

# Truckee Meadows Water Authority



## RULE 7

### REQUIREMENTS FOR WILL-SERVE COMMITMENT LETTERS

#### **A. Applicability**

This Rule applies to and sets forth the responsibilities and requirements of a Person applying to the Authority for a Will-Serve Commitment letter from the Authority for the delivery of water to a new Service or Modified Service.

#### **B. Definitions**

1. Terms not defined in this Section shall have the meaning set forth in Rule 1.
2. As used in this Rule:
  - a. "Applicant" shall mean the Person applying for a Will-Serve Commitment letter.
  - b. "Authority Water Resources" shall mean water resources owned by the Authority and previously held within the Will-Serve Commitment Inventory.
  - c. "Current Usage" shall mean the annual quantity of water actually delivered to a Service Property based on most recent usage data as determined by Authority pursuant to Section I.2, generally expressed in acre-feet per annum or acre-feet per year.
  - d. "Dedicated Water Resource" shall mean water resource credits, water rights, or water rights and necessary facilities accepted for dedication by an Applicant prior to the issuance of a Will-Serve Commitment letter, in order to meet the actual Demand of a new Service or Modified Service and/or Deficit Demand.
  - e. "Deficit Demand" shall mean the difference, as determined by the Authority pursuant to Section I.2, between the Current Usage at the Service Property and the Demand recognized in the Will-Serve Commitment letter or Historic Demand, if any, to a Service Property.
  - f. "Demand" shall mean the estimated annual quantity of water to be delivered to a Service Property, generally expressed in acre-feet per annum or acre-feet per year.
  - g. "Historic Demand" shall mean the estimated annual quantity of water, as determined by Authority, historically delivered by Authority or Authority's predecessor to a Service Property.
  - h. "Permitted Water Right" shall mean a water right for which the Authority has been issued a permit by the Nevada Division of Water Resources to use for municipal purposes in the Authority's place of use and to be diverted at the Authority's points of diversion.
  - i. "Will-Serve Inventory" shall mean the inventory of uncommitted water resources owned by the Authority which may be made available to Applicants to support an Applicant's Will-Serve Commitment pursuant to this Rule.

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#### **C. Will-Serve Commitment Letter Required**

1. When Required. All Applicants for new Service or Modified Service must file an Application with the Authority for, and if the Authority determines that water resources are required to service the Demand of the new Service or Modified Service, a Will-Serve Commitment letter must be obtained for such service.
2. Methods to Obtain. A Will-Serve Commitment letter may be obtained from the Authority by the dedication to the Authority of Dedicated Water Resources as provided in Section F or by purchase from the Authority as provided in Section G.

#### **D. Responsibilities and Requirements of Applicant**

1. The Applicant shall submit, at the time of Application for a Will-Serve Commitment letter, plans and specifications sufficient for the Authority to estimate Demand of the new Service or Modified Service as follows:
  - a. Subdivision plat or parcel map with square footages of lots, including landscaping plans for common irrigation areas showing turf areas with square footage and drip areas with water use calculations; and/or
  - b. Site plan(s) with layout of project, including plumbing and mechanical plans, floor plan(s), and landscaping plans showing turf areas with square footage and drip areas with water use calculations; and/or
  - c. Any other information that the Authority may reasonably require to estimate annual Demand.
2. An Applicant with project(s) requiring Irrigation Service(s) must furnish with the Application a written determination by the Local Government with jurisdiction over the sale of Reclaimed Water as to the extent to which the Local Government will commit to provide Reclaimed Water to the Applicant for some or all of the Irrigation Service Demand.

Use of Reclaimed Water is subject to the requirements of the Authority and NAC 445A to protect and separate the Authority's Potable supplies from Non-Potable water sources. If Applicant project(s) cannot be served by Reclaimed water or backflow protection devices do not meet Authority's Standards, the Applicant must supply water resources pursuant to Section F or G of this Rule sufficient to meet the Irrigation Service(s) Demand for the project(s).



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#### **E. Methodology for Calculating Demand and Water Resources Requirement**

1. The Applicant's Demand for new Service or Modified Service shall be estimated using best available data and estimating procedures as determined by the Authority and computed as follows:

<u>Type of Unit</u>	<u>Demand (Acre-Feet Per year)</u>
Single family residential lot based on square foot lot size, with a minimum Demand of .11 acre-feet per lot	$\frac{1}{1 + (19,000 / \text{Lot size})}$
Mobile home parks with separate irrigation (per space)	0.25
Demand per unit for apartments, duplexes, condominiums, or townhouse units (excluding outside, utility room, laundry room and/or recreation uses)	0.10
Commercial or Industrial Services (including residential utility room/ recreation areas)	The best available data and estimating procedures as determined by the Authority shall be used or estimated average annual Demand as furnished by the Applicant or Customer and accepted by the Authority shall be used.
Irrigation	3.41 acre-feet per acre, or, for drip systems, the Demand as calculated by a landscape architect or other qualified professional and verified by the Authority.

