

### 3 RELATED PLANS, AGREEMENTS, AND POLICIES

The District’s process of water delivery to its customers has been developed over many years in the context of various agreements, plans, and policies that address water management in Skagit County. This chapter describes key agreements and plans that influence the District’s water service policies, and provides information about the authority and responsibility of the District to provide water.

Table 3-1 lists the related plans and agreements that were reviewed for consistency with this Water System Plan. These plans and agreements, along with other policies, are discussed in the sections below.

**Table 3-1. Related Plans and Agreements**

Category	Document	Year
Local and Regional Utility Planning	Skagit County Coordinated Water System Plan – Regional Supplement	2000
	District Water Policy Manual	2005
	Skagit County Comprehensive Plan	2007
	City of Burlington Comprehensive Plan	2005
	City of Mount Vernon Comprehensive Plan	2005
	City of Sedro-Woolley Comprehensive Plan	2011
Water Supply	1996 Memorandum of Agreement	1996
	Cultus Mountain Watershed Management Plan	2013
	Skagit River Watershed Control Plan	2010
	Anacortes and District Joint Operating Agreement	1993
	Skagit County Franchise Agreement	1993
Customer Agreements	Samish Farms Water District Wholesale Agreement	1996
	North Fir Island Water Association Wholesale Agreement	1983 (expired)
	Sierra Pacific Retail Agreement	2008

#### 3.1 Service Area Authority

This section describes the authority and responsibility of the District to provide water within the service area established as part of the Skagit County Coordinated Water System Plan (CWSP).

### 3.1.1 Existing Service Area Characteristics

The District is authorized by RCW 54.04.030 to operate water systems within and outside the boundaries of Skagit County, Washington. This gives the District county-wide service authority and sets the legal boundaries of the District at, but not limited to, the boundaries of the county. The District and other water utilities participating in the CWSP process have agreed on the designated service areas for each water system. The District's service area is essentially the entire county except for those areas already served by another public water system. These other existing systems have first priority for water service to adjacent new development proposals within one-half mile of their service areas. If service is declined, the District is responsible for providing new water service. The formal Service Area Agreement is included as Appendix D.

In accordance with RCW 40.20.260, the District defines its retail service area as concurrent with the service area boundaries defined in the 2000 CWSP. According to the municipal water law, the District has a duty to provide retail water service within its retail service area (established in RCW 43.20.260) if:

1. Its service can be available in a timely and reasonable manner;
2. The District has sufficient water rights to provide the service;
3. The District has sufficient capacity to serve the water in a safe and reliable manner as determined by the Department of Health; and
4. It is consistent with the requirements of any comprehensive plans or development regulations adopted under Chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the service area and, for water service by the water utility of a city or town, with the utility service extension ordinances of the city or town.

As a general philosophy, the District considers this "duty to serve" as a protection of the rights of existing or future water service customers to be served water by the District if they desire. Water users within the District's service area may be served water from the District so long as they accept the District's service requirements. The District does not interpret the "duty to serve" as requiring all new water users within the District's service area to be required to obtain water from the District. However, the District does recognize that it has made commitments to reduce the proliferation of exempt wells in the 1996 MOA, and will strive to distribute piped water where possible.

The municipal water law does not provide clear definition for what constitutes "timely and reasonable." DOH guidance documents indicate that this definition is to be left to the local jurisdiction or water purveyor.

### **3.1.1.1 Timely and Reasonable**

An individual or developer seeking public water system service is required to receive service from a designated utility (as indicated in the CWSP) but is entitled to appeal this requirement. For the District, this is any area of Skagit County not identified as the service area of another public water system. Other public water systems should be approached before the District when new customers are within one-half mile of their water system service boundaries.

