



STAFF REPORT

TO: Chairman and Board Members
THRU: Mark Foree, General Manager
FROM: John Enloe, Operational Strategies Manager
DATE: October 6, 2014
SUBJECT: **Public Hearing, Second Reading and Possible Adoption of Resolution No. 213: A Resolution to Adopt Rule 10 – Special Conditions and Programs, including Mt. Rose-Galena Fan Domestic Well Mitigation Program**

Recommendation

Staff submits for Second Reading and adoption by resolution the proposed new Rule 10 governing Special Conditions and Programs, which establishes the Mt. Rose/Galena Fan Domestic Well Mitigation Program under TMWA Rules, to facilitate the implementation of the pending merger with Washoe County.

Possible Motion: "I move to adopt Resolution 213 and to adopt a new Rule governing Special Conditions and Programs: Mt. Rose - Galena Fan Domestic Well Mitigation Program to be effective upon the Closing Date of the consolidation of Washoe County Community Service Water Utility into TMWA."

INTRODUCTION

This report involves only Agenda Item 6.c.iii -- the proposed adoption of a of a new Rule governing Special Conditions and Programs, which establishes the Mt. Rose - Galena Fan Domestic Well Mitigation Program for a second reading and possible adoption.

In preparation for the merger of Washoe County Community Services Department Water Utility ("WCWU") and the South Truckee Meadows General Improvement District ("STMGID"), staff is recommending changes to TMWA's existing rules and rates, by:

Agenda Item 6.c.i. Amending:

1. Table of Contents
2. Introduction to the Rules
3. Rule 1 Definitions
4. Rule 5 Water System Facilities
5. Rule 7 Dedication of Water Resources and Will-Serve Commitments
6. Rule 9 Service Area Boundaries – Retail
7. Rate Schedule Large Volume Service (LVS)
8. Rate Schedule Firm Standby Partial Requirements (FSPR)

Agenda Item 6.c.i Repealing:

Rule 10 Service Area Boundaries - Wholesale

Agenda Item 6.c.ii Amending:

1. Rate Schedule Water System Facility Charges (WSF)

Agenda Item 6.c.iii Adopting:

1. Rule 10 Mt Rose-Galena Fan Domestic Well Mitigation Program

Agenda Item 6.c.iv. Adopting:

1. Rate Schedule FRMSGID – Former South Truckee Meadows General Improvement District Rates and Charges

Agenda Item 6.c.v. Adopting:

1. Rate Schedule FRMWC – Former Washoe County Water Utility Rates and Charges

The proposed amendments are subject to successful merger. Staff proposes that these changes be adopted now, but that they not become effective until the closing of the Merger, anticipated to occur December 31, 2014. Board review, pursuant to the tentative calendar presented below will lead to final approval of the revisions on October 15, 2014, with the revisions becoming effective upon the actual close of merger.

Background

As presented at the July 16, 2014 TMWA Board meeting, Washoe County's Mt. Rose – Galena Fan Domestic Well Mitigation Program provides for reimbursement of specific well deepening costs or water system connection charges incurred by property owners within the Program Area that experienced or will experience an Unreasonable Adverse Effect as a result of municipal groundwater pumping. TMWA's proposed Mt. Rose – Galena Fan Domestic Well Mitigation Program is based on the existing Washoe County program, and is intended to provide continuity after the merger for domestic well owners in the Mt. Rose Galena Fan area. Specifically, staff is proposing the adoption of a new Rule 10 governing Special Conditions and Programs, which establishes the Mt. Rose - Galena Fan Domestic Well Mitigation Program in its entirety as set forth and attached to Resolution No. 213.

A public workshop was conducted by TMWA and the Washoe County Community Services Department on August 26, 2014 to present TMWA's proposed Rule 10, Mt. Rose / Galena Fan Domestic Well Mitigation Program. The workshop included information on the planned water system consolidation and its benefits to the region, the history of Washoe County's Domestic Well Mitigation Program, the status and schedule for adoption of TMWA's new Rule 10, and provided an opportunity for public input, comments, and questions and answers regarding the Program. Approximately 80 residents from the Mt. Rose/Galena Fan area were in attendance.