2. The acre-feet required for a new Service or Modified Service will be computed as follows:

Total Acre-Feet Required (AFA) = Total Project Demand x Multiplier

Multiplier = (a) for mainstream Truckee River Rights the multiplier shall be 1.11.

(b) for groundwater rights, the multiplier shall be 1.00.



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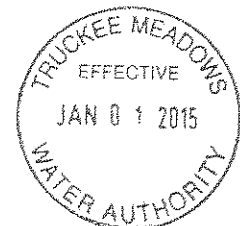
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(c) for all other water resources listed in Section F, the multiplier shall be such other number and/or other water sources/rights sufficient to provide an acceptable water supply, including but not limited to return-flow requirements, as determined by the Authority on a case by case basis.

#### **F. Obtaining a Will-Serve Commitment Letter by Dedication of Water Rights**

1. Requirement. When an Applicant seeks issuance of a Will-Serve Commitment letter from Dedicated Water Resources, the Applicant must dedicate to the Authority water rights sufficient to meet the Demand of the new Service or Modified Service as calculated pursuant to this Rule. Dedication of water rights will typically occur through conveyance to the Authority of title to the water rights. Under limited circumstances consistent with the Authority's discretion set forth in Section F.3, the Authority may consider acquisition of water rights for dedication through exchanges, leases, future purchases, or other acquisition agreements. Except in case where the Authority has expressly agreed to accept a temporary dedication or except as provided in Section I, dedication of water rights is irrevocable.
2. Types of Water Rights Eligible for Dedication. Water rights acceptable for dedication to the Authority may be comprised of one or a combination of the following. For purposes of calculating the quantity of water rights required for dedication, different multipliers may apply as set forth in this Rule to different types of water rights and/or water sources.
  - a. Mainstream Truckee River rights with a multiplier as set forth in Section E.2 of this Rule.
  - b. Other water rights of acceptable quantity and quality to the Authority with a multiplier as set forth in Section E.2 of this Rule.
  - c. Credits associated with the conversion of a domestic well to the Authority's water system as allowed by the Nevada Division of Water Resources.
  - d. Groundwater rights permitted for the Authority's use by the Nevada Division of Water Resources with a multiplier as set forth in Section E.2 of this Rule.
  - e. Imported or other water sources/rights and additional facilities/treatment necessary to implement or utilize these water sources which the Authority determines provide a sufficient water supply to meet the Demands of the new Service or Modified Service with a multiplier as set forth in Section E.2 of this Rule.



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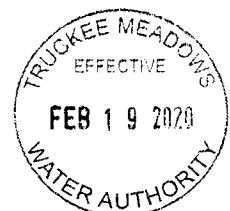
- f. Credits established pursuant to this Section I of this Rule.

The Authority may require analysis of drought-year supply or yield of the water right(s), Nevada Division of Water Resources approval of transfer, and/or special conveyance to the Authority's facilities as conditions of accepting dedication of the aforementioned water rights.

3. Acceptance or Rejection of Water Rights. The Authority shall have the right, in its sole discretion, to accept or reject any water right(s) offered for dedication based upon its application of Section F.2 and its consideration of the following:
- a. Whether the priority, quantity, ability to put the water right(s) to beneficial use, drought-year supply, yield, and quality of the water right(s) is sufficient to meet the Demand of the project for new Service or Modified Service;
  - b. Whether the water right(s) can be successfully changed under applicable law to allow their use by the Authority for municipal and industrial purposes, at the Authority's place of use, and for diversion at the Authority's points of diversion; and
  - c. Whether the Applicant can show unencumbered and clear title to ownership of the water right(s).

