

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR WHATCOM COUNTY

IN THE MATTER OF THE  
DETERMINATION OF THE RIGHTS TO  
USE THE SURFACE AND GROUND  
WATERS OF WATER RESOURCE  
INVENTORY AREA ONE (WRIA 1)

24-2-80000-37

CASE MANAGEMENT ORDER No. 1

**Introduction**

**WHEREAS**, the Court finds that this action involves an unusually large number of parties and is expected to require a substantial period of time to complete;

**WHEREAS**, the Court further finds that requiring each party to serve notice under the Civil Rules to all other parties would impose a significant financial burden and could hinder meaningful participation in this adjudication;

**WHEREAS**, Civil Rule 5(b)(7) permits service by electronic means as authorized by local court rule, and the Whatcom County Superior Court has adopted such a rule for this adjudication;

**WHEREAS**, RCW 90.03.120(3) encourages the Court to employ innovative practices and technologies suitable for large-scale and complex water rights adjudications; and

**WHEREAS**, the Court finds that notice procedures must be reasonably calculated to apprise all parties of developments in this matter;

**NOW, THEREFORE**, the Court orders as follows:

## **1) PURPOSE AND SCOPE**

This Water Adjudication Administrative Order is issued to facilitate the efficient administration of the above-captioned litigation, which involves the Department of Ecology and all claimants within Water Resource Inventory Area One (“WRIA 1”). Given the substantial complexity and volume of anticipated Filings, the Court establishes the following preliminary structured procedures to ensure orderly case progression and minimize administrative inefficiencies. Parties are expected to comply with these directives to prevent unnecessary procedural delays and ensure that the case proceeds in a structured and efficient manner.

## **2) DEFINITIONS**

- a) Adjudication – The water rights adjudication case filed by the Department of Ecology on May 1, 2024, under Master Case No. 24-2-80000-37, involving the Department, Claimants, named parties, and intervening entities.
- b) Claim – A formal assertion of a water right filed with the Court as part of the Adjudication, in accordance with RCW 90.03.140.
- c) Claimant – Any person who has filed a Claim.
- d) Clerk – The Clerk of the Whatcom County Superior Court.
- e) Court – The Whatcom County Superior Court, WRIA 1 Water Adjudication Court, located at 311 Grand Ave, Bellingham, WA 98225.
- f) Department – The Washington State Department of Ecology, which serves as the Plaintiff in the Adjudication.
- g) Descriptive Summary – A short and plain statement, on a cover sheet provided by the Court if filing a hard copy, or in the “Filing Description” field if using eFiling that describes: (1) the nature of the document being filed; (2) its relationship to any other Filing(s) in the Adjudication (e.g., Response to X’s Motion for Summary Judgment); and (3) the action or relief requested.
- h) Docket Sheet – A reverse chronological record of all Filings and orders entered by the Court in the Adjudication over the preceding three months, and a chronological calendar of upcoming matters for hearings set by the Court in the upcoming three months by applicable filing deadlines as described in Rule 5.
- i) eFiler – The person whose user ID and password are used to file an electronic document.

- j) eFiling – The electronic transmission of documents to the Court or Clerk for case processing.
- k) Filings – All documents filed with the Court and accepted by the Clerk in the Adjudication.
- l) Individual Claim Number – An Odyssey unique case number assigned to a specific Claim.
- m) Issue of Broad Legal Importance – An issue of broad legal importance is one of procedural or substantive significance in the Adjudication as determined by the Court upon Motion or on its own accord.
- n) Mandatory eFiler – A party who is required by Rule 4 to electronically file.
- o) Master Case – The primary case (case number 24-2-80000-37) in which the Department has initiated the Adjudication, including all Filings contained therein.
- p) Odyssey – The case management system used by the Washington State Administrative Office of the Courts, including Whatcom County, for electronic case records and Filings.
- q) Property Parcel Number or Geo ID – The county tax parcel number associated with the land where the water subject to a Claim is beneficially used or withdrawn, as required by RCW 90.03.140(1)(g) and (h).
- r) Steering Committee - A case management committee comprised of representatives from Ecology, Tribal Claimants, Federal Claimants, municipal Claimants, water associations, farming and agricultural interests, and individual Claimants for the purposes of recommending court procedures, rules, and forms and to provide a forum as the litigation proceeds to identify common interests and positions and facilitate orderly and efficient proceedings.
- s) Unrepresented Litigants – Claimants representing themselves without having a lawyer appear on their behalf.
- t) Washington State Archives – A digital repository for case-related documents and records in this adjudication, maintained by the Washington Secretary of State’s Office (<https://digitalarchives.wa.gov>).
- u) WRIA 1 – Washington Water Resource Inventory Area 1, encompassing the Nooksack River hydrologic basin and other small subbasin watersheds in Whatcom County and parts of northern Skagit County, as defined in WAC 173-500-040 and elaborated in WAC Chapter 173-501.