Summary

The purpose of the workshop was to inform property owners that (1) TMWA was not proposing to change the current Washoe County Domestic Well Mitigation Program and (2) TMWA's new rule will continue the reimbursement benefits after consolidation. The majority of the public comment received was constructive, and raised reasonable concerns and issues related to impacts to domestic wells and the future management and protection of the shared groundwater resource in the Mt. Rose-Galena Fan area. Copies of the comments received are attached.

Several residents voiced concerns / dissatisfaction with the County's existing Program, such as:

- one time only reimbursement for well deepening;
- the statutory requirement to be hooked up to the municipal water system, if available;
- which cost components are covered / not covered under the Program;
- individual circumstances related to past experiences working under the Program.

Others voiced broad concerns relating to the long-term health of the groundwater aquifer, including:

- what commitments will TMWA make to prevent further impacts to domestic wells;
- how long it will take to bring surface water to the area;
- concerns over past land development approvals;
- what is to prevent TMWA from pumping the wells and sending the water out of the area;
- general concerns about surface water quality compared to groundwater;
- drought, water conservation;
- stabilizing water levels, resource sustainability; and
- lack of transparency.

Several residents also requested that TMWA add language to the Rule to incorporate policy language within the Washoe County Ordinance 1470, Article 7.1, A and B. This comment was also voiced at the July 16 TMWA Board meeting as well as at the August 5 Standing Advisory Committee (SAC) meeting. The specific Washoe County language referred to is as follows:

The Board hereby establishes a program to address claims for domestic well mitigation on an individual or programmatic basis necessary to:

- A. *Improve management and protection of groundwater resources;*
- B. *Prevent over-pumping of the Mt. Rose-Galena fan aquifer.*

Staff's concern is that the County's policy language is vague, and that the current Washoe County Domestic Well Mitigation Program, by itself, is a financial mitigation program and does not set forth plans or operating strategies to "prevent over-pumping of the Mt. Rose-Galena fan aquifer". TMWA is equally committed as the County to addressing the management and protection of the groundwater resources. One significant advantage of the Merger is that TMWA can bring additional resources and assets to this issue that the County does not have available. But time is needed to evaluate the science to determine how best to use those resources to help address the issue. At this time and until additional research can be completed, staff is not in a position to offer specific recommended actions to address some of the issues raised in the public workshop. However, in an attempt to address the public's concerns based on actions that TMWA can commit to, staff offered the following proposed clarifying language to the Rule:

The Mt. Rose-Galena Fan Domestic Well Mitigation Program (“Mitigation Program”) established in this Rule is created by the Authority consistent with and to continue the efforts of Washoe County to address the management and protection of the shared groundwater resources in the Mt. Rose-Galena Fan area, which include but are not limited to conjunctive use of surface and groundwater resources, reducing long-term-average-annual pumping in the Mt. Rose-Galena Fan area, and limiting municipal groundwater pumping as permitted by the Nevada State Engineer.

In general, most residents in attendance voiced favor for the existing Washoe County policy language over that proposed by staff.

Lastly, several of the public raised administrative questions related to TMWA assuming the obligations of Washoe County under this Program, and clarification that the Program does not have a termination provision. In accordance with Section 5.5 of the Interlocal Agreement (ILA) Governing the Merger, the current outstanding and recorded obligations of the County under the County’s mitigation program will be assumed by TMWA at the closing. These obligations will be identified in the schedules being prepared for the Addendum to the ILA, which will be presented to the TMWA Board and Washoe County for approval prior to the Merger. With respect to termination, once adopted as a Rule, the mitigation program could not be amended or terminated except by the Board of Directors, which could only occur at a duly noticed public meeting following the same public process as the original adoption.

