**Live Oak Springs Water Company**

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 March 25, 2016

TO: COMMISSION BOARD, CPUC, DIVISION OF WATER AND AUDITS

ATTN: COMISSION RE: W-5086 DIVISION OF WATER & AUDITS

RE: Live Oak Springs Water Company, a CLASS D Utility

Current proposal W-5086 to be reviewed on April 7, 2016

Meeting Agenda ID # 14724

The following addresses major errors and omissions that would be of great service to our customers and have a substantial impact upon our current rates and service. This proposal will only lower overall customer cost and pay for costly infrastructure. This would better serve our small community’s water needs while complying with the standards and regulation of the County and the CPUC.[[1]](#footnote-1)

**APPENDIX B -** *Technical and Policy Errors*

**THE PROPOSED WELL RESTRICTIONS OF BULK WATER SALES-**

As the proposal currently reads “Bulk water sales must be conducted exclusively pumping from Well 1 and for non-potable uses only, since Well 1 is not permitted for potable use.

The way it reads, the legal word “exclusively” is defined as solely, completely, entirely or alone.

**Translation: It does not allow, has no inclusion of, no admittance for, and/or shuts out, the possibility of current, or future water sources being used for bulk water sales as it is written in the special condition of Appendix B.**

*Page 9 of the proposal states that the DWA[[2]](#footnote-2) agrees with the DEH’s[[3]](#footnote-3) Hydrogeologists recommendation not to use the Live Oak’s Well 2 for bulk sales, and* ***to only consider the use of this well, once the Live Oak complies with Section 64554(c) of the CCR[[4]](#footnote-4).*** *Yet when reference to the Appendix B Page 2 is made, under special conditions, it lays out the restriction as* ***exclusively, and makes exempt the use of well 2.*** *This constitutes conflicting restrictions with very different conditions that need to be clearly explained in the Appendix B, page 2, Schedule No. 9M Measured Service for Trucks.*

Under these terms, the actual Appendix strictly denies Live Oak Springs Water Company the ability to sell water from any secondary source. The proposal should be amended to reflect the following:

Appendix B Special Conditions #2:

“Well 1 can be used for the pumping and storage of water allocated to bulk water sales. The sale of bulk water will be sourced primarily from Well 1, with the following exceptions:

1. Excess water that would be otherwise discharged, can be used from the storage tanks. Additional pumping for bulk sales is excluded from Well 2 until a secondary water source is in place and a larger pump is installed to provide additional water supply.
2. Once additional sources are in place, the use of all wells for pumping and storing of bulk water, without exclusion, with each well not to exceed Maximum drawdown 50 ft.
3. The use of water pumped from any additional wells installed shall be viable for bulk sales, restricting only excessive pumping to prevent depletion of the water resource. Continued monitoring and reporting of all wells by certified hydrogeologist, with each well maximum drawdown not to exceed 50ft.”

**We are requesting to accurately reflect the previously stated version, as it is written on Page 9, to clearly reflect the Special Conditions portion of the Appendix B, Page 2, and reflect the additional allowance of storing bulk water for sale purposes.**

**FACTUAL POLICY ISSUE**

The DRASTIC limitations for the pumping and storing of water for bulk water sales, serves only to restrict the company from increasing revenue potential and ultimately causing the hardship be passed on to our customers in the form of rate increases.

**CCR[[5]](#footnote-5) Section 64554(c) Secondary Water Source**

*The major factor responsible for this is the Orders of Compliance issued by the County of San Diego CCR’s Section 64554(c) to add one additional water source.*

Discharging periodically 60,000 gallons of water is a gross squandering of resources, increasing operational costs and further burdening customers. Instead, we could eliminate waste and bring additional revenue by the allowance of this water to be sold as bulk water, not for potable use, and only when we have a short term contract to use that water. We should seize the opportunity to turn our waste into revenue.

