



Legislation Text

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AN ORDINANCE approving the Cascade Water Alliance Transmission and Supply Plan as a comprehensive water plan, subject to specified conditions.

STATEMENT OF FACTS:

1. King County has adopted K.C.C. chapter 13.24 which requires approval of comprehensive plans for water and sewer utilities that distribute or obtain water, or provide sewer collection or treatment, in unincorporated King County as a prerequisite for operating in unincorporated King County, receiving approval for annexation proposals, being granted right-of-way franchises, and being given approval for right-of-way construction permits. K.C.C. 13.24.060 prescribes the requirements for approval of such plans, including consistency with state and local planning requirements.
2. RCW 43.20.260 requires that water system plans for any new industrial, commercial, or residential use are to be consistent with the requirements of any comprehensive plans or development regulations adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town or county for the service area. King County has adopted a Comprehensive Plan that includes Water Supply policies in its provisions for Facilities and Services (Policies F-225 through F-244) that, inter alia, call for consistency with other adopted plans, support for regional water supply planning, pursuit of reclaimed water and water conservation, and protection of water resources.
3. The Cascade Water Alliance ("Cascade") is an intergovernmental organization formed through an interlocal agreement ("ILA") under the authority of the Interlocal Cooperation Act,

chapter 39.34 RCW, by five general purpose local governments (the cities of Bellevue, Issaquah, Kirkland, Redmond and Tukwila) and three special purpose districts (Covington Water District, Sammamish Plateau Water and Sewer District and Skyway Water and Sewer District) in King County. Cascade was formed in 1999, and is incorporated as a public, nonprofit corporation.

4. King County supports Cascade's Transmission and Supply Plan ("TSP") as one of the key steps protecting the economy and quality of life of our region. Cascade's TSP carries out a number of important water resource policies in the countywide planning policies and King County's Comprehensive Plan. Cascade and King County share a longstanding commitment to assuring adequate long term regional water supplies necessary for meeting the demands of growth while protecting our natural resources. Toward that end, both Cascade and King County support the implementation of regional water supply planning, and the best management of our water resources through such means as water supply sharing, water conservation and the wise use of reclaimed water. Cascade has been and continues to be a leader in advancing these shared objectives. Cascade partnered with King County as the coconveners of the current regional water supply planning process that is and will be addressing many long-term water resource, supply and planning issues. In its TSP, Cascade describes measures to implement both conservation and reclaimed water strategies as part of an overall plan to assure water supplies for the next twenty years for the current three hundred thousand people that Cascade's members serve, as well as for the next twenty years of population growth, while longer-term regional supplies are planned for and developed. Cascade's regional leadership on water issues, and the planning contained in its TSP, are consistent with and implement the water resource and water supply objectives of the region as expressed in countywide planning policies adopted by all local governments in King County (see, for example, policies CO-5, CO-6, CO-7 and FW-12(c)), and those adopted by King County in its Comprehensive Plan (see, for example, policies F-233, F-235, F-236 and F-239).

5. Cascade supplies water to the combined service areas of its members, exclusive of the

Covington Water District. Some of its members' service areas are within unincorporated King County. A number of Cascade members have service areas that are included in critical water supply service areas, and such members operate under comprehensive water system plans ("CWSPs") in areas that are part of coordinated water system plans that have been established under the authority of chapter 70.116 RCW, the Public Water System Coordination Act of 1977 ("Water Coordination Act"). Cascade members have service areas that are in three of the four King County-approved coordinated water system plan service areas. The plans relevant to the Cascade members are plans for East King County (adopted in 1990, and updated and amended in 1994 and 1998), South King County (adopted in 1990, and not updated or amended); and Skyway (adopted in 1990, and updated and amended in 2000). These plans, and their updates, have been approved by ordinance by King County and have been incorporated into the King County Code in K.C.C. chapter 13.28. Washington state Department of Health ("DOH") rules (WAC 246-293-280) require that the plans be reviewed and updated as necessary every five years. Under a February 2005 memorandum of understanding ("MOU"), Cascade and King County agreed that these plans should be updated.

