

Mt. Rose-Galena Fan Domestic Well Mitigation Program Policies and Implementation Procedures

These Mt. Rose-Galena Fan Domestic Well Mitigation Program Policies and Implementation Procedures shall be applied to guide the Department of Water Resources' (DWR) implementation of the Mt. Rose-Galena Fan Domestic Well Mitigation Program. Modification of these procedures shall require review and action by the Washoe County Board of Commissioners.

1. Definitions

Unreasonable Adverse Effect: For the purposes of this policy, Washoe County will consider an application for mitigation of an alleged unreasonable adverse effect caused by a municipal pumping when all of the following circumstances have been shown to exist:

- A. The impacted domestic well must draw from the same source aquifer as the municipal well(s) alleged to be causing the unreasonable adverse effect; and
- B. Objective evidence must exist that clearly connects the municipal pumping to the impairment of the affected domestic well's ability to provide a sustainable source of potable water for the property; and
- C. The impacted domestic well must be experiencing an actual or imminent effect resulting from the reduction of ground water supply to the well and that leads to the actual inability of the well to produce an adequate supply of water for domestic use; and
- D. Any protectable interest in the impacted domestic well is limited to the draught allowed under NRS 534.180(1); and
- E. The impacted domestic well must have a priority date, as defined by NRS 534.080.4, that is more senior than the priority date of the municipal well(s) alleged to be creating the unreasonable adverse effect.¹

Mt. Rose-Galena Fan Domestic Well Mitigation Program: Properties located in the Mt. Rose-Galena Fan Domestic Well Mitigation Program Area boundary shown on Figure 1² and served by a domestic well established before July 1, 2011, or multiple properties served by an established quasi-municipal well located within the Program Area boundary, are eligible to apply for mitigation of the unreasonable adverse effects of municipal pumping on domestic wells. The provisions of the program are as defined by the Department of Water Resources' Water Rate Ordinance as adopted by the Board of County Commissioners and Section 2 of these Policies and Implementation Procedures.

¹ Except for the requirement that a domestic well must have existed before July 1, 2011, the priority date criteria is not being applied as a necessary criteria for establishing an unreasonable adverse effect for the Mt. Rose-Galena Fan Domestic Well Mitigation Program.

² Figure 1 includes properties located in both Washoe County DWR and the South Truckee Meadows General Improvement District (STMGID) service areas.

2. Mt. Rose-Galena Fan Domestic Well Mitigation Program

A. General Provisions

Only developed properties existing in the Mt. Rose-Galena Fan Domestic Well Mitigation Program Area delineated on Figure 1 and being served by a domestic well existing before July 1, 2011, or that have been served by a domestic well at some point before July 1, 2011, shall be eligible to participate in the mitigation programs described in these implementation procedures.

Properties in the Mt. Rose-Galena Fan Domestic Well Mitigation Area shown on Figure 1 that are undeveloped before July 1, 2011, and that will be served by a domestic well or by existing or future community water facilities shall not be eligible to participate in the mitigation programs described in these Policies and Implementation Procedures. Such properties shall be subject to all relevant terms and conditions of DWR's Water Rate Ordinance related to connecting to the community water system or the Washoe County Health District's and Nevada Division of Water Resources' requirements for developing a domestic well.

Each property eligible for participation in the Mt. Rose-Galena Fan Domestic Well Mitigation Program Area shall be limited to receiving mitigation, as outlined in these procedures, for a maximum of one domestic well per property.

B. The Mt. Rose-Galena Fan Domestic Well Mitigation Program includes the following elements:³

(1) Properties with domestic wells where community water service is not now and is not expected to be available in the future.

Property owners in this category shall be entitled to compensation for deepening their domestic well by 150 feet⁴.

Effective July 1, 2011, the compensation for 150 feet of well deepening shall be \$9,961 (150 feet @ \$66.40 per foot), and the annual compensation amount for each new fiscal year shall be established using the following procedure and shall become effective on July 1st of each year.

The procedure for adjusting the annual compensation amount shall be as follows:

³ Note: Programs described and detailed in Section 2, Mt. Rose-Galena Fan Domestic Well Mitigation Program are specific to and limited to the Mt. Rose-Galena Fan Domestic Well Program area established in Figure 1 and shall not be considered to apply elsewhere where individual or programmatic domestic well mitigations may occur.

⁴ Note: The recommended 150 feet of deepening is specific to those properties in the Mt. Rose-Galena Fan Domestic Well Mitigation Program where community water service is not now and is not expected to be available in the future.

