

# Staff Report

for the Board of Directors' Meeting of August 9, 2017

**TO:** Board of Directors

**FROM:** Chip Close, Water Operations Manager

**DATE:** July 20, 2017

**SUBJECT: Water Service Rules and Regulations  
Section 5.8 – Mutual Water Companies and Special Districts (Consent)**

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## ***OPERATIONS***

### **RECOMMENDATION:**

Approve an amendment to the District's Rules and Regulations regarding service to Mutual Water Companies and Special Districts, as recommended by the Water and Hydroelectric Operations Committee.

### **BACKGROUND:**

Section 5.8 of the District Rules and Regulations authorizes agricultural water sales to Mutual Water Companies and Special Districts under specific conditions. These entities then resell the District's water to end users. Per District regulation, Staff is required to monitor each Mutual or Special District for compliance with State regulations including bylaws, participation numbers, system inspection, maintenance, and mapping of the service area. The continual policing of these entities remains a challenge as the District has no real policing authority. In addition, the high level of Staff involvement to ensure compliance necessitates large amounts of time. Some of the challenges include:

- District is forced to provide oversight and policing without adequate authority
- The only enforcement tool is to shut off the water supply to the entity and all its users
  - This has led to litigation in the past
- Forces staff to investigate services beyond the District's point of delivery (private property)
- New regulation requires notification to LAFCO for Mutual Water Companies (AB 54)
- Parcel splits and new services are not communicated to the District which results in misrepresentation of acreage and crops served

- There is no minimum size or number of users to establish an entity
- Small groups are attempting formation to save on base rate fees
- Difficulty in District fully recovering its cost of service from these entities

The District charges a 15% administrative fee for Mutual and Special Districts that are not incorporated with the State to offset the special handling and added expenses necessary to track compliance. Past practice has shown that the fee does not adequately cover the District's operational costs.

As a solution, Staff is recommending a change in Rules and Regulations requiring all new Mutual Water Companies and Special Districts to be registered with LAFCO and/or the appropriate State Agency (CPUC, State Water Board, Private Corporation Registration, Board of Real Estate, State Controller, etc.). Staff will develop guidance and contact information at the State level to assist these entities as they attempt to form.

The proposed change will ensure that all future Mutual Water Companies and Special Districts are properly formed and supervised by an authorized regulatory agency. It will dissuade the formation of non-entity associations that call themselves "Mutual Water Companies" in an attempt to reduce water rates. State regulation will require system design specifications that meet AWWA standards. Registration with LAFCO will protect the District and the Mutual Water Company from potential overlapping service areas and any resulting conflicts. Lastly, the additional costs and labor hours incurred by District Staff to regulate and oversee these entities will become the State's jurisdiction. This will return the District's responsibility to these entities at the service outlet.

Mutual Water Companies and Special Districts already recognized by the District will be unchanged as long as their status remains current.

Small groups of potential customers who wish to share a service outlet without the additional work of becoming a Mutual Water Company or Special District may still do so under the District's existing Private Conduit Regulations.

Both Nevada and Placer County LAFCO have been informed of the District's changes.

The proposed language modifications to section 5.8 of the Rules and Regulations have been reviewed by legal counsel and are attached for reference.

**BUDGETARY IMPACT:**

No budgetary impact

AC

Attachment(s):

- Red Lined Section 5.8 Rules and Regulations

## 5.8

### MUTUAL WATER COMPANIES AND SPECIAL DISTRICTS

The District will sell agricultural water to mutual water companies, or special districts, ~~or other entities~~ at its service point in accordance with these Regulations and providing provided the following conditions are met:

(a) Prior to approval by the Board, the developer must ~~first meet the requirement of~~ comply with Section 11.01.03 of these regulations which provide for the orderly development and extension of the District's raw water system.

(b) Mutual water companies or special districts that applied for service prior to July 2017 shall as applicable, have ~~The the~~ following documents ~~have been~~ filed with the District: The Articles of Incorporation for a mutual water company, the resolution of formation for a special district, and the ~~or~~ rules and regulations, or bylaws of the mutual water company, or special district, ~~or other entity~~. The current list of property owners with map showing boundaries and water system and the name and telephone number of a contact person who is to be responsible for the distribution of water within these boundaries.

(b)(c) Mutual water companies or special districts applying for service after July 2017 will be required to maintain its status, as applicable, as a mutual water company or special district and obtain and maintain registration with the appropriate State agency and LAFCO to be eligible for District service.

~~(e)~~(d) Board approval of the entity, mutual water company or special district prior to the sale of water.

~~(d)~~(e) Prior to March 15 of each year, submission of a written request for water containing the following information: Amount of water desired, county parcel numbers of the land on which crops are to be raised, type of crop, and acres irrigated.

Water sold under this policy is to be used only for agricultural use. It shall be the responsibility of the mutual water company, special district, or other entity to obtain any necessary licenses or

permits from the County, State, or other such agencies as may be required to place the water to any other use. If the primary use of district water sold under this policy is for any purpose other than the irrigation of crops, this policy will not prevail.

~~(e)~~(f) A 15% administrative fee will be charged to mutual water companies; or special districts; ~~or other entities~~ that applied for service prior to July 2017.

This fee will cover the cost of special handling of these accounts by the District to ensure that the mutual water company, special district, or other entity is in compliance with these Regulations. If a mutual water company, special district, or other entity elects to continue its registration with the State of California, then this administrative fee will not apply.

~~(f)~~(g) All mutual water companies, special districts, or other entities who purchase water from the District for agricultural purposes only will be required to pay for their water in full prior to April 1 each year.

eff. 12/12/90

## **5.9 PRORATION OF CAPACITY**

When deemed necessary, due to lack of available capacity in District facilities, the Board may order that the available capacity be prorated. Proration shall be on an acreage basis, with the water sale rounded to the closest sale increment as shown in Schedule 5-G.

Due to the lead time required to prepare the tabulation for proration, and unless otherwise provided, a minimum of 90 days lead time shall be allowed prior to instigating a proration schedule. Any proration schedule that is adopted shall remain in effect for a minimum of 180 days, unless ordered otherwise by the Board. Any property owners choosing not to purchase and use any or all of their prorated share shall advise District. The unused shares shall be prorated and distributed among those property owners requesting additional water.