

June 26 2019 2:06 PM

KEVIN STOCK  
COUNTY CLERK  
NO: 17-2-12992-1

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7 **STATE OF WASHINGTON**  
8 **PIERCE COUNTY SUPERIOR COURT**

9 WASHINGTON STATE DEPARTMENT  
10 OF HEALTH,

11 Petitioner,

12 v.

13 KAPOWSIN WATER DISTRICT, Owner,  
14 KAPOWSIN WATER SYSTEM,

Respondent.

NO. 17-2-12992-1

REPORT TO THE COURT ON PLAN  
FOR DISPOSITION OF PUBLIC  
WATER SYSTEM

15 Receiver Pierce County (County) by and through its attorney JOHN SALMON, Deputy  
16 Prosecuting Attorney, and Petitioner Washington State Department of Health (Health), by and  
17 through its attorneys, ROBERT W. FERGUSON, Attorney General, and SIERRA  
18 MCWILLIAMS, Assistant Attorney General, jointly present the following report to the Court  
19 on the progress in remediating the Kapowsin Water System.

20 **I. BACKGROUND**

21 On November 29, 2017, Health petitioned under RCW 43.70.195 for the appointment of  
22 a general receiver for Kapowsin Water System (Water System), and the Court entered an order  
23 appointing Pierce County as the receiver of the water system. Per RCW 43.70.195(6), Health, in  
24 conjunction with Pierce County, is required to submit a plan to the court for disposition of a  
25 water system in receivership within 12 months. This matter comes before the Court for a review  
26 hearing on June 28, 2019.

## II. REPORT

The County has repaired the broken surface water transmission line to the Water System, which is now providing water to consumers without the need to transport drinking water by truck. Truck transport of water for the system is concerning to Health due to the attendant health concerns, costs to the consumers of transport, and danger of the water supply being interrupted. *See* Petition for Appointment of Receiver of Public Water System (Petition) at 4.

The original plan for disposition of this system was transfer to Valley Water District, which has been operating the Water System under contract and indicated interested in acquiring ownership of the system if improvements could be made to its infrastructure. *See* Petition ¶ 4.7.

During the last 18 months, the County has taken steps to improve the water system by securing a new well as a safe and continuous source of water for consumers. This process has involved meetings between County, Health, customers, and local tribes, as well as submitting applications for grant funding through both the Department of Health and the federal government. The County has taken the following steps since January 4, 2019 to remediate the water system in order to transfer it to a new owner:

- Obtained a Washington Department of Health Emergency Grant for \$500,000 to help pay for Phase 1 of the well drilling project.
- Received a Letter of Obligation from the United States Department of Agriculture – Rural Development (USDA-RD) for another \$500,000 Emergency Grant for Phase 2 of the well drilling project.
- Applied to Health for an additional \$500,000 emergency low-interest loan to pay cost of well drilling project beyond grant funding allocations.
- Received an appraisal for the property where the well drilling will occur and the necessary Land Use Permit from the property owner, Tacoma Public Utilities (TPU), granting permission for the well drill activity.
- Began work on design and bid package for new groundwater well.

- 1 • Met with Water System customers on May 8, 2019 to discuss special surcharge of \$700 per  
2 connection and well project.
- 3 • Met with Valley Water District and Health on June 25, 2019 to discuss next steps related to  
4 the Receivership.

5 The parties agree that additional time is still needed to complete improvements, i.e. a  
6 new groundwater well source, to the Water System to ready it for transfer to a permanent owner.  
7 Any change in the status of the County as the Receiver for the property could complicate and  
8 delay the current loan applications and grants received for remediation of the water system's  
9 infrastructure. Please see the attached, *Pierce County's Status Update on Kapowsin Water*  
10 *District Receivership* for an accounting of costs incurred and revenue received, and a schedule  
11 showing anticipated milestones for completing the project. Additionally, Health will need to  
12 work with stakeholders to determine the most efficient method of transfer of the Water System  
13 to the permanent owner/administrator.

### 14 III. REQUEST

15 County and Health jointly request the Court grant time to make improvements to the  
16 Kapowsin Water System and to report status of development of a plan for disposition of the  
17 Kapowsin Water System. The parties respectfully request the Court issue an order setting a  
18 deadline for a plan for disposition in December 2021. No party will suffer prejudice from the  
19 grant of additional time and the additional time will assist the parties in resolving the outstanding  
20 matters.

