

**RESOLUTION NO. 583**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE POINT ROBERTS WATER DISTRICT NO. 4, WHATCOM COUNTY, WASHINGTON, ADOPTING RULES FOR THE IMPLEMENTATION OF THE STATE ENVIRONMENTAL POLICY ACT.**

**WHEREAS**, the Washington State Department of Ecology has adopted rules for implementation of the State Environmental Policy Act ("SEPA"); and

**WHEREAS**, pursuant to RCW 43.21C.120 and WAC 197-11-020, 197-11-904 and 197-11-906, the District must adopt SEPA rules consistent with Chapter 197-11 WAC, and in Chapter 173-806 WAC, the Department of Ecology has adopted model regulations for local jurisdictions; and

**WHEREAS**, the District gave notice of a hearing on the proposed adoption of this resolution providing SEPA rules and procedures for the District on October 16<sup>th</sup>, 2006 in the Bellingham Herald, a newspaper of general circulation in the District, and held the public hearing on the proposed resolution on October 26<sup>th</sup>, 2006; and

**BE IT RESOLVED** by the Board of Commissioners of Point Roberts Water District No. 4, Whatcom County, Washington, as follows:

**Section 1.** Authority. The District adopts this Resolution under the State Environmental Policy Act ("SEPA"), RCW 43.21C.120 and WAC 197-11-904. This Resolution contains the District's SEPA procedures and policies. The SEPA rules, Chapter 197-11 WAC, must be used in conjunction with this Resolution.

**Section 2.** General Requirements - Adoption by Reference. Sections 2 through 8 of this Resolution contain the basic requirements that apply to the SEPA process. The District adopts the following sections of Chapter 197-11 WAC by reference:

WAC	
197-11-040	Definitions.
197-11-050	Lead agency.
197-11-060	Content of environmental review.
197-11-070	Limitations of actions during SEPA process.
197-11-080	Incomplete or unavailable information.
197-11-090	Supporting documents.

197-11-100	Information required of applicants.
197-11-158	GMA project review - Reliance on existing plans, laws, and regulations.
197-11-210	SEPA/GMA integration.
197-11-220	SEPA/GMA definitions.
197-11-228	Overall SEPA/GMA integration procedures.
197-11-230	Timing of an integrated GMA/SEPA process.
197-11-232	SEPA/GMA integration procedures for preliminary planning, environmental analysis and expanded scoping.
197-11-235	Documents.
197-11-250	SEPA/Model Toxic Control Act integration.
197-11-253	SEPA lead agency for MTCA actions.
197-11-256	Preliminary evaluation.
197-11-259	Determination of nonsignificance for MTCA remedial actions.
197-11-262	Determination of significance and EIS for MTCA remedial actions.
197-11-265	Early scoping for MTCA remedial actions.
197-11-268	MTCA interim actions.

**Section 3.** Additional Definitions. In addition to the definitions in WAC 197-11-700 through 197-11-799 and 197-11-220, when used in this Resolution, the following terms shall have the following meanings, unless the context indicates otherwise:

- A. "SEPA rules" means Chapter 197-11 WAC.
- B. "Early notice" means the District's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance procedures).

**Section 4.** Responsible Official.

- A. The responsible official shall be the District manager or the manager's designee. When the manager designates another employee as responsible official, the manager shall be guided in making such designation by the nature of the proposal and the administrative decision-making process normally used by the District.
- B. For all proposals for which the District is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement and perform any other function assigned to the "lead agency" or "responsible official" by the SEPA rules adopted by reference in this Resolution.
- C. The District shall retain all documents required by the SEPA rules and shall make them available in accordance with Chapter 42.17 RCW.
- D. All decisions of the responsible official and the District relating to interpretation and application of this Resolution and the SEPA rules shall be given substantial deference.

**Section 5. Lead Agency Determination and Responsibilities.**

A. When the District receives an application for or initiates a proposal that involves a nonexempt action, the responsible official shall determine the lead agency for the proposal under WAC 197-11-050 and 197-11-922 through 197-11-940, unless the lead agency previously has been determined or the responsible official is aware that another agency is in the process of determining the lead agency. If a private proposal is involved, the responsible official shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal.