The District considers service to be “timely and reasonable” if it can be provided within 120 calendar days of all fees being paid to the District, with the following provisions:

1. If the extent of water service requested requires construction of major facilities such as the replacement or installation of new storage tanks, wells, booster pumps, or transmission or distribution mains, the time associated with construction and permitting will be added to the 120 days. The time period will commence after the payment of fees.
2. Construction of water facilities is subject to design review and approval at state and local levels. The “construction time” includes state and local permitting, construction season considerations, and coordination with other planned infrastructure projects such as roads, sewers, lights, etc. “Construction time” activities are in addition to the 120-day period.
3. A letter of water-availability indicating the conditions for the provision of service will be drafted and sent to the new customer prior to the 120-day period. The District’s water service policies are defined in the Water Policy Manual (Appendix G). A customer is responsible for paying for appropriate connections charges, and/or costs of extending or upgrading facilities.
4. If an appeal is requested it will be evaluated per the terms of the 2000 CWSP appeal procedure.

### **3.1.1.2 Water Rights**

A summary of the District’s water rights is provided in Chapter 7 of this Water System Plan.

### **3.1.1.3 Capacity**

The physical capacity of the District’s water systems is addressed in Chapter 6 of this Water System Plan.

### **3.1.1.4 Consistency**

Consistency determinations are as provided by the local land use authorities. Copies of the consistency determinations for this Water System Plan are located in Appendix A.

### **3.1.1.5 Priority Service Areas**

The District has been contacted regarding service to LaConner and many rural areas including Allen Island, Humphrey Hill, Lake McMurray, and Starbird Road; areas around Clear Lake, Big Lake, Pass Lake, Ten Lake, Lake Cavanaugh, Concrete, and Fonk Road; and several islands. These in-county

areas fall within the District's retail service area. The District will provide retail water service to those customers desiring water service so long as this meets the provisions of the District's water code and water can be provided in a timely and reasonable manner.

In coordination with Skagit County, the District has identified high-priority areas for the provision of water service. These priorities include the following:

1. Service to Urban Growth Areas; and
2. Service to areas with pre-existing higher rural density land use designations AND either of the following two types of flow constraints:
  - a. Instream flow constraints due to limited access to on-site water supplies under state instream flow rules (Chapters 173-503 and 173-505 WAC); or
  - b. Low-flow basins identified in Skagit County's Critical Areas Ordinance (Skagit County Code 14.24).

The pre-existing higher rural density land use designations have corresponding Skagit County Comprehensive Plan designations that recognize these areas (i.e., limited areas of more intensive rural development (LAMIRD), as authorized by RCW 36.70A.070(5)(d)(i)).

### **3.1.1.6 Low-Priority Areas for Public Water Service**

The following two types of Skagit County Comprehensive Plan designated areas are low priority for public water because of their specific long-term purposes as forest resource or open space lands:

1. Industrial Forest Natural Resource Lands

Water service is discouraged in commercial forest resource lands, per the following policies:

*Countywide Planning Policy 2.10:*

*Establishment or expansion of local improvement districts and special purpose taxing districts except flood control, diking districts and other districts formed for the purpose of protecting water quality, in designated commercial forest resource lands shall be discouraged.*

*Skagit County Comprehensive Plan Policy 4B-4.4:*

*Discourage Tax Districts and LIDs (Local Improvement Districts)*

*Special purpose taxing districts and local improvement districts that plan to expand into Industrial Forest Lands, allowing as a result new residential or commercial development, shall be required to provide an analysis of impacts and related mitigation of such new, non-resource development on established commercial forestry operations.*

2. United States Forest Service and National Park Service lands with County designation of Open Space of Regional/Statewide Importance (OSRSI) and having no or limited facilities.

The specific areas include North Cascades National Park, Noisy Diobsud Wilderness, Glacier Peak Wilderness, Ross Lake National Recreation Area, and the Mount Baker–Snoqualmie National Forest.

### 3.1.2 Future Service Area

As outlined in the District’s Service Area Agreement (see Appendix D), the District has the potential of serving any area within the county not already a designated service area of another approved water utility. Furthermore, per RCW 54.16.030, the District has the authority to serve water to any persons including public and private corporations outside its designated service area, “including full and exclusive authority to sell and regulate and control the use, distribution, and price thereof.”

