



ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

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MEMORANDUM

To: Island County Water Resources Advisory Committee
From: Tony Mills Long Range Planner, Island County
Date: November 1, 2018
Subject: 2018 CWSP Review – Timely and Reasonable

Background

This memo is meant to address questions and provide recommendations stemming from ongoing meetings of the Water Resources Advisory Committee about the issue of Timely and Reasonable service in the context of the purveyor/ applicant relationship as outlined in the Island County Coordinated Water System Plan.

Regulatory Context:

Washington State

The requirements for a purveyor to provide timely service to an applicant are outlined in the **Public Water System Coordination Act of 1977 (RCW 70.116)**.

RCW **70.116.060** *Approval of coordinated water system plan-Limitations following approval-Dispute resolution mechanism-Update or revision of plan* is the section of the Coordinated Water System Plan that outlines requirements associated with “*timely*”.

RCW 70.116.060(3)(b)

*“...An existing purveyor is unable to provide the service in a **timely manner** if the water cannot be provided to an applicant for water within **one hundred twenty days** unless specified otherwise by the local legislative authority...”*

Public Water System Coordination Act does not define the term reasonable.

Island County

Section VI of the Island County Coordinated Water System Plan, Regional Supplement outlines requirements for **County Wide Water Supply Policies**. Under section 1(Service Areas and Service Review) subsection F(Utility Service Review Procedure) requirements for timely and reasonable are outlined.

Section VI.1.F(4) Requirement for Timely and Reasonable Service

“The requirement to provide service in a timely and reasonable manner implies that the purveyor has established fees and charges which can be shown to be consistent with the cost of the service with the costs of service to be provided to the applicant, that other terms required by the purveyor are consistent with normal and prudent practices of the water supply industry, that all applicable provisions of state law and the County code are met, and that the purveyor shall agree upon a schedule for construction based on meeting service responsibilities at the earliest practical time, subject to circumstances within its control. If delay is encountered because of unforeseen circumstances, the purveyor must promptly notify the applicant of the reasons.”

Washington State Department of Health Guidelines:

Timely and Reasonable Service (DOH 331-444, Published January 2017)

Timely Service:

The Coordination Act defines “timely” as 120 days. It doesn’t specify when the 120-day period begins and ends. Individual CWSPs can specify actions for completion in this timeframe. If they don’t, water systems should incorporate the 120-day timeframe into their procedures and include them in their service area policies and conditions of service. We suggest beginning the 120-day “timely” clock on the date the applicant and water system complete a formal agreement (unless otherwise specified).

Reasonable Service:

Although the Coordination Act doesn’t define “reasonable,” we suggest new water service is reasonable if conditions of service and associated costs are:

- *Consistent with local land-use plans and development regulations.*
- *Consistent with those documented in the system’s approved water system plan.*
- *Consistent with the system’s acknowledged standard practice experienced by other applicants requesting similar water services.*

Island County Water System Statistics

| Island County Water Systems | | | |
|------------------------------------|----------------|---------------|--------------|
| Water System Type | Whidbey | Camano | Total |
| Group A | 205 | 80 | 285 |
| Group B | 473 | 118 | 591 |
| Two Party | 328 | 142 | 470 |
| Totals | 1006 | 340 | 1346 |

Coordinated Water System Plan: Timely and Reasonable Recommendations

| Timely | Issue(s) | WRAC Recommendation(s) | Staff Comments | Potential Impacts |
|-------------------|--|--|--|---|
| | <p>IC CWSP language associated with timeliness is compliant with RCW 70.116.</p> <p>IC CWSP does not currently include language that references a 120 day timeline that is outlined in the Public Water System Coordination Act.</p> <p>IC CWSP language is ambiguous. It does not provide explicit guidance for the topic of timely service.</p> | <p>Update language to include or reference a 120 day time frame associated with timeliness in the context of purveyors providing service.</p> <p>Include specific criteria associated with a 120 day period.</p> <p>Formalize the process to address timeliness in the purveyor/ applicant relationship to meet the recommendations outlined in DOH publication 331-444.</p> | <p>RCW 70.116 gives local authorities the discretion to follow a 120 day timeframe or to specify their own criteria for timeliness.</p> <p>Changing the IC CWSP definition of timeliness is optional.</p> <p>The majority of jurisdictions within the region have adopted a 120 day time frame associated with their definitions of timeliness.</p> <p>In some jurisdictions, the 120 day time frame has been modified or adapted to the specific needs of the community. See Kitsap County example</p> | <p>Providing a more specific timeframe will give guidance to water system providers and applicants as well as a strict time table for compliance where there currently is none.</p> <p>Applying more specific standards in reference to timely service will likely result in more disputes between applicants and water system purveyors.</p> <p>Compelling purveyor's to comply with a timeframe may reduce the demand for private wells.</p> |
| Reasonable | Issue(s) | WRAC Recommendation(s) | Staff Comments | Potential Impacts |
| | <p>IC CWSP language associated with the term reasonable is compliant with RCW 70.116.</p> <p>IC CWSP does not clearly define reasonable in the context of providing water service.</p> <p>IC CWSP language is ambiguous. It does not provide explicit guidance on this issue.</p> | <p>Update language using a more specific definition of reasonable.</p> <p>Create criteria or guidelines to communicate the intent of "reasonable" in the context of the CWSP.</p> <p>Meeting 9-6-18 WRAC requested staff to provide additional guidance based on other jurisdictions.</p> | <p>Creating specific criteria for the term reasonable would be complicated and time consuming. Set criteria for the term reasonable would potentially require said criteria to address each potential variable associated with a variety of scenarios.</p> <p>RCW 70.116 does not outline specific criteria for the term reasonable in the context of the purveyor applicant relationship.</p> <p>The Washington State Department of Health has published a document that gives guidance on the issue of how to define reasonable.</p> <p>Most jurisdictions have a general, relatively ambiguous description of the term reasonable.</p> | <p>Creating a specific definition or list of criteria for the term reasonable would give clear guidelines and expectations to the purveyor and applicant.</p> <p>Water service providers will be potentially be held to any specific criteria associated with the term reasonable.</p> <p>Lack of specific criteria in relation to the definition of reasonable in other jurisdictions may be directly related to an attempt to avoid potential disputes.</p> |