

The Board has now spent several months carefully considering the issue of whether to move forward with the sale of new shares and, if so, how to allocate any new shares. In this process the Board has taken the time to listen to diverse member opinions and to carefully consider those opinions. As a result of that process, the Board has decided to proceed with the approach detailed below for the handling of this important issue. The Board is confident that this approach reflects the overwhelming majority of WWA members' desires for managing our water resource.

In this update, the Board provides a summary of the necessary next steps, a description of its current process involving future water share allocation, and a discussion of some of the specific member input and concerns that have influenced this plan.

PROPOSED BYLAW CHANGES (*Special Membership vote will be scheduled in March*)

Based on member input, the Board will now move forward with initiating a Special Meeting, as required, to allow membership to vote on the proposed Bylaw changes. These Bylaw changes were originally proposed in August 2021 and then "paused" pending further discussion. The details for the Special Meeting (date/time and place) will be provided prior to the meeting.

It is important to remember that most of these proposed changes are primarily to clarify and update the Bylaws to align with current County and State laws.

These clarifications include:

***Add the Equivalent Residential Unit (ERU) terminology to the Bylaws to align with current WAC Title 246 Chapter 246-290 standards which governs community water systems like WWA.

***Update Bylaw terminology from "Member Water Rights" to the more accurate "Member Water Share"

See Appendix A for the details of all the proposed Bylaw changes that the membership will be asked to vote on.

NOTABLE BYLAW CHANGE

There is one proposed Bylaws change that involves future water share allocation and which caused the most confusion back in August: the annual limit on offering water shares for sale. On this topic there are some important points that the Board wants to make clear.

First, it is important to understand that the *current* Bylaws limit the number of shares that the Board can release in a given year to 9 shares. This has been the rule for many years.

The proposed change to Article V, Section 2 of the Bylaws *lowers this maximum number of shares that can offered for sale in a given year to 4 shares*. Additionally, the Board reserves the right to release *less than* the maximum number (i.e., less than 4 shares under the proposed change) in a given year.

See Appendix A for the details of all the proposed Bylaw changes that the membership will be asked to vote on.

SHARE RELEASE SCHEDULE – *Timeline going forward*

Some WWA members expressed a concern that the new Back 40 well may not have been up and running long enough to guarantee sufficient quality and quantity of water production. While the Board is very confident that the Back 40 well is reliable within the significant constraints anticipated for its operation (peak summer usage for short durations), the Board nonetheless has adopted the following strategy and timeline in response to member concerns.

Spring '22 → only 4 shares will be offered for sale. The sale of these four shares will allow us to replenish the Capital Asset Replacement (CAR) Fund that paid for the Back 40 well purchase.

Spring '23 → No shares will be offered for sale in order to allow additional time to gain experience with the Back 40 well.

Spring '24 → The next round of 4 shares may be considered by the Board for release for sale.

The Board will ultimately decide whether or not to release these shares based on the ~2 ½ years of experience we will have accumulated on the Back 40 well by 2024.

SHARE SALE TIERS – *Update to Operating Procedures*

The following priority tiers were developed by the Share Sale Ad-Hoc Committee and recommended to the Board. Existing Members will continue to have “Tier 1” eligibility for new shares pursuant to the longstanding rule in the current Bylaw Article V, Section 2 and Article VI, Section 2. The tiers for eligibility for any new water shares are described generally as follows:

- Tier 1:** Current WWA Members
- Tier 2:** Non-Members with existing residence and have public health problem with existing water supply
- Tier 3:** Non-Members with existing well / existing residence and want to convert to WWA connection

Tier 4: Non-Members with existing well / no residence and want to convert to WWA connection

Tier 5: Non-Members without residence or supply of potable water

Refer to Appendix B for additional details of the sales tiers.

SHARE SALE PROCESS – *New Procedure, please read!*

The share sales process as recommended by the Share Sale Ad-Hoc Committee and under consideration by the Board is available in Appendix B. Both the Board and the Share Sale Ad-Hoc Committee have put a significant amount of time and energy into developing these new procedures. The Board plans to hold an information session this Spring to allow members to ask questions relative to the new share sales process.

A few key points:

***If the WWA Board determines there is sufficient excess water production capacity to allow the sale of additional new water shares of a number (and ERU total) that does not create any foreseeable risk of compromising the mission, priorities and goals of the Westside Water Association, then the Board may, at its sole discretion, offer some or all of those new water shares to eligible, qualified prospective purchasers in the order of priority as defined in Section 5.3 of the Standard Operating Procedures, starting with “Tier I” applicants. Notwithstanding the above, the number of shares the Board releases for sale in a given 12-month share sales cycle shall not exceed the maximum number of shares allowed for release each year as defined by Article V Section 2 of the WWA Bylaws.

***Each applicant may only apply for one share during each 12-month share sales cycle. The candidate parcel number the share will be associated to must be designated on the application.

***Each Share Sales Tier will complete prior to remaining shares being offered to the next Tier.

***Within a given Tier, if there are fewer available new shares than applicants, then the WWA shall conduct a lottery to determine which applicants within the Tier will be offered a share for purchase.

***The entire sales process starts over when additional shares are released for sale (i.e., there is no priority waiting list carried over from year to year).

Refer to Appendix B for the full Share Sales process and diagrams.

MEMBER WORKING GROUP – *Summary and Insights*

Most of the work described above involved the Share Sale Ad-Hoc Committee made of up longtime WWA members and chaired by WWA Board member Adrian Witherspoon. However, four WWA members (Mary Bruno, Jim Diers, Kim Snyder and Jessica Vreeswijk) expressed concerns about some of these issues following the August Informational Session. These four formed a Member Working Group in an effort to confirm member attitudes regarding some of the proposed changes, including the longstanding rule of member priority for new water shares and the issue of water shares sales generally.

The Board and the Share Sale Ad-Hoc Committee welcomed their participation and met with them directly to discuss their concerns. The self-initiated Member Working Group performed two major tasks:

- Drafting a comprehensive list of questions posed to the Board that they felt represented the membership’s largest concerns regarding the sale of additional shares; and
- Creating an online survey that asked the membership to weigh in on the sale of shares itself and the member priority topic.

The Working Group’s questions and Board responses can be found in the “Member Working Group FAQ” document included in Appendix C and available on the WWA website. The Working Group and the Board hope that you find this FAQ useful.

The Working Group’s online survey led to the following insights:

1. A significant portion of the survey respondents expressed concern about the quality and production capacity of the new Back 40 well due to the limited experience with it;
2. A majority of respondents (52%) felt that member priority in the purchase of new shares should remain. Since it would require two thirds of the membership to approve removing member priority from the Bylaws, it was determined that effort was unlikely to pass, and therefore the topic of removing member priority from the Bylaws will not be pursued at this time;
3. In general, the Working Group encouraged the Board to develop more effective ways to engage and communicate with members. Approximately 30% of the respondents said they needed additional information before they could agree or disagree with the Board’s decision to issue additional shares;
4. The Working Group applauded the slower rollout (i.e., limit) of shares detailed in the current proposed Bylaws changes. It is clear that this yearly limit was not understood by some members and led to confusion and misunderstanding that all 24 new shares might be released at once – which was absolutely never the case.

