CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board
Division of Drinking Water

October 17, 2014

PWS No. 0900300

Certified Mail Return/Receipt
No. 7009 2250 0004 3622 0048

James Slaight
Kyburz Mutual Water System
P.O. Box 33
Kyburz, CA 95720

KYBURZ MUTUAL WATER SYSTEM, PUBLIC WATER SYSTEM (PWS No. 0900300)
COMPLIANCE ORDER No. 01_09_14R_003

James Slaight:

Enclosed is a copy of the Division of Drinking Water Compliance Order No. 01_09_14R_003 issued to the Kyburz Mutual Water System public water system (PWS# 0900300). Please note there are certain deadlines associated with this Compliance Order.

The State Water Resources Control Board (Water Board), Division of Drinking Water is issuing the Kyburz Mutual Water System public water system a compliance order for violation of section 116555 of the California Health and Safety Code. Section 116555 requires each public water system to have a reliable supply of water to serve its customers. Because of drought conditions and senior water right demands, the Water Board's Division of Water Rights determined that water was not available for the Kyburz Mutual Water System's diversion of the South Fork of the American River source, and notified the Kyburz Mutual Water System of the need to curtail its diversions. For this reason, the Division of Drinking Water has made the determination that the Kyburz Mutual Water System is not able to meet the requirements of Section 116555. The compliance order contains eight directives.

This order does not require you to cease using the source that has been curtailed to provide for the basic health and safety needs of your customers, but does require that you take specific steps in the interim to prevent new service connections and to secure a reliable long-term supply of water. Successful implementation of the directives contained in the order will ensure compliance with

California Safe Drinking Water Act as well as the State's water rights system. Please read the order carefully and contact me if you have any questions.

If you have any questions, please feel free to contact me at (916) 445-5285 or via email at Ali.rezvani@Waterboards.ca.gov.

Sincerely,

Ali R. Rezvani, P.E.
Sacramento District Engineer
Division of Drinking Water

Enclosure: Compliance Order No. 01_09_14R_003

cc: Cindy ~~Forbs~~ Forbes, P.E., Chief
Division of Drinking Water

Karen Larsen
Assistant Chief
Division of Drinking Water

Richard L. Hinrichs, P.E., Chief
Northern California Section

Bruce Berger
Associate Sanitary Engineer

Tom Burnette, P.E.
Deputy Director/Building Official
El Dorado County Building Department
2850 Fairlane Court, Building "C"
Placerville, CA 95667

Karen Bender
El Dorado County LPA
3368 Lake Tahoe Blvd., Suite 303.
South Lake Tahoe, CA 96150

Bruce DeBerry
California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102

STATE OF CALIFORNIA

WATER RESOURCES CONTROL BOARD

DIVISION OF DRINKING WATER

TO: KYBURZ MUTUAL WATER SYSTEM

Attn: JAMES SLAIGHT

P.O. BOX 33

KYBURZ, CA 95720

COMPLIANCE ORDER NO. 01_09_14R_003

FOR

VIOLATION OF CALIFORNIA HEALTH AND SAFETY CODE SECTION 116555(a)(3)

KYBURZ MUTUAL WATER SYSTEM

0900300

Issued on October 17, 2014

Section 116655 of the California Health and Safety Code (hereinafter "CHSC") authorizes the issuance of a compliance order to a public water system for violations or threatened violations of the California Safe Drinking Water Act (CHSC, Division 104, Part 12, Chapter 4, (commencing with

Section 116270)) (hereinafter "California SDWA"), or any permit, regulation, or standard issued or adopted thereunder.

The State Water Resources Control Board (hereinafter "Board"), acting by and through its Division of Drinking Water (hereinafter "Division") and the Deputy Director for the Division (hereinafter "Deputy Director"), hereby issues a compliance order (hereinafter "Order") to KYBURZ MUTUAL WATER SYSTEM (hereinafter "the System"), for failure to comply with CHSC Section 116555 (a)(3).

A copy of the applicable statutes and regulations is included in Appendix 1, which is attached hereto and incorporated herein by this reference.

