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CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

PUBLIC HEARING

In the Matter of:)
)
)
 Proposed Rulemaking to Title 22)
 Social Security Division 4,)
 Environmental Health Chapter 15)
 (Domestic Water quality & Monitoring)
 _____)
 _____)

PUBLIC HEARING ON
 PROPOSED RULEMAKING TO TITLE 22
 SOCIAL SECURITY DIVISION 4, ENVIRONMENTAL HEALTH
 CHAPTER 15 (DOMESTIC WATER QUALITY & MONITORING)

CALIFORNIA STATE WATER RESOURCES

JOE SERNA JR.-CALEPA BUILDING

BYRON SHER AUDITORIUM

1001 I STREET

SACRAMENTO, CALIFORNIA

MONDAY, NOVEMBER 27, 2017

9:35 A.M.

Reported By: Peter Perry

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APPEARANCES

WRCB Staff:

Mark Bartson, Chief, Technical Operations Section
Melissa Hall, Senior Waste Resource Control Engineer
Kim Niemeyer, Legal Counsel

Public Comments:

Michael Garabedian, Friends of the North Fork of the American River

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1 P R O C E E D I N G S

2 November 27, 2017

9:35 a.m.

3 MR. BARTSON: Okay. It's time to get started
4 everybody. Thank you for being here with us and those of
5 you listening online, we thank you as well. I have a few
6 housekeeping arrangements to go over in just a minute.

7 My name is Mark Bartson, I'm the chief of the
8 technical operation section and I am conducting this
9 hearing pursuant to the Administrative Procedures Act, a
10 public hearing to receive comments on proposed regulations
11 on point of use and point of entry water treatment devices.

12 So first a few housekeeping announcements to go
13 over. The restrooms are located out the doors at the back
14 of the room, go to the left. Drinking fountains are
15 located in that area as well. Food services available in
16 this building on the first floor. There are recycling
17 containers both in this room and out in the lobby.

18 Please look around now and identify the two exits
19 closest to you. In some cases the exit may be behind you.
20 In the event of a fire alarm, we are required to evacuate
21 the room. Please take your valuables with you and do not
22 use the elevators. While staff will try to assist you to
23 the nearest exit, you should also know that you may find an
24 exit door by following the exit signs above the doors.
25 Evacuees will exit down the stairways and possibly be

1 directed to a relocation site across the street. If you
2 cannot use the stairs, you'll be directed to a protective
3 vestibule inside a stairwell. Should we have to relocate
4 out of our building, please obey all traffic signals and
5 exercise caution when crossing the street.

6 So anyone wishing to speak today should fill out
7 a blue card and provide it to David Pimentel and you'll
8 have an opportunity to speak.

9 So the purpose of this public hearing today, the
10 Division of Drinking Water has proposed permanent point of
11 entry, point of use, and point of entry water treatment
12 device regulations establishing criteria for public water
13 systems to use point of use or point of entry water
14 treatment devices in lieu of centralized treatment to
15 comply with the primary drinking water standard.

16 The purpose of today's public hearing is to
17 receive public comments regarding the proposed regulations.
18 Today's workshop will begin with the presentation by
19 Drinking Water staff consisting of background information
20 and a brief overview of the regulations. Following the
21 presentation, we will begin receiving your public comments.
22 Please understand that today's public hearing is an
23 opportunity for you, the public, to provide comments on the
24 regulations at a public hearing. If you do not wish to
25 provide your comments orally, you may also submit written

1 comments today. Or if you have not already, you may submit
2 your written comments following the instructions provided
3 in the October 13th notice of proposed rulemaking.

4 The purpose of this hearing is for the public to
5 provide comments, not for the State Water Board to provide
6 responses, although we may do so. Regardless, the State
7 Water Board will respond to all of your comments and
8 subsequent regulation documents will be made available to
9 the public as part of the record. The State Water Board
10 will not be taking any action on the proposed regulations
11 today. The adoption of the regulations by the State Water
12 Board is currently anticipated to occur on December 19th,
13 2017. That may vary depending on whether the comments lead
14 to revisions to the proposed regulations. If revisions are
15 made, the public will be provided an opportunity to comment
16 on the revisions.

