



COMMISSIONERS
J.K. KORSMO, JR.
G.J. REDISKE
G.J. BARTON

GENERAL MANAGER
MARSHALL MEYER, PE, PMP

June 21, 2024

Dear Washington State Department of Ecology (Ecology):

Lakewood Water District (LWD) appreciates this opportunity to comment on Ecology's Second Public Review Draft POL-2030 Update -- Municipal Water Law Interpretative and Policy Statement (2nd Review Draft). LWD generally concurs with the June 14, 2024, comment letter submitted by the Washington Water Utilities Council (WWUC).

We are disappointed that Ecology failed to make any of the changes to the Draft Policy 2030 Update suggested by LWD and WWUC in order to better provide the certainty and flexibility for municipal water rights that was intended by the Legislature in its adoption of the Municipal Water Law of 2003 (MWL). LWD invested significant time and effort in identifying problems with the first public review draft and providing detailed comments and recommendations to Ecology. Ecology did not provide a response to LWD's or WWUC's comments and made only minor wordsmithing and housekeeping changes to the 2nd Review Draft. This leads us to conclude that Ecology has rejected a plain-meaning interpretation of the MWL and its underlying legislative purpose to provide administrative flexibility and certainty to municipal water rights for the service of drinking water supplies to the public in a changing environment.

Rather than repeating the points made in LWD's September 27, 2023 comment letter, we incorporate them into this response to the second review draft. We would like to emphasize, however, that LWD's wholesale and retail service areas are experiencing some of the worst problems in the state with groundwater contamination from PFAS due to our location adjacent to the Joint Base Lewis/McChord. New state and federal drinking water regulations are resulting in the need to drill new wells and acquire other municipal purpose water rights to protect the health of our retail and wholesale customers, and to continue providing for the security of our public water system and planned growth throughout Pierce County. This need for water is only increased by the recent changes requiring higher housing densities be allowed in our service area. LWD relies upon Ecology's management of water resources, including the interpretation and application of the MWL to LWD's extensive water right portfolio, to be consistent with state statutes and policy.

Instead of implementing the Legislature's intent, the 2nd Review Draft creates several impediments to the certainty and flexibility of municipal water rights, and generally creates an expansive interpretation of Ecology's administrative authority without statutory direction or case law confirmation. We can foresee more litigation and less certainty as a result, which endangers LWD's mission and increases the risk of delays and costs that will be borne by the citizens of Pierce County. It will also jeopardize the development of housing and other essential public services to this rapidly growing population.

At a minimum, LWD urges Ecology to acknowledge the need for certainty and flexibility in response to PFAS and other “forever chemicals” and to identify in the final policy examples of exceptions to change application requirements and abbreviated procedures relating to public health emergencies and water system consolidations resulting from failed water systems.

One again, we appreciate the opportunity to comment on the 2nd Review Draft and are willing to work with Ecology to implement our request in the final policy update.

Sincerely,

Lakewood Water District



Marshall Meyer
General Manager

Cc: Commissioners John S. Korsmo, Jr., Gary J. Barton, and Gregory J. Rediske
Senator T’wina Nobles, 28th District
Representative Mari Leavitt, 28th District
Representative Dan Bronoske, 28th District
Senator Steve Conway, 29th District
Representative Sharlett Mena, 29th District
Representative Melanie Morgan, 29th District
Beryl Fredrickson, PE, Washington Water Utility Council Chair