

WARRIORS AGAINST DEL ORO

17127 Coyote Drive
Springville CA 93257

August 2, 2024

TO WHOM IT MAY CONCERN

California Public Utilities Commission
Water Division
505 Van Ness Avenue
San Francisco, CA 94102

Dear Sir/Madam

RE: Request for rehearing of Resolution W-5275

“Every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.” (Water Code, Section 106.3, AB685)

Water Warriors Against Del Oro (WWADO) on behalf of over 400 households in served Del Oro Water Company (DOWC) River Island District Territories 1 & 2, in Springville, CA. We have spearheaded a campaign to pressure State Departments to bring into line a water district which has historically and continually failed to deliver accessible, safe, reliable, and affordable drinking water to our homes, as required by AB 685.

In 2001, PUC Commissioner Henry Dunque stated: *“We try to watch these operations, but it’s like keeping an eye on a landlord who doesn’t even live in the state”*. The CPUC is yet again failing to protect the very citizens it was set up to advocate for.

The Facts in a Nutshell

Del Oro Water Company has historically and continuously failed to provide a reliable, trustworthy service to its customers, even more so since the March 2023 catastrophic flood, both in terms of quantity and quality.

Furthermore, it has failed to make its customers whole by reflecting the lack and quality of service in its monthly charges.

More specifically, Del Oro Water Company's water sources have not met the minimum safe drinking water standards since 1997, eleven years before Del Oro water Company acquired the Property. Since 2009, Del Oro Water Company has been under a plan to build a water treatment plant to comply with the safe drinking water standards. The company has repeatedly failed to do so. A water treatment plant which was supposed to be completed in 2009, then got pushed to 2019, then 2021, then October 2023, November 2023, then December 2023, then January 2024 and was not completed until the end of July 2024.

In addition, the burden of paying for this treatment plant falls on Del Oro Water Company's customers, even though the company will keep ownership of it. This should bring maximum pressure to bear on the CPUC, SWRCB and on the water Company to

assure full compliance with the construction schedule included in the Compliance Order for the new water treatment facility.

Del Oro Water Company has failed to notify its customers of the filing of request for a rate increase, contrary to CPUC rules and regulations, and instead only notified a few people on its “service list”. This deprived the customers of the chance to appeal such an increase by March 26, 2023, as we were not only unaware of such a request, but we were also dealing with a major flood, complete lack of water and electricity, as well as our roads being closed due to mudslides.

Furthermore, Del Oro water Company only notified its customers of the temporary rate increase which took effect on March 9, 2023, through a letter mailed on July 14, 2023, three months after the increase had come into effect.

According to the memo issued on June 21, 2024, by Jeff Densmore, P.E., South Central Section Chief, Central California Branch, Division of Drinking Water, State Water Resources Control Board, titled **ISSUANCE OF TECHNICAL ORDER FOR REPORTING OF WATER SUPPLY AND DEMAND – DEL ORO WATER COMPANY – RIVER ISLAND TERRITORY #1 (PWS NO.CA5400665):**

“DOWC has been out of compliance with water supply requirements since July 28, 2011. DDW has the authority to fine DOWC \$1000/day. A fine of \$1000/day would amount to \$4,710,000 to date. If DDW fined DOWC \$100/day the fine would amount to \$471,000.”

Why would the CPUC even consider rewarding a company that has not been doing its job, therefore denying its customers of safe and reliable drinking water?

Undisputed Facts

Del Oro Water Company has been successfully sued in the past, demonstrating that this is not simply a Springville issue. The Truckee Grand Jury in Nevada County found Robert Fortino – owner of DOWC – guilty, and a Superior Court judge upheld the suit which asked the court to turn over the company to public officials by eminent domain, due to the ongoing problems. As in the past, Del Oro Water Company continues to present an attitude of indifference in keeping its customers properly informed on a timely basis and the language (and the timing) of the notices minimizes the potential health risk to its customers and does not comply with the state regulations.

Del Oro Water Company has been issued several compliance orders for failing to deliver drinking water which does not exceed the maximum levels of contaminants, as established by the Environmental Protection Agency (EPA).

Statement of the case

Many of our neighbors routinely suffer from skin irritation, and unexplained health issues, including stomach and respiratory issues, valley fever, and cancer (both in humans and animals).