21 DATED this 26 day of June 2018.

22 ROBERT W. FERGUSON  
23 Attorney General

24 /s/ Sierra McWilliams  
25 SIERRA MCWILLIAMS, WSBA #48544  
26 Assistant Attorney General  
Washington State Department of Health  
(360) 586-5107

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MARK LINDQUIST  
Pierce County Prosecutor

/s/ John Salmon  
JOHN SALMON, WSBA #20812  
Deputy Prosecuting Attorney  
Attorneys for Pierce County  
PH: 253-798-7783 / FAX: 253-798-6713



## Pierce County Status Update on Kapowsin Water District Receivership - June 28, 2019 Hearing Date

### Receivership Actions and Timelines

Since the last Court status update on 1/4/19 regarding the Kapowsin Water District (KWD) Receivership many actions have occurred such as, but not limited to:

- Obtained a Washington Department of Health (Health) Emergency Grant for \$500,000 to help pay for the new groundwater well that will apply to Phase 1 of the well drilling project.
- Received a Letter of Obligation from the United States Department of Agriculture – Rural Development (USDA-RD) for another \$500,000 Emergency Grant that will be applied to Phase 2 of the well drilling project.
- Preparing an application to Health for an additional \$500,000 Emergency low interest loan to pay cost of well drilling project beyond grant funding allocations.
- Received an appraisal for the property where the well drilling will occur and the necessary Land Use Permit from the property owner, Tacoma Public Utilities (TPU), granting permission for the well drill activity.
- Working on design and bid package for new groundwater well (see updated project schedule below).
- Met with KWD customers on 5/8/19 to discuss special surcharge of \$700/connection and well project.
- Met with Valley Water District (VWD) and Health on 6/25/19 to discuss next steps related to the KWD Receivership.

### Overview of Revenues and Expenditures

RCW 57 requires KWD revenues to cover maintenance and operation costs and RCW 43.70.195(5) authorizes Pierce County to impose reasonable assessments to recover expenditures associated with the cost of receivership.

The last Court status update described a shortfall in revenues to cover expenditures during the first year of operation of approximately \$27,322 (excluding state B&O taxes) and Pierce County's proposal to administer a \$700 surcharge on each KWD account. The proposal to impose this special surcharge was discussed with Pierce County Elected Officials and then with the KWD customers at a meeting held on 5/8/19 at the Kapowsin Elementary School. Notice of this meeting was provided in advance to customers via postcard mailing, doorhangers, and posting this information on the KWD Receivership webpage at: <https://www.piercecountywa.gov/KWD>. A briefing paper and financial summary document were provided at the KWD customer meeting. **See Attachment A for communication and outreach materials.**

After notifying the KWD customers, this surcharge was implemented with the June 1, 2019 invoice to recover this deficit amount. The surcharge is being billed separate from the \$150 monthly bill. Customers were given the option to pay the total surcharge amount of \$700 in one upfront lump sum, with no penalty charges for early payoff, or spread out the payments over a 24-month period at the rate of \$29.17 per month. Any delinquent payments in the special surcharge will be charged late fees and interest in the same manner as the regular monthly KWD billing. Delinquent payments great than 90 days will be subject to a lien being filed on the property. **See Attachment B: Letter to KWD Customers on Special Surcharge.**

In addition to filing liens, and in keeping with normal water system governance practices, Pierce County is also investigating imposing disconnection of water service to properties that have delinquent payments of 90 days and more overdue. As of 6/19/19 there are seven customers that are in a delinquent payment status for a total of just under \$15,000 in outstanding payments. Three of these customers owe less than \$250 each. One owes almost \$900 and the other three owe \$2,915, \$4,279 and \$6,568.

The current project cost estimates for developing the ground water source is approximately \$1.2 million if an adequate water source is found at the first drill site and up to \$1.525 million if a second well drill or if a new storage facility is needed to compensate for a low volume production well. This amount does not include any other identified system improvements that continue to be the subject of discussion between the County, Health and VWD to determine what is necessary to transition the KWD out of receivership. The new well project estimated expenditures through the end of the 2<sup>nd</sup> Quarter 2019 are approximately \$86,000. The County will not

be able to determine the total amount owing on the well project until after completion of construction and full payout of grant and loan monies that have been received for this project.

