Information presented to the Commission during
the 10-22-15 LAFCO hearing.

Water Boards

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. It does this by extending any development costs to a larger pool of ratepayers.

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. 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?

As the number of failing water systems climbed in 2014 and 2015 due in large part to the State's continuing drought conditions, 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 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 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.

What happens if systems do not consolidate after six months?
If the two systems have not developed a plan for consolidation within six months, 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 subsumed system consistently fails 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 determined to be 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 large enough to serve additional customers.

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 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. The costs for consolidation or extension of service are largely location and situation specific and will require a study of specific infrastructure improvements for each project.

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).

(This FAQ sheet was last updated on Sept. 11, 2015)

State Water Resources Control Board
Division of Drinking Water

August 18, 2015

Board of Directors
Pratt Mutual Water Company
P. O. BOX 598
Tulare, CA 93275

Dear Board of Directors:

State Water Resources Control Board Notice Regarding Mandatory Consolidation

Effective June 24, 2015, Senate Bill 88 (Statutes 2015, Chapter 27) added Sections 116680 – 116684 to California Health & Safety Code, addressing consolidation of public water systems.

Our records indicate that the water delivered by the Pratt Mutual Water Company's public water system (System) contains arsenic at levels that exceed the maximum contaminant level established in state and federal regulations. Since approximately February 2010, the System has consistently failed to provide an adequate supply of safe drinking water. It is our understanding that the infrastructure has been built to facilitate delivery of water from the City of Tulare (City).

The State Water Resources Control Board (State Water Board) strongly encourages the System and the City to work out voluntary consolidation of their public water systems. If a voluntary consolidation is not timely achieved, the State Water Board intends to take action pursuant to Health & Safety Code section 116682, subdivision (a) for consolidation of the System with the City's public water system. Please note that as used in the applicable statutory authority, the City is hereby identified as the potentially receiving water system and the System is identified as the potentially subsumed water system.

This letter serves as official notification that, pursuant to Health & Safety Code section 116682, subdivision (b) (6), Pratt Mutual Water Company, the potentially subsumed water system, is directed to negotiate consolidation with the City, the potentially receiving water system. Pratt Mutual Water Company is further directed to complete such negotiations and report the outcome to the State Water Board Division of Drinking Water Tulare District Office not later than six (6) months following the date of this letter.

The State Water Board acknowledges that consolidation is a complex process and stands ready to assist you so that you are successful in delivering safe, affordable and accessible drinking water in a cost-effective manner. Pursuant to Health & Safety Code section 116682, subdivision (b) (6) (A), during the six month negotiation period, the State Water Board will provide technical assistance and work with the City and Pratt Mutual Water Company to develop an appropriate and necessary financing package. Technical assistance will be available from the State Water Board Division of Drinking Water (DDW) and Division of Financial Assistance (DFA).

If you have any questions regarding this matter, please contact Mr. Chad Fischer, Tulare District Engineer for the State Water Board's DDW, at (559) 447-3302, or me at (559) 447-3132. For funding related questions, please contact Ms. Deisy Rios at (916) 322-0522.

Sincerely,

Carl L. Carlucci, P.E.
Supervising Sanitary Engineer
Central California Section
SOUTHERN CALIFORNIA BRANCH
DRINKING WATER FIELD OPERATIONS

cc: Mr. David Macedo, Mayor, City of Tulare
Mr. Joseph Carlini, Public Works Director, City of Tulare
City Council, City of Tulare
Mr. Michael Spata, Director, Tulare County Resource Management Agency
Tulare County Health and Human Services Agency
Mr. Ben Giuliani, Executive Officer, Tulare LAFCo

CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board
Division of Drinking Water

August 18, 2015

Mr. Don Dorman, City Manager
City of Tulare
3981 South K Street
Tulare, CA 93274

Dear Mr. Dorman:

State Water Resources Control Board Notice Regarding Mandatory Consolidation

Effective June 24, 2015, Senate Bill 88 (Statutes 2015, Chapter 27) added Sections 116680 – 116684 to California Health & Safety Code, addressing consolidation of public water systems.

Our records indicate that the water delivered by Soults Mutual Water Company's public water system (System) contains nitrate at levels that exceed the maximum contaminant level established in state and federal regulations. Since approximately July 2010, the System has consistently failed to provide an adequate supply of safe drinking water. It is our understanding that the System's service area is outside the boundaries of City of Tulare (City) but within the City's sphere of influence. It is also our understanding that the System's service area and distribution system extends to an area approximately 100 yards from and immediately west of City's western boundary.

The State Water Resources Control Board (State Water Board) strongly encourages the Soults Mutual Water Company and the City to work out voluntary consolidation of their public water systems.

If a voluntary consolidation is not timely achieved, the State Water Board intends to take action pursuant to Health & Safety Code section 116682, subdivision (a) for consolidation of the System with the City's public water system. Please note that as used in the applicable statutory authority, the City is hereby identified as the potentially receiving water system and the System is identified as the potentially subsumed water system.

This letter serves as official notification that, pursuant to Health & Safety Code section 116682, subdivision (b) (6), the City, the potentially receiving water system, is directed to negotiate consolidation with the Soults Mutual Water Company, the potentially subsumed water system. The City is further directed to complete such negotiations and report the outcome to the State Water Board Division of Drinking Water, Tulare District Office not later than six (6) months following the date of this letter.

The State Water Board acknowledges that consolidation is a complex process and stands ready to assist you so that you are successful in delivering safe, affordable and accessible drinking water to your neighboring community in a cost-effective manner. Pursuant to Health & Safety Code section

116682, subdivision (b) (6) (A), during the six month negotiation period, the State Water Board will provide technical assistance and work with the City and Soults Mutual Water Company to develop an appropriate and necessary financing package. Technical assistance will be available from the State Water Board Division of Drinking Water (DDW) and Division of Financial Assistance (DFA).

If you have any questions regarding this matter, please contact Mr. Chad Fischer, Tulare District Engineer for the State Water Board DDW, at (559) 447-3302, or me at (559) 447-3132. For funding related questions, please contact Mr. Oscar Guerrero at (916) 445-9243.

Sincerely,

Carl L. Carlucci, P.E.
Supervising Sanitary Engineer
Central California Section
SOUTHERN CALIFORNIA BRANCH
DRINKING WATER FIELD OPERATIONS

cc: Mr. David Macedo, Mayor, City of Tulare
Mr. Joseph Carlini, Public Works Director, City of Tulare
City Council, City of Tulare
Mr. Michael Spata, Director, Tulare County Resource Management Agency
Tulare County Health and Human Services Agency
Mr. Ben Giuliani, Executive Officer, Tulare LAFCo