#### **G. Obtaining a Will-Serve Commitment Letter by Purchase from the Authority**

1. The Authority may maintain and make available from its Will-Serve Inventory of water resources available for commitment to support a Will-Serve Commitment letter to an Applicant's Project within the Service Area as provided in this Section. The Authority shall determine the price of purchasing a Will-Serve Commitment based on a weighted average of all direct and indirect costs associated with the acquisition of water rights held in the Will-Serve Inventory, which shall include, but not be limited to:
- a. The actual purchase or lease price of the water rights;
  - b. The cost or value of water rights determined through exchanges or trades of different various types of water rights or water resources identified in Section F.2 of this Rule;
  - c. The Authority's cost to research, verify and acquire title to the water rights;



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- d. The Authority's cost to change the point of diversion, place and manner of use of the water rights through the Nevada Division of Water Resources;
  - e. An annual carrying charge pursuant to the weighted average interest on the Authority's debt calculated and applied on a daily basis; and
  - f. Miscellaneous fees and office expenses associated with acquiring the water rights.
2. Will-Serve Commitment letters utilizing Will-Serve Inventory can only be purchased to the extent of the demand of Applicant's project and to the extent sufficient inventory exists in the Will-Serve Inventory. An Applicant shall not be permitted to purchase an allocation of more than 100 acre-feet from the Will-Serve Inventory under a single Application unless approved by the General Manager. Only Applicants eligible under Section G.4 may purchase Will-Serve Commitment letters. Priority among eligible Applicants to purchase Will-Serve Commitment letters shall be on a first come, first served basis determined by the date Authority has received a complete Application for the new or Modified Service. The Authority will notify an Applicant with priority in writing of the availability of sufficient inventory to serve the demand of Applicant's project via certified mail, hand delivery, fax, or email, and will reserve such inventory until 5:00 PM PST of the tenth full business day following delivery of such notice. In the event the Applicant does not purchase the Will-Serve Commitment letter by 5:00 PM PST of the tenth full business day following such notice, the Authority will release the inventory to the next eligible Applicant, and the Applicant electing not to purchase the Will-Serve Commitment letter shall forfeit its priority and move to the end of the line of all then eligible Applicants.
3. The price of purchasing a Will-Serve Commitment letter utilizing the Will-Serve Inventory will be established by the Authority in the following manner:
- a. Within fifteen (15) days of the end of each month, the Authority will calculate the general price associated with the acquisition of water rights in the Will-Serve Inventory by dividing the costs associated with the acquisition of water rights by the remaining balance of water rights in inventory. The resulting price shall be effective on the first business day of the following week; or
  - b. In the event additional water rights are acquired, the Authority shall determine a new price by dividing the costs associated with the acquisition of water rights by the remaining balance of water rights in inventory. The resulting price shall become effective on the first business day of the following week,



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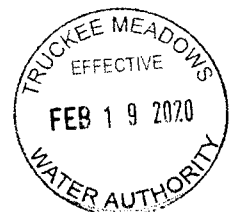
4. The Applicant may purchase a Will-Serve Commitment letter sufficient to meet the Demand for the Applicant's Project within the Service Area from the Authority only if the following conditions are met:
  - a. No water rights acceptable for dedication are appurtenant to the location at which new Service or Modified Service is being sought; or
  - b. The Applicant does not have any water rights banked with or previously conveyed to the Authority or other Local Government which remain uncommitted to a Project but could be available for Applicant's Project; or
  - c. The Applicant does not own any water rights that could be dedicated to the Authority pursuant to Section F of this Rule; and
  - d. The Authority has a sufficient inventory of water rights, in both quantity and type of resource, in the Will-Serve Inventory to meet the Demand for the Applicant's Project.

Where the Applicant is a Local Government or State agency seeking new or Modified Service, the Applicant may be granted an exemption to Section G.4(c) if Applicant's Water Resource(s) are committed to current or future water quality purposes, return flow requirements, effluent reuse, recharge, drought reserve, protection against demand fluctuations or such other appropriate water resource management or public use purposes approved by the Board.

Where the Applicant is a Wholesale Service applying for new or Modified Service on behalf of the owner of a retail project within the Wholesale Service's retail service area, Section G.4 shall apply to the owner of the of retail project as if the owner of the retail project were the Applicant.

#### **H. Fees and Issuance of Will-Serve Commitment Letter**

1. Fees Related to Dedication of Water Rights. Prior to the acceptance of Dedicated Water Resources to the Authority, Applicants will pay fees provided in Rate Schedule BSF to research and verify title, and the Applicant shall provide the Authority all documents and maps evidencing the water rights, including but not limited to (i) Nevada Division of Water Resources Application to Change and supporting Map and/or Report of Conveyance, and Abstract of Title; and (ii) copies of permits and/or certificates issued by the Nevada Division of Water Resources evidencing water rights, and Applicant is responsible for the costs as determined by the Nevada Division of Water Resources for the submission of a Report of Conveyance, Abstract of Title and all related documents as part of the application process with the Nevada Division of Water Resources.