DWR shall conduct a survey of a minimum of five (5) licensed well drillers in the region to determine the average cost of deepening a well by 150 feet. For the purposes of this survey, the region shall be defined as Northern Nevada and Northeastern California. This cost shall include the following activities: mobilization and demobilization, set-up, drilling, permitting, site rehabilitation, subject to limitations described below, necessary materials and materials disposal. The cost estimate shall not include appurtenances. For the purposes of these Policies and Implementation Procedures, appurtenances shall include but not be limited to the following domestic well components: pumps, motors, wire, pipe adapters, valves, clamps, couplings, spacers, gauges, wrap, pressure tanks, switches, and pitless adapters.

The cost per foot of 150 feet of deepening obtained from all the drillers participating in the survey shall be subjected to a simple mathematical averaging process to establish the revised annual compensation amount.

In the event that a well cannot be deepened, for example, due to casing size limitations that do not allow the insertion of drilling and pumping equipment, DWR shall provide compensation based on the actual cost to drill a new well (not including appurtenances) on a per foot basis, as verified by receipts prepared by the well driller of record, and allowing for an additional 150 feet of depth. When receipts are not available from the well driller, the compensation shall only be for 150 feet at the per foot allowance (\$66.40 per foot as of July 1, 2011) or as approved by the DWR Director. Property owners choosing to drill a new well deeper than 150 feet plus the depth of the original well shall be responsible for any incremental cost associated with drilling the well deeper.

Property owners shall be responsible for covering any and all other on-site costs associated with well deepening, including the restoration of any landscaping, irrigation or hard-scaping as well as any necessary appurtenances associated with the new or deepened well. Property owners requiring a new well to be drilled shall be responsible for all costs of abandoning the original well.

The quasi-municipal well serving the following seven parcels: Assessor Parcel Numbers 047-162-16, 047-162-26, 047-162-27, 047-162-28, 047-162-29, 047-162-30, and 047-162-31, shall be covered by this program element and shall be entitled to have their community well deepened in the event their community well is unreasonably adversely impacted by municipal pumping. These property owners shall be responsible for covering any and all other on-site costs including the restoration of any landscaping, irrigation or hard-scaping as well as any necessary appurtenances associated with a deepened well.

(2) Properties where the availability of municipal water system facilities has resulted or will result in the conversion of a domestic well to the municipal water system.

In accordance with Nevada law, properties with a domestic well where a water line is available will be required to connect to the municipal water system. For these properties, DWR will provide a recordable, transferrable guarantee of a “zero cost” connection to water system infrastructure in the public right of way. This means DWR will waive any and all of the following fees that would typically apply to a property connecting to the community water system:

- General Connection Privilege Fee;
- Line Extension Fee;
- Meter Pit and Service Lateral Construction Fee; and
- Meter Set Fee, which includes the meter and automated meter reading device as well as the labor required to install the meter.

Property owners will be responsible for covering all on-site costs related to the conversion from a domestic well to community water service including trenching from the meter box to the residence, modifying residential plumbing to accept the new service, removing and disposing of any pressure tanks or other facilities related to the domestic well and properly abandoning the domestic well, including but not limited to, obtaining any required permits, inspections and covering any other related fees or expenses.

Property owners converting from domestic wells to community water service have the option to apply for financing of their on-site costs through the DWR’s Water and Sanitary Sewer Financial Assistance Program.⁵