The District has discussed extension of service with the Samish Water District around Lake Samish in Whatcom County, and has been approached by utilities in Island County and San Juan County regarding satellite service. Any potential customer(s) outside Skagit County has the opportunity to have its area annexed into the service territory of the District, provided its area is contiguous with the District’s existing service boundary. The conditions and processes for annexation are outlined in RCW 54.04.035; annexation affords the customer(s) representation as a constituent(s) of a District Commissioner and allows the customer(s) to vote for District Commissioners. Any future expansion of water service area should also address Section IV. G. 2 of the 1996 Memorandum of Agreement Regarding Utilization of Skagit River Basin Water Resources for Instream and Out Of Stream Purposes (1996 MOA) (see Section 3.3.1), which states:

*(the parties agree) To reach agreement prior to expanding service areas beyond those identified in the CWSP. Such agreement will be based on evaluations of additional needs existing at the time, and after considering additional needs that may exist after the 50-year term of this Agreement. If the Parties cannot agree, then they may not seek or approve any changes relating to water quantity associated with the expansions of service areas for a period of 50 years from the effective date of this Agreement.*

### 3.1.3 Service Area Agreements

The 2000 CWSP identified the District and the City of Anacortes as the responsible entities for serving growth in urban areas. Accordingly, the District and Anacortes implemented a Joint Operating Agreement (JOA) for development of shared regional water supply facilities. A copy of the JOA is included in Appendix D. Under the terms of the JOA, the District and Anacortes agreed to pursue joint use facilities for their mutual benefit, especially those that would provide a backup supply from one utility to the other during an emergency shutdown or catastrophic failure. Such facilities may include strategically-located interties (preferably two-way), distribution storage tanks, and new or improved water treatment facilities. The Riverbend Intertie was the first facility developed under the

JOA, and the 1996 MOA was an out-growth of the JOA. Additional or expanded interties must first consider and plan for in-county consumptive and non-consumptive needs, then consider demands outside the county.

The District also has water service agreements with two wholesale water purchasers: Samish Farms Water District and the North Fir Island Water Association. Those agreements are included in Appendix D.

### **3.1.4 Satellite Management Agencies**

The District is the primary Satellite Management Agency for Skagit County (Satellite Management Agency #103) and, as identified in the CWSP, will work with any water system that is unable to provide service within or adjacent to its own designated service area, and will evaluate service to any new system in undesignated areas. The District will provide service whenever financially feasible, and may provide service either by line extension from an existing system or by establishment of a new remote system. The District currently owns and operated eight satellite systems that are discussed in greater detail in Chapter 12.

## **3.2 Local and Regional Utility Planning**

### **3.2.1 Skagit County Coordinated Water System Plan – Regional Supplement**

The Public Water System Coordination Act of 1977 (Chapter 70.116 RCW) requires coordinated planning among public water supply systems within critical water supply service areas. In 1982, the area known as Fidalgo Island was designated a critical water supply service area, and in 1984 the Skagit Board of County Commissioners adopted the first coordinated water system plan titled “Anacortes–Fidalgo Island Coordinated Water System Plan”. After several years, it became apparent to resource managers that many of the water system issues being dealt with locally had implications outside the Fidalgo Island area. Subsequently, in July 1993, the Skagit Board of County Commissioners approved an updated CWSP that included all of Skagit County. The plan was updated in 2000.

The purpose of the CWSP is to provide for maximum integration and coordination of public water system facilities consistent with the protection and enhancement of the public health and well-being. The 2000 CWSP describes strategies intended to manage the county’s potable water according to applicable statutes and ordinances. Topic areas covered in the plan include minimum design standards, water utility service areas, utility service review procedures, satellite system management, water demand forecasts, water supply system assessments, regional water supply strategies, and a joint use facilities plan. This Water System Plan is consistent with the policies, goals, and requirements set forth in the CWSP.

### **3.2.2 District Water Policy Manual**

The District Water Policy Manual outlines the policies and procedures to be applied by District staff while providing utility services to individual properties. The policies guide how the District will manage extensions, make improvements to the District's water system, and provide service to satellite utility systems owned or operated by the District. Specifically, the manual provides information on the following:

- Terms, conditions, and policies for furnishing and receiving water
- Metering and billing procedures
- Schedules for water rates
- Fees and deposits
- Source water protection
- Environmental policies
- Management strategies for satellite systems
- System extensions policies
- Water system design criteria

The Water Policy Manual was originally drafted in January 2005 but is a living document. Content of the manual is continually updated as policies and procedures evolve and change. This is so the document can serve as a daily reference guide for staff and management. This Water System Plan is consistent with the policies and requirements set forth in the District Water Policy Manual, which is provided in Appendix G.