These above amended conditions for bulk water sales still allows for restriction of the use of Well 2, protecting the customers and the current water distribution at this time. It simply designates others sources be viable for bulk water sales, while resolving these errors entirely, and enhancing the policy altogether.

This modification would impact the customers significantly, passing the benefit of increased revenue significantly, decreasing the burden of the cost of additional infrastructure mandated by the County onto the customer. Costs of the infrastructure could potentially cause astronomical rate increases for our customers if the modification isn’t made.

**MODIFYING FOR THE CUSTOMERS BENEFIT**

Aside from the financial benefit, the increased fire protection for Live Oak Springs Customers and the immediate vicinity, benefits our customers and potentially saves lives and homes from ruin. On June 17, 2012, Live Oak Springs Water storage came to the aide in fighting the “Old Fire” in our community. Without this additional water storage, this fire would have destroyed our community. This additional water storage increases the amount of water viable to be pumped and stored with no adverse effects on the current community water system. The allowance for additional well water to be designated for such purposes only stands to increase customer security in such purposes as fire protection, and potential bulk water sales, benefiting the community as a whole, and could ultimately make the difference between life and death during a wild fire.

Management is working with the Battalion Chief, Administrative Chief for Fire Suppression and Emergency Response Division[[6]](#footnote-6) and have already completed a Community Defense Plan to install a helicopter reservoir drop. This could be funded by bulk water sales, over the next three years. Otherwise, an emergency rate increase will be necessary in order to comply with the County of San Diego’s CCR.

**Technical Error APPENDIX B SPECIAL CONDITIONS #4**

As it currently reads “Live Oak Springs Water Company (Live Oak) must monitor W1 ground water levels using a pressure transducer and maintain records of monthly groundwater levels.”

Live Oak has been monitoring and recording the monthly ground water levels for the previous 2 years in Well 1, Well 2, and a private well. The pressure transducers are already in place and monitored.

This is monitored by certified hydrogeologist from Dudek[[7]](#footnote-7)

The proposal recommends the installation of the pressure transducer which has been in place, and monitored for approximately two years.

**Policy Issue-50/50 REVENUE SHARE OF BULK WATER SALES**

As it is currently written, “Sharing net revenues from bulk water sales (50/50) between the utility and its customers, since the revenues are incremental to the revenues authorized for Live Oak’s TY 2016 General Rate Case”

At this time, 100% of revenue yielded from the bulk water sales are allocated to fund the County‘s CCR, Section 64554(c) in our current budget. If not, we will have to request emergency monies from customer to bring plant up to County order regulations. [[8]](#footnote-8)

With the added infrastructure mandated by the County of San Diego to consist of required secondary water sources and requested additional pumping station, any revenue must automatically be directed to fund these upgrades. In addition to those upgrades, new installation of pipelines to the new pumping station and replacement of old, out of date lines, is also a part of this plant upgrade. A detailed plan of the plant upgrade to become compliant with DEH’s findings will be submitted to the County, as per their request. Allowing revenue share to be temporarily sidelined, along with our company’s intent to allocate all revenue to this project, would in turn eliminate the need to proceed in emergency rate increases to subsidize the cost of the infrastructure.

If this is approved, the company will borrow the money to install the additional water source. Repayment of this loan would be made, if and when it receives contracts for the sale of bulk water. If our proposal regarding revenue from bulk water sales is deemed unacceptable, then our current requested rate increase must include additional money for the secondary water source/well installation.

Furthermore, additional water supply means better fire protection for the customers and the immediate area, which we referenced earlier. With water storage of such capacity in place, we would be able to continue plans with the local fire department for a helicopter fill station, helping combat the ever increasing danger of wild fires in our area.

Our shared goal is to improve Live Oak Springs Water Company for the benefit of the customer, with as little impact as possible, in such areas as rate increases, and/or service interruption, and to further recoup the costs of maintenance and improvements. Therefore, we submit a request for resolution to this portion of the proposal, removing it altogether until costs related to the infrastructure are covered.

