

# Summary of Small Water System Committee Handouts and Presentations

Meeting Handout	Main Points
1. Water System Capacity fact sheet (DOH pub. 331-283, December 2004)	<ul style="list-style-type: none"> <li>• EPA defines capacity as a process for planning and implementing action to ensure that a water system can meet its immediate and long-term challenges.</li> <li>• There are three capacity categories: technical (physical system and O&amp;M personnel), managerial, and financial capacity.</li> <li>• Benefits of acquiring and maintaining full capacity include ability to expand to specified connection limit and ability to obtain capital improvement funding through the Drinking Water State Revolving Fund.</li> <li>• Full capacity systems have water system plans or satellite water system management programs in place, use certified operators, stay within approved number of connections, and comply with monitoring and drinking water regulations.</li> <li>• DOH offers training, technical assistance, and published strategies to help new and existing systems develop capacity.</li> <li>• Status report provided to the governor every three years (from Web site).</li> </ul>
2. Compliance information—small systems (< 100 connections) in King County (DOH, 3-31-06)	<ul style="list-style-type: none"> <li>• King County has 147 Group A Systems with 15–100 connections: 77 with green, 1 with yellow, 68 with blue, and 1 with red operating permit status. (The red system will soon be moved to green status.)</li> <li>• Green status = substantial compliance; red status = non-compliance (not adequate for existing or new connections). Yellow and blue statuses = substantial compliance, with some compliance issues: yellow—not meeting the planning requirement and/or under a compliance agreement for a state significant non-complier (can expand to approved number of connections); blue—not meeting or is operating outside of design approval process, or exceeds the number of connections (can serve only existing connections).</li> <li>• KC has 1,689 Group B systems; most are under 10 connections.</li> <li>• KC has 12 unapproved Group B surface water systems.</li> </ul>
3. East King County CWSP Satellite System Management Program (East King County Regional Water Association, October 1989 CWSP and August 12, 1993, addendum)	<ul style="list-style-type: none"> <li>• Satellite system management agency (SSMA) is defined as a public or private entity that is certified to be qualified to properly operate and maintain a public water supply system, either through direct ownership or on a contract basis.</li> <li>• Provision of new “public water” service within a designated service area should be determined in the following order: (1) purveyor extends service, (2) purveyor approves design and then owns/operates remote system; (3) purveyor approves design and enters into contract for operation of system with a qualified SSMA (purveyor is responsible for quality, quantity, and monitoring, but not for operation and financing); (4) purveyor relinquishes new system and the new system’s service area.</li> <li>• Provision of new “public water” service within a non-designated service area should be determined in the following order: (1) an adjacent purveyor operates the system remotely and changes its boundaries; (2) an SSMA through an agreement with the owner/developer assumes ownership and/or operation; (3) owner/developer creates a new system (that complies with items in the EKCRWA Water Service Agreement and that files an annual approved financial plan with the King County).</li> <li>• DOH expects purveyors to have a satellite system management policy and program in place. It believes that purveyors have the responsibility to provide direct or indirect service to new remote systems in their service areas. DOH has the authority to remove portions of a service area if a purveyor refuses to manage a new</li> </ul>

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remote system.

- Water purveyors are reluctant to provide satellite management to remote systems, apparently because of the high financial risk if water quality and quantity degrade and because some cities require direct service only. Purveyors do not think that direct customers should pay to correct defects of small systems (nor does DOH require purveyors to do this).
- Possible finance options: (1) purveyor advances the costs of improvements and is paid back through the remote system customer rates or through state/federal grant money; (2) low-interest loans from State Public Trust Fund or other such programs; (3) conventional loans; (4) Community Development Block Grant funds for low-income residents; (5) formation of local improvement districts. The designated purveyor could act as an intermediary in helping failing systems
- DOH should set up a dedicated fund for emergency repair and restoration of remote systems using a portion of the fees charged for operating permits issued under RCW 70.119A; the fund could be replenished through a payback mechanism.

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4. Group B Project Report—Safe Drinking Water for Small Communities (DOH, November 2003)

- While serving only a small percentage of the state's population, Group B systems generally have more uncorrected problems and are most commonly implicated in waterborne disease outbreaks when such outbreaks are documented.
- In 2003, 82 percent of the state's population was served by Group A systems (subject to the Safe Water Drinking Act [SWDA]), 2 percent by Group B systems (exempt from SWDA but subject to state regulations and local ordinances), and 10 percent by private wells (subject to local ordinances). No information was available on the remaining 6 percent.
- During the 2001–2003 biennium, \$1.4 million was disbursed to local health jurisdictions in 36 out of the state's 39 counties to visit Group B system sites with five or more connections, educate operators, and update Water Facility Inventory forms. Over 3,000 site visits and updated inventories were completed. Most systems had one or more deficiencies that pose a risk to public health:
  - Lack of properly constructed and screened well vents (53 percent)
  - Inadequate water quality monitoring (45 percent)
  - Biological and chemical contaminants located within 100 feet of source (31 percent)
  - Lack of sampling taps at wellhead (30 percent)
  - Open storage reservoirs (26 percent with atmospheric storage; 49 percent with unprotected openings)
  - Lack of sealed well caps (21 percent)
- Because of budgetary restraints, many systems had not received critical reviews and assistance in decades. Most purveyors had little or no water system experience and little understanding of system design, history, or compliance obligations.
- Inventories and subsequent updating of DOH's database were time-intensive because of the constant changes in Group B system contacts.
- Recommendations for the future: Increase resources for technical assistance, training, and compliance; revise Chapter 246-291 WAC to clarify authorities for conducting sanitary surveys and increase monitoring requirements for inadequate sources.
- For the 2003–2005 biennium, \$1.4 million was appropriated to continue assessing Group B systems, focusing on systems with three or more connections.

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5. Municipal Water Law—Draft Handouts at July and August 2005 Stakeholder Meetings

**Retail Service Area**

- The requirement to delineate a retail service area (RSA) applies to municipal water suppliers (MWSs) with water

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on Proposals for Planning and Engineering Requirements (accessed from DOH Web site on 3-31-06)

- system plans (WSPs ) and applicable WSP amendments approved after September 9, 2003.
- The RSA identifies where an MWS currently provides direct water service and where it plans to provide new retail water service. It establishes where the requirement for consistency with local comprehensive plans, land use plans, and development regulations applies under Section 8. An MWS must demonstrate consistency with those plans within its RSA as part of the WSP approval process. The RSA establishes where a water system has a duty to serve. If a request for service from within the RSA is made and the MWS meets certain conditions, the MWS is obligated to provide service.
  - An RSA must include all areas where retail service is currently being provided and may include areas where retail service is planned. In delineating its RSA, an MWS should determine its readiness and ability to provide water service by considering elements such as:
    - The duty to serve requirement established in the MWL.
    - The size, location, and physical features of its own existing and future water service areas, and those of adjacent utilities.
    - Population projections and land use designation.
    - Its own provision-of-service policies.
    - Identification of resources to construct facilities needed to meet growth demands.
    - Commitments, pending requests, and potential requests for water service.
    - System capacity and approved number of connections as determined by DOH.
    - Water right limitations.
    - A public process for setting and changing the retail service area.
    - Applicable requirements under the Coordination Act (RCW 70.116).
  - Modification of an RSA or provision of water service outside an RSA requires DOH approval of a WSP amendment.
  - An MWS may not modify the boundary of its RSA after receipt of a request for service if the applicant for new service is located within the RSA and the modification would result in excluding the applicant for new service from the proposed RSA.

### Duty to Serve

- Duty to serve applies to MWSs within their RSAs when the four threshold factors can be met (on a case-by-case basis). The RSA must be documented in an approved WSP or WSP amendment.
- The four threshold factors are physical capacity, consistency, water rights, and timely and reasonable.
- DOH oversees capacity and consistency; Ecology oversees water rights; the applicant and MWS determine timely and reasonable, with possible oversight by local governments.
- Capacity determinations must be included in WSPs. The determinations will incorporate a water system's physical capacity (source and storage) and water right (QiQa) limitations and will be expressed in terms of approved number of connections. Capacity sufficiency for large systems will be addressed in their WSP.
- "Safe and reliable" means that an MWS cannot have a red operating permit.
- Required consistency elements include land use, 6-year growth projections, potential large water users, service extension ordinances, and provisions of water service. Consistency review by local governments and resolution of disputes should occur prior to WSP submittal to DOH. (If a local government does not review or provides an incomplete review, the MWS must document efforts to gain consistency and provide its own consistency evaluation. DOH will follow up with local government.) If inconsistency with a required element is determined, DOH will not approve the WSP until the issue is resolved. DOH may approve a WSP with inconsistencies where there is a significant and immediate public health threat. The MWS will be required to address issues after

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approval.

- Water Rights. DOH will submit all WSPs to Ecology for review and will support Ecology compliance actions (at the point of WSP approval and within the 6-year planning cycle).
- Timely and Reasonable is considered a civil matter between the MWS and the applicant. Local governments may provide oversight. DOH will provide guidance for timely and reasonable as it applies to the Coordination Act (RCW 70.116) and the Municipal Water Law.

### **Timely and Reasonable**

- The Public Water System Coordination Act (Coordination Act), Chapter 70.116.060 RCW, and the Municipal Water Law (RCW 43.20.260) (MWL) do not share a consistent use of the phrase timely and reasonable.
- The Coordination Act provides for local definition of timely and reasonable through CWSPs. The act applies only to Critical Water Supply Service Areas. It does not allow establishment of new public water systems in a CWSP area unless existing purveyors cannot provide service in a timely and reasonable manner. Applicants can follow CWSP procedure for appealing a purveyor's decision based on the purveyor's inability to provide service in a timely and reasonable manner. DOH suggests that the local legislative authority formally adopt legislation or administrative rules that define timely and reasonable and a dispute resolution/appeals process, and that both elements are developed through a public process. Other timely and reasonable considerations under the act:
  - Defines timely as 120 days unless otherwise specified by a local legislative authority. The legislative authority should define specific actions that begin and complete the service provision process. If the local legislative authority does not adopt formal legislation or rules, the purveyor should formally adopt procedures for the provision of timely service, incorporating a 120-day timeframe. DOH suggests that the calendar day clock begins on the date a formal agreement is completed unless otherwise agreed on by both parties as part of that agreement. The completion of a formal agreement should be defined and could include items such as required permits, water rights, and design.
  - DOH suggests that conditions of service (and costs) could be considered reasonable if they are consistent with local land use plans and development regulations, with the conditions of service documented in the purveyor's approved WSP, and with the purveyor's acknowledged standard practice as experienced by other applicants requesting similar water services.
- Although the MWL does not specify a local government jurisdictional foundation for timely and reasonable, DOH suggests that the local legislative authority formally adopt legislation or administrative rules that define timely and reasonable and a dispute resolution/appeals process, and that both elements are developed through a public process. If the local legislative authority does not adopt formal legislation or rules, the MWS should formally adopt procedures using a public process. Other DOH suggestions:
  - The following process could be used to provide service in a timely manner: The applicant submits a written request for service: within 120 calendar days, the MWS responds (with a contract proposal or a commitment to provide service); within 120 calendar days of receipt of the utility's contract proposal, the applicant accepts the contract, enters into continued contract negotiation, or identifies the contract as unreasonable (triggering the dispute resolution process).
  - An MWS's conditions of service (and costs) could be considered reasonable if they are consistent with local land use plans and development regulations, with the conditions of service documented in the purveyor's approved water system plan, and with the purveyor's acknowledged standard practice as experienced by other applicants requesting similar water services.

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#### Relevant Statutes

- RCW 43.20.260. Cites requirements for WSP consistency with comprehensive plans and development regulations. Also lists the threshold factors for provision of service within an RSA. (MWL Section 8; under DOH jurisdiction).
- RCW 90.03.015. Defines "municipal water supplier" and "municipal water supply purposes" (MWL Section 1; under Ecology jurisdiction).
- RCW 90.03.260. Removes the number of connections and population on a water right as a limiting attribute of the water right for water systems that have a DOH-approved WSP or other approval that specifies the number of connections (MWL Section 4; under Ecology jurisdiction).
- RCW 90.03.386. Defines the place of use as equal to the service area identified in a DOH-approved WSP or small water system management program if the water right holder is in compliance with the terms of its WSP and the service area is consistent with approved comprehensive plans, land use plans, development regulations, CWSPs, and watershed plans (MWL Section 5; under Ecology jurisdiction).
- RCW 70.119A. Covers water use efficiency (MWL Section 7; under DOH jurisdiction).

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6. Municipal Water Law—Interim Planning Guidance for Water System Plan/Small Water System Management Program Approvals (DOH pub. 331-256, revised March 2004)

- The Municipal Water Supply - Efficiency Requirements Act, Chapter 5, Laws of 2003 (MWL), amends sections of the State Board of Health Code, RCW 43.20; the laws governing Public Water Systems, RCW 70.119A; and sections of the state's Water Code, RCW 90.03. These changes affect the DOH water system planning process and provide benefits (including greater water right flexibility and certainty) to many water systems.
- RCW 90.03.015(3) & (4) provides the definition of a municipal water supplier and establishes municipal water supply purposes.
  - **Municipal water supply uses** are defined as the beneficial use of water for (1) residential purposes through 15 or more residential service connections or for providing residential use of water for a nonresidential population that is on average at least 25 people for at least 60 days a year; (2) governmental or governmental proprietary uses by a city, town, public utility district, county, sewer district, or water district; or (3) indirectly for uses (1) and (2) through the delivery of treated or raw water to a public water system.

If an MWS meets the criteria for any of these uses, other water uses may also be considered municipal water supply uses. In some cases, municipalities can recommend uses that benefit the environment, fish and wildlife, water quality, or other natural resources be designated as a beneficial use. These uses of water may be withdrawn or diverted by water right holders in response to an approved watershed plan, habitat conservation plan, federal hydropower license, or by a comprehensive irrigation district management plan. (Because of the complexity of this section of the MWL, DOH, Ecology, and the Attorney General's Office are conducting a legal analysis. Many water systems will need to be assessed on a case-by-case basis to determine if they meet the definition.)
  - A **municipal water supplier** is defined by the MWL as an "entity that supplies water for municipal water supply purposes." The definition does not affect water system categories in state and federal drinking water regulations. A Group A community water system is defined in state drinking water regulations (Chapter 246-290 WAC) as a system that provides service to 15 or more connections for year-round residents for 180 or more days in a calendar year, regardless of the number of people, or serves at least 25 residents for 180 days or more per calendar year. (Some non-community systems may be municipal water suppliers if they serve water for at least 60 days a year for a population of 25 or more for residential use.)
- RCW 90.03.260(4) & (5) states that the number of water service connections and population are not limiting

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attributes of water rights for water systems that have a DOH-approved WSP or other approval that specifies the number of connections.

