

NORTH SNOHOMISH COUNTY  
REGIONAL WATER SUPPLY  
JOINT OPERATING AGREEMENT (JOA)

WHEREAS, an adequate and safe water supply for North Snohomish County is important to both existing citizens and the long-term comprehensive plans of the Participants and Snohomish County; and

WHEREAS, the State, Snohomish County, and public water purveyors jointly agreed to prepare a Coordinated Water System Plan (CWSP) for North Snohomish County; and

WHEREAS, the preliminary finding and recommendations of the CWSP concludes that projects that provide for the joint use and operation of transmission, storage, and pumping facilities as defined by the CWSP, is in the best interest of the citizens of the County; and

WHEREAS, independent of the preliminary findings and recommendations of the CWSP, the current and near-term water needs of the City of Marysville (Marysville), Tulalip Tribes (Tribes), and Public Utility District No. 1 of Snohomish County (PUD) require immediate steps to construct a transmission line to the Sunnyside vicinity.

NOW THEREFORE, Marysville, the PUD, the Tribes, (Participants) as the initial signatories to this JOA, agree as follows:

1. GENERAL

- A. There is an immediate need for additional water supply in North Snohomish County; and
- B. A proposed 30 inch pipeline (Pipeline) from the Everett Transmission line to the Sunnyside vicinity, to be contracted and owned by Marysville, is consistent with the preliminary findings of the CWSP and the near-term needs of the Participants; and
- C. The issues concerning the rights of the City of Everett to deliver water to Marysville, the Tribes, and the PUD for retail distribution as defined by the Amended Agreement Between PUD No. 1 of Snohomish County and the City of Everett for Multipurpose Development of the Sultan River are resolved and met by this JOA; and
- D. The Participants will assist Marysville, as the lead agency, in completing the necessary environmental review of relevant actions proposed, including the construction of the Pipeline per the agreement of the Participants herein and associated SEPA documents (SEIS and FEIS) and be responsive to such environmental findings in accordance with SEPA; and
- E. The Participants acknowledge the requirement to incorporate land use planning in water supply planning; and

- F. The Participants recognize that any delay may result in higher cost for the proposed Pipeline, in which all Participants will share proportionately; and
- G. A fundamental incentive for the Participants to enter into this JOA is the commitment of all of the Participants to cooperate toward regional solutions for long range water supply needs through the year 2040.

2. INTENT

- A. The general intent of the Participants is to cooperatively plan, design, construct, operate, and maintain the water transmission pipelines and related facilities generally identified in Attachment A.
- B. The specific intent of this JOA is to initiate the construction of the Pipeline, allocate its capacity to the Participants, and provide for future cooperation. Prior to completion of the Pipeline the Participants agree to amend this JOA pursuant to 3D.
- C. It is the desire of the Participants that this JOA be incorporated into a final CWSP. When the CWSP is completed and approved by the State Department of Health, (Health) this JOA will be amended to provide for implementation of the CWSP provisions consistent with the JOA.

3. SCHEDULE - REGIONAL PROJECTS

- A. The Participants agree to cooperate with Marysville, the lead agency, in the Environmental Review, as defined in paragraph 1D to be completed on or about February 28, 1991.
- B. The Participants agree to expedite completion of the construction of the Pipeline as early in 1991 as possible, consistent with appropriate environmental review and permitting requirements, with a goal of completing the project by September 1, 1991.
- C. The Participants agree to immediately initiate joint negotiations with the City of Everett for a regional wholesale water contract rate.
- D. Prior to Pipeline completion, the Participants will develop detailed procedures for the management, operation, maintenance, and financing of the Pipeline and associated JOA projects as an amendment to this JOA.
- E. Within 6 months following the CWSP approval by Health and subject to the unanimous agreement of the Participants, the JOA will be amended to incorporate the recommendations for development of additional facilities, as outlined in the CWSP that are consistent with the JOA.

4. WATER SUPPLY - CAPACITY RIGHTS

Unless otherwise modified in writing and agreed to by all parties, the capacity rights and the cost share agreed to herein shall be as outlined below.

