



WASHOE COUNTY

Integrity Communication Service

STAFF REPORT

BOARD MEETING DATE: June 11, 2019

DATE: May 15, 2019
TO: Board of County Commissioners
FROM: Chris Benedict, Remediation District Manager,
Community Services Department, 954-4642, cbenedict@washoecounty.us
THROUGH: Dwayne Smith, P.E., Division Director, Engineering & Capital Projects,
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SUBJECT: Public Hearing to hold the second reading and possible adoption of an ordinance amending Ordinance No. 1000 in order to change the boundaries of District No. 24 (Groundwater Remediation);

AND

Public Hearing to hold the second reading and possible adoption of an ordinance imposing a fee on the parcels of land in Washoe County, Nevada District No. 24 (Groundwater Remediation) to pay the costs of developing and carrying out a plan for remediation; and other matters properly relating thereto. (All Commission Districts.)

SUMMARY

In 1995 the legislature passed NRS 540A.250-285, allowing for the creation of a district for the remediation of the quality of water that is available for municipal, industrial, or domestic use. In 1997, the Washoe County Board of Commissioners (Board) passed Ordinance 1000 creating District No. 24 (the Central Truckee Meadows Remediation District) in accordance with NRS540A.250 to address the tetrachloroethene (PCE) contamination of groundwater needed to meet water demands in southern Washoe County.

The Board is required to amend the Central Truckee Meadows Remediation District (CTMRD) boundaries when necessary. These boundary changes are accomplished through an ordinance amendment required by NRS 540A.262 to be introduced by the Board at a public hearing.

The CTMRD boundaries include both a Service Area Boundary and a Contaminant Boundary.

As per NRS540A.250(3)(b), the Service Area Boundary includes the wholesale and retail service areas of any water purveyor with groundwater wells located inside the area contaminated by PCE (i.e., inside the Contaminant Boundary). The Truckee Meadows Water Authority (TMWA) has wells inside the Contaminant Boundary and the CTMRD Service Area includes that part of the TMWA service area which includes those wells. The CTMRD Service Area also includes the Sun Valley General Improvement District (SVGID) and the Parr – Reno Water Company given they are TMWA wholesale water customers.

The Contaminant Boundary includes that area where historical (i.e. present prior to the creation of the CTMRD) PCE contamination exists and where the parties who caused or

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contributed to that contamination can't be identified. As per NRS540A.250(3)(a), the Contaminant Boundary also includes the areas where this historical or legacy PCE contamination can be expected to migrate to in the event that mitigation measures are not carried out.

Changes to the Service Area Boundary are required when there are changes in the TMWA wholesale and/or retail service areas. These changes are made annually when parcels are annexed into or removed from those service areas.

Changes to the Contaminant Boundary are required when CTMRD program activities:

- 1) Delineate previously unrecognized legacy PCE contamination;
- 2) Determine that the areal extent of legacy contamination has decreased; or,
- 3) When parties who have caused or contributed (i.e. responsible parties) to PCE contamination are identified and the affected parcels are removed from the Contaminant Boundary with mitigation efforts falling to the responsible party under NDEP.

Adding or removing parcels from the Contaminant Boundary are based on a data review, coordinated with and subject to concurrence by, NDEP and the Washoe County Health District (WCHD).

The Board is further required (NRS 540A.265) to determine, by ordinance, the fee to be collected in a given year for carrying out activities in support of the Remediation Management Plan (i.e. the "Plan for Remediation" referred to in NRS 540A.260).

Changes to the CTMRD Service Area Boundary (and the annual fee determination) have occurred through ordinance amendments every year since 1998. Changes to the CTMRD Contaminant Boundary (first established in 2002) have occurred in 2011 and 2014. No changes to the CTMRD Contaminant Boundary are proposed for 2019.

The number of parcels subject to the remediation fee, the average annual per parcel remediation fee by benefit group, and the total annual remediation fee revenue that would result (or that has resulted since 2010) from the adoption of these ordinances are summarized in following table.

Summary Statistics Resulting from CTMRD Ordinance Amendments							
Fee Year	Benefit Group						Total Annual Remediation Fee Revenue
	A ⁽¹⁾		B ⁽²⁾		C ⁽³⁾		
	# of parcels	avg. annual fee	# of parcels	avg. annual fee	# of parcels	avg. annual fee	
2019	130337	\$7.64	5212	\$8.65	2694	\$99.89	\$1,250,000
2018	128412	\$7.78	5172	\$8.90	2701	\$98.67	\$1,249,978
2017	122598	\$8.07	4986	\$9.66	2697	\$101.97	\$1,249,992
2016	120994	\$7.56	4659	\$9.48	2485	\$100.55	\$1,154,944
2015	116140	\$8.61	4799	\$10.24	2480	\$106.38	\$1,249,995
2014	114747	\$8.70	4847	\$10.56	2480	\$105.13	\$1,249,957
2013	112752	\$8.73	4895	\$10.46	2665	\$105.13	\$1,249,929
2012	107422	\$8.92	3720	\$14.09	2457	\$119.74	\$1,249,927
2011	108005	\$8.86	3576	\$15.08	2601	\$112.82	\$1,249,954

- (1) Benefit Group A: all water using parcels within the CTMRD Service Area Boundary
- (2) Benefit Group B: residential parcels within the CTMRD Contaminant Boundary (these parcels are also a subset of Benefit Group A)
- (3) Benefit Group C: non-residential parcels within the CTMRD Contaminant Boundary (these parcels are also a subset of Benefit Group A)

Strategic Objective supported by this item: Safe, Secure and Healthy Communities.

