

MEMORANDUM OF UNDERSTANDING
On
Management of Lake Tapps for Public Water Supply and Recreation
Between the Cascade Water Alliance and Pierce County
August 2, 2005

This Memorandum of Understanding (MOU) between the Cascade Water Alliance, a Washington non-profit corporation, and Pierce County, a Washington municipal corporation, is dated this 2nd day of August, 2005.

Whereas, the Cascade Water Alliance (Cascade) is a nonprofit intergovernmental organization created by an Interlocal Contract (the Interlocal) effective April 1, 1999 (as amended and restated) to exercise certain essential governmental functions with respect to water supply on behalf of its Members as authorized by the Interlocal Cooperation Act Chapter 39.34 of the Revised Code of Washington (RCW); and

Whereas, Pierce County (the County) is a political subdivision of the State of Washington, organized as a home rule charter county under Article XI, Section 4 of the Washington State Constitution, and under the County Charter and a variety of State laws exercises governmental authorities over comprehensive planning, natural resource management and provision of public services within the County and the region; and

Whereas, the Lake Tapps Reservoir was created by Puget Sound Energy, Inc. (Puget) in 1911 for the purpose of producing electrical energy at its White River Hydroelectric Project (the White River Project); and

Whereas, the Lake Tapps Reservoir has become an important recreational, economic and environmental asset to Pierce County and the region;

Whereas, production of electric power requires a license from the Federal Energy Regulatory Commission (FERC) which was issued to Puget in 1997;

Whereas, the conditions of the 1997 license were found to be unacceptable to Puget and others involved in the process; and

Whereas, FERC agreed to a stay of the license conditions while Puget, the County and other interested parties, through the Lake Tapps Task Force, attempted to collaboratively find a solution to maintain economical power production and thus preserve Lake Tapps; and

Whereas, the Lake Tapps Task Force identified a number of options, the most significant being the development of Lake Tapps as a municipal water supply reservoir; and

Whereas, permit applications were filed by Puget with the State Department of Ecology (DOE) and Puget and Cascade have cooperated in seeking issuance of the permits; and

Whereas, in furtherance of its mission to providing water supply to its Members, Cascade is negotiating with Puget the acquisition of (or has acquired from Puget) the Lake Tapps Reservoir and associated permits and other assets with the intent to develop a public water supply project using the White River and Lake Tapps Reservoir as a source of supply; and

Whereas, in late 2004 Puget determined that conditions in a final FERC license would render the continued operation of the White River Project uneconomical and informed FERC that it was withdrawing its license application; and

Whereas, Puget ceased operation of the White River Project in January 2005; and

Whereas, the increased frequency of years when precipitation and snow pack are below average, as well as the significant projected population growth within the Central Puget Sound region over the next twenty five years indicates that the region needs additional sources of public water supply; and

Whereas, Cascade has an obligation to meet the long-term wholesale water supply needs of its Members and Cascade Members have the responsibility under the Growth Management Act for providing water supply services to the residents and businesses within their service areas; and

Whereas, the successful implementation of Cascade's public water supply project remains critical to the continued long-term viability of Lake Tapps as a recreational, economic and environmental asset; and

Whereas, development of Lake Tapps as a public water supply source, while maintaining its value as a recreational, economic and environmental asset will require cooperation between the County and Cascade with respect to managing land use, water quality, lake levels, recreational activities and safety;

Now therefore, the Cascade Water Alliance and Pierce County agree to the following Memorandum of Understanding (MOU) concerning the management of Lake Tapps as a public water supply project and a recreational facility:

Section 1. The County and Cascade will:

- A. Actively support and advocate for the successful issuance of water right permits and other approvals necessary to allow development of Lake Tapps as a public water supply reservoir;
- B. Pursue third-party funding (i.e. State and Federal sources) for development and operation of the public water supply project, operation and maintenance of the lake, required habitat enhancement, and other planning and management activities associated with Lake Tapps or the public water supply project;

- C. Coordinate with the U.S. Army Corps of Engineers activities related to replacement of the barrier dam and ongoing operations of fish passage facilities in conjunction with diversion to Lake Tapps; and
- D. Coordinate water quality monitoring and as appropriate share data collected.

Section 2. The County will, subject to available resources, work toward development and implementation of plans, policies, regulations and procedures as may be necessary to:

A. Protect and enhance water quality in Lake Tapps and the White River Basin and minimize discharges into Lake Tapps and from Lake Tapps back into the White River through regulation of storm water, on-site wastewater systems and other point and non-point sources.

B. Minimize or eliminate adverse affects of non-point discharges from future development, redevelopment, or maintenance of property in the basin by identifying and encouraging the implementation of best management practices that pertain to all land use activities and pursue policies and incentives to encourage and require the adoption of such practices.

C. Complete development and implementation of the Lake Tapps Boat Management Plan to address boating, recreational activities and law enforcement on Lake Tapps

D. Complete development and implementation of the White River/Lake Tapps Basin Plan, to maintain and enhance water quality.

E. Cooperate with Cascade in developing and implementing policies and procedures to accomplish the objectives of this MOU.

Section 3. Cascade will, using its authority with respect to public water supply, work toward development and implementation policies and procedures to:

A. Defend the water right permits against appeals.

B. Operate Lake Tapps as a public water supply reservoir in a manner consistent with the interests of the County, the Lake Tapps Community and members of the public that also use the reservoir for recreation.

C. Accept assignment of the 2004 Agreement Regarding Reservoir Management Between Puget and the Lake Tapps Community and develop and implement new agreements with the Lake Tapps Community concerning operation of the public water supply project, protection of water supply project property, maintaining and enhancing water quality, regulation of boating activities on the lake, providing recreational lake levels, and communications between interested parties.

D. Minimize non-point source discharge from or through property owned by Cascade.

E. Develop and implement best management practices that will result in the operation of the public water supply project and Lake Tapps in a manner that maintains and, if practicable, enhances water quality in the lake.

F. In cooperation with the County, the Lake Tapps Community, and other interested parties, develop a Lake Management Advisory Team, to address water quality, recreational lake levels, and boating and recreational safety on the Lake.

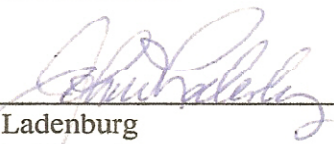
G. Cooperate with the County in developing and implementing policies and procedures to accomplish the objectives of this MOU.

Section 4. In the event that Cascade is unable to develop a public water supply project at Lake Tapps for any reason, the County and Cascade will work cooperatively to preserve the lake. Negotiations will be carried out with a view to transferring ownership of the lake to an appropriate entity for operation as a recreational lake for the benefit of the public, and to establish a method of compensating Cascade commensurate with the price it paid for Lake Tapps and other related properties and assets.

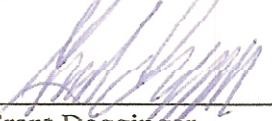
Section 5. This MOU expresses the intent of the parties with respect to the subjects mentioned herein, but is not a binding agreement between the County and Cascade. The parties enter into this MOU solely for the purpose of discovering and implementing, if feasible, the best practicable method of establishing a public water supply project at Lake Tapps, protecting Lake Tapps with respect to its water quality, environmental and recreational values, and maintaining the Lake for the benefit of residents of the County and others in the event a public water supply project is not developed by Cascade.

PIERCE COUNTY

CASCADE WATER ALLIANCE



John Ladenburg Date
County Executive



Grant Degginger Date
Chair