROM: Linda Crerar, Assistant Director Water and Shorelands

SUBJECT: Opposition to Task Force Recommendation 19 to Remove State Authority to Regarding the Safety of Hydropower Dams

Ecology strongly opposes Task Force Recommendation 19 to eliminate state authority for engineering review of dam safety at hydropower dams.

This recommendation was apparently made in the belief that it would result in increased governmental efficiency. To the contrary, it will not produce any significant savings of state funds. The primary effect of this recommendation would be to remove all existing State authority in safeguarding the thousands of citizens living downstream of large hydropower dams.

This issue has been raised by the hydropower community because both the State and the Federal Energy Regulatory Commission (FERC) have long-standing responsibilities and authorities concerning the safety of hydropower dams owned by private corporations and Public Utility Districts (PUDs). There is the mistaken impression that Ecology is duplicating efforts of the FERC and that efficiencies can be gained by elimination of the State role.

The following information is presented about the past and present roles of Ecology and the FERC concerning dam safety.

HYDROPOWER DAMS IN WASHINGTON

- There are 47 hydropower generating facilities that are licensed by the FERC and regulated by both the FERC and Ecology. Hydropower dams are typically: large dams impounding very large reservoirs; situated on the largest rivers of the state; and located upstream of large communities and cities. There are currently over 100,000 citizens living downstream of these dams.

ECOLOGY INVOLVEMENT IN DAM SAFETY

- The State has been involved in public safety and engineering issues related to dams under statutory authorities enacted in 1917. The Dam Safety Section of Ecology has been particularly active in engineering aspects of dam safety since the 1970's.

- Over the past decade, Ecology has conducted engineering reviews on the construction or modification of 20 hydropower projects. All engineering concerns were resolved without delaying the projects and there were *no* serious disputes or conflicts with either the project proponent or the FERC.

- Approximately 0.25 FTEs (4% of work effort) are expended at hydropower dams: in review of construction plans and specifications; conducting construction inspections; and reviewing engineering reports of periodic inspection.

ECOLOGY ENGINEERING EXPERTISE

- The expertise of Ecology staff on engineering issues related to floods and earthquakes is nationally recognized. It is a ***complement*** to, not a duplication of, FERC efforts. ***Floods and Earthquakes are the primary areas of engineering review by Ecology.***

ECOLOGY-FERC MEMORANDUM OF AGREEMENT

- In 1992, Ecology and the FERC signed the first in the nation Memorandum of Agreement (MOA) on dam safety (summary attached). The MOA clarifies the roles and responsibilities of Ecology and FERC and minimizes duplication of effort. It has become a model of State-Federal cooperation and similar agreements are currently being considered by other states.

- For most activities at existing dams, Ecology has deferred to the FERC. The MOA has been in place for nearly 2 years and has worked well. It has further strengthened the cooperation and consultation between Ecology and the FERC.

SUMMARY - The potentially catastrophic consequences of a failure of a large hydropower dam warrants that an exceptionally high degree of reliability be provided in the safety of these dams. Washington's exposure to both large floods and earthquakes underscores the need for intensive engineering review of existing dams and new construction. Large dams are the type of projects that warrant the existing safeguards of independent engineering review by experts in both State and Federal agencies.

Because of the critical public safety issues, Ecology strongly opposes the elimination of the State's engineering role in dam safety at hydropower dams. The minimal amount of FTE's expended by Ecology in review of these facilities is money wisely spent in the protection of public safety of the citizens living downstream of these dams.

LC:

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

Mail Stop PV-11 • Olympia, Washington 98504-8711 • (206) 459-6000

December 30, 1993

TO: Water Right Fees Task Force

Donna Lynch for

FROM: Linda Crerar, Assistant Director, Water and Shorelands

SUBJECT: Minority Report and Bill Language Suggestions

I have some concerns regarding a subsection of the proposed bill language amending RCW 90.03.380. The language would limit changes in the season of use of a water right to uses within the same "general category", eg. agriculture to agriculture. Ecology originally recommended authorizing the ability to approve changes in season of use, with appropriate safeguards. When this came up for a vote, there was not much discussion, nor was there time to fully consider the pros and cons of this policy.

