

PROPOSED RESOLUTION

Resolution W-5103
Water Division

AGENDA ID #14961 (Rev. 1)
Item #37

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WATER DIVISION

RESOLUTION W-5103
June 23, 2016

RESOLUTION

(RES. W-5103 –OPTION B) RESOLUTION ORDERING WATER UTILITY CONTINUED COMPLIANCE WITH MANDATORY RATIONING ORDERED IN COMMISSION RESOLUTION W-5041 ISSUED MAY 7, 2015 AS MODIFIED BY COMMISSION RESOLUTION W-5082 ISSUED FEBRUARY 11, 2016.

SUMMARY

All Class A and B utilities subject to Commission jurisdiction shall continue compliance with the mandatory rationing authority provided in Commission Resolution (Res.) W-5041 issued May 7, 2015 as modified by Res. W-5082 issued February 11, 2016. The mandatory rationing requirements ordered in this Resolution shall continue until modified by the Commission in a future resolution or decision.

All water utilities are directed to enforce and comply with the water use restrictions identified in Section 864(a) of the Drought Emergency Water Conservation Regulation. All Class C and D water utilities shall also comply with the reporting requirements included in Section 864 (g)2.

BACKGROUND

On November 13, 2015 Governor Edmund Brown Jr. issued Executive Order (EO) B-36-15 calling for an extension of urban water use restrictions until October 31, 2016, should

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drought conditions persist through January 2016. This EO also directed the State Water Resources Control Board (Water Board) to consider modifying the restrictions to incorporate insights gained from the existing restrictions. On February 2, 2016, the Water Board adopted Board Resolution No. 2016-0007 and a revised, extended Emergency Regulation to address specific provisions of EO B-36-15. The Drought Emergency Water Conservation Regulation established adjustments to reduce the conservation standards of urban water suppliers in consideration of the differences in climate affecting different parts of the state, growth experienced by urban areas, and significant investments that have been made by some suppliers towards creating new, local, drought-resilient sources of potable water supply. On May 9, 2016, Governor Edmund Brown Jr. issued EO B-37-16 recognizing the continued drought conditions that exist and the need for increasing long-term water conservation among Californians.

The Water Board issued Resolution No. 2016-0029 on May 18, 2016 in response to EO B-37-16. Resolution No. 2016-0029 extends portions of the February 2016 emergency regulation (adopted by the Commission in Res. W-5082) and establishes a process for developing locally appropriate water conservation standards in recognition of differing water supply conditions across the state. The revised Drought Emergency Water Conservation Regulation, among other things, replaces the prior percentage reduction-based water conservation standard with a locally-developed conservation standard based on each water supplier's specific circumstances. The Water Board's Resolution and adopted text of the Drought Emergency Water Conservation Regulation and accompanying Fact Sheets are available at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/emergency_mandatory_regulations.shtml

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DISCUSSION

The May 24, 2016 drought monitor for California shows that 86.39% of the state is under moderate to exceptional drought conditions. This is a marginal improvement from one year ago when 98.71% of the state was under moderate to exceptional drought conditions. An estimated state population of over 34 million residents lives in identified drought areas.

Further, recent long-range meteorological forecasts show a 70% chance of a La Nina weather pattern (cooling tropical Pacific Ocean surface water temperatures) developing in the fall and winter of 2016-2017. In the past this weather pattern has been associated with warmer and drier winter weather for California.

Given the current drought conditions and the prospects for a drier than normal weather pattern over the fall and winter of 2016-2017, it is premature to declare victory over the drought and weaken the existing conservation mandates that was ordered by the Commission for its jurisdictional Class A and B water utilities in May 2015 through Res. W-5041. Res. W-5041 ordered Class A and B water utilities to comply with Section 865 of the Drought Emergency Water Conservation Regulation requiring mandatory water reductions. The Water Board's Resolution 2016-0029 retains the mandatory reductions in Section 865 in addition to providing the self-certification supply reliability procedure in Section 864.5.

