

Reclaimed Water Rule Making Committee Meeting  
January 21, 2009  
9:30-3:00 p.m.

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**Welcome and Introductions**

Bill Hashim, Washington State Department of Ecology (Ecology), introduced himself as the new facilitator for the Rule Advisory Committee (RAC). He led the RAC in a round of introductions and reviewed the meeting agenda. Bill explained that due to Ecology’s budget constraints he will do meeting management and facilitation, and Kathy Cupps, Tim Gaffney, Kathleen Emmett and Jim McCauley remain the main contacts for the RAC.

Kathy Cupps, John Kounts, Ginger Desy and Bruce Rawls attended the conference via telephone.

**Announcements/Miscellaneous**

- Dave Lenning, Washington State Department of Health (DOH), is retiring and Stuart Glasoe is replacing him on the committee.
- The 2007-2008 legislative report is still at the Office of Financial Management (OFM) for the governor’s review. Tim will notify the RAC when it is finalized.

Kathleen Emmett reported that the Ecology request legislation was approved by the governor provided the fee provision was removed.

The legislation is known as HB 1482 Concerning Reclaimed Water Permitting. The sponsors for the bill are Representatives McCoy, Chandler, Blake, Van De Wege, Kretz, Upthegrove, and Nelson. The public hearing will be January 27 at 1:30 p.m. in the John L. O’Brien building, Room B. Melodie Selby is coordinating the bill for Ecology and will answer any questions from the RAC.

## Meeting Summary

Kathleen Emmett provided Ecology's legislative focus sheet to the RAC.

### *Questions/Comments:*

- *Where is the status of staffing and funding for the RAC?* The General Fund provides funding for the reclaimed water rule development and will stay the same through December 2010 when the rule is adopted. After that, one of the engineering positions and the rule-writer position will be abolished.
- *How will the program meet expectations if there is not money (from fee provisions) to implement it?* Until a new fee program is established, fees will still be assessed under Ch 90.48 RCW authority. Ecology is working on the permit fee rule.

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The WaterReuse Association is holding its annual national symposium in Seattle from September 13-16, 2009. Ecology and DOH jointly submitted an abstract to present the rule-making process at the symposium. Jim will e-mail a copy of the abstract and the WaterReuse symposium Web address to the RAC and post the web address to Ecology's Reclaimed Water Web site.

- The Pacific Northwest Clean Water Association's Annual Conference will be held on the same dates as the WaterReuse Symposium, and is another opportunity for RAC members to participate in water reuse presentations.

### 2009 meeting schedule

Tim Gaffney reviewed the meeting schedule for 2009. A request was made to consider video conferencing Ecology staff will research this option and get back to the RAC.

### Water Rights Committee

Lynn Coleman updated the RAC about the Water Rights Committee's activities. The Water Rights Committee last met on January 8, 2009.

Over the past year, the committee has developed a process for addressing water rights and notifying water rights holders when they might be impaired by the use of reclaimed water. The committee identified three types of water rights: diversionary water rights, state in-stream flows and tribal treaty rights. They also considered the overall process which includes notification, involving the tribes, the role of the state and in-stream flow determination.

Lynn noted that an issue facing water rights is Ecology's ability to staff and process permits. The governor's proposed budget cuts Ecology's Water Resource program staff by 8 FTEs. While Ecology is hoping to minimize the number of people lost, if the budget passes they will have less capacity, which will affect the Water Rights Committee and reclaimed water analyses.

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Lynn reminded the RAC that in November the Puyallup Tribe notified the committee that they do not have the resources to continue participating on the committee and would like the committee to work with them separately about reclaimed water issues in the Puyallup watershed.

The Water Rights Committee will meet the day after the RAC meetings starting on February 26, 2009. The meetings will be at Ecology's headquarters.

### *Questions/Comments:*

- *Has the committee established any geographical limits for consultants to consider when they are analyzing the distance downstream where water rights would be affected?* Lynn said that the committee has not considered it, but will at their next meeting.
- Craig recommended that the committee consider a process for situations where two programs within Ecology disagree about the water rights impairment analysis. Lynn agreed and said that the committee will consider the best way to manage the resource from both a water quality and water resources standpoint.
- *Has the committee considered marine watersheds as a water rights impairment exception?* Yes, current guidance states that there are no downstream users for marine watersheds.
- *Would reuse of reclaimed water for stream flow augmentation be considered mitigation for new water rights?* Lynn said that this is a separate question from impairment analysis and it has not been addressed by the committee.
- *Have the tribes expressed concern about utilities using reclaimed water to support a water rights application, where reclaimed water would be eligible as a credit against water use?* Lynn said that she has not discussed it with the tribes, but the Yakama Nation would be interested in following the same procedures they have been using, which considers the total water supply available and the annual calculation for in-stream flow and going to the water transfer working group for an answer.