17 For those watching through the webcast, staff
18 have included information regarding Internet available
19 documents in the presentation. If you would like to submit
20 comments regarding the proposed regulations, they must be
21 submitted to the board clerk no later than 12 noon on
22 Thursday, November 30th, this coming Thursday. Oral
23 comments provided during public hearing will be recorded by
24 a court reporter and include in the final documents.

25 So now I will turn the presentation over to

1 Melissa Hall, senior engineer for the Division of Drinking
2 Water's Regulatory Development Unit.

3 Thanks, Melissa.

4 MS. HALL: Good morning. As Mark stated, the
5 purpose of this hearing is to give you an opportunity to
6 provide oral comments on the proposed permanent regulations
7 for point of use and point of entry water treatment
8 devices.

9 We'll start with the staff presentations, review
10 the intent and key requirements of the regulations, and to
11 highlight changes and modifications made from the current
12 emergency regulations to the proposed permanent
13 regulations. Then we'll take a brief break to allow the
14 first speaker to make their way to the tables at the front
15 of the room so we can hear your comments.

16 For background, when a drinking water source
17 needs treatment, a public water system typically provides
18 the treatment at the source and all the water throughout
19 the distribution system meets drinking water standards.
20 This is referred to as centralized treatment and is what
21 we'd like to see for all water systems.

22 For some small water systems, however,
23 centralized treatment may not be immediately economically
24 feasible. So in place of centralized treatment, the
25 proposed regulations allow certain eligible public water

1 systems the option of using point of use or point of entry
2 devices to comply with the standards. A point of use, or
3 POU, device treats the water at a single tap. For example,
4 the faucet at a kitchen sink. Only the water from that tap
5 will be treated to comply with drinking water standards.

6 A point of entry, or POE, device treats the water
7 entering the customer's home or building. The drinking
8 water throughout the home is treated but the service line
9 to the home and the water in the public water system's
10 distribution system is not.

11 In October 2015, Assembly Bill 434 admitted
12 California's Health and Safety Code, Sections 116380 and
13 116552. These amendments required the State Water
14 Resources Control Board to adopt both emergency and
15 permanent regulations for the use of point of entry and
16 point of use water treatment devices in lieu of centralized
17 treatment and limited permanent issuance for the use of
18 these devices to three years or until funding for
19 centralized treatment is available, whichever comes first.
20 Prior to this unlike permits for point of use devices,
21 permits allowing the use of point of entry devices were not
22 restricted in duration.

23 The California Department of Public Health
24 originally adopted emergency regulations for point of use
25 devices in 2010 and for point of entry devices in 2011.

1 Those emergency regulations expired on January 1st, 2014.
2 From 2014 through the first few months of 2016, although
3 the underlining statute was in place, no regulations were
4 in effect. On April 1st, 2016, the current emergency
5 regulations took effect. They'll remain in effect through
6 the end of the year or the early -- or the effective date
7 of the proposed permanent regulations, whichever is
8 earliest.

9 In addition to satisfying statutory requirements,
10 the purpose and benefits of developing regulations
11 governing the use, the point of use, and point of entry
12 water treatment devices include providing flexibility and
13 how water systems can achieve compliance with regulations
14 which is when it's otherwise economically and feasible and
15 providing the detailed criteria and framework needed to
16 assure that point of use and point of entry devices are
17 utilized and in an effective, consistent, lawful, and safe
18 manner that's protective of public health.

19 Now to go over where we are in the regulations
20 development process. The emergency regulations adopted by
21 the State Water Board last year are currently in effect and
22 will be through the end of the year. In March this year,
23 Water Board staff held a series of workshops on the process
24 for adopting permanent regulations. On October 13th, a
25 notice of proposed rulemaking was published. This notice

1 started the public comment period which includes the
2 hearing today and closes at noon on Thursday, November 30th,
3 later this week. Depending on the comments received, any
4 changes provided in response to comments, an additional 15-
5 day comment period may be provided. Right now, though,
6 we're currently planning on taking this to the State Water
7 Board for adoption on December 19th.

