

Regional Water Quality Committee

Responses to Questions on Clean Water Plan

May 4, 2022

Introduction

This document provides King County Wastewater Treatment Division (WTD) responses to Clean Water Plan questions submitted by Regional Water Quality Committee (RWQC) members on October 6, 2021. It also includes responses to selected questions from a September 30, 2021 letter from the King County Auditor to the RWQC regarding the Plan and planning process.

In November 2021, WTD decided to pause the Clean Water Plan (the Plan) process to consider feedback from RWQC members, the King County Auditor, regional cities, local sewer agencies, regulators, non-profit organizations, and other interested parties. The pause process consists of three steps. Step 1 is to stop, listen, compile and consider the feedback. Step 2 is to identify course corrections or adjustments to the Plan and planning process and seek comment from a variety of parties on those corrections. Step 3 is to restart the planning process as adjusted. Preparing these responses to the RWQC member and Auditor questions is part of Step 1.

A summary of feedback of the Clean Water Plan process is included as an attachment to this document. The questions received reflected comments and concerns across several areas. These include:

- An overly broad scope. For example, including issues like stormwater that are not typically addressed in a general sewer plan or comprehensive wastewater plan.
- Exploring options that do not meet existing or reasonably anticipated regulatory requirements.
- Better data to support decision making such as refined cost estimates and data about the impacts of decisions on priority populations.
- A need to explore other funding sources or identify priorities within existing budget limitations.
- Ensuring the benefits and burdens of proposed investments are distributed equitably.
- Better defined goals and communication mechanisms.
- A need to engage audiences more equitably and show clear responsiveness to feedback.
- A need to thoroughly consider innovative and transformational investments in decentralized treatment, infiltration and inflow (I/I).
- A need to prepare for climate change and disaster/hazard resilience.

Along with considering this feedback, the planning process was paused because of two major continuing regulatory efforts that have significant financial and policy impacts on the Plan. Those efforts are the Washington State Department of Ecology's Puget Sound Nutrient General Permit and King County negotiations with Ecology and EPA regarding the Consent Decree for the Combined Sewer Overflow control project schedule.

WTD staff are now working on Step 2, identifying adjustments to the Plan and planning process. Many of the responses in this document acknowledge the feedback and commit to adjustments or course

corrections to address the concern. Specific adjustments will need to be completed, compiled and provided to interested parties as a part of Step 2.

Responses to specific questions are provided below. Adjustments to the Plan and planning process will be discussed with RWQC members and others in the region prior to restarting the process. King County appreciates the opportunity to engage the region in this process and will continue to seek input and feedback from all interested parties.

A. RWQC Member Questions and Responses

Process Questions from Former Mercer Island Mayor Wong

- 1. My notes from [the Clean Water Plan Elected Officials] Workshop No. 4 state that financial information relative to the various strategies are to be developed and shared during Q2 of 2022. Is that the earliest expected financial information is to be provided to the public? Will some of that financial information be broken down and provided in terms of potential impact on future rates payable by ratepayers in different King County municipalities? If not, why not? If not, how are municipalities (especially smaller municipalities like Mercer Island and who lack staff) determine the impact on its residents?***

Response: The previous schedule had financial information being made available in Quarter 2 of 2022 (Q2). The pause will require updating the schedule. Any financial information delivered in the future will be broken down into King County monthly sewer rate and capacity charge amounts and can be presented to reflect different municipalities' (cities and sewer/water district) rates. We will strive to provide the information and analysis in formats to allow municipalities and the public to clearly see the financial effects of investments in the regional wastewater system and water quality choices on ratepayers and affordability.

- 2. While King County staff is gathering information and responses to the various strategies, please describe in greater detail the process by which the Executive Preferred Strategy/Alternatives will be developed. What specific criteria will staff be applying in its determination of the Executive Preferred Strategy? While I note that "quality outcomes," "costs outcomes," and "social outcomes" are mentioned as part of the strategy evaluation, these general descriptors don't discuss with any specificity the criteria/factors that will be used. What will be the balancing act?***

Response: Prior to the pause, the planning process had been developing criteria across broad categories including water quality, equity, and cost outcomes. Examples of criteria included impacts to water bodies and fish, regulatory implications, system resiliency and redundancy, energy use and greenhouse gas emissions, annual and long-term costs and their effect on affordability and rates, and economic and human health impacts. The planning process also included State Environmental Policy Act (SEPA) review and gathering public input on the outcomes. We acknowledge an interest to understand and contribute to developing the factors/criteria that would be applied in the Executive Preferred Strategy. Adjustments to the planning process will address this interest.