### **Technical Advisory Panel**

Jim McCauley gave an update of the Technical Advisory Panel's (TAP) activities. The TAP met twice since the RAC's last meeting and the meeting summaries are posted on Ecology's Reclaimed Water website. The TAP made recommendations on the following topics: storage, distribution, wetlands and use area restrictions (rules versus guidance on notification, labeling, identifying reclaimed water versus potable water, and setback distances). The TAP will finalize their recommendations on pathogens in February.

In February the TAP will work on several pending topics such as groundwater recharge, UV, blending and microconstituents. The committee will also work with DOH on groundwater discharge. They will continue to work on reliability issues as they relate to

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the Orange Book. Their goal is wrap up the pending issues in February so they can proceed with separating the rule from guidance recommendations.

The TAP will bring their recommendations to this committee when the technical standards, Part B are reviewed.

### *Questions/Comments:*

- *Will the TAP consider issues with pharmaceuticals and personal care items in drinking water?* Craig said that the research for microconstituents considers both drinking water and wastewater, as well as human health and environmental health. The TAP has discussed this topic and is finalizing its recommendations.
- Don Perry said that local agencies are concerned about their stormwater being contaminated by reclaimed water discharges to an infiltration pond and whether such an occurrence would affect their stormwater permit and sampling. He recommended that Ecology provide guidance for agencies about the issue.
- Susan Kaufman-Una commented that since infrastructure is expensive to build, some people are interested in groundwater recharge and streamflow recharge being supplemented by placing reclaimed water in stormwater ponds during the summer or when not in use. Don commented that some local governments will not approve this method; however Karla Fowler said that the Port of Olympia recently received approval to do so.
- Craig stated that the TAP had a discussion about direct potable reuse and will keep a placeholder in the rule so that it can be included as a use when the technology improves. He said that Queensland is currently using direct potable reuse. Craig said that DOH's Office of Drinking Water has drafted language for this section and recommended convening a technical group when the technology is ready. Heather Trim commented that direct potable is being used in Florida and California. The Ecology staff notes that there may be some confusion between direct vs. indirect use of reclaimed water for potable sources. To the best of our knowledge the examples provided are indirect sources.

### **Meeting Purpose and Agenda**

Bill Hashim reviewed the committee's ground rules for meeting processes. Kathy reminded the RAC that the committee's role is advisory, and Ecology and DOH want to make regulatory decisions based on the best advice available.

The remainder of the meeting was spent discussing the draft rule.

### **Baseline Rule Overview - handouts**

Kathy Cupps presented the Draft Baseline or Default Rule (Baseline Rule) - Part A Administrative Processes and Appendix A - Definitions. The definitions are the same as those discussed last summer and the definition handout is a reference document for the

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group. A few key words not currently defined were added to the end of the list, and the RAC can continue to add new words. Kathy asked the RAC to flag any definition they wanted to discuss in more detail.

The RAC reviewed the Part A - Administrative Processes which is based on existing reclaimed water practices and related Ecology rules and guidance. Kathy is working on the draft Part B – Technical Standards.

### **Baseline Rule Overall Reaction**

Kathy Cupps asked the RAC for feedback on their initial reactions to the Baseline Rule, specifically regarding format, content and areas that need more attention. Kathy reminded the group that the Baseline Rule will be used in the economic analysis of the rule.

Bill led the group in discussing initial reactions to Baseline Rule. Many RAC members commented that they were impressed with the document and appreciated the footnotes.

#### *Questions/Comments:*

- Hal Schlomann recommended removing any language in the Baseline Rule that will be removed in HB 1482 if it passes, such as references to the Growth Management Act.

### **Baseline Rule – Work Session**

WAC 173-219-A1 - Introduction section with policy statement - OK as written.

#### WAC 173-219-A-2 – Applicability and Scope

The RAC recommended using one spelling for greywater consistently in the rule, and to include the other spelling (gray water) only in the definition.

The RAC also recommended adding “unrestricted” to Subsection 3(a) exemptions, so it now reads: “Use of effluent for treatment plant purposes with the bounds of the treatment facility except where the potential for unrestricted public exposure requires reclaimed water.”

- Don said that his facility uses reclaimed water for irrigation, and they have facility tours open to the public, so there is a potential for public exposure to reclaimed water. By changing the wording in Subsection 3(a) to “unrestricted public exposure” his facility can continue to give tours.

WAC 173-219-A3 – Explanations of use of terms – move to one definitions section.