8 Following board adoption, staff will finalize the
9 rulemaking record to submit to the Office of Administrative
10 Law for review and approval before the regulations are
11 submitted to the Secretary of State. Staff will work to
12 minimize the effects of any gap between the expiration of
13 the current emergency regulations and the effective date of
14 the new permanent regulations.

15 In preparing these regulations, we have a few
16 constraints. There are three main statutory and regulatory
17 bases for California's point of use and point of entry
18 regulations. The Federal Safe Drinking Water Act and its
19 regulations, the Health and Safety Code for California
20 Sections 116380 and 116552. Section 116380 both requires
21 the State Water Resources Control Board to adopt
22 regulations for point of use and point of entry devices and
23 limits what those regulations may include. In particular,
24 Section 116380 specifies that these devices are only to be
25 allowed instead of centralized treatment when it's

1 demonstrated that centralized treatment is not immediately
2 economically feasible for water systems with less than 200
3 service connections or the usage is not prohibited by the
4 Federal Safe Drinking Water Act and its regulations and
5 guidance and for water systems that have submitted
6 applications for funding to correct the violations the
7 devices would be used for.

8 Section 116552 added two requirements. The first
9 is that there must be no substantial community opposition,
10 and the second is that drinking water permits issued be
11 limited to not more than three years in duration or until
12 funding for centralized treatment becomes available,
13 whichever's first.

14 While the proposed permanent regulations are very
15 similar to the current emergency regulations, we are
16 proposing some changes. In the permanent regulations,
17 we're emphasizing that a proposed new community water
18 system cannot be permitted to use point of entry or point
19 of use devices to comply with drinking water standards in
20 lieu of centralized treatment. We're specifying that the
21 economic feasibility evaluation for community water systems
22 will be based on the annual median household income to
23 better account for those communities where the water users
24 and income vary considerably from season to season or for
25 month to month.

1 We're clarifying that public hearing requirements
2 do not apply to noncommunity water systems as there's no
3 impact to additional customers beyond the business or
4 school paying the water bill. There is still a requirement
5 to apply for funding to meet the conditions in the statute.

6 Finally, we're requiring that not only will a
7 water system have to submit monitoring in operations and
8 maintenance plans, we're requiring that they follow the
9 approved plans.

10 These next two slides will be a quick overview of
11 the limitations on the use of point of use and point of
12 entry devices to comply with drinking water standards. To
13 be permitted to use one of those devices, a public water
14 system must have fewer than 200 service connections, must
15 demonstrate that centralized treatment is not economically
16 feasible.

17 Point of use devices are limited to certain
18 contaminant categories. Water systems must have submitted
19 an application for funding, devices must be third-party
20 certified, and the water system must have programs or plans
21 in place to assure safe and effective use of the devices,
22 including operations and maintenance requirements, customer
23 notification in the event that a device fails to meet
24 drinking water standards, and an alternate water supply.

25 Devices must be owned, controlled, and maintained

1 by the public water system, they must be equipped with
2 mechanical warnings to ensure that customers are
3 automatically notified of operational problems.

4 For point of use devices, the water system must
5 ensure that each residential or dwelling unit has a device
6 installed in accordance with the regulations. Permits for
7 the use of these devices are limited to three years in
8 duration or until funding for centralized treatment is
9 available, whichever comes first. Two months of pilot
10 testing are required to use these as well as additional
11 monitoring.

12 To be determined to -- for economic and
13 feasibility to be determined, the estimated annual cost of
14 centralized treatment per household must be more than one
15 percent of the community's median -- community's median
16 household income and estimated annual cost of centralized
17 treatment per household plus the median annual water bill
18 for the most recent 12 months. If the community's median
19 household income is equal to or less than the statewide
20 median household income, more than 1.5 percent of the
21 median household income of the customer served or if the
22 community's median household income is greater than the
23 statewide median household income, more than 2 percent of
24 the median household income of the customer served.