B. When the District is the lead agency for a proposal, the responsible official shall supervise compliance with the threshold determination requirements, and if an EIS is necessary supervise preparation of the EIS.

C. When the District is not the lead agency for a proposal, it shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. The District shall not prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. The District may conduct supplemental environmental review under WAC 197-11-600.

D. If the District receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-253 or 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within 15 days of receipt of the determination, or the District shall petition the department of ecology for a lead agency determination under WAC 197-11-946 within the 15-day time period. The responsible official shall initiate any such petition.

E. The responsible official is authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944.

**Section 6. Transfer of Lead Agency Status to State Agency.** For any proposal for a private project where the District would be lead agency and for which one or more state agencies have jurisdiction, the responsible official may elect to transfer lead agency duties to a state agency. The state agency with jurisdiction appearing first on the priority list in WAC 197-11-936 shall be the lead agency and the District shall be an agency with jurisdiction. To transfer lead agency duties, the responsible official must transmit a notice of transfer together with any relevant information available on the proposal to the appropriate state agency. The responsible official shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal.

**Section 7. Timing Considerations.**

A. The responsible official shall begin any required environmental review for proposals initiated by the District at the earliest point in the planning and decision making

process when the principal features of the proposal and its probable environmental impacts are reasonably identified.

B. The responsible official shall begin any required environmental review for proposals not initiated by the District no later than on receipt of a complete application. The application shall not be complete without required environmental documents and fees. However, the responsible official may initiate the final detailed design stage and have informal conferences with the applicant prior to submittal of a complete application. When conducting such early environmental review, the application shall provide the responsible official with sufficient information (consistent with WAC 197-11-100 and 197-11-335) to permit the responsible official to conduct adequate review consistent with this Resolution.

C. Any environmental review may be organized in phases as specified in WAC 197-11-060(5).

D. In all cases not otherwise covered, the timing of the District's environmental review for proposals shall be as specified on an individual, case by case basis by the responsible official consistent with this Resolution.

**Section 8.** Emergency Actions. Any action that in the opinion of the responsible official must be taken immediately, or within a time too short to allow full compliance with the provisions of this Resolution, to avoid an imminent danger to property (public or private), or to prevent an imminent threat of serious environmental degradation, shall be exempt from the procedural requirements of SEPA, the SEPA rules and this Resolution.

**Section 9.** Categorical Exemptions and Threshold Determinations – Adoption by Reference.

A. Sections 9 through 11 of this Resolution contain rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring preparation of an environmental impact statement, and for evaluating the impacts of proposals not requiring an EIS. The District adopts the following sections of Chapter 197-11 WAC by reference:

WAC	
197-11-300	Purpose of this part.
197-11-305	Categorical exemptions.
197-11-310	Threshold determination required.
197-11-315	Environmental checklist.
197-11-330	Threshold determination process.
197-11-335	Additional information.
197-11-340	Determination of nonsignificance (DNS).
197-11-350	Mitigated DNS.
197-11-355	Optional DNS process.
197-11-360	Determination of significance (DS)/initiation of scoping.
197-11-390	Effect of threshold determination.

B. Use of exemptions.

1. The responsible official shall determine whether the proposal is exempt. The responsible official's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this Resolution apply to the proposal. The responsible official shall not require completion of an environmental checklist for an exempt proposal.

2. In determining whether or not a proposal is exempt, the responsible official shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the responsible official shall determine the lead agency, even if the application that triggers the responsible official's consideration is exempt.

3. If a proposal includes both exempt and nonexempt actions, the responsible official may authorize exempt actions prior to compliance with the procedural requirements of this Resolution except that:

a. The responsible official shall not give authorization for: (i) Any nonexempt action; (ii) Any action that would have an adverse environmental impact; or (iii) Any action that would limit the choice of alternatives;

b. The responsible official may withhold approval of exempt actions that would lead to modification of the physical environment, when the modification would serve no purpose if nonexempt actions were not approved; and

c. The responsible official may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt actions were not approved.

