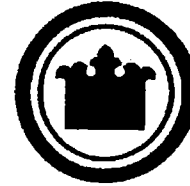


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2006-554



**Memorandum of Understanding  
on  
Water Resource and Supply Planning  
Between Cascade Water Alliance and  
King County, Washington  
February 8, 2005**



**King County**

### **I. Parties**

Cascade Water Alliance (Cascade) is a nonprofit intergovernmental organization created by an Interlocal Contract (the Interlocal) effective April 1, 1999 (as amended and restated) to exercise certain essential governmental functions with respect to water supply on behalf of its Members as authorized by the Interlocal Cooperation Act Chapter 39.34 of the Revised Code of Washington (RCW).

King County is a political subdivision of the State of Washington, organized as a home rule charter county under Article XI, Section 4 of the Washington State Constitution. Under the King County Charter and a variety of state laws, King County exercises governmental authorities over comprehensive planning, natural resource management, and provision of public services within the County and in the region.

### **II. Parties' Respective Responsibilities and Interests**

#### **A. King County**

King County has planning authorities and responsibilities under the Growth Management Act (GMA) of Chapter 36.70A RCW, and for water utility and water supply planning and service delivery under the Public Water System Coordination Act (Coordination Act) of Chapter 70.116 RCW for critical water supply service areas (CWSSA) as designated or modified in accordance with the Coordination Act. Under the Coordination Act, King County shares authority with the Washington Department of Health (Health) to assist water purveyors by coordinating the planning of public water supply systems.

In carrying out its authority under the Coordination Act, King County has previously declared four areas within King County, specifically South King County, Skyway, Vashon, and East King County, to be CWSSA. King County has ratified a Coordinated Water System Plan (CWSP) for each of these areas. Health subsequently approved each CWSP. King County believes that all four of these plans should be reviewed and updated as authorized and necessary under the Coordination Act to achieve the following:

- Consistency and compliance with current provisions of state law;
- Incorporation of updated water supply planning documents, including Cascade's Transmission and Supply Plan once approved;

# 15643

- Ensuring the planned and coordinated delivery of safe and reliable water throughout King County in order to meet the population and economic growth needs identified under GMA through credible, objective, transparent and accessible methodologies for projecting future demands;
- Assessment of the feasibility of proposals for shared source, transmission, storage facilities, and interties;
- Support for the development of long-term water supply capacity by water systems within King County to deliver safe and reliable water; and
- Clarification of processes and responsibilities for addressing failing water systems in order to protect King County's interests as potential receivers of last resort for any failing public water system within King County.

King County also believes that planning for future water uses and water supply choices must consider the requirements of the federal Endangered Species Act (ESA), acknowledge and respect Tribal rights, support the objectives of salmon recovery plans nearing completion in all of King County's watersheds, accounting for changes in demand and supply due to climate change and integrate water conservation and the use of reclaimed water to the maximum extent feasible and appropriate.

King County believes that comprehensive planning for GMA, water supply, salmon recovery, and resources management processes should be a part of the development of any significant new major regional sources of supply. King County has not taken any position in support of, or opposition to, any proposed major new regional source of supply. It remains committed to a public process that evaluates alternatives for meeting the long term supply needs of King County and the region. The process should include Tribes, state agencies, regional elected officials business and environmental interests, and affected residents and members of the public.

## B. Cascade Water Alliance

Cascade has an obligation to meet the long-term needs for wholesale water supply of its Member water systems, while complying with local, state and federal regulations, and terms and conditions of the Interlocal among Cascade Members, and existing contracts with other entities. As a public water system, Cascade also has the responsibility to demonstrate that it has the capacity to meet the needs of its Members as required by the federal Safe Drinking Water Act. The Membership of Cascade currently includes the City of Bellevue, the Covington Water District, the City of Issaquah, the City of Kirkland, the City of Redmond, the Sammamish Plateau Water & Sewer District, the Skyway Water & Sewer District, and the City of Tukwila.

Cascade's Members have the responsibility under GMA for providing water supply services to the residents and businesses within their service areas. Cascade adopted an Action Plan and Plan for Regional Water Supply in 2002 as the initial planning documents for the development of a Cascade Supply System which will provide wholesale water supply to meet the future demands of Cascade Members. The major components of a Cascade Supply System are

- Block Contract with the City of Seattle;
- Wholesale purchase of water from the City of Tacoma;
- Acquisition and development of regional transmission assets; and
- Development of the Lake Tapps Reservoir (Lake Tapps) as a municipal water supply.