25 A noncommunity water system must submit documents

1 to the State Water Board that demonstrates that centralized
2 treatment is not immediately economically feasible.

3 To use water treatment devices as a means of
4 complying with drinking water standards, water systems must
5 go through a public education and hearing process similar
6 to what we're doing right now with these proposed
7 regulations. The water system would have to conduct a
8 customer survey following a public hearing and provide
9 information for the public hearing for at least 30 days
10 prior to the hearing date. That information must include
11 why the water system is proposing to use devices instead of
12 centralized treatment, the contaminant or contaminants that
13 the device is intended to remove, access requirements for
14 maintaining the devices, anticipated increases in water
15 rates, and any supporting documents. The information must
16 be made available in a publicly accessible repository. The
17 water system would then conduct the hearing and follow up
18 with the customer survey.

19 A water system is considered to have no
20 substantial community opposition if the sum of the number
21 of nonvoting customers and the number of customers voting
22 against the use of devices is less than half of the total
23 customers and no more than 25 percent of the total number
24 of customers voted against the use of devices.

25 That concludes the staff presentation. If you're

1 looking for more details, the proposed regulations, the
2 initial statement of reasons, the complete regulatory
3 package so far are all available at the link that's shown
4 on this slide and in the notice of proposed rulemaking.
5 All of the information relied on to develop the proposed
6 regulations is available there.

7 We'll take a brief break now to allow the first
8 speaker to make his or her way to the front of the room so
9 that we can hear your comments.

10 MR. BARTSON: Thank you, Melissa.

11 And we will take a ten-minute break until 10:00
12 to see if other people show up who may be running a little
13 bit late. So I think that would be the best thing to do
14 before we open it up for public comment.

15 Do we have any blue speaker cards as yet? Would
16 you like to speak, sir? Do you mind waiting until 10
17 o'clock if we take a little break and see if other people
18 show up?

19 MR. GARABEDIAN: That's fine.

20 MR. BARTSON: Okay. Great. So we'll take a ten-
21 minute break until 10:00, and then we'll continue. Thank
22 you.

23 (Pause in proceeding at 9:50 a.m.)

24 (Proceeding resumed at 10:01 a.m.)

25 MR. BARTSON: Okay. Good morning, again, we are

1 back to begin the public comment period of our
2 Administrative Procedures Act hearing for the proposed
3 point of use, point of entry water treatment regulations,
4 the State Water Board.

5 We have one blue card, one speaker.

6 Mr. Garabedian from the Friends of the North Fork of the
7 American River.

8 Sir, if you can come down front here, we have
9 some speaker phones -- some speakers, microphone here. One
10 of these, any of these chairs here. Yeah, this one's hot.

11 So we just have one speaker today. We ask that
12 you first turn on the microphone there. And if you could
13 introduce yourself and the court reporter will be able to
14 make a note of that. And anytime you're ready, sir.

15 MR. GARABEDIAN: Good morning, Michael
16 Garabedian. Mike Garabedian, Friends of the North Fork, as
17 you mentioned, the American River Group. We work to
18 protect the scenic and natural resource -- renewable
19 natural resource including water in the -- in that
20 watershed.

21 I have some questions. Starting with I'd like to
22 receive a copy of the PowerPoint.

23 And then I'd like to know the number of these
24 service districts in the state that are less than -- less
25 than 200 customers. I just have a couple of questions

1 about the number and where they're located. And
2 specifically also which -- how many are in Placer County as
3 well as throughout the state and wonder if there's a list
4 of them in Placer County.

5 That's one category of questions. I don't know
6 if you can answer them now, if they're available now or
7 what.

8 And it'd be -- second -- or third question,
9 inquiry is who regulates them now? What the compliance is,
10 what the -- what the compliance record is in recent times.