- RCW 90.03.386(1) amends the state's Water Code directing DOH and Ecology to coordinate WSP approval procedures with water right determination procedures for both WSP and small water system management programs (SWSMPs). The MWL does not transfer any authority from Ecology to DOH to issue or administer water rights. WSP planning approvals will include a disclaimer regarding water rights and the limits of DOH's authority. A water rights self-assessment must be completed as part of a WSP and SWSMP submitted to DOH for approval; the assessment must include a system capacity determination. "System Capacity" is a system's overall physical or legal (water rights) limit, whichever is lower. Determination must consider water right annual and instantaneous quantities (Qa/Qi) and can be based on connections, population, and/or equivalent residential units. It must incorporate historical water usage and future population projections. (Water systems are encouraged to confer with Ecology on water rights before completing the self-assessment.) WSP approvals may limit system expansion if water rights or physical capacity is considered a limiting factor. DOH will submit WSPs and SWSMPs to Ecology for review and, on approval of a plan, will send Ecology information on approved number of connections, population or equivalent residential units, and service area delineation. (DOH and Ecology are working on specific procedures for WSP and SWSMP review and approval in cases where Ecology does not provide comment or when the utility and Ecology do not agree on the interpretation of water rights. DOH will continue to use existing procedures for review and approval when physical capacity is determined to be a limiting factor.)
- RCW 90.03.386(2) allows a municipal water supplier to expand the place of use on its water right to all areas included within the service area described in their approved WSP or SWSMP. This benefit is provided if the water right holder is in compliance with the terms of its WSP or SWSMP and the service area is consistent with applicable approved comprehensive plans, land use plans, development regulations, and CWSPs (as determined by local government), and watershed plans. A place of use typically includes the RSA as well as other areas where the system supplies water. The system's service area (as shown on a land use map) should reflect a boundary around both aspects (RSA and other areas served) of the system. A place of use is not reduced if the service area identified in an approved WSP or SWSMP is smaller than the place of use identified in the water right.
- RCW 90.03.386(3) provides direction on conservation to water systems with 1,000 or more connections. This includes reporting the conservation measures put into practice in the past six years and how those measures have increased water use efficiency. Water systems that are using inchoate portions of a water right certificate must describe how they could delay the use of the inchoate water rights over the next six years through additional cost-effective conservation measures.
- RCW 70.119A.180 directs DOH to develop water conservation rules by the end of 2005. It also directs MWSs to continue to meet current conservation planning requirements and to implement their current programs. An interim WSP approval standard for meeting conservation requirements and recommendations was developed for plans submitted after passage of the MWL. Both WSPs and SWSMPs must outline what, if any, previous efforts will be discontinued and why continuation of these efforts would be ineffective, or provide documentation that the program had a prescribed end date or savings level. The interim SWSMP approval standard for meeting conservation requirements will be a completed Water Conservation Program.
- RCW 43.20.260 requires new service in a water system's service area to be consistent with applicable approved local land use plans, comprehensive plans, and development regulations. Water utilities must delineate retail service areas (RSAs) in their WSPs. The RSA is the area in which water is or will be sold directly to the ultimate consumers (as defined by Merriam Webster Collegiate Dictionary, 11th Edition). The water provided in the RSA may come from a source for which the utility has its own water right, or the utility may provide water for its RSA

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by obtaining water from a utility with water rights, or a combination of the two. Water systems with DOH-approved WSPs now have a duty to provide service to new connections (including individual connections) in their RSAs if they meet the four threshold factors (capacity, consistency, water rights, and timely and reasonable).

- Water systems must obtain proof of local government planning consistency before plan submittal. They must allow local agencies a 60-day period to respond to the request for a consistency determination. Before submitting a plan for approval, the applicable local government agencies can provide the water system with a completed consistency statement checklist or comparable documentation. If a water system is unable to obtain this proof from the applicable local government agencies, the water system can complete the consistency statement checklist and submit it with the signature of the highest authority of its governing body. DOH may be able to help the utility make the appropriate local contacts to obtain a consistency determination. Water systems must include a local land use map and local population growth rate projections for their service areas. Demand forecasts should be included for the next six years and 20-year planning horizon. If the projection used in the demand forecast is different from that provided by the local government, the system must provide justification for the methodology used.
- In the WSP, the utility must document how it responds to requests for new water service: (1) the process for service requests, including timeframes, (2) how the utility determines that it has adequate capacity to provide new water service (including sufficient water rights), (3) non-technical conditions that may affect the utility's ability to provide new water service (annexation procedures, water rights issues, local ordinances, etc.), (4) procedures for granting or requesting extensions of time during water service related projects and procedures for handling disputes and appeals when requests for water service are denied.

Water utilities are not prohibited by the GMA from providing domestic water services in rural areas (RCW 36.70A.030). The service must be designed at the level of service designated appropriate by the local land use authority for that area and must be provided in accordance with the DOH's minimum design criteria for public water systems (WAC 246-290-222, 230 and 235).

- RCW90.46.120(3) requires systems serving 1,000 connections or more to evaluate reclaimed water opportunities. WSPs should include an inventory of current and potential reclaimed water sources and reclaimed water uses, plus a description of any interaction with a wastewater utility. Utilities can submit the DOH water reclamation checklist or comparable documentation. If reclaimed water is not available, systems must document that there is no reclaimed water available or projected to be available in the six-year planning period.
- State Environmental Policy Act (SEPA). In the interim, DOH will continue to require SEPA on all WSPs and WSP amendments for systems with 1,000 or more connections at time of plan approval (WAC 246-290-100(4)(i)(i)). DOH is reviewing agency regulations to determine if current practices should be modified.

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7. Information on Small Water Systems in King, Pierce, Thurston, and Snohomish Counties (DOH, April 20-21, 2006)

- Between 1986 and 1997, the number of new Group B systems created in King County averaged around 40, with the exception of three years when there were 76, 77, and 79 new systems and one year (1997) when there were 97 new systems. Between 1997 and 2005, there has been a steady decline in new Group B systems. In 2004, there were 9 new systems, and in 2005, there were 13 (DOH Sentry database).
  - Of the 373 Group B system surveys conducted in King County in the last two quarters of 2004 and first two quarters of 2005, 11.8 percent of the systems had biological and 19.6 percent had chemical contaminants in a 100-foot radius of the well; 5.6 percent had a susceptible sources; and 78.6 percent lacked routine bacteria sampling and 79.6 percent lacked routine nitrate sampling.
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- While the number of Group B systems in King County has decreased over the past 5 years, the number in Pierce, Snohomish, and Thurston Counties has increased.
- King County has a total of 1,696 Group B systems and 213 Group A systems. The majority of Group A's (147) have 100 or fewer connections.
- Group B systems represent 1.2 percent of total public water system service connections and less than 1 percent of the residential population served by public water systems in King County.
- Of the 162 Group A systems in King County that have 500 or fewer connections, 90 are operating under a green permit status, 1 under yellow, 70 under blue, and 1 under red.
- Ten Group A systems with 500 or fewer connections are in DOH's high health risk violation category; 11 are in the medium category; and none are in the low risk category (DOH is not pursuing the low risk category at this time).
- Examples of violations that DOH deems as low risk: lack of documents, failure to retain satellite management agency, and violation of the second dry contaminant maximum contaminant level.
- Examples of medium risk violations (problems affecting the safety and reliability of a system): chronic contaminants (lead, copper), failure to provide disinfection when source is connected to surface water, and failure to provide cross connection control protection to high-risk premises.
- Examples of high risk violations: microbial risk, acute chemical risk, fraudulent operation and reporting, operator certification issues, and Surface Water Treatment Rule and Ground Water Under the Influence (GWI) violations. High risk violations could lead to orders, penalties, and receivership.
- There are 12 unapproved Group B surface water systems (five are at Stevens Pass; three on Vashon).

8. RCW 43.70.195. Public Water Systems, Receivership Actions Brought by Secretary—Plan for Disposition (accessed from the Web by DOH, 4-21-06)

- When a water system fails to provide safe and reliable water and fails to respond to DOH-requested informal actions, the court, as a last resort, may appoint a receiver to operate the water system.
- The process starts when DOH and the Office of the Attorney General (AG) determine the water system is a candidate for receivership. Next, DOH schedules a meeting to discuss the issue with the system's customers. The AG prepares a petition laying out the steps DOH wants to take—including the names of recommended receivers who have consented to assume operation and who know how to manage a water system operation—and files the petition with the county superior court. (DOH is required to maintain a list of interested and qualified individuals, municipal entities, special purpose districts, and investor-owned water companies with experience in providing water service and a history of satisfactory operation of a water system.)
- The receivers will make recommendations for the system's future operation, including the formation of a water-sewer district or other public entity, or ownership by another existing water system capable of providing service.
- If it's not an emergency, the court usually appoints a receiver within one month after the AG files the petition. If it's an emergency, the court may set a hearing within 3 days to appoint a temporary receiver. The court will schedule a full hearing within 14 days of the temporary appointment.
- If there are no willing and qualified receivers available, the court will appoint the county in which the water system is located as the receiver. The county must then designate a county agency or contractor to run the water system.
- The court can grant broad powers to receivers in order to operate the water system, including making needed improvements, imposing reasonable assessments on water system customers, and receiving reasonable compensation for the cost of services, improvements, and system operations. The receiver is expected to account for all expenditures and be able to justify them to the court. The court can ask DOH or another knowledgeable entity to review and ensure the assessment is reasonable.
- A bond, if any is imposed on a receiver, will be minimal and will reasonably relate to the level of operating

revenue generated by the system.

- Any appointed receiver will not be held personally liable for any good faith, reasonable effort to assume possession of, and to operate, the system in compliance with the court's orders.
- DOH must present a disposition plan, which DOH develops in conjunction with the county and the local health jurisdiction, to the court within 12 months after the receiver is appointed. The court bases its decision on the disposition plan. The disposition plan includes the receiver's recommendations for future operation of the water system and all reasonable and feasible alternatives. The court may order the parties to implement one or a combination of the alternatives. The order will include a date or proposed date for termination of receivership.
- The court cannot require a city, town, public utility district, water-sewer district, or irrigation district to accept a system that has been in receivership unless such entity agrees to the terms and conditions outlined in the plan adopted by the court.
- The court can end the receivership and return the system to its original owners only with DOH's approval. If the return is approved, the court may impose reasonable conditions for operation, including posting a bond or other security, submitting to routine performance and financial audits, employing or contracting a certified water system operator, complying with financial viability requirements, taking other measures needed to ensure ongoing operations.
- If, as part of the ultimate disposition of the system, an eminent domain action is initiated by a public entity to acquire the system, the court will oversee any appraisal of the system to assure that the appraised value properly reflects any reduced value because of the necessity to make system improvements. The court's determination of the proper value, based on the appraisal, will be final, and only appealable if not supported by substantial evidence. If the appraised value is appealed, the court may order that the system's ownership be transferred upon payment of the approved appraised value.

9. Summary of Receivership Actions as of 4/28/04 (DOH)

Year	Owner	Region/County	Receiver
1988	Pacific Beach	SW/Pacific	Engineer—Ron Bake
1993	JBA	NW/King	Covington WD
1995	Evergreen Land and Water—IOU (serving five developments)	SW/Mason	Mason PUD No. 1
1997	Desert Water Company	E/Benton	Benton County
1997	Marine View Heights	E/Grant	Grant County

10. List of Approved Satellite Management Agencies in Washington State (DOH, 1-1-95)

- There are five approved satellite management agencies in King County: Covington Water District, King County Water District No. 19, King County Water District No. 111, King County Water District No. 119, Washington Water Service Company—NW region.
- Covington and the King County water districts are restricted to satellite management within their service areas.
- Pierce County has eight approved agencies and Snohomish County has one.

11. Satellite System Management Program (Washington Water Service Company, February 2003)

- Washington Water Service Company (WWSC) offers both ownership and contractual management of satellite water systems to both new and existing water systems. WWSC prefers to own new systems (after construction is completed). The type of service (ownership versus contract) provided for existing systems is chosen based on system need.
- WWSC takes ownership either by direct purchase of the water system (Group A systems only), Group B maintenance agreement transfer, or gifting of the water system.
- WWSC offers the following types of contract services: (1) Service and Maintenance Agreement (water quality

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monitoring; routine and emergency maintenance), (2) Operations and Maintenance Agreement (water quality monitoring, routine and emergency maintenance, billing, and meter reading), and (3) Group B Maintenance Agreement (manage and operate system; owner retains hookup fees; WWSC assumes ownership in future).

- WWSC will own and/or operate and manage larger Group A systems having generally more than 100 connections that are located in the counties that it is approved to serve.
- WWSC will own and/or operate and manage smaller Group A systems having generally less than 100 connections, as well as some existing and newly proposed Group B systems, that are within approximately 5–10 miles of any larger Group A system (i.e., greater than 100 connections) that WWSC currently owns or manages.
- WWSC provides emergency service when the system manager is on vacation, sick, or in situations that arise that may be beyond the manager's capabilities or expertise. The water system must be existing, not required by DOH to have an SMA, and owned and/or operated by a qualified and certified manager.
- WWSC is willing to review water systems and possibly act as a receiver for failing water systems. Receivership decisions will be made on a case-by-case basis.

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- State and Local Regulatory Authorities for Small Systems (DOH, Ecology, PHSKC, April 2006)

#### DOH

- Washington Administrative Code
  - Chapter 246-290 Group A Public Water Supplies—Provides broad oversight for DOH over the design, construction, and operation of Group A public water systems.
  - Chapter 246-291 Group B Public Water Systems (Rev. 03-04)—Defines basic regulatory requirements to protect the health of consumers using Group B public drinking water supplies.
  - Chapter 246-292 Water Works Operator Certification—sets minimum requirements and standards for public water system operation and for certification of operators in charge of public water systems. Certification is available to all operators who can meet the minimum qualifications of a given classification.
  - Chapter 246-293 Water System Coordination Act—Implements a program relating to public water system coordination in the state, for evaluation and determination of critical water supply service areas, and assistance for orderly and efficient public water system planning.
  - Chapter 246-294 Drinking Water Operating Permits—Implements Chapter 70.119A RCW and sets operating permit requirements to help assure Group A water systems provide safe and reliable drinking water to the public consistent with Chapter 246-290 WAC, state board of health drinking water regulations, and Chapter 246-292 WAC water works operator certification regulations.
  - Chapter 246-295 Satellite System Management Agencies—Establishes criteria for approving satellite system management agencies (SMAs) pursuant to RCW 70.116.134; delineates the process that must be followed in order to be considered an approved SMA; and outlines procedures for coordination between water users, purveyors, SMAs, local government, and DOH.
  - Chapter 246-296 Drinking Water State Revolving Fund (DWSRF) Loan Program—Defines regulatory requirements for the provision of financial assistance to public water systems provided by the DWSRF; defines the responsibilities of DOH, the public works board (board), and the board's agent—the department of community, trade and economic development (CTED)—for administering the DWSRF loan program.
- DOH statutory authority:
  - RCW 43.20.050 - SBOH authority to adopt rules protecting public water supplies
  - RCW 43.70.250 - DOH authority to charge fees for services
  - RCW 43.70.040 - DOH authority to adopt rules

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- Chapter 70.119A RCW - Washington's Safe Drinking Water Act
  - Chapter 70.119 RCW - Water Works Operator Certification
  - Chapter 70.116 RCW - Public Water System Coordination Act
  - Chapter 70.142 RCW - DOH authority to set standards for Organic chemicals
  - Municipal Water Supply-Efficiency Requirements Act (Municipal Water Law)/HB1338—Intended to provide certainty and flexibility of municipal water rights and efficient use of water; amending RCW 90.03.015, 90.03.260, 90.03.386, 90.03.330, 90.48.495, 90.48.112, 90.46.120, and 70.119A.110; adding new sections to chapter 90.03 RCW; adding a new section to chapter 70.119A RCW; adding a new section to chapter 43.20 RCW; adding a new section to chapter 90.82 RCW; and adding a new section to chapter 7 90.54 RCW. (DOH is currently working on rule language. Interim planning guidance: Interim Planning Guidance for Water System Plan/Small Water System Management Program Approvals.)

### Ecology

- Washington Administrative Code
  - Chapter 173-500 WAC, Water Resources Management Program Established Pursuant to the Water Resources Act of 1971—Provides guidelines for use of water resources, establishes priorities and special designations, and establishes Water Resources Inventory Areas.
  - Chapter 173-508 WAC, Instream Resources Protection Program—Cedar-Sammamish Basin, Water Resources Inventory Area (WRIA) 8—Sets closures and flows in specific water bodies in WRIA 8.
  - Chapter 173-509 WAC, Instream Resources Protection Program—Green-Duwamish River Basin, Water Resources Inventory Area (WRIA) 9—Establishes flows and control points in the Green River (WAC 173-509-030), closes certain water bodies (WAC 173-509-040), and sets lake levels in WRIA 9.
- Statutes (Revised Code of Washington)
  - Chapter 18.104 RCW Water Well Construction—Regulates well drilling. Well drillers must have a license and must notify Ecology before a well can be drilled or dug (“Start cards” – RCW 18.104.048). Well construction cannot begin unless a water right permit has been issued (if required for the quantity and use proposed). A driller must submit a water well report to Ecology following construction of a well (Well log submission – RCW 18.104.050). By rule, Ecology may limit or prohibit well drilling in areas requiring intensive control of groundwater withdrawals.
  - Chapter 90.03 RCW, Water Code of 1917—Provides for centralized water right administration by the state. Requires individuals to file application for a permit to establish appropriative surface water rights subject to any existing rights and to provide public notice of all applications with a provision for protest if someone contented an earlier right might be impaired or harmed by a new applicant's water use. Requires the state to answer four tests in making a decision on new water rights: beneficial use (not wasteful); water is available; no impairment to existing rights; and not detrimental to the public interest. Establishes procedures for adjudicating all existing water rights.
  - Chapter 90.14 RCW, Water Rights-Registration-Waiver and Relinquishment, etc.—Describes various water rights claims and exemptions from relinquishment (RCW90.14.140(2)). Relinquishment generally occurs after 5 years of non-use (RCW 90.14.160).
  - Chapter 90.22 RCW, Minimum Water Flows and Levels—Enacted in 1967. Provides a systematic approach to instream flow protection. Ecology may, on request of the WA Department of Fish and Wildlife or of its own volition, establish minimum flows by rule to protect fish, wildlife, water quality, and other instream values.
  - Chapter 90.44 RCW, Regulation of Public Ground Waters (Ground Water Code)—Enacted in 1945.