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2. Fees for Issuance of Will-Serve Commitment letter. In addition to any other fees in this Rule, Applicants shall pay fees provided in Rate Schedule BSF to prepare the documents necessary to issue each Will-Serve Commitment letter.
3. Water Resource Sustainability Fee. Applicants for new or Modified Service within the Service Area relying on any water right other than the conversion of domestic well, imported water sources or groundwater rights for a Will-Serve Commitment letter will pay to the Authority's water resource sustainability fund the sum of \$1,600.00 per AF of Demand related to the new Service or Modified Service and to Deficit Demand prior to the issuance of the Will-Serve Commitment letter. Funds collected under this fee must be used for projects that improve the Authority's drought resiliency and water resource sustainability.
4. The Applicant is responsible for delivery of the Authority-issued Will-Serve Commitment letter and accompanying documentation to appropriate government entities.
5. Banking Water Rights. The Authority may, in its sole discretion, allow any Person to bank water rights with the Authority for future use by any Person. In the event an individual, any joint venture, partnership, corporation or other entity desires to dedicate water rights to the Authority for the Authority to hold or bank for the future use by the Applicant, or Applicant's designated successor, for a Will-Serve Commitment letter, the Applicant, or Applicant's designated successor, will pay applicable fees set forth in this Section and execute a banking agreement with the Authority. The Applicant, or Applicant's designated successor, shall be billed by the Authority for any fees such as Extension of Time associated with maintaining banked water rights in good standing with the Nevada Division of Water Resources.
6. Issuance of Will-Serve Commitment Letter After Dedication of Water Rights. After the Applicant has satisfied the requirements of Section F and paid the fees under Section H, and the Authority has accepted the Dedicated Water Resource, the Authority shall:
  - a. Prepare the necessary documentation to deed the Dedicated Water Resource to the Authority or Local Government;
  - b. Record such deed at the County Recorder; and
  - c. Upon execution of such deed and acceptance of the Dedicated Water Resource by the Authority, issue a Will-Serve Commitment letter to the Applicant for new Service or Modified Service at the location requested by Applicant.





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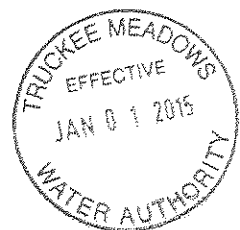
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7. Issuance of Will-Serve Commitment Letter After Purchase. After an Applicant has satisfied the requirements of Section G, paid the price determined in Section G, and paid the fees under Section H, the Authority will issue a Will-Serve Commitment letter to the Applicant for new Service or Modified Service at the location requested by the Applicant.
8. Obligation to Serve. Until such time as the Authority has issued a Will-Serve Commitment letter to an Applicant and facilities are installed pursuant to the Authority's rules to delivery water to the Project, the Authority is not obligated to provide the new Service or Modified Service.
9. Will-Serve Commitments Appurtenance. Will-Serve Commitment letters issued by the Authority and Historic Demand are appurtenant to the Service Property.

#### I. Project Cancellation, Expiration or Termination and Adjustments

1. A Will-Serve Commitment letter is automatically revoked and shall be null and void without further notice from the Authority on the date (i) Applicant provides written notice to the Authority that Applicant's project is canceled; or (ii) approval for Applicant's project expires or is terminated by the applicable governing body. In such event and upon written request of the Applicant:
  - a. The Authority shall reconvey to the Applicant any water rights dedicated by the Applicant pursuant to Section F of this Rule for the revoked Will-Serve Commitment Letter; or
  - b. In the Authority's sole discretion, the Authority may hold or bank Dedicated Water Resources or Authority Water Resources in connection with the revoked Will-Serve Commitment letter for the use by the Applicant, or Applicant's designated successor or assign, for a new Will-Serve Commitment letter for another project(s); or
  - c. The Authority shall refund to the Applicant, without interest, the full amount paid to the Authority by the Applicant under Sections H.3 and G as applicable provided (i) the Applicant submits a written request for such a refund to the Authority within ninety (90) days of the issuance of the Will-Serve Commitment letter, or (ii) the total amount eligible for refund is \$100,000 or less. In the event the Authority grants a refund under this subsection, the Authority will return the Authority Water Resources supporting the revoked Will-Serve Commitment Letter to the Will-Serve Inventory; or