Cascade and Puget Sound Energy (Puget) have entered into a Memorandum of Understanding under which Cascade has the exclusive right to negotiate acquisition from Puget of the water right(s) acquired by Puget under Washington Surface Water Applications S2-29920 and S2-29934, and Reservoir Water Application R2-29935. Cascade intends to develop Lake Tapps to meet the identified future water supply needs of its Members and will consider how Lake Tapps may meet a portion of the other regional water supply needs.

Cascade believes that coordinated planning efforts among its Members, King County, and other utilities throughout the Central Puget Sound Region is necessary to ensure that water supply is provided in a cost-effective and environmentally sound manner. Cascade recognizes the need for salmon recovery planning in King County and for the Puget Sound Region. Its membership includes general purpose governments that are participants in development of salmon recovery plans within King County watersheds.

Cascade recognizes that its water supply planning efforts must be consistent with state law and Health requirements, including the Coordination Act. Cascade recognizes that King County has a role in reviewing Cascade's Transmission and Supply Plan (TSP). Cascade's interest is that this review be conducted on an expedited schedule. Criteria for plan approval should be clearly defined in applicable statutes, rules, and/or adopted policies and should be consistent with criteria applied to other water systems that have similar responsibilities as Cascade.

### **III. Purpose of Agreement and Statement of Intent**

King County and Cascade intend to participate collaboratively in water supply planning as it relates to issues of mutual interest. Such planning will be conducted through public processes with opportunities for involvement and/or comment by the public, elected officials, and other interested parties. Cascade supports the initiation of planning under the Coordination Act for this purpose. Both King County and Cascade recognize the special role of Tribes as sovereign governments and co-managers of fisheries resources and as holders of water rights under treaties or federal law.

King County and Cascade also recognize that collaborative planning, which includes a variety of strategies, is necessary in times of drought or water shortage.

### **IV. Planning Activities**

#### **A. Comprehensive Water Resources and Supply Planning**

King County and Cascade recognize the need for comprehensive water resources and supply planning activities that collectively address both water supply needs and salmon recovery needs throughout King County. The process should include evaluation of potential surface and ground water supplies, demand management, storage, and reclaimed water. The end result should be complementary strategies for water supply and water resource management that guide decisions at both the State and local levels, including any legislative actions that would add support to the strategies and their objectives.

King County will provide notice to the Tribes of the planning process as required under King County Code 13.02.020, and will provide opportunities for interested tribes to review documents and participate in planning processes.

King County and Cascade also recognize that there are multiple, complementary planning processes that are needed to achieve these objectives. The following three components are expected to be the foundation of this water resource and supply planning program:

*i.) Coordinated Water System Plan*

There are four existing plans covering the discrete geographic areas within King County that were developed under the Coordination Act. These plans have not been updated within the past five years, and collectively they do not encompass the entire geographic area of King County. These plans should be updated to address outstanding issues, including potential regional sources of supply, requirements added to state law since the original plans were developed, and clarification of processes and responsibilities to address small and failing water systems (such as satellite management), among other issues. Cascade and King County will each support and participate in a process to produce updated CWSPs, or a single integrated CWSP, addressing all of the land area within King County. King County intends to initiate a CWSP update process by March 31, 2005, pursuant to the procedures in state law and Department of Health rules, and to complete a plan by December 31, 2007. Detailed elements for this planning process are described in Section IV B.

*ii.) Salmon Recovery Plans*

Cascade and King County each recognize the value of planning for salmon recovery in Water Resource Inventory Areas (WRIAs) 7, 8, 9, and 10 (Snohomish Basin; Cedar/Sammamish Basin; Green/Duwamish Basin; and White/Puyallup Basin). King County and the Cascade Members that are general purpose local governments are participating in the development of salmon recovery plans in those areas. Those plans are expected to describe the objectives for salmonid populations and strategies for addressing factors that have been identified as significant limitations on achieving those objectives. King County anticipates completion of these plans by December 2005 with final approval in 2006. Cascade, along with King County, will participate in defining and evaluating the elements of these plans related to water supply. King County and Cascade

recognize that identifying and securing funding resources from a range of sources will be necessary to implement salmon recovery plans.

