



EDMUND G. BROWN JR.  
GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## State Water Resources Control Board

Division of Drinking Water

March 29, 2016

Don Dorman, City Manager  
3981 South K Street  
Tulare, CA 93274

**RE: Mandatory Consolidation of the Pratt Mutual Water Company Water System**

Dear Mr. Dorman:

Enclosed is Order No. 03-24-16R-004 that the State Water Resources Control Board (State Board)-Division of Drinking Water is issuing to the City of Tulare (City) for mandatory consolidation of the Pratt Mutual Water Company's water system with the City's water system.

Please note that on or before April 15, 2016, the City is required to submit a written response to the Division indicating its agreement to comply with the directives of the Order and with the Consolidation Plan addressed in the said Order. On or before May 1, 2016, the City is required to submit the Consolidation Plan, required under Directive No. 2 of the Order. The deadline to achieve consolidation with the Pratt Mutual Water Company's water system is June 1, 2016.

If you have any questions regarding this matter, please contact me at (916) 341-5045, Carl Carlucci at (559) 447-3132, or Chad Fischer at (559) 447-3302.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cindy A. Forbes".

Cindy A. Forbes, P.E., Deputy Director  
Division of Drinking Water  
State Water Resources Control Board

cc: Mr. David Macebo, City of Tulare  
Mr. Joseph Carlini, Public Works Director, City of Tulare  
City Council, City of Tulare  
Mr. Benjamin Ruiz, Interim Director, Tulare County Resource Management Agency  
Tulare County Health and Human Services Agency  
Mr. Ben Giuliani, Executive Officer, Tulare Local Agency Formation Agency  
Pratt Mutual Water Company

**CALIFORNIA**

**STATE WATER RESOURCES CONTROL BOARD**

**DIVISION OF DRINKING WATER**

TO: City of Tulare  
(System No. 5410015)  
  
ATTN: Don Dorman, City Manager  
3981 South K Street  
Tulare, CA 93274

**ORDER NO. 03-24-16R-004**

**FOR MANDATORY CONSOLIDATION**

**Dated March 29, 2016**

The State Water Resources Control Board (hereinafter "State Board"), acting by and through its Division of Drinking Water (hereinafter "Division") and the Deputy Director for the Division (hereinafter "Deputy Director"), hereby issues this Order pursuant to Section 116682 of the California Health and Safety Code (hereinafter "CHSC") to the City of Tulare (hereinafter "City").

**APPLICABLE AUTHORITIES**

This Order is issued pursuant to authority granted to the State Board, and its Division and Deputy Director, pursuant to CHSC, Sections 116680 – 116684 and 116271. As used in this Order, a term defined in CHSC, Section 116681 shall have the meaning set forth in said section.

References in the applicable law to 'Receiving Water System' or 'Potentially Receiving Water System' refer in this Order to City of Tulare's public water system; and references to

1 “Subsumed Water System’ or ‘Potentially Subsumed Water System’ to the Pratt Mutual Water  
2 Company’s public water system. Said authorities are provided in their entirety in Attachment  
3 A, attached hereto and incorporated herein by this reference.  
4

#### 5 **STATEMENT OF FACTS**

6 The Division is informed by the Pratt Mutual Water Company (hereinafter “Pratt MWC”) and  
7 believes that the Pratt MWC’s water system is a community water system located in Tulare  
8 County that supplies water for domestic purposes to approximately 1,500 individuals through  
9 approximately 279 service connections. The Pratt MWC operates under Domestic Water  
10 Supply Permit (Permit No. 03-88-019) issued by the California Department of Public Health,  
11 Drinking Water Program (hereinafter “Department”) in August 1988. The Pratt MWC utilizes  
12 two groundwater wells as the source of domestic water. The City owns and operates a water  
13 system which supplies domestic water to approximately 62,000 individuals through  
14 approximately 18,650 service connections. The City operates under a Domestic Water  
15 Supply Permit (Permit No. 03-12-10P-004), issued by the Department in July 2010. The City  
16 uses 24 groundwater wells as the source of domestic water. The City and the Pratt MWC are  
17 community water systems as defined in CHSC, Section 116275.  
18

19  
20 In February 2010, the Department issued the Pratt MWC a compliance order for failure of the  
21 arsenic maximum contaminant level. In an effort to mitigate high levels of arsenic, the Pratt  
22 MWC entered into a funding agreement with the Department in October 2010 and proceeded  
23 with a planning study to determine the most sustainable long-term solution to its arsenic  
24 contamination problem. The planning study concluded that Pratt MWC’s consolidation with  
25 the City’s water system provided the most cost-effective and sustainable long-term solution.  
26 On November, 8, 2010, the City’s request for an Extra-Territorial Service Agreement to serve  
27 Matheny Tract, which is served by the Pratt MWC, was approved by the Tulare Local Agency

1 Formation Commission. On or about April 5, 2011, the Pratt MWC and the City entered into  
2 an agreement for consolidation of Pratt MWC. In August 2013, the Pratt MWC entered into a  
3 construction funding agreement with the Department for construction of two points of  
4 connection to the City's water system and a new distribution system for Pratt MWC's service  
5 area. The estimated completion date of this construction project is April 2016.

6  
7 Authority for regulation of public water systems pursuant to the California Safe Drinking Water  
8 Act (CHSC, Section 116270 et seq.) was transferred from the Department to the State Board  
9 effective July 1, 2014. (See CHSC, Section 116271)

10  
11 Subsequently and on multiple occasions, the State Board was informed by the City that the  
12 City was unable to serve domestic water to the Pratt MWC service area.

13  
14 On or about June 3, 2015, the City commenced litigation in Tulare County Superior Court,  
15 Case No. 261091, concerning the City's ability to perform its consolidation agreement with  
16 Pratt MWC. Pratt MWC filed a cross-complaint and the litigation is pending.

17  
18 As more fully discussed in Findings set forth below, the State Board took additional action to  
19 secure a voluntary agreement between the City and Pratt MWC to secure an adequate supply  
20 of safe drinking water for persons served by the Pratt MWC, including the following:

- 21
- 22 a) Communicated with the Tulare Local Area Formation Commission.
  - 23 b) Held a meeting with the City on September 29, 2015.
  - 24 c) Held a meeting with the Pratt MWC on November 12, 2015.
  - 25 d) Held a duly noticed public meeting on March 3, 2016, to take public comment and  
26 testimony. A copy of the notice for said meeting is attached hereto as Attachment B.
  - 27 e) Held a duly noticed public hearing on March 17, 2016, to take public comment and

1 testimony. A copy of said notice is attached hereto as Attachment B.