Here are my concerns. We believe that changes in the season of use of water rights could be an important tool in meeting emerging water needs in areas where all available water has been appropriated. This would occur on an entirely voluntary basis between the owner of the right and the prospective user. Like other kinds of changes, season of use changes would require the approval of the department to assure that existing water rights would not be impaired. Legislatively limiting the use of such changes to the same category of use could make it very difficult to find water for growing communities and job producing commercial enterprises in many parts of the state. Both the Methow and Dungeness/Quilcene regional planning groups are looking to this mechanism as a potential source of future water supply. I strongly urge your reconsideration and further discussion of this issue during the legislative session.

On the attached page are some suggested minor fees for miscellaneous activities relating to the water rights process. Unfortunately, there was not sufficient time for the task force to review these minor fees.

Following are some additional suggestions to improve the proposed bill language:

1) Accountability - clarify ambiguous wording in subsecs. 2a and 2c.

2) Amendments to RCW 90.03.320 - In 2f, change "and" to "or". Otherwise it appears to require that <u>all</u> the conditions be met to qualify for an extension.

3) Amendments to RCW 90.44.100 - Add the same 15 day language as is in the proposed amendments to RCW 90.03.380.

LC:ks
Attachment

Water Right Administration
Miscellaneous Proposed Water Appropriation Process Fee
(Activities Not Identified in Revenue Models)

Activity	Proposed Fee
Assignment of an Application or Permit	$100
General Permits for Nonconsumptive / Nonbypass Uses and Marine Waters:	
Filing an application of General Permit Use	$100
Examination Fee	None
Issuance of a Certificate for a General Permit Use	$100
Filing an Application for and Authorizing a Seasonal Change or Rotation	$100
Filing an Application for and Authorizing a Temporary or Short Term Water Use	$100
De minimus Appropriations Under a Reservation of Water Adopted by Rule:	
Filing an Application for a de minimus appropriation	$100
Examination Fee	None
Issuance of a Certificate for a de minimus appropriation	$100
Issuance of a Preliminary Permit ???	$100
Consolidated Applications Covering Multiple Sources or Changes:	
Application Filing Fee	Footnote: 1
Examination Fee	Footnote: 2
Certificate Fee	Footnote: 3

Footnotes:

1: Based upon the total amount of water and/or the total number of changes requested.

2: The total of the examination fees calculated for individual applications and changes.

3: Separate permits would issue, therefore, separate certificates would result. The fee would be as is appropriate for the individual certificates.

APPENDIX A

BUDGET PROVISO FROM ADOPTED 1993-95 OPERATING BUDGET

For fiscal year 1994, $3,750,000 of the general fund--state appropriation is provided to administer the water rights permit program. For fiscal year 1995, not more than $1,375,000 of the general fund--state appropriation may be expended for the program unless legislation to increase fees to fund fifty percent of the full cost of the water rights permit program, including data management, is enacted by June 30, 1994.

(SSB 5968, Section 303 (8))

APPENDIX B

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1236

Chapter 495, Laws of 1993

53rd Legislature
1993 Regular Session

WATER RIGHTS FEES

EFFECTIVE DATE: 7/25/93

Passed by the House April 25, 1993
Yeas 56 Nays 42

BRIAN EBERSOLE
Speaker of the House of Representatives

Passed by the Senate April 24, 1993
Yeas 25 Nays 22

R. LORRAINE WOJAHN
President of the Senate

Approved May 18, 1993

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE HOUSE BILL 1236 as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

May 18, 1993 - 2:26 p.m.

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 1236

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By House Committee on Natural Resources & Parks (originally sponsored by Representatives Rust, Pruitt and Sheldon; by request of Department of Ecology)

Read first time 03/03/93.