### **3.2.3 Local Government Comprehensive Plans**

A comprehensive plan is a local government's codified strategy for managing future growth, land use, and development within its jurisdictional boundaries. These plans are long-range in nature, typically with 20-year planning horizons, and contain a broad set of goals, policies, and objectives that address land use, urban design, transportation, housing, economic development, parks and open space, community facilities (e.g., hospitals, schools), and utility services. Comprehensive plans are implemented through zoning, land division regulations, and other codes. The District's largest water system, Judy Reservoir, lies within and serves unincorporated Skagit County and the cities of Burlington, Mount Vernon, and Sedro-Woolley. All of these local governments have comprehensive plans and zoning ordinances that affect the development and future placement of District utility infrastructure. This Water System Plan and the policies it contains are consistent with these locally-adopted comprehensive plans and their implementing regulations.

### 3.2.4 SEPA Review Process

The District has prepared a State Environmental Policy Act (SEPA) Environmental Checklist in accordance with WAC 197-11. Based on the checklist, a Determination of Non-Significance (DNS) has been issued. Copies of the completed SEPA Environmental Checklist and DNS are included in Appendix A.

## 3.3 Water Supply

This section describes documents that shape the way the District's water supply is managed.

### 3.3.1 1996 Memorandum of Agreement

In 1996, representatives from several important stakeholder groups including the District, the City of Anacortes, Skagit County, the Upper Skagit Indian Tribe, the Swinomish Indian Tribal Community, the Sauk-Suiattle Indian Tribe, Washington State Department of Ecology (Ecology), and Washington Department of Fish and Wildlife signed the Memorandum of Agreement Regarding Utilization of Skagit River Basin Water Resources for Instream and Out Of Stream Purposes (MOA). The agreement was intended to shape water use policy over a 50-year period. According to the MOA, its purpose was to do the following:

- Ensure the establishment of instream flows to protect fisheries resources, and the mitigation of any interference with such established flows.
- Provide a mechanism for the coordinated management of water resources and to meet the out-of-stream needs of the Swinomish Tribal Community, Upper Skagit River Tribe, Sauk-Suiattle Indian tribes, local governments, and public water purveyors in Skagit County.
- Avoid litigation or adjudication between parties to the agreement.
- Help expedite Ecology's water right decision-making within the CWSP service area.
- Modify the CWSP to conform to the agreement and incorporate the agreement into Anacortes' and the District's JOA.

In addition, specific water rights for Anacortes and the District were documented as part of the MOA. Chapter 7 of this Water System Plan includes a detailed discussion of the District's water rights related to the MOA. This Water System Plan acknowledges the agreements documented in the MOA and is consistent with the intent and arrangements made in that accord. The MOA is provided in Appendix H.



### **3.3.2 Skagit River Basin Instream Resources Protection Program Rule (WAC 173-503)**

Enacted in 2001, the Skagit River Basin Instream Resources Protection Program Rule established instream flows for the Skagit River and the Cultus Mountain streams as envisioned in the 1996 MOA. This rule is discussed in greater detail in Chapter 7 of this Water System Plan.

### **3.3.3 Cultus Mountain Watershed Management Plan**

The Cultus Mountain Watershed Management Plan serves as documentation of the watershed control program implemented by the District. This plan is used to control sources of potential contamination to supply sources for the Judy Reservoir water system. The Cultus Mountain Watershed Management Plan is discussed in greater detail in Chapter 7 of this Water System Plan and the plan's table of contents is provided in Appendix E.

### **3.3.4 Skagit River Watershed Control Plan**

The District and the City of Anacortes developed a watershed control plan for the Skagit River to control sources of potential contamination to supply sources used by both purveyors. The Skagit River Watershed Control Plan is discussed in greater detail in Chapter 7 of this Water System Plan and is provided in Appendix F.

