



Sent via ELECTRONIC MAIL to commentletters@waterboards.ca.gov

December 15, 2014



Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814

DIRECTORS

Richard B. Bell  
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Lisa Ohlund  
General Manager

**Re: East Orange County Water District's Comments  
regarding the Draft Safe Drinking Water Plan for  
California**

Dear Ms. Townsend and Members of the Board:

The East Orange County Water District ("EOCWD") is a wholesale and retail water agency located in Orange County that serves a portion of the unincorporated area generally referred to as the "East Orange/Tustin Foothill" area as well as portions of the cities of Tustin and Orange.

The purpose of the Safe Drinking Water Plan for California is to assess the overall quality of California's drinking water, identify specific water quality problems and develop specific recommendations to improve the quality of drinking water, among other statutory requirements. It is an important and necessary Plan.

We agree with many of its recommendations, however, we are concerned with the inclusion of recommendations for legislation that would mandate the annexation of water systems, we would like to express our concerns regarding this element of the proposed plan.

**Recommendation 8-5 – Consolidation Mandate**

EOCWD recognizes that there are problems related to consistent compliance among small systems serving less than 200 service connections. The Draft Plan includes a number of provisions aimed at addressing these compliance challenges through water system consolidation including Recommendation 4-2 ("The State Water Board will continue to promote the consolidation of small water systems where ever feasible since consolidations with a larger water system is the best solution.") and Recommendation 8-5 ("The State Water Board recommends enactment of legislation to mandate a requirement that a small public water system that is within the sphere of influence of a larger water system should be required to annex to the larger system.").

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EOCWD believes that a statewide mandate for consolidation of small systems with large systems is a broad and sweeping action that ignores the will and desire of local governments and their customers and may adversely affect a delicate balance of water-rights, local community representation and costs-of-service.

Existing customers of the successor agency can't, under Propositions 218 and 26, be required to pay for costs of the smaller district that provide no benefit to them. The smaller district customers would be placed into an improvement district within the larger district and may be required to pay for upgrading their system to meet standards that are magnitudes greater than those necessary to safely provide water, but are standard specifications at the larger agency. Additionally, this action may lead to other cost increases as small agencies are required to "pay into" and/or absorb employee retirement and benefit liabilities that may be currently largely unfunded in the succeeding agency; there may also be significant labor costs increases due to the successor agency's labor agreements.

The issue of debt liability is also a significant area of uncertainty under Draft Plan Recommendation 8-5's annexation mandate. A mandate for annexation would likely require the assumption of any debt and financial liabilities of the small annexed system by the larger annexing system without any consideration for the larger system's willingness or ability to assume those liabilities.

Liability is a major challenge and disincentive facing water districts with respect to consolidation. Water agencies need clear liability protection when annexing with an existing water system. Currently, there is no legal incentive for a water district that has been in compliance to annex one that has not been—particularly if the annexing district and its customers will be assuming liability for a potentially expensive problem they did not create.

California's water and wastewater special districts have built and maintained water systems that function excellently under the oversight of representatives elected from the customers and communities they serve; water quality problems that exist in the state are not exclusive to special districts. Their single focus on water and the environment has provided environmental and economic benefits to all Californians as we have weathered drought, economic uncertainty and natural disasters with an unflinching eye on operating and maintaining these systems to serve generations to come. Consolidations into larger and larger agencies creates bureaucracies that are unaccountable to the public they serve and huge problems if they neglect their mission; economies-of-scale financial benefits are non-existent at many large agencies due to these factors.

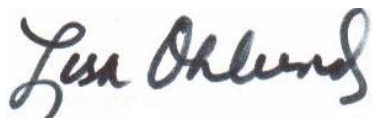
EOCWD urges staff to amend Draft Plan Recommendation 8-5's mandate for annexation and consider a policy that would confirm their support for the local decision making consolidation process,

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and provide financial support and incentives for consolidations.

We appreciate the opportunity to comment on the State Water Resources Control Board's ("State Board") draft Safe Drinking Water Plan for California ("Draft Plan"). If you have any questions regarding this letter, please feel free to contact me at (714) 538-5815 or [lohlund@eocwd.com](mailto:lohlund@eocwd.com)

Very truly yours,

A handwritten signature in black ink that reads "Lisa Ohlund". The signature is written in a cursive, flowing style.

Lisa Ohlund  
General Manager