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### WAC 173-219-A4 – Source of supply

The RAC recommended removing the last part of Subsection 3 which discusses source control, treatment, distribution and use of reclaimed water.

### WAC 173-219-A5 – Relationships to other laws and regulations

The RAC members commented that the statutes/rules table was helpful. A footnote will reference that Ch 36.70A RCW Growth Management should be removed if HB 1482 passes as written.

### WAC 173-219-A6 – Formal agreements between the departments – no comments.

### WAC 173-219-A7 – Formal agreements between permittee, distributors, users

The RAC discussed the need for guidance about interruptible water supplies. This topic will be added to the list of guidance topics, and Don will send Kathy proposed guidance language for this issue.

- Don commented that he is concerned that the agencies can revoke permits, which will be a challenge to reclaimed water facilities with retail customers who are concerned about reliability. He described the situation as a potential unintended consequence and risk factor to those providing an alternate water supply. He is concerned that if you do not meet the water quality requirement of your permit then you might have to shut off the supply of reclaimed water.
- Craig said that most public water systems have purchase supply and lease agreements for water; however reclaimed water facilities are on a five year cycle where they might have a disruption in supply.
- Hal commented that he is concerned about a reclaimed water facility's obligation to continue supplying water and whether the facility will have to use potable water to keep the system going. Kathy said that the situation is a case-by-case issue and depends on the agreement with users on whether interruptible supply is acceptable or not.
- Walt Canter commented that blending might be needed to make the resource adequate for customers.
- Kathy said that concerns about interruptible supply should be considered in feasibility studies and contracts.
- Susan said that King County talks to its customers about interruptible supply and their customers are responsible for back up supply.

### WAC 173-219-A8 – Explanation of use of planning terms – moved to definitions section.

### WAC 173-219-A9, A10, A11 and A13 - Entire Planning Section

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Several RAC members expressed concern about the detailed requirements for a feasibility study especially when reclaimed water may not be the alternative selected. The RAC recommended a tiered approach based upon short-term, intermediate and long-term water supply needs. Short term needs will need a detailed study as outlined in A13, while intermediate and long-term needs could be evaluated as required by the governing body over the jurisdiction. The RAC recommended a guidance document about the appropriate level of detail needed for evaluation. The RAC also recommended that A13 become the general minimum guidance for the feasibility report in the next section (submittals) for facilities that plan to move forward with reclaimed water use.

- John Kounts cautioned against exceeding statutory authority.
- Kathy noted that the regulatory agencies must also consider how much detail should be addressed within the rule to implement the statutory requirements. Rules should provide clear administrative procedures. Craig said that a reclaimed water analysis should be required because some people think that it costs too much but without an analysis you won't know for sure. He recommended having a list of criteria to make such a determination. Craig agreed to provide the DOH reference for the statutory requirement for evaluating reclaimed water in the water system planning requirements.
- Walt commented that from a utilities point of view, they are going to look at the cost and benefit of conducting a feasibility study. If the project looks impractical, they should be able to say that.
- Tom Martin said that as a small utility manager who is considering using reclaimed water in a comprehensive plan or water use efficiency rule, he has to go through the process quickly because you are either water short or you are not. He recommended streamlining the sewer plan, financial feasibility and feasibility studies.
- Doug Raines expressed some concern about the effect of such a requirement on small utilities. Lynn said that WAC 246-290-100 requires systems serving 1,000 or more connections to conduct an evaluation for opportunities to use reclaimed water. Jim said that the feasibility study requirements in A13 likely originated with funding grants and loans.
- John recommended having a two-part evaluation with a checklist that allows some of the issues in A9, A10 and A11 to be considered. It would help the utility conduct a needs evaluation and if they find out they do have a reclaimed water need, then they can move into the feasibility study phase.
- Clint Perry recommended changing the language to include a reference to meeting requirements in Ch 246-290 WAC.
- Don said that he will bring the issue of feasibility studies up at the next WUP meeting and at the next WASWD meeting.
- Walt said that coordinated water system plans need to be updated to include reclaimed water.
- Bruce Rawls is concerned about who determines the level and/or definition of adequate feasibility analysis. Stuart said that sewerage planning and water system

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planning rules need to be clear about this, and that the rules need to include environmental needs as well, not just need. Stuart recommended redefining “need.”

WAC 173-219-A14 – Applicability and scope – no comments

WAC 173-219-A15 – Explanation of use of terms – move to definitions section.