6. Cascade is a regional water supplier to each of its members that combined serve a population in excess of three hundred thousand with service areas that include some of the fastest growing residential areas in King County. Under the ILA, Cascade is obligated to meet all current and future supply needs of its members, after accounting for the supplies of each individual member. Cascade currently has contracts with Seattle Public Utilities and Tacoma Public Utilities ("TPU") to provide both term-limited and permanent sources of supply to Cascade and its members. Cascade is also pursuing a long-term permanent source of supply for its members and forecasts Lake Tapps as a potential source of the water supply. Under the ILA, Cascade is obligated to plan for its members water supply needs, such planning to be compatible with the

requirements of the Growth Management Act ("GMA"). The members of Cascade are obligated to actively participate in the planning process, and each member's plan is required to be consistent with any plan adopted by Cascade and consistent with applicable requirements of the GMA and comprehensive plans.

7. As a wholesale water supplier, Cascade does not own or operate facilities for delivering water directly to retail customers. The only facility it currently owns is the recently completed intertie between Bellevue and Issaquah, which is operated by Issaquah. However, it anticipates major capital investments of between four hundred two million dollars and four hundred eighty-one million dollars over the next twenty years to deliver water from the TPU Second Supply pipeline to Cascade members by 2008 and the Lake Tapps water Supply project to Cascade members by 2024. The range has to do with different potential alignments and routes, and different sizes and combinations of pipes, all of which are currently under evaluation. For the initial six years covered by the TSP, Cascade anticipates capital expenditures of between one hundred ninety-six million six hundred thousand dollars and two hundred forty-one million dollars, depending on decisions made relative to alternative pipeline routes and sizes.

8. The Cascade Transmission and Supply Plan is a comprehensive water plan, as defined in K.C.C. chapter 13.24, which identifies Cascade as a regional supplier of water to its eight members, which are independent public water systems. The TSP covers a six-year planning period, 2004-2009, and a twenty-year period, 2004-2023, as required by the regulations of DOH.

9. The February 2005 MOU outlined both parties' intent to participate in a planning process to address King County's longstanding policy in support of developing a statutorily recognized countywide water supply plan (as per King County Comprehensive Plan policies F-233 through F-235), and Cascade's obligation to comply with the water system planning requirements of its ILA and those requirements of King County and DOH. In accordance with the terms of the

MOU, and in consultation with DOH and King County, Cascade developed a draft transmission and supply plan intended to meet those requirements, and submitted it to King County for review and approval, pursuant to the terms of the MOU. King County agreed to 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, the King County Code and King County's legal authorities. King County and Cascade also initiated a regional water supply planning process for King County, and potentially a broader tricounty area, that is currently managed by a multistakeholder "coordinating committee" that includes, inter alia, King County, Cascade, Seattle Public Utilities, the city of Auburn, the Washington Environmental Council, three state agencies and other interested local governments, utilities and parties. That planning process is intended to address priority issues for King County, Cascade and other participants, including the use of reclaimed water as a source of supply, updating regional water demand forecasts, develop water supply alternatives, impacts from climate change and assuring adequate instream flows for fish. That process has an objective of completion by December 2007, but will not alone meet the standard of being statutorily based. However, it is intended that the products of this process at least in part be reflected in a statutorily recognized comprehensive water system plan.

10. A determination of non-significance for the Cascade TSP was issued by Cascade on March 30, 2005, in accordance with the state Environmental Policy Act.

11. The King County utilities technical review committee ("UTRC") reviewed the TSP at its June 8, 2005, meeting, and conditionally approved it, subject to satisfactory responses to issues and questions raised by the UTRC that generally concerned population and demand forecasts; predicted levels of water conservation; specific opportunities of Cascade members for use of reclaimed water; and the relationship between Cascade and its members with regard to meeting

regulatory requirements and assuring adequate supplies. The UTRC conditionally approved the TSP, subject to changes made to address the issues and concerns identified by the UTRC.