Given the continuing drought conditions throughout much of California and the negative outlook for the forthcoming rainy season, all Class A and B water utilities should maintain the existing conservation mandates ordered in Res. W-5041 as

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modified by Res. W-5082. However, if the self-certification of supply reliability procedures ordered by the Water Board in Resolution 2016-0029, and codified in Section 864.5 of the Drought Emergency Water Conservation Regulation, indicates a need for more restrictive conservation measures, then a utility should file a Tier 2 advice letter to modify its Tariff Schedule 14.1, Water Shortage Contingency Plan, accordingly.

Section 864 of the Drought Emergency Water Conservation Regulation prohibits waste and unreasonable use of water to promote water conservation, except where necessary to address immediate health and safety needs or to comply with a term or condition in a permit issued by a state or federal agency. EO B-37-16 makes the water use restrictions in Sections 864(a) permanent. Accordingly, we direct all water utilities, to enforce and comply with the water use restrictions identified in Section 864(a) of the Drought Emergency Water Conservation Regulation. All Class C and D¹ water utilities shall also comply with the reporting requirements included in Section 864 (g)².

Finally, the Commission invites bold actions by jurisdictional utilities to continue maintaining these mandatory restrictions by including provisions for, but not limited to: (1) mandatory water audits; (2) customer funded remotely read meters; (3) restriction on water use for the top residential, commercial and industrial users, particularly outliers², e.g. those with excessive water use; (4) flow restrictor requirements; (5) restrictive outdoor watering rules; and (6) limits on total water use.

¹ As define in General Order 96-B Water Industry Rules Section 1.2 Class C and D investor owned water utilities serve 501 through 2,000 and less than 500 service connections, respectively.

² Outliers include those users that are in the highest category of water users that may be masked by overall consumption from average users. Targeting these outliers could reduce overall water use.

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SAFETY

The Commission is issuing this Resolution to conserve potable water by restricting its use for outside watering and irrigation and by limiting the use of potable water for inside use to ensure that California has sufficient water supplies, including safe and adequate drinking water, during this drought to provide for the safety and welfare of its citizens.

COMMENTS

As provided by Rule 14.6 (a) of the Commission's Rules of Practice and Procedure and Public Utilities Code section 311 (g)(2), the 30-day public review and comment period has been reduced given the unforeseen emergency situation addressed by this Resolution. Comments were due Monday June 13, 2016. Comments were received from the City of Thousand Oaks, California Water Service, Regional Water Authority, California American Water, Great Oaks Water Company, and California Water Association. All of the comments received opposed the adoption of Res. W-5103 Option B for the following reasons:

- 1) Option B will undermine consistent local, regional, and statewide public outreach and hinder regional collaboration between wholesalers and their respective investor-owned utility retailers;
- 2) Option B will unreasonably and inequitably burden customers despite availability of water supply and will likely generate customer confusion about the levels of mandatory restrictions, reductions, and drought surcharges; and
- 3) Option B does not account for the state's differing water supply conditions and is therefore inconsistent with Executive Order B-37-16.

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We have considered these comments but make no changes to this Resolution given the continuing drought conditions throughout much of California and the negative outlook for the forthcoming rainy season.

FINDINGS AND CONCLUSIONS

1. On November 13, 2015 Governor Edmund Brown Jr. issued Executive Order (B-36-15) (EO) calling for an extension of urban water use restrictions until October 31, 2016, should drought conditions persist through January 2016.
2. The EO also ordered further reductions in potable water usage through February 2016. The EO directed the Commission and the State Water Resources Control Board (Water Board) to impose restrictions to achieve a statewide 25% reduction in potable water usage and to direct the suppliers and utilities to develop rate structures and other pricing mechanisms to achieve this 25% water conservation.
3. On February 2, 2016, the Water Board adopted Board Resolution No. 2016-0007 and a revised, extended Emergency Regulation to address specific provisions of EO B-36-15. The Emergency Regulation established adjustments to reduce the conservation standards of urban water suppliers in consideration of the differences in climate affecting different parts of the state, growth experienced by urban areas, and significant investments that have been made by some suppliers towards creating new, local, drought-resilient sources of potable water supply.
4. The California Public Utilities Commission adopted the provisions of Board Resolution No. 2016-0007 in Resolution W-5082 issued February 11, 2016.