In conclusion, staff recommends the Board adopt this new Rule (to be numbered Rule 10) to accommodate the merger of Washoe County Community Services Department Water Utility into TMWA and to bring the administration of the existing domestic well mitigation program for the Mt Rose/Galena Fan area under TMWA. Staff has set forth a rule that is consistent with the existing Washoe County Program currently in place that details how each domestic well owner in the Mt Rose area whose well is determined to be impaired will be treated and compensated. The Rule defines how TMWA will administer the program and the various obligations/rights of the eligible property owners.

**TRUCKEE MEADOWS WATER AUTHORITY (TMWA)
DOMESTIC WELL MITIGATION WORKSHOP
MINUTES OF THE AUGUST 26, 2014, 6:00 – 8:30 pm
1355 CAPITAL BLVD, RENO, NEVADA**

The total attendance at the workshop was approximately 90 people.

Kim Mazeres, TMWA Director of Customer Relations, introduced TMWA staff and committee members who were present. Ms. Mazeres provided an overview of agenda for the workshop. Ms. Mazeres detailed the schedule of the upcoming public meetings, their locations and times.

John Enloe, TMWA Operational Strategies Manager, Project Manager for the Domestic Well Mitigation Program ("Program"), welcomed everyone who was in attendance. Mr. Enloe stated that the workshop is to provide information on the planned water system consolidation and its benefits to the region, the history of Washoe County's ("County") Domestic Well Mitigation Program, the status and schedule for adoption of TMWA's proposed Rule for the Mt. Rose-Galena Fan ("Fan Area") Domestic Well Mitigation Program, and allow for public input, comments, and questions and answers regarding the Program.

He stated that the comments made at the workshop would be presented to the Standing Advisory Committee (SAC) meeting on Tuesday September 2, 2014, whereby they would provide recommendations to the TMWA Board of Directors meeting on Wednesday September 17, 2014. He stated that the draft Rule 10 is more specific, and TMWA's commitment to not over-pump is that we will abide by what the State Engineer sets as the pumping limit of the wells.

Ms. Mazeres opened the workshop to public comment, which lasted several hours. Several residents voiced concerns / dissatisfaction with the existing Program and had many questions, such as:

QUESTIONS:

- How many Tessa Wells are there?
- What were the water levels at the first Tessa well (originally vs. now)?
- Was drought taken into consideration for future groundwater level projections?
- What are the long-term plans for recharging the Callahan Ranch area and will this be linked to approval of the drought plan?
- What does NRS means?
- To whom is the State Engineer accountable?
- What is TMWA's or County's authority over the development process itself?
- According to the Capital Improvement Plan, will the water lines go up to the Galena Fan area and will it impact the Callahan area? How much recharge will occur once the line is built?
- How quickly will residents see the benefits of recharge?

- Once a property owner deepens their well and it goes dry, are they no long eligible for a waiver to connect to the municipal line?
- If there is a well failure, what is the mitigation compensation and is there an expectation of abandoning the well if connecting to the municipal water system?
- Will TMWA consider a conservation program such as the one in Las Vegas which reimburses the tearing out of lawn?
- What authority does TMWA have on influencing the development process?
- What is the average depth for a well?

COMMENTS:

- County lied about it because they knew they were going to suck the Callahan wells dry
- It is impossible to return groundwater tables to the levels 10 or 20 years ago, but want a commitment from TMWA to stabilize the water levels moving forward
- The County built seven municipal wells in the neighborhood and then they denied that these wells affected the groundwater tables
- Spent over \$24,000 on her well and never got reimbursed
- They were told that they were going to be compensated for the wells, but were not compensated
- Moved to Galena area for the groundwater not surface and that's the quality of water they want to keep
- They feel that surface water is second to what they bought into – having their own wells
- Residents feel municipal pumping is a taking
- Recharging with surface water is not a true mitigation program
- The property owners fought with the County to admit to their mistake and the fact that the municipal wells impacted the domestic wells
- The property owners are receiving the best water possible off of Mt. Rose. TMWA needs to maintain that quality and have the recharge available
- Property owners were misled by the County not TMWA and they need to address the Planning Commission for desired changes in development approvals
- Want to see the projections for recharge
- Saw no action until 2011 when the County started to comply with state law