2  
3 Approximately 100 people attended each of said public forums and overwhelming support for  
4 consolidation was voiced by attendees, including residents of Matheny Tract and also by  
5 several City residents. Despite these efforts, State Board has been unable to achieve  
6 voluntary consolidation of the City and Pratt MWC.

7  
8 **FINDINGS**

9 The State Board has made the following findings:

- 10  
11 1. The Pratt MWC has consistently failed to provide an adequate supply of safe drinking  
12 water.

13 Discussion:

14 The Pratt MWC serves the disadvantaged community of Matheny Tract, which is located  
15 outside the City Limits but within the City's Sphere of Influence. The Pratt MWC has  
16 consistently failed to provide an adequate supply of safe drinking water in that their two active  
17 wells produce water that exceeds the arsenic MCL. This situation has continued since at least  
18 2009.

- 19  
20  
21 2. All reasonable efforts to negotiate consolidation of Pratt MWC's water system with the  
22 City's water system were made by the State Board.

23 Discussion:

24 The State Board sent letters, dated August 18, 2015, (Attachment C) to the Pratt MWC and  
25 the City that strongly encouraged the Pratt MWC and the City to work out voluntary  
26 consolidation of their water systems. The letters also directed the Pratt MWC and the City to  
27 complete the negotiations and report the outcome to the State Board not later than six months

1 following the date of the letter. The State Board received responses (Attachment D) from the  
2 Pratt MWC and the City that indicated they were unable to work out voluntary consolidation of  
3 their water systems. The State Board also met with the City on September 29, 2015, and the  
4 Pratt MWC on November 12, 2015, to discuss the consolidation project. In addition, at the  
5 invitation of both parties to the litigation, the State Board participated in mediation on January  
6 14, 2016, between the Pratt MWC and the City that was conducted by retired Judge Patrick  
7 O'Hara. The State Board is informed and believes that the mediation was unsuccessful.

8  
9 3. Consolidation of the City's water system and Pratt MWC's water system is appropriate and  
10 technically and economically feasible.

11 Discussion:

12 A Preliminary Engineering Report, dated December 29, 2006, was prepared by the Provost &  
13 Pritchard Engineering Group that described Pratt MWC's existing water system deficiencies  
14 and evaluated alternatives to solve the water system deficiencies, and recommended a  
15 proposed project solution. The major alternatives evaluated were the construction of a new  
16 well, the installation of arsenic treatment facilities, the consolidation with the City of Tulare  
17 water system, and the installation of a master service connection to the City of Tulare water  
18 system. The Preliminary Engineering Report was amended by the Provost & Pritchard  
19 Engineering Group in December 2007 to include revised cost estimates for the various  
20 alternatives. The Amended Preliminary Engineering Report recommended consolidation of  
21 Pratt MWC's water system with the City's water system. The Pratt MWC subsequently  
22 undertook a Proposition 84 project that consisted of the installation of a new distribution  
23 system and two interconnections to the City's water system. Therefore, it is technically  
24 feasible for the City to supply water from its public water system to Pratt MWC's new  
25 distribution system. The Leadership Counsel for Justice and Accountability representing the  
26 disadvantaged community of Matheny Tract has indicated the community is willing and able to  
27

1 afford the City's current water rates. The State Board is not aware of any significant public  
2 opposition to consolidation of Pratt MWC with the City's water system. The City has indicated  
3 a need for additional water supply capacity to serve the needs of its existing customers and  
4 the customers of the Pratt MWC. The State Board is able to provide funding to the City for  
5 such additional capacity as may be determined reasonable and necessary and upon the City's  
6 application for such funding.

7  
8 4. There is no pending local agency formation commission process that is likely to resolve  
9 the problem in a reasonable amount of time.

10 Discussion:

11 The State Board has consulted with the Tulare Local Agency Formation Commission and has  
12 confirmed there is no pending Tulare Local Agency Formation Commission process that is  
13 likely to resolve the problem in a reasonable amount of time.

14  
15 5. Concerns regarding water rights and water contracts of the subsumed and receiving water  
16 systems have been adequately addressed

17 Discussion:

18 The source of water supply for Pratt MWC's water system and the City's water system is  
19 groundwater. The local groundwater basin is unadjudicated; therefore, there are no concerns  
20 regarding water rights and water contracts of Pratt MWC's water system and the City's water  
21 system.  
22

23  
24 6. Consolidation or extension of service is the most effective and cost-effective means to  
25 provide an adequate supply of safe drinking water.  
26  
27

1 Discussion:

2 As described in Finding No. 3 above, consolidation of Pratt MWC's water system with the  
3 City's water system is the most effective and cost-effective means to provide an adequate  
4 supply of safe drinking water for Pratt MWC's water system. The infrastructure needed to  
5 extend service from the City's water system to the Pratt MWC's distribution system was  
6 constructed with grant monies provided by State Board administered Proposition 84 program  
7 (California general obligation bond proceeds) following a Proposition 84 grant funded  
8 feasibility study and a negotiated agreement between Pratt MWC and the City to achieve the  
9 consolidation which agreement is now the subject of the pending litigation referenced above.

10  
11 7. The capacity of the proposed interconnection needed to accomplish the consolidation is  
12 limited to serving the current customers of the subsumed water system.

13 Discussion:

14 The capacity of the two interconnections that were installed between the City's water system  
15 and Pratt MWC's water system to accomplish the consolidation is limited to serving the  
16 current customers of Pratt MWC's water system.

17  
18 **DIRECTIVES**

19 The City of Tulare is hereby directed to take the following actions:

- 20  
21
- 22 1. On or before April 15, 2016, submit a written response to the State Board indicating its  
23 agreement to comply with the directives of this Order and with the Consolidation Plan  
24 addressed herein.
  - 25  
26 2. On or before May 1, 2016, prepare and submit for State Board review and approval, a  
27 draft plan for consolidation of the Pratt MWC's water system with the City's water system;

1 such plan (hereinafter "Consolidation Plan") shall:

- 2 a) Identify improvements to the City's water system designed to facilitate the  
3 consolidation of the Pratt MWC's water system with the City's water system.  
4 b) Ensure that the City provides an adequate supply of safe drinking water.  
5 c) Include a time schedule for completion of each task identified in the plan.  
6 d) Ensure consolidation of Pratt MWC's water system with the City's water system as that  
7 term is used in Section 116681 of the CHSC, not later than June 1, 2016.

8  
9 3. Not later than fifteen (15) days, unless otherwise specified, following receipt of any notice  
10 from the State Board indicating the draft plan is not approved, prepare and submit to the  
11 State Board a final Consolidation Plan which adequately addresses all comments from the  
12 State Board contained in its notice of non-approval.