### **3.3.5 Anacortes and District Joint Operating Agreement**

Anacortes and the District are the entities responsible for serving water to populations in Skagit County's urban areas. To this end, Anacortes and the District have entered into a Joint Operating Agreement (JOA) to coordinate the operation and maintenance of infrastructure, eliminate duplicate responsibilities, and develop shared regional water supply facilities. According to the JOA, the specific intent of the contract is to "make provisions for a standardized method to expand the Skagit Regional Water Supply System to meet the public water supply needs, and to establish a basis for agreement between Anacortes and the District for financing, ownership, construction and operation of new joint facilities required for the Skagit Regional Water Supply System."

Under terms of the agreement, several items are specified, such as connections to public water systems, supply of water, capacity rights, fees, administrative provisions, and other matters affecting the rights and responsibilities of both parties' water supply systems. This Water System Plan acknowledges the agreements documented in the JOA and is consistent with the intent and arrangements made in that accord. The JOA is provided in Appendix D.

### **3.3.6 Skagit County Franchise Agreement**

The District holds a franchise agreement with Skagit County that allows the District to use county right-of-way for the purposes of operating, maintaining, and improving the District's utility infrastructure. The agreement spells out specific conditions to which both parties are legally bound. For example, the agreement obligates the District to repair, to a specific standard, roads disturbed by District construction activities; requires minimum interference with public travel during construction

and operation of District projects; and calls for District project approval by the County through either a permitting process or design review. The agreement states that the County shall coordinate and notify the District of road modifications or improvements, road vacations, and utility relocations. The agreement term is 50 years and the term will expire in 2043. This Water System Plan and the planned actions described within it are intended to comply with the terms of the franchise agreement with Skagit County. The District franchise agreement is contained in Appendix D.

## **3.4 Customer Agreements**

The District has water service agreements with two wholesale water purchasers and one retail water purchaser. This section discusses the customer service agreements in which the District is currently involved.

### **3.4.1 Wholesale Customer Agreements and Plans**

The District currently wholesales water to two customers: Samish Farms Water District and North Fir Island Water Association. This section briefly discusses the details of each agreement. More detailed information regarding quantity of water, points of delivery, water quality, rates and charges, and other subjects is listed in the wholesale agreements, which are provided in Appendix D.

#### **3.4.1.1 *Samish Farms Water District***

The District has a water supply agreement with the Samish Farms Water District. The agreement took effect April 30, 1996. The contract is not to exceed 25 years from date of execution, but may be extended at the option of either party with the consent of the other for additional 3-year periods. The District agrees to provide no less than 810,000 cubic feet of water per calendar month and no more than 1,100,000 cubic feet of water per calendar month.

#### **3.4.1.2 *North Fir Island Water Association***

The District has a water supply agreement with the North Fir Island Water Association. The agreement took effect July 5, 1983. The contract is not to exceed 25 years from date of execution, but may be extended at the option of either party with the consent of the other for additional 3-year periods. The District agrees to provide no more than 125 gallons per minute at the delivery point. This agreement expired on July 5, 2008; however, the District still provides North Fir Island Water Association with water under this expired contract. A new contract with North Fir Island Water Association is presently being negotiated.

### **3.4.2 Retail Customers**

The District currently has a large number of retail commercial, industrial, and residential customers in Mount Vernon, Burlington, Sedro-Woolley, and the surrounding areas of Skagit County. One of the larger customers is briefly discussed in this section. More detailed information regarding quantity of water, points of delivery, water quality, rates and charges, and other subjects is listed in the retail agreements, which are provided in Appendix D.

### **3.4.2.1**    *Sierra Pacific Industries*

The District has a water supply agreement with Sierra Pacific Industries. The agreement took effect September 11, 2008. The District and Sierra Pacific Industries agreed that the service would be continuous until the agreement was terminated. Sierra Pacific Industries estimated that it requires pressures of water at 80 to 100 psi and in amounts of a “maximum” continuous flow rate of 217–234 gallons per minute (gpm), an “average” continuous flow rate of 159–176 gpm, with an anticipated maximum quantity of water equal to 81,000,000 gallons per calendar year.

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