



Meeting Notes  
Drinking Water Advisory Group  
December 4, 2023

Agenda Item	Notes
<p><b>2. ODW Update</b> Kay Rottell, Deputy Director; and Mike Means, Capacity Development and Policy Manager</p>	<ul style="list-style-type: none"><li>◆ Dorothy Tibbetts, current ERO Regional Manager, retired at the end of November. She'll still work part time so she can help onboard the new ERO Regional Manager, Marcus Goodman.</li><li>◆ EPA released the lead and copper rule improvements. Here's the link to the prepublication documents. <a href="#">Proposed Lead and Copper Rule Improvements   US EPA</a><ul style="list-style-type: none"><li>○ We expect it to be published this week, which starts the 30 or 60 day comment period.</li><li>○ They're moving required actions in the LCR except the service line inventory, which is due October 16, 2024, and the public education or tier one public notice that is required for lead service line or a lead action level exceedance.</li><li>○ The rest of the rule will be promulgated three years after it's effective, three years after its promulgated.</li><li>○ They require 100% replacement of lead service lines within 10 years.</li><li>○ They'll require all water systems to annually update the service line inventories and identify all the unknowns within that 10 year period.</li><li>○ If there is a lead service line, the highest of the two results will be used for the 90th percentile compliance calculation and the lead action level will move to 10 parts per billion from 15 parts per billion.</li><li>○ There will be a new lead action level and last high level is if you have multiple lead action level exceedances. If you have three lead action level exceedances in five years, you'll be required to provide point of use filters for your customers until you address the situation.</li></ul></li><li>◆ KING5 presented a PFAS story and on their website they have a map which compares the PFAS results to the maximum detection level of PFAS contaminant and its percentage above that detection level. Darker colors represent a higher level.</li><li>◆ Unfortunately, it does not talk about what the health levels of each of those PFAS contain.</li><li>◆ We and EPA continue to reach out to KING5 to ask them to update the map because it looks like it presents it as health risk.</li><li>◆ It doesn't say health risk, it says percentage above the detection limit.</li><li>◆ We continue to work with KING5.</li><li>◆ We encourage you to provide your customers with information on the PFAS levels in your system. Then compare it to our state action level (SAL) and the steps that you are taking to reduce PFAS in your water systems.</li><li>◆ Additionally, we have basic PFAS videos on our <a href="#">PFAS webpage</a> and more health information for people. We will continue to reach out to KING5 to see if we can discuss the health risk.</li></ul>



	<ul style="list-style-type: none"><li>◆ We continue to work with Ecology on a legislative ask for a control to provide comprehensive evaluation of the cost to address PFAS in Washington.</li><li>◆ We have draft guidance for internal review on how we are going to use the water system rehabilitation and consolidation fund. We plan to have that funding available to systems beginning in 2024.</li><li>◆ The DWSRF loan construction loan cycle ended at the end of November. We received 48 construction applications and seven applications for lead service line inventories and removals. We will review and score those applications. We hope to have a funding list available sometime early next year.</li><li>◆ We moved forward with funding for the alternative water program. We have contracts for Yakima, Benton and Franklin County, Chelan, and Douglas County local health districts and they're going to provide testing for nitrates and PFAS to individual wells and groups in their areas. They will provide treatment systems or point of use filters for those customer or individual well owners that have nitrates or PFAS above either the MCL or the SAL.</li></ul>
<p><b>3. WSARP and Alternative Water Funding Update</b> Mike Means; and Brad Burnham, Policy and Planning Section Manager</p>	<p><b>Mike</b></p> <ul style="list-style-type: none"><li>◆ Brad has been the point on the Alternative Water Funding program.</li><li>◆ We are in the process of getting money out the door.</li><li>◆ We requested this fund because there is contamination with Group B wells and private wells that don't have access to DWSRF funding.</li><li>◆ Can they even afford to test for various different contaminants that may be there?</li><li>◆ We needed a process by which we could move money fairly quickly, and looked at using our consolidated contracts that are already in place with local health jurisdictions.</li><li>◆ We are reviewing that guidance internally and will make it available externally.</li><li>◆ One of the additional items that we were allowed in this fund was to use some funding to support receivers of last resort. So if we have a county who's never run on a water system and they need to get up to speed to become a water system owner and operator, we can use some of that funding to help them.</li><li>◆ Or if they're interested in doing it in order to prevent a system from failing even before we get to receivership, we can use some of this funding to help them get a program started.</li></ul> <p><b>Brad</b></p> <ul style="list-style-type: none"><li>◆ We received some applications for the alternative drinking water program funding, and these are grant funds. The application is on the bottom of the <a href="#">Drinking Water for Consumers webpage</a>. There's also a one-pager that has information about it.</li><li>◆ We received three applications from local health jurisdictions and one from a community organization.</li><li>◆ We already have existing contracts with our health jurisdictions, we're working to get funding for those approved applications into the rolling contract we have with health jurisdictions.</li></ul>