Please refer to the Appendix D to read the Member Working Group “Insights from New Shares Poll Results” document to see their conclusions and recommendations to the Board (also available on the WWA website).

Also available on the website is the full list of comments provided during the survey.

Appendix A

Summary of Proposed Bylaw Changes

The Westside Water Association (WWA) Board created an ad-hoc committee consisting of 3 general members and 2 Board members to review the existing sections of the Association Bylaws and Standard Operating Procedures that pertain to the offering and sales of shares to insure congruence and consistency. The ad-hoc committee provided recommendations to the Board for updates to both documents. The recommendations include clarifying and updating language to align with current County and State processes. The committee provided recommendations that are intended to follow the historical intent of the existing WWA Bylaws.

These proposed Bylaw changes will be voted on by membership at a Special Member Meeting that will be scheduled in 1H'22. The official Special Member Meeting invite will be sent out at a later date.

Key Terminology → ERU

DOH utilizes an ERU (Equivalent Residential Unit) method of measuring water volume per service connection. This ERU figure is used for all system planning and dimensioning calculations.

Based on historical data, in 2020 WWA defined (and DOH accepted) the Association's maximum ERU as 500 gallons per day. A WWA share entitles each Member to a maximum of 500 gallons per day per the ERU. We are happy to supply more when we have it, but the obligation the Association has to provide members with safe and reliable drinking water is limited to 500 gallons per day per connection as per our ERU policy.

PROPOSED BYLAW CHANGE 1

Update “Water Rights” to “Water Share”

The existing Bylaws use the term “Water Rights” to denote “Water Share.” (15 occurrences)
In today’s terminology, water is owned by the public and the right to use any water is granted by the Washington State Department of Ecology to individuals or groups in the form of a “Water Right.”

WWA has been granted the “Water Rights” to pull water from the land. WWA is then authorized to issue a defined number of connections to our system by DOH based on our defined ERU. WWA tracks the authorized connections by means of a “Water Share.” WWA members are not given and do not own a “water right.”

Of the 15 occurrences of “Water Rights” term being used to reference “Water Share” in the existing Bylaw, 10 are accounted for in the other following proposed Bylaw changes. The remaining 5 occurrences are proposed to also be updated.

PROPOSED BYLAW CHANGE 2

ARTICLE VI, SECTION 2

EXISTING

“In the first sixty (60) days after the adoption of these amended Bylaws, and during the first sixty (60) days of each succeeding twelve (12) month period, existing members of the corporation may purchase one additional water right from the Corporation so long as such additional number of water rights sold does not exceed the number of new members allowed in Article V hereof and provided that no person or group may purchase more than one water right within a twenty-four (24) month period.”

CONCERNS

- 1) References an old Bylaw amendment date as the trigger for the share sales process.

PROPOSED NEW

“In the first sixty (60) days of the twelve (12) month water share sales period, existing members of the corporation may purchase one additional water share from the Corporation so long as such additional number of water shares sold does not exceed the number allowed in Article V and provided that no person or group may purchase more than one water share within a twenty-four (24) month period.”

BENEFITS

- 1) Removes reference and trigger associated with the old Bylaw Amendment date.
- 2) Maintains existing members get priority during first 60 days of share sales period.
- 3) Maintains limit of 1 share purchase within 24-month period for any person or group.

PROPOSED BYLAW CHANGE 3

ARTICLE VI, SECTION 3

EXISTING

“Water rights will be sold only upon the applicant supplying to the Board of Trustees proof of building plans for a residence on applicant's property. If the residence is not occupied within twelve (12) months from receipt of the water right, the water right will be returned to the corporation, and all money paid by the applicant refunded. Extension of time to complete the residence may be granted at the sole discretion of the Board of Trustees.”

CONCERNS

- 1) Does not align with current day building permit procedures which require the demonstration of water availability prior to getting OSS approval and then a building permit.
- 2) A 12-month occupancy requirement is not realistic in today's permitting and building processes.

PROPOSED NEW

“If a purchased water share is not utilized for providing domestic water service to the associated parcel within 3 years after purchase the Board of Trustees may revoke the share. The water share will be returned to the corporation and the original purchase cost refunded to the applicant. Extension of time may be granted at the sole discretion of the Board of Trustees.”

BENEFITS

- 1) Removes dependency of having “building plans” in order to purchase of share.
- 2) Still requires share holder to use the share for domestic water within a defined time frame or the Board may choose to revoke the share.
- 3) Extends the time of enforcement to a more realistic 3-year timeframe, while still allowing the Board to grant extensions to the enforcement time. Note: originally proposed change was for a 5-year timeframe, but due to concerns voiced at the Aug 5th, 2021 Info Session this was reduced to a 3-year timeframe.

PROPOSED BYLAW CHANGE 4

ARTICLE VI, SECTION 5

EXISTING

“Cost of a water right shall be determined by the Board of Trustees and shall include the water right and the use of one meter. Payment will either be in full at time of application or, subject to Board approval, by paying 50% down at time of application with the balance to be paid over twelve (12) months with interest charged at 1% of the monthly outstanding balance. Hook-up costs will be borne by the new member. Any costs to extend present system to serve new water rights will be borne by the new water right holder.”

CONCERNS

- 1) Requires payment at time of application instead of when share offered for purchase to applicant.
- 2) Payment option of 50% down and 50% over 12 months requires WWA to manage. Added complication not necessary.

PROPOSED NEW

“Cost of a water share shall be determined by the Board of Trustees and shall include the water share and the use of one standard meter. Payment will be made in full within 30 days of the time the share is offered for purchase to the applicant by the Board. Hook-up costs will be borne by the new member. Any costs to extend present system to serve the new water share will be borne by the new water share holder.”

BENEFITS

- 1) Removes the option to pay 50% down and 50% over 12 months.
- 2) Changes payment required at time of application to when share offered for purchase to an applicant.
- 3) Maintains that hookup costs and the cost to extend the present distribution system, if necessary, are borne by the new water share holder.

PROPOSED BYLAW CHANGE 5

ARTICLE VI, SECTION 1

EXISTING

“Each member shall have the right to purchase one water right for one residence located on the member's property.”

CONCERNS

- 1) “Residence” is a difficult term to enforce and WWA has not traditionally been successful at enforcing the association’s definition of residence.
- 2) Multiple definitions of residence occur within various state agencies. State agencies continue to update their definitions in order to keep up with things such as Accessory Dwelling units.

PROPOSED NEW

“Each applicant shall have the right to purchase one water share, valid for a single ERU, for one tax lot parcel that the applicant owns.”

BENEFITS

- 1) Removes “residence” from the definition of a share. Instead defines a share to align with the ERU policy that a share is an obligation between the Association and the Member to supply up to 500 gallons per day as stated in the ERU policy.
- 2) Pushes the permissible use determination and enforcement to King County.

