



MARIPOSA COUNTY

Public Works • 209 966 5356



RESOLUTION - ACTION REQUESTED 2018-60

MEETING: February 6, 2018
TO: The Board of Supervisors
FROM: Mike Healy, Public Works Director
RE: Adopt a Resolution to Form Yosemite West Zone of Benefit

RECOMMENDATION AND JUSTIFICATION:

PUBLIC HEARING to Receive Public Testimony and Consider All Protests Concerning Adoption of a Resolution forming the Yosemite West Zone of Benefit for Countywide Service Area Number 1.

In order to avoid a legal dispute as to whether a property related fee subject to article XIII D, section 6 of the California Constitution ("Section 6") may be adopted by the Yosemite West Maintenance District ("YWMD"), and to uniformly administer the County's utility rates through County Service Areas, staff recommends the formation of this zone of benefit for Yosemite West.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Water and wastewater service for Yosemite West are currently administered by the Yosemite West Maintenance District ("YWMD"), which was formed under the Improvement Act of 1911 ("1911 Act," Sts. & Hy. Code §§ 5000 et seq.) In the past, the County has implemented the article XIII D, section 4 ("Section 4") assessment process for rate increases in Yosemite West, because it assumed that any charge associated with a district formed under the 1911 Act should be treated as an assessment for purposes of Proposition 218. Under the Section 4 process, ballots are provided to property owners, and if votes against the assessment outnumber those in favor, the rate increase cannot be adopted.

While an attorney advising Yosemite West homeowners has argued that the Section 6 process is not allowed for a district formed under the 1911 Act, it is unclear whether a Section 4 process is appropriate for water and wastewater rate increases. Accordingly, in order to avoid a potential legal dispute that would ultimately be funded by Yosemite West rate revenue, staff recommends formation of a zone of benefit for Yosemite West under County Service Area Law (Gov. Code §§ 25210 et seq.), which indisputably allows a Section 6 process. Under Section 6, property owners and tenants can submit protests in response to proposed rate increases, and if protests are submitted for a majority of parcels located in Yosemite West, the rate increase cannot be adopted.

On December 5, 2017, the Board adopted a Resolution of Intention (Resolution 2017-

Resolution - Action Requested 2018-60

813) to form the Yosemite West zone of Benefit.

Note that this resolution to form the Yosemite West Zone of Benefit cannot be adopted in the event of a majority protest by voters who are registered to vote at a Yosemite West address.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

The Board may decline to establish the Yosemite West Zone of Benefit. In that event, rate increases for Yosemite West will continue to be administered by the YWMD, notwithstanding the risk of litigation as to whether YWMD may adopt rate increases subject to article XIII D, section 6.

ATTACHMENTS:

ROI Yose West ZOB Final(PDF)

Resolution Forming Yosemite West Zone of Benefit (DOC)

Final ExhA legal description_ (PDF)

FinalPlatReducedExB (PDF)

RESULT: ADOPTED [UNANIMOUS]

MOVER: Kevin Cann, District IV Supervisor

SECONDER: Merlin Jones, District II Supervisor

AYES: Smallcombe, Jones, Long, Cann, Menetrey

RESOLUTION NO. 18-60

**RESOLUTION FORMING THE YOSEMITE WEST ZONE OF
BENEFIT FOR COUNTYWIDE COUNTY SERVICE AREA NO. 1.**

WHEREAS, the County of Mariposa provides water and wastewater service to the unincorporated area of Yosemite West; and

WHEREAS, pursuant to Resolution No. 2017-813 adopted on December 5, 2017, the Board stated its intention to establish the Yosemite West Zone of Benefit for Countywide Service Area No. 1 in order to administer continuing water and wastewater service for Yosemite West; and

WHEREAS, the territory for the Yosemite West Zone of Benefit is described and depicted on the legal description and map, collectively attached as Exhibit "A" and incorporated by reference; and

WHEREAS, Resolution No. 2017-813 set a public hearing for February 6, 2018 on the formation of the Yosemite West Zone of Benefit and directed staff to mail notice of the proposed zone of benefit to Yosemite West property owners in conformity with County Service Area Law (Gov. Code §§ 25210 et seq.); and

WHEREAS, on February 6, 2018, the Board held a full and fair public hearing on the proposed rate increases. At the hearing, all interested persons had an opportunity to provide oral and written testimony; and

WHEREAS, the Board accepted and caused the tabulation of all written protests against the formation of the Yosemite West Zone of Benefit. Based upon the results of this tabulation, a majority protest against formation of the Yosemite West Zone of Benefit does not exist; and

WHEREAS, the Board now desires to form the Yosemite West Zone of Benefit to administer water and wastewater service in Yosemite West.


NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIPOSA AS FOLLOWS:

SECTION 1 The foregoing recitals are true and correct.