**In summary, we feel the following corrections, and/or changes to APPENDIX B would better serve our valued customer:**

Temporary stay to revenue sharing of bulk water sales with customers, until the costs associated County of San Diego mandated addition of infrastructure to the utility plant are covered, and/or repayment of any loans taken out to complete these mandates have been made.

**Without these efforts, the company would be forced to continue in bankruptcy court, and the protection of our investment, which it provides, until we have a resolution that protects our customers, as well as the owners. We appreciate your careful consideration regarding this portion of the proposal. The welfare of our customers, our company, and the community depend on the proposed modifications.**

**APPENDIX C -** *technical error*

**Adjustment of RATES/General Accounting practices**

*The proposal currently suggests a lower estimation of accumulated depreciation for 2015 of $10,738, and reduces the utility plant an additional $10,476 and $10,914 for the years of 2013 and 2014, for payroll expenses capitalized by the company.*

Live Oak Springs Water Company has requested, under authority General Order[[9]](#footnote-9) to increase the current water rates to $53,300 or 62.70% for TY[[10]](#footnote-10) 2016, vs. the 44.05% rate increase the DWA has recommended. The DWA has adjusted management’s accounting of additional piping and maintenance costs for lack of adequate proof or work orders relating to these improvements. The unfortunate, sudden, and unexpected death of our bookkeeper during the rate increase has created the necessity for additional time to locate such records. Therefore, we submit the following:

Before our accounting can be so drastically adjusted, we will provide accounting records when located.

Recently, the DWA has made a decision that the accounting of payroll expenses to install new pipes, for a period of three years, was not adequately proven, and is unwarranted, even though there has been a receiver, and a trustee who have approved these allocations of funding in state court. We have used standard book keeping practices in all areas of our accounting, including the additional excavating and pipe installation, and work related payroll. We can fully support the accounting provided in our annual reports. We request that the rates being proposed at this time be deemed acceptable, and that DWA not make accounting adjustments without a more thorough audit of our accounting and annual report.

At this juncture, we ask our previous rate increases proposed be adopted back into the policy. Furthermore, THE ALTERING OF OUR ACCOUNTING AND ANNUAL REPORT SHOULD BE REVERSED ONCE WE SUBMIT THE WORK ORDERS NECESSARY TO ADEQUATELY PROVE OUR ORIGINAL ACCOUNTING AND ANNUAL REPORTS. Even though the work orders, the repairs were completed. Obviously, pipes cannot install themselves without labor. We hereby request an extension in time to provide additional information regarding our account, and prove the necessary work orders were made for all repairs and maintenance as well as added infrastructure. This includes the payroll for the work performed on the utility plant, such as improvements, retirements and additions already have sufficient detailed accounting proving labor, materials, and related expenses, supporting all utility improvements made. Photographs of pipe installations, and other documents are available, making the DWA accounting adjustments unnecessary. We also submit that the additional oversight of the certified operator, trustee, and receiver, as well as the approval of the bankruptcy court, is adequate proof that our accounting is accurate. Our need is simply to locate all records. Thus, eliminating the accounting adjustments made to our annual reports for 2013, 2014, and 2015.

**We have all supporting documents, including said work orders, to back our accounting of Annual Reports 2013, 2014, and 2015. The detailed work orders regarding maintenance and payroll will be located, so we can provide that to the Commission to further justify the requested rate increases. This gives validity to the rate increase we requested and is vital to upgrade in infrastructure to comply with County mandates. We have been refused rate increases in prior years and have been depreciating for years now, so the opportunity to increase our rates is vital to the life of our company and future of our customers.**

**PROPOSAL W-5086 APPENDIX A-D:** *legal error[[11]](#endnote-1)*

**ONGOING PATTERN OF DISCRIMATORY PRACTICES REGARDING POLICY AND REGULATION.**

In addition to the above notated areas of resolve, I also bring to light the overwhelming pattern of discrimination against myself. I am a female owner and have continued to be confronted by prejudicial restrictions for years now. I purchased the company’s license, and was approved by the CPUC to do business as a public utility, with lawful provisions to enjoy a profit of approximately 10% of my investment every year. In the years 2008, 2009, 2010, 2011, 2012, 2013, 2014, and 2015, there has been no profit.