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Establishes the same permitting process used for surface water. Allows an exemption (90.44.050) to the permit requirement if a total of 5,000 gallons or less of groundwater is used from a well each day for any of the following combinations: stock watering purposes, single or group domestic purposes, industrial purposes, or watering a lawn or noncommercial garden that is a half-acre or less.

- Chapter 90.54 RCW, Water Resources Act of 1971—Mandates water resources data collection and the development and management of comprehensive basin plans. Requires the setting of minimum basin-wide instream flow levels before issuing new water rights. Instream flows adopted as rules are considered a water right and have as a priority date the date of adoption of the plan as a rule.
- Chapter 90.82 RCW, Watershed Planning—Also called “2514” planning areas (based on the number of the Act). Allows local citizens and local governments to join together with state agencies and tribes to form planning units to develop watershed management plans. Watershed planning units assess each watershed’s water supply and use, and recommend strategies for satisfying minimum instream flows and water supply needs. The planning units must address prescribed water quantity issues, may develop strategies for improving water quality and protecting or enhancing fish habitat, and, in collaboration with Ecology, set instream flows. This planning effort is NOT the same as the planning efforts under 2496.
- Selected Court Cases:
  - The State Supreme Court ruled in *Rettkowski v. Department of Ecology* (1993, commonly known as Sinking Creek) that Ecology may not attempt to resolve disputes among conflicting water uses if one or more of them is based on an unadjudicated vested claim to a water right.
  - The State Supreme Court in *Grimes v. Department of Ecology* (1993) set down important case law regarding the obligations of water users to maintain efficient water delivery and use systems that are not wasteful. The opinion also provides important criteria relating to beneficial use.
  - The State Supreme Court ruled in *Hillis v. Department of Ecology* (1997) that Ecology must involve the public (through Ecology’s rule-making process) when making broad policy decisions on setting priorities for water rights permit decisions. The court refused to invalidate individual water right decisions Ecology made on the basis of an existing watershed assessment process. The court also found that Ecology may conduct watershed assessments, but may not make the completion of an assessment a requirement or prerequisite to making decisions on applications without first adopting rules.
  - In *Okanogan Wilderness League v. Town of Twisp and Department of Ecology* (1997), the State Supreme court ruled that Ecology’s decision granting a change in the point of diversion for the town of Twisp’s surface water right was in error because the water right had been abandoned and was therefore no longer valid. Municipal water rights, while not subject to relinquishment, remain subject to loss through abandonment. The court also held that only the quantity of water that has been put to actual beneficial use is valid for change under an existing water right. In reviewing change and transfer applications, Ecology must first determine the quantity that has been put to historical beneficial use under the existing water and then determine that the right was never relinquished or abandoned.
  - The State Supreme Court ruled in *Department of Ecology v. George Theodoratus* (1998) that Ecology has authority to condition any extension to satisfy public interest concerns, provided that it complies with all relevant statutes. State statutory and common law does not allow for a final certificate of water right to be issued based on system capacity, rather it must be issued based on actual beneficial use.

#### **Public Health–Seattle & King County**

- King County Board of Health Title 12; WAC 246-291; Joint Plan of Operation with DOH—Provides for direct responsibility for Group B public water systems:

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- Initial well site: plan review and final inspection on new and expanded Group B water systems
  - Ongoing follow-up surveillance on existing Group B systems: field surveys, review of water quality monitoring
  - Complaint investigations on Group Bs and private wells
  - WAC 173-100; Contract with Ecology—Gives authority to conduct well seal and decommissioning inspections for all new drinking water wells.
  - King County Board of Health Title 13—Gives direct responsibility for individual private wells (initial well site and review of water quality results).
  - Joint Plan of Operation with DOH—Provides for the following Group A responsibilities
    - Initial well site review for new proposed Group A sources
    - Third Party surveys of Group A water systems with less than 100 connections
    - Technical assistance to small Group A water systems at request of DOH
  - Miscellaneous responsibilities:
    - Represent Public Health on King County Utility Review Committee
    - Represent Public Health on potential regional contamination issues such as mine sites and Superfund or other contamination cleanup sites

#### **King County (DNRP, DDES)**

##### New public water systems (and exempt wells)

- Title 56 RCW—Subdivision approvals: Adequate provisions for water supplies
- Growth Management Act (RCW 36.70A)
  - Section 63 (RCW 19.27.097): adequate potable water for building permits; require hookup to nearby systems when possible with “reasonable economy and efficiency”
  - Capital facilities plans (required to show ability to provide utility service to meet forecasted growth needs)
  - Protection of groundwater quantity and quality in unincorporated areas (including CARA) (e.g., Jefferson County GMHB case)
    - Protection of anadromous fish
- King County Comprehensive Plan
  - Multiple policies regarding utility service, water supply planning, water resource management, groundwater protection, fisheries protection, etc.
  - No new systems/satellite management (Public Health): RCW 70.119A.060
- Coordination Act (RCW 70.116)
  - No new public water systems unless unable to provide water in a timely and reasonable fashion
  - Ability of KC Council to define timely (and reasonable?)
  - Incorporated by ordinance: King County Code 13.28
  - Revisions to service area boundaries
- King County Code 13.24—franchises, rights-of-way, annexations contingent on approved water system plans, with criteria in 13.24.010, .060 (including state regulations and King County comprehensive plan)
- Endangered Species Act—cannot jeopardize listed species or habitat

##### Existing systems

- King County Code 13.24—water system plan approvals
  - Board of Health—enforcement actions (see PHSKC)
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	<ul style="list-style-type: none"> <li>• Receivership (Title 7 RCW)</li> <li>• Operating permits for water systems (RCW 70.119A)</li> </ul>
<p>12. Satellite system policies and contracts (Covington Water District, January 1997)</p>	<ul style="list-style-type: none"> <li>• The district's policy is to extend its water system to provide water service to property in the district's service area.</li> <li>• Satellite systems may be permitted in the service area if the cost of connecting the property to the district's water system would pose an unreasonable economic hardship to those who desire the water and if the closest point of the property served is more than 100 feet times the number of connections in the satellite system from the district's nearest standard water main. Other considerations include whether the satellite system will discourage or interfere with normal growth of the district's system and/or create a hardship on other property owners that would be benefited by extending the district's system; whether the satellite system will be compatible with the district's comprehensive water supply plan and will not require improvement or replacement when the district's system is extended to serve the area; and whether the satellite system complies with the other district requirements and the CWSP.</li> <li>• The district will use the same factors in considering whether to provide satellite services outside its service area. Other factors to be considered include whether it is appropriate to expand the district's CWSP service area to include the property seeking water service; availability of other public or private water supply systems that can more economically or logically serve the area; the procedures in the CWSP.</li> <li>• If a property is less than 100 feet times the number of connections from the nearest district main, then the district's system must be extended to the property.</li> <li>• If the district determines to permit a satellite system in its service area or to provide satellite system service outside its service area, the district's services will consist of either owning and operating a system, providing technical assistance and/or operation, or a combination of services. Technical services may include routine and/or emergency repairs; system maintenance; water quality sampling; regulatory compliance; and/or complete operation and management of the satellite system.</li> <li>• Satellite services will not be permitted inside the district's service area but outside its corporate boundaries and the district will not provide satellite services outside its service area unless the property owners served by the satellite system enter into an irrevocable petition to annex to the district. The petition to annex property outside the service area will also be conditioned on the district's service area being extended to include the property.</li> <li>• The district will not provide satellite services inside or outside its service area, or permit a satellite system inside its services area, unless the persons served by the satellite system agree in writing not to protest the future formation of a utility local improvement district to extend the district's system to serve the satellite system area.</li> <li>• No satellite services will be permitted in the district's service area nor will the district provide satellite services outside its service area unless the owners of the properties served by the satellite system deposit with the district an amount that will be held in reserve for future repairs and replacements to the satellite system. As a part of its inspection of the satellite system, the district will prepare a financial plan or program for needed improvements or repairs beyond any initial improvements required to meet district code and will base the amount of the reserve account on this.</li> <li>• As a condition to the permitting of any satellite services, the users must pay the district's standard connection charge, including the costs for meter installation.</li> </ul>
<p>13. Small Water Systems Committee Meeting Summary Notes (4-24-06)</p>	<ul style="list-style-type: none"> <li>• The number of new Group B systems in King County seems to be decreasing over the years; there were only 13 Group B systems added to the Public Health–Seattle and King County (PHSKC) database in 2005. When analyzing new systems in the database, it is difficult to *know whether they are new systems or existing systems</li> </ul>

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that were discovered and added to the database. For example, when all of the daycares, bed and breakfasts, and similar establishments are added to the list of Group B water systems, it may appear that they are a large number of new systems when, in fact, many will represent existing systems that have always been there but were previously not recognized as Group B systems.

- Coliform exceedances are detected in the initial tests for about 1 of every 20 systems that perform monitoring. However, about 80 percent of the nearly 1,700 Group B systems do not complete their required routine bacteria and nitrate monitoring, and it may be assumed that an estimated 1 out of 20 of these systems also would have coliform exceedances.
- PHSKC provides Web-based education and technical assistance to Group B owners, but there is constant turnover of owners/operators and PHSKC does not have staff or other resources to stay on top of all Group B systems and keep their information and monitoring current.
- PHSKC does not believe that Group B systems with coliform exceedances would voluntarily go into a receivership because most do not want any government intervention and because just the threat of it would likely make them correct their problems. PHSKC does have the authority and uses this authority to withhold building permits for improvements on properties that do not conduct the monitoring. PHSKC can take enforcement actions for other violations, although it rarely does.
- Currently, PHSKC does not charge an operating permit fee for Group B systems. It discontinued charging a fee in the revision of Title 12 passed by the King County Board of Health in May 1996 and effective July 1996. This change was at the direction of the Board of Health and as a result of an agreement with the small water system owners representing all of the Group B water systems in King County. Not charging an operating permit fee can be viewed as a disincentive for Group B systems to join Group A systems. Some of Ecology's policies also seem to serve as disincentives.
- One Group A system in King County is in the red operating permit category (a motel). DOH is working to rectify the problem and expects it to be out of the red category soon. Twenty-one systems have high or medium compliance violations. DOH does not believe that any small systems in King County currently have the potential for receivership. The system that was headed toward receivership in 2005 (Ravendate) seems to be operating okay now.
- Systems going through the GWI determination process are an unknown and if GWI is determined, the system is faced with a high capital cost.
- There are 70 small Group A systems with blue operating permits, meaning that the system has not been formally approved. However, DOH most likely has quite a bit of information on these systems and the systems stay current with water quality sampling requirements.
- Outdated water system plans will prompt DOH to put systems in the yellow operating permit status only if the systems have an unspecified number of connections. Small Group A systems (less than 500 connections) typically do not need to submit a water system plan. Small Group A systems, when approved, are given an approved number of connections.
- PHSKC is starting discussions with DSHS to create a new category for systems serving home daycares, adult daycare centers, bed and breakfasts, and the like. The Snohomish Health District has been engaged in a program of inspecting, evaluating, and educating home child care operators about water supply standards, taking an educational rather than regulatory approach. There may be some lessons that can be learned from Snohomish about these very small Group B systems and effective strategies for regulating them. Additionally, because of the changes to the Washington State Board of Health regulations on food establishments, PHSKC has begun the process of permitting new and existing bed and breakfasts. These establishments will add to the number of existing and new Group B water systems in King County.

- Sixteen systems have shown up on the DOH compliance list more than two years in a row during years 2002 to 2005. One-third of those systems have blue operating permits.
- South King County, East King County, Covington, Cedar River, and Washington Water Service reported on their satellite management and utility referral procedures. In general, systems have policies in place so that growth pays for growth.
  - South King County. The whole area is covered by Group A systems, so new small systems are not an issue. However, developers are being encouraged to circumvent the utilities by drilling exempt wells, or reduce their service areas. None of the utilities has ever expressed a problem with exempt wells going into their service areas.
  - East King County. Each contract between Group A and B systems is unique in terms of services provided to Group A systems. Utilities in the EKC CWSP area are trying to develop policies, but elected officials in Group A systems are reluctant to use funds to "bail out" Group Bs or to take on potential liability for them. In its 1993 update to its plan, EKC proposed the creation of a state pool to fund Group A management of Group B systems. So far, this and other proposed legislation for allocation of such funds has failed. The water system consolidation provision in the MWL is a useful tool.
  - Covington has a policy that it will serve customers through connections to their system unless there is an "economic hardship" (which is not well-defined at this point) or if the distance to a connection is at least 100 feet times the number of lots. Covington will serve outside its service area if certain criteria are met and existing customers do not subsidize this service. Two types of satellite management: Covington owns and operates the system or Covington provides agreed-on services.
  - Cedar River Water and Sewer. The District considers water to be available throughout its service area. It intends to provide 12-inch mains every square mile and 8-inch lines every half mile for new developments, which means that connections to the mains should be no longer than 1,300 lineal feet. If a proposed development is a greater distance from a District line, the District will provide satellite management to smaller systems. The District could possibly serve as a "bank" and lend money to smaller systems in its area.
  - Washington Water Service Company. WWSC owns or manages six small systems in King County (see map). WWSC purchases Group A systems and manages Group B systems until service is extended to the Group B systems and WWSC purchases them. All management contracts require WWS to do the monitoring and testing; other services are as agreed to in the contract.
- PHSKC requires new Group B systems to go under satellite management when such management is available, as required under state law.
- KC DDES does not track new single-family wells when issuing permits. Such data may be retrievable.
- Ecology does not track exempt irrigation wells. There are about 10 new start cards for exempt wells in King County each month, but Ecology does not have ready access to the breakdown of these wells.

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14. Exempt Irrigation Wells In King County  
(PowerPoint presentation: Ken Johnson, KCDNRP; slides dated 5-16-06)

- As part of the groundwater protection program, KCDNRP is compiling information on irrigation wells in King County to help assess the health of aquifers in terms of water quality and quantity.
  - Ecology's list of Notices of Intent (NOI) showed that 40 new irrigation wells were drilled in the county in 2001–2004. Over half of the notices were filed in 2004 (three in 2001, three in 2002, nine in 2003, and twenty-five in 2004). The NOI list did not show a cluster of wells in the Ames Lake area that were located via well logs examined as part of a study done in the Issaquah area. These eight wells were drilled in 2001 and are outside the groundwater management area.
  - A comparison of irrigation well NOIs and well logs for 2001 through April 12, 2006, showed that the well purpose
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in the NOI sometimes differed from the well purpose in the drill log, that some wells with NOIs were not drilled and that some wells without NOIs were drilled (especially in areas with clusters of wells), that well logs were not always submitted to Ecology shortly after drilling, and that there were 111 NOIs for this period (apparent exponential growth).

- A geographic analysis indicated that most of the new irrigations wells are inside water service areas and that the median parcel size for properties with these wells is 2.8 acres; some new homes are advertising the existence of separate irrigation wells.