**Section 10. Environmental Checklist.**

A. A completed environmental checklist in the form provided by WAC 197-11-960 shall be filed at the same time as an application for a permit or other approval not specifically exempted in this Resolution; provided, that a checklist is not needed if the responsible official and the applicant agree an EIS is required, SEPA compliance has been completed or SEPA compliance has been initiated by another agency. The responsible official shall use the environmental checklist to determine the lead agency and, if the District is the lead agency, for making the threshold determination.

B. For private proposals, the responsible official shall require the applicant to complete the environmental checklist, providing assistance as necessary. For District proposals, District staff shall complete the environmental checklist.

**Section 11. Mitigated DNS.**

A. As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

B. An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must (1) follow submission of an application and environmental checklist for a nonexempt proposal; and (2) precede the District's actual threshold determination for the proposal.

C. The responsible official should respond to the request for early notice within 15 working days. The response shall: (1) be written; (2) state whether the District currently considers issuance of a DS likely and, if so, indicate the general or specific areas of concern that are leading the District to consider a DS; and (3) state that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or application as necessary to reflect the changes or clarifications.

D. As much as possible, the responsible official should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

E. When an applicant submits a changed or clarified proposal along with a revised or amended environmental checklist, the responsible official shall base the threshold determination on the changed or clarified proposal and should make the determination within 15 days of receiving the changed or clarified proposal.

1. If the responsible official indicated specific mitigation measures in the response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the responsible official shall issue and circulate a DNS under WAC 197-11-340(2).

2. If the responsible official indicated areas of concern, but did not indicate specific mitigation measures that would allow issuance of a DNS, the responsible official shall make the threshold determination, issuing a DNS or DS as appropriate.

3. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent storm water runoff" are inadequate, whereas proposals to "muffle machinery to X decibels" or construct "200-foot storm water retention pond at Y location" are adequate.

4. Mitigation measures that justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or documents.

F. A mitigated DNS is issued under WAC 197-11-340(2), requiring a 14-day comment period and public notice.

G. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the District's decision on the application and may be enforced in the same manner as any term or condition of the decision, or in any manner specifically prescribed by the District.

H. If the responsible official's tentative decision on an application or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the responsible official should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a)(withdrawal of DNS).

I. The responsible official's written response under paragraphs B and C of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the responsible official to consider the clarifications or changes in the threshold determination.

**Section 12.** Environmental Impact Statements – Adoption by Reference.

A. The District adopts the following sections of Chapter 197-11 WAC by reference:

WAC

197-11-400	Purpose of EIS.
197-11-402	General requirements.
197-11-405	EIS types.
197-11-406	EIS timing.
197-11-408	Scoping.
197-11-410	Expanded scoping.
197-11-420	EIS preparation.
197-11-425	Style and size.
197-11-430	Format.
197-11-435	Cover letter or memo.
197-11-440	EIS contents.
197-11-442	Contents of EIS on nonproject proposals.
197-11-443	EIS Contents when prior nonproject EIS.
197-11-444	Elements of the environment.
197-11-448	Relationship of EIS to other considerations.
197-11-450	Cost benefit analysis.
197-11-455	Issuance of DEIS.
197-11-460	Issuance of FEIS.

B. Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the responsible official. Before the District issues an EIS, the responsible official shall be satisfied that it complies with this Resolution and the SEPA rules.

C. The DEIS and FEIS or draft and final SEIS shall be prepared by District staff, the applicant, or by a consultant selected by the District and the applicant. If the responsible official requires an EIS for a proposal and determines that someone other than the District will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the District's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

D. The responsible official may require an applicant to provide information the District does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this Resolution or that is being requested from another agency. (This does not apply to information the District may request under another resolution or statute.)