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5. On May 9, 2016, Governor Edmund Brown Jr. issued EO B-37-16 recognizing that drought conditions persist in many areas of the state and the need for increasing long-term water conservation among Californians.
6. On May 18, 2016 in response to EO B-37-16 the State Water Resources Control Board issued Resolution No. 2016-0029 that adopted revisions to Drought Emergency Water Conservation Regulations.
7. The May 24, 2016 drought monitor for California shows that 86.39% of the state is under moderate to exceptional drought conditions. This is a marginal improvement from one year ago when 98.71% of the state was under moderate to exceptional drought conditions.
8. Recent long-range meteorological forecasts show a 70% chance of a La Nina weather pattern (cooling tropical Pacific Ocean surface water temperatures) developing in the fall and winter of 2016-2017. In the past this weather pattern has been associated with warmer and drier winter weather for California.
9. The State Water Resources Control Board's Resolution 2016-0029 retains the mandatory water reductions in Section 865 in addition to providing the self-certification supply reliability procedure in Section 864.5 of the Drought Emergency Water Conservation Regulation.
10. Commission Resolution W-1041 ordered Class A and B water utilities to comply with the mandatory water reductions specified in Section 865 of the Drought Emergency Water Conservation Regulation.

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11. Given the continuing drought conditions that persist throughout much of California and the prospects for below-average precipitation during 2016-2017, Class A and B water utilities should not weaken the mandatory water rationing mandated by the California Public Utilities Commission in Res. W-5041 issued May 7, 2015 as modified in Res. W-5082 issued February 11, 2016.
12. Class A and B water utilities that identify a conservation standard as required by Section 864.5 of the Drought Emergency Water Conservation Regulation that is more restrictive than the currently ordered measures adopted by Res. W-5041 should file a Tier 2 advice letter to modify the existing Tariff Schedule 14.1, Water Shortage Contingency Plan, accordingly.
13. The mandatory rationing ordered by Res. W-5041 continues to be necessary to preserve sufficient potable water to ensure safe drinking water for Californians.
14. All water utilities should enforce and comply with Sections 864(a) of the Drought Emergency Water Conservation Regulation.
15. All Class C and D water utilities should comply with the reporting requirements included in Section 864 (g)2 of the Drought Emergency Water Conservation Regulation.
16. The Commission expects bold actions by jurisdictional utilities to continue maintaining these mandatory restrictions by including provisions for, but not limited to: (1) mandatory water audits; (2) customer funded remotely read meters; (3) restriction on water use for the top residential, commercial and industrial users, particularly outliers, e.g. those with excessive water use; (4) flow

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restrictor requirements; (5) restrictive outdoor watering rules; and (6) limits on total water use.

17. As provided by Rule 14.6(a) of the Commission's Rules of Practice and Procedure and Public Utilities Code section 311(g)(2), the 30-day public review and comment period has been waived given the unforeseen emergency situation being addressed by this Resolution.

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THEREFORE, IT IS ORDERED THAT:

1. All Class A and B water utilities shall continue to comply with the mandatory water rationing as ordered in Commission Resolution W-5041 as modified by Resolution W-5082 except in those circumstances provided in Ordering Paragraph No. 2 below.
2. If the self-certification of supply reliability procedures ordered by the Water Board in Resolution 2016-0029 and codified in Section 864.5 of the Drought Emergency Water Conservation Regulation for Class A and B utilities indicates a need for more restrictive conservation measures, then a utility shall file a Tier 2 advice letter to modify its Tariff Schedule 14.1, Water Shortage Contingency Plan, accordingly.
3. All water utilities should enforce and comply with Sections 864(a) of the Drought Emergency Water Conservation Regulation.
4. All Class C and D water utilities should comply with the reporting requirements included in Section 864 (g)2 of the Drought Emergency Water Conservation Regulation.
5. All water utilities shall take bold actions to continue maintaining the mandatory restrictions by including provisions for, but not limited to: (1) mandatory water audits; (2) customer funded remotely read meters; (3) restriction on water use for the top residential, commercial and industrial users, particularly outliers, e.g. those with excessive water use; (4) flow restrictor requirements; (5) restrictive outdoor watering rules; and (6) limits on total water use.