13  
14  
15 4. Timely perform the State Board's approved Consolidation Plan and each and every  
16 element of said plan according to the time schedule set forth therein.

17  
18 5. Notify the State Board in writing no later than five (5) days prior to the deadline for  
19 performance of any Directive set forth herein if the City anticipates it will not timely meet  
20 such performance deadline.

21  
22 All submittals required by this Order shall be addressed to:

23  
24 Chad Fischer, P.E., Senior Sanitary Engineer  
25 State Water Resources Control Board  
26 Division of Drinking Water, Tulare District  
27 265 W. Bullard Avenue, Suite 101  
Fresno, CA 93704

1 As used in this Order, the date of issuance shall be the date of this Order; and the date of  
2 service shall be the date of service of this Order, personal or by certified mail, on the City of  
3 Tulare.

4  
5 The Division reserves the right to make such modifications to this Order and/or to issue such  
6 further order(s) as it may deem necessary to protect public health and safety and to achieve  
7 the consolidation addressed by this Order. Such modifications may be issued as  
8 amendments to this Order and shall be deemed effective upon issuance.

9  
10 Nothing in this Order relieves the City of Tulare of its obligation to meet the requirements of  
11 the California Safe Drinking Water Act, CHSC, Division 104, Part 12, Chapter 4 (herein  
12 "SDWA"), or any regulation, standard, permit or order issued thereunder.

13  
14 **PARTIES BOUND**

15 This Order shall apply to and be binding upon the City of Tulare, its officers, directors, agents,  
16 employees, contractors, successors, and assignees.

17  
18 **SEVERABILITY**

19 The requirements of this Order are severable, and the City of Tulare shall comply with each  
20 and every provision hereof notwithstanding the effectiveness of any other provision.

21  
22 **FURTHER ENFORCEMENT ACTION**

23  
24 The California SDWA authorizes the Division to issue orders and citations with assessment of  
25 administrative penalties to a public water system for violation or continued violation of the  
26 requirements of the California SDWA or any regulation, permit or order issued or adopted  
27 thereunder including, but not limited to, failure to correct a violation identified in a citation or

1 order. The California SDWA also authorizes the Division to take action to suspend or revoke  
2 a permit that has been issued to a public water system if the system has violated applicable  
3 law or regulations or has failed to comply with an order of the Division; and to petition the  
4 superior court to take various enforcement measures against a public water system that has  
5 failed to comply with an order of the Division. The Division does not waive any further  
6 enforcement action by issuance of this order.

7  
8  
9  
10  
11 March 29, 2016  
12 Date

Cindy A. Forbes  
13 Cindy A. Forbes, P.E., Deputy Director  
14 Division of Drinking Water  
15 State Water Resources Control Board

16 Certified Mail No.: 7015 1660 0000 0781 8329

17 Attachments:

- 18 Attachment A: Applicable Authorities  
19 Attachment B: Notices for Public Meeting and Public Hearing  
20 Attachment C: State Board Letters to the City and Pratt MWC  
21 Attachment D: Responses from the City and Pratt MWC  
22  
23  
24  
25  
26  
27

## **Attachment A**

### **Applicable Authorities**

SB88 Consolidation language

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.**

Section 116680 is added to the Health and Safety Code, to read:

**116680.**

The Legislature finds and declares as follows:

(a) It is the policy of the state to encourage orderly growth and development, which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation, consolidation, and operation of water systems is an important factor in promoting orderly development and in balancing that development against sometimes competing state interests of discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending other government services. Therefore, the policy of the state should be affected by the logical formation, consolidation, and operation of water systems.

(b) The powers set forth in Section 116682 for consolidation of water systems are consistent with the intent of promoting orderly growth.

**SEC. 2.**

Section 116681 is added to the Health and Safety Code, to read:

**116681.**

The following definitions shall apply to this section and Sections 116682 and 116684:

(a) "Adequate supply" means sufficient water to meet residents' health and safety needs.

(b) "Affected residence" means a residence reliant on a water supply that is either inadequate or unsafe.

(c) "Consistently fails" means a failure to provide an adequate supply of safe drinking water.

(d) "Consolidated water system" means the public water system resulting from the consolidation of a public water system with another public water system, state small water system, or affected residences not served by a public water system.

(e) "Consolidation" means joining two or more public water systems, state small water systems, or affected residences not served by a public water system, into a single public water system.

(f) "Disadvantaged community" means a disadvantaged community, as defined in Section 79505.5 of the Water Code, that is in an unincorporated area or is served by a mutual water company.

(g) "Extension of service" means the provision of service through any physical or operational infrastructure arrangement other than consolidation.

(h) "Receiving water system" means the public water system that provides service to a subsumed water system through consolidation or extension of service.

(i) "Safe drinking water" means water that meets all primary and secondary drinking water standards.

(j) "Subsumed water system" means the public water system, state small water system, or affected residences not served by a public water system consolidated into or receiving service from the receiving water system.

**SEC. 3.**

Section 116682 is added to the Health and Safety Code, to read:

**116682.**

(a) Where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water, the State Water Resources Control Board may order consolidation with a receiving water system as provided in this section and Section 116684. The consolidation may be physical or operational. The State Water Resources Control Board may also order the extension of service to an area that does not have access to an adequate supply of

safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation. The State Water Resources Control Board may set timelines and performance measures to facilitate completion of consolidation.

(b) Prior to ordering consolidation or extension of service as provided in this section, the State Water Resources Control Board shall do all of the following:

(1) Encourage voluntary consolidation or extension of service.

(2) Consider other enforcement remedies specified in this article.

(3) Consult with, and fully consider input from, the relevant local agency formation commission regarding the provision of water service in the affected area, the recommendations for improving service in a municipal service review, and any other relevant information.

(4) Consult with, and fully consider input from, the Public Utilities Commission when the consolidation would involve a water corporation subject to the commission's jurisdiction.

(5) Consult with, and fully consider input from, the local government with land use planning authority over the affected area, particularly regarding any information in the general plan required by Section 65302.10 of the Government Code.

(6) Notify the potentially receiving water system and the potentially subsumed water system, if any, and establish a reasonable deadline of no less than six months, unless a shorter period is justified, for the potentially receiving water system and the potentially subsumed water system, if any, to negotiate consolidation or another means of providing an adequate supply of safe drinking water.

(A) During this period, the State Water Resources Control Board shall provide technical assistance and work with the potentially receiving water system and the potentially subsumed water system to develop a financing package that benefits both the receiving water system and the subsumed water system.