*iii.) Central Puget Sound Regional Water Supply Plan*

Cascade and King County each recognize that certain water supply systems in King County also cross into Pierce and Snohomish Counties. Therefore the Parties support initiation of a process to produce a Central Puget Sound Regional Water Supply Plan (CPS Plan) addressing regional water supply needs and sources. Such a plan should be led and prepared by an appropriate organization at the three-County level, such as the Central Puget Sound Water Suppliers' Forum. It would build on existing documents, such as the 2001 Central Puget Sound Regional Water Supply "Outlook" report, and on any available updates to that document. The CPS Plan should address potential surface and ground water supplies, demand management, storage, and reclaimed water at the regional (three-county) scale. It could incorporate the role of new entities (e.g., the Partnership for Water Conservation), and address emerging issues (e.g., global warming and water resource impacts). The CPS Plan should inform local and State decision-makers on regional water supply issues and provide guidance in developing long-term water supply solutions. The Parties support initiation of this process with a target date for completion of a CPS Plan by 2008. The actual schedule will be determined by the participants.

In the event the milestones and dates listed above cannot be achieved, the Parties will work together to achieve completion as soon as practicable after these dates.

**B. Coordinated Water System Plan and SEPA**

King County intends to initiate County water supply plan development, using the CWSP process and the existing CWSPs as a starting point. Cascade will participate in this process, together with other water utilities in the affected area(s) that choose to participate. The process will require addressing a number of procedural and substantive issues, as well as new issues generated by changes in state law or by new circumstances. Cascade and King County expect that existing documents—such as the "Outlook," the 2002 "Consolidated Report on Water Supply in King County," and individual water system plans—will provide substantial information for updating the preliminary assessment initially used for development of the existing CWSPs. Initiating the County water supply planning process under this statute also provides the advantage of identifying well-defined roles for utilities, the County and Health.

King County anticipates that the CWSP process will produce a plan that includes:

- A long-term demand forecast that corresponds to population and economic forecasts developed under the GMA;
- Identification of sources of supply and the regional facilities, structures, and mechanisms necessary to meet forecasted demands;

- The potential impacts on sources of supply due to global warming or drought;
- Any revisions necessary to water utility service area boundaries;
- Long-term water system capacity, particularly for small systems, to meet federal, state, and local requirements, and strategies to address potentially failing systems;
- Use of satellite management for small systems and rural water supply delivery;
- Strategies to increase the use of reclaimed water and other alternative sources of supply;
- Comprehensive approaches and strategies for water conservation; and
- Issues under the Municipal Water Law (MWL) for which comprehensive strategies may be appropriate.

State law requires that an analysis be done within the CWSP development process for compliance with the State Environmental Policy Act (SEPA). The nature and scope of the analysis will be determined at the appropriate time in the planning process.

### C. Cascade Transmission and Supply Plan

As a public water system, Cascade is subject to the relevant planning requirements of Health and of King County. Cascade is currently preparing a Transmission and Supply Plan (TSP) to meet the requirements of Chapter 246-290-100 Washington Administrative Code (WAC). As a wholesale water supplier for its Members, Cascade does not have direct service (retail) customers. The TSP will focus on the services Cascade provides its Members and defer to individual Member plans for other required planning elements. Cascade anticipates submitting this TSP for review and approval in early 2005 to Health and to King County. Cascade and King County recognize and intend that:

- (1) King County and Cascade have discussed the TSP in advance of Cascade's preparation of the TSP. These discussions have included the scope, elements, and timing of the TSP. In addition, King County and Cascade held joint meetings with Health and Ecology to discuss these matters. The purpose of these discussions has been to develop as much clarity as possible with regard to the relevant planning requirements for Cascade and its authorized activities under the Interlocal. These discussions, the resulting outline of the TSP shared between the Parties, and this MOU reflect the general expectations for the TSP. Cascade will utilize the input provided by King County in preparing the TSP. King County will make its best efforts to expedite its review of the draft TSP document with the intent of meeting the schedule milestones outlined below.
- (2) Cascade and King County recognize that the ultimate approval of substance and timing for both the TSP and CWSP is the responsibility of Health.
- (3) Criteria for review of the TSP by King County will be based on current law. This will include the MWL and applicable regulations and guidelines

developed by Health that are applicable at the time of the TSP is submitted to King County and Health for approval;