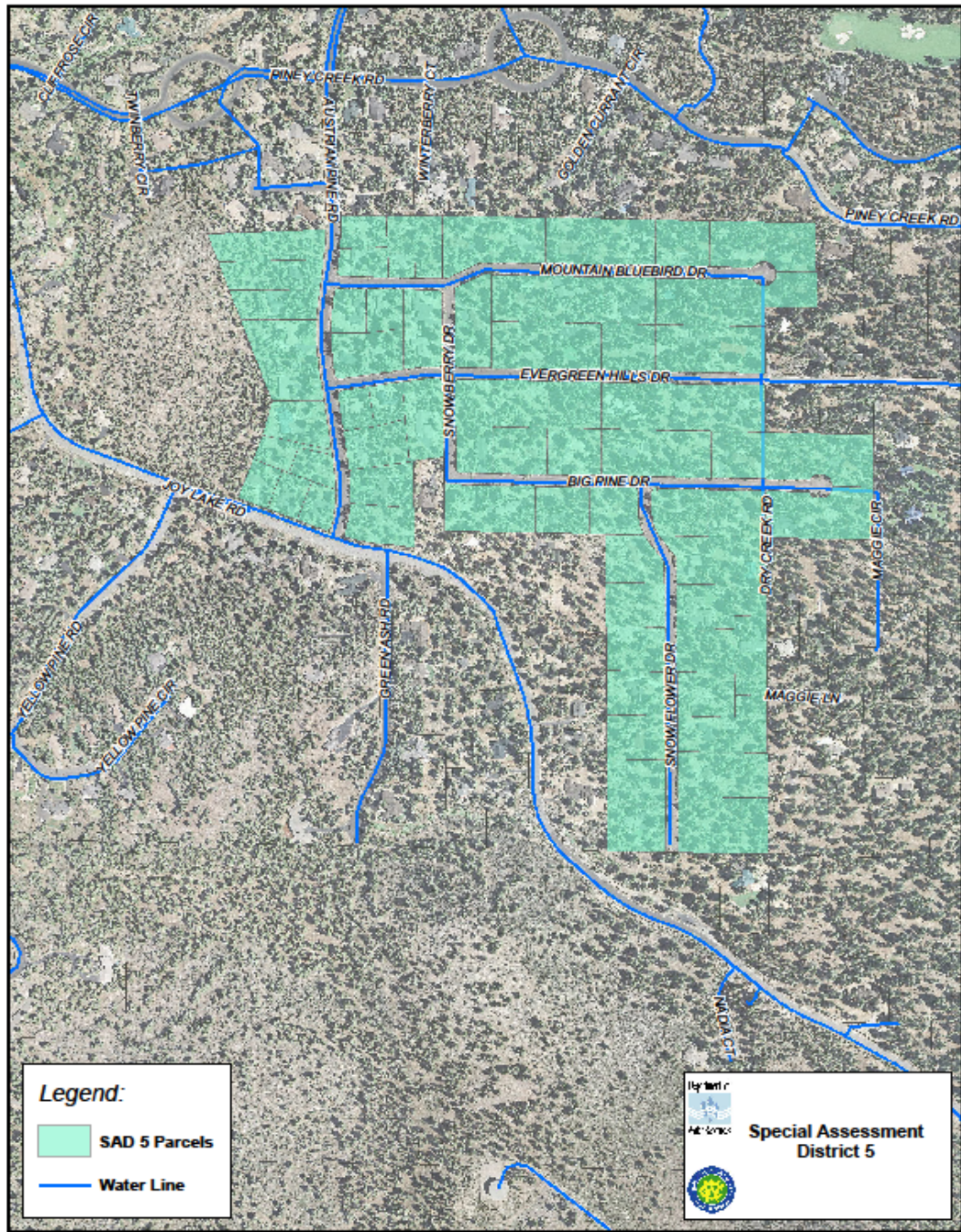
Property owners in the impacted area whose domestic wells have failed, who meet the other program criteria and who have already connected to the municipal water system shall receive a reimbursement of previously paid connection fees related to the cost of infrastructure in the public right-of-way. Any prior mitigation provided by Washoe County or STMGID for on-site costs will be subtracted from the reimbursement. Property owners who received prior mitigation in excess of the total cost of connection to the infrastructure in the public right-of-way will not be required to reimburse DWR for any amount they received above the public right-of-way cost. Reimbursements shall not include interest.

Parcels with domestic wells located in the now closed Special Assessment District (SAD) 5, (see map in Figure 2), shall have the amount of the

⁵ For information about the terms and conditions of the Water and Sanitary Sewer Financial Assistance Program, please reference materials posted on the County’s website at <http://www.washoecounty.us/water/AB-54.htm>.

assessment they paid for the water facility portion of the SAD refunded (typically in the range of \$3400) and shall be allowed to connect to the community water system under the same terms as other property owners in this category.

Figure 2
Special Assessment District 5 Boundary Map



(3) Properties where a domestic well owner deepened his/her well in advance of the installation of municipal water system facilities.

Property owners who deepened their well in advance of a water line being installed will receive a recordable, transferable guarantee of a “zero cost” connection to water system infrastructure in the public right of way. This means DWR will waive any and all of the following fees that would typically apply to a property connecting to the community water system:

- General Connection Privilege Fee;
- Line Extension Fee;
- Meter Pit and Service Lateral Construction Fee; and
- Meter Set Fee, which includes the meter and automated meter reading device as well as the labor required to install the meter.