STATEMENT OF FACTS

The System is a community public water system serving a population of approximately 250 through 120 service connections.

On May 27 and 29, 2014, the Board issued curtailment notices to certain junior water right holders in the Sacramento River and San Joaquin River watersheds. By means of the curtailment notice, the System was notified "of

the need to immediately stop diverting under the System's post-1914 water rights...."

The Sacramento River and San Joaquin River watersheds / Stream North of Highway 50 is an approved source of supply for the System. Based on the Board's water production and consumption records for the System, the Board has determined that without the use of the curtailed Sacramento River and San Joaquin River watersheds / Stream North of Highway 50 water right, the System is not able to provide an adequate and reliable supply of water to its customers for human health and safety uses.

In response to extreme drought conditions in California, the Board adopted CCR, Title 23, Sections 863, 864, and 865 as an emergency regulation (hereinafter "Conservation Regulation"). The Conservation Regulation is intended to ensure that water agencies, their customers, and state residents increase water conservation, primarily through reduction of outdoor urban water use.

DETERMINATIONS

The Division has determined that the System does not provide a reliable and adequate supply of pure, wholesome, healthful, and potable water, in that

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the System does not have legal access to sufficient water to support its customers' basic human health and safety needs. The System therefore has violated, and continues to violate, CHSC Section 116555 (a)(3).

DIRECTIVES

The System is hereby directed to take the following actions:

1. Effective immediately upon its receipt of this Order, the System shall not make any additional service connections to its water system, including any such service connections for which a "will serve" letter was issued at any time by the System, but for which a building permit was not issued prior to the date of this Order. As used in this Order, "will serve" letter means any form of notice, representation or agreement that the System will supply water to a property, parcel or structure.

2. By **November 3, 2014,** the System shall identify any and all properties for which "will serve" letters have been issued, but a service connection has not been made.

3. By **November 17, 2014,** the System shall advise the owner(s) of those properties and all appropriate local planning agencies that the "will serve"

letter issued for such property is null and void and may not be relied upon for any purpose.

4. By **November 17, 2014,** the System shall provide to the Division the following documents:

   a) copies of all "will serve" letters issued by the System at any time for which a service connection has not been made, including the address or parcel number of the respective property;

   b) a list of the property owners and applicable planning agencies it notified that its "will serve" letters are null and void along with a certification that the required notification was completed by the System; and

   c) a current list of all service connections, including the address of each.

5. By **November 17, 2014,** the System shall provide to the Division, for its review and approval, a plan for complying with the Conservation Regulation – in particular, the *Mandatory Actions for Water Suppliers* specified in Title 23, CCR, Section 865 – including a schedule for implementation of said plan. The System shall comply with the schedule in the approved plan. A copy of the applicable regulation section is included in Appendix 1.

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6. By **March 17, 2015,** the System shall provide to the Division, for its review and approval, a Source Capacity Planning Study pursuant to Title 22, CCR, Section 64558. The Study shall be prepared by a Civil Engineer, registered in the State of California, or another qualified person approved by the Division. The Study shall include a plan for meeting the *projected system demand* identified in the approved Source Capacity Planning Study, including a schedule for implementation of said plan. The System shall comply with the schedule in the approved plan.

7. By the last day of March, June, September, and December of each calendar year following the Division's approval of the plan for meeting the *projected system demand,* the System shall provide progress reports to the Division regarding compliance with said plan. The System shall continue submitting these reports until the plan for meeting the *projected system demand* is fully implemented, or until the Division issues written approval to cease submitting them.

8. If any of the customers served by the System have unmetered service connections or the System does not employ a water rate structure based on metered water usage, the System shall do all of the following:

   a) By **November 17, 2014,** the System shall provide to the Division, for its review and approval, an inventory of service connections without water meters and a plan and schedule for the installation of water

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meters at the unmetered service connections, including a schedule for implementation of said plan. The schedule shall specify a timeframe of no more than 24 months for the installation of water meters at all service connections and, if applicable, adoption and implementation of a water rate structure based on metered water usage. The System shall comply with the schedule in the approved plan.

b) By **March 17, 2015,** the System shall provide to the Division a progress report detailing steps that have been taken to install water meters at all unmetered service connections and to adopt and implement a water rate structure based on metered water usage.

c) By the last day of March, June, September, and December of each calendar year following the initial progress report, the System shall provide to the Division a progress report detailing the steps that have been taken to install water meters at all unmetered service connections and to adopt and implement a water rate structure based on metered water usage.