### **3) CASE STRUCTURING & CASE NUMBER ASSIGNMENT**

- a) Master Case No. 24-2-80000-37 has been assigned for general case administration. Individual Claim Numbers will be designated for specific claims. All judicial orders and procedural rulings with adjudication-wide applicability will be filed under the Master Case to promote consistency across proceedings.
- b) The Court may reassess and adjust case structuring methods as the litigation progresses, incorporating feedback from the Steering Committee or other parties to optimize efficiency and fairness.

### **4) ELECTRONIC FILING**

- a) Mandatory eFilers. Notwithstanding WCGR 30(b)(1), the following filers are Mandatory eFilers and shall be required to eFile.
  - i) All attorneys, including those licensed in Washington State and those admitted or appearing *pro hac vice* from outside the state;
  - ii) Government agencies and departments;
  - iii) Any third party directed by the Court or required by law to submit reports, evaluations, or other official communications.
- b) Unrepresented Litigants
  - i) Unrepresented Litigants who are individuals and not attorneys are strongly encouraged to file documents through the electronic filing system through e-filing or Guide & File, but are not required to do so and may file documents in-person at the Whatcom County Clerk's Office.
  - ii) An Unrepresented Litigant who elects to file documents through the electronic filing system must continue to do so for the pendency of the case unless the Court has granted a motion to withdraw from electronic filing.

### **5) DOCKET SHEET PROCEDURE**

Due to the unusually large number of Claimants, the anticipated duration of the Adjudication, and the need to ensure adequate notice to all interested parties—including those not subject to mandatory eFiling—the Court adopts a modified service order.

- a) Service for purposes of CR 5 in the Master Case shall be accomplished through publication of a Docket Sheet by the Clerk. This method of service is consistent with the guidance of RCW 90.03.120(3), CR 5, and Pretrial Orders III and IV in *Dept. of Ecology v. Acquavella (In re: Determination of Surface Waters of the Yakima River Drainage Basin)*, No. 77-2-01484-5 (Yakima County 1985 and 1986). The Clerk shall publish and maintain a Docket Sheet. The electronic service provisions set forth in WCGR 30(c) do not apply to the Adjudication.
- b) The Docket Sheet will serve as a notice to any motions filed by the Department pursuant to RCW 90.03.640(3), which any party with a claim in the Adjudication has the right to object to pursuant to RCW 90.03.160.
- c) Document Identification Requirement – Every document except a Claim filed with the Court in the Adjudication, whether filed electronically or in hard copy, must include a Descriptive Summary. The Clerk shall reject for filing all documents that are not water rights Claims that fail to include a Descriptive Summary.
- d) The Docket Sheet will be published by the Clerk ***on the 7th day of each month, commencing on December 8th, 2025***, and will be available at the Clerk's office and on the Court's website. If the seventh day falls on a weekend or holiday, then the Docket Sheet will be published the next judicial business day. The Court may establish special scheduling orders modifying dates of publication for monthly Docket Sheets and filing deadlines for document inclusion for each monthly Docket Sheet. Any such special scheduling order shall supersede the schedule and deadlines, as applicable, set forth in this Order.
- e) For any document to be included on a Docket Sheet, it must be filed and accepted by the Clerk before 4:30 p.m. Pacific Time on the last working day of the preceding month. All documents timely filed by this deadline, including court orders and Court or Department reports, shall be identified on the Docket Sheet for the following month.
- f) The Docket Sheet shall include a reverse chronological list of all Filings and all orders entered by the Court in the Adjudication in the preceding three (3) calendar months, and anything entered by the Court since the publication of the last Docket Sheet. Each entry to the docket sheet shall include:
  - i) The Individual Claim number;

- ii) Descriptive document name;
  - iii) The name of the party and the party's attorney, if any;
  - iv) The date the document was filed.
- g) The Docket Sheet shall include a chronological list of the hearings scheduled for the next three (3) months, including:
- i) The Individual Claim number;
  - ii) The date and time of the hearing;
  - iii) The subject of the hearing;
  - iv) The names of the parties.
- h) All applicable timelines in the Order herein shall run from the date notice is provided in a Docket Sheet, which is the date of publication.

**6) Motion Practice under the Docket Sheet Procedure**

- a) Exception – Except for Rules 6(h) and 6(i), this Rule 6 does not govern motions practice for Issues of Broad Legal Importance, which is governed by Rule 7.
- b) Hearing Date – Unless otherwise ordered, a motion will be heard on the third Tuesday of the third month following the motion's first appearance on the Docket Sheet. For example, a motion filed with the court before 4:30 p.m. Pacific Time on January 30, 2026, would first appear on the Docket Sheet on February 9, 2026. The hearing on such motion would be held on Tuesday, May 19, 2026, unless otherwise ordered by the Court.
- c) Documents in Support of Motion – All documents and briefs in support of a motion shall be filed with the motion.
- d) Notice of Intent to Participate – Any party that intends to file a written response to a motion must file a Notice of Intent to Participate by 4:30 p.m. Pacific Time on the last working day of the month in which the motion first appears on the Docket Sheet. The Notice of Intent to Participate must include the phone number, mailing address, and e-mail address (if applicable) of the party (if unrepresented) or of the party's attorney (if represented). Failure to file a timely Notice of Intent to Participate shall preclude a party from participating in further briefing and any argument regarding the motion.