12. On September 28, 2005, the Cascade board of directors adopted a final TSP after making changes to respond to the UTRC and DOH comments. In February 2006, Cascade provided King County with a formal letter that satisfactorily clarified and explained the changes made in the final TSP in response to the UTRC issues and concerns, and addressed the conditions of approval identified by the UTRC.

13. In acting upon the TSP, the UTRC certified that the TSP, once changes were made to address UTRC issues and concerns, met and was consistent with the following key requirements for comprehensive water system plans: (a) the infrastructure and proposed water service to the service areas of the Cascade members were consistent with adopted land use plans and development regulations for King County (K.C.C. 13.24.010; King County Comprehensive Plan Policy F-240); (b) the Cascade members had the ability and intention to meet their duty to serve within their entire utility area (K.C.C. 13.24.010); (c) the provisions of the TSP met the regulatory and planning requirements of DOH (K.C.C. 13.24.010); (d) identifying opportunities for reclaimed water by the Cascade members, and a strategy for pursuing them (K.C.C. 13.24.010); (e) addressing other relevant planning processes, including salmon recovery, groundwater management, and Endangered Species Act compliance (K.C.C. 13.24.060); King County Comprehensive Plan Policy F-240]; (f) commitment to engage in regional water supply planning (King County Comprehensive Plan Policies F-233 through F-235); (g) using utility system interties for effective water management (King County Comprehensive Plan Policy F-236]; and (h) including a Cascade-wide strategy for a strong water conservation program, built on a conservation potential assessment (King County Comprehensive Plan Policy F-239). The King County Code, K.C.C. 13.24.060, also requires individual plans be consistent with the

Water Coordination Act. In the February 2005 MOU with King County, Cascade acknowledged that the existing CWSP's were outdated, and stated its support for initiation of planning under the Water Coordination Act, and its support and willingness to participate in a process for updating the Coordinated Water System Plans, in order to facilitate approval of its TSP.

Initiation of planning under the Water Coordination Act, and the completion of a new plan or updated plans within two years of initiation will meet this objective.

14. On October 31, 2005, the scoping committee for the regional water planning process adopted a "Planning Framework" ("framework") for the scope and structure of the regional planning efforts. The framework included a recognition that the King County council would initiate a process for updating CWSP or CWSPs that would begin no sooner than twelve months after the Framework was adopted, which is October 2006. The framework also recognized that Cascade and King County intended to develop or update relevant CWSP or CWSPs for Cascade that would be limited to key elements of Cascade's proposed system and the incorporation of reclaimed water. The framework also stated that other utilities would be encouraged but not compelled to participate in the limited CWSP process that Cascade and King County intended to pursue. In subsequent meetings among DOH, Cascade and King County, DOH agreed that Cascade and King County could initiate and pursue planning under the Water Coordination Act by either amending the boundaries of existing coordinated water system plans in which Cascade members provide service, or by creating a new critical water supply service area for Cascade that would include all member service areas. DOH confirmed this interpretation by letter in July 2006.

15. On December 14, 2005, DOH sent a letter to Cascade, informing it of comments and conditions that must be addressed by Cascade prior to DOH approval of the TSP. One of those conditions was receipt of a copy of a King County ordinance approving the TSP in accordance

with the provisions of the MOU.

16. Cascade, as a preliminary step in its efforts to obtain a long term source of water supply, has entered into a memorandum of understanding with Puget Sound Energy ("PSE") to acquire PSE's facilities and water rights associated with PSE's facilities and properties on Lake Tapps. Although mentioned as a potential future water supply source for Cascade, the Lake Tapps water supply project is not identified as delivering water within the twenty year planning horizon required by state law. Before Lake Tapps becomes a source of water supply for Cascade and its individual members, Cascade must meet planning and permitting requirements, including, but not limited to: (a) Cascade must acquire PSE's Lake Tapps facilities and properties including all water rights associated therewith; (b) the Washington state Department of Ecology must issue new water rights for use of Lake Tapps as a municipal water supply source, and Cascade must meet any conditions applicable to the issuance of such rights; (c) Cascade must include the Lake Tapps water supply project within an updated comprehensive water system plan; and (d) the state Department of Health must approve Lake Tapps as a drinking water source.

