

SKAGIT COUNTY  
PROSECUTING ATTORNEY  
605 South Third Street  
Mount Vernon, WA 98273



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Office of the Attorney General Solicitor General  
Attn: Alicia O. Young, Deputy Solicitor General  
P.O. Box 40100  
Olympia, WA 98504



KLD





# Skagit County Prosecuting Attorney Richard A. Weyrich

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April 7, 2025

RECEIVED

APR 11 2025

AGO  
General Services HLB

Honorable Nick Brown  
Washington State Attorney General  
P.O. Box 40100  
Olympia, WA 98504

Office of the Attorney General Solicitor General Division  
Attn: Alicia O. Young, Deputy Solicitor General  
P.O. Box 40100  
Olympia, WA 98504

RE: Request for Attorney General opinion as to whether Blanchard-Edison Water Association is a "Public Facility" enabling them to apply for Rural Economic Development Funds

Attorney General Brown and Deputy Solicitor Young:

The Blanchard-Edison Water Association (BEWA) asked the Skagit County Board of County Commissioners (Skagit Board) to seek an opinion as to whether BEWA is eligible to apply for Rural Economic Development funds pursuant to RCW 82.14.370 (See attached letter dated 11/22/24). The underlying issue is whether BEWA is a "public facility" that could qualify as an applicant under RCW 82.14.370. Relevant provisions of RCW 82.14.370 include:

"Public facilities" means bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroads, electrical facilities, natural gas facilities, research, testing training and incubation facilities in innovation

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**Main Office**  
605 S. Third Street  
Mount Vernon WA 98273  
(360) 416-1600  
Fax: (360) 416-1648  
prosecutor@co.skagit.wa.us

**Civil Division**  
Administration Bldg., 700 S 2<sup>nd</sup> St., Rm 202  
Mount Vernon WA 98273  
(360) 416-1600  
Fax: (360) 416-1649  
prosecutor@co.skagit.wa.us

**Family Support Division**  
1404 E College Way, Ste 101  
Mount Vernon WA 98273  
(360) 416-1161 fax (360) 416-1163

partnership zones designated under RCW 43.33.270, buildings structure or commercial infrastructure or port facilities in the state of Washington.

"Economic development purposes" means those purposes which facilitate the creation or retention of businesses and jobs in a county, including affordable workforce housing infrastructure or facilities.

BEWA has provided the following additional relevant information for consideration as it relates to the service they provide to the citizens of their area.

The Blanchard-Edison Water Association is a rural water association established in 1954. It is open to all property owners in the designated service area, and BEWA has a duty to provide service in its service area, so long as water is available. Each of its 450+ members have one vote. (See Articles of Incorporation attached hereto.) It is a 501(c)(12) non-profit organization and membership cannot be sold or otherwise transferred beyond the existing property boundaries.

While BEWA maintains 36 miles of pipeline, it has an immediate need to replace the aging pipeline serving the village of Edison, a designated limited area of more intense rural development (LAMIRD). Edison has become a thriving center of small shops and restaurants, residences, art galleries, local craft production, as well as having a local elementary school and a fire department. Promoting clean water to this center of tourist and local activity is the very heart of rural economic development. As envisaged by the Legislature, the purpose of RCW 82.14.370 is to address "inadequate infrastructure to support and attract investment. Statement of Legislative Intent (1999). See also *Legislative Statement of Intent (2004)*:" the continuing legislative goal for RCW 82.14.370 is to promote the creation, attraction, expansion and retention of businesses and provide for family-wage jobs."

AGO 2002-1 was issued to San Juan County Prosecuting Attorney's Office in response to their request for review of a grant application submitted by a fiber optic company. The opinion determined that tax-based funds could only be awarded to a "public facility". It was determined the fiber optic company did not meet that definition. The opinion narrowly defined "public facility" as being owned by a public entity, i.e. a governmental agency. In conclusion, the AGO restricted use of funds under RCW 82.14.370 to publicly owned facilities.

BEWA and this office are also requesting that you consider whether the owner/membership of the public school and the fire protection district may be germane to the issue of "public ownership" within the meaning of the statute.

This office is requesting an opinion of the eligibility of BEWA as a qualified applicant for rural economic development funds as described above. Thank you for your anticipated consideration.