**Section 13. Commenting – Adoption by Reference.**

A. This section contains rules for consulting, commenting and responding on all environmental documents under SEPA, including rules for public notice and hearings. The District adopts the following sections of Chapter 197-11 WAC by reference:

WAC

197-11-500	Purpose of this part.
197-11-502	Inviting comment.
197-11-504	Availability and cost of environmental documents.
197-11-508	SEPA register.
197-11-510	Public notice.
197-11-535	Public hearings and meetings.
197-11-545	Effect of no comment.
197-11-550	Specificity of comments.
197-11-560	FEIS response to comments.
197-11-570	Consulted agency costs to assist lead agency.

B. Whenever the District issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3), the District shall give public notice as follows:

1. If public notice is required for a nonexempt permit or approval, the notice shall state whether a DS or DNS has been issued and when comments are due.

2. If no public notice is required for the permit or approval, the District shall give notice of the DNS or DS by at least one of the following methods: (a) posting the property, for a site-specific proposal; (b) publishing notice in a newspaper of general circulation in the District or general area where the proposal is located; (c) notifying public or private groups that have expressed interest in a certain proposal or in the type of proposal being considered; (d) notifying the news media; (e) placing notices in appropriate regional, neighborhood, or trade

journals; or (f) publishing notice in agency newsletters and/or sending notice to agency mailing lists (either general lists or lists for specific proposals or subjects).

C. Whenever the District issues a DS under WAC 197-11-360(3), the District shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

D. Whenever the District issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of documents shall be given by indicating the availability of the DEIS in any public notice required for a nonexempt application or approval and by at least one of the following methods: (1) posting the property for site specific proposals; (2) publishing notice in a newspaper of general circulation in the District; (3) notifying public or private groups that have expressed interest in a certain proposal or in the type of proposal being considered; (4) notifying the news media; (5) placing notices in appropriate regional, neighborhood, or trade journals; or (6) publishing notice in agency newsletters or sending notice to agency mailing lists (either general lists or lists for specific proposals or subjects).

E. Whenever possible, the District shall integrate the public notice required under this section with existing notice procedures for the District's nonexempt permits or approvals required for the proposal.

F. The District may require an applicant to complete the public notice requirements for the proposal at the applicant's expense.

G. The responsible official shall be responsible for preparation of written comments for the District in response to a consultation request prior to a threshold determination participation in scoping and reviewing a DEIS.

H. The responsible official shall be responsible for the District's compliance with WAC 197-11-550 whenever the District is a consulted agency and is authorized to develop operating procedures that will ensure timely responses to consultation requests.

**Section 14.** Using Existing Environmental Documents. This section contains rules for using and supplementing existing environmental documents prepared under SEPA or the National Environmental Policy Act ("NEPA") for the District's own environmental compliance. The District adopts the following sections of Chapter 197-11 WAC by reference:

WAC	
197-11-600	When to use existing environmental documents.
197-11-610	Use of NEPA documents.
197-11-620	Supplemental environmental impact statement procedures.
197-11-625	Addenda-Procedures.
197-11-630	Adoption-Procedures.
197-11-635	Incorporation by reference-Procedures.
197-11-640	Combining documents.

**Section 15.** SEPA and Agency Decisions. Sections 15 through 17 of this Resolution contain rules and policies for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA, and for appealing SEPA determinations to agencies or courts. The District adopts the following sections of Chapter 197-11 WAC by reference:

WAC

- 197-11-650 Purpose of this part.
- 197-11-655 Implementation.
- 197-11-660 Substantive authority and mitigation.
- 197-11-680 Appeals.

**Section 16.** Substantive Authority.

A. The policies and goals set forth in this Resolution are supplemental to those in the existing authorization of the District.

B. The District may attach conditions to a permit or approval as long as:

1. The conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared under this Resolution;
2. The conditions are in writing;
3. The mitigation measures in the conditions are reasonable and capable of being accomplished;
4. The District has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
5. The conditions are based on one or more policies in Paragraph D of this section and cited in the approval or other decision document.

C. The District may deny a permit or approval for a proposal on the basis of SEPA as long as:

1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared under this Resolution;
2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
3. The denial is based on one or more policies identified in Paragraph D of this section and identified in writing in the decision document.