(B) Upon a showing of good cause, the deadline may be extended by the State Water Resources Control Board at the request of the potentially receiving water system, potentially subsumed water system, or the local agency formation commission with jurisdiction over the potentially subsumed water system.

(7) Obtain written consent from any domestic well owner for consolidation or extension of service. Any affected resident within the consolidation or extended service area who does not provide written consent shall be ineligible, until the consent is provided, for any future water-related grant funding from the state other than funding to mitigate a well failure, disaster, or other emergency.

(8) Hold at least one public meeting at the initiation of this process in a place as close as feasible to the affected areas. The State Water Resources Control Board shall make reasonable efforts to provide a 30-day notice of the meeting to the ratepayers, renters, and property owners to receive water service through service extension or in the area of the subsumed water system and all affected local government agencies and drinking water service providers. The meeting shall provide representatives of the potentially subsumed water system, affected ratepayers, renters, property owners, and the potentially receiving water system an opportunity to present testimony. The meeting shall provide an opportunity for public comment.

(c) Upon expiration of the deadline set by the State Water Resources Control Board pursuant to paragraph (6) of subdivision (b), the State Water Resources Control Board shall do the following:

(1) Consult with the potentially receiving water system and the potentially subsumed water system, if any.

(2) Conduct a public hearing, in a location as close as feasible to the affected communities.

(A) The State Water Resources Control Board shall make reasonable efforts to provide a 30-day notice of the hearing to the ratepayers, renters, and property owners to receive water service through service extension or in the area of the subsumed water system and to all affected local government agencies and drinking water service providers.

(B) The hearing shall provide representatives of the potentially subsumed water system, affected ratepayers, renters, property owners, and the potentially receiving water system an opportunity to present testimony.

(C) The hearing shall provide an opportunity for public comment.

(d) Prior to ordering consolidation or extension of service, the State Water Resources Control Board shall find all of the following:

- (1) The potentially subsumed water system has consistently failed to provide an adequate supply of safe drinking water.
  - (2) All reasonable efforts to negotiate consolidation or extension of service were made.
  - (3) Consolidation of the receiving water system and subsumed water system or extension of service is appropriate and technically and economically feasible.
  - (4) There is no pending local agency formation commission process that is likely to resolve the problem in a reasonable amount of time.
  - (5) Concerns regarding water rights and water contracts of the subsumed and receiving water systems have been adequately addressed.
  - (6) Consolidation or extension of service is the most effective and cost-effective means to provide an adequate supply of safe drinking water.
  - (7) The capacity of the proposed interconnection needed to accomplish the consolidation is limited to serving the current customers of the subsumed water system.
- (e) Upon ordering consolidation or extension of service, the State Water Resources Control Board shall do all of the following:
- (1) As necessary and appropriate, make funds available, upon appropriation by the Legislature, to the receiving water system for the costs of completing the consolidation or extension of service, including, but not limited to, replacing any capacity lost as a result of the consolidation or extension of service, providing additional capacity needed as a result of the consolidation or extension of service, and legal fees. Funding pursuant to this paragraph is available for the general purpose of providing financial assistance for the infrastructure needed for the consolidation or extension of service and does not need to be specific to each individual consolidation project. The State Water Resources Control Board shall provide appropriate financial assistance for the infrastructure needed for the consolidation or extension of service. The State Water Resources Control Board's existing financial assistance guidelines and policies shall be the basis for the financial assistance.
  - (2) Ensure payment of standard local agency formation commission fees caused by State Water Resources Control Board-ordered consolidation or extension of service.
  - (3) Adequately compensate the owners of a privately owned subsumed water system for the fair market value of the system as determined by the Public Utilities Commission for water corporations subject to the commission's jurisdiction or the State Water Resources Control Board for all other water systems.
  - (4) Coordinate with the appropriate local agency formation commission and other relevant local agencies to facilitate the change of organization or reorganization.
- (f) For the purposes of this section, the consolidated water system shall not increase charges on existing customers of the receiving water system solely as a consequence of the consolidation or extension of service unless the customers receive a corresponding benefit.
- (g) Division 3 (commencing with Section 56000) of Title 5 of the Government Code shall not apply to the consolidation or extension of service required pursuant to this section.

#### **SEC. 4.**

Section 116684 is added to the Health and Safety Code, to read:

##### **116684.**

- (a) Liability of a consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system shall be limited as described in this section.
- (b) (1) The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or those who consumed water provided through the subsumed water system concerning the operation and supply of water from the subsumed water system during the interim operation period specified in subdivision (d) for any good faith, reasonable effort using ordinary care to assume possession of, to operate, or to supply water to the subsumed water system.
- (2) The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or by those who consumed water

provided through the subsumed water system for any injury that occurred prior to the commencement of the interim operation period specified in subdivision (d).

(c) (1) The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or by those who consumed water provided through the subsumed water system concerning the provision of supplemental imported water supplies to the subsumed water system during the interim operation period specified in subdivision (d) for any good faith, reasonable effort using ordinary care to supply water to the subsumed water system.

(2) The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or by those who consumed water provided through the subsumed water system concerning the operation and supply of water from the subsumed water system for any injury that occurred prior to the commencement of the interim operation period specified in subdivision (d).

(3) This subdivision shall only apply if the water supplied by the consolidated water system through a temporary potable service pipeline to the subsumed water system meets or exceeds federal and state drinking water quality standards.

(d) (1) The interim operation period shall commence upon the connection of a temporary potable service pipeline by the consolidated water system to the subsumed water system, or upon the execution of an agreement between the consolidated water system, subsumed water system, and any other signatories to provide service to the customers of the subsumed water system, whichever occurs first.

(2) (A) Except as provided in subparagraph (B), the interim operation period shall last until permanent replacement facilities are accepted by the consolidated water system with the concurrence of the State Water Resources Control Board and the facilities and water supply meet drinking water and water quality standards.

(B) Upon the showing of good cause, the interim operation period shall be extended by the State Water Resources Control Board for up to three successive one-year periods at the request of the consolidated water system.

(3) The acceptance date of permanent replacement facilities shall be publicly noticed by the consolidated water system.

(e) Subdivision (b) shall only apply if the consolidated water system provides water to the subsumed water system in accordance with all of the following conditions:

(1) Water provided by the consolidated water system through a temporary potable service pipeline to the subsumed water system shall meet or exceed federal and state drinking water quality standards.

(2) Reasonable water system flow and pressure through a temporary potable service pipeline shall be maintained during the interim operation period based upon the condition and integrity of the existing subsumed water system, and any disruptions to water delivery resulting from construction-related activities associated with the installation of permanent replacement facilities shall be minimal.