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15. How Reliable Are Our Water Systems? What Happens When Systems Fail—The Rimrock Case Study (DOH, 11-18-06)

- A “failing” water system is one with repeated water outages or other health-related reliability issues and a water purveyor unable or unwilling to correct the problem.
- Failing water system ownership or management must be “restructured” to acquire an owner who is willing and able to improve the system so that it complies with drinking water regulations.
- Less than 0.5 percent of Group A systems in Washington fail.
- DOH has helped to restructure five failing Group A systems in the past three years: Ravensdale Mobile Home Park in King County, Water Enterprises Northwest in Pierce County, Lake Cassidy Estates in Snohomish County, Harbor Springs in Pierce County, and Rimrock in Snohomish County. All were run by investor-owned utilities. During part of restructuring process, systems were under a health advisory but water outages were corrected and at least limited service was provided. With the exception of Rimrock, the systems were restructured without receivership through formation of an owners’ association or a water district, drilling of individual wells, or transfer of ownership to another investor-owned utility.
- Customers have little influence in the business decisions of investor-owned utilities.
- Rimrock was built between 1977 and 1982. It consisted of a spring, well, disinfection treatment, two storage tanks, and a pump station serving two pressure zones. It was initially owned by the developer and later by the Gamble Bay Water Company, whose owner filed for bankruptcy in 2003. The previous owner of the company accepted ownership and, in March 2004, notified Rimrock customers and DOH of intent to end Rimrock utility operations in one year (in accordance with WAC 246-290-035(4)).
- In 1997, DOH issued a boil water advisory and Rimrock’s spring was identified as potentially influenced by surface water; in 2002, DOH issued a notice of violation and possible revocation of the owner’s operation certification and also issued a red operating permit because Rimrock exceeded the number of approved connections; in September 2003, Rimrock experienced water outages and began trucking water; and in April 2004, DOH reaffirmed the water advisory because improvements weren’t made since the previous inspection. (During the process, DOH learned that portions of the system had not been installed according to DOH-approved design.)
- DOH funded Snohomish County PUD to do a feasibility study to define costs for the PUD to assume the Rimrock system. The PUD determined that the costs exceeded the community’s ability to pay and declined to assume the system. Washington Water Service Company was asked twice to operate Rimrock. The company declined both times
- Most customers decided to drill their own wells.
- On March 24, 2005, Snohomish County Superior Court ordered appointment of Snohomish County as receiver of the remainder of the system. The County’s Public Works director serves as the receiver. In September the community hired a certified operator, the spring was still in use, and the boil water advisory was still in effect.
- In February 2006, the Peoples Creek Water Group, composed of Rimrock customers, was formed as a homeowners association that is willing to accept ownership of Rimrock. DOH and the County plan to make a recommendation in superior court for disposition of the system to the Peoples Water Group.

	<ul style="list-style-type: none"> <li>The current regulatory structure provides limited ability to force utilities to make good business decisions, perform routine operation and maintenance, or provide good customer service. The regulations are designed to provide water utilities with tools to make these decisions.</li> </ul>								
<p>16. Legal Options for Rescuing Failing Water Systems with Emphasis on Receivership and the Rimrock Water System (Washington State Attorney General's Office, 11-18-06)</p>	<ul style="list-style-type: none"> <li>The processes for customers of failed systems to form either a water district (RCW 57.02) or a local improvement district (RCW 35.43) are convoluted and cumbersome.</li> <li>A water district has fairly significant powers, such as power to purchase, lease, or condemn property; to construct and maintain water systems; and to set rates.</li> <li>Improvement districts have broad powers, including construction, purchase, condemnation; and issuance of revenue bonds for the establishment of water systems.</li> <li>Customers can also form a homeowners association and try to collect enough revenue to cover owning and managing their system. Associations can sometimes attract private utility companies or purveyors who will purchase the system, make improvements, and recover costs from customers and low-interest loans.</li> <li>Nothing in RCW 43.70.195 requires DOH to pursue placing a system in receivership. The decision is purely discretionary. The statute also does not list the circumstances under which receivership is appropriate. (See the above [Item 8] summary of the requirements in RCW 43.70.195.)</li> <li>Several days before the purveyor was scheduled to abandon the Rimrock system, DOH petitioned the court to appoint a receiver on an emergency basis. Snohomish County, as the receiver of last resort, resisted the appointment, asserting that DOH had not met its burden of proving that an emergency existed and that the county was given financial burdens associated with caring for a system in much disrepair. The court found that an emergency existed. It ruled that it had no discretion to refrain from appointing the county as the statutory receiver of last resort.</li> </ul>								
<p>17. Satellite Management Agencies Approved to Operate in King County (DOH, May 2006)</p>	<ul style="list-style-type: none"> <li>Covington Water District: In addition to the Covington Water District Group A system, Sugarloaf Water System owns and manages a Group A system in the district.</li> <li>King County Water District No. 19: In addition to the King County Water District No. 19 Group A system, there is a Group B system in the district that is managed by the Vashon Meadows Water System.</li> <li>King County Water District No. 111 (Group A)</li> <li>King County Water District No. 119 (Group A)</li> <li>Washington Water Service Company—NW region. In King County, WWSC manages three systems: Green Acres Water Association (approved for 18 connections), Derbyshire Scenic Acres, and Trails End (44 connections). The company owns and manages three other systems: Walter Walker Water Works (20 connections), Lake Tuck Water System (60 connections), and Mirrormont Services (916 connections).</li> </ul>								
<p>18. Small Water Systems Committee Meeting Summary Notes (5-16-06)</p>	<ul style="list-style-type: none"> <li>There are no restrictions on charging a Group B operating permit fee in King County, except for the agreement with the small water system operators representing all the Group B water systems in King County to cancel the fee and not re-establish such a fee. An amendment to King County Board of Health Title 12 would have to be passed to re-establish an annual operating permit.</li> </ul>								
<p>19. Information on number of irrigation wells in King County (sample map and list by water districts (KCDNRP, May 2006)</p>	<ul style="list-style-type: none"> <li>Location of irrigation wells in King County: <table border="0" data-bbox="798 1364 1344 1490"> <tr> <td>• Covington Water District</td> <td>33</td> </tr> <tr> <td>• Ames Lake Water Association</td> <td>11</td> </tr> <tr> <td>• Seattle, City of</td> <td>10</td> </tr> <tr> <td>• Cedar River Water and Sewer</td> <td>8</td> </tr> </table> </li> </ul>	• Covington Water District	33	• Ames Lake Water Association	11	• Seattle, City of	10	• Cedar River Water and Sewer	8
• Covington Water District	33								
• Ames Lake Water Association	11								
• Seattle, City of	10								
• Cedar River Water and Sewer	8								

	<ul style="list-style-type: none"> <li>• [Not in service area] 8</li> <li>• Sammamish Plateau Water &amp; Sewer Dist 7</li> <li>• King County Water District 19 6</li> <li>• Woodinville Water District 5</li> <li>• Bellevue, City of 3</li> </ul>
	<ul style="list-style-type: none"> <li>• In the Sawyer Ridge area, a 700-acre unincorporated area inside the Covington Water District's service area, there are 25 irrigation wells</li> </ul>
20. Small Water Systems Committee Meeting Summary Notes (6-5-06)	<ul style="list-style-type: none"> <li>• The Rimrock water system was outside any water utility service area.</li> <li>• Snohomish County (receiver) is currently working with remaining households on the Rimrock system to set up an association for owning and operating the system.</li> <li>• Receivership is an option for systems that have already failed (not systems that are failing) and where customers aren't willing to get involved in making the systems work. Often customers can't afford the costs to fix failed systems or to hook up to larger systems.</li> <li>• Two small systems in King County were recently assumed by larger utilities: Ravensdale in Covington and a small system in the Cedar River water district.</li> <li>• King County land use policies limit the size of mains going through rural areas.</li> <li>• PHSKC and Ken Johnson (KCDNRP) are in the process of identifying trends in the past five years in development of new single-family wells in King County.</li> <li>• PHSKC met with DSHS regarding the number, location, and regulation of Group B systems that serve childcare centers and home daycares. Currently, home daycare centers have been allowed to be licensed without a PHSKC review of the water systems serving these homes. Standards need to be developed for this type of water use that will both protect public health while at the same time not impose financial burdens on these businesses to the extent that they do not apply for a daycare license.</li> <li>• As a result of a change in the food service code, bed and breakfasts must now be regulated in King County. As part of the process, their water source must be evaluated as a Group B public water supply.</li> <li>• As part of a contract for services with DOH, PHSKC conducts site surveys of existing Group A systems with fewer than 100 connections. DOH is responsible for follow-up to the surveys and for all other Group A system regulation.</li> <li>• A Groundwater Task Force met for seven months in 2005. A report issued in December 2005 summarizes the activity and recommendations of the group. The purpose of the task force was to identify services that King County should provide to protect groundwater sources. The participants tended to agree that most groundwater problems are related to Group B systems and individual wells and not to the large Group A systems.</li> <li>• The task force recommended the possible reactivation of Group B fee authority and instituting fees for private or "exempt" wells to fund services. It recommended that no fees be charged to Group A systems because it was perceived that most current PHSKC services benefit only small systems.</li> <li>• The task force could not reach agreement on recommendations for King County groundwater services. The Groundwater Protection Program is currently limited in nature and operating under subregional interlocal agreements to provide services to interested partners in subareas of the County, including Redmond, Woodinville, Issaquah, and Sammamish Plateau. Additionally, the County runs a Vashon Island local groundwater program.</li> </ul>
21. Letter from Tacoma-Pierce County Health Department (June 13, 2006)	<ul style="list-style-type: none"> <li>• "Effective June 14, 2006, it will be the policy of the Tacoma-Pierce County Health Department to not require Satellite Management Agency (SMA) management or ownership for new or existing two-connection Group-B</li> </ul>

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Public Water Systems.”

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22. Small Water System Problems: An Assessment (DSHS, May 1989) (appears as Appendix B to Item 23)

- **Public water system.** Any water system that serves two or more connections. Can be publicly or privately owned.
- **Small water system.** EPA defines small water systems as systems serving under 3,300 persons. DSHS defines as systems with between 2 and 1,000 service connections.
- DSHS ran the Drinking Water Program at the time the report was published.
- The Drinking Water Program faces two principal small water system problems: preventing development of inadequate small systems and dealing with existing inadequate and failing small water systems.
- As of December 1988, there were 11,500 systems with less than 100 connections.
- The most rapid increase has been in systems with 2 to 9 connections (doubled since 1981). Some of the increase is attributed to better reporting requirements that have led to discovery of systems already in existence.
- Small systems serve 16.6 percent of the population.
- Small systems depend primarily on groundwater.
- Identified problems:
  - **Ownership and Management.** Systems with 100 or fewer connections are often installed by developers, who have no incentives to provide systems with long-term viability. Systems are turned over to volunteer homeowners associations or residents without the capability or knowledge to manage and operate the systems. Often, no one is in charge and there is no accountability.
  - **Financial.** Many small systems do not engage in financial planning and thus do not have capital reserves to fund future improvements and emergency repairs. Rates are set too low to cover such expenses, mainly because of lack of economies of scale. (Rule of thumb: systems must have at least 500 users to remain economically viable.) Systems are often turned over to associations or residents rather than to experienced purveyors because of financial disincentives in place: (1) Washington’s Constitution prevents privately owned utilities from receiving public funds, (2) small investor-owned utilities are not allowed to set rates high enough to accumulate reserves, (3) new federal tax law requires investor-owned systems that have received the systems at no cost from developers to pay income taxes on the full value of the systems, and (4) UTC does not consider the system as having value and does not allow depreciation to be added to water rates.
  - **Engineering and Design.** Systems often are serving larger populations than originally designed for. Developers are not obligated to build systems that will function without problems for an extended period, nor do they have the obligation to design systems to serve a larger and more logical service area. Outdoor water use, such as lawn and garden irrigation and fire flow, are often not considered.
  - **Operations and Maintenance.** State regulation does not require training or certification for groundwater systems serving less than 100 connections. Uncertified purveyors often have poor maps and records and do not know how to perform simple monitoring tasks and basic operation and maintenance duties.
  - **Regulatory.** Compliance with requirements under the Safe Drinking Water Act (SWDA; 1972) imposes additional financial burden on small water systems. Systems are potentially subject to civil penalties for nonconformance. The 1986 amendments to the act will add to these burdens. The costs for treatment and disinfection are dramatically higher for small systems than for larger ones. Because monitoring compliance is already poor and the water is rarely treated, it is difficult to determine overall quality of water provided by small systems. Lack of documented health effects may occur because there are no problems or because of a failure to associate illness with water quality. Enforcement is hampered by difficulty in locating owners and operators. Local governments may have different priorities and perspectives than the state drinking water program. Local governments may contribute to the

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proliferation of small water systems by approving plats without specific information on the adequacy of the proposed drinking water source. Moreover, local governments (and the state program) do not have enough staff to address drinking water issues. Less stringent regulations for smaller systems may have the unintended effect of encouraging the formation of the exempt class. On the other hand, the 1977 Coordination Act and the encouragement of satellite management have helped to curtail formation of new small systems and to better manage new and existing systems.

- A comprehensive solution to these problems should be undertaken; otherwise, state and local staff will continue to be used inefficiently.
- Existing controls:
  - Waterworks certification regulations (WAC 248-55) apply to all groundwater systems with more than 100 services and to filtered surface water supplies serving 25 or more people.
  - Public Water System Coordination Act (WAC 248-56 and 248-57) applies to all public water systems within critical water supply service areas defined by the Act. Requires water system plan, service area map agreement, and minimum level of design. Emphasizes decreasing small system proliferation through satellite operation, responsibility to serve, and other provisions.
  - State Board of Health regulations (WAC 248-54) apply to all public water systems. Establish water quality standards and monitoring requirements. Require design approval of facility plans, long-range planning for larger systems, engineering reports for major/complex facilities, adequate operation, adequate management and financing (implementation pending), and minimum design criteria.
  - Utilities and Transportation Commission applies to privately owned systems with greater than 100 services (excluding nonprofit organizations) and systems where the average charge is greater than \$300 per year. Establishes criteria for and approves rate increases. Can impose improvement conditions on rate increases.
  - Lending institutions can provide federally insured loans to purveyors and homeowners whose systems comply with water system regulations.
  - Water rights are administered by Ecology and apply to (1) any groundwater system that withdraws more than 5,000 gallons or that irrigates more than one-half acre per day and (2) all surface water systems. Requires a permit for withdrawing water for domestic use.
  - Local plans, ordinances, and resolutions.
  - State and federal grants (application and controls depend on the individual grant requirements).
  - DSHS enforcement program (WAC 248-54 for administrative controls; RCW 70.119A for legal authority). Requires boil water requirement, hookup requirements, public notification, department orders, and so forth in certain circumstances. Has the legal authority to impose civil penalties and lawsuits.
  - Special interest groups and citizens (situation dependent).

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23. Small Water Systems: Problems and Proposed Solutions, A Report to the Legislature (DOH, January 1991)

- Small water system problems are documented in *Small Water System Problems: An Assessment* (DSHS, May 1989) (see Item 21 above). This 1991 report provides recommendations to address these problems. (The following is a summary of the recommendations in context. See Item 24 for individual recommendations as listed in Appendix A of the report.)
- **Small water systems** are defined as systems with less than 1,000 service connections.
- Of the 12,500 public water systems in Washington, 12,300 have fewer than 1,000 service connections. The number of small water systems is increasing at a rapid rate. The majority of small water systems (95 percent) have less than 100 connections; these systems serve 20 percent of the population.
- RCW 70.11A, the Washington State Safe Drinking Water Act, authorizes DOH to implement the federal Safe

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Water Drinking Act (SWDA).

- The 1986 amendments to SWDA create enormous public health and regulatory compliance responsibilities. They increase the number of contaminants to be monitored, impose new maximum contaminant levels for some contaminants, require disinfection for all supplies and filtration for surface water supplies, and define treatment techniques for some contaminants.
- DOH should adopt state regulations at least as stringent as the federal rules and then should develop and implement enforcement programs.
- DOH should retain primacy enforcement authority in order to retain regional flexibility and avoid EPA fees and "heavy-handed" enforcement.
- It is estimated that each household served by small groundwater systems (fewer than 100 connections) will pay from \$117 to \$245 more each year to comply with the 1986 SWDA amendments. The majority of the impact will occur in the mid 1990s.
- Most small water systems are not in full compliance with regulations. For example, there were 1,138 bacteria and 1,374 chemical monitoring violations in King County between 1985 and 1989 for systems with fewer than 100 connections (multiple failures to monitor or no monitoring at all). Of those that did monitor, there were 77 water quality violations.
- Financial viability is the primary reason for non-compliance; SWDA amendments will compound this problem. Criteria to assess financial viability should be developed for use as a measure for compliance.
- Systematic comprehensive evaluations of existing systems should be done; technical assistance should be given to systems that will remain viable; and funding for capital improvements for viable systems should be secured.
- DOH should develop contracts with local health departments for service delivery to small water systems.
- DOH and local health departments are currently overwhelmed with existing small water system problems. Without clear lines of authority and additional staffing on the state and local levels to address SDWA requirements for small water systems, public health mandates cannot be implemented.
- Operating permit revenues and other funding sources (to be researched) should be used to implement a comprehensive drinking water program and as a compliance tool to address small water system problems. (DOH is seeking legislation to establish an operating permit program.) Without such a system, problems will continue to increase and to arise at the legislative, state, and local levels of government.
- New non-viable systems should be prevented; a statewide satellite management program and implementation of the Coordination Act should be promoted; satellite management agencies (SMAs) should receive special consideration for funding system improvements; all requests for public water service should be directed to qualified SMAs; and all requests (including individual wells) that are within a short distance of an existing approved water system where extension is feasible should be required to hook up to that system. (There were no established SMAs in King County at the time of publication of this report.)
- DOH should complete development of the Small Water Systems Operations and Management Guidelines.
- Developer extensions and user connection fees should be adequate to pay for growth-generated expenditures. Additional funding sources should be developed to cover capital improvement projects and SWDA compliance; DOH should investigate one state agency acting as a clearinghouse and coordinator for all funding requests for new and existing systems; a body of interagency and water utility council representatives should be created to develop multi-source funding packages for improvement projects; and information on improvement needs should be disseminated to the legislature and public.
- Sources of funding: Public Works Trust Fund, Department of Community Development; Community Development Block Grant Program, Department of Community Development; the Farmer's Home

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Administration; Municipal Water Supply Funding - Referendum 38; Division of Emergency Management, Department of Community Development. Other public funding sources with more limited applicability to drinking water projects: Centennial Clean Water Fund, State Revolving Fund, Solid/Hazardous/Toxic Waste Program, Power Washington Grants and Loan Program, Flood Control Assistance Program, Aquatic Weed Control/Lake Restoration Program, and Reclamation Revolving Account.