- (4) King County will review the TSP based upon criteria and procedures for all water system plans that are described in King County rules, the King County Comprehensive Plan (recently updated), the King County Code, and King County's legal authorities. To the extent these criteria have been or will be updated in response to passage of the MWL, or revisions to the King County Comprehensive Plan, King County will provide Cascade and its individual Members with specific explanations and interpretations as necessary of updated or revised criteria, consistent with its practice to provide such explanations to any utility requesting them as part of King County's plan review process. Cascade will notify the County 45 days prior to its anticipated submittal date for the TSP. Within 14 days of such notification, the County shall provide Cascade with any changes to the current review/approval criteria or procedures that have occurred or been developed since January 1, 2005...
- (5) Consistent with the MWL, Cascade will meet the requirements of Health, as they currently exist or are revised or updated by Health, with regard to water conservation;
- (6) Cascade anticipates purchasing water in the near future from Tacoma Public Utilities (TPU). Cascade plans to initiate design and construction of a pipeline to convey water from TPU's Second Supply Project in 2005.
- (7) The TSP will:
  - a. Identify Lake Tapps as one alternative for meeting long-term water supply needs of Cascade beyond the 20-year planning horizon. However, a range of additional alternatives will also be identified and discussed to meet the near term demands;
  - b. Include a discussion of how Cascade and its Members plan to use reclaimed water as a resource to meet long-term water supply needs, as well as recognizing limitations on availability or feasibility of using reclaimed water. King County will assist Cascade by providing information on its own sources of reclaimed water and potential uses of reclaimed water; and
  - c. Discuss in general terms how Cascade can contribute to improving stream flow as part of salmon recovery planning, and specifically for the benefit of species of fish listed under the ESA within its Members' service areas.
- (8) Cascade will work with its individual Members to include or reference the elements listed under Item (7) above, and system-specific strategies for addressing them in each Members' water system plan. In addition, the provisions of updated and adopted CWSPs will be incorporated as Member

15643

Plans and Cascade's TSP are updated. Cascade, its Members, and King County may agree that detailed descriptions of selected items to be included in the Cascade TSP may be deferred in individual water system plans. In this event, as a condition of approval of a Member's water system plan, the individual Members and Cascade will agree to incorporate detailed descriptions of such items into updates that will be completed before the six-year update.

- (9) Cascade will work with its Members and Health to coordinate development of complementary elements of Members' water system plans and Cascade's TSP, prior to the next update to the Cascade TSP. This may include, for example, demand forecasts and capital facilities that are integral to meeting Cascade's supply obligations to each Cascade Member.
- (10) Cascade and King County recognize that Health and Ecology have independent RCW authorities related to water supply planning and that the foregoing understandings may be modified or superseded by directions, orders, or positions of those two state agencies.

#### **V. Process for Moving Forward and Inclusion of Interested Parties**

Cascade and King County are entering into this MOU with good-faith intent to complete identified planning on the schedule outlined. Cascade and King County will seek to include interested parties in these processes to ensure that the process is open and inclusive...

Cascade and King County will establish a Steering Committee of senior management staff of the two parties to develop an effective process for furthering the objectives of this MOU. The Steering Committee will formally convene no later than February 15, 2005 and will establish a schedule, funding mechanism and outreach process to carry out the objectives listed above. Both Cascade and King County will prepare materials for the initial and subsequent meetings of the Steering Committee

#### **VI. Process for Amending this Memorandum of Understanding**

The two Parties may jointly agree to amend this MOU. Nothing in this agreement is intended to limit the ability of either Party to pursue its interests in any litigation or administrative proceeding. In the event that planning requirements or water resource management responsibilities of either Party are significantly altered by a court decision, new State legislation, or other legal processes, the Parties agree to modify this MOU to reflect such changes as they apply to both Parties.

#### **VII. Enforceability**

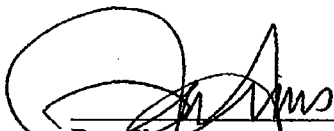
This MOU is not legally binding on either Party, but is intended to (1) identify each Party's interests in the water resources and supply planning processes, (2) memorialize



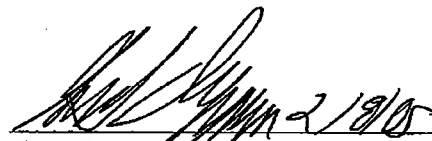
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the Parties' general understandings as to how that process should and will be carried out in a good-faith manner, and (3) establish a tentative schedule for implementing the planning process.

Nothing in this MOU is intended to bind either Party to supporting or endorsing the final outcome of individual planning programs described in the MOU nor to supplant, revise, or derogate from the lawful authority of the King County Council, the Cascade Board of Directors, the legislative bodies of Cascade Members, or of the departments or agencies of the government of the State of Washington.

  
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Ron Sims  
King County Executive

2-8-2005  
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Date

  
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Grant Degginger  
Chair, Board of Directors  
Cascade Water Alliance

2/8/05  
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Date