

WAC 173-153-080 What public notice is given on a water right transfer application before a board? (1) Upon acceptance by a board of a water right transfer application in accordance with this chapter, the board shall publish a public notice of the proposed water right transfer in accordance with RCW 90.03.280. This notice must be published at least once a week for two consecutive weeks in the legal notice section of a newspaper of general circulation in the project area of the county or counties where the application proposes to use, divert, withdraw and/or store water. Ecology must provide the board with a list of newspapers generally acceptable for the publication of public notices. The board should consider publishing an additional public notice in other areas that could be affected by the transfer proposal. The public notice of each individual application for transfer must include the following information:

- (a) The applicant's name and city or county of residence;
- (b) The board's assigned water right change application number;
- (c) The water right priority date;
- (d) A description of the water right to be transferred, including the number of any water right document, that embodies the water right such as a permit, certificate or claim filed under chapter 90.14 RCW, the location of the point of diversion or withdrawal; the place of use; the purpose(s) of use; the period of use; if for irrigation purposes, the total acres irrigated; and the instantaneous rate and annual quantities as stated on the water right document;
- (e) A description of the proposed transfer(s) to be made, including, when applicable, the proposed location of point(s) of diversion or withdrawal; the proposed place(s) of use; the proposed purpose(s) of use; if for irrigation purposes, the total number of acres to be irrigated; and the instantaneous rate and annual quantities of water associated with the proposed water right transfer including the description of a transfer that includes only a portion of a water right;
- (f) The manner and time limit for filing protests with ecology under RCW 90.03.470 and WAC 508-12-170; and
- (g) The manner for providing written and oral comments or other information to the board, including the board's mailing address and the place, date, and time of any public meeting or hearing scheduled to consider, discuss, or decide the application.

(2) The board may require the applicant to review and confirm the information in the public notice prior to publication. If the board does so, the applicant assumes responsibility for any errors contained in the description of the application published in the public notice.

How does the board verify that proper public notice of the application was made?

(3) The board must send a copy of the public notice to the ecology designated regional representative at the same time the public notice is submitted for publication.

(4) Before issuing a decision on an application, the board must first receive a notarized affidavit of publication from each newspaper in which the public notice regarding the application was published, and the board must verify that publication occurred correctly. The board must also allow at least thirty days following the last date of publication of the notice, to allow for protests or objections to be filed with ecology before the board issues a record of decision.

How are errors or omissions in the public notice corrected? When does a public notice need to be republished?

(5) The public notice must be republished in all newspapers of original publication when an applicant substantively amends an appli-

cation for a transfer of a water right subsequent to publication of the notice, or when the publication contains a substantive error or omission occurs in the publication. All parties who were sent the original application as required by WAC 173-153-070(22) and/or the original public notice must be sent corrected copies of any amended transfer application and/or an amended public notice. For the purposes of this subsection, the term "substantive error or omission" for publication purposes, refers to any item identified in subsection (1) of this section that is omitted from or inadequately characterized in the public notice. An application is considered substantively amended if it expands the intent of the original proposal or results in a substantial change, such as an alteration to the proposed point of diversion or withdrawal, proposed purpose(s) of use, or to the proposed place of use.

[Statutory Authority: RCW 90.80.040. WSR 06-18-102 (Order 05-18), § 173-153-080, filed 9/6/06, effective 10/7/06; WSR 03-01-039 (Order 01-13), § 173-153-080, filed 12/9/02, effective 1/9/03. Statutory Authority: Chapter 90.80 RCW. WSR 99-23-101 (Order 98-11), § 173-153-080, filed 11/17/99, effective 12/18/99.]