



Connected Community
Enhanced Livability
Environmental Sustainability

September 30, 2023

Austin Melcher
Washington State Department of Ecology
Water Resources Program
P.O. Box 47600
Olympia, WA 98504-7600

Re: Comments on Proposed Revisions to Municipal Water Policy 2030

To Whom It May Concern:

The City of Redmond ("Redmond") appreciates the opportunity to provide comments on Ecology's draft Municipal Water Law Policy 2030 (POL-2030).

Though draft POL-2030 Ecology attempts to clarify and streamline the 2012 version of POL-2030, Redmond has concerns about unintended consequences from streamlining certain sections of the existing POL-2030 and eroding flexibility of municipal water rights. Three examples of this include:

- **Section 2: Municipal Water Supply Purposes, Subsection For Governmental and Governmental Proprietary Purposes (page 4).** When considering whether a water right qualifies for a governmental purpose, Ecology should add language that makes it clear that the water right could be changed to a municipal water supply purposes under Chapter 90.03 RCW and Chapter 90.44 RCW. While Ecology elaborates on municipal water right changes in Section 9 of draft POL-2030, Ecology overcomplicates the simple idea that "If a municipal water supplier holds or acquires a water right not for municipal water supply purposes, the purpose of use may be changed to municipal water supply purposes under RCW 90.03.380." See, Page 2 of the existing POL-2030.
- **Section 4: Relinquishment Protection for Municipal Water Right Certificates (page 8).** The addition of language that the water right must be put to beneficial use "once every five years" appears to place an unwarranted restriction on the flexibility of municipal water rights (specifically those portions of water rights intended for future growth). That flexibility was expressly noted by the Court in *-Crown West Realty, LLC v. Pollution Control Hearings Bd.*, 7 Wn. App. 2d 710 (2019): "Since 1967, the Washington statutory scheme has treated a water right claimed for municipal water supply purposes as immune from statutory relinquishment..."

Likewise, the addition of the word "properly" in Section 4(b) implies a new requirement that listing or identifying water rights in a water system planning document is necessary to prove beneficial use; or, that there is a certain manner in which water rights must be reflected in a Department of Health approved water system plan to meet unrelated Department of Ecology good standing requirements. The word "properly" should be struck from Section 4(b).

- **Section 7: Consolidation of Connected Municipal Water Suppliers (page 10).** While Redmond does not anticipate a merger with another municipal water supplier, we are concerned with the language Ecology uses in the policy regarding extent and validity determinations for consolidations; specifically, the idea that Ecology evaluates “whether there has been reasonable diligence to grow into any inchoate quantities associated with the municipal water right certificates” when reviewing water right changes for consolidation. Ecology should remove this evaluation criteria as it provides Ecology additional subjective criteria to base potential relinquishment or abandonment determinations upon. Whether a municipality is growing into inchoate quantities of a water right is a planning determination and outside the purview of Ecology.


At this time, Redmond’s priority is to flag for Ecology our overarching concerns about the erosion of flexibility for municipalities within the draft POL-2030. There are also other areas where wording could be clarified. As just a couple of examples:

- In Section 4 after each element, add the word “or” to clarify that these are alternative ways to qualify for the municipal water supply relinquishment exemption.
- In Section 4(b) re-insert existing POL-2030 language, “If the water right holder is a public water system participating in the water system planning process” to be clear the provision does not apply to other entities.

We appreciate comments submitted to Ecology by Washington Association of Sewer and Water Districts (September 27, 2023) and Washington Water Utilities Council (September 26, 2023). We hope there will be additional opportunity for public input as you refine the policy language.

Thank you again for the opportunity to provide comments on POL-2030.

Sincerely,

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Amanda Balzer
Science and Data Analytics Manager
City of Redmond