1 AN ACT Relating to fees for water rights and related approvals;
2 amending RCW 90.03.470; and creating new sections.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that a water right
5 confers significant economic benefits to the water right holder. The
6 fees associated with acquiring a water right have not changed
7 significantly since 1917. Water rights applicants pay less than two
8 percent of the costs of the administration of the water rights program.
9 The legislature finds that, since water rights are of significant
10 value, water rights applicants should contribute more to the cost of
11 administration of the water rights program.
12 The legislature also finds that an abrupt increase in water rights
13 fees could be disruptive to water rights holders and applicants. The
14 legislature further finds that water rights applicants have a right to
15 know that the water rights program is being administered efficiently
16 and that the fees charged for various services relate directly to the
17 cost of providing those services.
18 Therefore, the legislature creates a task force to review the water
19 rights program, to make recommendations for streamlining the

application process and increasing the overall efficiency and accountability of the administration of the program, and to return to the legislature with a proposal for a fee schedule where the fee levels relate clearly to the cost of services provided.

Sec. 2. RCW 90.03.470 and 1987 c 109 s 98 are each amended to read as follows:

Except as otherwise provided in subsection (15) of this section, the following fees shall be collected by the department in advance:

(1) For the examination of an application for permit to appropriate water or on application to change point of diversion, withdrawal, purpose or place of use, a minimum of ten dollars, to be paid with the application. For each second foot between one and five hundred second feet, two dollars per second foot; for each second foot between five hundred and two thousand second feet, fifty cents per second foot; and for each second foot in excess thereof, twenty cents per second foot. For each acre foot of storage up to and including one hundred thousand acre feet, one cent per acre foot, and for each acre foot in excess thereof, one-fifth cent per acre foot. The ten dollar fee payable with the application shall be a credit to that amount whenever the fee for direct diversion or storage totals more than ten dollars under the above schedule and in such case the further fee due shall be the total computed amount less ten dollars.

Within five days from receipt of an application the department shall notify the applicant by registered mail of any additional fees due under the above schedule and any additional fees shall be paid to and received by the department within thirty days from the date of filing the application, or the application shall be rejected.

(2) For filing and recording a permit to appropriate water for irrigation purposes, forty cents per acre for each acre to be irrigated up to and including one hundred acres, and twenty cents per acre for each acre in excess of one hundred acres up to and including one thousand acres, and ten cents for each acre in excess of one thousand acres; and also twenty cents for each theoretical horsepower up to and including one thousand horsepower, and four cents for each theoretical horsepower in excess of one thousand horsepower, but in no instance shall the minimum fee for filing and recording a permit to appropriate water be less than five dollars. For all other beneficial purposes the fee shall be twice the amount of the examination fee except that for

individual household and domestic use, which may include water for irrigation of a family garden, the fee shall be five dollars.

(3) For filing and recording any other water right instrument, four dollars for the first hundred words and forty cents for each additional hundred words or fraction thereof.

(4) For making a copy of any document recorded or filed in his office, forty cents for each hundred words or fraction thereof, but when the amount exceeds twenty dollars, only the actual cost in excess of that amount shall be charged.

(5) For certifying to copies, documents, records or maps, two dollars for each certification.

(6) For blueprint copies of a map or drawing, or, for such other work of a similar nature as may be required of the department, at actual cost of the work.

(7) For granting each extension of time for beginning construction work under a permit to appropriate water, an amount equal to one-half of the filing and recording fee, except that the minimum fee shall be not less than five dollars for each year that an extension is granted, and for granting an extension of time for completion of construction work or for completing application of water to a beneficial use, five dollars for each year that an extension is granted.

(8) For the inspection of any hydraulic works to insure safety to life and property, the actual cost of the inspection, including the expense incident thereto.

(9) For the examination of plans and specifications as to safety of controlling works for storage of ten acre feet or more of water, a minimum fee of ten dollars, or the actual cost.

(10) For recording an assignment either of a permit to appropriate water or of an application for such a permit, a fee of five dollars.

(11) For preparing and issuing all water right certificates, five dollars.

(12) For filing and recording a protest against granting any application, two dollars.

<u>(13) The department shall provide timely notification by certified mail with return receipt requested to applicants that fees are due. No action may be taken until the fee is paid in full. Failure to remit fees within sixty days of the department's notification shall be grounds for rejecting the application or canceling the permit. Cash</u>

shall not be accepted. Fees must be paid by check or money order and are nonrefundable.