- e) Responses to Motion – Responding briefs and documents supporting or opposing a motion must be filed by 4:30 p.m. Pacific Time on the last working day of the month following the motion’s first appearance on the Docket Sheet.
- f) Replies to Responses – Briefs and documents in reply to responses must be filed by 4:30 p.m. Pacific Time on the last working day of the month of the response brief(s) first appearance(s) on the Docket Sheet.

Example of Briefing Schedule under Docket Procedure – The following provides an illustration of how this rule regarding Motion Practice under the Docket Sheet Procedure would work in practice:

- Motion filed: January 30, 2026
- First Appearance of Motion on Docket Sheet: February 9, 2026
- Filing Deadline for Notice of Intent to Participate: February 27, 2026
- Notices of Intent to Participate Appear on Docket Sheet: March 9, 2026
- Filing Deadline for Response Briefs: March 31, 2026
- Response Briefs Appear on Docket Sheet: April 7, 2026
- Filing Deadline for Reply Briefs: April 30, 2026
- Reply Briefs Appear on Docket Sheet: May 7, 2026
- Hearing Date: May 19, 2026

- g) Extensions – For good cause, a party may move for an extension of time to file a response or reply brief. As soon as the party is aware that they will be seeking an order extending time, that party must contact all parties (or their representatives) that filed a Notice of Intent to Participate, as well as the proponent of the original motion, in the form most likely to result in actual notice, which shall presumptively include e-mail. Any motion to extend time must include in the first paragraph of the motion a description of the efforts that were made to contact and confer with the participating parties (i.e., the original movant and all parties that filed Notices of Intent to Participate) and the position of those participating parties on the request for extension of time, if known. If the motion for extension of time is not opposed by any participating party, the motion shall clearly state that fact in the first paragraph of the motion.

- h) Motions for Orders Shortening Time – Until further order of the Court, the Court will not consider Motions for Orders Shortening Time under WCCR 7.3 or any other rule or provision of law providing for expedited, shortened, or emergency motions.

## 7) ISSUES OF BROAD LEGAL IMPORTANCE

- a) Motion to Designate an Issue of Broad Legal Importance – Any Party to the Adjudication may file a Motion to Designate an Issue of Broad Legal Importance. A Motion to Designate an Issue of Broad Legal Importance shall state: (1) A short and plain statement of the issue; (2) Why such a designation is warranted; (3) The need for early resolution of the issue; (4) The type of right(s) affected by the issue; and (5) A description of how those rights will be affected.
- b) Scheduling and Notice – Upon filing a Motion to Designate an Issue of Broad Legal Importance, the moving party shall neither note the motion for hearing nor serve notice of a hearing date. The Court shall by order set a briefing schedule and hearing date and provide notice of same through the Docket Sheet.
- c) Oral Argument – Any party desiring to present oral argument on a Motion to Designate an Issue of Broad Legal Importance shall notify the Court in writing. The Court may also impose reasonable time limitations on argument.
- d) Court-Initiated Designation – The Court may issue a Notice of Intent to Designate an Issue of Broad Legal Importance *sua sponte*.
- e) Participation
  - i) Once an issue is designated as an Issue of Broad Legal Importance, any party to the Adjudication wishing to participate in the proceedings on that Issue must file a Notice of Intent to Participate within thirty (30) days after publication of the Order designating the Issue on the Docket Sheet, or within any alternative deadline specified by the Court.
  - ii) Only parties who have filed a Notice of Intent to Participate shall be permitted to make further Filings or participate in oral argument related to the Issue of Broad Legal Importance.
  - iii) Lead Counsel Designation Procedures – If, in the determination of the Court, the number of participating parties risks making individual participation in oral argument unwieldy or otherwise untenable, the Court may require aligned parties to select lead

counsel(s) to present argument on behalf of their common position. In making its determination the Court will use guidelines set forth in the Manual for Complex Civil Litigation, 4<sup>th</sup> ed. for the federal courts.

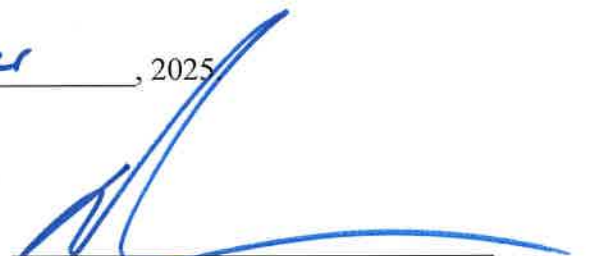
**8) PARTY RESPONSIBILITIES**

It shall be the duty of all parties and their representatives to inform the Court and the Department of any change in their email or mailing address, transfers or changes in the land or claim ownership, changes in representatives, and any other such matters in accordance with CR 25.

**9) OTHER**

- a) Application of Civil Rules – Except as otherwise provided above, the Washington Civil Rules governing notice shall apply.
- b) Reserved

DATED this 20<sup>th</sup> day of November, 2025



THE HONORABLE DAVID E. FREEMAN