

Staff Report

for the Board of Directors' Meeting of January 13, 2016

TO: Board of Directors

FROM: Chip Close, Water Operations Manager
Shannon Matteoni, Business Services Technician

DATE: January 5, 2016

**SUBJECT: Water Service Rules and Regulations
Section 10.08 Request for Variance – Proposed Change**

OPERATIONS DEPARTMENT

RECOMMENDATION:

Approve proposed change to Section 10.08 Request for Variance, and related documents, as recommended by the Administrative Practices Committee.

BACKGROUND:

As a condition of an approved variance for treated water, the meter is installed on an existing waterline which does not front the property to which the service is requested. This requires a private service line to cross at least one, if not more, properties in order to convey water from the meter to the property with the approved variance. Currently, the District requires the property to secure private easement(s) for their private service line or provide evidence of existing rights.

Staff has discussed this requirement for treated water variances with District Counsel. It has been recommended to modify the requirement so that the private easement(s) is newly created in recordable form (template attached), along with a certification statement included with the application (attached). Only after proof of recorded easement and certification made, with an approved variance application, will a meter be installed for service.

On January 5, 2016, the Administrative Practices Committee reviewed the proposed change, and related documents. The question was raised regarding this change being applicable to the Temporary Service Location (TSL) policy as well; it is, and staff will pursue this change to the TSL policy in the coming months. The committee unanimously recommended advancing the change to Section 10.08 as described herein to the Board of Directors via consent agenda.

BUDGETARY IMPACT:

None.

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attachments (3):

- Proposed Policy
- Easement Template
- Application

10.08 REQUEST FOR VARIANCE

10.08.01 Request Procedure

The applicant shall submit a completed Form 10-B Variance Request and pay an Administrative-Processing fee along with ~~written permission from all property owners affected by the proposed service line (for water service to the applicant's property)~~. The processing fee is non-refundable regardless of approval or denial of any part of the variance request.

The District is not a party to and accepts no liability or responsibility for rights in private property downstream of the District's meter. The applicant is solely responsible for the acquisition, retention (and compliance with all terms and conditions) of satisfactory rights, in favor of applicant from underlying landowners for applicant to install and maintain applicant's service line over private lands downstream of District's meter, and will defend and indemnify District from all claims, demands, and damages arising from applicants use and maintenance of the service line.

eff. 6/9/99; rev. 1/26/11

10.08.02 Review of Variance

The Staff Variance Screening Committee, consisting of representatives from Management, Engineering Department, and Operations Department, as determined by the General Manager, will review requests for variances from District Regulations pertaining to treated water systems.

The Staff Variance Screening Committee may unanimously deny a variance. Applicant may appeal per Section 10.08.04.

The Staff Variance Screening Committee may unanimously recommend variance approval and conditions of approval to the General Manager. The General Manager may then approve the variance and conditions of approval.

If the Staff Variance Screening Committee and the General Manager are not in unanimous agreement, they will submit the Variance Request to the Engineering Committee. The Engineering Committee may unanimously deny the variance, and the applicant may appeal per Section 10.08.04. If the Engineering Committee does not unanimously deny the variance, it will

make recommendations to the Board of Directors. The Board of Directors' decision, by majority vote, will be final.

eff. 6/9/99

10.08.03 Expiration Date

All approved variances will have an expiration date of not more than two years. All conditions of approval must be met before the expiration date. Thereafter, the District will consider the variance expired. After expiration, any request for variance will be considered a new request subject to the processing fee and all District regulations at the time of the new request.

eff. 6/9/99

10.08.04 Appeal of Variance

The applicant may appeal a denied variance. All appeals must be in writing and received by the District within 60 days from the date of written notice of the District's decision. After 60 days, a request for appeal would be considered a new application requiring the applicant to submit a new Form 10-B and processing fee.

The first appeal would be made to the Engineering Committee, who may unanimously deny the appeal or forward the appeal to the Board of Directors with recommendations. If the Engineering Committee unanimously denies the appeal, the applicant may make a final appeal to the Board of Directors for a majority vote.

eff. 6/9/99

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

Grantee's
Name & Address

APN No.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Documentary Transfer Tax: \$ _____
() Computed on full value of property conveyed
() Unincorporated area () City of _____

Signature of Agent Determining Tax

WATERLINE EASEMENT DEED

This Waterline Easement (Easement) is made and entered into on [date], by and between [] (Grantor), and [] (Grantee).