- Financial and legal liabilities may preclude capable utilities from becoming receivers of failing systems. Because of lack of willing and able receivers and because of the costs of enforcement actions, only the very worst systems are placed into receivership. Currently, counties are to be named receivers if no other utility is willing and able (SSB 6447). A strong statewide satellite management program should be developed to provide a pool of potential receivers. Options should be developed to allow use of public funds to assist failing privately owned systems. A portion of public works trust funds should be dedicated for capital improvements for systems in receivership. Any water system granted a future service area under 70.116 RCW should become the named receiver for a failing system placed into receivership.
- To fulfill the intent of RCW 70.119 and to maintain primacy enforcement authority for SWDA, DOH (with Ecology) should develop a waterworks operating training action plan to assess training needs and make recommendations for a better training delivery system; develop 1991 legislation to amend RCW 70.119 to make certification requirements consistent with federal SWDA requirements; and develop and disseminate criteria for contract operations.
- Over 11,000 public water systems fall through the regulatory gap between DOH and UTC regarding oversight of financial planning and water rates. DOH and UTC should develop a mechanism to identify financially non-viable systems; provide technical assistance to these systems; and aggressively implement new legislation related to agency coordination.
- Those served by small public water systems or individual supplies sometimes learn that their system is out of compliance when they are selling their homes, which could reduce the value of their homes. Universal criteria should be developed to evaluate and report on the status of systems. A status report should be generated at the time of sale; the information should be recorded with the property title. Legislation may be required to enact these recommendations.
- DOH objectives for its small water systems program:
  - Improve compliance of existing systems by developing minimum standards for financial viability, design, operations, and management; inspecting and evaluating systems; providing technical assistance; taking timely and appropriate enforcement actions; increasing funding for capital improvements; and providing management alternatives for failing systems.
  - Prevent the formation of new non-viable systems by continuing to implement and refine satellite management and Coordination Act and by developing and applying standards described in previous bullet.
  - Improve partnership with local government and other state agencies by contracting with local government for service delivery to small water systems, providing technical assistance to local governments, and developing interagency relationships through agreements.
  - Assure consistency of water system development and land use planning through emphasis on satellite management, Coordination Act, and growth management legislation.

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24. Summary of actions taken on  
recommendations provided in Appendix A of

**1. Small Water System Compliance**

*A. Additional state and local health department staff is needed to adequately develop and implement a*

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DOH's January 1991 *Small Water Systems: Problems and Proposed Solutions, A Report to the Legislature* (Bill Lasby, Public Health–Seattle-King County, and Sheri Miller, DOH)

*comprehensive small water system (SWS) program. The Department of Health is seeking legislation to establish an operating permit program to be used as a source of revenue and compliance tool for SWS development.*

Operating Permit legislation (WAC 246-294) approved in 1991 requires all Group A public water systems to apply for an annual operating permit. Provides limited revenue: \$25 for systems with 15 to 49 connections; \$1.50 per service per year for systems with 50 to 3,333 services:

— DOH is developing significant non-complier definitions: definitions for acute have been developed and are being implemented; now working on chronic definitions. DOH is using passive type enforcement (i.e., red operating permit).

— WA State legislature funded Group B surveys over the last several years. Initial years included inspections only; subsequent years have included GPS measurements, database updating, follow-up to previous surveys, notices to systems on requirement for routine monitoring, and educational assistance to small water systems.

- B. *Recognizing operating permits are not the total funding solution, further study is necessary to secure additional sources of funding to implement a comprehensive Drinking Water Program.*

Sixty-five percent of DOH operating budget is from federal funds through the Drinking Water SRF program, which has provided funds in the late 1990s and early 2000s for hiring additional staff. Federal funding is limited. DOH is carrying out business planning in an effort to find alternative ways, other than federal, to fund program. SRF funds are also passed through DOH to fund local health jurisdictions.

- C. *Criteria to assess financial viability should be developed and applied to SWSs and used as a measure for compliance.*

Small Water System Management Program (revised January 2000) for non-expanding systems, and Financial Viability Manual (March 1995) for all Group As. Financial viability is difficult to apply to existing situations (especially if a community is not financially viable). Group B regulations (WAC 246-291) require, as part of the approval, a financial viability worksheet and assessment for each new Group B proposed (Guidelines for Group B Water System Approval, Part E Financial Viability Worksheet). The Satellite Management Program supports agencies capable of providing high quality drinking water in a reliable manner and in a quantity suitable for intended use.

- D. *DOH should develop contracts with local health departments/districts (LHDs) for service delivery to small water systems.*

Joint Plan of Operations (JPOs) have been developed from federal SRF funds when available. DOH and PHSKC have signed JPOs to fund activities (surveys and technical assistance) for Group B and small Group A systems. Also, local health activities associated with the Group B Program are funded by the State General Fund.

## 2. Impacts of the SDWA on Small Water Systems

- A. *To assure adequate levels of public health protection and enforcement, DOH should retain primacy enforcement authority for the SDWA.*

DOH has retained primacy authority for the SDWA.

- B. *DOH should work closely with the Environmental Protection Agency (EPA) to implement the requirements imposed by the SDWA in regard to small water systems.*

EPA requirements imposed by the SDWA in regard to small water systems depend on the federal definition of a Public Water System (serving 15 or more connections). No direct influence on Group B systems. EPA defines "Very Small" water systems as systems that serve 25–500 people and "Small" water systems as those that serve 501–3,300 people.

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- C. *Systematic comprehensive evaluations of existing small water systems should take place. Technical assistance should be given to systems that will remain viable.*  
Surveys of Group A public water systems are completed every five years (three years for surface water source). PHSKC has been completing surveys of many of the Group A systems with 100 connections or less. DOH staff have been conducting surveys of the larger Group A water systems. Funding has been provided by WA State Legislature to fund surveys of Group B water systems. PHSKC has been completing surveys of Group B water systems over the last 5 years, and is currently completing surveys of two-connection systems. Future surveys will be of daycare centers, bed and breakfasts, and water systems in the mountain pass areas.
  - D. *Criteria to assess financial viability should be developed.*  
See answer to 1C.
  - E. *New non-viable water systems should be prevented. A statewide satellite management program and implementation of the Public Water System Coordination Act (70.1 16 RCW) should be promoted.*  
Satellite management is being done as a result of the DOH and PHSKC Utility Review Procedures for the four adopted King County Coordinated Water System Plans. There is one approved satellite management agency for all of King County.
  - F. *The Department of Health should complete development of the Small Water System Operation and Management Guidelines.*  
Small Water System Management Program and Guidelines for Group B Public Water Systems was developed in 1990s. Other publications on operation and management of a public water system are available through EPA, DOH, and PHSKC.
  - G. *Funding for capital improvements for small water systems that will remain viable should be secured.*  
Funding is provided through WA State Revolving Funds (SRF) and Public Works Trust Funds. Federal funds may be limited.

### **3. Drinking Water Program Staffing Requirements for SDWA Implementation**

- A. *To assure adequate levels of public health protection and enforcement, DOH should retain primacy enforcement authority for the SDWA.*  
See answer to 2A.
- B. *Additional state and local health department staff is needed to adequately develop and implement a comprehensive SWS program. The Department of Health is seeking legislation to establish an operating permit program to be used as a source of revenue and compliance tool for SWS development.*  
See answer to 1A.
- C. *Recognizing operating permits are not the total funding solution, further study is necessary to secure additional sources of funding to implement a comprehensive Drinking Water Program.*  
See answer to 1B.
- D. *DOH should develop contracts with local health departments/districts (LHDs) for service delivery to small water systems.*  
See answer to 1D.

### **4. Funding Mechanism for State and Local Agencies**

- A. *Additional state and local health department staff is needed to adequately develop and implement a comprehensive SWS program. The Department of Health is seeking legislation to establish an operating permit program to be used as a source of revenue and compliance tool for SWS development.*  
See answer to 1A.

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- B. *Recognizing operating permits are not the total funding solution, further study is necessary to secure additional sources of funding to implement a comprehensive Drinking Water Program.*  
See answer to 1B.
  - C. *DOH should develop contracts with local health departments/districts (LHDs) for service delivery to small water systems.*  
See answer to 1D.

**5. Satellite Management Program**

- A. *Consistent minimum pre-qualification criteria for SMAs should be developed by DOH and applied statewide.*  
Legislation (WAC 246-295), which includes qualification criteria, regarding Satellite System Management Agencies was approved in 1994.
- B. *All counties should identify SMAs and DOH should approve and maintain a list of qualified SMAs.*  
DOH maintains a list of approved Satellite Management Agencies in King County. To qualify, the potential SMA applies to DOH.
- C. *Funding alternatives for small system improvements for SMAs should be identified.*  
NO - There are no special funding packages for Satellite Management Agencies.
- D. *Properly qualified SMAs should receive priority consideration for capital improvement funding.*  
NO - SMAs do not receive priority consideration for capital improvement funding. Public health issues receive priority.
- E. *Any water system that has been granted a future service area under 70.1 16 RCW should become the named receiver for a failing system placed into receivership.*  
NO – RCW 43.70.195 states that if there is no willing receiver, the court shall appoint the county as the receiver of last resort.
- F. *All requests for public water service should be directed to qualified SMAs before a new water system is established.*  
PHSKC and DOH refer new water systems to an approved SMA as part of the adopted King County Coordinated Water System Plans.
- G. *All requests for water service (including individual wells) that are within a short distance of an existing approved water system, where the extension of service is feasible, should be required to hook-up to that system.*  
PHSKC refers any connections for a proposed Group B to the adjacent Group A where the Group A will provide service. In urban growth areas, a private well formation request is referred to the adjacent Group A for mandatory connection as a result of recently enacted King County Comprehensive Plan policies.

**6. Funding Options for Capital Improvements**

- Possible options: SRF, Public Works Trust Fund, RDA, Block Grant, Small Community Initiative
- A. *Appropriate state agencies should investigate the feasibility of broadening existing funding program requirement to make water system capital improvement projects a higher priority.*  
Not sure of how much effort has been placed on this. DOH has a designated staff member who manages the SRF loan program and sits on the IACC Board.
  - B. *Additional water system capital improvement programs should be investigated.*  
Not clear; similar to 6A?
  - C. *A specific fund or a specific allocation of money within an established funding program should be dedicated to assist the restructuring of systems placed into receivership.*
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Water System Acquisition and Rehabilitation Program – approved by legislature for \$4M in 2003 and \$2M in 2005 for larger utilities to take over smaller Group A systems.

- D. *DOH should investigate one state agency acting as a clearinghouse and coordinator for all requests regarding funding sources for new and existing water systems.*  
Possibly the Infrastructure Assistance Coordinating Council (a non-profit) – helps communities identify and obtain resources they need to develop, improve, and maintain public works programs. Public Works Trust Board (state) – provides financial and technical assistance to communities for critical public health, safety, and environmental infrastructure.
- E. *A body consisting of interagency and Water Utility Council representatives should be created to develop multi-source funding packages for water system improvement projects.*  
NO - Not aware of one.
- F. *Only water systems with approved plans and those that can meet financial and operating criteria should be eligible to receive funds from public sources.*  
Yes, with SRF. Not aware of the requirements of other funding options.
- G. *Additional information should be made available to the legislature and public on water utility capital improvement need.*  
DOH reports SRF funding summary to the Governor; also responds to special requests regarding SRF loan requests.

#### **7. Public Water System Receivership**

- A. *A strong statewide satellite management program should be developed to help provide potential receivers for failing systems. The program should include :*  
— *Consistent minimum pre-qualification criteria for SMAs developed by DOH and applied statewide.*  
— *All counties identify SMAs and DOH approve and maintain a list of qualified SMAs.*  
— *Funding alternatives for small system improvements for SMAs be identified.*  
— *Properly qualified SMAs receive priority consideration for capital improvement funding.*  
— *All requests for water service be directed to qualified SMAs before a new water system is established.*  
See answer to 2E.
- B. *A specific fund or a specific allocation of money within an established funding program should be dedicated to assist the restructuring of systems placed into receivership.*  
See answer to 6C.
- C. *Explore alternative methods to provide additional revenue to non-municipal water purveyor for utility construction, management, and operations.*  
SRF loan, possibly others?
- D. *Any water system that has been granted a future service area under 70.1 16 RCW should become the named receiver for a failing system placed into receivership.*  
See answer to 5 E.
- E. *All requests for water service (including individual wells) that are within a short distance of an existing approved water system, where the extension of service is feasible, should be required to hook-up to that system.*  
See answer to 5G.

#### **8. Waterworks Operator Certification Program**

- A. *DOH, in cooperation with the Department of Ecology (DOE), should develop a State Waterworks Operator Training Action Plan. The plan should evaluate the existing training offered to waterworks operators,*
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*project future training needs, and make recommendations regarding a more comprehensive and efficient training delivery system*

The professional growth requirement in Chapter 246-292 WAC ensures that certified operators maintain and upgrade their knowledge and skills in water system operation. Certified operators meet the requirement by taking training or examinations. DOH maintains a training calendar that provides information about drinking-water-related classes and events statewide, as well as information about various organizations to contact for more training information. Once certified, each operator receives information from the Washington Environmental Training Center (WETRC) detailing their options for professional growth.

- B. *DOH is developing 1991 legislation to amend 70.119 RCW and make Washington State Waterworks Operator Certification requirements consistent with the requirements of the federal Safe Drinking Water Act.*

The Water Works Operator Certification Program, effective 2001, operates under the authority of Chapter 70.119 RCW. More detailed and comprehensive program regulations are contained in Chapter 246-292 WAC. Water systems classified as Group A Community, Non-transient Non-Community (NTNC), Transient Non-Community (TNC) with surface water or groundwater under the influence of surface water (GWI) as their source, and TNCs classified as significant non-compliers (SNCs) are required under WAC 246-292-020 to employ certified operators to carry out various operational functions. To become certified, operators must meet minimum education and experience requirements and pass an examination. Certified operators must meet a professional growth requirement every three years to maintain their certification status. To assist public water systems in meeting the requirement of employing certified operators, DOH maintains a list of certified contract operators.

- C. *DOH and the Water and Wastewater Operator Certification Board of Examiners should develop criteria for contract operations and inform all public water supply systems and contract operators of criteria.*  
See answer to 8A. Also refer to Water Works Certification Program Guideline, September 2004.

**9. DOH/UTC Relationship and Regulatory Barriers Preventing Small System Compliance**

- A. *DOH and UTC should jointly develop a practical means to identify financially nonviable water systems.*  
DOH forwards water system plans for investor owned systems to UTC for review and comment.

- B. *RCW 80.04.110 should be amended to allow DOH to trigger UTC review of any non-municipal public water system regardless of size or type of ownership. In addition, 80.24 RCW should be amended to authorize the UTC to assess regulatory fees on such systems.*

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- C. *DOH and UTC should implement an aggressive program of technical assistance and consultation to financially nonviable water systems.*

DOH provides technical assistance to any utility willing and wanting to receive assistance. UTC will do so for investor-owned utilities; not sure how UTC deals with systems that do not fall under its jurisdiction.