WAC 173-219-A16 – Lead agency – no comments

WAC 173-219-A17 – Relationship to other laws and regulations – no comments

WAC 173-219-A18 – Ownership and Oversight

The RAC recommended revising the language regarding private and public ownership to provide equal emphasis. The RAC recommended:

1. In Subsection 1 take out the “not” and change to a positive statement
  2. Move Subsection 1 to the bottom and renumber the subsections, which will change the tone of this section
  3. Move the specifics from Subsection 3 into guidance.
- Stuart recommended making a framework for private ownership options that includes oversight of operation and maintenance of privately-owned systems.
  - Clint asked whether a private owner can make agreements with a public facility, and Stuart said he is not sure where the rule-making is concerning this issue. He said that the rules have to safeguard the environment and the public adequately to allow for private ownership.

WAC 173-219-A19 – Operator requirements

The RAC discussed the need for additional operator requirements to those under Ch. 173-230 and will continue this discussion during its next meeting.

- Karla recommended adding a water distribution certificate to the operator requirement.
- Craig commented that currently there is no reclaimed water certificate program; however there is a national effort to create one.
- Craig commented that the City of Olympia’s Water Resource Manager made a formal request to add reclaimed water distribution training to the to DOH’s Office of Drinking Water drinking water certificate program.
- Jim said that under the drinking water certification there is a requirement for treatment training, but distribution training is under a separate classification. Ecology has asked the operator certification advisory committee for input on this issue and

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most members support having either a separate reclaimed water certificate or a reclaimed water endorsement. Since Class A reclaimed water treatment is considered tertiary treatment, the current program already provides certification for this aspect, but there may be an additional endorsement that includes distribution.

- Kathy said currently there is a statutory requirement that an operator be certified at the appropriate level for the facility. Since some facilities do not have distribution systems, they may not need distribution certification. She suggested requiring additional certification as necessary to assure appropriate operations and maintenance.
- Kathleen recommended language that stated “additional certification may be required as determined by the lead agency.”
- Tom was concerned that a water distribution certificate for drinking water only looks at parameters for disinfection, bacteria and chlorine. If there are other constituents in reclaimed water beyond those, the current certification does not cover it.
- Another issue of concern was cross connection of reclaimed water and potable water.

### *Questions/Comments:*

- *How do we want to receive additional comments not given today?* Tim asked that RAC members send their additional comments about the Baseline Rule Part A – I and II by no later than February 12, 2009. He suggested that people identify the section they are commenting on and send it to him and/or the entire RAC by e-mail.

### **Wrap-Up and Action Item**

The RAC made progress in going through the Baseline Rule and agreed:

- On the basic framework of the rule
- To have the definitions in a separate section
- To move the feasibility study to the section A25 of the Baseline Rule.

Prior to the next meeting:

- Jim McCauley will e-mail a copy of the abstract and the WateReuse symposium Web address to the RAC. He will also add the Web address to Ecology’s Reclaimed Water Web site.
- Kathleen Emmett will look into Ecology’s capability to hold an online meeting.
- RAC members will send additional Part A comments to Tim Gaffney by no later than February 12. Any comments that need the review of the group should be sent to Tim and the entire RAC.
- Don Perry will send guidance language for Section A7 of the Baseline Rule.
- Craig Riley will send Kathy Cupps DOH’s water system planning requirements on reclaimed water feasibility studies.
- Tim Gaffney will send Walt Canter, Don Perry, Hal Schlomann and John Kounts the new language for Section A9 of the Baseline Rule so they can present it to the WASWD.

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- “Need” should be defined or there should be some sort of recognition that people will define their own need for Sections A9 through A13 of the Baseline Rule.

During the next meeting on February 25, 2009 the RAC will continue to discuss the Baseline Rule and recommended changes to the Baseline Rule made during today’s meeting.

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### Meeting Attendees

<b>Committee Members and Alternates</b>	<b>Ecology Staff</b>
Frank Needham, City of Sequim	Bill Hashim, Facilitator
Dan Pingel, City of Sequim	Katharine Cupps, Agency Lead
Bill Peacock, City of Spokane	Tim Gaffney, Rule Writer
Tim Wilson, City of Tumwater	Lynn Coleman
Doug Raines, DOC	Kathleen Emmett
Don Perry, Lakehaven Utility District	Jim McCauley
Clint Perry, Evergreen Valley Utilities	Diann Strom, Note Taker, EnviroIssues
Susan Kaufman-Una, King County	
Karla Fowler, LOTT Alliance	<b>Department of Health Staff</b>
Heather Trim, People for Puget Sound	Dave Lenning
John Kounts, PUD Coalition	Stuart Glasoe
Tom Martin, PUD Clallam County	Craig Riley
Bruce Rawls, Spokane County	
Ginger Desy, Sno-King Coalition	<b>Guests</b>
Hal Schlomann, WASWD	none
Walt Canter, WASWD	