PROPOSED BYLAW CHANGE 6

ARTICLE V, SECTION 2

EXISTING

“The Board of Trustees shall establish the number of new members admitted to the corporation in a given twelve (12) month period; provided, however, that in the first twelve (12) month period following the adoption of these amended Bylaws the number of new members admitted will not exceed eight percent (8%) of the total membership at the time of the adoption of these amended Bylaws. In subsequent twelve (12) month periods the number of new members shall not exceed four percent (4%) of the total membership at the beginning of the period. If within a given period the limit of new members is not reached, then that number may be admitted during the subsequent periods without applying to that period's quota. The Board of Trustees shall not approve any new members of the corporation for the first sixty (60) days of any twelve (12) month period, and in no event shall the Board of Trustees approve any new members if there are no water rights available after present members have exercised their option to purchase additional water rights as described in Article VI.”

CONCERNS

- 1) References a share sales start period triggered by an older Bylaw Amendment date.
- 2) Defines an outdated 8% first year limit that was only applicable to the first year after the older Bylaw Amendment date.
- 3) Has a carryover clause that can be interpreted as aggregating the 4% max each year even in years when shares are not offered for sale.

PROPOSED NEW

“If additional water shares are available, the Board of Trustees shall establish the number of new water shares to be offered for sale in a given twelve (12) month period; provided, however, that the number of water shares sold does not exceed two percent (2%) of the total number of existing issued water shares at the beginning of the twelve (12) month period. During the first sixty (60) days of the twelve (12) month sales period, existing members shall have first right of purchase of new water shares as described in Article VI.”

BENEFITS

- 1) Removes references and trigger associated with the old Bylaw Amendment date.
- 2) Removes outdated 8% first year limit that was only applicable to the first year after the older Bylaw Amendment date.
- 3) Removes the possible carryover of un-sold shares within a year.
- 4) Lowers the max cap to 2% per year from original 4%.
- 5) Maintains member priority for first 60 days of any 12-month share sales period.

Appendix B

Share Sales Process

The following is the share sales process recommended by the Share Sales Ad-Hoc Committee and under consideration by the Board. The Board plans to hold an information session this Spring to allow members to ask questions relative to the new share sales process.

1. Share Sales Process

1.1. If the WWA Board determines there is sufficient excess water production capacity to allow the sale of additional new water shares of a number (and ERU total) that does not create any foreseeable risk of compromising the mission, priorities and goals of the Westside Water Association, then the Board may, at its sole discretion, offer some or all of those new water shares to eligible, qualified prospective purchasers in the following order of priority as defined in Section 5.3, starting with “Tier I” applicants.

Notwithstanding the above, the number of shares the Board releases for sale in a given 12-month share sales cycle shall not exceed the maximum number of shares allowed for release each year as defined by Article V Section 2 of the WWA Bylaws.

1.2. Each applicant may only apply for one share during each 12-month share sales cycle. The candidate parcel number the share will be associated to must be designated on the application.

1.3. Group Tiers

1.3.1. Tier 1 Applicants are first in priority and include only current WWA members (who currently own one or more water shares). Tier 1 applicants may use any new share purchased for any lawful purpose consistent with WWA Bylaws, rules, policies and procedures.

1.3.2. Tier 2 applicants are second in priority and include only existing real property parcel owners within the WWA service area, to be used to supply water to that parcel in a manner and for purposes consistent with WWA Bylaws, rules, policies and procedures, and who:

1.3.2.1. have an existing residence on their parcel;

1.3.2.2. do not currently own a WWA water share;

1.3.2.3. currently obtain water from another source;

1.3.2.4. produce reasonable proof of a public health problem with their existing water supply.

1.3.3. Tier 3 applicants are third in priority and include only existing real property parcel owners within the WWA district, to be used to supply water to that parcel in a manner and for purposes consistent with WWA Bylaws, rules, policies and procedures, and who:

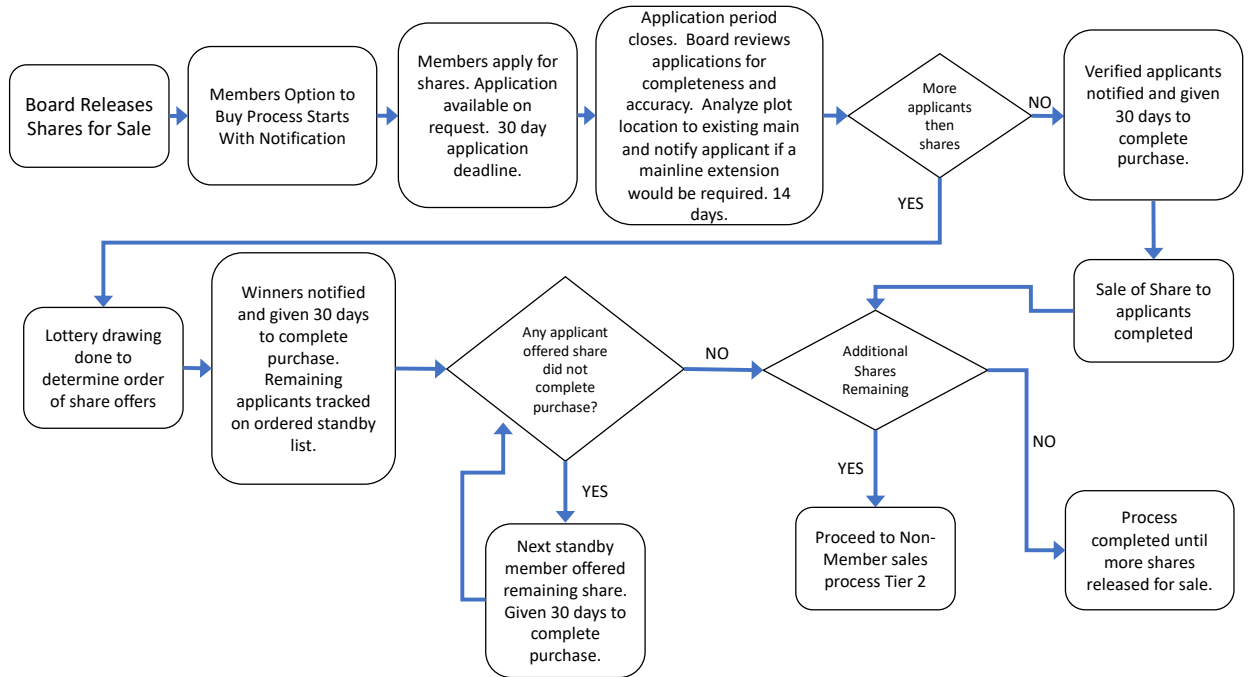
1.3.3.1. have an existing residence on their parcel;