- D. *DOH and UTC should establish more effective means of coordination and aggressively implement recently adopted legislation*

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**10. Effect of Failing Systems on Real Estate Sales and Financing**

- A. *Explore alternate ways to disclose the adequacy of drinking water supplies at the time of real estate transactions*

Disclosure changes in real estate transactions since 1991 require sellers to inform buyers about water

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system issues and other issues. For Group A water systems, lending institutions can contact DOH for information, such as operating permit status, on a particular Group A system. For Group B water systems, PHSKC provides both updated field surveys and/or office reports for a fee.

- B. *Uniform criteria to be applied by state and local regulators should be developed for reviewing and reporting the adequacy of water systems for home loans.*

Adequacy criteria are based on specific code requirements for the type of water system: WAC 246-290 for Group A systems and WAC 246-291 and King County Board of Health Title 12 for Group B systems.

- C. *A report on the adequacy of the water supply should be available to all prospective purchasers of a residence.*

See answer to 10A.

- D. *Information contained in water reports should be recorded on the property title to ensure disclosure to future potential purchasers of the property.*

Group A information is not included on titles. For properties on a Group B water system, a title includes a copy of the Group B water system maintenance and management agreement and a declaration of the parcels that are allowed on the system. Purchasers can contact PHSKC to ask any follow-up questions on the current status of the Group B system.

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25. Small Water Systems Committee Meeting  
Summary Notes (6-26-06)

- Group A systems are charged for third-party surveys.
- Federal and state funds cover costs for PHSKC to conduct surveys of Group B systems. The funding is contingent on continued legislative approvals. PHSKC also receives funds from new system fees.
- Ecology oversees well decommissioning.

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26. Group B Water System Perspectives (Craig  
Shuck, 7-18-06)

Pros/Benefits:

1. Easy to build and install compared to Group A's.
2. Fast to build in comparison to Group As. Around six months from drilling to Certificate of Completion.
3. Not limited by water rights up to six connections or 5,000 gpd.
4. Very Reliable. Fairly bulletproof. Most have a 10-20+ year life without major costs. Major costs may entail only pressure tanks or pumps.
5. Not very expensive; in some cases, a six-connection system may be installed for \$10-15,000.
6. Very low operating overhead; usually volunteer or contract service.
7. In general, provide good quality water. Complex filtration or treatment is rare.
8. Inexpensive to operate: \$20 -30/month if they do their own management and testing.
9. Frequent supervision is not needed.
10. Specifically trained/licensed operators are not required.
11. Breakpoint at three connections; usually cheaper than individual wells.
12. Fewer wells into aquifer serves Public Health (compared to individual wells).

Cons/Liabilities:

1. Systems are generally built to minimum standards; i.e., residential standards or less, not to commercial standards.
2. Difficult to contact someone in an emergency.
3. Difficult to deal with power outages.
4. Irrigation supply is rarely adequate.
5. Could lead to "6-pack" development, but that is probably rare.
6. Group B's are not really seen as temporary by owners.

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7. Management style gives priority to “staying off the radar.”
  8. Breakdown management; usually no preventive maintenance, which leads to slow creeping maintenance problems.
  9. The only continuing education owners-operators get is during surreys every three years.
  10. Resources may be limited for repairs, “pass the hat.”
  11. Group B's are rarely insured, incorporated, or pay state or federal taxes.

Other Comments:

- How many have been absorbed into Group A's?
- Ownership issues; i.e., “I paid for it; its mine.”
- User-owners are different from the developer.
- How many Group B's are too many?
- At what point are Group A connection costs unreasonable? \$10,000? \$50,000? \$100,000?
- What time frame for Group A availability is unreasonable?

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Policy for Implementing the Consolidation of Rights for Exempt Ground Water Withdrawals (Washington State Department of Ecology, Policy-1230, Water Resources Program Policy 1-11-99)

- Reference: Chapter 446, Laws of 1997 (SSB 5785), Consolidation of exempt groundwater rights. Now codified as RCW 90.44.105.
- The purpose of the policy is to establish procedures that Ecology will use to assist groundwater right certificate and permit holders seeking to consolidate that right with rights established under the ground water exemption in complying with Chapter 446, Laws of 1997. It applies to all holders of groundwater right certificates and permits issued pursuant to chapter 90.44 RCW.
- (Note: While “exempt” groundwater uses are excused from needing a state permit, they still are considered to be water rights.)
- As long as the statutory criteria specified in RCW 90.44.105 are satisfied, anyone who holds a valid right to withdraw public groundwater may, with Ecology's approval, consolidate their right with exempt rights (specified in RCW 90.44.050) without affecting the priority of water rights being consolidated. This process may be in lieu of the groundwater right amendment process specified in RCW 90.44.100.
- To consolidate water rights, those seeking consolidation must complete an application to Ecology and then publish notice of the application in a general-circulation newspaper in the counties in which the wells for the rights to be consolidated are located. The notice must be prepared in accordance with RCW 90.03.280, be published once a week for two consecutive weeks, and provide a 30-day comment period that starts on the date of publication of the second notice.
- Ecology will apply the following conditions for issuing a consolidation amendment: (1) the exempt and permitted/certified wells must tap the same body of public groundwater; (2) the applicant has made suitable arrangements to discontinue use of and to properly decommission the exempt wells (according to RCW 18.104 and relevant Ecology rules) once the consolidation is approved; (3) the applicant has entered into legally enforceable agreements that bind present and future owners of the land to prohibit the construction of wells to serve the area previously served by the exempt wells; and (4) other existing rights will not be impaired by the consolidation (includes groundwater and surface water rights and minimum stream flows adopted by rule).
- The water from consolidation from any exempt right cannot exceed 5,000 gallons per day (gpm). Ecology will base the amount on the average withdrawals by the exempt water user over the most recent five-year period if credible supporting evidence of withdrawals and a determination that the amount is consistent with amount of water used for similar uses in the area. If there is credible evidence of nonuse during the period or of use that is substantially different from such uses in the area, the amount will be 800 gpm for each residential connection up

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to 5,000 gpm or an alternative amount established by Ecology, in consultation with DOH, that reflects average household and small-area landscaping uses in that region.

- Ecology will accord a presumption favoring approval of a proposed consolidation if the requirements above are met and the discontinuance of the exempt use is consistent with one or more of the following: (1) an adopted coordinated water system plan under chapter 70.116 RCW; (2) an adopted comprehensive land use plan under chapter 36.70A RCW; or (3) another comprehensive watershed management plan applicable to the area containing an objective of decreasing the number of existing and newly developed small groundwater withdrawals.
- Ecology will make decisions on consolidation applications within 60 days of whichever of the following two events is later: the end of comment period or the date when compliance with the State Environmental Policy Act is completed. The applicant and Ecology may extend this time by prior mutual agreement.
- Prior to Ecology's issuance of a superseding permit or certificate, the applicant must submit a water well report from a licensed well contractor verifying the exempt wells have been properly decommissioned.
- The superseding documents will be based on Ecology's Report of Examination, which summarizes its consolidation determinations. Ecology will forward the superseding documents to the county auditor. The applicant may have to pay fees to Ecology for issuance of the superseding documents (RCW 90.03.470) and to the county auditor for recording of the documents (RCW 36.18.010).
- The superseding right will reflect the different priority dates for the rights that have been consolidated. Each priority date will be the date of first occupancy of the residence or the date when water use actually began, if different from the occupancy date. Annual quantity of the superseding right will be determined by multiplying the daily beneficial use determination by the number of days per year the right had been used. For the irrigation component of exempt rights, the period of use will be considered to be April 1 to October 31.

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27. Final Draft, Washington State Department of Ecology, 2003 Municipal Water Law, Interpretive and Policy Statement (6-22-06)

- Purpose: (1) to describe and interpret sections of the state Water Code (Ch. 90.03 RCW) that were amended or added by the 2003 Municipal Water Law (MWL) and that are within Ecology's sole jurisdiction, and (2) to describe generally applicable procedures that Ecology will use in managing municipal water rights.
- This document is the second of four draft policy documents prepared by Ecology and DOH. The first document, Draft Section 5(2) Policy Statement, was circulated for comment on February 17, 2006, and covers coordinated review of water system planning documents ([http://www.ecy.wa.gov/programs/wr/rights/muni\\_wtr.html](http://www.ecy.wa.gov/programs/wr/rights/muni_wtr.html)). DOH will submit the third policy document in the coming months. It will cover policy issues that reside solely in DOH's jurisdiction. The fourth document will be a memorandum of understanding between Ecology and DOH to address coordination efforts relative to water system planning review. Following review of comments received by the public on drafts of these documents, the agencies will consider the format and scope of final policy statements.
- **RCW 90.03.015(4): DEFINITIONS of Municipal Water Supplier and Municipal Water Supply.** This section defines water rights that are for municipal water supply purposes.
  - Ecology evaluates compliance with the definitions in this section on a right-by-right basis.
  - Municipal water suppliers can hold water rights that are for municipal water supply purposes and water rights that are not for municipal water supply purposes.
  - If one purpose of use on a water right is for a municipal water supply purpose, then another purpose of use beneficially used by the municipal water supplier under the same water right is for a municipal water supply purpose of use if it is a beneficial purpose of use generally associated with a municipality. (Beneficial purposes of use generally associated with a municipality are provided at the end of RCW 90.03.015(4) and in RCW 90.03.550.)

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- If a municipal water supplier holds one water right that is for municipal water supply purposes, other water rights held by the municipal water supplier may or may not be for municipal water supply purposes.
  - If a municipal water supplier holds or acquires a water right that is not for municipal water supply purposes, the purpose of use may be changed to municipal water supply purpose under RCW 90.03.380 provided that the statutory tests for change are met and the beneficial use following the change will meet a definition in this section. Changes under RCW 90.03.380 require a tentative determination of the extent and validity of the water right proposed for transfer.
  - Ecology interprets the statute as requiring active compliance with the beneficial use definitions in RCW 90.03.015(4). If a water right holder's use of water does not meet the definition of a water right for municipal water supply purposes (e.g., by dropping below the residential connection or nonresident population thresholds), then the water right no longer qualifies as a right for municipal water supply purposes and the exception to relinquishment for municipal water supply purposes rights under RCW 90.14.140(2)(d) cannot apply. If a water right holder's use of water does not meet the definition of a water right for municipal water supply purposes for five or more years, then the water right would be valid only to the extent it had been beneficially used during that period and any nonuse would result in relinquishment of the right unless the nonuse is excused by one of the other exemptions to relinquishment.
  - **RCW 90.03.015(4)(a): DEFINITIONS of required number of residential connections and non-residential population for municipal water supply rights.**
    - All municipal water suppliers under this section are Group A water systems. However, not all Group A water systems are municipal water suppliers.
    - RCW 90.03.014(4)(a) provides statutory definitions for municipal water suppliers that overlap DOH regulations for Group A water systems under WAC 246-290-020, but they are not exactly the same.
    - The statute requires 15 or more residential connections. A water right serving 15 homes would be for municipal water supply purpose; a water right serving 14 homes and a business would not. DOH regulations consider both residential and non-residential connections. Both would be considered Group A water systems.
    - The statute does not define the term "residential service connection." Ecology considers this term to be the same as that described in DOH regulations for Group A community water systems in WAC 246-290-020: "service connections used by year-round residents for 180 or more days within a calendar year." This is a subset of DOH's general definition of service connection in WAC 246-290-010: "a connection to a public water system serving both residential and non-residential populations." By contrast, the MWL considers only residential service connections.
    - In determining the number of connections, Ecology interprets the term residential service connection to mean the physical connection to a public water system. DOH regulations include provisions for alternative means of calculating the number of connections, including formulas and counting "units" within a building.
    - In general, the following Group A water systems would be examples of municipal water suppliers because the statutory definitions are equivalent to those adopted in rule by DOH: a city, subdivision, mobile home park, water association.
    - The statute does not include a definition for residential populations, whereas DOH regulations do. For example, under WAC 246-290-020, a water system can be classified as a Group A community system if it serves at least 25 year-round residents regardless of the number of connections. A water right serving such a system would not be for municipal water supply under RCW 90.03.015(4)(a) because the statute
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- does not contain an equivalent definition. Some of the stand-alone Group A community water systems that would not be municipal water suppliers because of this difference may include some prisons, colleges, nursing homes, or other residential facilities.
- Although RCW 90.03.015(4)(a) does not include a service connection allowance for nonresidential connections, it does define a municipal water supplier in terms of nonresidential populations. This category includes some Group A non-community systems and excludes others. Ecology interprets the phrase “residential use of water for a nonresidential population” to mean that the full range of residential water uses (e.g., drinking, cooking, cleaning, sanitation) is provided under the water right AND the service is for temporary domiciles for non-residents (an average of 25 or more people living there for more than 60 days per year, but not full-time). Examples of Group A non-community systems that might hold water rights for municipal water supply purpose under this section could include vacation homes and temporary farm worker housing. The following Group A non-community systems would not typically hold rights under RCW 90.03.015(4)(a) for municipal water supply purpose under the residential water use for a nonresident population definition: schools, daycares, churches, campgrounds, fairgrounds, restaurants, businesses and factories.
  - Group B water systems are also defined in WAC 246-290-020 and are public water systems that are smaller than Group A systems, either in terms of connections or population. Under RCW 90.03.015(4)(a), water rights serving Group B water systems do not qualify as water rights for municipal water supply purposes.
  - **RCW 90.03.015(4)(b): Governmental Entities and Governmental Purposes.** Defines water rights for municipal water supply purposes based on a function of beneficial use by a specific group of governmental entities.
    - The governmental entities listed in this subsection constitute an exclusive list. The listed entities are cities, towns, public utility districts, counties, sewer districts, and water districts. If an entity is not on the list, it is not considered as a municipal water supplier (e.g., a port district or an irrigation district are not municipal water suppliers under RCW 90.03.015(4)(b)).
    - Governmental and governmental proprietary purposes generally refer to those purposes listed at the end of RCW 90.03.015(4), including but not limited to beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, and related purposes.
    - A governmental or non-governmental entity that does not qualify as a municipal water supplier under this subsection may qualify as a municipal water supplier under another subsection of RCW 90.03.015. However, governmental and governmental proprietary purposes do not refer to domestic uses that do not qualify under the more specific requirements of RCW 90.03.015(4)(a). For example, a water right for a domestic purpose that does not meet RCW 90.03.015(4)(a) cannot be conformed as water right for municipal water supply purposes under the more general “governmental” purpose in RCW 90.03.015(4)(b).
    - When considering whether a right qualifies for a governmental purpose under this subsection, Ecology considers the entity that was issued the water right and the current owner of the right. If a water right was issued for irrigation of parks (or another governmental purpose) to a “governmental entity,” then the right is for municipal water supply purpose. However, if the same right were issued to a non-governmental entity such as a private developer and later acquired by a “governmental entity,” then the right would need to be changed to municipal water supply purposes under RCW 90.03.380 because the right as issued did not then qualify as a municipal water supply purpose water right.
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- This subsection provides that some irrigation rights may be for municipal water supply purposes. Ecology considers irrigated acreage to be a limitation on the water right. If irrigated acreage is proposed to be increased under a municipal water supply right, then the provisions of RCW 90.03.380 must be met (e.g., annual consumptive quantity). This limitation will primarily affect rights for irrigation of parks and open space under this subsection where an acreage limit was described when the right was issued.
  - **RCW 90.03.260(4) & (5): Applications – Numbers of Connections and Population.** This section provides that the maximum population or number of connections specified on an application or any subsequent water right documents for a municipal water supply right is no longer a limitation of the water right.
    - If a water system with 15 or more existing residential connections has a water right for community or multiple domestic supply and the number of connections has been authorized by DOH, the water right is for municipal water supply purpose and any population or connection limitation that may appear on the water right is not limiting. Rather, the instantaneous quantity (Qi) and annual quantities (Qa) are the controlling numbers.
    - If a water system with less than 15 existing residential connections has a water right that was issued for a project proposing more than 15 residential connections, then such a water right may be conformed as a right for municipal water supply purposes under RCW 90.03.560 following actual physical service to at least 15 residential connections.
    - If a water system with less than 15 existing residential connections has a water right that was issued for a project proposing fewer than 15 residential connections, then the number of connections intended to be served by the water right is a limitation on the water right and only a sufficient quantity of water necessary to serve those connections is authorized.
  - **RCW 90.03.260(3): Appropriation procedure – Water right certificate: “Pumps and Pipes” Certificates are in good standing.** This provision provides that water rights issued based on system capacity (“pumps and pipes” certificates) remain in good standing provided the permitted project progresses with due diligence. This addresses the concept in the Teodoratus case that no perfected right exists beyond the extent that a beneficial use has actually and legally been made (Department of Ecology v. Theodoratus, 135 Wn.2d 582, 957 P.2d 1241 (1998)).
    - In a water right change application process or an adjudication process, there can be a diminishment of the water right. In other circumstances, there may not be.
    - Inchoate water rights “in good standing” arose based on Ecology’s past erroneous practice of issuing pumps-and-pipes certificates to municipalities (Department of Ecology v. Theodoratus). Such rights may continue to be used for growth in those communities. However, inchoate water rights “in good standing” may not be speculatively transferred for the development of projects not originally contemplated when the permit issued. For example, Water System A has a municipal water supply right in good standing with inchoate water. Such a water right can be used for continued growth in that community. However, the inchoate water right could not be transferred to Water System B to serve growth in that community.
  - **RCW 90.03.386(1): Coordination between Department of Health and Department of Ecology.** This section requires Ecology to coordinate review and approval procedures to ensure compliance and consistency with water system plans/small water system management programs. Ecology and DOH are working on a memorandum of understanding that will clearly outline the agencies’ roles and responsibilities.
  - **RCW 90.03.386(2): Place of use and determinations of “not inconsistent” with specified local plans.** This section provides that a municipal water supplier’s authorized place of use on its water right can change to its current water system service area, provided it has an approved water system plan or small water system management program and that alteration of the water right place of use is not inconsistent with other local
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planning documents. Ecology and DOH's draft interpretive statement on this section was circulated for public comment on February 17, 2006 ([http://www.ecy.wa.gov/programs/wr/rights/muni\\_wtr.html](http://www.ecy.wa.gov/programs/wr/rights/muni_wtr.html)). Ecology and DOH will incorporate information from this draft into a memorandum of understanding that will clearly outline the agencies' roles and responsibilities.