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6. All water utilities shall comply with the monitoring and reporting requirements as established by the State Water Resources Control Board in Resolution 2016-0029.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on June 23, 2016; the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director

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SERVICE LIST OF PROPOSED RESOLUTION W-5103

Ronald W. Gilbert
California Hot Springs Sewer Serv.
PO Box 146
California Hot Springs, CA 93207

James Lombardi
Llano Del Rio Water Company
32810 165th Street East
Llano, CA 93544

Mike Courrejou
Arroyo Center Water Co., Inc.
47475 Arroyo Seco Road
Greenfield, CA 93927

Bob Boytor
Lytle Springs Water Company
277 No. Lytle Creek Rd.
Lytle Creek, CA 92358

Patricia P. Jacobsen
Foothill Ditch Company
PO Box 175
Exeter, CA 93221

Dennis Bennett
Macdoel Water Works
630 North Fifth Street
Klamath Falls, Or 97601

James Hodges
January Water Company
14002 Avenue 232
Tulare, CA 93274

Robert E. Marr
Madden Creek Water Company
PO Box 264
Tahoma, CA 96142

Robert Bylsma
Keene Water System
10031 Foothills Blvd., Suite 200
Roseville, CA 95747-7101

Robert Forbes
Meadow Valley Water Works
PO Box 37
Meadow Valley, CA 95956

Eleanor Buck
Lakeview Water System
1373 Las Canoas Road
Pacific Palisades, Ca 90272

S.O. Patterson
Mira Monte Water Company
PO Box 900
Gerber, CA 96035

S.O. Patterson
Las Flores Water Works
PO Box 900
Gerber, CA 96035

Ben & Michelle Ray
Pierpoint Springs Water Co.
PO Box 85
Camp Nelson, CA 93208

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Angelo Louis Andreini III
Riverview Estates Water Company
PO Box 1134
Red Bluff, CA 96080-1134

Steven M. Glazer
Tahoe Swiss Village Utilities, Inc.
PO Box 102
Homewood, CA 96141

Skip Rouch
Sequoia Crest Inc.
55124 Redwood Dr.
Springville, CA 93265

S.O. Patterson
Vista Grande Water System
PO Box 900
Gerber, CA 96035

Charles K. Smith
Sierra City Water Works, Inc.
732 Butler Road
Grass Valley, CA 95945

Tom W. Johnson
West Water Company
335 Else Way
Cloverdale, CA 95425

Marylyn Macgregor
Slide Inn/Snobowl Water Company
PO Box 4448
Sonora, CA 95370

Beverly Brown
Sonora Water Company
PO Box 2196
Columbia, CA 95310

Louis De Martini
Spring Crest Water & Power Company
PO Box 390626
Anza, CA 92539

Leonard J. Weston
Stone Creek Water Company, Inc.
72810 Ambrosia St
Palm Desert, CA 92260-5971

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Jim Moore
Big Basin Sanitation Company
sjmoore600@aol.com