17. The King County executive has recommended approval of the TSP as a comprehensive water system plan subject to specified conditions. These include that Cascade continue participation in and support of regional water resource and supply planning efforts, and initiation of planning under the Water Coordination Act, as referenced by the February 2005 MOU with King County Cascade should participate with King County and other interested parties in planning efforts under the Water Coordination Act to either revise existing critical water system plans in which Cascade members have service areas or to create a new critical water supply service area and critical water system plan for Cascade and its members that would include all members and all member water service areas, and such planning processes should be completed within two years of initiation of the process by the county. Cascade has recently expressed

support for such a process, as shown in Attachment B to this ordinance.

18. The executive has also recommended that approval of the TSP as a comprehensive water plan does not include Lake Tapps as a source of drinking water supply for Cascade or its individual members within the twenty-year planning horizon of the TSP. In the event that Lake Tapps is identified as a source of drinking water supply for Cascade or its individual members within a twenty-year planning horizon, Cascade shall amend the TSP and, as necessary, any critical water supply plans covering areas that are to be serviced by Lake Tapps as a source of drinking water supply.

19. The executive has further recommended that any King County franchises or right of way permits that may be authorized or issued subsequent to the approval of the TSP should be limited to the use of county rights-of-way and real property interests necessary to construct, maintain, and operate facilities that will deliver water to Cascade members or customers from supply sources identified within the twenty-year planning horizon of the TSP.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. The Cascade Water Alliance Transmission and Supply Plan, Attachment A to this ordinance, is hereby approved as a comprehensive water plan, subject to the following conditions:

A. Cascade shall continue its participation and support of regional water resource and supply planning as referenced by the February 2005 MOU with King County;

B. Cascade shall participate with King County in planning efforts under the Water Coordination Act by completing within a two year period from the initiation of the planning process by the county either:

1. Revisions to existing critical water supply plans in which Cascade members have service areas; or
2. A new critical water supply service area and plan for Cascade and its members that shall include all

members and cover all member service areas.

C. In accordance with the applicable provisions of the King County Code and state law, the

comprehensive water system plans of the individual members of Cascade shall be brought in a timely manner into consistency with the terms of the TSP, as amended, including the provisions regarding reclaimed water and water conservation.

D. This approval of the TSP as a comprehensive water plan shall does not include Lake Tapps, as a source of drinking water supply for Cascade or its individual members within the twenty-year planning horizon of the TSP. At such time within the applicable either six-year or twenty-year planning horizon that Lake Tapps, becomes an identified source of drinking water supply for Cascade, Cascade shall submit a revised comprehensive water plan identifying and reflecting such source; and such plan shall meet and be consistent with the requirements of DOH and if applicable, the King County Code and the Water Coordination Act and implementing regulations for amending or establishing plans under the Water Coordination Act.

E. All individual members of Cascade that are identified in the revised comprehensive water plan referred to in subsection D. of this section as having a new source of drinking water supply shall incorporate such new source into their water supply plans when and as required by law, including any applicable provisions of the King County Code.

F. All revised plans referred to in subsections D. and E. of this section shall fully comply with all requirements of the state Environmental Policy Act, chapter 43.21C RCW, and implementing regulations.

G. Any King County franchises or right of way permits that may be authorized or issued subsequent to this approval of the TSP shall be limited to the use of county rights-of-way and real property interests necessary to construct, maintain, and operate facilities

that will deliver water to Cascade members or customers from supply sources identified within the twenty-year planning horizon of the TSP.