D. The District designates the following policies as the basis for the District's exercise of authority pursuant to this section:

1. The District shall use all practical means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs and resources to the end that the state and its citizens may:

a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

b. Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

c. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

d. Preserve important historic, cultural, and natural aspects of our national heritage;

e. Maintain, wherever possible, an environment that supports diversity and variety of individual choice;

f. Achieve a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities; and

g. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

2. The District recognizes that each person has a fundamental and inalienable right to a healthy environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

3. The District adopts by reference all policies stated in the District's Comprehensive Water Plan.

**Section 17. Appeals.**

A. The District's threshold determination and EIS, if required, shall be issued before the decision on the proposal.

B. There shall be no administrative appeals of any decisions of the District under this Resolution.

C. An aggrieved person may appeal a decision of the District under this Resolution by filing an appropriate action with the superior court. An appeal of a decision of the District under this Resolution shall be consolidated with an appeal of the decision on the underlying proposal or action, except that the following appeals need not be so consolidated:

1. An appeal of a determination of significance;
2. An appeal of a threshold determination or EIS adequacy where the District is a project proponent, or is funding a project, and the District conducts its SEPA review, including appeals, prior to submitting an application for the project permit; and
3. An appeal of a threshold determination or EIS adequacy on a non-project action.

D. If there is a time limit established by statute, ordinance or resolution for appealing the underlying governmental action, then an appeal raising SEPA issues must be filed within such time period; provided, that an appeal listed in Paragraphs C.1, 2 or 3 of this section must be filed within 21 days of the date of the decision being appealed.

E. The notice of action procedures of RCW 43.21C.080 may be used. If this procedure is used, then the time limits for judicial appeal specified in RCW 43.21C.080 shall apply, unless there is a time limit established by statute, ordinance or resolution for appealing the underlying District action. If so, the time limit for appeal of SEPA issues shall be the time limit in the statute, ordinance or resolution for the underlying action. If the proposal requires more than one governmental decision that will be supported by the same SEPA documents, then RCW 43.21C.080 still only allows one judicial appeal of procedural compliance with SEPA, which must be commenced within the applicable time limit to appeal the first governmental decision.

F. If there is a time limit established by statute, ordinance or resolution for appeals of the underlying action, official notice of the date and place for commencing an appeal must be given, in the manner specified in WAC 197-11-680(5)(a). The notice shall include (1) the time limit for commencing appeal of the underlying action and SEPA issues, and the statute, ordinance or resolution establishing the time limit, and (2) where an appeal may be filed.

G. An appeal shall be on the record created by the District in making the decision being appealed.

H. In an appeal, the determination of the responsible official shall be entitled to substantial weight.

**Section 18.** Notice – Statute of Limitations. The District, applicant, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action. The form of the notice shall be substantially in the form provided in WAC 197-11-990.

**Section 19.** Definitions – Adoption by Reference. This section contains uniform definitions of terms under SEPA. In addition to the definitions contained in Section 3 of this Resolution, the District adopts the following sections of Chapter 197-11 WAC by reference:

WAC	
197-11-700	Definitions.
197-11-702	Act.
197-11-704	Action
197-11-706	Addendum.
197-11-708	Adoption.
197-11-710	Affected tribe.
197-11-712	Affecting.
197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built environment.
197-11-720	Categorical exemption.
197-11-721	Closed record appeal.
197-11-722	Consolidated appeal.
197-11-724	Consulted agency.
197-11-726	Cost-benefit analysis.
197-11-728	County/city.
197-11-730	Decision maker.
197-11-732	Department.
197-11-734	Determination of nonsignificance (DNS).
197-11-736	Determination of significance (DS).
197-11-738	EIS.
197-11-740	Environment.
197-11-742	Environmental checklist.
197-11-744	Environmental document.
197-11-746	Environmental review.
197-11-750	Expanded scoping.
197-11-752	Impacts.
197-11-754	Incorporation by reference.
197-11-756	Land covered by water.
197-11-758	Lead agency.
197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.
197-11-768	Mitigation.
197-11-770	Natural environment.
197-11-772	NEPA.
197-11-774	Nonproject.
197-11-775	Open record hearing.
197-11-776	Phased review.