	<ul style="list-style-type: none"><li>◆ The application from the community organization looks like it's right on target and so we're in the final review for that.</li><li>◆ Assuming it is approved, we're going to work with our contracts office to create a new contract with them. Our contracts process can take a little while.</li><li>◆ If you know of a project where providing alternative drinking water for a short term or doing testing related to contamination would be beneficial, and if you're already in communication with your local health jurisdiction, that would be the quickest way to get money flowing.</li><li>◆ This is for individual homeowners like well owners or small groups. It is not for Group A systems. We have other funding streams through our SRF program for those systems.</li><li>◆ It's provided a way to offer funding for projects that we haven't funded before. This is in connection with some other new programs, like our foundational public health services work, which is really exciting.</li><li>◆ Please reach out to us if you have any questions about this, email us at <a href="mailto:odw-adwp@doh.wa.gov">odw-adwp@doh.wa.gov</a>.</li><li>◆ We would love to work with any community groups or local health jurisdictions on funding that they have. Funding is available for this fiscal year and next fiscal year.</li></ul> <p><b>Mike</b></p> <ul style="list-style-type: none"><li>◆ We expect to see some modified language in the rules so that we can distribute that fund to those communities, because that was part of the intent to the legislature at the time.</li><li>◆ It left us around a little over \$2,000,000 to be able to use funds toward consolidations, preventing failure, and to address systems that are heading to receivership.</li><li>◆ So you know systems that need help, contact your regional office.</li></ul>
<p><b>4. MOU with Ecology Update</b> John Freitag, Policy Planning Lead</p>	<ul style="list-style-type: none"><li>◆ We have signatures from both Ecology and DOH on the Memorandum of Understanding.</li><li>◆ Both the MOU, which is the overarching umbrella and the joint review procedures document, received quite a few updates and a new look. It flows better, easier to read for everyone that's implementing it.</li><li>◆ Those two documents went through quite a vigorous process from both Ecology and DOH staff, as well as attorneys from both agencies.</li><li>◆ We're planning on getting signatures from the agencies in January. We also plan a joint update on some of the things that affect staff work, some efficiencies we're hoping will improve the process. That'll happen in January with Ecology and DOH staff. We plan external communication to all of our stakeholders, as well as posting the documents on both agencies' websites.</li></ul> <p><b>Questions/Comments</b></p> <ul style="list-style-type: none"><li>◆ <b>Q. Scott Smith:</b> Could you provide a brief update of what the MOU covers? <b>A:</b> We're trying to implement better use of technology for document sharing. And we're deciding what method data works best for us. With the edits that may happen between the water systems themselves, and the agencies before the</li></ul>