The Division reserves the right to make such modifications to this Order as it may deem necessary to protect public health and safety. Such modifications may be issued as amendments to this Order and shall be deemed effective upon issuance.

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Nothing in this Order relieves the System of its obligation to meet the requirements of the California SDWA, or any regulation, permit, standard or order issued or adopted thereunder.

All submittals required by this Order shall be submitted to the Division at the following address:

Ali R. Rezvani P.E.

Sacramento District Engineer

State Water Resources Control Board

Division of Drinking Water

1616 Capitol Avenue

P.O. Box 997377, MS 7407

Sacramento, CA, CA 95899-7377

PARTIES BOUND

This Order shall apply to and be binding upon the System, its owners, shareholders, officers, directors, agents, employees, contractors, successors, and assignees.

SEVERABILITY

The Directives of this Order are severable, and the System shall comply with each and every provision thereof, notwithstanding the effectiveness of any provision.

FURTHER ENFORCEMENT ACTION

The California SDWA authorizes the Board to: issue a citation with assessment of administrative penalties to a public water system for violation or continued violation of the requirements of the California SDWA or any regulation, permit, standard, citation, or order issued or adopted thereunder including, but not limited to, failure to correct a violation identified in a citation or compliance order. The California SDWA also authorizes the Board to take action to suspend or revoke a permit that has been issued to a public water system if the public water system has violated applicable law or regulations or has failed to comply with an order of the Board; and to petition the superior court to take various enforcement measures against a public water system that has failed to comply with an order of the Board. The Board does not waive any further enforcement action by issuance of this compliance order.

Richard L. Hinrichs, P.E., Chief
Northern California Section
State Water Resources Control Board
Division of Drinking Water

10/17/2014
Date

Appendix: Applicable Authorities

Certified Mail No. 7009 2250 0004 3622 0048

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APPENDIX 1. APPLICABLE STATUTES AND REGULATIONS FOR COMPLIANCE ORDER NO. 01_09_14R_003

NOTE: The following language is provided for the convenience of the recipient, and cannot be relied upon as the State of California's representation of the law. The published codes are the only official representation of the law. Regulations related to drinking water are in Titles 22 and 17 of the California Code of Regulations. Statutes related to drinking water are in the Health & Safety Code, the Water Code, and other codes.

Section 116275(s) of the Health and Safety Code states in relevant part:

(s) "Service connection" means the point of connection between the customer's piping or constructed conveyance, and the water system's meter, service pipe, or constructed conveyance.

Section 116555 of the Health and Safety Code states in relevant part:

(a) Any person who owns a public water system shall ensure that the system does all of the following:

(1) Complies with primary and secondary drinking water standards.

(2) Will not be subject to backflow under normal operating conditions.

(3) Provides a reliable and adequate supply of pure, wholesome, healthful, and potable water.

Section 116655 of the Health and Safety Code states in relevant part:

(a) Whenever the department determines that any person has violated or is violating this chapter, or any permit, regulation, or standard issued or adopted pursuant to this chapter, the director may issue an order doing any of the following:

(1) Directing compliance forthwith.

(2) Directing compliance in accordance with a time schedule set by the department.

(3) Directing that appropriate preventive action be taken in the case of a threatened violation.

(b) An order issued pursuant to this section may include, but shall not be limited to, any or all of the following requirements:

(1) That the existing plant, works, or system be repaired, altered, or added to.

(2) That purification or treatment works be installed.

(3) That the source of the water supply be changed.

(4) That no additional service connection be made to the system.

(5) That the water supply, the plant, or the system be monitored.

(6) That a report on the condition and operation of the plant, works, system, or water supply be submitted to the department.

