



# Fact Sheet

## **Frequently Asked Questions on Mandatory Consolidation or Extension of Service for Water Systems**

### **Why are water systems encouraged to consolidate?**

The State Water Resources Control Board is committed to ensuring all Californians have access to safe, clean, and affordable water for human consumption. Achieving this goal can be particularly challenging for small and disadvantaged communities that lack the resources to fund basic capital costs, let alone the ongoing costs of maintenance, energy, treatment and personnel needed to operate what are sometimes very complex systems.

Consolidating public water systems and extending service from existing public water systems to communities and areas which currently rely on under-performing or failing small water systems, as well as private wells, reduces costs and improves reliability.

Water provided by public water systems is subject to regulation by the United States Environmental Protection Agency (USEPA) and the State of California. Requirements include regular monitoring and testing for contaminants. Consolidating or extending service from a public water system to a community otherwise served by unreliable systems or unregulated private wells advances the goal of a reliable, accessible supply of safe drinking water for all California residents.

The authority to regulate public water systems under the state and federal Safe Drinking Water Acts (the Division of Drinking Water program) was transferred from the State Department of Public Health to the State Water Board July 1, 2014. Historically, the Division of Drinking Water asked public water systems to voluntarily consolidate when appropriate. To date, a number of systems have voluntarily consolidated, and many of these projects were funded by the Drinking Water State Revolving Fund Program, or the proceeds from the sale of state bonds (Proposition 84).

However, there remain many systems which could benefit by consolidation and extension of service. The situation has been exacerbated by the current severe drought and the water emergencies that a number of disadvantaged communities and small water systems are facing throughout the state.



## **Why is mandatory consolidation being implemented now?**

On June 24, 2015, Governor Edmund G. Brown Jr. signed [Senate Bill 88](#) (Statutes 2015, Chapter 27), authorizing the State Water Board to require systems that consistently fail to meet standards to consolidate with, or obtain service from, a public water system. Senate Bill 88 is crafted to expedite permanent solutions for failing water systems and those that have run out of water due to the drought.

Roughly 2 percent of public water systems do not reliably deliver drinking water that meets all state and federal drinking water standards. Through [consolidation and extension of service](#) the number of systems relying on contaminated water sources, unreliable or inadequate sources of supply, or having no water at all will be reduced or eliminated.

## **How does the State Water Board approach consolidations?**

Public water systems experiencing chronic water quality failures or unreliable supplies are first provided technical assistance to analyze the problem and recommend a course of action.

Enforcement may also be necessary to achieve compliance with Safe Drinking Water Act requirements. Lacking progress, the State Water Board may initiate discussions with the system and neighboring/adjacent public water systems regarding consolidation. These discussions will examine many factors such as:

- the capacity of a neighboring system to supply water to the affected community;
- the geographical separation of the two systems;
- the cost of required infrastructure improvements;
- the costs and benefits to both systems; and
- access to financing for the consolidated entity.

Consolidation may involve the actual physical consolidation of the participating water systems (physical consolidation), just the management of the participating water system (managerial consolidation), or both. If voluntary consolidation cannot be negotiated in a reasonable time period, the State Water Board may commence proceedings for direct mandatory consolidation or a mandatory extension of service pursuant to Health & Safety Code section 116682. In this case, consolidation letters will be sent to the consistently failing water system (subsumed system) and to the receiving system notifying them that they have six months to develop a plan for voluntarily consolidation.

A similar approach is taken when a residential area, not served by a public water system, is identified as a potential candidate for receiving an extension of service from an existing public water system.

## **What happens if systems do not consolidate after six months?**

If the two systems have not developed a plan for consolidation within six months of the letters being issued, the Board may then order the two systems to consolidate.

## **What is the process for mandatory consolidation?**

Before ordering a mandatory consolidation, the State Water Resources Control Board must find all of the following:

- The potentially subsumed system has consistently failed to provide safe drinking water;
- All reasonable efforts to negotiate consolidation or extension of service were made;
- Consolidating, or extending service, is technically and economically feasible;
- There is no pending local agency formation commission process that is likely to resolve the problem in a reasonable amount of time;
- Water rights and water contract concerns have been adequately addressed;
- Consolidating or extending service is the most efficient and cost-effective means for providing an adequate supply of safe drinking water; and
- The capacity of the proposed interconnection needed to accomplish the consolidation is limited to serving current customers of the subsumed water system.

Consultation with local and state agencies along with outreach to customers within the affected service areas must occur before ordering the consolidation or extension of service.

## **How will mandatory consolidations be paid for?**

The State Water Board will provide funding as necessary and appropriate from Proposition 1, the Drinking Water State Revolving Fund (DWSRF) and monies made available from the emergency drought relief package, for consolidation or extension of service, including infrastructure improvements.

## **How does the State Water Board enforce an order for mandatory consolidation?**

The authority for ordering mandatory consolidation is included in the California Safe Drinking Water Act and may be enforced by the State Water Board pursuant to Article 9 of the Health & Safety Code, including sections 116650 (citations) and 116655 (compliance order).

## **What liability relief is provided by Senate Bill 88?**

Senate Bill 88 added section 116684 to the Health and Safety Code, limiting the liability of water systems, wholesalers, or any other agencies that deliver water to consolidated water systems. This liability relief is available regardless of whether the consolidation occurs through the mandatory consolidation process or through a voluntary act. These new liability relief provisions will protect water systems involved in consolidations and remove a barrier that previously limited voluntary consolidations.

*(This FAQ sheet was last updated on Nov. 7, 2016)*