Sincerely,



Richard Weyrich  
Skagit County Prosecuting Attorney

Attachments:

BEWA letter to Commissioners dated 11/22/24

BEWA Articles of Incorporation

# Blanchard Edison Water Association Inc.

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David Lohman, Manager  
P.O. Box 38  
Bow, WA 98232

Phone/Fax (360) 766-8900  
Emergency (360) 391-6542  
[www.BlanchardEdisonWater.com](http://www.BlanchardEdisonWater.com)  
[Manager@BlanchardEdisonWater.com](mailto:Manager@BlanchardEdisonWater.com)

November 22, 2024

To: Skagit County Board of Commissioners  
Honorable Peter Browning, Chair  
Honorable Lisa Janicki  
Honorable Ron Wesen  
Mount Vernon, WA 98273

RE: Blanchard-Edison Water Association  
Request for AGO 2002-1 review

Dear Commissioners:

This letter is to request Skagit County pursue review or clarification of the above 2002 Attorney General Opinion. The purpose of this review would be to determine if the Blanchard-Edison Water Association (BEWA) could qualify as applicant for Economic Development Public Facility Project funding under RCW 82.14.370.

AGO 2002-1 was issued to San Juan County Prosecuting Attorney's Office in response to their request for review of a grant application submitted by a fiber optic company. The opinion determined that tax-based funds could only be awarded to a "public facility". It was determined the fiber optic company did not meet that definition. The opinion narrowly defined "public facility" as being owned by a public entity, i.e. a governmental agency. In conclusion, the AGO restricted use of funds under RCW 82.14.370 to public facilities.

Skagit County has relied on this interpretation to screen grant applicants under the statute and has discouraged BEWA from applying for funding as not being a "public facility". BEWA feels, as a community water system established in 1954 and currently serving over 450 connections, there are specific infrastructure projects in its future that would qualify for funding support. In addition to residential connections, BEWA supplies water to an elementary school, fire station, many eating establishments and several large agricultural operations, all of which serve the public in some capacity.

As a non-profit association with elected directors, it's structure and purpose are not unlike junior taxing districts existing in Skagit County. We believe there is enough supportive material to give our commissioners, and their legal department, cause to pursue review of AGO 2002-1 and find that BEWA does exist as a public facility and allow them to be considered for funding under RCW 82.14.370. Acceptance as a grant applicant would provide opportunity for local funding to support a community based essential service (water).

The following materials are provided in support:

- WAC 246-290-020(1) defines a public water system: *“Public water system shall mean any system providing water for human consumption through pipes or other constructed conveyances....”* (See Attachment A)
- POL-2030 (2007 Updated 2024) Department of Ecology, Municipal Water Law Policy and Interpretative Statement defines a municipal water supplier: *“Under RCW 90.03.015(3), a municipal water supplier is an entity that supplies water for municipal water supply purposes. Some examples of a municipal water supplier include a city, ....water district....”* (See Attachment B)
- AGO 2002-1 Analysis Section 2 re RCW 82.14.370 provides: *“The statute itself provides the best guidance, and we cannot add to the analysis above without examining specific proposals.”* (emphasis added) (See Attachment C)

The Attorney General of Washington can issue what is known as an “informal decision”. It is BEWA’s hope that review of the existing opinion can be expedited under its own provision in *Analysis, Section 2, par 1* (cited above) without conducting a full legal opinion. A positive review by the Attorney General may open the door to a broader field of applicants under this statute and give our county commissioners more latitude in use of its local funding sources.

BEWA understands that this effort could clear the way for future applicant access to grant funds available in the Economic Development Public Facility Project and that any application process would be on its own merits.

We respectfully request that, as county commissioners, you authorize a request for review by the attorney general’s office of Washington to clarify it’s 2002 opinion for reasons outlined above.

Respectfully submitted,

Blanchard-Edison Water Association

Tom Pasma, President  
Board of Directors

Steve Wright, Vice President  
Barbara Leander, Secretary  
Darryl Kvistad  
Sarah Smith  
Ken Deering

**APPROVED  
AND FILED**

JUN 8 - 1954

EARL COE  
SECRETARY OF STATE

BY *Ray J. Geoman*  
Assistant Secretary of State

ARTICLES OF INCORPORATION

of

BLANCHARD - EDISON WATER ASSOCIATION

1  
2  
3  
4 We, the undersigned, all of whom are residents of Skagit  
5 County, State of Washington, do hereby voluntarily associate our-  
6 selves together for the purpose of forming a non-profit corporation,  
7 without capital stock, under the provisions of Chapter 24.04,  
8 Revised Code of Washington.