- 1.3.3.2. do not currently own a WWA water share;
 - 1.3.3.3. currently obtain water from a well.
- 1.3.4. Tier 4 applicants are fourth in priority and include only existing real property parcel owners within the WWA district, to be used to supply water to that parcel in a manner and for purposes consistent with WWA Bylaws, rules, policies and procedures, and who:
- 1.3.4.1. do not have an existing residence on their parcel;
 - 1.3.4.2. do not currently own a WWA water share;
 - 1.3.4.3. currently obtain water from a well.
- 1.3.5. Tier 5 applicants are fifth and last in priority and include only existing real property parcel owners within the WWA district, to be used to supply water to that parcel in a manner and for purposes consistent with WWA Bylaws, rules, policies and procedures, and who:
- 1.3.5.1. do not have an existing residence on their parcel;
 - 1.3.5.2. do not currently own a WWA water share;
 - 1.3.5.3. do not have a current supply of potable water.
- 1.3.6. The WWA Board shall revoke any offer to sell a new water share if it is determined at any time that any of the conditions set forth above are not met.
- 1.3.7. The WWA new water share sale process begins with reasonable written notice from the WWA to current WWA members (prospective **Tier 1** purchasers) only, using typical member correspondence methods (e.g. member email, U.S. Postal mailing addresses, alert notification system). There shall be a deadline of not less than 30 days from the WWA notice date for members to apply for an opportunity to purchase a new water share, with the date of the deadline clearly set for the WWA notice.

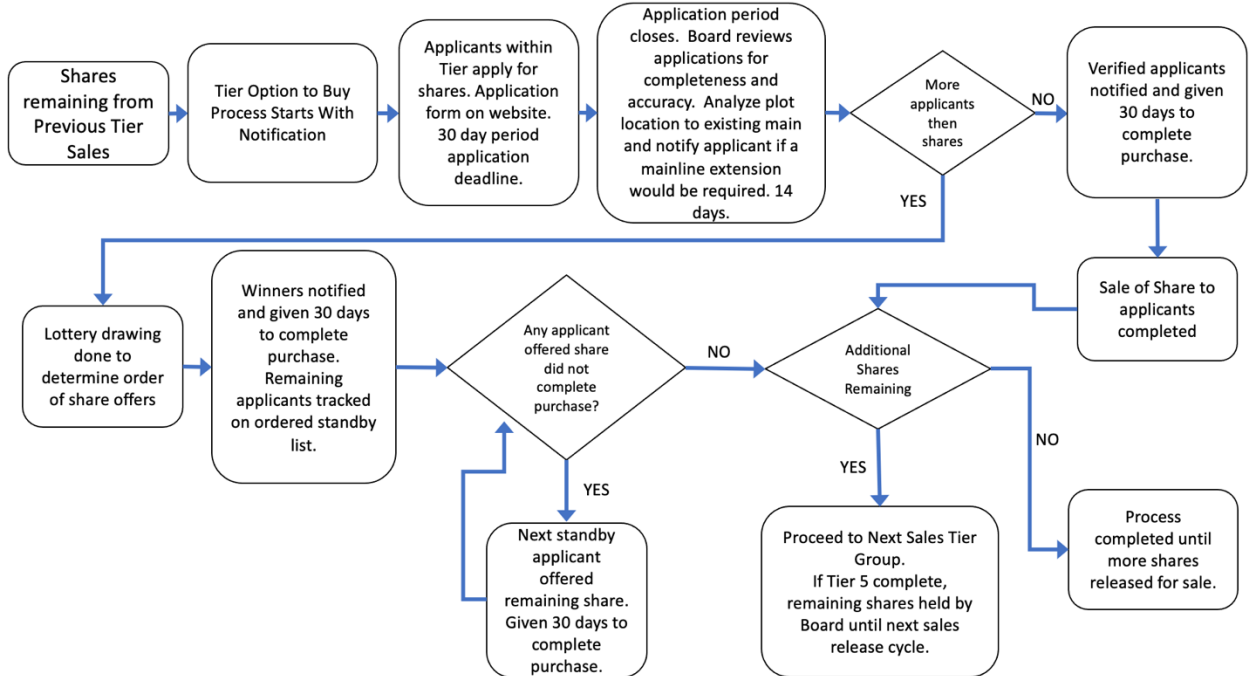
- 1.4. The WWA will provide an Application to Purchase Water Share to any prospective Tier 1 purchaser upon written request to the WWA. Applications shall be emailed to _____ and/or mailed to _____ on or before the 30-day deadline set forth in the WWA notice. WWA will not consider any application that is not post-marked or emailed on or before the deadline.
- 1.5. There shall be a \$100 (one hundred dollar) non-refundable application fee. The application fee will be applied to the final purchase cost for any applicant that completes the purchase process. If an applicant is not offered a share to purchase or decides to not proceed with purchase of a share then this application fee shall be forfeited by the applicant and retained by the WWA.
- 1.6. Within 14 days following the application deadline, the WWA will review all applications, will confirm each applicant's eligibility and qualifications for Tier 1 status, and will notify each Tier 1 applicant concerning if a mainline extension to the applicant's property is necessary.
- 1.7. If there are more available new shares than Tier 1 applicants, then the WWA shall provide written notice of application acceptance to each Tier 1 applicant and each Tier 1 applicant must complete their purchase within thirty days of acceptance.
- 1.8. Alternatively, if there are fewer available new shares than Tier 1 applicants, then the WWA shall conduct a lottery of Tier 1 applicants to determine Tier 1 applicant priority. Tier 1 lottery winners must complete their purchase within thirty days of notice of winning. The WWA shall determine, by lottery, the priority of remaining Tier 1 applicants for that year. If for any reason a Tier 1 lottery winner declines or fails to complete the new share purchase within 30 days of the WWA notice, the WWA may offer the new share sale to the lottery winner for that year who is next in priority, who shall be provided 30 days to complete the new share purchase. Priority of prospective Tier 1 applicants will not, under any circumstance, carry over from year to year.
- 1.9. If after sales to Tier 1 members described above are completed there remain no available new shares, the new shares sale process shall be concluded for the year. If new shares remain available, the WWA may, at the sole discretion of the WWA Board, initiate the process of offering the remaining new shares for sale to **Tier 2** applicants, using the same procedure above except as modified below.

- 1.10. The WWA new water share Tier 2 sale process begins with reasonable public notice to potential Tier 2 applicants by posting to the WWA website and by signage at major intersections within the WWA geographic area, as determined at the discretion of the WWA Board. There shall be a deadline of not less than 30 days from the WWA notice date for members to apply for an opportunity to purchase a new water share, with the date of the deadline clearly set for the WWA notice. The procedure and deadlines shall then be the same as for Tier 1 applicants, described above.
- 1.11. If there remain new water shares available at the conclusion of the Tier 1 and Tier 2 process, the WWA may proceed with offering the new share for sale to **Tier 3** applicants, following the same procedure as for Tier 2 applicants.
- 1.12. If there remain new water shares available at the conclusion of the Tier 1, Tier 2 and Tier 3 process, the WWA may proceed with offering the new share for sale to **Tier 4** applicants, following the same procedure as for Tier 2 applicants.
- 1.13. If there remain new water shares available at the conclusion of the Tier 1, Tier 2, Tier 3 and Tier 4 process, the WWA may proceed with offering the new share for sale to **Tier 5** applicants, following the same procedure as for Tier 2 applicants.
- 1.14. If there remain new water shares available at the conclusion of the Tier 1, Tier 2, Tier 3, Tier 4 and Tier 5 process, there shall not be any further sales in that share sales release period and the remaining shares will be held by the Board until they start the next share sales release period.