- 197-11-778 Preparation.
- 197-11-780 Private project.
- 197-11-782 Probable.
- 197-11-784 Proposal.
- 197-11-786 Reasonable alternative.
- 197-11-788 Responsible official.
- 197-11-790 SEPA.
- 197-11-792 Scope.
- 197-11-793 Scoping.
- 197-11-794 Significant.
- 197-11-796 State agency.
- 197-11-797 Threshold determination.
- 197-11-799 Underlying governmental action.

**Section 20.** Categorical Exemptions. The District adopts by reference the following rules for categorical exemptions as supplemented in this Resolution, including Section 9:

- WAC
- 197-11-800 Categorical exemptions.
  - 197-11-880 Emergencies.
  - 197-11-890 Petitioning DOE to change exemptions.

**Section 21.** Agency Compliance – Adoption by Reference. This section contains rules for District compliance with SEPA, including rules for charging fees under the SEPA process, listing agencies with environmental expertise, selecting the lead agency and applying these rules to current District activities. The District adopts the following sections of Chapter 197-11 WAC by reference:

- WAC
- 197-11-900 Purpose of this part.
  - 197-11-902 Agency SEPA policies.
  - 197-11-916 Application to ongoing actions.
  - 197-11-920 Agencies with environmental expertise.
  - 197-11-922 Lead agency rules.
  - 197-11-924 Determining lead agency.
  - 197-11-926 Lead agency for governmental proposals.
  - 197-11-528 Lead agency for public and private proposals.
  - 197-11-930 Lead agency for private projects with one agency with jurisdiction.
  - 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
  - 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city and one or more state agencies.
  - 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
  - 197-11-938 Lead agencies for specific proposals.

- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.

B. The District shall require the following fees for its activities in accordance with the provisions of this Resolution:

1. Threshold determination. For every environmental checklist the District will review when it is lead agency, the District shall collect a fee in the amount of Two Thousand Dollars (\$2,000) from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided in this Resolution for making a threshold determination shall not begin to run until payment of the fee.

2. Environmental impact statement.

a. When the District is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by the District, the District may charge and collect a reasonable fee from any applicant to cover costs incurred by the District in preparing the EIS. The responsible official shall advise the applicant of the projected costs for the EIS prior to actual preparation, and the applicant shall post bond or otherwise ensure payment of such costs.

b. The responsible official may determine that the District will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the District and may bill such costs and expenses directly to the applicant. The District may require the applicant to post bond or otherwise ensure payment of such costs. The consultants shall be selected by mutual agreement of the District and the applicant after a call for proposals.

c. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under (a) or (b) of this Paragraph that remain after incurred costs are paid.

3. The District may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this Resolution relating to the applicant's proposal.

4. The District shall not collect a fee for performing its duties as a consulted agency.

5. The District may charge any person for copies of any document prepared under this Resolution in a manner provided by Chapter 42.17 RCW.

**Section 22.** Supplemental Procedures. The responsible official is authorized to develop such procedures as the responsible official deems appropriate for implementing the SEPA rules and this Resolution.

**Section 23.** Forms. The District adopts the following forms by reference:

WAC

197-11- 960 Environmental checklist.

197-11-965 Adoption notice.

197-11-970 Determination of nonsignificance (DNS).

197-11-980 Determination of significance and scoping notice (DS).

197-11-985 Notice of assumption of lead agency status.

197-11-990 Notice of action.

**Section 24.** Severability. If any provision of this Resolution or its application to any person or circumstances is held invalid, the remainder of this Resolution, or the application of the provision to other persons or circumstances, shall not be affected.

**ADOPTED** at a Segular Open Public Meeting of the Board of Commissioners, Point Roberts Water District No. 4, Whatcom County, Washington, held on the 26th day of October, 2006.

---

N. Madeleine Anderson  
Chairman - Commissioner

---

Susan M. Johnson  
Secretary - Commissioner

---

Reneé Coe  
Commissioner