	<p>final document is submitted. The biggest thing to expect is a dispute resolution process with Ecology. If there are inconsistencies between the two on the water right side of things, this lays out a clearer path or different paths to get to the point of your agreement.</p> <p>◆ <b>Q. John Weidenfeller:</b> I was wondering before this is finalized, will the Washington Water Utility Council have a chance to provide comment and input to this MOU? <b>A:</b> The MOU itself is a document between the two agencies. So we were not putting it out for public comment. However, moving forward, it's intended to be reviewed annually and take comments for it. We will look at any suggested improvements or concerns and if we need to make updates. <b>John Weidenfeller:</b> If you would be kind enough to check in with Holly as the chair of the work Water Rights Committee, we would greatly appreciate the opportunity to look at this before it's finalized. We understand that you are a state agency, and you have the ability to do whatever you want to do, but we as members would greatly appreciate that consideration. <b>Mike Means:</b> We are trying to get caught up on many years of not having touched this document. And we took a really close look at trying to assess what items are in this agreement on how we share information back and forth with Ecology. This agreement is not intended to touch on policy issues. This is really about how we share information back and forth when there's questions and we're not hearing back from ecology or they're not hearing back from us. How do we make sure we resolve those things? That's what the MOU is about. We're trying to separate those pieces from policy 2030, where the policy discussions on how a decision is made and those kind of elements are there. It may not perfectly align with that piece for this current iteration, but we do need to get it done. That's where we'll be able to get it to you before it's finalized or even if we brought it to you, we'd not be able to make significant changes right now. But we will be coming back to you guys with like, OK, we've updated this.</p> <p>We think we addressed a lot of the concerns that we've heard in the past and know certainly, both internally and externally, concerns that we've been trying to look for and address. We're very well aware of many of those different pieces. We intend this to be a living document, so even though. We're not sitting on this for another 10 or 15 years before we make changes, so we will be back to make better updates, but we didn't want to not have this in place when Ecology is trying to finish policy 2030. We want to be clear about how things are happening and then we think as things develop with policy 2030, that's when we're going to come back and say, how does this work as a package now and let's talk about what we do next year.</p>
<p><b>5. Disadvantaged Communities Update</b> Chris Pettit, DWSRF Manager</p>	<p>◆ We looked through our spreadsheets and saw all the really good projects. We're determining eligibility and scoring projects for the next couple of weeks to ensure we are where we need to be.</p> <p>◆ The other two pieces we updated, the planning and engineering preconstruction guidance, as well as the consolidation, feasibility guidance.</p>



	<ul style="list-style-type: none"> <li>◆ The last community listening session is Wednesday December 6 from 4:30-6:30pm. Register here: <a href="https://us02web.zoom.us/join/91017610000?pwd=ZUJldU9yUWpDNDU4NHNuHwIntNfRpGG1OU7mhZK#/registration">https://us02web.zoom.us/join/91017610000?pwd=ZUJldU9yUWpDNDU4NHNuHwIntNfRpGG1OU7mhZK#/registration</a>. If you can't make it but would like to provide feedback, please email <a href="mailto:DWSRF@doh.wa.gov">DWSRF@doh.wa.gov</a>.</li> <li>◆ We continue to update that definition of disadvantaged communities. It's tied to the current construction loan application cycle that we're operating under the emergency rule and the affordability, environmental health, and social vulnerability indexes in terms of who qualifies as disadvantaged. Then based on the number of projects, prioritization, amount of money available, et cetera, where subsidy may be applied to projects we received.</li> <li>◆ We're in the process of working with and communicating with tribal representatives. We had a listening session last week, the question ties to whether tribal systems should by default be considered disadvantaged, or how do we integrate those considerations for tribes that want to avail themselves of the state SRF process. How do we look at those projects for the purpose of determining disadvantaged and possible subsequent subsidy?</li> <li>◆ We received some very good comments about administrative need and the efforts necessary to do a bit of additional work qualifying under one of the three categories.</li> <li>◆ We are meeting again this week about the next steps and whether consultation may be necessary or desired on behalf of tribes. Or how to get the word out and get as much information as we can to listen and incorporate as we move through rulemaking. We'll target a final rule in August of next year so that we've got it in place for next year's funding application cycle.</li> <li>◆ Finally, you can view the emergency rule disadvantaged community criteria in Appendix B of the construction loan guidelines (page 36): <a href="#">Drinking Water State Revolving Fund Program Construction Loan Guidelines (331-196)</a>. Or by using the <a href="#">Disadvantaged Community Self-Assessment Tool (331-730)</a>.</li> </ul>
<p><b>6. Ecology Policies Discussion</b> John Freitag; Mike Means; Nikki Guillot, Source Water Protection Program Manager</p>	<p><b>John</b></p> <ul style="list-style-type: none"> <li>◆ This is a brief overview of what we've been working on to provide clarity on exempt wells being drilled within the service areas of water systems and what Ecology's and DOH's roles are. We can provide more information at a future meeting.</li> <li>◆ We developed draft communications documents with Ecology, including sample local ordinances.</li> <li>◆ Next steps are finalizing the documents with communications staff at ECY and DOH and sharing with local jurisdictions.</li> <li>◆ Brian Sayrs is also working on this project, working with the locals.</li> </ul> <p><b>Mike</b></p> <ul style="list-style-type: none"> <li>◆ Neither Ecology or DOH have authority to prevent drilling private wells within service areas. The authority lies with local health jurisdiction as part of the water adequacy determination for land use and/or building permits.</li> </ul>