11 Then the need for it seems apparent. Has this
12 come up as a question of compliance or I just looked -- I
13 wasn't familiar with the legislation and so I started
14 reading the -- one of the assembly committee reports about
15 it. But if there could be some indication of what the need
16 is and how this -- how this came about. You know, what the
17 problem is that it's actually solving.

18 And then another category, under -- if I
19 understand, the emergency regulations were in effect. It
20 may still be in effect regardless. As long as they're in
21 effect, how many of these -- how many of these PO, point of
22 use, I guess, projects were carried -- or how many
23 districts were involved in point of use implementation
24 under the emergency regulations?

25 MR. BARTSON: Okay.

1 MR. GARBEDIAN: The --

2 MS. NEIMEYER: So I just want to make clear
3 for -- this is Kim Neimeyer, and I'm counsel for the State
4 Water Board.

5 So this is the time that we accept comments on
6 the proposed regulations so we're not going to be answering
7 questions. You know, if you want to talk to us at another
8 time, we can talk to -- try and answer some of your
9 questions and provide you information, but at this time
10 we're just taking comments on the proposed regulations.

11 MR. GARBEDIAN: Well, that seems like a change
12 from the announcement which said this is an educational
13 effort for the public. You apparently don't want to
14 educate us at this time.

15 MS. NEIMEYER: Well, we provided -- the way the
16 Administrative Procedures Act works is that we hold a
17 public hearing to accept public comments. We had some
18 information that we provided on our website ahead of time
19 and also there was a, you know, just sort of a brief
20 presentation that Melissa provided. But this is the time
21 that we accept comments, it's not a time that we can sit
22 and answer questions for you. We can do that separately,
23 but this is for the record just comments on those proposed
24 regulations.

25 MR. GARBEDIAN: Thank you.

1 MR. BARTSON: So for purposes of this hearing,
2 then, we can take these questions and get back to him
3 separately to the extent they're questions and not
4 comments.

5 MR. GARBEDIAN: Okay. Thank you.

6 So the -- it would be good to know if there are
7 devices now that are certified by the state or anyone that
8 would be point of use devices, and the cost of installing
9 them per house or however they're installed, you know, for
10 the district service in question.

11 And then -- let's see. The question is, which is
12 dealt with to some extent in the papers, what -- what of
13 the California, I think there were 35 or so more than
14 federal MCLs, something to that effect, if I don't may have
15 the description quite right. I wonder how many of those
16 are not generally covered by these devices, if that's the
17 case. And what -- so that's a general question about what
18 is not covered. What kinds of contaminants would not be
19 covered by these devices?

20 It would seem that, a comment would be that it
21 would seem that this is not a prefer -- obviously not a
22 preferred way to treat the water. I assume it would not
23 treat a lot of things, like say antibiotic resistant
24 bacteria or something like that, a lot of pathogens might
25 not be treated. And so it would be good to know what

1 information's available and what's treated and not treated.

2 And then a key question is -- a separate category
3 is -- I assume there's state money available for these
4 systems to -- and I'm wondering how much has been available
5 the recent couple of years, how many have applied for it
6 and received money to address the system treatment problem.
7 Because the key thing seems to be that -- key thing about
8 there being a financial problem taking care of the system
9 itself at point of entry -- no, I'm sorry, point of --
10 point of use, point of entry I guess is what these are.
11 But at the treatment -- treatment -- at the beginning of
12 the service process or entry into the treatment system or
13 enter into the supply system.

14 MR. BARTSON: Uh-huh.

15 MR. GARBEDIAN: It would be good to know what
16 funding is available and has been available, what steps
17 have been taken to supply the problem and that --
18 especially for when one of these permits comes in and is
19 granted, if there's money then made available and how much
20 is available.

21 Be good to get some idea of what the -- the
22 noncommunity -- the TNC, what they are, and just get some
23 general idea of what those --

24 MR. BARTSON: The noncommunity water system.

25 MR. GARBEDIAN: Yeah.

1 MR. BARTSON: So there's the transient
2 noncommunities and then the noncommunities. So we can
3 provide some further explanation of that to you on what the
4 differences are.