- 3. After the Executive Preferred Strategy is presented, what if any further public engagement process will there be? If there is to be further public engagement with third-party stakeholders, what does that public engagement process look like and how will any public responses be addressed/considered in the possible further refinement of the Executive Preferred Strategy?**

Response: King County is committed to regional engagement efforts, including prior to and during development of the Executive's Preferred Strategy. Following transmittal of an Executive-preferred plan, the RWQC and County Council will also conduct legislative processes where additional agency and public input can be provided and considered.

- 4. Given the long-range planning aspect of the Clean Water Plan, do you anticipate the Executive Preferred Strategy including required periodic status reports to the public and periodic reviews to consider changing circumstances? If so, please describe what that periodic review process might look like. Would MWPAAC and the KCRWQC be involved?**

Response: King County is committed to early, transparent and meaningful opportunities for input and feedback during the planning process including periodic status reports. Specific suggestions to enhance the process for input are welcome and encouraged.

Policy Area Questions from Former Mercer Island Mayor Wong

- 1. Unfortunately, I had to leave the [Clean Water Plan Elected Officials] Workshop No. 4 before it was completed. I would be interested (curious) to know where WTD staff is regarding the importance of the policy areas that it believes might need further discussion (selecting among wastewater treatment, wet weather management, aging infrastructure/asset management, climate change, and equity and social justice). Do the staff's concerns align with those of the Workshop No. 4 attendees?**

Response: The purpose of polling on the policy areas at the September 21, 2021 Elected Officials Workshop #4 was to collect input on specific areas for further presentation/discussion, and to provide more information regarding the planning process for Strategy evaluation. We covered as many of those areas as time allowed at the Elected Officials Workshop #5 on October 22, 2021. More discussion of these policy areas is expected once the planning process restarts. We encourage RWQC member input and feedback on all policy priorities and areas of interest.

- 2. Is the listing/ranking of the importance of policy areas to have any impact the various strategies that have been developed to date? If so, how? It seems that the listing/ranking of the importance of the policy areas should have been done prior to the development of the various strategies. Was it?**

Response: No listing/ranking of the importance of policy areas has been developed. RWQC member input on priority policy areas is encouraged at any time. One of the areas of feedback we received was the need to better identify goals in a revised planning process, and staff will be following up on that suggestion. Also, as suggested by the Auditor, the RWQC may wish to identify its own goals or priorities. WTD staff would be happy to help inform such a process.

Other Questions/Comments from Former Mercer Island Mayor Wong

- 1. While the Clean Water Plan will be adopted by King County, there are aspects of it that go beyond King County, e.g., climate change issues. How is King County planning on working with legislators down in Olympia in enacting legislation needed to help further the goals of the Clean Water Plan?**

Response: The King County Executive Office and County Council coordinate on the County's state legislative agenda, including focused outreach during each session on potential legislative priorities. Should an adopted plan establish a direction that requires State legislative action, that process would be used. King County is always interested in collaborating with cities and districts on areas of mutual interest in the legislative process, including how to best address climate change. Several current mechanisms exist today for this purpose include the [King County-Cities Climate Collaboration](#).

- 2. I know that the Mercer Island City Council is currently scheduled to have a study session on the Clean Water Plan either in October or November. Do we know if other King County cities have held similar study sessions or if they are planning to do so? Because so few elected officials are joining the workshops, has WTD staff proactively reached out to the different cities to offer speakers at study sessions? If not, I would recommend that it do so because per the updated schedule it appears that Q2 of 2022 might mark the end of when elected officials might have meaningful input on the development of the Executive Preferred Strategy.**

Response: King County staff are always happy to present at City Council and Commission sessions and meetings. Starting in fall 2021, WTD has been reaching out to each of the 34 cities and sewer district agencies that contract with King County to learn more about local priorities and interests. Those efforts will continue into 2022. Please contact Olivia Robinson at 206.477.3566 or olivia.robinson@kingcounty.gov to schedule a time.

Questions submitted by City of Seattle's RWQC members and responses follow.

- 1. The current scope of Clean Water Plan is problematic and unfocused. Like the current Regional Wastewater Services Plan (RWSP), the Clean Water Plan needs to be concentrated solely on wastewater. There are critical and costly issues facing the regional wastewater system – key elements include asset management, CSOs, nutrients, and climate change impacts. Including other issues, such as stormwater, inappropriately pulls focus away from the importance task of preparing for our region's wastewater needs.**

- a. How will you assure that a robust, strategic but focused plan that adequately addresses our wastewater system needs will come out of this process?**

Response: We acknowledge the many critical and costly issues facing the regional wastewater system, including the specifics noted in the question and others. And there are several trends such as climate change and increasing stormwater volumes that exacerbate these challenges for the regional wastewater system. Reconsideration of the scope and focus of the plan is part of the pause.