- A. Capacity Rights - Each Participant shall be entitled to purchase capacity in the Pipeline in proportion to the year 2010 Peak Day demand forecast, as shown on attachment B. Capacity rights will be based on the percentage of actual pipeline capacity which is estimated to range from 17.3 - 20 MGD, depending on operating conditions. Each participant will pay the percentage of the cost of the pipeline that corresponds to the percentage of capacity, as specified in Table 1, within 60 days of the date that Marysville gives notice to the Participants of completion of the Pipeline and the estimated cost of the same. The final cost will be based on the audited record of the project and Participant payments will be adjusted accordingly. If a Participant fails to make full payment within 60 days, the remaining Participants will have the option to purchase the capacity rights of the non-paying Participant in the same ratio of their assigned capacity per Table 1. Any capacity not purchased by the PUD or Tribe shall remain with Marysville.

Table-1

Assigned Capacity Rights

	<u>% of Pipeline Capacity</u>
Marysville	56.44
PUD	16.55
Marysville/PUD Overlap	7.21 **
Tribes	<u>19.80</u>
Total	100.00

- \*\* The Marysville/PUD overlap area supply will be assigned to the utility eventually providing service to the area, with the initial assignment of the Pipeline capacity being divided equally between Marysville and the PUD. Payment to Marysville will be adjusted when final capacity assignments are determined.
- B. Operation and Maintenance - As provided in 3D, the Participants will establish operation and maintenance (O&M) charges that include a minimum charge and a charge based on quantity of water delivered. O&M payments will be made on a monthly basis.
- C. Additional JOA Participants. Other agencies can purchase capacity rights from the Pipeline only with unanimous consent of the Participants. Other agencies will be given the opportunity to become a JOA participant for future projects.
- D. Wholesaling Water. A Participant claiming the right to wholesale water delivered through the Pipeline may do so as long as the other Participants to the JOA are not negatively impacted, and the Participant in fact has legal authority to wholesale such water.

Wholesaling outside a Participants designated service area (per Attachment A) shall not trigger or impact the provisions of paragraphs 4E or 4H without the agreement and concurrence of the other Participants.

- E. Tulalip Tribes Supply. The Tribes' capacity rights are based on the Pipeline capacity to the Sunnyside Standpipe. Marysville agrees to wheel water to the Tribes' as shown in Table 1, to the extent possible within the capacity limits of Marysville's existing distribution system while also providing for Marysville's own use of said system. In order to wheel the capacity rights as shown in Table 1, it may eventually be necessary to upgrade Marysville's distribution system. The cost for those necessary upgrades shall be paid proportionately on the basis of benefits received. A wheeling charge shall be established by the two parties.

It is anticipated that additional transmission and storage facilities will be constructed in the 116th Street area when additional capacity for the Tribes and Marysville is needed or other system improvements are made. The estimated quantity of water available to the Tribes by the year 2040 is based on the Tribes' projections as shown on Attachment B.

- F. Additional Facilities. The Participants agree that the Pipeline will meet only a portion of the Participants' future projected needs and that additional facilities, including a second pipeline intertie with Everett and a regional reservoir, will be required.

Projected needs will be identified annually based on the Participants designated service areas. The preliminary designated service area and projections are shown in Attachments A & B.

Planning for these additional facilities will commence no later than the date on which any Participant's demand on the Pipeline reaches 60 percent of said Participant's capacity rights, as enhanced by Lease Backs, if any. Construction of additional facilities will commence no later than the date on which any Participant's demand on the Pipeline reaches 85 percent of said Participant's capacity rights, as enhanced by Lease Backs, if any.

- G. Quality. The objective of the Participants is to maintain the quality of the water in the Pipeline at the same quality required to meet State drinking water standards.
- H. Financing. Financial participation in additional facilities will be based on each Participant's projected need for each such facility.
- I. Lease Back Capacity Rights. The actual water needs of each Participant will be reviewed annually against the projected need which shall be calculated to the completion date of construction for additional capacity. If additional facilities will not be completed prior to the time projected needs of a Participant exceed the capacity rights of the Participant, then the remaining Participants agree to lease unused capacity rights in excess of their projected

needs. Lease terms shall include payments to the lessor based upon a proportionate cost of the lessor's Debt Service and Operation and Maintenance (O & M) for the leased capacity. Leases shall terminate upon availability of additional capacity from additional facilities unless otherwise agreed by the Participants.