SUGGESTIONS:

- There needs to be improvement in water resource to stabilize water management and levels
- Would like to see if: "TMWA is going to stabilize the water levels and not continue the overdraft."
- Want to see a commitment from TMWA to stabilize water levels

- Don't give any more water rights and stop building
- TMWA shouldn't add any more wells into the system, the aquifer can't support it
- Request to incorporate language into Rule 10 from Ordinance 1470, Article 7.1 A and B
- Property owners want to see that there is no termination to the program or funding in writing
- Take the word 'average' out of the proposed language for Rule 10

CONCERNS:

- TMWA will not protect the domestic well owners
- Concerns over surface water quality and where it comes from
- Stabilizing water levels
- Drought (including its effect on groundwater levels), water conservation
- Concerns over past land development approvals
- An illegal and unethical taking of their water by the County
- Lack of transparency
- One time only reimbursement for well deepening
- Cost of hooking up to municipal water lines if someone has already been compensated for deepening their well
- Concerns over pumping of the wells and sending the water out of the area
- TMWA will maximize pumping in the Fan Area from day one
- The water plan is based on over appropriated paper water rights

WRITTEN COMMENTS FROM PUBLIC COMMENT CARDS:

James Mack – Tesla Wells

Ken Taylor – Over pumping/sustainable yield

Ron Squatrito – What are the long-term plans for recharging the Callahan Ranch area? Will this be linked to approval of the drought plan?

Victoria Knulsun – Wells

Linda Guy – Prediction of drought before development in 2005

Tim Rhyme – The fact that we were told that we would be compensated for redrilling our well and never were.

Eric Scheetz – 1. Please describe Capital Improvement Plan; 2. You mentioned recharge 4,000 acre feet, where, how to Callahan/Fan?; Clarify turn off production wells, not domestic with surface; and 4. Adopt language in 7.1 A and B as well, legally in acquisition previous agreements will remain.

Kathy Bowling – How does TMWA plan to exist with domestic wells? This is especially important to domestic well owners on west side of Mt. Rose Hwy with no water lines.

Mary Cablk, PhD – The fact that there is no discussion on a program of water conservation. Commit to a limit on pumping by stabilizing the water levels which will force conservation. In addition it is outrageous to state that the agency has always admitted that municipal pumping affects groundwater levels and domestic wells. I was present when such statements were **denied**. I challenge the agency to provide documentation initiated by a well-owner that shows a single person asked to be able to abandon their well in favor of paying the government for their water.

John Sagebiel, PhD – Proposed language to the well mitigation program must include language to stabilize water levels. I appreciate that you want to bring surface water up to the Galena Fan, but are there guarantees that this will happen? Lastly, there has been no discussion of conservation program. We need to reduce water use or none of this is relevant. It is also apparent you underestimated the interest in this with the room crowding.

Amanda McDaniel – I would like access to the model study/report that projects water levels and stability. Regarding modeling, what type of real data is included, over what period of time? And what assumptions and inputs were made. When the models are updated (as indicated it would be in the near future), will it include more recent and multi-year groundwater data? Also, where are the TMWA “recharge” locations? Am I correct in assuming these are permitted injection wells? Are there plans to drill injection wells for recharge in the Mt. Rose-Galena Fan area? Next, the comment by John Enloe about water quality in the area maybe not being so great due to septic systems. Septic tanks and leach fields are within about 20 feet of the ground surface. Wells are about 100 to several hundred feet deep (mine is 500 feet). While there is a potential and eventual interface between the septic impact and groundwater it is remote and currently infeasible with regard to our water quality and impacts. My water quality lab results don’t indicate fecal coliform or other septic related pollutants.

What I want:

1. Commitment to water level stabilization
2. Add language that was in the County Rule, back into TMWA rule