**Question from Tom Pors**

- ◆ I have a Lincoln County client, the Sunny Hills water system, where this has been a pretty big issue. I'm curious now whether there's some kind of guidance coming out about this subject, especially as far as how both Ecology and Department of Health are handling these questions on a regional level. Because several of my clients noticed significant differences in how these questions are handled at different regional offices. That creates a lot of uncertainty, which doesn't help water systems to rein in efforts by landowners within their service areas to go out and try to get out of their obligation to connect to the system. What's being done to try to prevent problems like the Sunny Hills case?

**Answer, Mike:** That's the discussion John was talking about, which is coming up with recommendations for local health jurisdictions on how they have authority and what authority they have to be able to help reduce that proliferation. We are also looking to educate all of our regional offices. Ecology is also working to this end. We will provide this information across the Department of Health offices as well. So that people can be clear what authority we have, which is very little.

**Question from Jeff Johnson**

- ◆ Is the exempt well issues related to domestic water supply and irrigation wells or on the other some local health departments try to restrict such wells.

**Answer, Mike:** The main issue we're talking about is domestic supply, where houses within the water service area, who want to disconnect and drill an individual well. They want to avoid paying the associated fees, so they drill an individual well instead. It's more complicated around irrigation wells and the associated impact. The legal construct is different for irrigation wells and depends on which local health department they're associated with for both of those situations. That's why we're trying to come up with guidance.

**Mike**

- ◆ Ecology plays a number of different roles associated with PFAS contamination, especially the impact to private wells for PFAS contamination. Traditionally, Ecology becomes part of the toxic cleanup program, under the state model, Toxics Control Act, similar to a super fund. It's a cumbersome process to go through—investigation, determination of impacted well, determination of principally liable parties, etc. When an entity with deep pockets associated with a contamination event, it is more straightforward. If it's your local community fire station, providing community service, and it's a community water supply that's impacted or private wells around that area that the community supports, it's a much more complicated process. We proposed alternative funding to be available for this type of investigation.

**Question from Susan Saffery**

- ◆ I'm thinking about your comment about the funding source for PFAS, the Remedial Action Grant program. I assume you're talking about, but is that accurate? Because that is a hugely overburdened program already. **Answer, Mike:** What role does ecology have? Under the toxics cleanup program, there are a number of different grant possibilities, but it also it also is the legal



framework by which a PLP has to be held responsible to address contamination. None of those processes are necessarily quick, nor even available, and on the short term, and so there isn't a great solution that anybody has right now for the for what that looks like. All the rules that ecology has on this piece are typically long-term actions.