SECTION 2 The Board hereby establishes the Yosemite West Zone of Benefit within Countywide County Service Area No. 1 to administer water and wastewater service within Yosemite West.

PASSED AND ADOPTED this 6th day of February, 2018 by the following vote;

AYES:
NOES:
ABSENT:


Rosemarie Smallcombe
Chair of the Board

ATTEST:


René LaRoche, Clerk of the Board

APPROVED AS TO FORM:


Steven W. Dahlem, County Counsel

EXHIBIT A

The intent of the herein description is to define the boundary of the Yosemite West Zone of Benefit within the Mariposa County Service Area No. 1 for the purposes of providing water and sewer service, more particularly described as follows:

Two tracts of land situated in a portion of Sections 23, 24, 25 & 26, all in Township 3 South, Range 20 E, M.D. M., Mariposa County, State of California, a portion of the exterior boundaries of said tracts being delineated on that certain map entitled Map of Yosemite West Unit 1, filed on August 1, 1967, in the Book of Maps at page 1511, Mariposa County Records, and that certain parcel of land delineated on that certain map entitled Map of Yosemite West Condominium Project Phase No. 1, filed April 18, 1973 in the Book of Maps at page 1826, Mariposa County Records, said tracts being more particularly described as follows:

Tract A

BEGINNING at the southeast corner of the Northwest quarter (NW1/4) of said Section 25, said corner also being the southeast corner of Lot 1, of said Yosemite West Unit 1; thence, traversing along a portion of the boundary of said Yosemite West Unit 1, the following courses one through six, (1-6):

1. S89°04'31"W, along the south line of said NW1/4, for 1159.40 feet to the southwest corner of Lot 15, of said Yosemite West Unit 1; thence
2. N00°46'00"W, for 121.43 feet to the northwest corner of said Lot 15; thence
3. N23°10'52"E for 183.19 feet to the southwest corner of Lot 29, of said Yosemite West Unit 1; thence
4. N00°46'00"W for 370.88 to the northwest corner of Lot 31, of said Yosemite West Unit 1; thence
5. N89°13'57"E for 456.36 feet to the westerly line of that certain road known as Henness Circle, as said Henness Circle is delineated on said map; thence
6. N89°13'57"E for 77.18 feet to a point, said point being on the easterly line of said Henness Circle, said point being the northwest corner of Lot 36 of said

Yosemite West Unit 1, said point also being a point on a non-tangent curve, concave to the southwest, having a radius of 226.56 feet, to said point a radial line bears N77°59'20"E; thence leaving the boundary of said Yosemite West Unit 1,

traversing along the exterior boundary of the Yosemite West Condominium Project Phase No. 1, the following courses seven through eleven, (7-11):

7. northwesterly along the easterly line of said Henness Circle, through a central angle of 42°08'42", an arc distance of 166.65 feet and a chord distance of 162.92 feet to the westernmost corner of said parcel of land; thence,
 8. leaving the easterly line of said Henness Circle, N35°50'39"E for 120.00 feet to the northmost corner of said parcel of land; thence
 9. S70°24'14"E for 140.83 feet; thence
 10. N89°13'57"E for 150.00 feet to the northeast corner of said parcel of land; thence
 11. S00°46'03"E for 185.00 feet to the exterior boundary of said Yosemite West Yosemite West Unit 1;
- thence N89°13'57"E, along the northerly line of Lots 39 and 40 of said Yosemite West Unit 1, for 302.14 feet to the northeast corner of said Lot 40; thence, S00°43'50"W, along the easterly lines of Lots 40, 41, 45 and 1 of said Yosemite West Unit 1, for 656.77 feet, more or less, to the POINT OF BEGINNING.

The above described Tract A contains 18.27 acres, more or less, and is subject to any liens, encumbrances, covenants, restrictions and rights-of-way or easements of record or legally acquired.

Tract B

BEGINNING at a point on the south line of said NW1/4, said point being the southeast corner of Lot 55 of said Yosemite West Unit 1, said point being located S89°04'31"W a distance of 1511.76 feet from the southeast corner of said NW1/4; thence traversing along the boundaries of said Yosemite West Unit 1, the following thirty-four (34) courses and distances:

1. S89°04'31"W for 1126.58 feet to the southwest corner of Lot 235 of said Yosemite West Unit 1; thence
2. N00°12'09"W for 1322.75 feet an angle point in the westerly line of Lot 242 of said Yosemite West Unit 1; thence
3. N14°48'19"W for 135.39 feet to the southernmost corner of Lot 244 of said Yosemite West Unit 1; thence
4. N27°48'14"W for 98.00 feet to the southernmost corner of Lot 245 of said Yosemite West Unit 1; thence
5. N43°20'21"W for 84.81 feet to the southernmost corner of Lot 246 of said Yosemite West Unit 1; thence
6. N50°58'00"W for 517.75 feet to the westernmost corner of Lot 293 of said Yosemite West Unit 1; thence
7. N26°38'16"E for 166.01 feet to the northernmost corner of said Lot 293; thence
8. N36°00'00"E for 105.00 feet to the northernmost corner of Lot 292 of said Yosemite West Unit 1; thence
9. N46°40'04"W for 191.39 feet to the southernmost corner of Lot 253 of said Yosemite West Unit 1; thence
10. N20°53'28"W for 114.82 feet to the southernmost corner of Lot 252 of said Yosemite West Unit 1; thence
11. N01°52'05"E for 123.70 feet to the northwest corner of said Lot 252; thence
12. N09°18'03"E for 121.43 feet to the westernmost corner of Lot 250 of said Yosemite West Unit 1; thence
13. N33°04'23"E for 117.32 feet to the northernmost corner of said Lot 250; thence
14. N42°05'00"E for 96.00 feet to northernmost corner of Lot 291 of said Yosemite West Unit 1; thence
15. N60°12'27"E for 102.00 feet to the northwest corner of Lot 289 of said Yosemite West Unit 1; thence
16. S89°25'26"E for 384.00 feet to the northeast corner of Lot 285 of said Yosemite West Unit 1; thence

17. S54°51'40"E for 86.39 feet to the northwest corner of Lot 163 of said Yosemite West Unit 1; thence
18. N89°06'14"E for 492.14 feet to the northeast corner of Lot 157 of said Yosemite West Unit 1; thence
19. S85°28'23"E for 496.73 feet to the northeast corner of Lot 154 of said Yosemite West Unit 1; thence
20. S05°46'00"E for 247.00 feet to a point, said point being the southeast corner of said Lot 154, said point also being a point on the northerly line of Henness Ridge Road, as said Henness Ridge Road is delineated on said map of Yosemite West Unit 1; thence,
21. leaving the northerly line of said Henness Ridge Road, S13°29'33"E for 104.94 feet to a point on the southerly line of said Henness Ridge Road, said point also being the northernmost corner of Lot 283 of said Yosemite West Unit 1; thence
22. S30°00'00"E for 100.52 feet to the easternmost corner of said Lot 283; thence
23. S17°27'37"W for 107.74 feet to the northeast corner of Lot 281 of said Yosemite West Unit 1; thence
24. S02°49'06"E for 264.00 feet to an angle point in the easterly line of Lot 278 of said Yosemite West Unit 1; thence
25. S14°45'31"E for 151.00 feet to the northernmost corner of Lot 275 of said Yosemite West Unit 1; thence
26. S26°04'40"E for 235.29 feet to the northernmost corner of Lot 272 of said Yosemite West Unit 1; thence
27. S16°10'23"E for 272.23 feet to the northeast corner of Lot 66 of said Yosemite West Unit 1; thence
28. S00°14'16"E for 144.04 feet to the southeast corner of said Lot 66; thence
29. S20°40'15"W for 172.05 feet to the northeast corner of Lot 63 of said Yosemite West Unit 1; thence
30. S11°19'29"E for 159.03 feet to the northeast corner of Lot 61 of said Yosemite West Unit 1; thence

31. S08°15'03"W for 330.07 feet to the easternmost corner of Lot 58 of said Yosemite West Unit 1; thence
32. S33°21'08"W for 144.17 feet to the southernmost corner of said Lot 58; thence
33. S43°45'55"W for 163.00 feet to the southernmost corner of Lot 56 of said Yosemite West Unit 1; thence
34. S00°51'15"E for 313.57 feet, more or less, to the POINT OF BEGINNING.

The above described Tract B contains 93.74 acres, more or less, and is subject to any liens, encumbrances, covenants, restrictions and rights-of-way or easements of record or legally acquired.

The combined total area to be encompassed contains 112.01 acres, more or less.

The hereinabove data was compiled from said Map 1511, said Map 1826, Amended Map of Portion of Yosemite West Yosemite West Unit 1, filed April 16, 1968 in the Book of Maps at page 1599 and the Map of Proposed Boundaries of Assessment District No. 01-1 filed March 18, 2004 in Book 1 of Maps of Assessment and Community Facilities Districts at Page 15, all maps filed in Mariposa County Records. All of said maps are based upon the same basis of bearings, as shown on said Map 1511. As a result the data does not meet the current closure standards, however the compiled data does meet the closure standards of the original Map 1511. The boundary is to be controlled by monumented boundaries of Yosemite West Unit 1 and the Yosemite West Condominium Project Phase No. 1.