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- d. The Authority shall credit (credited in acre-feet) the Applicant, or Applicant's designated successor or assign, the amount of Water Resources purchased by Applicant under Section G, which credit can be applied to Application(s) for new Service and Modified Service within the Authority's Service Area, subject to compliance with Authority's Rules, as directed in writing by the Applicant, or Applicant's designated successor or assign.
2. Will-Serve Commitment Adjustments and Issuance of Water Resource Credits. Adjustments to the quantity of water resources committed to a Service Property may be made pursuant to this Section where:

- a. An existing building(s) or facility(ies) has been demolished or removed and service to the Service Property is disconnected. A water resource credit (credited in acre-feet) will be issued to the owner of the Service Property under this Section I.2.a equal to the Demand in the Will-Serve Commitment letter or Historic Demand, if:

- (1) The owner of the Service Property on which service is to be disconnected records a deed restriction with the County Recorder in form acceptable to Authority declaring that there is no entitlement to water resources and/or water service from the Authority benefiting such parcel(s) at the Service Property; and

- (2) Service at the Service Property is retired in accordance with Rule 6.

After completion of the requirements of Section I.2.a(1) and I.2.a(2) the Authority's commitment to deliver water to the Service Property shall be deemed revoked and any Applicant for the delivery of water to the Service Property must submit an Application for new Service and satisfy all requirements in this Rule, including supplying water resources pursuant to Section F or G prior to issuance of a Will-Serve Commitment letter for the new Service at the Service Property.

- b. The projected Demand of a new Service or Modified Service at the Service Property is less than the Demand in the Will-Serve Commitment letter or the Historic Demand at the Service Property, in which event a water resource credit (credited in acre-feet) will be issued to the owner of the Service Property under this Section I.2.b equal to the difference. If the projected Demand of the new Service or Modified Service is greater than the Demand in the Will-Serve Commitment letter or the Historic Demand at the Service Property, no adjustment will be made or water resource credit issued, and the Applicant must dedicate sufficient water resources to the Authority in accordance with this Rule equal to the projected increase in Demand plus any Deficit Demand at the Service Property prior to the issuance of a new or revised Will-Serve Commitment letter for any new Service or Modified Service at the Service Property.



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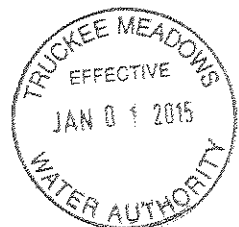
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- c. The owner(s) of a Service Property requests an adjustment of Demand based on Current Usage at the Service Property and:
- (1) The Service Property is not located on a parcel created by subdivision plat (or map) pursuant to NRS Chapter 278;
  - (2) The Demand being adjusted is not a Residential Service;
  - (3) The person(s) requesting the adjustment owns all real property at the Service Property benefitted by the quantity of water committed to the Service Property; and
  - (4) There is at least three (3) or more years of continuous metered water use data or other historic Demand data as determined by the Authority to establish the Current Usage for the Service Property being adjusted.

If the Service Property satisfies the requirements of Section 1.2.c and Demand in the Will-Serve Commitment letter or Historic Demand is greater than the Current Usage, Authority shall issue a water resource credit (credited in acre-feet) to the owner of the Service Property equal to the difference and issue a revised Will-Serve Commitment letter to the Service Property. If a Deficit Demand exists at the Service Property no adjustment will be made or water resource credit issued.



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3. Water resources supporting any water resource credits issued by the Authority to the owner of a Service Property are owned by the Authority and shall be held for the benefit of the owner(s) of the Service Property, or his designated successor or assign subject to the terms and conditions set forth in Authority's water resource banking agreement. Water resource credits:
  - a. Shall be issued in acre-feet and shall state quantity in terms of Demand;
  - b. May be used in connection with an Application for new Service or Modified Service and is acceptable to meet the Demand under this Rule;
  - c. Must be used in the Authority's Service Area;
  - d. In areas where sewer flows are not returned to the Truckee River, additional resources must be supplied pursuant to Sections F or G for sufficient for return flows;
  - e. Shall be issued to the owner of the Service Property;
  - f. May be sold, assigned or transferred to other parties upon notification to and written approval from the Authority and only to the extent the water resource credits exceed one acre foot. The Authority may assist with such sales on request.

#### **J. General Provisions**

1. Nothing in this Rule shall be construed to usurp the planning functions of the Local Governments. Applicants shall be deemed in compliance with the provisions of this Rule if the Applicant causes the Local Government(s) to sell or lease to the Authority, pursuant to such Local Government(s) Ordinances, sufficient resources from resources held by the Cities or County, if such procedure is required by local Ordinance.



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