- b. How will you assure this plan appropriately preserves wastewater funds for wastewater purposes?**

Response: The planning process is intended to establish direction for investments in the regional wastewater system and related water quality needs. Investments need to have a nexus to the regional wastewater system and to the goals of wastewater treatment. As background, in Cedar River Water & Sewer District v. King County, the Washington Supreme Court held that WTD's expenditures must have a reasonable nexus to the "goals of sewage treatment." Additionally, the Sewage Disposal Agreements with cities and local sewer utilities have similar requirements. With part of the regional system using combined sewers (in Seattle) and with stormwater getting in the system outside of Seattle (via infiltration and inflow), the planning process needs to reflect how these would be best managed, including how wastewater funds or other funding sources can best be used.

- 2. We need to better understand the rate impacts of actions and strategies before decisions are made. How will you assure this happens before the plan is finalized?**

Response: As noted above, King County is committed to providing information and analysis on sewer rates and capacity charges in formats to allow municipalities and the public to clearly see the financial implications and affordability. Specific suggestions would be welcome to help us ensure the information is transparent and informative.

- 3. *Like the County, the Seattle is making significant investments in stormwater treatment, including GSI, as guided by our NPDES permit. Planning efforts around stormwater could be better coordinated between Seattle and King County, but the Clean Water Plan is not the place for that. Rather, this could be done through other more appropriate planning processes. How can the County move this forward, outside of the Clean Water Planning process?***

Response: We recognize Seattle's investments and welcome discussion, coordination, and collaboration with Seattle through multiple mechanisms. Several mechanisms exist including the wet weather management planning process, controls for combined sewer overflows (CSOs), specific capital projects (like the large Ship Canal Water Quality Project), system optimization, the RainWise program, and many others. King County welcomes proposals City of Seattle has on how to further improve coordination and collaboration to achieve mutual and individual goals.

- 4. *How will you better assure actions that overlap are considered more comprehensively and thoroughly to assure the best investments are made? For example, proposals to expand capacity at wastewater treatment plants need to be considered with implementation of distributed wastewater treatment approaches. How will come together to create a strategic plan?***

Response: We recognize the importance of considering inter-relationships, overlaps, and synergies of water quality investments. WTD staff will consider this specific comment as a part of the Step 2 process to identify course corrections.

- 5. *How will decision criteria be developed and applied to assure actions will be appropriately assessed? How will you get appropriate input from stakeholders on the decision criteria and how they are applied?***

Response: Prior to the pause, the planning process had been developing criteria across broad categories including water quality, equity, and cost outcomes. Examples of criteria included impacts to water bodies and fish, regulatory implications, system resiliency and redundancy, energy use and greenhouse gas emissions, annual and long-term costs and their effect on affordability and rates, and economic and human health impacts. The planning process also includes State Environmental Policy Act (SEPA) review and gathering public input on the outcomes. We acknowledge an interest to understand and contribute to developing the factors/criteria that would be applied in decision-making. WTD staff will consider this specific comment as a part of the Step 2 process to identify adjustments and course corrections.

- 6. Another significant concern is the level of service related to asset management being assumed. How will King County determine the appropriate level of service that better strikes an appropriate balance between cost and risk/system need?**

Response: Like other agency programs, King County's asset management program will continue to be an area of focus and refinement. Currently, the County considers industry standards and practices, risk and severity of failure, and other factors to identify and prioritize asset management investments. MWPAAC has identified a continuing interest in this subject as a part of their work program for 2022. This may help provide information and insight into current practices, and may identify opportunities for refinements, all of which could be reflected in a revised planning process.

- 7. The proposed actions and strategies cannot be appropriately refined or selected unless the related goal or policy to be achieved is clear. How will you develop and vet the goals and policies to guide development of actions and strategies? How will you assure the actions and strategies of the plan lead to compliance with wastewater regulations?**

Response: As described in a response above, the pause is a good time to consider changes such as developing goals or principles to guide the process. Also, the RWQC may wish to identify its own goals or priorities. WTD staff would be happy to help inform such a process.

- 8. How has the outreach and engagement and stakeholder involvement specifically influenced and impacted the actions or strategies in the CWP? How will stakeholders have a meaningful opportunity to further refine the actions before they are rolled up into strategies?**

Response: Engagement on Clean Water Plan Actions has been ongoing since early 2020. Summaries of these engagement events can be found in the Clean Water Plan website library <https://kingcounty.gov/depts/dnrp/wtd/capital-projects/system-planning/clean-water-plan/library.aspx> under Public Engagement. The pause is an opportunity to reconsider engagement with parties interested in the process.