- **RCW 90.03.386(3): Water conservation as a part of an approved water system plan/small water system management program.** This section describes the responsibility for a municipal water supplier to implement a water use efficiency/water conservation program, and directs Ecology to consider such implementation when considering development schedules for municipal water supply rights.
  - See Ecology POL-1050 for guidance on extending development schedules for municipal water suppliers.
  - Ecology supports DOH's rule on water use efficiency/water conservation for municipal water suppliers.
  - Ecology has statutory mandates to encourage conservation and eliminate waste. In some cases, Ecology may base water allocation decisions on conservation criteria more stringent than those provided in DOH's rule. Such instances may include but are not limited to those that occur in the context of a new appropriation under RCW 90.03.250 or RCW 90.44.060, in a waste determination under RCW 90.03.005, in coordination with watershed planning efforts under Chapter 90.54 / 90.82 RCW, or in drought permitting under Chapter 43.83B RCW.
- **RCW 90.03.550: Municipal water supply purposes – beneficial uses.**
  - Beneficial uses of water under a municipal water supply purposes water right can include benefits for fish and wildlife, water quality, or other instream resources/values; or implementing environmental obligations from a watershed plan under Chapter 90.54 RCW or Chapter 90.82 RCW. However, water must be specifically diverted or withdrawn from the authorized source for such purpose.
- **RCW 90.03.560: Municipal water supply purposes – Identification. “Conforming documents” and municipal water right changes and transfers.** Water rights that meet the definition under RCW 90.03.015 are for municipal water supply purpose and the water right documents can be conformed to correctly identify the purpose of use.
  - Purposes of use that can be conformed to municipal water supply purpose generally include those identified in RCW 90.03.015 and RCW 90.03.550.
  - In general, agricultural irrigation purpose of use and dairy purpose of use cannot be conformed to municipal water supply purpose of use, but rather must be changed under RCW 90.03.380.

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28. Small Water Systems Committee Meeting Summary Notes (7-18-06)

- Group B systems are not assigned a DOH operating status color. Rather, PHSKC classifies these systems as adequate, provisionally adequate, or inadequate.

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29. Department of Health and Department of Ecology's Proposed Approaches Regarding Service Area, Compliance, and Consistency (Section 5(2) document) (DOH and Ecology, 6-23-06)

- DOH and Ecology prepared responses to questions regarding RCW 90.03.386 (Section 5(2)) of the 2003 Municipal Water Law.
  1. **What is the definition of “service area” referenced in Section 5(2)?**
    - As delineated by Municipal Water Suppliers (MWSs) in water plans (CWSPs, WSPs, and SWSMPs) and applicable engineering documents approved after September 9, 2003.
    - Includes the retail service area and may also include other areas such as other public water systems that gets water from the MWS.
    - Represents the MWSs place of use if it remains in compliance with the terms of an approved WSP or SWSMP and continuously meets the Section 5(2) “not inconsistent” requirements.
  2. **At what point will “in compliance with the terms of the WSP or SWSMP” referenced in Section 5(2) be determined and who will make the determination?**

- Both DOH and Ecology have a role in compliance determinations regarding equivalency of place of use to service area.
- MWSs must be in compliance with their plans at all times in order to qualify for the service area-based place of use.
- Initial determination will take place at the time of WSP or SWSMP approval. Determinations of compliance with certain elements (see Question 3) will take place at the following times: submittals of water use efficiency annual performance reports, submittal of engineering documents, changes to municipal water supply purpose water rights, and when concerns are raised.

**3. What elements of an WSP or SWSMP will be considered in DOH's determination of "in compliance" for the purpose of Section 5(2)?**

- Plan approval date is current (DOH).
- Water use efficiency requirements are met (DOH).
- Service area is designated (includes retail service area and area outside retail service area, if applicable) (DOH).
- Water Right Self Assessment is completed (DOH) and accurate (Ecology).
- Reclaimed water is evaluated for MWS with > 1,000 connections (Ecology & DOH).
- Local governments "not inconsistent" determinations are complete for entire service area (DOH).
- Watershed plan "not inconsistent" determination is complete for expanded portions of the service area (Ecology).

**4. How will "consistency"/"not inconsistent" with adopted comprehensive plans, land use plans or development regulations, and watershed plans as it relates to Section 5(2) and Section 8 be determined?**

- "Not inconsistent" determinations (Section 5(2)) are necessary only if, in a plan or engineering document, an MWS requests that its water rights place of use be expanded by having its service area supersede the place of use designated on its water rights documents or if an MWS requests an expansion of an existing service area that earlier superseded the water rights place of use.
- Ecology is responsible for "not inconsistent" determinations for watershed planning; DOH is responsible for making the local government "not inconsistent" determinations for the entire service area in Section 5(2) and consistency determinations for the retail service area in Section 8. DOH and Ecology will develop a memorandum of understanding for integrating all requirements.
- Watershed planning determinations. If no approved or adopted watershed plans exist, no determination is required for this element. Ecology will not solicit comments on watershed planning from interested parties during its review. Following review, Ecology will notify DOH and copy the MWS regarding its "not inconsistent" determinations for watershed planning. DOH will consider Ecology's determination as part of its water system plan review. DOH will not approve a plan if Ecology has issued an "inconsistent" determination in the form of an appealable order.
- Local government consistency. DOH will follow the same process for Section 5(2) and Section 8. MWSs will be responsible for completing one "consistency"/"non inconsistent" checklist that addresses comprehensive plans, land use plans or development regulations and watershed plans and for obtaining signatures from local government entities. In general, MWSs may complete the checklist on their own if they are unable to get documentation from local governments. The checklist shall be submitted to DOH with the draft WSP or SWSMP.

**5. What are the effects to an MWS of failing to meet the WSP or SWSMP service area compliance of "not inconsistent" requirements found in Section 5(2)?**

- If an MWS fails to meet the requirements in RCW 90.03.386(2), its place of use would not include "any portion of the approved service area that was not previously within the place of use for the water right." The place of use

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would be as identified in the most recent DOH-approved plan or engineering document if the previous plan was approved after September 9, 2003; otherwise, reversion is to the original water rights place of use. If inconsistency is limited to one area of the expanded place of use, only that area is no longer expanded.

- If, at the times of compliance and "not consistent" determinations listed in Question 2, an MWS fails to meet the requirements, DOH will consider the impact on the plan or engineering document approval process. DOH may seek, as appropriate, voluntary compliance followed by escalating levels of enforcement to achieve compliance.
- If an MWS is serving an area not covered by its water rights, Ecology will first seek voluntary compliance under RCW 90.03.605, which requires Ecology to take deliberate steps to achieve compliance starting with education and technical assistance. An appealable decision would be issued only after the requirements of RCW 90.03.605 have been met. The goal is to achieve compliance, not to cause an official reversion of place of use with its attendant displacement of existing water uses. Ecology views its jurisdiction as being narrowly limited to those elements described in Question 3 above.
- Ecology would convey a finding of inconsistency during plan review to DOH and the MWS with a clear written communication that the MWS is to not extend or expand service into the area until or unless the issue is resolved. A finding of inconsistency would affect only that area and not the entire service area/place of use.
- DOH and Ecology will work together to manage a transitional period until 2015 after which many MWSs will have two plans approved after September 9, 2003, and will thus not be at risk of a reversion of place of use to the original water rights. DOH and Ecology believe that the risk of reversion by a responsible MWS is limited, especially given all the caveats noted above.
- MWSs that fail to meet the requirements in RCW 90.03.386(2) can regain the expanded place of use by resolving the land use, development regulation, or watershed planning conflict, or they can apply and receive a RCW 90.03.380 and RCW 90.44.100 change decision authorizing their expanded place of use. If an MWS returns to compliance or consistency, then the agency responsible for evaluating compliance or consistency will notify the other agency and the MWS. DOH will notify local governments that the performance standard has been met.

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30. Municipal Water Law—Agency Responsibilities Outline (DOH and Ecology, 6-23-06)

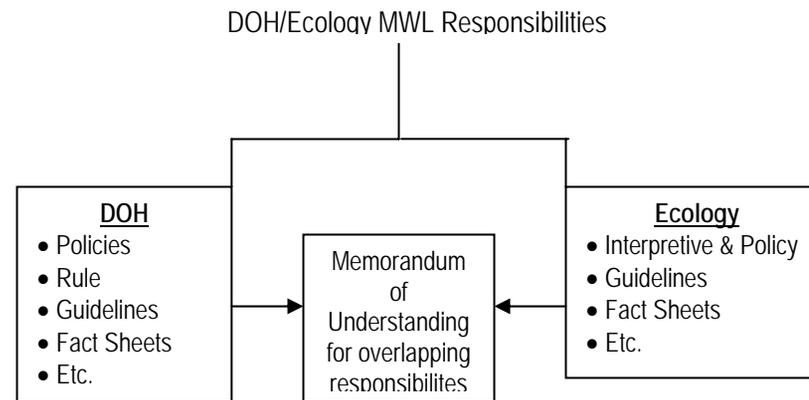
- DOH and Ecology will incorporate the following responsibilities into a memorandum of understanding, scheduled to be completed by December 2006. In addition, DOH is proposing to revise WAC 246-290 and Ecology has prepared an Interpretative and Policy Statement (see Item 27) regarding responsibilities, policies, and procedures in implementing the Municipal Water Law (MWL).
  - **Section 1 – RCW 90.03.015 – Definitions of municipal water supplier and municipal water supply purpose.** Lead agency: Ecology. DOH will use Ecology's definition of a municipal water supplier (MWS) for implementing its responsibilities under the MLW.
  - **Section 2 – RCW 90.03.550 – Municipal water supply purposes – beneficial use.** Ecology is the lead agency for determining whether a water use qualifies as a type of use that can be exercised under a water right for municipal supply purposes under RCW 90.03.550. DOH has no role in implementation.
  - **Section 3 – RCW 90.03.560 – Municipal water supply purposes – identification.** Ecology is the lead agency for processing requests to conform water rights as being for municipal water supply purposes. DOH has no role in implementation.
  - **Section 4 – RCW 90.03.260 – Applications - Population and connections limits on water rights.** Ecology is the lead agency for processing water right applications and issuing water rights. Ecology determines whether population or connections are limiting attributes on a new water right application. Ecology has access to DOH's connection information for public water systems through DOH's Sentry Internet. On request, DOH will provide water system plan approval information to Ecology.
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- **Section 5(1) – RCW 90.03.386(1) – Coordination of approval procedures for compliance and consistency with approved water system plan.** DOH and Ecology will coordinate approval procedures for water plans and engineering documents. The agencies will also coordinate on designating a failing public water system and expediting water right changes where there are public health concerns.
  - **Section 5(2) – RCW 90.03.386(2) – Coordination for changes in place of use.** Place of use expansions may now occur via the approval of water plans and engineering documents.
    - DOH will determine if the municipal water supplier is in compliance with the terms of the water system plan or small water system management program when the plan is approved and upon request by Ecology. Determinations of compliance will include water conservation and consistency with approved local comprehensive plans and development regulations.
    - Ecology will determine whether the expansion is consistent with approved watershed plans.
    - Concerns that the conditions surrounding overall place of use have been violated will be directed to the agency (Ecology or DOH) responsible for addressing the specific conditions being violated. Ecology will request that DOH make a determination of compliance with planning documents and local government consistency when necessary.
  - **Section 5(3) – RCW 90.03.386(3) – Coordination on water use efficiency and inchoate water rights.**
    - DOH is lead for ensuring that subsections (a) and (b) of this section are included in water system plans submitted for review and approval. DOH will also ensure that MWSs complete a cost-effectiveness evaluation of measures and quantify water savings if all cost-effective measures are implemented.
    - Ecology is lead for considering conserved water when establishing or expanding water right construction schedules.
  - **Section 6 – RCW 90.03.330 – Appropriation procedure – water rights certificate – “pumps and pipes”** Certificates are in good standing. Ecology is the lead agency for tentatively assessing the extent and validity of water rights and for ensuring that specified water right certificates held by MWSs are considered rights in good standing.
  - **Section 7 – RCW 70.119A.180 – Water use efficiency requirements.** Lead agency: DOH. Upon request by an MWS, Ecology will assist in determining the MWS's water supply characteristics.
  - **Section 8 – RCW 43.20.260 – Review of water system plan, requirements – municipal water suppliers, retail service area.**
    - DOH is the lead agency for determining duty to serve requirements for MWSs within their retail service areas.
    - DOH is the lead agency for determining consistency and if water can be served in a safe and reliable manner.
    - Ecology is the lead agency for determining an MWS's water right capacity. DOH has developed a Directive Memorandum (B02) that incorporates water right considerations into capacity determinations.
  - **Section 9 – RCW 90.82.048 – Implementation plan – timelines and milestones.**
    - Local watershed planning units are the lead entities responsible for (1) incorporating the planned future use of existing water rights for municipal water supply purposes into their watershed planning efforts, and (2) inviting municipal water right holders with inchoate quantities to be included in setting timelines and milestones in watershed plan implementation.
    - DOH is lead agency for compiling a list of upcoming water system plans and sharing the list with Ecology and other agencies. The agencies will identify watersheds where additional coordination is needed and develop a coordinated work plan. DOH completed this coordination for 2005 and will continue to do so annually.
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- **Section 10 – RCW 90.54 – Stream flow restoration a priority.** Ecology is the lead agency for prioritizing stream flow restoration funding. DOH has no role in implementation.
  - **Section 11 – RCW 90.48.495 – Water conservation measures to be considered in sewer plans.** Ecology is the lead agency in reviewing sewer plans. DOH has no role in implementation.
  - **Section 12 – RCW 90.48.112 – Plan evaluation – consideration of reclaimed water.** Ecology is the lead agency in reviewing wastewater plans and ensuring that coordination of reclamation and reuse are incorporated. DOH has no role in implementation.
  - **Section 13 – RCW 90.46.120 – Reclamation evaluation in water system plans and coordinated water system plans.** DOH is the lead agency for ensuring reclamation is evaluated in water system plans and coordinated water system plans. Ecology has no role in implementation.
  - **Section 14 – RCW 90.03.570 – Change or transfer of an unperfected surface water right for municipal water supply purposes.**
    - Ecology is the lead agency for changing and transferring unperfected surface water rights for municipal water supply purposes. Ecology and DOH will develop a list of terms that must be considered when determining if an MWS is in compliance with its water system plan or small water system management program (a condition of transfer). The terms shall include water conservation.
    - Upon request by Ecology, DOH will determine if the water system is in compliance.
  - **Section 15 – RCW 90.03.580 – Failing public water system – conditions.** DOH is the lead agency for determining failing public water systems, which includes consultation with Ecology and the local health jurisdiction.
  - **Section 16 – RCW 90.03.590 – Municipal water suppliers – watershed agreement- pilot project.** Ecology is the lead agency for establishing agreements with MWSs in WRIA one to achieve the objectives in an approved or developing water resource management program. Ecology is the lead agency for ensuring that conditions for any pilot watershed agreement are met. DOH has no role in implementation.
  - **Section 17 – RCW 90.03.591 – New watershed agreements prohibited after July 1, 2008.** Ecology has been directed by the Legislature to not enter into any additional watershed agreements after July 1, 2008, established under RCW 90.03.590. DOH has no role in implementation.
  - **Section 18 – RCW 70.119A.110 – Municipal Water Law implementation funding.** DOH is the lead agency for collecting funds for implementation of the Municipal Water Law. DOH has begun collecting funds. Ecology has no role in implementation.
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31. DOH/Ecology MWL Responsibilities (DOH and Ecology, 5-24-06)



