



GREAT OAKS WATER COMPANY

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May 4, 2015

Via email to commentletters@waterboards.ca.gov

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95812-2815

RE: Comments to Proposed Emergency Regulation (April 28, 2015 Version)

Dear Ms. Townsend:

Great Oaks Water Company (Great Oaks) is an investor-owned Class A water utility located in San José, California. Please consider the following comments and suggestions with respect to the April 28, 2015 version of the Proposed Text of Emergency Regulation (Proposed Regulation) published on that date.

Public Health and Safety Concerns; Legal Concerns

The Proposed Regulation would specifically require Great Oaks and every other “Distributor of a public water supply” to “reduce its total potable water production by the percentage identified as its conservation standard”¹ by the State Water Resources Control Board (Water Board) (emphasis added) beginning June 1, 2015.² For Great Oaks, that monthly conservation standard is a reduction of 20% as compared to the corresponding month in 2013.³

Great Oaks produces its own water through a system of nineteen (19) groundwater wells. Great Oaks produces water to meet customer demand (i.e., Great Oaks does not produce water for any reason other than meeting customer demand).

¹ Proposed Regulation, Section 865, subdivisions (a) and (c)(1).

² *Id.*, Section 865, subdivision (d)(1).

³ *Id.*, Section 865, subdivision (c)(6).

Beginning June 1, 2015, in order to comply with the Proposed Regulation's mandate to reduce its monthly potable water production by 20% as compared to 2013, Great Oaks will be required to cease all water production and therefore all water service each month whenever its water production reaches the monthly limit established by the Water Board.

Aside from the obvious legal concerns, the Proposed Regulation's production limitation mandate presents enormous health and safety concerns, as the entire water system may be without water for various and varying periods of time each month if Great Oaks' customers do not reduce their water usage sufficiently. Individual customers who need water to maintain their health may be deprived of that essential need by mandatory compliance with the Water Board's Proposed Regulation. Hospitals, schools, business establishments of all kinds, and even government offices will have to close their doors if there is no water. And, of course, if there is a fire, there will be no water to put it out.⁴ Even in a time of drought, it is unthinkable and irresponsible to create such a dangerous and unhealthy situation.

In addition, should the water system be shut down for any period of time, massive amounts of water will be needed to flush the system before potable water may be safely delivered to our customers at the beginning of the next month. This all by itself would be a monumental waste of water at a time when any waste of water is unacceptable.

If Great Oaks violates the Proposed Regulation (and the California Public Utility Commission's corresponding directives at the same time), Great Oaks faces potentially severe enforcement actions from its State regulators - the Water Board and the Commission. But it is near certain that those enforcement actions would pale in comparison to the potential unlimited legal liability Great Oaks could face if it simply ceases water production upon reaching a level of 80% of its 2013 monthly production in any given month.

Great Oaks respectfully requests that the Water Board modify its Proposed Regulation to eliminate the requirement to reduce potable water production according to a specific conservation standard. Instead, the Water Board should be focusing its attention on the use of water rather than its production.

To do this, the language of Section 865(c)(1) of the proposed regulation could be changed in the following manner:

To prevent the waste and ~~unreasonable use~~ **non-essential and prohibited uses** of water and to meet the requirements of the Governor's April 1, 2015 Executive Order, each urban water supplier shall **implement a customer water-use reduction program designed to** reduce its total potable water production by the percentage identified as its conservation standard

⁴ The requirements of General Order 103-A pertaining to Continuity and Interruption of Service would appear to apply to any interruption of service required by the Proposed Resolution.

in this subdivision. Each urban water supplier's conservation standard considers its service area's relative per capital water usage.

A similar change is needed for Section 865(c)(2) so as to avoid the dangerous health, safety, and legal concerns referenced above. The words "implement a customer water-use reduction program designed to" should be inserted between the words "shall" and "reduce."

These proposed revisions appropriately focus the attention on the use of water, rather than its production, because if use is reduced, reduced production naturally follows.

A corresponding change should be made to Sections 865(d)(1) as follows:

Beginning June 1, 2015, each urban water supplier shall comply with the ~~conservation standard specified~~ requirements in subdivision (c).

Conclusion

With these requested revisions, the Proposed Regulation will not itself cause health, safety, and legal issues, but will more appropriately address the need to reduce water usage. Should you have any questions, please contact the undersigned directly.

Respectfully submitted,



Timothy S. Guster
Vice President and General Counsel
Legal and Regulatory Affairs