**Question from Carrie Gillum**

- ◆ I came in a little late, but I caught the tail end of the KING5 news story about PFAS. We also have gotten a citizen that sent us something that USA TODAY printed. It looks like the KING5 map and it's coming out Simple Labs. I know that we've had discussions internally here at City of Tumwater about reaching out to them and saying, for one thing, they're putting all the water systems within the city of Tumwater Water System area, which we've got multiple small ones within ours that have tested and detected, exceeded even state limits. But they've put us all together and so I don't know if others have had this same problem. And if you have heard about this and are maybe potentially reaching out to other entities that are reporting about PFAS in this way because all of a sudden we've got somebody who says you've got exceedances we didn't hear about this. And it's actually, no, the city of Tumwater's fine itself. **Answer, Mike:** We and EPA reached out to KING5 to talk about what their map is and how challenging it is to have them representing based upon how many times the detection limit you are. So they're showing PFAS as being this huge problem when it hasn't even reached the level of health concern. We have a map online that actually highlights all of the information we're trying to convey and has access to a ton of information that's accessible there.

**Nikki Guillot, Source Water Protection Program Manager**

- ◆ [Stormwater presentation link.](#)
- ◆ Our local assistance grant program provides technical assistance on source water protection, which is required in our Washington administrative code part of the water system plans Chapter 5, if you're looking at the Planning handbook. I'm going to share some information about Ecology's Underground Injection Control (UIC) guidance. They had a draft of their stormwater manual open this fall and were accepting comments. The comment period passed, but I want to give an overview of the UAC guidance. The UIC guidance is nested into the stormwater manual and referenced in the permit.
- ◆ The Department of Ecology issues a stormwater manual every five years. They start with listening sessions and create preliminary drafts with public workshops, followed by a comment period (November '23 through July '24).
- ◆ There's an Eastern Washington manual and a Western Washington manual. Local Health Jurisdictions develop equivalent manuals. The equivalencies trickle down. The permit schedule is similar to our own schedule.
- ◆ The phase one permit is the biggest jurisdictions, then phase two permits are the small jurisdictions. That's a very high level overview. It's phase one and phase two permit holders that meet and talk about the permit.



- ◆ That started in spring of 2022, then in the summer Ecology held listening sessions about what the ad hoc groups offered on the permits. In the fall, they had preliminary drafts for informal comments.
- ◆ They make permit decisions next summer for East and West, with distinct differences.
- ◆ The UIC guidance was a standalone Ecology document and was integrated into the stormwater manual in 2019.
- ◆ There's overlap in UIC wells, primarily Class 5 wells. There's often confusion about the definition of a UIC well. The language is broad, and it can include all different kinds of construction.
- ◆ The primary function of UIC wells is subsurface fluid distribution. We're trying to get stormwater run-off down into the ground, which can include perforated pipe systems.
- ◆ The primarily UIC Class 5 wells are rule authorized, meaning the person constructing the well only has to notify Ecology and fill out a form that they've been constructed to meet the standards.
- ◆ If the UIC well needs to have an actual permit that goes under the state waste discharge permit, then they have monitoring requirements, but that is not a standard part of rule authorization for UICs.
- ◆ Deep UIC wells: drafts are available online. UIC wells don't have any fixed interval to qualify as deep, so deep is not 25 feet or 50 feet or 350 feet deep.
- ◆ UIC wells are wells that extend below an upper confining layer and discharge into the vadose zone.
- ◆ So that means if you have an unconfined aquifer, if you have an aquifer, if you have a spring fed system that's essentially at the surface, a deep UIC would be a perforated pipe in a trench.
- ◆ Deep UICs provide some level of risk mitigation. You need to look at local conditions, groundwater, what depth is groundwater, and what are your soils like? Do you have a confining layer to understand?
- ◆ Local jurisdictions may impose additional limits based on their specific hydrologic conditions. Usually those implementing this stormwater permit and manual don't have as much data as the water purveyors.
- ◆ You probably have more data about your hydrologic conditions, and if you're concerned about UICs, that local control working with your stormwater planning and engineering group is really important in your community.
- ◆ The guidance does say in this deep UIC section that project proponents should explore alternatives before deciding to use a deep UIC.
- ◆ You must provide a hydrogeologic study with an operations and maintenance manual. Basic treatment, 15 foot minimum separation to seasonal high groundwater, which is a lot of ceiling to prevent aquifer interconnection.
- ◆ If you have a perched aquifer or other saturated stratum that's penetrated, those are requirements for the construction of the UAC.
- ◆ Document notification and summary of discussion with adjacent well owners, inside a WHPA, must notify water purveyors.