Title 22, CCR, Section 64558 states in relevant part:

(a) If directed by the Department to do so based on its determination that there is an existing or potential problem with the system's source capacity or a proposed expansion pursuant to section 64556(a)(5), a water system shall submit a Source Capacity Planning Study (Study) containing the following information:

(1) The anticipated growth of the water system over a projected period of at least ten years in terms of the population and number and type of residential, commercial, and industrial service connections to be served by the water system.

(2) Estimates of the amount of water needed to meet the total annual demand and the MDD over the projected ten-year growth period (projected system demand). Methods, assumptions, and calculations used to estimate the projected system demand shall be included.

(3) A map and description of the entire existing and proposed service area, showing:

(A) The location of each water source, including wells that are abandoned, out-of-service, destroyed, standby, or inactive;

1. Any valid water rights owned by the system for surface water sources, including information on any limitations or restrictions of those rights;

2. For a groundwater aquifer, the groundwater levels and drawdown patterns;

3. Permits or approvals for groundwater extraction if pumping from an adjudicated groundwater basin;

4. Existing and planned source pumping capability and distribution storage capacity for the system as a whole and for each pressure zone;

5. The calculated sustained well yields of existing wells if groundwater sources are used;

6. Permits, if required, for any waters proposed for use to offset potable water demand; and

7. A Source Water Assessment for each potable water source.

(B) Distribution system piping, pressure zones, hydropneumatic tanks, and reservoirs;

(C) Valves, sample taps, flow meters, unmetered service connections, and other system appurtenances;

(D) Conveyance facilities;

(E) Any flood plains in the projected service area; and

(F) The 100 year flood or highest recorded flood level, whichever is higher.

(b) If directed by the Department to do so based on its determination that a study is out of date, a water system shall update and submit the Study to the Department.

(c) Water systems that have submitted an Urban Water Management Plan to the Department of Water Resources pursuant to Water Code Part 2.6 commencing with section 10610, may submit a copy of that report in lieu of some or all of the requirements of subsection (a) to the extent such information is included in the plan.

Title 23, CCR, Section 865 states in relevant part:

Mandatory Actions by Water Suppliers.

(a) The term "urban water supplier," when used in this section, refers to a supplier that meets the definition set forth in Water Code section 10617, except it does not refer to suppliers when they are functioning solely in a wholesale capacity, but does apply to suppliers when they are functioning in a retail capacity.

(b)(1) To promote water conservation, each urban water supplier shall implement all requirements and actions of the stage of its water shortage contingency plan that imposes mandatory restrictions on outdoor irrigation of ornamental landscapes or turf with potable water.

(2) As an alternative to subdivision (b)(1), an urban water supplier may submit a request to the Executive Director for approval of an alternate plan that includes allocation-based rate structures that satisfies the requirements of chapter 3.4 (commencing with section 370) of division 1 of the Water Code, and the Executive Director may approve such an alternate plan upon determining that the rate structure, in conjunction with other measures, achieves a level of conservation that

would be superior to that achieved by implementing limitations on outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week.

(c) To promote water conservation, each urban water supplier that does not have a water shortage contingency plan or has been notified by the Department of Water Resources that its water shortage contingency plan does not meet the requirements of Water Code section 10632 shall, within thirty (30) days, limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week or shall implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

(d) In furtherance of the promotion of water conservation each urban water supplier shall prepare and submit to the State Water Resources Control Board by the 15th of each month a monitoring report on forms provided by the Board. The monitoring report shall include the amount of potable water the urban water supplier produced, including water provided by a wholesaler, in the preceding calendar month and shall compare that amount to the amount produced in the same calendar month in 2013. Beginning October 15, 2014, the monitoring report shall also estimate the gallons of water per person per day used by the residential customers it serves. In its initial monitoring report, each urban water supplier shall state the number of persons it serves.

(e) To promote water conservation, each distributor of a public water supply, as defined in Water Code section 350, that is not an urban water supplier shall, within thirty (30) days, take one or more of the following actions:

(1) Limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week; or

(2) Implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.