Timothy Guster
Great Oaks Water Company
tguster@greatoakswater.com

Lesley Silva
California-American Water Company
lsilva@amwater.com

Palle Jensen
San Jose Water Company
palle.jensen@sjwater.com

Richard Hiwa
Little Bear Water Company, Inc.
pine@littlebearwater.com

David P. Stephenson
California-American Water Company
dstephenson@calamwater.com

Arnie Peterson
Rolling Green Utilities, Inc
rgu@cebridge.net

Leigh K. Jordan
Park Water Company
leigh@parkwater.com

Jeffrey Farrell
Interstate 5 Utility Company, Inc.
jbfarrell@yahoo.com

Robert W. Nicholson
San Gabriel Valley Water Company
rwnicholson@sgvwater.com

Charles Baker
Cypress Ridge Sewer Company
ruralwater@earthlink.net

Bob Kelly
Suburban Water Systems
bkelly@swwc.com

Thomas R. Adcock
California Utilities Service, Inc.
tom@alcowater.com

Leigh K. Jordan
Apple Valley Ranchos Water Company
leigh@parkwater.com

Marguerite Nader
MHC A-1 Water Company
mnader@mhchomes.com

Robert S. Fortino
Del Oro Water Co., Inc.
rsf@corporatecenter.us

Jacqueline M. Zischke
Canada Woods Water Company - Sewer
jzischkelaw@charter.net

Robert C. Cook Jr.
Fruitridge Vista Water
bcook@fruitridgevista.com

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Dale Harding
Mayacama Golf Club, LLC
dale@mayacama.com

Thomas R. Adcock
Alisal Water Corporation
tom@alcowater.com

Jerry Burger
Dunnigan Water Works - Sewer
gpdevelopment@earthlink.net

Shaymus R. Bakman
Bakman Water Company
shay@bakmanwater.com

Clint Hilderbrand
Golden Hills Sanitation Co., Inc.
childerbrand@goldenhillssanitation.com

Lawrence Morales
East Pasadena Water Company
larry@epwater.com

Paul Townsley
California Water Service Company
ptownsley@calwater.com

David Bower
North Gualala Water Works
office@ngwco.com

Keith Switzer
Golden State Water Company
kswitzer@gswater.com

Daniel D. Rogina
Rogina Water Company, Inc.
drogina@pacific.net

David Walker
Meadowbrook Water Co. of Merced, Inc.
info@mbwaterco.com

William Hay Jr.
Point Arena Water Works,
paww@mcn.org

Richard Hiwa
Little Bear Water Company, Inc
pine@littlebearwater.com

Maureen Drury
Larkspur Meadows Water Company
larkspurmeadows@gmail.com

Nick Silicz
Erskine Creek Water
ErskineCreekH2O@aol.com

John W. Richardson
Ponderosa Sky Ranch Water System
jwrttee@earthlink.net

Charles Baker
Rural Water Company, Inc.
ruralwater@me.com

Karla Bambauer
Black Butte Water Co.
bambauertowing@sbcglobal.net

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S. W. Bean
Nacimiento Water Company
Nacimiento@thegrid.net

Bruce. Anderson
Cobb Mountain Water Company
cmwc@oneman.com

John Chris Nickel
Rio Plaza Water Company, Inc.
chrisn148@aol.com

Evrett Smart
Goodyears Bar Water Company
rett@lovelandsmart.com

Timothy J. Flynn
Mesa-Crest Water Company
mcwch2otim@aol.com

Larry Ostrom
R.R. Lewis Small Water Company
rrlewish2o@gmail.com

Ryan Stevenson
Southern California Edison Company
ryan.stevenson@sce.com

John Ballard
Timberland Water Service
timberlandH2O@aol.com

Audrey Schuyler
Searles Domestic Water Company
schuylea@svminerals.com

Jay Gardner
Meyers Water Company
jay@adventurecat.com

Mike Herman
Susan River Park Water Company
mherman530@gmail.com

James Berry
Cazadero Water Company
admin@cazaderowaterco.com

John F. Parrish
Hat Creek Water Company, LLC
3rjp@citlink.net

Harry Bosworth
Geyserville Water Works
bosworth@neteze.com

C Kay Heath
Trinity Village Water Company
tvwc@intergate.com

Karen Ball
Kenwood Village Water Company
klb@mfcomputing.com

W. Benbow
Benbow Water Corporation
h2o@bwcsystems.com

Harold Wood
Serenio Del Mar Water Company
rruwater@sonic.net

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Arnie Peterson
Rolling Green Utilities, Inc
rgu@cebridge.net