B. King County Auditor Questions and Responses

The following are questions contained in King County Auditor Office letter to RWQC with King County Wastewater Treatment Division (WTD) responses. Note that the Auditor's questions are posed to RWQC members, not to WTD. WTD's responses seek to provide information relevant to the questions and, in some cases, the question is for RWQC to further answer in committee deliberations. Questions have been numbered for convenience.

WTD staff have met with the King County Auditor several times since the letter was sent and exchanged further information. WTD staff plan to continue meetings with the King County Auditor through the planning process pause.

1. *What are the risks of an unsuccessful renegotiation of the consent decree (CD), and what would be the impact on rates?*

Response: In announcing the pause, King County acknowledged that the outcome of the CSO CD negotiations would have significant financial effects. A successful negotiation to extend the schedule for compliance would be beneficial to ratepayers, and the converse would not have that benefit. The negotiations between King County and regulators on a modified CSO CD are subject to a confidentiality agreement. While specific information cannot be provided due to the required confidentiality of the process, as of the date of this writing the CD negotiations are proceeding and productive. Staff are optimistic that an extension will be included in a renegotiated CD.

2. *What are the risks of not planning for implementation of nutrient removal, including how it might affect WTD's ability to serve new connections?*

Response: See response above regarding regulatory efforts and Clean Water Plan pause. Costs associated with initial compliance with the Puget Sound Nutrient General Permit have been included in the 2023-2032 sewer rate plan. There is uncertainty as to how nutrients will be regulated and WTD is keeping close attention to the appeals in the court system and hearings board process. However, appeals from utilities and others may not be fully resolved in the near-term and complete regulatory certainty may require more time beyond that. Restarting the planning process with more certainty will help to reduce the risk to ratepayers.

3. *What regulatory outcomes are required for each strategy and/or action to be viable?*

Response: See response above regarding regulatory efforts and Clean Water Plan pause. The 2023-2032 sewer rate plan includes costs for initial compliance with the Puget Sound Nutrient General Permit and about 40% of CSO compliance costs across the ten-year rate plan period. A revised planning process will include more certainty regarding regulatory requirements for all options and strategies.

4. *Are there examples and lessons learned from other jurisdictions in the United States, where broad regulatory changes, such as those proposed by WTD, were sought and achieved?*

Response: King County continues to seek applicable examples and approaches that have been implemented in other jurisdictions and regions. These include nutrient management examples in other large estuaries in the United States including the Chesapeake Bay and the San Francisco Bay, and CSO examples for many other locations. WTD acknowledges that other examples are helpful and instructive.

5. *What are the costs of projects within individual Actions?*

Response: The cost of individual programs and projects are available and can be shared. Staff will take this comment into consideration in identifying course corrections for a revised process.

6. *Are there alternative ways projects could be grouped to improve outcomes at a lower cost?*

Response: The process and work to date will be examined during the pause in the planning process, including how projects are grouped to improve outcomes.

7. *What are WTD's goals for the Clean Water Plan and how do those align with yours?*

Response: Staff concur that the pause is an opportunity to also develop an effective approach to creating a vision, goals, and objectives to guide the plan. WTD is open to suggestions about how we can make the process, including goal setting, work best for participants.

8. *To what extent did WTD consider water quality benefits in its development of Actions and strategies?*

Response: In work done prior to the planning process pause, WTD considered water quality benefits of the Actions in the development of the work-in-progress Strategies. The previous process was intended to provide full picture of the water quality outcomes. The process and work to date will be examined during the pause in planning process.

Attachment: Summary of Feedback on the Clean Water Plan and Planning Process

Our region will invest billions in water quality improvements in the coming decades – much of that will be spent on our wastewater systems. The Clean Water Plan process looked at many issues affecting water quality in our region and solicited input and feedback on regional priorities and interests.

In late 2021, we decided to pause the Clean Water Plan and the process to consider the feedback and refine the planning process. A summary of the feedback King County heard is below:

- The Clean Water Plan scope is too broad.
 - It explores options that do not meet existing or reasonably anticipated regulatory requirements.
 - It includes issues like stormwater that are beyond the scope of a typical comprehensive wastewater plan or general sewer plan.
- King County needs better data to support decision making for the Clean Water Plan, including refined cost estimates for King County, potential costs for other water quality organizations, and data about the impacts of decisions on water bodies and priority populations.
- King County should explore other funding sources rather than using the Clean Water Plan to identify priorities within existing budget limitations.
- The Clean Water Plan should ensure the benefits and burdens of proposed investments are distributed equitably.
- The Clean Water Plan needs better defined goals and to improve its communications about them.
- The Clean Water Plan needs to engage audiences more equitably and show clear responsiveness to feedback.
- The Clean Water Plan has not sufficiently considered innovative and transformational investments in decentralized treatment, inflow and infiltration (I/I), and preparing for climate change and all hazards resilience.