5 MR. GARBEDIAN: Great. And -- sorry. Pardon me.

6 MR. BARTSON: So the nontransient are typically
7 schools and places of employment where the same 25 or more
8 people are there at least six months of the year. Then the
9 noncommunity are typically a different group of people
10 there every day. Like parks and roadside rest stops. So
11 different -- some of the requirements are different in our
12 regulations overall.

13 MR. GARBEDIAN: Do they have treatment
14 requirements?

15 MR. BARTSON: There's a compliance with the
16 primary standards as spelled out that apply. They're
17 not -- the noncommunity systems have a few different -- are
18 not subject to a few of the requirements but in general,
19 the regulations spell out for the different classes of
20 system which primary standards apply and how the monitoring
21 is set up so they'll have to comply with the primary
22 standards.

23 MR. GARBEDIAN: And then I think the final
24 question is, what exactly is not covered by this? I mean,
25 for instance --

1 MR. BARTSON: Well --

2 MR. GARBEDIAN: -- individual well or
3 individual --

4 MR. BARTSON: Well, this applies to public water
5 systems, community nontransit and noncommunity and
6 noncommunity. So it's specifically for the public water
7 systems, not -- this is not -- these do not address any
8 individual supplies and how someone might to choose their
9 water on their own individual well. So that's outside of
10 this.

11 MR. GARBEDIAN: And so the comment, the written
12 comment period, I hope there's a chance to understand some
13 of these things before that deadline.

14 MR. BARTSON: Well, I think we can certainly give
15 you feedback on a lot of your questions and so I don't know
16 if we'll -- we won't necessarily have those answers to you
17 before then, but we, you know, we definitely can clarify
18 the things that you're asking about and there was a lot of
19 good questions in there, some of them on context and so on.
20 So we can help you with that. Not necessarily comments,
21 but questions you have. So we won't have those probably by
22 Thursday. The close of comments is Thursday, this Thursday
23 at noon, but we can certainly talk to you about some of
24 your questions after the meeting today.

25 MR. GARBEDIAN: Okay. And I'll be sure to give

1 somebody my phone number.

2 MR. BARTSON: Okay.

3 MR. GARBEDIAN: But also -- I'm available now if
4 people have time to answer during -- I guess this was
5 scheduled potentially till noon. So --

6 MR. BARTSON: Right. It's not our -- during this
7 hearing, we're not necessarily going to, you know, answer
8 different questions in the public forum. A lot of -- a lot
9 of yours we can talk to you separately after the meeting.

10 MR. GARBEDIAN: Okay.

11 MR. BARTSON: If that's helpful.

12 MR. GARBEDIAN: Well, thank you, that would be
13 helpful.

14 MR. BARTSON: Okay.

15 MR. GARBEDIAN: And the deadline is Thursday at?

16 MR. BARTSON: At noon, yes.

17 MR. GARBEDIAN: Okay. Thank you.

18 MR. BARTSON: Thank you.

19 So anybody else here? So we do not have any
20 additional speaker cards or folks who want to speak so we
21 will call an end to this Administrative Procedure Act
22 public hearing on the point of use, point of entry
23 regulations.

24 And thank you, sir, and all those of -- all of
25 you who listened online. And thank you very much.

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And that's the end of the hearing today. Thanks.

(Whereupon, at 10:22 a.m., the
public hearing was adjourned)

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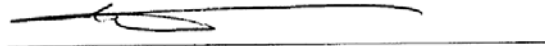
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REPORTER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of December, 2017.



PETER PETTY
CER**D-493
Notary Public

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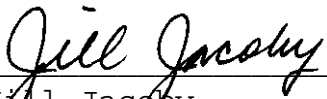
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2**TRANSCRIBER'S CERTIFICATE**

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of December 2017.



Jill Jacoby
Certified Transcriber
AAERT No. CER CET 633