



Municipal Water Law Policy (POL-2030) Update

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Policy Update Process

- POL-2030 deals with how Ecology makes decisions about municipal water rights
- Last updated 2012
- Draft 1 public comment period summer/fall 2023
 - 200+ pages of comments
- Draft 2 public comment period April 22 – June 21
 - Trust policy (POL-1010) also out for public comment
 - Submit comments online
- Consider comments and finalize policy fall 2024



Pumps & Pipes Certificates

- Typically, water is “perfected” and water right certificates are based on actual beneficial use.
- Water rights relinquish (go back to the public) after five years of nonuse.
- Until 1990s Ecology issued water right certificates for municipal uses based on the capacity of the physical infrastructure (“**pumps and pipes certificates**”) before all the water was put to beneficial use.



MWL Background



Theodoratus v. Ecology creates uncertainty for pumps and pipes certificates and leads to the MWL (2003).



Protects pumps and pipes certificates from diminishment (except during changes, adjudications, or errors).



Allows flexibility for municipal water suppliers to serve new growth throughout their service areas.



Requires service connection metering and conservation standards to be met.



Two Supreme Court decisions upheld the MWL (*Lummi* and *Cornelius*).

Revised Outline

1: Definitions and
Background

2: Municipal
Water Suppliers
and Municipal
Water Supply
Purposes

3: Issuing
Certificates,
Conformance,
and Population/
Connection Limits

4: Relinquishment
Protection for
Municipal Water
Right Certificates

5: Changing
Municipal Water
Rights

6: Service Area
Expansions and
Water Rights'
Place of Use

7: Water System
Consolidation of
Connected
Municipal Water
Suppliers

8: Transfer/Sale
of Inchoate
Municipal Water
Rights to Another
Entity

9: Using
Municipal Water
Rights for
Mitigation

10: Coordination
with Department
of Health



Organizational, formatting, and language changes to improve understanding and clarity.



Original intent and updated service areas for Ecology tentative determinations.



Conforming non-consumptive hydropower uses.



Water rights serving Group B systems.

2nd Draft Highlights

Original Intent and Updated Service Areas

- Explicitly states Ecology looks at both original intent and updated service areas through water system planning when evaluating change applications.
 - RCW 90.03.386(2).
 - Compliance with terms of water system plan.



- Made previous statement in draft 1 specific to non-consumptive hydropower uses.
 - Conformance does not require tentative determination or impairment analysis.
 - Conforming potentially large quantities of non-consumptive use to consumptive use without an impairment analysis could impact existing and senior water rights.



Conforming Non- Consumptive Uses

Water Rights Serving Group B Systems

- Water rights serving Group B systems for residential use must meet the MWL provision specific to residential use to be municipal water rights.
 - RCW 90.03.015(4)(a) and 15+ connections.
 - Group B systems for residential use and are <14 connections.
 - Consolidation scenario where 15+ connections approved by DOH in planning/engineering document based on Q_i/Q_a of the right.



POL-2030 Next Steps

- 2nd draft POL-2030 is currently available for public comment through June 21.
- Continue dialogue and discussions.
- Finalize policy in fall 2024.
- Come talk to us about your municipal water rights!





Thank you

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Read and comment on the 2nd
Draft of POL-2030:

<https://apps.ecology.wa.gov/publications/SummaryPages/2411018.html>

