



Status Report: WRIA 1 (Nooksack) Adjudication and Settlement

Introduction

The adopted 2023 biennial operating budget, ESSB 5187, included funding for the Department of Ecology (Ecology) to prepare and file an adjudication in Water Resource Inventory Area (WRIA) 1, the Nooksack River system and surrounding areas.¹ Section 302(40) of the adopted budget also directed Ecology to submit a report related to adjudication in the Nooksack Basin as follows:

“The department shall provide a report to the appropriate standing committees of the legislature regarding the status of the adjudication and any potential settlement structures by June 30, 2024, and by June 30, 2025.”

WRIA 1 includes areas that drain to the Nooksack River and surrounding aquifers and tributaries. It is bound by Bellingham Bay and the Strait of Georgia on the west and the Cascade Mountains on the east. It lies in Whatcom County and small portions of Skagit County.

Increasing water demands over time from agriculture, residential, municipal, industrial, and other uses have lowered summer streamflows in many areas of the watershed. Reduced streamflows have negatively impacted fish populations and other instream resources. Ecology anticipates that these negative impacts will continue in the future due to the impacts of climate change.

At the same time, significant uncertainties about the status of water rights in the Nooksack Basin have hampered Ecology’s ability to manage water resources effectively. These uncertainties create vulnerability for water users.

It was under this set of conditions and circumstances that the Legislature funded the preparation and filing of a WRIA 1 (Nooksack) adjudication in 2023.

Progress on Adjudication Filing and Service

Ecology filed a comprehensive water rights adjudication in the Nooksack Basin in Whatcom County Superior Court on May 1, 2024. This included a Statement of Facts and Map under RCW 90.03.110, a finding that an adjudication of WRIA 1 (Nooksack) is in the public interest, and a list of currently identified defendants. The filing lists 32,060 parties. As a next step, Ecology is

¹ Under RCW 90.03.110 - 90.03.245

preparing to serve each potential water right claimant by certified mail. Service will likely occur in Summer 2024; however, this step requires the direction of the Superior Court.

Water users – including individual landowners, state agencies, local governments, Indian Tribes, and the United States – are defendants. All water users, other than those who only use water as a customer of a city or service district, will be required to file a claim with the Whatcom County Superior Court.

Ecology plans to provide a claim form with a “small use” section for homes on wells with an overall goal of making the process easy to navigate. In addition, Ecology staff conducted numerous webinars, public meetings, and outreach events reaching hundreds of attendees to provide clear information to assist water users.

Ecology continues to work with local government and community partners to provide education and technical assistance to water users within WRIA 1.

Settlement Progress

Ecology stands ready to engage in discussions that could result in federal Indian water right settlements. We heard repeatedly from key partners that settlement discussions could not begin ahead of filing the adjudication, including mailing the summons to water right claimants. We are still in the initial phases of this process and anticipate that settlement discussions may commence in the coming year or two.

Next Steps

- Ecology has asked the court to order a summons to all defendants. Once ordered, Ecology will mail claim forms for the Nooksack adjudication via certified mail. Affected water users have a minimum of one year to respond from the date of receipt of the summons.
- Ecology will continue to provide resources and assistance to water users so that they can navigate the adjudication process and submit claim forms.

Contact Information

Water Resources Program

Author: Robin McPherson

P.O. Box 47600

Olympia, WA 98504-7600

Phone: 360-706-3393

ADA Accessibility

The Department of Ecology is committed to providing people with disabilities access to information and services by meeting or exceeding the requirements of the Americans with Disabilities Act (ADA), Section 504 and 508 of the Rehabilitation Act, and Washington State Policy #188.

To request an ADA accommodation, contact Ecology by phone at 360-407-6872 or email at WRPubs@ecy.wa.gov. For Washington Relay Service or TTY call 711 or 877-833-6341. Visit Ecology's website for more information.