1.15. Diagram of Tier 1 Sales Process



1.16. Diagram of Tier 2 – 5 Sales Process



Appendix C

Member Working Group FAQ

The following questions regarding expansion of the Westside Water Association were respectfully submitted to the Westside Water board and management after the August 5, 2021 informational meeting about the addition of 24 new water shares. Questions were compiled by a volunteer group consisting of Association members Mary Bruno, Jim Diers, Kim Snyder and Jessica Vreeswijk. (The volunteer group thanks the Westside Board for its swift response to original and follow-up questions.) The group's goal was to capture and convey the confusion and concerns expressed by WWA members both during and after the August 5 informational session. These questions are an attempt to understand—and share with WWA members—the rationale and process for the proposed expansion, as well as any potential consequences. Questions and any follow-up questions always appear in **bold**.

Question: How does the addition of 24 new shares benefit the Westside Water community as a whole?

WWA Board response: “There are several benefits to consider:

- 1) increases the number of people bound together through a common organization to be responsible for a shared, area-wide resource with island wide implications”;

Follow-up Question: This assumes that WWA actively dedicates some portion of the new shares to non-members, correct? Otherwise, how can WWA grow membership if current members are always given priority when it comes to awarding new shares?

Board response: “The Board neither proclaims nor foreswears what will happen relative to non-members but will act in accord with the existing processes as described in the Bylaws. The Board predicts that even if existing members have properties that a new share could be applied to, those properties will, likely, eventually be obtained (owned) by people other than the existing owners. In that sense the “territory” affected by the new shares will also grow irrespective of who “owns” the parcel.”

- 2) “contributes financially to WWA through both income from sale of shares to finance NEW Capital and to reimburse the Association for funds borrowed from the Capital Asset Replacement fund for previously acquired NEW Capital resources, e.g. re-routing and upsizing of distribution system serving all services from 116111 SW Cedarhurst to McCormick Place; installation of well points and collection system post 1988 dam failure; drilling of Canyon Well; New distribution main down 148th from 119th; Arsenic filtration system;”

Follow-up: Will the additional revenue also help defray costs associated with acquiring the Back 40 well?

Board response: “Yes, the Back 40 well is a NEW capital project (expense).

- 3) “Reduces the likelihood of new wells being drilled in the service area.”

Follow-up: Again, only if Bylaw changes allow/reserve some new shares for non-members, right? Also, do we know a) how many current members, best guess, want new shares and b) how many intend to drill wells if they can't secure WWA shares?

Board response: “60% of vacant parcels within the Service Area are owned by existing members. Since shares are attached to parcels, the Board stands by its prediction that it is likely new wells

in the Service Area will be reduced even if shares go to existing members. There are 3 existing members who are known to want an additional share. None have stated they intend to drill wells if they don't get a share though there have been such statements by the heirs of other present owners. Over the years several members have been unable to obtain an additional share and have subsequently drilled wells.”

Q: The expansion is apparently predicated on the performance of the newly acquired Back 40 Well. Board member Pat Call, responding to a member question at the May 2021 annual meeting, allowed that: “We have no sustained operating history with the Back40A well and will be using it in a peak-demand capacity while we monitor its performance this summer. Contrasting the upper estimate of increased near term demand (3.6 gpm) with the increased capacity of the Back 40A well (25 gpm) the Board believes that we are not putting the WWA sources into risk.” With one summer of performance data why does the board “believe” that the Back 40A well will contribute its necessary volume of water over time?

Board response: This question appears to combine a concern about reliability into the “why now” question. Since the next question also speaks to the reliability issue, we will answer each in turn. Why now? The potential increased capacity of the system was revealed during the acquisition of the Back 40 well when DOH required an update in the planning documents guiding WWA and a subsequent, more precise capacity analysis was undertaken.

Q: Capacity analysis and DOH input notwithstanding, was there ever discussion about gathering Back 40 performance data for a year or more before offering new shares? If not, why not? If so, why did the board reject that more conservative approach?

Board response: “As stated, the Board has accepted the validity and reliability of DOD testing protocol which is conservative in its approach (see Board’s response to previous question), and that acceptance does not preclude the Board from being even more conservative in its approach to the selling of shares.”

Q: The Municipal Water Law’s Duty to Serve clause has been invoked as the driving force behind expansion (See Doug Dolstad’s quote in July blog post.) Reliability is a key component of the Duty to Serve clause, which requires servicing of new connections when, among other things, a supplier “has sufficient capacity to serve water in a safe and reliable manner.” Given concerns about the long-term reliability of the Back40A well, does the Duty to Serve really apply at this time?

Board response: “We considered the Municipal Water Law (MWL) as one factor in the decision to petition DOH for more connections and anticipated the Duty to Serve clause would be an issue for DOH and especially, the King County Utilities Technical Review Committee (UTRC). This hunch was confirmed when Westside received a letter from a DOH planner on February 9th wherein the first comment of that letter had a reminder of the MWL and the Duty to Serve clause relative to the “Retail Service Area” the Association has been designated to serve. (See the Small Water System Management Plan, Appendix 4.)

“Regarding reliability, reliability is a fundamental consideration for all resource planning. The Board, too, is acutely aware of the need for reliability, not only of the sources but the entire system across many dimensions including financial and managerial aspects.

“Regarding sources, for years now we have been working to increase reliability for the

membership by acquiring and developing more sources. As stated in the response to the previous question and expanded upon here, it was revealed that the Back 40 well had the production capacity to serve beyond the needs of the existing membership. The WWA Board accepts the scientific validity of the protocols established by the Department of Health to address the reliability of sources. These can be found in the Water System Design Manual (publication 331.123, especially sections 4.4.2 and 4.4.2.2 and Appendix E) that refers to WAC 246-290-130 and particularly in (3) © (iii) referring to pump tests. Beyond our own analysis, the pump test data were reviewed by 3 different professional engineers associated with the Washington State Department of Health, the professionals at the UTRC and our own consulting professional engineer. We noted with some surprise that Mary Howe of DOH, who is regarded as the “go to” professional engineer regarding pump tests within DOH, and is considered by those in the know to be appropriately conservative, concluded that the Back 40 well had a greater capacity than we had assigned it.

“In summary, even though the Board is confident in the protocols established by DOH that are used and recognized industrywide to establish reliability of sources the Board has adopted a more conservative stance than those protocols would advise.”

Q: Who are the moving parties behind the decision to expand? Have the movers fully disclosed any potential conflicts of interest?