Prepared by:

Russell A. Marks Nov. 27, 2017

Russell A. Marks, PLS 6377

Mariposa County Surveyor

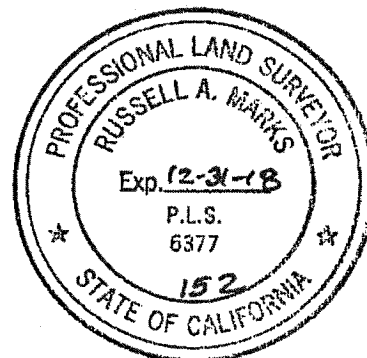


EXHIBIT B PLAT FOR YOSEMITE WEST ZONE OF BENEFIT WITHIN THE COUNTY SERVICE AREA NO. 1

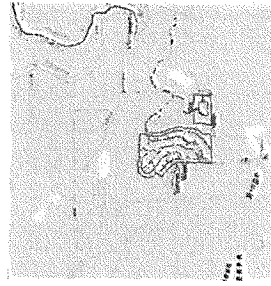
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This plat was prepared to meet the requirements for Administration of the County of Fresno for the purpose of providing for the assessment of the Yosemite West Zone of Benefit within the County Service Area No. 1.

Prepared Under E.S. 107
Signature
APR. 11 1960



LEONARD
FRESNO COUNTY
APR. 11 1960
APR. ASSESSOR GENERAL



FRESNO COUNTY
ASSessor
4000 N. 1st Street
FRESNO, CALIF. 93703

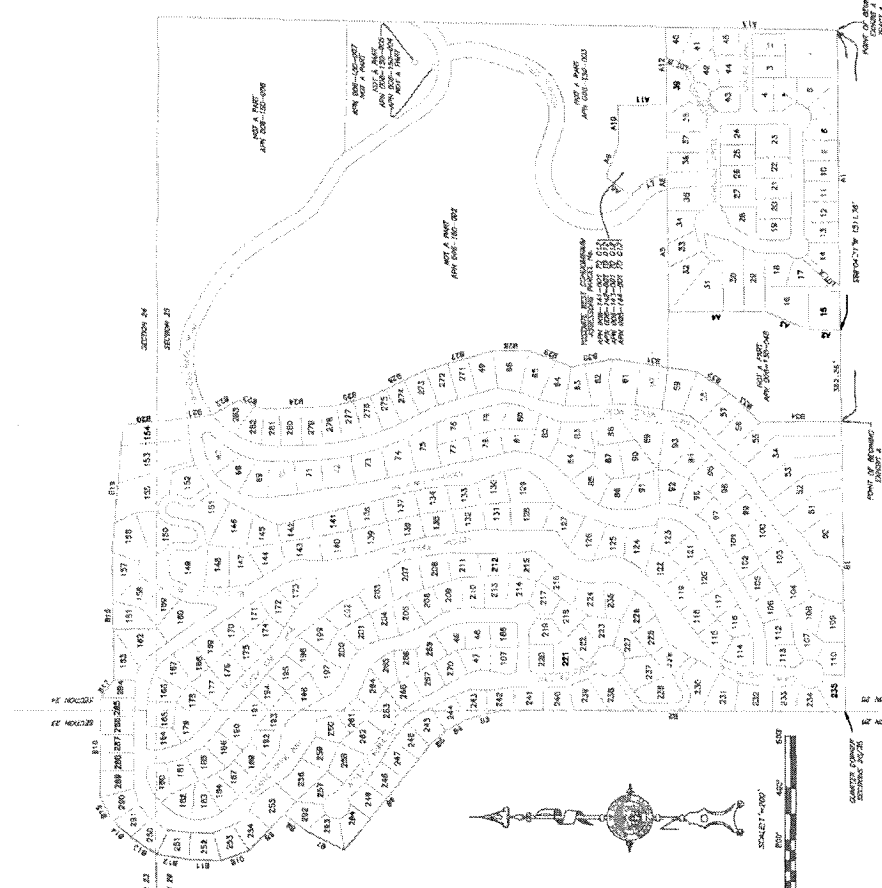
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PROPERTY A

Section	Block	Lot	APN
23	1	1	006-125-001
23	1	2	006-125-002
23	1	3	006-125-003
23	1	4	006-125-004
23	1	5	006-125-005
23	1	6	006-125-006
23	1	7	006-125-007
23	1	8	006-125-008
23	1	9	006-125-009
23	1	10	006-125-010
23	1	11	006-125-011
23	1	12	006-125-012
23	1	13	006-125-013
23	1	14	006-125-014
23	1	15	006-125-015
23	1	16	006-125-016
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23	1	99	006-125-099
23	1	100	006-125-100

PROPERTY B

Section	Block	Lot	APN
23	1	101	006-125-101
23	1	102	006-125-102
23	1	103	006-125-103
23	1	104	006-125-104
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23	1	199	006-125-199
23	1	200	006-125-200



Annotations and notes on the right side of the main plat map, including 'APN 006-125-001' and 'APN 006-125-002'.

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