(3) The consolidated water system shall notify fire officials serving the subsumed water system service area of the condition and firefighting support capabilities of the subsumed water system and planned improvements with the installation of permanent replacement facilities thereto. The consolidated water system shall maintain or improve the condition and firefighting support capabilities of the subsumed water system during the interim operation period.

(4) Customers of the subsumed water system shall receive written notice upon any change in possession, control, or operation of the water system.

(f) Nothing in this section shall be construed to do any of the following:

(1) Relieve any water district, water wholesaler, or any other entity from complying with any provision of federal or state law pertaining to drinking water quality.

(2) Impair any cause of action by the Attorney General, a district attorney, a city attorney, or any other public prosecutor, or impair any other action or proceeding brought by or on behalf of a regulatory agency.

(3) Impair any claim alleging the taking of property without compensation within the meaning of either the Fifth Amendment to the United States Constitution or Section 19 of Article I of the California Constitution.

## **Attachment B**

### **Notices for Public Meeting and Public Hearing**



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## State Water Resources Control Board

Division of Drinking Water

### NOTICE OF PUBLIC MEETING AND A PUBLIC HEARING ON CITY OF TULARE'S PROVISION OF DOMESTIC WATER TO SERVICE AREA OF PRATT MUTUAL WATER COMPANY

The State Water Resources Control Board invites you to attend a public meeting and a public hearing, and comment on the potential for City of Tulare to provide domestic water to persons now served by the Pratt Mutual Water Company. The Pratt Mutual Water Company currently provides domestic water to approximately 280 homes in the Matheny Tract, an unincorporated area of Tulare County just south of the City of Tulare. If the proposed action takes place, current customers of the Pratt Mutual Water Company would receive their household water from the City of Tulare.

#### **Background:**

The Pratt Mutual Water Company is completing an infrastructure project which includes a new distribution system, water meters at all service connections, approximately two miles of transmission piping and two points of connection to the City of Tulare water system. The project is funded by the State Water Resources Control Board using Proposition 84 funds and is expected to be completed by April 2016. Funding was made available to address the arsenic contamination problem in the existing Pratt Mutual Water Company wells.

The State Water Resources Control Board is considering action which would order City of Tulare to provide a supply of domestic water to Pratt Mutual Water Company and/or to order the City of Tulare to directly provide domestic water to persons now served by Pratt Mutual Water Company.

#### **Public Meeting and Public Hearing:**

The State Water Resources Control Board will host two opportunities to provide information on the proposed action, answer questions, receive public comments, and accept public testimony.

Dates: A public meeting will be held Thursday, March 3, 2016 from 6:00 p.m. – 8:00 p. m, and  
A public hearing will be held Thursday, March 17, 2016 from 6:00 p.m. – 8:00 p. m.

Location: Palo Verde Union School  
9637 Avenue 196  
Tulare, CA 93274

Spanish language interpretation services will be available for both hearings.

**You will have an opportunity at both the scheduled meeting and hearing to offer verbal testimony on the proposed action**

**You may submit written comments prior to each scheduled meeting and hearing** by mail, email, or fax to:

Carl Carlucci, P.E., Supervising Sanitary Engineer  
State Water Resources Control Board – Division of Drinking Water  
265 W. Bullard Ave. Suite 101, Fresno, CA 93704  
Email: [Carl.Carlucci@waterboards.ca.gov](mailto:Carl.Carlucci@waterboards.ca.gov)  
Fax: (559) 447-3304

**For additional information, contact:** Carl Carlucci, (559) 447-3132 or visit the Water Board website at: [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

## State Water Resources Control Board

Division of Drinking Water

### AVISO SOBRE UNA REUNIÓN Y UNA AUDIENCIA PÚBLICA SOBRE LA PROVISIÓN DE AGUA DOMÉSTICA POR PARTE DE LA CIUDAD DE TULARE, AL ÁREA DE SERVICIO DE PRATT MUTUAL WATER COMPANY

La Junta de Agua (State Water Resources Control Board) le invita a una reunión y a una audiencia pública, y a que provea sus comentarios sobre la posibilidad de que la Ciudad de Tulare provea agua doméstica a las personas que actualmente son abastecidas por Pratt Mutual Water Company. Actualmente, Pratt Mutual Water Company provee agua doméstica a aproximadamente 280 hogares en el Matheny Tract, un área no incorporada del Condado de Tulare justo al sur de la Ciudad de Tulare. Si las medidas propuestas toman lugar, los clientes actuales de Pratt Mutual Water Company recibirían el agua de sus hogares de la Ciudad de Tulare.

#### **Antecedentes:**

Pratt Mutual Water Company está completando un proyecto de infraestructura que incluye un nuevo sistema de distribución, metros de agua en todas las conexiones de servicio, aproximadamente dos millas de pipas de transmisión, y dos puntos de conexión al sistema de agua de la Ciudad de Tulare. El proyecto está siendo financiado por la Junta de Agua (State Water Resources Control Board) con fondos de la proposición 84, y se espera que sea completado para Abril 2016. Los fondos fueron facilitados para tratar el problema de contaminación de arsénico en los pozos existentes de Pratt Mutual Water Company.

La Junta de Agua (State Water Resources Control Board) está considerando medidas que le ordenarían a la Ciudad de Tulare que provea un abastecimiento de agua doméstica para Pratt Mutual Water Company y/o que ordene que la Ciudad de Tulare provea directamente el agua doméstica para personas que actualmente son abastecidas por Pratt Mutual Water Company.

#### **Reunión Pública y Audiencia Pública:**

La Junta de Agua (State Water Resources Control Board) ofrecerá dos oportunidades para proveer información sobre las medidas propuestas, para contestar preguntas, recibir comentarios del público, y aceptar testimonio público.

Fechas: Habrá una reunión pública el jueves, 3 de marzo de 2016, de 6:00 p.m. – 8:00 p. m, y  
Habrá una audiencia pública el jueves, 17 de marzo de 2016, de 6:00 p.m. – 8:00 p. m.

Lugar: Palo Verde Union School  
9637 Avenue 196  
Tulare, CA 93274

Habr  servicios de int rprete en espa ol durante la reuni n y durante la audiencia p blica.