Recitals:

- A. Grantor is the owner of that certain real property situated in the unincorporated area of the County of Nevada, California, more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (Servient Tract).
- B. Grantee is the owner of that certain real property situated in the unincorporated area of the County of Nevada, California, more particularly described in Exhibit B, attached hereto and incorporated herein by this reference (Dominant Tract).
- C. The rights provided for in this Easement are necessary for the full use and enjoyment, of the Dominant Tract. Grantee desires to acquire such rights and Grantor desires to provide such rights.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged:

1. Grant of Easement. Grantor grants to Grantee, its successors and assigns, an easement upon, over, under and across that portion of the Servient Tract described and depicted on Exhibit C, attached hereto and incorporated herein by this reference (Easement Area), for the benefit of the Dominant Tract, to construct, use, maintain, repair and reconstruct an underground waterline, of no more than _____" diameter, for the sole purpose of providing treated water to Grantee's residence located at _____. Grantee shall not extend water service to any other parcel or structure than Grantee's single family residence.

2. Conditions of Use. Grantee will promptly repair or replace the existing ground and utilities disturbed by Grantee's installation of the line, and all construction activities shall be reasonable and conducted in a good and workmanlike manner. Open ground, such as trenches, shall be covered, back filled, and compacted promptly and properly.

3. Easement Runs with Land. The burden of the Easement granted herein shall be binding upon all heirs, successors, and assigns of Grantor.

4. Secondary Easement. This Easement includes incidental rights of ingress and egress over and across a portion of the Easement Area to the extent necessary to use the Easement. Grantee may not unreasonably increase the burden on the Easement Area or make any material changes to the Easement Area. Further, Grantee must compensate Grantor for any damage resulting from the exercise of these rights of ingress and egress.

5. Term. This Easement shall be perpetual.

6. Non – Exclusive Easement. This Easement is non – exclusive. Grantor retains the right to make any use of the Easement Area, as long as such use does not interfere unreasonably with Grantee's free use and enjoyment of the Easement.

Date: _____

Grantor

Date: _____

Grantor

CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

)

COUNTY OF)

On _____, 201____, before me, _____, notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

NEVADA IRRIGATION DISTRICT
 1036 W. Main Street
 Grass Valley, CA 95945-5424
 530-273-6185

VARIANCE REQUEST

District regulations require that at least 50 percent of the parcel, but in no case less than 50 feet, must be fronted by a minimum 8-inch diameter water main. Owner hereby applies for a variance to District Regulations per Section 10.08. Consideration for approval of a variance is based upon the District's ability to provide treated water service to the subject property while maintaining orderly development of the water system.

(Please Type or Print Legibly)

Owner's Name _____

Authorized Representative _____

Contact Mailing Address _____

City _____ **State** _____ **Zip** _____

Contact Telephone Number _____ **Fax Number** _____

Property Address _____

County _____ **Assessor's Parcel Number(s)** _____

Present Zoning _____ **Can property be further divided?** Yes No

Does an auxiliary water supply exist? Yes _____ No _____
 If yes, check type: Well; Spring; Irrigation Service; Other _____

Desired Service Size: 5/8"; 3/4"; 1"; Other _____

A nonrefundable Administrative Processing Fee of \$175 is due with this request.

CERTIFICATION:

"I declare under penalty of perjury that I have received written permission of the owner(s) of Parcel No(s) _____, to install, maintain, and repair my privately owned service line from the District's meter to my Parcel No. _____. I will defend and indemnify District from any claims or demands or damages arising or alleged to have arisen from my use and maintenance of my service line."

Property Owner's Signature _____ **Date** _____

THIS SIDE TO BE COMPLETED BY DISTRICT

Parcel/Lot Number(s) _____

Tax Area Code(s) _____ Inside District? Yes No

Prior Temporary Service Location Request(s) _____

Right of Way

- Existing right-of-way affecting the property or project? Yes No
- If yes, Book _____ Document _____ (Of Record) Page _____ Deed _____
- Comments:

By _____ Date _____

Operations Department

- Comments:

By _____ Date _____

Engineering Department

- Pressure constraints: _____
- Comments:

By _____ Date _____

Customer Service

- Improvement District _____ Buy-In Fee _____
- District Financed WLE _____ Buy-In Fee _____
- Other Financing District _____ Buy-In Fee _____
- Reimbursement Agreement? (Name agreement) _____