



Washington Water Utilities Council

Memorandum

Date: September 12, 2017

To: PNWS/AWWA Trustees

From: Joan Kersnar, Chair

RE: Washington Water Utilities Council – Fall 2017 Committee Report

Activities and Focus for 2017

The WWUC continues to monitor and participate on behalf of the water industry in relevant litigation, regulation, and legislation. The significant areas of focus over the past several months since our last report are specifically addressed below.

Legislative Activities

The WWUC serves as a state legislative monitoring, information, and coordination resource for its member utilities.

A number of water policy bills emerged during the 2017 session, including bills that would have addressed the *Hirst* and *Foster* State Supreme Court water rights decisions. As session advanced, discussions around a Hirst water rights fix started to get more and more contentious, and the Senate's Capital Budget Chair insisted that the Senate would not pass a \$4 billion capital budget unless the House first passed a *Hirst* water rights fix. As the legislature adjourned its third special session, no agreement emerged and no capital budget passed.

The lack of a capital budget has led to several issues for water utilities. Of greatest concern is that without a "new" appropriation associated with the transfer of the Drinking Water State Revolving Fund (DWSRF) loan administration from Commerce to Department of Health (DOH), DOH does not have the required state match to access federal funds. Until the capital budget is passed sometime next year, the loan program has been suspended and work has stopped on many projects. Additionally, the proposed capital budget bill would have provided \$97 million for a list of 25 projects, including several water utility projects, approved last fall by the state Public Works Board to receive low-interest loans from the Public Works Assistance Account (commonly called the Public Works Trust Fund). The bill also would have provided \$5 million for grants to help cover costs incurred by publicly owned municipal water utilities when they acquire and repair dilapidated Group A and B water systems.

The topics of fixes for *Hirst*, lead in public drinking water, use of greywater, conversion of irrigation water rights in the Spokane area, and fish passage barrier removal are likely to continue to show up in future legislative sessions.

Regulatory Activities

The WWUC routinely analyzes proposed Washington State agency guidance and policy documents, as well as rules and regulations, for their impact on WWUC members. We also regularly discuss proposals with agencies and provide informal and/or formal review and comment. In addition, the WWUC participates in or tracks stakeholder processes convened by state agencies to address pressing water issues. Below are some of the major activities underway:

- The WWUC is continuing to work with the Department of Health and Department of Ecology on water rights issues relating to small or failing water system consolidation.
- The WWUC submitted comments to the Department of Ecology on a preliminary draft update of the Reclaimed Water Rule to ensure coordination with water utilities, protect groundwater supplies from contamination, and address water rights impairment determinations. The agency has issued the proposed rule for public review and WWUC will likely provide additional comments to address these topics.
- The WWUC is also tracking updates to Department of Ecology's rule for Emergency Drought Relief, as well as Department of Health's rule on coordinated planning.

Judicial Activities

The WWUC monitors court cases and appeals involving water rights and other relevant legal issues. A considerable amount of both committee and meeting time is dedicated to this work. There are no significant Washington court decisions to report for this period.

WWUC is continuing to track appeals arising from or in the context of water right actions following a small system water system consolidation, which relates to the inter-agency effort described above. The WWUC continues to be concerned about how the Department of Ecology is implementing provisions of the 2003 Municipal Water Law and is monitoring agency steps and any appeals.

Membership and Financial Situation

Overall, we continue to have good attendance at meetings and active participation in decisions. The work of the WWUC is well appreciated and respected throughout the water community in Washington State and also by affected stakeholders. We anticipate staying active throughout the legislative session and engaging in litigation that pertains to our mission.