Property owners will be responsible for covering all on-site costs related to the conversion from a domestic well to community water service including trenching from the meter box to the residence, modifying residential plumbing to accept the new service, removing and disposing of any pressure tanks or other facilities related to the domestic well and properly abandoning the domestic well, including but not limited to, obtaining any required permits, inspections and covering any other related fees or expenses.

(4) Evaluation of individual circumstances not initially fitting into any of the above categories.

Property owners who have either already connected to a municipal water system or have already deepened their domestic well before July 1, 2011 and who believe the circumstances related to their individual situation does not place them clearly into one of the categories described in this section may request their claim to be reviewed by DWR staff.

When conducting this evaluation, DWR staff will use the criteria included in the definition of “unreasonable adverse effect” from Section 1 of this document and will also take into consideration the following additional factors that can affect a well’s ability to reliably produce water for domestic use:

- The impacts on groundwater levels resulting from natural variability of annual precipitation, including multi-year droughts;
- The impact on well performance of the well’s original construction, including the degree to which the well’s failure can be attributed to sub-standard construction methods and/or not initially drilling the well deep enough to provide an adequate and reliable supply under conditions that could reasonably be

anticipated, including the local concentration of other domestic wells.

Property owners requesting individual evaluation of their circumstances may be required to submit historical and/or current documents such as the Well Driller's Report from the well's initial construction, maintenance records, the Well Driller's Report from any well deepening activities, receipts for work performed, and any other information or data necessary for or desired by DWR staff to fully consider and properly evaluate a property owner's individual circumstances.

DWR's Director shall have the discretion to approve or deny mitigation claims for property owners requesting evaluation of their individual circumstances based on the following criterion:

- The mitigation must be generally consistent with the approaches developed for those categories described in Section 2.B and will be based on the findings and recommendations of DWR staff.

A property owner who is not satisfied by the mitigation offered by DWR has the right to submit his or her case for review by the State Engineer.

Processing of individual evaluation requests shall be on a "first come, first serve" basis using date stamp received and shall be accommodated by DWR staff as feasible given other workloads. Reimbursements shall not be issued until evaluations are complete and the property owner has signed the necessary release.

3. Mt. Rose-Galena Fan Domestic Well Mitigation Program Implementation Procedures

A. Notice

DWR will provide notice to all property owners within the designated boundary of the Mt. Rose-Galena Fan Domestic Well Mitigation Program of the availability of the program. The notice will provide property owners with information on eligibility and how to apply for mitigation.

Only current property owners will be notified by DWR of the program's availability. DWR is under no obligation to attempt to locate or to provide notice to a previous owner of any parcel in the Mt. Rose-Galena Fan Domestic Well Mitigation Program Area.

B. Procedures for Reimbursement of Fees Paid or Costs Incurred

(1) Eligible Properties

To be eligible to receive reimbursement, a property owner, or community property interest holder, must have been the owner of record of the property at the time the cost for which the reimbursement is being requested was incurred.

An individual need not be the current owner of the property to receive reimbursement. Should a previous property owner submit a request for mitigation, DWR will notify the current owner that mitigation has been applied for. DWR will require a former property owner to provide appropriate documentation demonstrating that he or she was the owner of record at the time eligible mitigation costs were incurred. If mitigation is provided to a previous property owner, documentation of mitigation received will be recorded against the property and will foreclose the current property owner's eligibility to receive mitigation.

Should a dispute arise between a current property owner and a former property owner or any current or former community property interest holders about who is entitled to receive mitigation, DWR shall not provide any mitigation until the dispute is resolved by the parties and documentation to that effect is provided to DWR.

(2) Application for Reimbursement

Property owners who believe they are owed a reimbursement for public right-of-way infrastructure connection fees already paid or for well deepening that has already occurred shall submit an application (form to be provided) to DWR briefly stating the basis for the reimbursement.

(3) Processing of Applications for Reimbursements

DWR staff shall process applications for reimbursement in the order of date stamp received, and shall issue reimbursements using the relevant program provisions described in Section 2 of these Policies and Implementation Procedures. Reimbursement checks shall not be issued until the recipient has executed the required legal release document indicating that the property is not eligible for future or further mitigation.

(4) Documentation of Mitigation Received

When a property owner has exercised his or her right to receive mitigation, DWR staff shall record in the Office of the County Recorder, Official Records, a notice against the property documenting the mitigation provided, including a copy of the property owner's legal release of the County for any further or future mitigation. Recording fees shall be paid by DWR.

C. Procedures for Properties to Receive Future Mitigation

(1) Eligible Property Owner

For those properties eligible to receive future mitigation, mitigation will be provided to the owner of record at the time the property's well is deepened or the connection to the community water system is made.