PREVIOUS ACTION

On May 21, 2019, the Board of County Commissioners (Board) held the first reading of an ordinance amending Ordinance No. 1000 in order to change the boundaries of District No. 24 (Groundwater Remediation); and provided for notice of a public hearing; and, held the first reading of an ordinance imposing a fee on the parcels of land in Washoe County, Nevada District No. 24 to pay the costs of developing and carrying out a plan for remediation, provided for notice of a public hearing and other matters relating thereto, and set the public hearing for the second reading and possible adoption to be held June 11, 2019.

BACKGROUND

Boundary Amendment Ordinance (Attachment 1)

Each year the Board may amend the CTMRD boundaries: (1) to include parcels annexed into or to exclude parcels taken out of the service areas of the affected water purveyors (which determines the CTMRD Service Area and those parcels that are subject to the remediation fee); and, (2) to approve any revisions to the CTMRD Contaminant Boundary. The Contaminant Boundary defines the distribution of parcels in the three benefit groups and the associated tiered remediation fee rates.

Service Area Boundary - NRS 540A.250 specifies that the CTMRD boundaries shall include the wholesale and retail service area of any water company with wells located in the contaminated area (i.e. within the contaminant boundary). Truckee Meadows Water Authority (TMWA) operated wells within the contaminant boundary in calendar year 2018; therefore the CTMRD service area boundary proposed here incorporates that portion of the TMWA wholesale and retail service area interconnected to those wells.

The 2018 calendar year CTMRD Service Area Boundary (upon which the 2019 remediation fees are based) includes all or part of these water purveyor service areas:

- TMWA;
- Sun Valley General Improvement District (SVGID); and,
- Parr-Reno Water Company.

NRS 540A.265 requires these water purveyors to provide the annualized water use (by Assessor's Parcel Number and in dollars) for each parcel in their respective service areas to the County within ninety days of being requested to do so. Since 2006, this request has been made by December 1 each year. Although NRS540A.265(1)(d) so allows, staff continues to recommend that the Board exclude assessing remediation fees against properties within the contaminant boundary that are undeveloped (and receive no water service) or that receive water service wholly independent from any water purveyor with

groundwater wells. The CTMRD Service Area boundary has been amended in this manner by the Board every year since 1998.

Contaminant Boundary - In 2002, in accordance with NRS 540A.265(1) the Board approved the delineation of the CTMRD Contaminant Boundary and a three-tiered fee rate structure (based on that contaminant boundary) that assigns remediation fees in proportion to the benefits received. The CTMRD Contaminant Boundary is a subdivision of the CTMRD Service Area Boundary and includes that area where groundwater has been affected by legacy PCE contamination (pre-CTMRD contamination, that can't be attributed to a responsible party), and where that legacy contamination may migrate to if mitigation measures by the CTMRD program are not carried out. In addition to receiving the benefit of being provided drinking water that meets the regulatory standards for PCE, innocent owners (those who have not caused or contributed to the PCE problem) of parcels located within the contaminant boundary also receive the direct benefits of the actions being taken by the CTMRD program to mitigate the legacy contamination beneath their property and the benefit of relief from any liability associated with the presence of that contamination. Further discussion of the three benefit groups follows under the Fee Ordinance Amendments discussion below.

The CTMRD Contaminant Boundary was initially defined in 2001 and amended for the first time in 2011 to reflect the then current PCE distribution. The changes in 2011 reduced the affected area (from roughly 16.5 square miles to roughly 9.5 square miles) inside the Contaminant Boundary. Additional changes to the Contaminant Boundary in 2014 further reduced the affected area (from roughly 9.5 square miles to roughly 8.5 square miles) inside the Contaminant Boundary. In a manner consistent with NRS 540A.250(2), all changes to the Contaminant Boundary have been reviewed and approved by NDEP and the WCHD. There are no further changes to the Contaminant Boundary being proposed here.

The Boundary Amendment Ordinance (Attachment 1) identifies those areas annexed into the service area boundary during calendar year 2018 and identifies those parcels that are to be excluded from paying a remediation fee based upon continuation of the Board's previous direction. The proposed Service Area Boundary and the Contaminant Boundary are shown on Attachment 2.

Fee Adoption Ordinance (Attachment 3)

The presence of the CTMRD program provides benefits to three distinct groups among water-using property owners. These include the Water Users Benefit Group and two Contaminated Area Benefit Groups (residential and non-residential). A map showing the distribution of these benefit groups is included as Attachment 4.