**Durante la reuni n y la audiencia, el p blico tendr  la oportunidad de dar su testimonio verbal respecto a las medidas propuestas**

**Antes de las fechas de la reuni n y de la audiencia, el p blico puede enviar comentarios escritos** por correo postal, correo electr nico, o por fax a:

Carl Carlucci, P.E., Supervising Sanitary Engineer (Ingeniero Sanitario Supervisor)  
State Water Resources Control Board – Division of Drinking Water (Divisi n de  
Agua Potable)  
265 W. Bullard Ave. Suite 101, Fresno, CA 93704  
Correo electr nico: [Carl.Carlucci@waterboards.ca.gov](mailto:Carl.Carlucci@waterboards.ca.gov)  
Fax: (559) 447-3304

**Para informaci n adicional, contacte a:** Carl Carlucci, (559) 447-3132 o visite el sitio web de la Junta de Agua (Water Board) en: [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

## **Attachment C**

### **State Board Letters to the City of Tulare and Pratt MWC**



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## State Water Resources Control Board

Division of Drinking Water

August 18, 2015

Mr. Don Dorman, City Manager  
City of Tulare  
3981 South K Street  
Tulare, CA 93274

Dear Mr. Dorman:

### State Water Resources Control Board Notice Regarding Mandatory Consolidation

Effective June 24, 2015, Senate Bill 88 (Statutes 2015, Chapter 27) added Sections 116680 – 116684 to California Health & Safety Code, addressing consolidation of public water systems.

Our records indicate that the water delivered by Pratt Mutual Water Company's public water system (System) contains arsenic at levels that exceed the maximum contaminant level established in state and federal regulations. Since approximately February 2010, the System has consistently failed to provide an adequate supply of safe drinking water. It is our understanding that the infrastructure has been built to facilitate delivery of water from the City of Tulare (City) to the System.

The State Water Resources Control Board (State Water Board) strongly encourages Pratt Mutual Water Company and the City to work out voluntary consolidation of their public water systems.

If a voluntary consolidation is not timely achieved, the State Water Board intends to take action pursuant to Health & Safety Code section 116682, subdivision (a) for consolidation of the System with the City's public water system. Please note that as used in the applicable statutory authority, the City is hereby identified as the potentially receiving water system and the System is identified as the potentially subsumed water system.

This letter serves as official notification that, pursuant to Health & Safety Code section 116682, subdivision (b) (6), the City, the potentially receiving water system, is directed to negotiate consolidation with the Pratt Mutual Water Company, the potentially subsumed water system. The City is further directed to complete such negotiations and report the outcome to State Water Board Division of Drinking Water, Tulare District Office not later than six (6) months following the date of this letter.

The State Water Board acknowledges that consolidation is a complex process and stands ready to assist you so that you are successful in delivering safe, affordable and accessible drinking water to your neighboring community in a cost-effective manner. Pursuant to Health & Safety Code section 116682 subdivision (b) (6) (A), during the six month negotiation period, the State Water Board will provide technical assistance and work with the City and Pratt Mutual Water Company to develop an appropriate and necessary financing package. Technical assistance will be available from the State Water Board's Division of Drinking Water (DDW) and Division of Financial Assistance (DFA).

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

265 West Bullard Avenue, Suite 101, Fresno, CA 93704 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

If you have any questions regarding this matter, please contact Mr. Chad Fischer, Tulare District Engineer for the State Water Board, DDW, at (559) 447-3302, or me at (559) 447-3132. For funding related questions, please contact Ms. Deisy Rios at (916) 322-0522.

Sincerely,



Carl L. Carlucci, P.E.  
Supervising Sanitary Engineer  
Central California Section  
SOUTHERN CALIFORNIA BRANCH  
DRINKING WATER FIELD OPERATIONS

cc: Mr. David Macedo, Mayor, City of Tulare  
Mr. Joseph Carlini, Public Works Director, City of Tulare  
City Council, City of Tulare  
Mr. Michael Spata, Director, Tulare County Resource Management Agency  
Tulare County Health and Human Services Agency  
Mr. Ben Giuliani, Executive Officer, Tulare LAFCo



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## State Water Resources Control Board

Division of Drinking Water

August 18, 2015

Board of Directors  
Pratt Mutual Water Company  
P. O. BOX 598  
Tulare, CA 93275

Dear Board of Directors:

### State Water Resources Control Board Notice Regarding Mandatory Consolidation

Effective June 24, 2015, Senate Bill 88 (Statutes 2015, Chapter 27) added Sections 116680 – 116684 to California Health & Safety Code, addressing consolidation of public water systems.

Our records indicate that the water delivered by the Pratt Mutual Water Company's public water system (System) contains arsenic at levels that exceed the maximum contaminant level established in state and federal regulations. Since approximately February 2010, the System has consistently failed to provide an adequate supply of safe drinking water. It is our understanding that the infrastructure has been built to facilitate delivery of water from the City of Tulare (City).

The State Water Resources Control Board (State Water Board) strongly encourages the System and the City to work out voluntary consolidation of their public water systems. If a voluntary consolidation is not timely achieved, the State Water Board intends to take action pursuant to Health & Safety Code section 116682, subdivision (a) for consolidation of the System with the City's public water system. Please note that as used in the applicable statutory authority, the City is hereby identified as the potentially receiving water system and the System is identified as the potentially subsumed water system.

This letter serves as official notification that, pursuant to Health & Safety Code section 116682, subdivision (b) (6), Pratt Mutual Water Company, the potentially subsumed water system, is directed to negotiate consolidation with the City, the potentially receiving water system. Pratt Mutual Water Company is further directed to complete such negotiations and report the outcome to the State Water Board Division of Drinking Water Tulare District Office not later than six (6) months following the date of this letter.

The State Water Board acknowledges that consolidation is a complex process and stands ready to assist you so that you are successful in delivering safe, affordable and accessible drinking water in a cost-effective manner. Pursuant to Health & Safety Code section 116682, subdivision (b) (6) (A), during the six month negotiation period, the State Water Board will provide technical assistance and work with the City and Pratt Mutual Water Company to develop an appropriate and necessary financing package. Technical assistance will be available from the State Water Board Division of Drinking Water (DDW) and Division of Financial Assistance (DFA).

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

265 West Bullard Avenue, Suite 101, Fresno, CA 93704 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

If you have any questions regarding this matter, please contact Mr. Chad Fischer, Tulare District Engineer for the State Water Board's DDW, at (559) 447-3302, or me at (559) 447-3132. For funding related questions, please contact Ms. Deisy Rios at (916) 322-0522.