Board response: “In addition to being required to update its planning documents by DOH as a precondition to granting source approval for the Back 40 source, and during which the increased capacity was revealed by the pump test performed on the Back 40 well, the Board’s motivation is also generated by regular inquiries regarding the availability of new shares which have needed to be rejected. Some of these rejections result in the drilling of new wells.”

Follow-up: Assume these new wells are being drilled by non-members? So a priority is to amend Bylaws to bring non-members with private wells into WWA?

Board response: “New wells within the service area have been drilled by members and non-members. As regards amending the Bylaws in any manner, that is a matter for the WWA to declare. The Board acts in accordance with the existing governing documents of the Association. “No Board member has any personal financial interest in the sale of new shares.”

Q: Has a thorough assessment of WWA’s near- and long-term capacity been done by an outside professional consultant?

Board Response: “Yes. Starting with the State Department of Ecology, who determined the Water Rights needed to serve the area. A major purpose of the SWSMP was to assess the near- and long-term capacity of the system. As was the pump test data, this document was reviewed by our consulting PE, Jim Gross of BHC Consultants; by 3 PE’s at DOH; and by the planners associated with the King County Technical Review Committee.”

Follow-up: Can we get specifics on the pump test process and results, such as pump rate and duration, how flow was measured, drawdown and recovery rate?

Board Response: “Yes, the pump test data and process can be provided to you.”

Q: Does the current capacity analysis fully account for actual demand (e.g., factoring in full-time v. part-time connections)?

Board Response: “Yes, it is based on actual demand that also incorporates the documented DSL (Distribution System Loss).”

Q: Does the current capacity analysis fully account for cost (e.g., estimated costs that WWA would incur for each new connection)?

Board Response: “There is a minimal cost to WWA in the provision of one meter per connection. About \$75. On the other side of the ledger, WWA would accrue funds per connection in both connection (share) fees and on-going sale of water. The physical connection to the water main is paid for by the Customer.”

Follow-up: If it were necessary to install or extend a WWA main line in order to service a new member that member would pay the cost of that extension?

Board response: “Yes.”

Follow-up: Would new members or WWA hire private contractors to do that work?

Board response: “The new member would retain a contractor approved by WWA to do that work.”

Follow-up: Would WWA incur any costs to monitor, supervise or inspect that work?

Board response: “This is unknown. In the one instance that an extension happened, WWA did not incur any costs. In that case the extension was needed in order to re-route existing service lines that crossed multiple private properties to a new location where a main did not previously exist. The WWA member involved paid for all costs associated with this change.”

Q: Does the current capacity analysis fully account for future impacts of climate change on supply and demand?

Board response: “Climate change was considered but not formally addressed in the SWSMP. Please see <https://cig.uw.edu/learn/climate-change/>. This report is based on the present models and can only go so far in predicting the future but the current IPCC models indicate warming but not overall drying of the region.”

Q: Does the current capacity analysis fully account for member expectations for supply and reliability?

Board response: “Supply and reliability are cornerstones of water system planning. As mentioned, these are the focus of the Water System Design Manual and WAC 246-290. The WWA Board and management team acts in accord with these documents on behalf of the membership, including establishing an ERU (Equivalent residential Unit) that clarifies the responsibility of the system relative to each member’s use of the water resource.”

Q: Given that both the Anderson and Back40 wells require blending for different reasons, how is that accounted for in the projections?

Board response: “This is a misconception. The Anderson Well Field (S07 & S08 collectively assigned as S09 by DOH) does NOT require blending, but is involved in blending other source water of lesser quality as needed. For example, blending occurs if/when the Canyon Well (S06) is ever used to decrease the arsenic level to equal to or less than the Board policy of 5 ppb. (A limit of 10 ppb is required by the Safe Drinking Water Act.) S06 hasn’t been used since 2016. The B40 well also does not require blending, but in the interest of serving higher quality water to customers, the plan is to blend it with other sources to lower the ambient manganese level.”

Follow-up: Our manganese/blending question was prompted by the following paragraph in Board member Pat Call’s response to a member question at the May 2021 annual meeting: “The water quality of the Back 40A well is less than either the Anderson Well field or the

Note 2/26/22: The reported Manganese level as originally published in this document is incorrect. The actual tested value is 0.066 mg/L. See Source Approval Document on website for full testing results.

canyon well points with 5 ppb Arsenic, 0.15 mg/L Fe and **0.66 mg/L Mn**. The Manganese concentration slightly exceeds the MCL (Maximum Contamination Level), but will be well below the MCL when blended.” Are you saying that manganese levels in the Back 40 are not an issue and no blending will be necessary?

Board response: “The previous Board response is accurate in stating that blending is not a necessity relative to the Safe Drinking Water Act standards, but is done as a matter of Board policy in order to deliver high quality water to consumers.”

Q: What are the potential consequences to members if the Back 40 Well or one of Westside’s other critical sources under-performs or fails? Water restrictions in summertime? Bottled water for drinking and cooking? Interruptions in service?

Board response: “Operationally, the Board and management have created an 8-Level protocol in anticipation of systemic failure of one or more system components:

- 1st Level: When approaching a time period of possible water shortage, the Board will notify members and remind/request to conserve water;
- 2nd Level: Begin blending of the Canyon Well up to 5 parts per billion (ppb) Arsenic concentration;
- 3rd Level: Board will approach the heavy users and ask them to attempt to use less water;
- 4th Level: Board will limit the water usage of the heaviest users;
- 5th Level: ERU Enforcement for all users;
- 6th Level: Blending of Canyon well to 10 ppb Arsenic;
- 7th Level: Blending above 10 ppb and notice to members;
- 8th Level: Use of Shinglemill Creek and a ‘boil water’ notice sent to all Customers.”

Q: What are WWA’s contingency plans for such worst-case scenarios?

Board response: “The most extreme of the worst-case scenarios is the BIG QUAKE of 9+. There will be major damage to distribution lines, storage tanks might fail in a variety of colorful ways. In that regard, Westside is, once again, relatively fortunate to have numerous springs and Shinglemill Creek itself to draw from. People will have to pull together to help each other out for distribution of the water, but at least it will be around. But the Board assumes this question refers to a catastrophe of a lesser degree—the failure of one source. Again, Westside is in the most secure place it has ever been relative to sources. The most likely scenario is that a landslide or flood takes out the Canyon Pump Station. In that case, S09 and S10 (Back 40) would more than meet the demand except under the most severe and sustained demand conditions. If, on the other hand, either S09 and/or S10 simultaneously fail (that would mean that 3 wells would fail all at once) then the Canyon sources (S01 and S03) plus the Canyon Well (S06) would be employed to meet demand with S06 being supplemental and used as needed to meet demand. In short, the protocol described in response to the previous question would be implemented.”

Q: Given all the uncertainties—climate change, long-term reliability of the Back 40 Well, Doug’s eventual retirement, more private wells drilled in the WWA service area—is this the best time to expand?