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32. Municipal Water Law Discussion Paper No. 1, Definitions of Retail Service Area (DOH, 6-23-06)

- The Municipal Water Law (MWL) requirement to delineate a retail service area (RSA) applies to municipal water suppliers (MWSs) with water system plans and applicable plan amendments approved after September 9, 2003.
- DOH's draft policy (July 18, 2003) requires that RSAs include areas where the MWS currently provides retail service. RSAs could also include areas where the MWS intends to provide water service in the future. The MWS would not be allowed to provide service outside its RSA.
- DOH developed six alternatives for defining an RSA based on comments received on its draft policy. Its preferred alternative combines three of the alternatives:
  - (No. 2) Retain existing policy position but allow service outside the RSA under certain circumstances.
  - (No. 3) If a future service area is delineated in a Coordinated Water System Plan–Supplementary Provisions and/or a water system plan, the RSA must be the same.
  - (No. 6) Service must be provided by direct ownership and management of system, but not necessarily by direct connection.
- The other three alternatives are as follows:
  - (No. 1) Retain existing position.
  - (No. 4) The RSA must equal the projected 6-year service area.
  - (No. 5) Service within the RSA must be provided by direct connection.
- The preferred alternative provides flexibility in setting RSA boundaries, while not creating another set of boundaries or service area policies. It also encourages MWSs to broadly look at planning and to limit the proliferation of new permanent small water systems. The existing position does not provide sufficient direction regarding whether the RSA must match existing service area boundaries. It also does not allow an MWS to provide service outside the RSA. Under the preferred alternative, an MWS may provide service outside its RSA to address immediate public health and safety concerns as long as it updates its RSA within a specified amount of time. An MWS may also provide temporary service for a neighboring water system without modifying its RSA if there is a contractual agreement in place. The preferred alternative also simplifies boundary setting by

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requiring only one service area that includes both the retail and future service areas. An MWS would retain the flexibility to set the future service area where it saw fit, but it could lose part of this area if it does not respond to requests for service under the dictates of the MWL.

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33. Municipal Water Law Discussion Paper No. 2, What Should the Department of Health's role be in determining what is "Timely and Reasonable"? (DOH, 6-23-06)

- As part of the Municipal Water Law, MWSs have a duty to provide service within their RSAs as long as the application meets four threshold factors. One of the threshold factors is if service cannot be provided in a timely and reasonable manner. The need to provide service in a timely and reasonable manner is also found in the Coordination Act (RCW 70.116) in which criteria are given and local governments are provided authority to develop timely and reasonable criteria.
- Under the existing draft policy, DOH would not have oversight in making timely and reasonable determinations. This factor is considered a civil matter between the MWS and the applicant. Local governments may provide oversight. DOH will provide guidance for timely and reasonable determinations only as they relate to the Coordination Act and the MWL.
- In response to concerns raised about DOH's role in making timely and reasonable determinations, DOH prepared three alternatives for consideration:
  - (No. 1) Retain existing policy decision.
  - (No. 2) DOH will develop guidance.
  - (No. 3) DOH should have an active role and provide oversight when issues arise.
- The preferred alternative is a combination of Alternatives 1 and 2. DOH believes that timely and reasonable determinations are situation-specific and often involve land use decisions that would detract from DOH's public health mission and would significantly increase its workload. The MWL makes a clear distinction between the key public health component (capacity/DOH expertise) and the timely and reasonable element (MWS/applicant/local government expertise). DOH can help by developing guidance on timely and reasonable as it relates to the Coordination Act and explaining how it relates to the MWL. This information would be available to utilities, local governments, and water service applicants.

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34. Municipal Water Law Discussion Paper No. 3, Should the Department of Health require a public meeting or governing body approval prior to its approval of a water system plan? (DOH, 6-23-06)

- WAC 246-290-100(8) requires an informational meeting of the water system's customers prior to the DOH's approval of a water system plan. The statute does not require MWSs to allow non-customers to participate. Existing statutes and regulations, however, require publicly owned water systems to approve documents in an open meeting.
- The MWL has added elements to DOH's role in approving water system plans (WSPs), such as designation of a RSA and service policies that reflect the MWS's duty to serve within its RSA. This information is important to customers and to non-customers as well. Moreover, governing bodies may need to understand and agree with the information given in an WSP.
- DOH developed three alternatives to address these concerns:
  - (No.1) Retain existing policy position.
  - (No. 2) Require governing body approval.
  - (No. 3) Require both publicly and privately owned water systems to hold a separate public meeting.
- DOH prefers Alternative 2. This alternative ensures that governing bodies fully understand the plan and its implications, that the public has the opportunity for involvement in a publicly owned system's plan, and that it can be implemented without a major commitment of DOH and local government staff.

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35. Exempt Well As Related to Small Water Systems—Draft (Ecology, 8-24-06)

- "Exempt wells" are authorized under Section 050, Chapter 90.44 RCW: Regulation of public ground waters.
  - These wells are exempt for the permitting process.
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- Exempt wells are still inside and part of water resource management. The water right created by the permit-exempt use enjoys the same benefits and obligations as any other water right. For example, such rights can be regulated or reporting on the volume of water used can be required.
  - Permit-exempt wells are generally associated with single or small group domestic family dwellings, irrigation, or commercial and industrial uses and are authorized for use of up to 5,000 gallons of water per day.
  - The priority date for an exempt well is the date that Ecology receives the Notice of Intent ("start card") for construction, provided that the water well construction and use of water is pursued with diligence.
  - Challenges to management of exempt wells:
    - The Water Code and, in some cases, water managers prefer larger systems serving more people over smaller or multiple systems. Fewer wells mean fewer pathways for contaminants to enter an aquifer. Generally, water systems subject to the Safe Drinking Water Act have higher requirements for protecting public health and safety (testing and wellhead protection, for example) than exempt wells.
    - Data or information (e.g., well location, amount of water withdrawn) related to exempt wells is not particularly good. It is not clear how the water use from these wells affects other resources.
    - Use of water from permit-exempt wells can affect instream flows and or existing rights. A stream may be closed to further appropriation because it has been determined there is no additional water available, yet exempt wells are still being drilled and water withdrawn.
  - Exempt well management considerations:
    - Some people like to have a exempt well because they can exert almost complete control over location and use.
    - Exempt wells are seen as a low-cost alternative to joining a utility. Landowners may not consider impacts and costs associated with public health or other resources (i.e., hydraulic continuity).
    - Education is needed on impacts and true costs of exempt wells.
  - Options:
    - Local ordinances restricting exempt wells (perhaps in certain areas or aquifers).
    - State rules restricting the construction of exempt wells.
    - Mandatory hookup in a "timely and reasonable" manner to a public system when proposed water use is within the service area of an existing public water system.
    - Mandatory conservation to minimize withdrawals from exempt wells.
    - Grants, low-interest loans, or other incentives to hook up to a public water system.

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36. Small Water Systems Committee Meeting  
Summary Notes (8-7-06)

- DOH and Ecology plan to complete a memorandum of understanding for overlapping responsibilities by the end of 2006. The information in the handout on Section 5(2) of the MWL will be incorporated into the memorandum.
  - DOH plans to form positions on three issues in September, write policies and begin to write rules by the end of 2006, and begin formal rulemaking process in January 2007. The issues are (1) definition of retail service area, (2) DOH's role in determining what is timely and reasonable, and (3) whether DOH should require a public meeting or governing body approval before it approves a water system plan.
  - In regard to retail service area, DOH's preferred alternative would allow service outside a retail service area under certain circumstances, require that any future service area delineated in water system plans be considered as part of the retail service area, and define "direct service" to mean not only direct connection but also direct ownership and management.
  - DOH interprets that the "duty to serve" provision in the MWL applies only to new customers, not those already receiving service within a Group A's service area.
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- DOH does not believe that a Group A system is responsible for providing service to customers of failing Group B systems within the Group A system's service area, although the Group A and Group B systems could work out plans for the larger system to take over the smaller system.
- There is limited or no state funding to help Group A systems take over privately owned systems. Most Group B and small Group A systems are privately owned. The state has provided some money to Group A systems for this purpose (e.g., Cedar River takeover of the Dorre Don system): federal money (e.g., State Revolving Fund loans) might be used this way.
- DOH prefers that it have no oversight role in determinations of timely and reasonable and that these determinations be made by local governments, providers, and applicants. DOH would offer technical assistance. DOH would also develop guidance by the end of 2006 that could be used to establish local processes. Under the Coordination Act, local governments have separate authority to define these terms and make these determinations.
- King County's Utilities Technical Review Committee (UTRC) makes timely and reasonable determinations on a case-by-case basis when applicants appeal the utility's proposed conditions of service.
- DOH prefers that a governing body approve draft water system plans. DOH does not believe that it needs to require a public meeting because existing statutes and regulations already require water systems owned by a public entity to approve their documents in a public meeting.

37. Groundwater Protection Services and Funding, 2005 Report to King County Council and Seattle-King County Board of Health (KCDNRP and PHSKC, December 2005)

#### **KCDNRP and PHSKC Recommendations**

- King County Department of Natural Resources and Parks (KCDNRP) and Public Health–Seattle & King County (PHSKC) recommend a reduction in the scope of the King County Groundwater Program from the comprehensive, regional program authorized in K.C.C. 9.14 to (1) an area-specific program that addresses specific management concerns in parts of King County where targeted County funding or cost-shared interlocal agreements (ILAs) exist, and (2) integrating regional groundwater management priorities with related regional water resource services within available, limited resources.
- The changes to the groundwater program include the following legal and programmatic shifts:
  - Integrating King County's groundwater management services with other watershed-based regional services, including the implementation of the Salmon Recovery WRIA Plans and the development of a Regional Water Supply Plan in cooperation with multiple parties.
  - Implementing a comprehensive program on Vashon-Maury Island where a sole source aquifer and Island geography mandate a different approach.
  - Providing limited services in specific areas of the County via cost-shared ILAs (KCDNRP) and limited fee-specific services throughout the County via existing programs (PHSKC).

#### **Task Force Recommendations**

- A multi-party Task Force evaluated the scope and geographical distribution of existing services and advised the County on funding options associated with a regional program. Some members of the Task Force thought that current risks to groundwater warranted regional services to protect shared regional aquifers. Other members felt that the risks were low to non-existent and did not warrant new services given the existing local services provided by utilities. No members supported any new broad-based or regional funding.
- After discussion with the Groundwater Task Force, KCDNRP and PHSKC concluded that while immediate risks to groundwater quantity and quality exist, they are limited. It is likely these risks will become more significant with population growth and as future water supply needs increase. However, in some areas these risks may be reduced as small systems integrate with larger ones and benefit from services provided by jurisdictions and

water utilities.

- In the next few years, additional information will emerge regarding instream flow needs for fish recovery and the potential impacts of climate change on rain and recharge patterns. This information will make it possible to better quantify potential risks to King County's groundwater.
- While there was little consensus, Task Force participants did identify regional (or of a broad geographic scope) service areas and needs that, if provided, would result in greater protection of King County's groundwater. Services identified included coordinated and consistent land use policy and regulations; coordination among land use authorities and purveyors; coordination of educational efforts; and integrated surface water and groundwater management.
- Task Force participants unanimously supported a recommendation to the County Board of Health to authorize Group B public water system fees as necessary and appropriate. (It should be noted that the Task Force did not have any Group B representation.)

38. Consolidated Report on Water Supply in King County (prepared for Seattle Public Utilities, February 2002) (taken from Chapters 2 and 6)

**Small System Characterization (from Chapter 2)**

- More than 98% of the land area within King County's UGA is in the defined service areas of Group A water systems.

Location of Small Group A (<500 connections) and Group B systems Relative to the UGA and Larger Group A Service Area Boundaries				
Type of system	Number (DOH DWAIN)	Inside both UGA and service area	Inside service area, outside of UGA	Outside both service area and UGA
Small Group A	157	36 (25%)	58 (40%)	51 (35%)
Group B	1648	312 (22%)	793 (54%)	346 (24%)
Note: Figures do not add up because DOH automated water system database (DWAIN) and GIS database (well locations for water systems) do not have the same numbers; the latter has information for approximately 200 fewer systems).				

- **Ownership.** Virtually all small systems are privately owned (either for profit or nonprofit); very few are publicly owned, which limits access to financial resources.
- **Source of supply.** Virtually all systems that have their own sources are provided water from groundwater sources; some purchase water from other systems, which may be either surface water or groundwater.
- There are an estimated 22,770 single-family households supplied water by their own wells.
- There is no way to accurately characterize the amount of water used by other self-supplied users of water (e.g., commercial, industrial, agricultural); of the 14,500 water certificates, claims, and permits in King County, very few provide information on actual water use. Further, the characteristics of their water rights (e.g., instantaneous quantity, annual quantity) are inconsistently documented in Ecology's records.
- The total estimated population served by Group B wells and single-family wells is nearly 74,000 (of which nearly 58,000 are single-family households).

**Addressing the Needs of Small Water Systems (from Chapter 6)**

Small water systems (defined as <500 connections) serve less than two percent of the County's population, but (unlike large systems) frequently suffer problems with water quality and system capacity (lack of financial, technical, and administrative resources).

- According to DOH data as of 2000, there are no significant water quality concerns for small Group A systems:
  - Between 1998 and 2000, 29 systems had non-acute coliform violations, and three had acute ones. In the

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same period, 62 systems had major monitoring violations, and 14 had major repeat monitoring violations.

- No Group A systems had MCL violations for nitrate, but two Group B systems violated the MCL and 13 Group A systems exceeded the “trigger” level.
  - Twelve systems have exceeded organic contaminant “trigger” levels, but none recently.
  - Forty-one systems exceeded the “action” levels for lead and copper rule compliance.
  - Twenty-five systems had reported arsenic levels above the new (2001) EPA standard.
  - Four systems had violated surface water treatment standards.
  - Twenty-seven percent of Group A systems have yellow or red DOH Operating Permits.
  - EPA is anticipating completing a number of new regulatory rules under the federal Safe Drinking Water Act that are likely to have significant financial impacts on small systems that could cause some small systems to reevaluate providing independent water service; the rules include such topics as Ground water, ground water under the influence of surface water (GWI), and arsenic. EPA has estimated that systems with under 100 connections will face annual increases of \$357 per household.
  - A new EPA requirement for certified operators for many Group A water systems that currently do not have such certified operators, including those with under 100 connections, will cause those small systems to have to incur an additional expense for hiring/training operators, and may drive some systems to consolidate or use satellite management.
  - There is no reliable indicator of which small Group A systems will have administrative and financial difficulties in meeting future regulatory requirements; the Operating Permit is an indirect indicator.
  - If even a significant portion of small systems have to abandon their supplies because of water quality problems (e.g., 25%), there is enough water from other supplies to meet this demand.
  - There may also be some individual homeowner wells with water quality problems, but there is no way to know without an ongoing systematic monitoring program for those wells.
  - A proposed strategy for addressing small system shortfalls emphasizes a general preference for larger utilities to assist failing small systems within their defined service areas, as long as it is desired by both parties—this approach would be consistent with both the Coordination Act and the Growth Management Act.
  - The proposed strategy’s options include (a) the system solves its own problems; (b) the system connects with, or gets “remote service” from a nearby large utility with a defined service area under a CWSP; (c) the system gets water from a regional transmission system; (d) the system connects to a major supplier’s transmission system (the report has a map showing such lines within one mile of small systems); (e) systems consolidate with other small systems nearby; (f) the system becomes managed by an approved satellite management agency; (g) the County assumes responsibility as receiver of last resort. For each of these options, there are a number of technical, financial, legal (e.g., water rights), and political issues.
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