(14) For purposes of calculating fees for ground water filings, one cubic foot per second shall be regarded as equivalent to four hundred fifty gallons per minute.

(15) For the period beginning July 1, 1993, and ending June 30, 1994, there is imposed and the department shall collect a one hundred dollar surcharge on all water rights applications or changes filed under this section, and upon all water rights applications or changes pending as of July 1, 1993. This charge shall be in addition to any other fees imposed under this section.

NEW SECTION. **Sec. 3.** (1) There is created a water rights fees task force. The task force shall be comprised of fourteen members, who are appointed as follows:

(a) Two members of the Washington state house of representatives, one from each major caucus, to be appointed by the speaker of the house of representatives;

(b) Two members of the Washington state senate, one from each major caucus, to be appointed by the president of the senate;

(c) Ten members, to be appointed jointly by the speaker of the house of representatives and the president of the senate, to represent the following interests: Agriculture, aquaculture, business, cities, counties, the state department of ecology, environmentalists, water recreation interests, water utilities, and hydropower interests. The task force may establish technical advisory committees as necessary to complete its tasks.

(2) The task force shall conduct a comprehensive review of water rights fees. The task force's tasks shall include but not be limited to:

(a) Identification of the costs associated with the various activities and services provided by the water rights program and examination of how these costs compare with the fees charged for these activities and services;

(b) Identification of appropriate accountability measures for the department of ecology to employ in administration of the water rights program. Recommendations of accountability requirements and measurements shall take into account the distinctive characteristics of the water rights program, that is, that the department receives a large

number of applications on a one-time basis and that the department of ecology must meet its legal obligations under the doctrine of prior appropriation;

(c) Identification of which program activities should be eligible for cost recovery from fees, as well as which direct and indirect costs of program administration;

(d) Review of the application, examination, and water rights permit requirements for marine water users to determine if these users should receive special fee consideration;

(e) Review of the definition and treatment of nonconsumptive water uses to determine if special fee consideration should be given to these users;

(f) Review of the fees and accounting methods for the dam safety program;

(g) Identification of the appropriate distribution of responsibility between the applicant and the department of ecology for provision of technical information and analysis; and

(h) Establishment of a reasonable time framework for completion of new and pending water rights applications, and an analysis of the staff and funding levels required to meet the established time framework.

(3) Before December 1, 1993, the task force shall:

(a) Provide recommendations to the department of ecology on ways to improve the efficiency and accountability of the water rights program;

(b) Provide recommendations to the legislature on statutory changes necessary to make these efficiency and accountability improvements; and

(c) Propose a new fee schedule for the water rights program which incorporates the results of the task force's work and which funds through fees fifty percent of the cost of the activities and services provided by the program.

(4) The department of ecology and the legislature shall jointly provide for the staff support of the task force.

(5) The task force shall convene as soon as possible upon the appointment of its members. Task force members shall elect a chair and adopt rules for conducting the business of the task force. The task force shall expire on June 30, 1994.

NEW SECTION. Sec. 4. The legislature finds that installation of trickle irrigation systems in climatically and economically suitable areas may result in significant water savings. The legislature further

1 finds that encouraging the voluntary transfer of the water savings will
2 provide an incentive for the installation of trickle irrigation
3 systems.

4 Therefore, the legislature directs the committee on natural
5 resources and parks in the house of representatives and the committee
6 on energy and utilities in the senate to jointly: (1) Study the
7 physical, legal, and economic feasibility of transferring water saved
8 from installation of trickle irrigation systems; (2) explore the
9 relationship between a possible water transfer program connected to
10 water savings from trickle irrigation systems and the state's existing
11 trust water rights program; and (3) make recommendations for
12 legislation to implement a transfer program for savings from trickle
13 irrigation systems, if the committees determine that such a program is
14 in the public interest. The committees shall coordinate the study with
15 the agriculture committees in the senate and the house of
16 representatives. The committees shall report their findings and
17 recommendations to the legislature by December 1, 1993.

Passed the House April 25, 1993.
Passed the Senate April 24, 1993.
Approved by the Governor May 18, 1993.
Filed in Office of Secretary of State May 18, 1993.