- ◆ If you have delineated your wellhead protection areas in your community as a water system, and your source water protection part of your water system plan, any UIC that's cited within your wellhead protection area must notify you when they're constructing these deep UICs.
- ◆ You need to reach out with your stormwater oversight regulatory authority, because as this draft goes into final approval next year, there's will be a new requirement to notify water purveyors. The deep UIC section is new, and the specific requirement is also new.
- ◆ Our number one comment is related to microbial pathogens and we're referencing the Water Research Foundation report 5034. Injecting storm water with potential pathogens into groundwater is a risk to drinking water.
- ◆ The assumption that the vadose zone is being treated is not actually supported by current research, and we provided resources to that end.
- ◆ Our comment about stormwater pollutants doesn't include PFAS, which is strange because PFAS is referenced in other parts of the manual, but it's not in the intro section about stormwater pollutants. We asked them to include it.
- ◆ We want to ensure that Ecology is looking at those very carefully using the demonstrative approach.
- ◆ So there's a presumptive approach and a demonstrative approach. We've really pushed them to use the demonstrative approach to use a licensed hydrogeologist for that site specific analysis that's already in the new version of the manual.
- ◆ They have a lot of new information on PCBs in the permit and we're asking that they expand it to include PFAS in different sections of the permit. The acronyms are different sections of the permit with specific requirements.
- ◆ We're asking for parity between PCBs and PFAS, and the Appendix 9 sampling approach in the stormwater permit itself is not using the latest technology.
- ◆ Step three is an inventory of your potential contaminant sources. If you don't know where your UIC wells are, or if you are notified of a UIC well in your wellhead protection area, you should add it to your inventory of potential contaminant sources for your source water protection program in your water system plan.

**Question from Lor Blau**

- ◆ You were mentioning including as potential contaminant sources in water system plans or the small water system management programs, so is there a way that a water system knows what there are? Do they contact the ecology and say, are there any around my water system area. Or how's the best way to accomplish that? Because we work with a lot of systems on trying to update their small water system management programs. **Answer, Nikki:** Ecology is working on a mapping portal for the UIC, but in the meantime they do rule authorize any underground injection control device to classify. It has to be rule authorized, so they have to submit a latitude and longitude to Ecology for inventory and they should very shortly have a mapping platform as well.

**Question Lori Blau:** So that in in the meantime, before they get their mapping program, if we contact the regional office where the water system is and say are



	<p>there any UI C's in this area that we're working on our small water system management program? <b>Answer, Nikki:</b> I think the regional offices should be able to help, but there's also the contact information for the Ecology staff program coordinator at the headquarters office. <a href="mailto:UICwells@ecy.wa.gov">UICwells@ecy.wa.gov</a>, 360-688-3586. <b>Comment, Carrie Gillum:</b> Ecology maintains a UIC database. <a href="https://apps.ecology.wa.gov/uicsearch/">https://apps.ecology.wa.gov/uicsearch/</a>.</p> <ul style="list-style-type: none"><li>◆ If you have questions or concerns about source water protection, potential sources of contamination (PCS) or UICs please contact me directly <a href="mailto:nikki.guillot@doh.wa.gov">nikki.guillot@doh.wa.gov</a>.</li></ul>
<p><b>7. Agenda Ideas for next Meeting, March 4, 2024</b> John Freitag</p>	<ul style="list-style-type: none"><li>◆ Indirect and direct potable reuse.</li><li>◆ Would be good to hear from utilities how they intend to address PFAS contamination in small systems. Thinking PUDs, Districts, and SMAs that own/manage multiple systems. Is there an economic breakpoint? Consolidation? Other? Would help funding entities plan ahead as we seek new authorization in coming Legislative sessions.</li></ul>