### **Well Drilling Project**

The completion of new well construction is anticipated by the end of December 2021. To date, the County has completed a hydrogeologic analysis, developed the engineering design and bid specifications for the well drilling Phase 1 construction package, completed cultural and environmental reviews for the grant applications, and applied for the new groundwater water rights associated with the well. Below is the current estimated schedule for Phase 1 and Phase 2 of the well drilling project.

- Well Drilling Project:
  - Bid Advertisement Date: July 10, 2019
  - Bid Opening: August 16, 2019
  - Notice of Award: September 17, 2019
  - Construction Start: November 2019
  - Construction Complete: March 2020
  
- Well Conveyance and Treatment Project:
  - Final Engineering Complete: August 2020
  - Bid Advertisement Date: November 2020
  - Bid Opening date: December 2020
  - Notice of Award: January 2021
  - Construction Start: March 2021
  - Construction Complete: November 2021
  - Health approval of the new source: November-December 2021

Meeting the well project timelines outlined above depend on: hitting water at the first drill site, obtaining approval for new groundwater right from DOE, obtaining an additional \$500,000 loan contract award from Health to cover the costs associated with this project beyond grant funding, obtaining approval for the new well source from Health, and acquiring the property from Tacoma Public Utilities.

### **Disposition Plan Process Steps and Estimated Timeline**

The time estimates below are based on meeting the well project schedule outlined above:

- Begin discussions with VWD to gauge continued interest in assuming KWD post successful well project: June 25, 2019
  - If VWD is not interested in long-term ownership, then the County will discuss with Health what the next steps will be to find a new long-term owner (may require putting out a Request for Proposals).
- Prepare court documents for transition to long term owner: November – December 2021
- Court date: December 2021 or January 2022
- Information transition to new owner: Within one month after Court date



Public Meeting Invitation  
**Kapowsin Water District  
Customers**

Public Meeting Invitation  
**Kapowsin Water District  
Customers**

**What:** Public meeting to share details of special assessment for each Kapowsin Water District (KWD) connection.

**When:** 7 - 8 p.m. Wednesday, May 8

**Where:** Kapowsin Elementary Commons,  
10412 264th St. E., Graham, WA

**Background:** Maintenance and operation of KWD ran a deficit in 2017-2018. Beginning June 1, 2019, each connection will be charged a special assessment to recover the costs.

**What:** Public meeting to share details of special assessment for each Kapowsin Water District (KWD) connection.

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10412 264th St. E., Graham, WA

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[www.piercecountywa.gov/kwd](http://www.piercecountywa.gov/kwd)

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**Public Meeting Invitation**  
**Kapowsin Water District Customers**



**ATTACHMENT A**



9850 64th Street West, University Place, WA 98467

## **Public Meeting Invitation: Kapowsin Water District Customers**

**What:** Public meeting to share details of special assessment for each Kapowsin Water District (KWD) connection.

**When:** 7 - 8 p.m. Wednesday, May 8

**Where:** Kapowsin Elementary Multipurpose Commons room, 10412 264th St. E., Graham, WA

**Background:** Maintenance and operation of KWD ran a deficit in 2017-2018. Beginning June 1, 2019, each connection will be charged a special assessment to recover the costs.

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**[www.piercecountywa.gov/kwd](http://www.piercecountywa.gov/kwd)**



# Kapowsin Water District Special Assessment

& Project Update



## Overview

Pierce County was court-appointed as the receiver of the Kapowsin Water District (KWD) on November 29, 2017. A failed water transmission line required trucking water to the 40 residential customers of the water system while repairs were made. Pierce County has collected \$150 per month service rate set by KWD.

Maintenance and operation of KWD ran a \$27,322 deficit from November 2017 to November 2018. Pierce County plans to recover these outstanding costs by administering a special assessment of \$700 per connection beginning June 1, 2019. A 24-month payment plan option will be offered, which will raise total monthly payment amounts to \$180 (monthly rate of \$150 and \$30 surcharge).

The special assessment recoups maintenance and operations costs. It does not pay for improvements to provide a reliable long-term water source for KWD customers.

Pierce County must provide a reliable water supply for the 40-connection KWD. The current cost estimate to drill a new groundwater well to replace the surface water source is \$1.2 million to \$1.53 million. Grants and other funding may cover \$1.5 million (\$1 million in grants; \$500,000 from low-interest loan).