Board response: “The WWA Board, management, outside consultants, DOH and the UTRC of King County did and have reviewed the evidence and concluded that, yes, this is a reasonable time to allow for some more shares. Plus, the de facto situation exists that some within the

service area will continue to drill new wells if WWA doesn't issue shares and that potentially puts the same stress on our aquifer as adding a share."

Q: Would the current members-first Bylaw need tweaking in order to invite non-members into the system?

Board response: "This is not the way the Board sees it. The existing Bylaws describe who is eligible for membership and also set out the priority for eligibility for new shares to existing members, but do not preclude the entry into the Association of new members. It appears to the Board that the proposed Bylaw changes do not address the issue of reprioritizing access to shares. Board policies would address reprioritization of potential new shares after existing members have been served (as per existing Bylaws)."

Q: Do we know when and why the current Bylaw granting members priority for new shares was adopted? Does this approach still seem reasonable today?

Board response: "The record shows that this specific wording appeared in Association documents in 1976. However, going as far back as the founding of the Association in 1928, the Articles of Incorporation declare: 'The purpose for which the corporation is organized is to obtain a supply of water for distribution to the members [underline for emphasis] of the corporation for domestic purposes and without profit. This corporation shall also be empowered and is hereby empowered to do any and all other acts or things authorized by the Washington State Nonprofit Corporation Act defining the general powers of a non-profit corporation.'"

"This language was repeated in the 1978 version of the Articles of Incorporation. Also, Article VI states that: 'The corporation may confer benefits upon its members [underline for emphasis] in conformity with its purposes.'

"The Board sees the emphasis on 'members' reflected in both sections cited in the Articles of Incorporation. Put those two clauses together and the deferential treatment to members is clear. The WWA By-Laws, Article VII, (Operation) Section 1, repeats this language in the first sentence of that Section. The last major WWA Bylaw update was 1986. It would seem the Association By-Laws were structured at that time to prevent housing developments by restricting any shares to be sold only to Members (thus, people who already have a stake in the area); only 1 share per Member (to preclude any Member from doing such a housing development); and only a certain number of shares to be let per year. All of which constrain and functionally eliminate housing developments. In addition, the Bylaws were made to be congruent with then King County regulations relative to the definition of a 'residence' to restrict application of the share to 'one residence per share.'"

Q: What are WWA's priorities when it comes to awarding the new shares? (Serve members? Bring private well owners into the Association? Generate revenue?)

Board response: "This was addressed by the ad hoc committee who noted they kept the historical intent of the existing Bylaws as their guide when making recommendations for changing the By-Laws. That historical intent reflects the structural bias toward members. A vote by the membership to change the Bylaws was deemed by the Board to be a prerequisite to the implementation of Board policies pertinent to awarding new shares."

Follow-up: If the historical intent of existing Bylaws is in conflict with current priorities, are we open to updating Bylaws, language, etc., in order to address current or future challenges and threats?

Board response: “The current Board policies reflecting priorities are shaped by and subservient to existing Association Bylaws. The corporation was formed to ‘serve the members’ and the Bylaws further refine what that means (e.g., the members first to new shares clause). Since shares run with the land, new shares will almost certainly go to parcels yet undeveloped, thus accomplishing a reduction in risk from new wells in the Service Area, though that is not a certainty.

“A re-examination of the Bylaws by the membership is something the Board recognizes as valuable, but that re-examination is NOT a Board matter. It is a matter for the members to undertake as the Bylaws are a membership-generated governing document. No one on this Board is hostile to that examination, but given present priorities of where attention is going, the Board is not inclined to ‘champion’ that effort. But if there is broad and reliable evidence of a strong desire to re-examine the Bylaws, the Board would help make that known to the membership and would help facilitate the effort by providing information such as it has done in responding to this Working Group’s efforts.

“Meanwhile, the Board needs to mind the functioning of the Association as presently bound by the governing documents. Within that understanding, the Board did convene the *ad hoc* committee known as the ‘Shares Sales Committee’ to do a review of existing Bylaw changes and Board policies relevant the potential issuance of new water shares.

“That *ad hoc* committee did not question the historical intent of the Bylaws relative to the priority of access to new shares given to existing members.”

Q: How can the membership best use this historic expansion to strengthen the Association and safeguard the water supply?

Board response: “Financially, the ‘strengthening’ is pretty tangible in selling more memberships. Adding more people as being vested in a common resource and bound by meaningful association with one another is another interpretation of ‘strengthening’ the Association. As to safeguards, the more properties WWA serves, the fewer wells drilled.

“Even if existing members were to acquire all 24 new shares, that would be 24 properties where a well is less likely to be drilled. (Caveat: under the proposed Bylaw changes, there exists the possibility of an existing member purchasing more than one share for a single parcel.)”

Q: Does Westside Water currently have a waiting list for shares?

Board response: “No. Though there is a ‘notification list’ for those who have asked over the years for a share. As an aid to planning, that list also identifies larger properties that could petition for a share at some time.”

Q: How long is the “notification list”? Is it organized chronologically by date of request for notification?

Board response: “Any notification would be a courtesy, not a requirement, and it is the intention of the Board to notify those who have so asked. All existing members would of course be notified if/when a share sale is offered. Because it is not a ‘Waiting List’ the chronological element is a non-factor. Everyone gets notified.”

Follow-up: Could or would the Notification List be repurposed as a Waiting List? Board response: “Perhaps, but the Board is not inclined to do that and has other mechanisms for prioritizing share sales. The Notification List is an in-house resource that consists of the names of people—members and non-members—who have inquired about shares, as well as an

identification of some parcels that could, with present zoning, be divided. It also notes a few members who have inquired about ADUs over the years, asking whether an ADU would require a new share (as present Bylaws seem to declare given the present definition of 'residence'). "The document is an 'in-house' document so we can act with courtesy for those we know have inquired. Some who are on the list have passed away. Others have sold their property and the new owners are not as interested. And so forth. We try to keep track and are reasonably confident we've tracked interested parties."

Q: Are any of the 42 private well owners currently operating within WWA's service area on the Notification List?

Board response: "As regards the 42 private wells, please understand this was an in-house review of the data and may over, or even underestimate the actual number of wells and/or alternative water sources. We believe there are 4 such properties that fit this description who are on the Notification List, including at least one parcel that does not have a well but has a different, historical source of water."

Q: Are any WWA board members on the Notification List?

Board response: "No."

Q: Is there a limit to the number of shares a member can own?

Board response: "No, though there are conditions that pertain to and limit the number of shares a member might have. For example, current Bylaws require that each residence have its own share, so several members purchased additional shares when an outbuilding was converted to a residence."

Follow-up: So, a member who owns several properties is eligible for additional shares for those properties?

Board response: "Yes, though there are limits set in the existing Bylaws about that: one [share] per 2-year period, per member and so forth."

Q: Do any members currently own shares that they are not using?

Board response: "Yes. There is one known member who fits this description. The property has had the share for many decades but the owner has yet to build on the parcel."