Sincerely,



Carl L. Carlucci, P.E.  
Supervising Sanitary Engineer  
Central California Section  
SOUTHERN CALIFORNIA BRANCH  
DRINKING WATER FIELD OPERATIONS

cc: Mr. David Macedo, Mayor, City of Tulare  
Mr. Joseph Carlini, Public Works Director, City of Tulare  
City Council, City of Tulare  
Mr. Michael Spata, Director, Tulare County Resource Management Agency  
Tulare County Health and Human Services Agency  
Mr. Ben Giuliani, Executive Officer, Tulare LAFCo

## **Attachment D**

**Responses from the City of Tulare and Pratt MWC**



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City Manager's Office

February 29, 2016

Mr. Carl Carlucci, P.E.  
State Water Recourses Control Board  
Division of Drinking Water  
265 W. Bullard Ave, Suite 101  
Fresno, CA 93704

Re: Notice of Mandatory Consolidation

Dear Mr. Carlucci:

This letter is being sent in response to the August 18<sup>th</sup>, 2015 Notices mandating consolidation of the Soult and Matheny Tracts with the City's water delivery system. As you know City and Water Board have had ongoing discussions regarding this issue since the Notices were sent by your office. These discussions centered around the potential voluntary resolutions to the request for consolidation.

The City since the initial stages of the project has been attempting to work with the County regarding a resolution to supplying water to the Pratt Mutual Water Company (PMWC) system ("the System") wherein the City has proposed several options and ultimately agreed to the already resolved one of the issues which has been an obstacle in this project.

On a strictly voluntary basis, the City has discussed with the County the creation of a Joint Powers Authority (Gov. Code 6500 et seq.) for supply water. As you know, under that statutory scheme, the creation of a Joint Powers Authority establishes an independent and separate public agency for the purpose and objectives of the Authority which in this case would have been supplying water. This would have resolved the concerns the City was dealing with in exercising its police powers outside of its jurisdictional boundaries as limited by California Constitution, art. XI, section 7.

On each occasion the City proposed revisions to the draft JPA, the County summarily rejected them including an order from their then CAO in their last correspondence before the action was filed precluding staff from discussing the matter further with the City. City most recently attempted to renew the agreement discussions, again rejected by the BOS with instructions to staff to file an amicus brief against the City in the pending litigation. Recognizing the need for

potable water in Matheny Tract, the City has also proposed supplying water on a wholesale basis through a physical connection, but again that proposal has been rejected by all parties.

The City had previously entered into an agreement with PMWC to assist in supplying water to their constituents. However, based upon the County's and PMWC's lack of working with the City in assuring legally defensible options that would support the City's role on an extraterritorial basis, changed circumstances with City's water system (drought and failure of several main wells drastically reducing capacity for water distribution to its own customers) and a significant number of legal issue related to the agreement, the City's potential obligations under the agreement have not yet ripened.

As you may be aware, due to the above rejections to the City's proposed options and the vagueness of the PMWC contract when unsupported by the proposed County agreements, City was forced to initiate litigation with PMWC and Matheny Tract Committee (MTC). The litigation has been filed by the City in order to obtain a judicial determination (i) of the County's role in the situation; (ii) if the contract between the City and PMWC is in fact valid and enforceable, and (iii) if so what are the respective duties, authorities and responsibilities of the parties.

Resolution of the litigation and its relationship to the State SB88 Notices is being made difficult by PMWC's refusal to consider a wholesale option. It appears to the City that the State's interests and those of the potential water customers would be well served by the State's intervention into the present litigation. PMWC and MTC are third party litigants who may be clouding the ability to reach settlement and the State's powers as to consolidation within the authority of SB 88 may need to be invoked to move PMWC towards a resolution. We believe that notwithstanding the extraterritorial jurisdictional limitations related to SB 88, the State can exercise significant authority within the County of Tulare to assist the City's water delivery to the PMWC on a wholesale basis and in doing so assure such delivery is legally defensible and without unnecessary exposure to the City.

Attached to this letter is the Carollo Technical Memo (TM) confirming the City's water delivery system in its current condition cannot meet the demands that would be placed on it if Matheny and Soult's Tracts were to receive water from the City. Carollo, through the several prior studies mentioned in their recent report, has consistently described the City's current infrastructure as inadequate to reliably meet existing demands under the variety of contingencies that might reasonably be expected. Although the system can typically be expected to meet demand needs at the level that satisfies State requirements in connection with the health and safety of water service customers, contemporaneous addition of 340 plus connections creates substantial the risk of having pressures drop in the entire system, especially during peak demand times. This risk cannot be avoided without improvements to the City's water distribution system.

You have advised us that funding was available from the State's Division of Financial Assistance (DOF) which would pay for the costs of additional infrastructure necessary to eliminate that risk and to put the City's water delivery system at sufficient capacity to handle the connection of the two Tracts without jeopardizing the health and safety of all of the other City's customers. Not unlike Development Impact Fees, the payment for additional system capacity by the State to cover impacts on local water service systems and their rate payers, are an integral part of the fabric of the SB88 statutory scheme. You've requested that City identify the needed infrastructure and the costs that would need to be covered by the DFA.

The enclosed TM identifies several alternatives for improvements that are needed to the entire system. Staff will be recommending that Board of Public Utilities approve funding for initial planning stages related to Alternative 4, which is estimated to cost \$21.4 million dollars. That amount would be needed to address all of the needed improvements, most not related to the extensions of service requested under the SB88 notice. The total system improvements include seven wells and three storage tanks. As stated in the TM, the amount attributable to Soultz and Matheny for hard costs of infrastructure (excluding design, admin costs, right of way acquisitions etc.) are in excess of \$350,000. In addition, a project is needed to finalize the direct connection of Well 14 for the Matheny Tract delivery, which would include running the water line under the railroad tracts. City staff have initial estimates for these costs totaling approximately \$1.5 million, but additional detailed engineering cost analysis work must still be completed (and the costs related to such engineering work needs to be funded). The SB88 related costs are projected to total almost \$2.0 million.

Consistent with the statutory objectives, the City requests that State pay for these costs or in the alternative, to simplify the approach to this issue, fund the actual costs of two supply wells. The latter, simpler and more direct approach, allows for a faster response by the City with the ability to move forward with the service extensions, thus mooting any delays that would be caused in working with the railroad to run pipe under their tracks. With this additional capacity, the City's 36 month forward look capacity tool indicates that the City's system could safely provide water to additional 350 homes even during peak demand hours of the summer, assuming the projects can be moved forward sufficiently quickly to add the new capacity in time.

In addition, it is the City's contention that a direct voluntary physical connection to the Soultz and Matheny Tract which would allow for the City to wholesale the water to PMWC would constitute compliance with the requirements of SB88. It is clear that physical connection is initially permitted as a temporary solution. Under 116681(g) extension of service includes any "physical" connection. Under 116682 (e) the final action of the State Board after the public hearing and making necessary findings allows for "ordering consolidation or extension of service". Ignoring for the moment any Constitutional limitations with extraterritorial jurisdictional issues of consolidation, it is the City's position that the statute allows for a physical connection and provision of water on wholesale basis as the final remedy under the law. Such an approach makes sense with regard to municipal water systems as it eliminates issues with County-City (or special district) rule making, land use planning issues, jurisdictional powers and immunities, and other troublesome issues that arise when one municipal corporation (with very limited powers to do so) tries to operate in another jurisdiction. Of course, such barriers are usually not a problem for investor-owned utilities so the consolidation approach can work more smoothly with them.