### **Is this the only assessment?**

This is not a rate increase. We are administering a special assessment of \$700 per KWD connection – with an optional 24-month payment plan. The special assessment pays the \$27,322 deficit for maintenance and operations of KWD from November 2017 to November 2018.

A future special assessment could occur to fund the well drilling project and additional maintenance and operations costs. We are actively seeking grant and loan options to cover the costs of the new well project.

### **How do I pay the special assessment?**

Your June 2019 bill will include a letter and separate invoice that outlines options for paying the special assessment.

### **Who is maintaining the water system?**

Pierce County is the receiver of KWD and has contracted with Valley Water District for maintenance and operations. Pierce County will seek to transition KWD out of receivership to another water purveyor when the well drilling project is complete.

### **Why are we being charged to maintain and operate our water system?**

KWD is in receivership. Pierce County is court-ordered to manage KWD, provide an interim water source, and locate and develop a long-term safe and reliable water source. RCW 57 requires the KWD to produce sufficient revenues to cover maintenance and operation costs. RCW 43.70.195 (5) authorizes Pierce County to impose reasonable assessments on KWD customers to recover expenditures associated with the cost of receivership.

### **What has happened?**

Many actions have occurred since Pierce County took over receivership of Kapowsin Water District (KWD) on November 29, 2017.

- Transfer of KWD from Valley Water District to Pierce County and set up process for accounts payable and receivable
- Payment of outstanding B&O taxes and insurance policy
- Obtained maintenance and operations contract with Valley Water District
- Completed a variety of repairs including fixing the broken surface water transmission line
- Installed water sampling station and monitored daily per Department of Health (DOH) Notice of Violation letter
- Working with federal and state agencies to obtain grant/loan funding to pay for the new groundwater well
- Working on design and bid package for new groundwater well

The transmission line once again failed on December 16, 2018, which resulted in the need to haul water for one day until repairs could be made. This failure demonstrates that the surface water source is unreliable.

### **What will the well drilling project do for KWD?**

The well drilling project will provide a long-term safe and reliable water source and enable transition of the KWD out of receivership to another water purveyor.

### **When will the well drilling project begin and what is the project timeline?**

We will have a more exact timeline once grant funding is secured. Once funding is secured, we expect the project to take two years to complete.

**24-Hour Water System Emergency: (253) 798-7000**

**Billing: (253) 798-4020**

#### **Mail payments to:**

Pierce County Sewer  
P.O. Box 11620, Tacoma, WA 98411-6620

Hours: Monday–Friday, 9:00 a.m.– 4:00 p.m. (Closed all major holidays)

**Kapowsin Receivership website:** [www.piercecountywa.gov/kwd](http://www.piercecountywa.gov/kwd)

**You can also sign up to receive email notifications at this same site.**

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7 **STATE OF WASHINGTON**  
8 **PIERCE COUNTY SUPERIOR COURT**

9 WASHINGTON STATE DEPARTMENT OF  
10 HEALTH,

11 Petitioner,

12 v.

13 KAPOWSIN WATER DISTRICT, Owner,  
14 KAPOWSIN WATER SYSTEM,

Respondent.

NO. 17-2-12992-1

ORDER SETTING DEADLINE TO  
SUBMIT A PLAN FOR  
DISPOSITION OF WATER  
SYSTEM

15 **I. HEARING**

16 1.1 Hearing. THIS MATTER came before the Court on June 28, 2019.

17 1.2 Appearances. Petitioner Washington State Department of Health appeared by  
18 and through its attorney, Assistant Attorney General, Sierra McWilliams; Receiver Pierce  
19 County appeared by and through its attorney, John Salmon.

20 1.3 Evidence. The Court has reviewed the parties' Report to the Court On Plan  
21 for Disposition of Public Water System, and Attachments to the Report. The Court has also heard  
22 and considered the arguments of counsel, if any.

23 **II. FINDINGS OF FACT**

24 Having considered the evidence and argument of counsel, the court finds that:

25 2.1 On November 29, 2017, the Secretary of Health petitioned the Court to place the  
26 Kapowsin Water System in receivership and appoint the County as receiver.



1 MARK LINDQUIST  
2 Pierce County Prosecutor

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5 JOHN SALMON, WSBA #20812  
6 Deputy Prosecuting Attorney  
7 Attorneys for Pierce County  
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