



Water Quality and Environmental Services
1221A S Bascom Ave, San Jose CA 95128



June 22, 2016

State Water Resources Control Board
Attention: Jeanine Townsend, Clerk to the Board
1001 I Street, 24th Floor
Sacramento, California 95814

Delivered electronically on 6/22/2016 to the Division of Administrative Services DAS-DrinkingWaterFees@waterboards.ca.gov

Re: Comment Letter – Proposed Drinking Water Fees

Dear Ms. Townsend:

San Jose Water Company (SJWC) is an investor owned utility that is regulated by the California Public Utilities Commission. SJWC serves one million consumers and its service area encompasses 139 square miles, including most of San Jose; most of Cupertino; the entire cities of Campbell, Monte Sereno, Saratoga; the Town of Los Gatos; and parts of unincorporated Santa Clara County. SJWC owns and operates three water treatment plants and over 100 wells at thirty sites within its service area.

SJWC would like to respectfully comment on key aspects of the Proposed Drinking Water Fees Regulations (Regulations) that, if unaddressed prior to the adoption of these Regulations by the State Water Resources Control Board (Board), will have significant financial impacts on SJWC's rate payers and potentially negatively affect the Division of Drinking Water's historical responsiveness to SJWC's requests for assistance and permit approvals. SJWC has worked closely with the Association of California Water Agencies (ACWA), the California Mutual Utilities Agencies (CMUA), and the California Water Association (CWA) in developing the following comments and proposed solutions to address its concerns with the Regulations:

Fully Funded Drinking Water Program

SJWC supports the Board's efforts to establish fees at a level that fully funds the Drinking Water Program, consistent with the mandate of SB 83 (2015).

Disproportional Proposed Fee Increase on Community Water Systems with more than 100,000 Service Connections

The proposed fee structure represents a disproportionate increase for Community Water Systems with more than 100,000 service connections. For SJWC, the regulatory fees are projected to increase from \$71,447 paid for the 2015 calendar year to \$441,142 annually. The \$71,447 paid for regulatory oversight in 2015 accounts for 467 hours of Drinking Water Program staff time using the billing rate of \$153/hour referenced on SJWC's April 4, 2016 Board invoice. The proposed fee of \$441,142, at the same billing rate of \$153/hour, would equate to 2,883 hours of Drinking Water Program staff time. While the 467 hours billed to SJWC represent actual time spent for the regulatory oversight of SJWC in 2015, the 2,883 hours that the proposed fees would represent at the rate of \$153/hour are disproportionate with the level of oversight that SJWC will require or receive. If the proposed fee under the Regulations were to be accounted for, assuming that the 467 hours billed are representative of the level of oversight received or required by SJWC, the new hourly billing rate under the Regulations would amount to \$945/hour. This effective proposed billing rate under the Regulations is clearly not linked to the regulatory oversight that is likely to be provided.

To address the lack of relationship between services provided and the fee structured in the Regulations, SJWC recommends that the Board adopts an alternative fee structure. This alternative, the Water Community Option, was developed by ACWA. The details of the Water Community Option fee structure are provided in the table below:

ACWA Proposed Water Community Option

| System | SWRCB Current | SWRCB Proposed | Water Community Option |
|--------|------------------------------------------------------------------|-----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| Small | 1,000 or fewer connections: \$250 or \$6/cxn, whichever is more* | 100 or fewer connections: \$200 (SDACs: \$100) | 100 or fewer connections: \$250 or \$6/cxn, whichever is more* (SDACs: \$100) |
| | | 101-1,000 connections: \$4/cxn | 101-1,000 connections: \$6/cxn (SDACs: \$2/cxn) |
| Large | 1,001+ connections: fee-for-service | 1,001+ connections: \$4/cxn for first 1,000 cxns, \$2/cxn for each cxn over 1,000 | 1,001-5,000 connections: \$6/cxn for first 1,000 cxns, \$3.5/cxn for each cxn over 1,000 (SDACs: \$2/cxn) |
| | | | 5,001-15,000 connections: \$6/cxn for first 1,000 cxns, \$3.5/cxn for next 4,000 cxns, \$2/cxn for each cxn over 5,000 |

| System | SWRCB Current | SWRCB Proposed | Water Community Option |
|--------|---------------|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | 15,000+ connections: \$6/cxn for first 1,000 cxns, \$3.5/cxn for next 4,000 cxns, \$2/cxn for next 10,000 cxns, \$1/cxn for each cxn over 15,000 |

SDAC: Severely Disadvantaged Community

cxn: Connection

* - Consistent with provisions of Health & Safety Code section 116565 in effect from 2009 through June 30, 2016

The Water Community Option will distribute the increase across the Community Water Systems in a manner that will be more commensurate with the level of regulatory oversight provided to the individual Community Systems than is provided by the Regulations.

If the Water Community Option is not adopted, SJWC recommends that the Board caps the fees levied under the Regulations at \$200,000 per Community Water System. The cap would mitigate the difference between the fees paid and the level of oversight provided to individual Community Water Systems.

Loss of Accountability

The fees should be equitably distributed the Community Water Systems regulated by the Drinking Water Program by maintaining a relationship with the level of regulatory oversight provided to the individual Community Water Systems. The Regulations, as proposed, do not have a mechanism to link the services provided by the Division of Drinking water with the services received by individual Community Water Systems or to report on the services provided. SJWC is concerned that the Regulations do not include needed language to ensure a continued accountability and transparency of the Drinking Water Program. To provide for transparency and accountability, SJWC suggests that language be included in the Regulations to require the Drinking Water Program to:

1. Continue tracking and reporting on staff time spent on each Community Water Systems.
2. Adopt and publish performance standards and tracking/reporting of key metrics.
3. Adopt and publish criteria for future fee increases.

Performance Standards

As suggested in the previous section, the Community Water Systems would benefit from having clarity on the expected level of service from the Drinking Water Program after adoption of the Regulations. The performance expectations should include specific performance targets that would include:

1. Turnaround time on processing variances and waivers.

2. Turnaround time on inspection and final permitting of completed tanks, wells, and other facilities requiring new or amended permits.
3. Number of planned sanitary surveys for each small water and large water systems.

Without published performance goals, regulatory oversight and support could decrease even while fees are increased. This potential disparity between the fees paid and the services received by individual Community Water Systems would not be equitable for the Community Water Systems and the customers they serve.

SJWC believes that the issues presented in this letter point to significant equity and accountability issues in the Regulations. Addressing the issues raised in these comments will require changes to the Regulations.

SJWC looks forward to continue working with the State Water Resources Control Board staff to ensure the development and adoption of Regulations that fully fund the Drinking Water Program in a manner that is equitable for all Community Water Systems and that provides for efficient and responsive regulatory oversight.

Respectfully,



Digitally signed by
Francois Rodigari
Date: 2016.06.22
14:46:14 -07'00'

Francois Rodigari
Director of Water Quality and Environmental Services

cc: The Honorable Felicia Marcus, SWRCB Chair
The Honorable Dorene D'Adamo, SWRCB Member
The Honorable Tam M. Doduc, SWRCB Member
The Honorable Frances Spivy-Weber, SWRCB Member
The Honorable Steven Moore, SWRCB Member
Andrew R. Gere, P.E., SJWC President and Chief Operating Officer
Palle Jensen, SJWC Senior Vice President of Regulatory Affairs
Curt Rayer, SJWC Vice President of Operations