Kelly A. Duran
Casmite Corporation
kaduran@chevron.com

Jeffrey Farrell
Interstate 5 Utility Company, Inc.
jbfarrell@yahoo.com

Jerry Burger
Dunnigan Water Works
gpdevelopment@earthlink.net

WM. Scott Kissack
Mountain Mesa Water Company
skissack@wesco.com

Patricia Heimer
Redwood Lodge Water Company
rlwcpat@gmail.com

Lorianne Boone
Warring Water Service, Inc.
water.warring@sbcglobal.net

David L. Prince
Long Canyon Water Company
bprince@PrinceFinancial.com

Robert M. Berry
Yerba Buena Water Company
rberry34@aol.com

Tito Balling
Traver Water Company
cws@thegrid.net

Mary Hodges
Havasu Water Company, Inc.
rmbiz@cox.net

Jacqueline M. Zischke
Canada Woods Water Company
jzischkelaw@charter.net

Marian Seiter
Sonoma Springs Water Company LLC
mortonswarmsprings@comcast.net

Peter Nolasco
Baycliff Water System
pnolasco@pacific.net

Daniel West
Graeagle Water Company, Inc.
west@playgraeagle.com

Sandra Mcdougald
Central Camp Water Company, Inc.
mcdougaldranch@yahoo.com

Steve Glazer
Agate Bay Water Company
GlazierWest@att.net

Kerry L. Varney
Spreckels Water Company
KERRY@TAPPRODUCE.COM

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Craig Fox
Fulton Water Company
fultonwater@yahoo.com

Francis S. Ferraro
Easton Estates Water Company
ysferraro@yahoo.com

Robert E. Marr
Tahoe Cedars Water Company
tcH20co@aol.com

Bill Roberts
Alpine Village Water Company
bill@robertsengineering.com

Richard M. Dewante
Tahoe Park Water Co.
rmdewane@sbcglobal.net

Lindarea Goldstein
Owens Valley Water Company
OwensValleyWaterCo@sbcglobal.net

Gerry Labudde
Weimar Water
wwtr@usamedia.tv

John W. Richardson
Yermo Water Company
jwrtee@earthlink.net

Karen Ball
Penngrove Water Company
klb@fmcomputing.com

Louis Demartino
Ramona Water Company
LOUIS@LOUISDEMARTINO.COM

Mary Condon
Sea Ranch Water Company, The
ebuechner@tsra.org

Nazar Najor
Live Oak Springs Water & Power Co.
nazar@liveoaksprings.com

Danny G. Lukins
Lukins Brothers Water Company, The
danny@lukinswater.com

Steve Havens
Twin Valley Water Company, Inc.
sh1111@pacbell.net

Jim Moore
Big Basin Water Co., Inc.
sjmoore600@aol.com

Jason And Louise Vierra
Pinon Hill Water Company
info@pinonvalleywatercompany.com

Sandra Tucker
Cold Springs Water Company, Inc.
sandra@coldspringsrealty.com

Marguerite Nader
MHC A-1 Water Company
mnader@mhchomes.com

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Stephen R. Welch
Bass Lake Water Company
steve@basslakerealty.com

Tony Ruff
Cottage Springs Real Estate, LLC
tonyruff@goldrush.com

Roger L. Forrester
Hillview Water Company
h2o@sti.net

Michael Mills
Puresource Water, Inc.
michael@psh2o.com

Kenneth Harrington
Yosemite Spring Park Utility Co.
lindah@yloa.org

Gary Ledesma
Mecchi Water Company
gary17@aol.com

Charlie Judson
Wendell Water Company
charlie@weeksdriilling.com

Bob Ukestad
West San Martin Water Works, Inc.
b.ukestad@wsmwater.com

Kimi Johnson
Lake Alpine Water Company, Inc.
info@lakealpinewater.com

Norman Annett
Twin Lakes Enterprises
monovillage1952@yahoo.com

Sheila Kliewer
Beasore Meadows Water System
sheila@sti.net

Jack Hawks
Executive Director
California Water Association
601 Van Ness Ave., Suite 2047
San Francisco, CA 94102
jhawks@calwaterassn.com

Lisa Bilir
Supervisor
Office of Ratepayer Advocates
Lisa.Bilir@cpuc.ca.gov

Martin Mills
PureSource Water, Inc.
martin@psh2o.com