The City has in the past and will continue to cooperate with the State and adjacent governmental agencies in the effort to supply water to PMWC and Soultz. The City is in agreement with the State that to the extent that interpretation of SB 88 includes physical connection and wholesaling of water as final remedy to consolidation of the County or PMWC water systems with City's system, we will then assure every effort on the City's part to continue negotiations and development of a water system physical extension consistent with the State's request to meet their needs.

The City proposes to meet compliance with SB88 notices by connecting Matheny and Soultz Tracts (once the needed capacity issues and costs have been guaranteed by DFA) through a physical connection and provide water to the residents on wholesale basis

As identified above, the other reason for the litigation against PMWC and MTC is the fact that City has no jurisdiction in the County to act as a municipal water provider. City employees cannot come into County and read meters, collect accounts, shut off water supply etc. Without that ability and legal protection, City loses the immunities provided to municipal employees in exercise of their duties. This is one of the reasons that City believes the contract is not valid or enforceable as written and that SB 88 cannot mandate extraterritorial jurisdictional consolidation that would require exercise of essential city police powers outside City limits. City's General Plan, recently approved by the Council, does not provide for planned expansion into the south west area which would include Matheny Tract. Annexation is not an option for the City and the newly adopted law should not, and cannot, be interpreted to allow the State to force a municipality (and County residents) to be annexed into city limits. Absent annexation, or an agreement with the County, the jurisdictional issues identified above preclude inclusion of County residents of a subdivision, as individual City customers.

It appears that existing law allowing physical extension to satisfy SB 88 requirements, is tailor-made for such an approach with regard to municipal water systems. The law also provides for the possibility of subsequent future full consolidation if the lands are annexed into the City. So, for example, while Soult's Tract is within expansion plans, Matheny Tract is not presently in the General Plan as an area of expected growth for the City. It could be expected that the Soult's Tract will be consolidated fully upon annexation whereas the extension of services to Matheny Tract may remain as a wholesale arrangement unless and until the City's growth plans were to change and that area become annexed.

Again, the City would support the State's intervention into the current litigation to accelerate the process. Such an approach as offered by the City above, avoids the jurisdictional issues, provides the City with assuredness in connection with the ultimate capacity improvement (City is doing a rate study for increases to increase capacity, but that is subject to Proposition 218 uncertainties and the needed cash needed will not be received until the new rates are effect for several years.

City would propose the same extension of service for Soult's Tract, with a potential initial time limit of several years to see if annexation of that area is a feasible final solution. City at one point in time was delivering water to that tract on a wholesale basis. The delivery was halted by Soult's due to the high water consumption by its residents, which exceeded their ability to pay for that water. With meters that issue can be better controlled.

Please let me know how State Board wishes to address this proposal. Assuming a commitment from DFA to finance the necessary improvements, as outlined above and subject to a final approval by the Board of Public Utilities and City Council, City is ready to initiate a voluntary physical connection with Matheny and Soult's Tracts and provide water on wholesale basis. We look forward to your response.

Sincerely,



Don Dorman  
City Manager

**STRINGHAM & STRINGHAM**

A PROFESSIONAL LAW CORPORATION  
756 EAST TULARE AVENUE  
PO BOX 1336  
TULARE, CA 93275  
TELEPHONE: (559) 686-1747  
FACSIMILE: (559) 686-6712

WARD R. STRINGHAM  
ward@stringham-law.com

ZACHARY W. STRINGHAM  
zac@stringham-law.com

February 4, 2016

**VIA E-MAIL AND US MAIL**

Chad.Fischer@waterboards.ca.gov

Chad Fischer, P.E.  
Tulare District Engineer  
State Water Resources Control Board  
Division of Drinking Water  
265 W. Bullard, Suite 101  
Fresno, CA 93704



**Re: *Recall in order of consolidation to City of Tulare and  
Pratt Mutual Water Company; Status of negotiations***

Dear Mr. Fisher,

Thank you for your email prompt of February 4, wherein you requested a letter confirming the status of negotiations between Pratt Mutual Water Company and the City of Tulare.

Reference is made to the November 12, 2015 Resolution of the Board of Directors which requested that the SWRCB pursue all available means to enforce its mandate to consolidate upon the City of Tulare. Negotiations have proven to be a waste of time. This conclusion is based on the fact that Pratt Mutual recently attempted to negotiate with the City with a mediator but the City did not even have its manager attend that session and it did not entertain any proposal other than wholesaling water to Pratt Mutual. This position by the City is patently inconsistent with the concept of consolidation and a perpetuation of the position it declared in the October 5, 2015 letter referred to in said Resolution.

Pratt Mutual even offered an arrangement whereby the City would control the company, which would enable it to avoid its feigned jurisdictional issues while meeting its obligations under the terms of the agreement approved by the City Council October 19, 2010; which memorializes the fact that Pratt Mutual's water

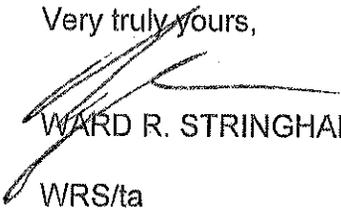
is contaminated and the City would provide potable water and system maintenance.

Attached you will find a copy of the letter received from the City's attorney on February 2, 2016. It acknowledges the City has capacity, offers to wholesale but suggests Pratt Mutual should agree that the 300+ households in the Matheny Tract will unilaterally be deprived of water if the City decides to do so in the summer. This is yet another outrageous suggestion inconsistent with consolidation or any reasonable approach to negotiation.

Perhaps the SWRCB could suggest to the City that the City accept control of the Pratt Mutual system and provide water and management as agreed upon but reserve the right to shut off the water if deemed to be necessary after it first shuts off the water to all city council members' homes and all users who's services commenced after October 18, 2010.

My client is finished with efforts to negotiate with the City of Tulare and requests the SWRCB pursue all available enforcement means to compel consolidation and performance by the City under the Agreement.

Very truly yours,



WARD R. STRINGHAM

WRS/ta

Cc: client  
Ashley Werner, Leadership Council for Matheny Tract, via E-mail  
Martin Koczanowicz, attorney for City of Tulare, via fax