5. COSTS

- A. The cost of the Pipeline shall include the cost of construction, as defined in the State BARS system exclusive of legal fees incurred in litigation directly between Participants in this Agreement.
- B. O & M costs for the Pipeline shall include costs as defined in the State BARS system that are directly attributable to operation and maintenance of the Pipeline. Marysville will establish separate accounting for O & M costs for the Pipeline.
- C. Debt Service for each Participant shall include either actual Debt Service on debt issued for the Participant's proportionate share, or the amortized value at 8 percent over 20 years for cash spent by the Participant for its proportionate share, or a combination of both, if applicable.

6. INCENTIVE FOR PARTICIPATION

If a Participant fails to participate in the planning, financing, or construction of additional facilities as outlined in the CWSP and generally identified on Attachments A and B, said Participant will be required to sell to the other Participants any then unused capacity rights in the Pipeline at cost.

7. REOPENER OF AGREEMENT

The Participants agree to act in good faith to assist the City of Marysville in completing the Pipeline by September 1, 1991. The Participants agree to seek all lawful means to expedite completion of the project in accordance with the schedule outlined in the FEIS. Should any Participant breach this covenant of good faith and fail to jointly pursue all lawful means to complete construction of the Pipeline the non-defaulting Participants may reopen the JOA.

8. ADMINISTRATIVE, LEGAL AND OTHER PROVISIONS

All Participants reserve the legal rights to challenge any documents promulgated in relation to the CWSP water supply program, except this document and the related Pipeline project. This document is binding upon the Participants except for allegations of the breach of this agreement by a Participant.

The execution of this JOA and the participation of the Tulalip Tribes in the processes contemplated by the JOA do not constitute nor imply any abrogation, diminishment or waiver of its existing or reserved rights or sovereign powers, whether arising under treaty, statute or common law.

IN WITNESS WHEREOF, the Participants hereto have caused this agreement to be executed by their proper Officers on the 10th day of JANUARY 1997.

City of Marysville

By: Rita Matheny  
Rita Matheny, Mayor

Attest:

By: Phillip E. Dexter  
Phillip E. Dexter, City Clerk

Approved As To Form:

By: Grant K. Weed  
Grant Weed, City Attorney

Public Utility District No. 1  
of Snohomish County

By: Charles N. Earl  
Charles N. Earl  
District Manager

Approved as to form:

By: Douglas Stahl  
Dated: 1/11/97

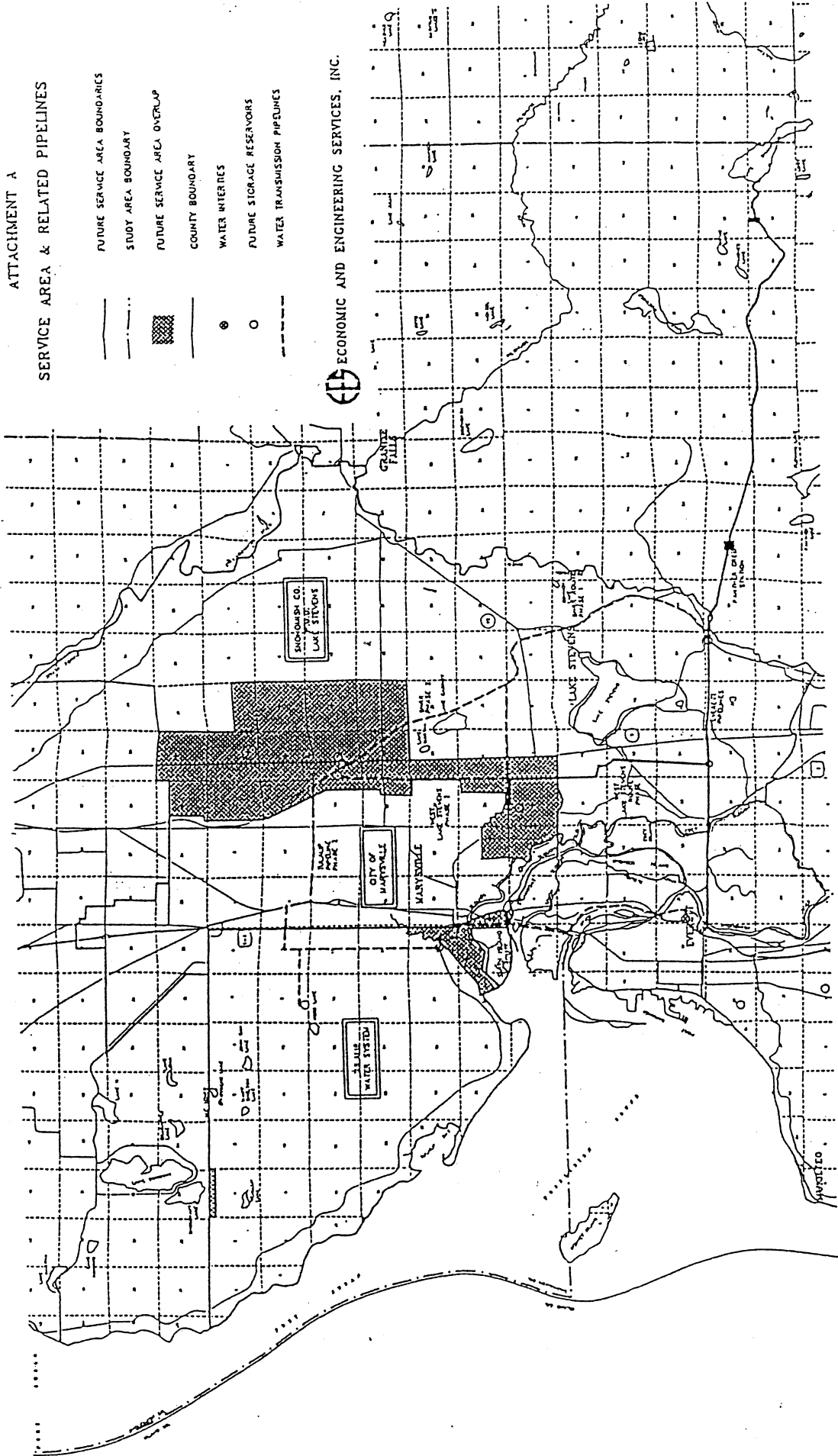
The Tulalip Tribes of Washington

By: Stanley G. Jones Sr.  
Stanley G. Jones, Sr.  
Chairman

ATTACHMENT A  
SERVICE AREA & RELATED PIPELINES

- FUTURE SERVICE AREA BOUNDARIES
- STUDY AREA BOUNDARY
- FUTURE SERVICE AREA OVERLAP
- COUNTY BOUNDARY
- WATER INTERRIES
- FUTURE STORAGE RESERVOIRS
- WATER TRANSMISSION PIPELINES

ECONOMIC AND ENGINEERING SERVICES, INC.



ATTACHMENT B

WATER REQUIREMENTS FORECAST FOR  
MARYSVILLE - LAKE STEVENS - TULALIP TRIBES SERVICE AREAS (1)

(Peak Day MGD)

SERVICE AREA	YEAR			
	2000	2010	2020	2040
Marysville (2)	9.71	11.66	13.68	17.72
Lake Stevens/PUD	0.75	3.42	5.93	10.96
Marysville/PUD Overlap (3)	1.04	1.49	2.05	3.17
Tulalip Tribes	<u>3.11</u>	<u>4.09</u>	<u>5.34</u>	<u>6.39</u>
TOTAL	<u>14.61</u>	<u>20.66</u>	<u>27.00</u>	<u>38.24</u>

Footnotes:

- (1) Forecast as currently developed through the Coordinated Water System Plan.
- (2) Demand forecast assumes current supply of 1.9 MGD from Edwards Springs and Lake Goodwin wells will serve other users.
- (3) Demand to be assigned to utilities based upon final resolution of service area overlap.