(2) Application for Future Mitigation

Property owners who believe their property is eligible for future mitigation shall submit an application (form to be provided) to DWR briefly stating their eligibility for future mitigation.

(3) Processing of Applications for Future Mitigation

Once DWR staff has substantially completed processing the applications for reimbursement, including any reimbursement requests submitted under the Special Circumstances provisions of Section 3.D below, DWR staff shall process applications for future mitigation in the order of date stamp received. The mitigation to be provided shall be based on applying the relevant program provisions described in Section 2.B of these Policies and Implementation Procedures.

(4) Documentation of Eligibility for Future Mitigation

DWR staff shall record in the Office of the County Recorder, Official Records, a document indicating each property's eligibility for future mitigation, including specifying what mitigation is to be provided. All commitments of future mitigation shall be transferable to future property owners and shall remain in effect until the designated mitigation is provided. Recording fees shall be paid by DWR.

(5) Exercising a Commitment for Future Mitigation

At the time a property owner needs to exercise his/her commitment for future mitigation, he or she shall contact DWR, or a water purveyor that is DWR's successor in interest, and request that the commitment for future mitigation be fulfilled. Mitigation shall not be provided in advance of the property owner actually connecting to the community water system or deepening his/her domestic well. All property owners wanting to exercise their commitment for future mitigation must execute the required legal release document prior to being reimbursed for well deepening costs or having a meter set that provides for connection to the community system.

(6) Documentation of Mitigation Received

When a property owner has exercised his or her right to receive mitigation, DWR staff shall record in the Office of the County Recorder, Official Records, a notice against the property documenting the mitigation

provided, including a copy of the property owner's legal release of the County for any further or future mitigation. Recording fees shall be paid by DWR.

D. Property Owners Requesting Individual Review Due to Special Circumstances

(1) Eligible Property Owner

A property owner requesting an individual review due to special circumstances must meet the applicable property eligibility requirements laid out in these procedures.

(2) Application for Individual Review Due to Special Circumstances

Property owners who believe their circumstances require individual review shall submit an application (form to be provided) to DWR briefly stating the special circumstances that necessitate an individual review.

(3) Processing of Applications for Individual Review

Once DWR staff has substantially completed processing all applications for reimbursement under Section 2.B of these Policies and Implementation Procedures, DWR staff will process applications for individual review on a first come, first serve basis using the date stamp received.

Individual reviews shall be conducted in accordance with the provisions of Section 2.B of these Policies and Implementation Procedures. DWR staff shall notify the property owner of the outcome of the individual review and a property owner may choose to accept DWR's proposed mitigation, or submit his or her case to the State Engineer for review.

(4) Reimbursement of Connection Fees or Well Deepening Expenses Incurred

If a property owner requesting individual review is eligible for and requests reimbursement of connection fees paid or domestic well deepening costs incurred, such requests will be processed as outlined in Section 2.B of these Policies and Implementation Procedures. Reimbursement checks that may be required to provide agreed-upon mitigation shall not be issued until the recipient has executed the required legal release document indicating that the property is not eligible for future or further mitigation. Reimbursements issued shall be recorded in the Office of the County Recorder, Official Records, as per the provisions Section 3.D(7) below.

(5) Documentation of Eligibility for Future Mitigation

If a property owner requesting individual review is eligible for and accepts a commitment of future mitigation, DWR staff shall record in the Office of the County Recorder, Official Records, a document indicating the property's eligibility for future mitigation, including specifying what mitigation is to be provided. All commitments of future mitigation shall be transferable to future property owners and shall remain in effect until the designated mitigation is provided. Recording fees shall be paid by DWR.

(6) Exercising a Commitment for Future Mitigation

At the time a property owner needs to exercise his/her commitment for future mitigation, he or she shall contact DWR, or a water purveyor that is DWR's successor in interest, and request that the commitment for future mitigation be fulfilled. Mitigation shall not be provided in advance of the property owner actually connecting to the community water system or deepening his/her domestic well. A property owner wanting to exercise his or her commitment for future mitigation must execute the required legal release document prior to being reimbursed for well deepening costs or having a meter set that provides for connection to the community system.

(7) Documentation of Mitigation Received

When a property owner has exercised his or her right to receive mitigation, DWR staff shall record in the Office of the County Recorder, Official Records, a notice against the property documenting the mitigation provided, including a copy of the property owner's legal release of the County for any further or future mitigation. Recording fees shall be paid by DWR.