The Water Users Benefit Group (Group A) includes water-using parcels that receive wholesale or retail water service from TMWA. The primary benefit for this group is receiving drinking water that meets the regulatory standards for PCE. These water-using property owners in this benefit group are assessed a fee based on annual water use, as has been the case since 1998.

The two Contaminant Area Benefit Groups include water-using parcels located where legacy PCE contaminated groundwater is known to exist. The Contaminant Area Benefit Groups include all water-using parcels inside the Contaminant Boundary as shown in Attachment 4. The Contaminant Boundary includes much of the area where historical commercial and industrial activities occurred along or near the Virginia Street and old Highway 40 corridors. The Contaminant Area Benefit Groups include a Residential Benefit Group and a Non-residential Benefit Group.

Contaminant Boundary Residential Benefit Group (Group B) – This group consists of the owners of water-using residential parcels within the contaminant boundary. The primary benefits received by this group are:

- 1) Receiving safe drinking water that meets the regulatory standards for PCE;
- 2) Protecting property values by avoiding a federal Superfund listing;
- 3) The ongoing actions being conducted to reduce or eliminate the PCE-contaminated groundwater beneath their property.

Contaminant Boundary Non-residential Benefit Group (Group C) – The benefits for this group are:

- 1) Receiving safe drinking water that meets the regulatory standards for PCE;
- 2) Protecting property values by avoiding a federal Superfund listing;
- 3) The ongoing actions being conducted to reduce or eliminate the PCE-contaminated groundwater beneath their property; and,
- 4) The limitation of liability afforded by NRS 540A.260(4) for innocent property owners.

NAC 445A defines actions that must be undertaken by a property owner if a hazardous substance is present in soils or groundwater on or beneath their property. The responsibility for performing these actions lies with the property owner even if the actions of the property owner did not cause the contaminated condition. The costs associated with characterizing the nature and extent of the contamination and performing corrective actions to attain concentration levels established by NDEP can be significant. Furthermore, property owner liability is typically strict and several even if the current property owner did not cause the contamination. The creation of the CTMRD protects innocent property owners (i.e., those property owners who did not cause or contribute to the PCE contamination) from liability for costs associated with characterization and remediation of the PCE contamination that they would otherwise be responsible for.

In accordance with NRS 540A.265, the Board approved a tiered fee rate structure for these benefit groups on May 24, 2002. This tiered remediation fee rate structure is:

- The base rate (0.5x) for the Water Users Benefit Group (Group A);
- Twice the base rate (1x) for the Residential Benefit Group (Group B); and,
- Four times the base rate (2x) for the Non-residential Benefit Group (Group C).

Attachment 5 shows the tiered remediation fees for these benefit groups since 2002.

The remediation fee determination process improvements first put into place for 2018 will save an estimated 120 hours of CTMRD program staff working time and eliminate the need for the Treasurer's office to send out general tax bills for 702 common area parcels in 2019.

FISCAL IMPACT

Approval of these Ordinance amendments will add and remove parcels to/from the CTMRD Service Area Boundary, provide for operation and maintenance of well head treatment on five municipal wells, and provide for ongoing implementation of the Remediation Management Plan. As shown in Attachment 5, the proposed FY19-20 CTMRD program fees and revenue remain at approximately \$1,250,000.00.

Attachment 5 shows the average remediation fee for all parcels in a given benefit group. The actual fee for any parcel in that benefit group is dependent on the type of water service (service size, residential or commercial, metered or flat rate) to that parcel and the actual water consumption (as indicated by the annualized water bill). The draft final fee list is scheduled to be completed on May 31, 2019 with the final fee list scheduled for delivery to the Treasurer's office (for inclusion on the general tax bills) on June 13, 2019.

The current budget for the CTMRD program has sufficient authority for continued operations utilizing existing resources and projected revenues from adoption of the Fee Amendment Ordinance.

RECOMMENDATION

It is recommended that the Board of County Commissioners hold the second reading and adopt an ordinance amending Ordinance No. 1000 in order to change the boundaries of District No. 24 (Groundwater Remediation); and, hold the second reading and adopt an ordinance imposing a fee on the parcels of land in Washoe County, Nevada District No. 24 (Groundwater Remediation) to pay the costs of developing and carrying out a plan for remediation; and other matters properly relating thereto.

POSSIBLE MOTION

Should the Board wish to implement the staff recommendation, a possible motion would be: "Move to adopt an ordinance amending Ordinance No. 1000 in order to change the boundaries of District No. 24 (Groundwater Remediation); and adopt an ordinance imposing a fee on the parcels of land in Washoe County, Nevada District No. 24 (Groundwater Remediation) to pay the costs of developing and carrying out a plan for remediation; and other matters properly relating thereto."

- Attachment 1 - boundary ordinance
- Attachment 2 - boundary map
- Attachment 3 - fee ordinance
- Attachment 4 - remediation district fee area map
- Attachment 5 – preliminary remediation fee schedule