The prior rate increase was totally rejected by DWA, due to an investigation of the company. The company could no longer handle this hardship and was forced to seek bankruptcy protection to protect my investment. If the lawful provision of a 10% profit was allowed by the CPUC, the owners would have made a profit of approximately $30,000 per year. But instead, owners have been required to invest an additional $100,000, in order to continue serving the customers. I understand that DWA takes these rate increase proposals on a company by company basis, and gives them the opportunity to deny profitability.

In my case, I have not been given equal opportunity. Although I did not want to believe our government was capable of such unlawful and unfair acts, I believe there were true attempts to bankrupt my company and force me out of business. This must stop now. Since becoming an owner of this utility, the aim of the DWA has become to place extreme restrictions on my company, leaving almost no ability to turn a profit. Year after year, I have watched my company depreciate in value and lose money, due to what I can only describe as discriminatory practices by one or more individuals at the DWA and the County of San Diego. Additionally, the continued biased restrictions on the sale of bulk water, is another condition placed upon my company to further drive my business into foreclosure or a condition to be sold at a loss. We have continuously complied with the CPUC, DWA and the county, so I have to ask, why are these agencies targeting me? I am not playing the role of a victim. In fact, we have used the professional consulting services of former Water Branch Chief, Fred Curry, and have been told since we first sold bulk water several years ago, that he has “never seen anything like it”. He offered numerous suggestions, which we followed, and were repeatedly denied rights to sell bulk water, granted to every other water company in California. These prejudicial practices must stop. I cannot help but think that this discrimination could be due to gender. I would like to think that equality exists in all governmental agencies, without regard to gender. It appears that this is not the case.

I bring this to you with a heavy heart. With ongoing advancements seen in gender equality, women should not continue to endure prejudices because of their gender. I hope by addressing my concern, the Commission will take a more thorough look into this, and bring forth a fair proposal for our company. Beyond that, reasonable standards and practices that are the same across the board, as they would be for any other company is all I am asking for. It seems the standards and practice and even accounting practices fluctuate based upon the current agenda of the DWA. As the codes and regulations are so specifically spelled out, I request the same be done of the standards and practices of the DWA to avoid the ongoing discriminatory practices I have experienced.

Additionally, I request clarification with regard to accounting standards, to prevent DWA from making unfounded and unfair adjustments to rate increases. This ultimately stands to improve the DWA, and assist in avoiding further confusion, and will allow for the elimination of discriminatory practices.

Respectfully submitted,

Lauren Najor, Owner
Live Oak Springs Water Company

1. California Public Utility Commission [↑](#footnote-ref-1)
2. Division of Water and Audits [↑](#footnote-ref-2)
3. Department of Environmental Health [↑](#footnote-ref-3)
4. County Codes and Regulations [↑](#footnote-ref-4)
5. County Codes and Regulations [↑](#footnote-ref-5)
6. Timothy Henry Fresno Fire Department Battalion Chief and Administrative Chief [↑](#footnote-ref-6)
7. Water system monitoring service with certified hydrogeologist [↑](#footnote-ref-7)
8. Previously discussed CCR’s Section 64554(c) County of San Diego mandatory compliance required [↑](#footnote-ref-8)
9. General Order 96-B, Water Industry Rule 7.3.3(5) Section 454 of the Public Utility Code referencing rate increases. [↑](#footnote-ref-9)
10. TY is Test Year [↑](#footnote-ref-10)
11. CPUC Codes and Regulation 8282 Women right to business free of Discrimination- The women and minority right to conduct free and open enterprise without discrimination by regulatory agency due to sex, sexual orientation, religion, creed, nationality and so on. [↑](#endnote-ref-1)