

## **Legal and Regulatory Requirements for adding new customers to the Yosemite West Service Area water system.**

Prepared by John Mock for the Yosemite West District Advisory Committee meeting of September 12, 2019.

It is fundamental to understand the legal and regulatory requirements that any proposal to add new customers to the Yosemite West Service Area water system. The information below outlines the breadth and depth of the major requirements.

### **1. California Waterworks Standards**

The California Waterworks Standards found in the California Code of Regulations, Title 22, Social Security, Division 4. Environmental Health, Chapter 16, govern any proposal to add new water customers to the Yosemite West Service Area. Below is a brief overview of sections (§) found in Article 2. Permit Requirements, and explanations given by Kassy Chauhan, (office 559-447-3316, cell 559-385-5014), Senior Sanitary Engineer for Drinking Water Field Operations of the Southern California Branch of the California Department of Public Health, whose office issues the Domestic Water Supply Permit for Yosemite West.

### **2. Domestic Water Supply Permit**

#### **2.1. § 64554. New and Existing Source Capacity (Second Well Requirement)**

Yosemite West's current Domestic Water Supply Permit (No. 03-11-12P-038) issued on December 21, 2012, provision 11, requires the submission of a plan and time schedule to provide at least one additional source of water supply, i.e., a second well. The permit identifies a single permitted source for domestic supply, Well No. 9, PS Code 2210924-003, located on APN 006-070-028-0, a 0.02-acre parcel owned by Mariposa County.

§ 64554 states, "(c) Community water systems using only groundwater shall have a minimum of two approved sources before being granted an initial permit. The system shall be capable of meeting maximum day demand (MDD) with the highest capacity source off line."

As explained by Kassy Chauhan, the California Waterworks Standards' "minimum source capacity" as defined in § 64554 require a community water system to meet the needs of its existing customers before adding any new customers. The obligation is to existing customers. A second approved water source is required before adding any new customers outside the service area.

#### **2.2. Maximum Day Demand (MDD) Calculations**

The California Waterworks Standards § 64554 requires the use of MDD for minimum source capacity calculations. § 64554 b.2.C states: “To calculate the MDD, multiply the average daily usage by a peaking factor that is a minimum of 1.5 “.

### **2.3. § 64558. Source Capacity Planning Study (Second Well Study)**

If directed by the State Water Resources Control Board based on its determination that there is an existing or potential problem (such as lack of minimum source capacity when proposing to add new customers) with the system’s source capacity or proposed expansion, a Source Capacity Planning Study is required. This study contains: (1) the anticipated growth of the water system over a projected period of at least ten years in terms of the population and number and type of residential, commercial, and industrial service connections to be served by the water system; and (2) estimates of the amount of water needed to meet the total annual demand and the MDD over the projected ten-year growth period (projected system demand). Methods, assumptions, and calculations used to estimate the projected system demand shall be included as specified.

As explained by Kassy Chauhan, a source capacity planning study for the Yosemite West water service area would be needed due to:

- the lack of a second water source;
- the impact of future buildout of the Yosemite West subdivision;
- the proposal to add new customers to the water system; and
- the proposed expansion of the water system.

The total needs of any new customers (storage, fire suppression, daily domestic supply) would need to be evaluated in terms of source capacity. Applicable regulations (CEQA for state land, NEPA for federal land) would also have to be met by the applicant/s.

### **2.4. § 64556. Permit Amendments**

§ 64556 requires an application for an amended Domestic Water Supply Permit prior to adding a new source, a change in design capacity, consolidation with another water system, or a change in regulatory jurisdiction or additional circumstances listed in § 64556.

As explained by Kassy Chauhan, fulfilling the requirements of § 64554 and § 64558 would be the first steps in preparing an application for an amended Domestic Water Supply Permit.

## **3. Senate Bill 1263 (SB1263). Public Water Systems**

SB1263 added § 116527 to the California Safe Drinking Water Act within the California Health and Safety Code. SB1263 evaluates whether service from existing system is possible and asks new applicants to try to hook into a neighboring existing system.

As explained by Kassy Chauhan, under SB1263, it is incumbent on Nature Bridge and NPS to approach the YW water system, as Nature Bridge has no water permit. Paragraph (h) in § 116527 states: “The requirements of this section do not apply to ... (2) an extension of, or annexation to, an existing public water system.” Yosemite West has a water permit and so does not have to go to any neighboring (or proposed) water system.

#### **4. Mariposa County Code (Public Hearing and Costs)**

Mariposa County Code 13.02.145 Connection of Land Outside District--Permit Required and 13.02.146 Connection of Land Outside District--Public Hearing, govern part of the process of adding new customers.

Additionally, 13.02.210 Subdivision Water System--Costs and Expenses, although directed at new subdivisions, offers conditions that could be considered for any new customers to Yosemite West’s water system, “All costs and expenses incurred by the district under sections 13.02.150 through 13.02.220, including the cost of investigation, inspection, legal and consulting engineer's services, shall be paid to the district by the subdivider prior to approval of the application.”

#### **5. Water Rates for Customers**

The California Supreme Court *Capistrano* decision holds that water rates must be based on the actual cost of providing water. Any difference between the cost of providing water to new customers and the cost of providing water to current Yosemite West customers would be paid by new customers. The only rate that can be charged is the actual cost to provide water. Impact fees and hook-up fees could be required. This would need to be researched.

#### **6. Conclusion**

Any change to Yosemite West’s existing water system must be carefully thought out and planned, following all legal and regulatory requirements, a process that will take significant time and money.