Q: Does WWA currently have a system for evaluating (and either granting or rejecting) requests for new and/or additional shares? If so, what's the system?

Board response: "Yes. There are relevant Board policies along with the recommendations of the *ad hoc* committee. These policies have not been implemented because the Board deemed it necessary to see if the membership would amend the existing Bylaws first, as the policies [for awarding shares] are subservient to the Bylaws."

Follow-up: What are those policies and recommendations?

Board response: "The Board was waiting to see the results of the membership decision on the proposed Bylaw changes, because Board policies are subservient to the Bylaws and would almost certainly need to be modified if the proposed changes were not approved by the membership. If no action is taken on the proposed Bylaw changes, or if they come to a vote and do not pass, then the Board will act (set policies) in accord with the existing Bylaws."

Q: Regarding concerns about speculation that were raised at the August 5 informational meeting, are there now or will there be provisions in the Bylaws to discourage a member from, say, buying a water share for a property that they currently own, and then flipping the now more valuable property?

Board response: “The Board has discussed this topic at length and doesn’t believe that it can reasonably prevent this situation from happening. The Board sought legal opinion about this very topic and was advised by counsel that it was not enforceable. The Board took that advice.”

Q: Does WWA budget for lawsuits? Should it?

Board response: “The Board does have Directors and Officers insurance that covers lawsuits but does not budget for potential legal problems beyond the scope of that policy. As to whether the Board should have such a budget, we think that a worthy question and may see what other purveyors have done about this topic.”

Q: How can the board urge WWA members to conserve water and turn around and offer more shares?

Board response: “No matter what our water source situation the Board will continue to urge members to conserve water as a best practice as well as a mandate from the DOH.

The WWA Board has a long-standing policy to ask members to be mindful of their water use and conserve water – especially in times of high water demand. This policy is reinforced by the Washington State Department of Health, Drinking Water Division (DOH for short) who not only encourages water purveyors to implement conservation measures (e.g. a tiered rate system, offering conservation tips, rewarding prompt attention to leaks, etc.) but also requires water purveyors to establish conservation goals and review them yearly. How members actually respond to such entreaties is a different matter and, except in times of emergency, it is beyond the Board’s authority to enforce or compel any particular action. In keeping with best practices as suggested by the Washington State Department of Health and also to legitimize any extreme action the Board might deem necessary to protect public health, such as in times where demand exceeds supply for any reason the Board codified the agreement between members and the Association by setting an “ERU” (Equivalent Residential Unit) of 500 gallon per water share per day as the commitment of the Association to provide water. Members may consume more than that amount as long as there is water available but best practices among members to reduce their own water consumption is a benefit to them financially and a good thing for the community. As regards the offering of more shares, the answer is that, given the historical consumption patterns of the Consumers (WWA Members and their renters) and the production capacity of the sources including the newly acquired Back 40 well, the decision to offer shares followed the math.”

Q: Has the board considered using an Auction to allocate new shares?

Board response: “The Board appreciates the theoretical economic efficiency of an auction, however favors setting a price based on the approximate net asset value per share and a comparison to the share price from other island water purveyors because of simplicity and to avoid making water most available to only the richest residents within our service area. The process described above has led the Board to set a current share price of \$15,000 which is a value higher than the share price of other sampled purveyors.”

Q: Has the Board considered the adverse impact of legal action caused by the issuance of new shares?

Board response: “The Board recognizes that where there is water (or lack thereof), there is the potential for lawsuits. The Board has endorsed all the suggested Bylaw’s changes made by a WWA member *ad hoc* committee and has created complimentary Standard Operating changes to establish a solid basis for adding a limited number of new shares. Your Board retained independent legal counsel to review changes to both the suggested Bylaw changes and the Board policies. That review confirmed our approach. Separately the Board thinks that the introduction of this topic in regard to the issuance of new shares underweights the existing potential for lawsuits that would claim that we have enough water to supply new shares.”

Q: Should members be concerned about the agricultural well (Back40B) that is within about 800 feet of the Back40A source?

Board Response: “The Board knew about the 2nd well that was drilled and does not think that the Back40B well is an outsized risk in the context of all the wells and other potential vulnerabilities of our rural system. It treats all such matters of concern seriously. In regards to the influence of that well (we think of it as the Back40B well) on any potential reduction in capacity or contamination of the Back40A well, the Board is aware the Association has senior water rights to Back40B and the authority of the law to protect public health. In the event that monitoring water quality or quantity should show an impact, WWA would be able to assert those rights.”

Q: Is agricultural usage of water part of the WWA commitment to users?

Board Response: “This topic is a complex one. In 1928 when the original WWA Bylaws were created “domestic water usage” certainly included agricultural usage. Within the context of the modern WWA Service Area, zoning and available parcels it would seem that most if not all water usage would still be judged as domestic. If someone were to propose a large scale, commercial agricultural operation such water usage would likely not come under WWA’s definition of domestic water usage, though the Association Bylaws acknowledge the possibility of uses of water that are not strictly “residential” and/or beyond the common understanding of “domestic use” by stating that the Board has the authority to create classes of shares. E.g. commercial, agricultural.”

Appendix D

Member Working Group Insights from the New Shares' Poll Results

Our Working Group respectfully defers to the Shares Sales Committee on the question of whether to share the numeric results of its recent member poll. While unscientific, we viewed the Google Poll as an efficient and effective way to engage members and facilitate discussion. (More than half of the WWA households—125—responded and many offered thoughtful comments.) The results provide some valuable insights into where members stand, at this moment, on the matter of new shares and how they are allocated. We share those insights below. Whether they are ultimately made available to the membership is, of course, up to the Board.

On the poll question about whether members support the decision to add 24 new water shares, poll respondents were almost evenly divided among those supporting, not supporting, and unsure, needing more information. That breakdown leads us to recommend that the board take additional, aggressive steps to inform members about the rationale for expansion, the proposed (tiered) process, and the timeline. One source of confusion was whether the Duty to Serve clause *requires* WWA to start selling the new shares; clarifying the precise scope and implications of Duty to Serve would also be helpful. In general, we encourage the Board to develop more effective ways to engage and communicate with members.

On the question of who should get priority for new shares, most respondents (52 percent) were in support of the status quo; that is, members receiving first priority. The next largest pool of respondents (39 percent) favored reserving a portion of shares for the non-member groups: owners of undeveloped property and private well owners. This result leads us to believe that the board will have support for its tiered sales process approach. Since that tiered process still favors members, we hope that the Board and membership can discuss ways to support current development before facilitating new development, and to ensure that households with unsafe wells get some access to shares.

The number of comments expressing concern over the long-term reliability of the Back 40 well leads us to applaud the slower rollout of shares detailed in the proposed Bylaw changes, and to ask that the Board go one step further and consider a two-to-three year moratorium on issuing new shares. Such a waiting period allows more time to monitor the Back 40 well and allays a principal member concern. We favor the proposed Bylaw changes and would support making those changes now. But perhaps the Board could consider holding off on initiating the first sales period.