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ARTICLE I

The name of this corporation shall be BLANCHARD-EDISON  
WATER ASSOCIATION.

ARTICLE II

The nature of the business of the corporation and the  
objects and purposes for which, or for any of which, this corpora-  
tion is formed are:

- a. To associate its members together for their mutual benefit and to further the rehabilitation of said members, and to that end to construct, maintain and operate a private water system for the supplying of water for domestic, livestock and garden purposes to its members, and for the sale of any surplus water remaining after the needs of its members have been satisfied, and to engage in any activity related thereto, including, but not limited to, the acquisition of water by appropriation, drilling, pumping and/or purchase, and the purchase, laying, installation, operation, maintenance and repair of wells, pumping equipment, water mains, pipe lines, valves, meters and all other equipment necessary to the construction, maintenance and operation of a water system.
- b. To borrow from any source, money, goods or services without limitation as to amount of corporate indebtedness or liability; and to pledge or mortgage any of its property as security therefor in any manner permitted by law.
- c. To acquire, and to hold, own and exercise all rights of ownership in, and to sell, transfer or pledge shares of capital stock or bonds, or become a member or a stockholder of any corporation or association engaged in any related activities.
- d. To buy, lease, hold and exercise all privileges of ownership in and to all real or personal property as may be necessary or convenient for the conduct and operation of the business of the corporation or incidental thereof.
- e. To establish reserves and to invest the funds thereof in stocks, bonds and other property as the board of trustees may deem satisfactory.
- f. To levy assessments in such manner and in such amount as may be provided in the by-laws of this corporation.
- g. To have and exercise all powers, privileges and rights conferred on corporations by the laws of the State of Washington and all powers and rights incidental in carrying

1 in a surplus fund for the purpose of replacing, enlarging, extending  
2 and repairing the system and property of the corporation and for  
3 subh other purposes as the board of trustees may determine to be  
4 for the best interests of the corporation. The said surplus fund  
5 or any portion thereof may from time to time, at the discretion of  
6 the board of trustees, be distributed to the members as provided  
7 by the by-laws, on the basis of the assessments and charges made  
8 and levied against and paid by such members during the year.

ARTICLE VII

9 The number of trustees shall be not less than five nor  
10 more than eleven. The names and addresses of those who are to  
11 serve as the first trustees until the trustees are elected by the  
12 members, which election must be not less than two months and not  
13 more than six months from the date of incorporation, are:

	<u>Name</u>	<u>Address</u>
10	Don G. Coble	Blanchard, Washington
11	Geo. B. Lawson	Route 1, Bow, Washington
12	Jack McRae	Edison, Washington
13	C. H. Rosenquist	Edison, Washington
14	D. James Costanti	Edison, Washington
15	Lester Nichols	Blanchard, Washington

16 At the first annual meeting of the members, two trustees  
17 shall be elected for a term of one year, two for a term of two  
18 years, and two for a term of three years. At each annual meeting  
19 thereafter, the members shall elect for a term of three years the  
20 number of trustees whose terms of office have expired.

21 IN WITNESS WHEREOF, <sup>th</sup> the incorporators, have hereunto set  
22 our hands and seals this 27<sup>th</sup> day of May, 1954.

23 Don G. Coble  
24 Don G. Coble  
25 Geo. B. Lawson  
26 Geo. B. Lawson  
27 Jack McRae  
28 Jack McRae  
29 C. H. Rosenquist  
30 C. H. Rosenquist  
31 D. James Costanti  
32 D. James Costanti  
Lester Nichols  
Lester Nichols

Nº 126420

Articles of Incorporation

OF THE

Blanchard-Edison Water Association

Place of business BoW  
Time of existence 50 years  
Capital stock, \$ None

STATE OF WASHINGTON, ss.

Filed for record in the office of the Sec-  
retary of State June 8, 1954  
at 11:30 o'clock A. M.

Recorded in Book 67 Page 1458-1462

Domestic Corporations

  
Secretary of State.

Filed at request of \_\_\_\_\_  
Richard F. Schacht, Attorney  
Matheson Building  
Mount Vernon, Washington

Filing and recording fee, \$ 25.00  
License to June 30, 19\_\_\_\_, \$ \_\_\_\_\_  
Certificate mailed JUN 17 1954

to above address.

Indexed Photographed

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