We went for several days without water when 5 of our wells were destroyed by the flood and then only irrigation water was provided for almost 2 months before Del Oro Water Company was able to provide a limited amount of “clean” water, which is still far too high in contaminants such as Nitrates, Gross Alpha and Uranium. Del Oro Water Company has not ever issued a Gross Alpha (or Combined Uranium) notice to its

customers, since it purchased the water system. During this time DOWC also failed to provide any sanitary solutions for many of our neighbors with disabilities, and continued charging Ready to Serve fees even when there was no water at all.

According to PRA responses from CPUC staff council, Del Oro Water Company did not, nor does it now have an emergency plan in place. Del Oro Water Company chose not to purchase flood insurance, even though 3 of the lost wells were in the flood plain, and 2 in the river. Del Oro Water Company failed and still fails to have a fire agreement with Tulare County Fire Department as per State Rules and Regulations, presumably not to be financially responsible for any fire protection, and therefore leaving the burden to taxpayers.

Until the opening of the treatment plant, many customers were without a drop of water for about 16 hours per day, every day, for weeks. Furthermore, customers were under a Do Not Drink/Do Not Use order from June 14, 2024 to July 5, 2024, and yet Del Oro Water Company only provided households with 6 gallons of water per week, regardless of the number of people in each household. Once the aforementioned order was lifted, Del Oro Water Company issued a DO Not Drink Advisory on July 9, 2024, which was lifted on July 29, 2024. Once again, Del Oro Water Company also failed to provide any sanitary solutions for all residents anyone under the Do Not Use order, which is especially worrying for our neighbors with disabilities, and yet Del Oro Water Company continued charging Ready to Serve fees even when there was no water at all.

In line with what happened at the time of the flood, and in July and August 2023, in June and July 2024 Del Oro Water Company failed to notify the Fire Department about the lack of water for fire protection (contrary to the 60 minutes required by law),

as well as failing to notify DDW. The water was therefore not tested for possible contamination.

Del Oro Water Company has shown complete indifference to its customers by refusing to allow Tulare County and the City of Porterville to haul - at no expense to DOWC - potable water, calling the offer futile.

Del Oro Water Co. has shown a lack of care and has put the entire area at risk of fire, by failing to conduct work in a workmanship-like manner and minimizing the risk of fire in such a high hazard fire area.

Del Oro Water Company has shown it is unwilling and unable to provide the service it charges its customers very dearly for. We have been, in of one of the wettest years in the last 30 years - and still in January 2024 - under Stage 5 Mandatory Conservation Measures, and yet Del Oro Water Company continues to issue Will Serve letters for new builds, claiming to be able to "*provide water for normal use including fire protection*", even though it is unable to do so for its current customer base (Del Oro Water Company has not called or held a public meeting since 2019).

Del Oro Water Company is refusing to provide information under the Public Records Act, claiming it is a private company and therefore not subject to public records requests, though over the years it has received millions of dollars in taxpayers' money.

Del Oro Water Company is regularly engaging in Whistle Blower retaliation, by filing defamatory and unfounded criminal reports, and by limiting more and more the amount of potable water it provides to its customers.

GENERAL ORDER 103-A

5. Access to Property

A. The utility shall at all reasonable hours have safe access to meters, service connections, customer service laterals and any utility-owned property located on the customer's premises for the purposes of installation, maintenance, operation, or removal.

** DOWC inspected properties multiple times per day, at unreasonable hours, both during the day and at nighttime, and without prior notice.

Furthermore Del Oro Water Company has had a history of water outages that have increased in frequency and required the Company to place its customers on mandatory conservation measures for months, and continuously fails to hold public meetings to inform its customer base, and issues boil water notices, an enormous inconvenience and discomfort to the customers, and an indication of the urgent nature of the public health emergency that must be speedily resolved. It is blatantly apparent that, among other things, an emergency exists, which should not be exempt from the requirements of the California Clean Water Act. Among the unexplained serious health problems to people and pets, noted by residents, DOWC is relying on multiple wells which have been drilled for irrigation purposes only, to provide potable water. It compromises the safety and reliability of the water supply because of the depth of the wells, the seal levels (mandated by the Waterboards at a minimum of 50 ft – even for converted and/or pre-existing wells), and the failure to monitor water pressure, and test the lines for contamination when the pressure drops below safe levels, as required by California law.

**CALIFORNIA DEPARTMENT OF WATER RESOURCES: CALIFORNIA
WELL STANDARDS, COMBINED**

Section 8. Well Location with respect to Contamination and Pollutants

A. Minimum Depth of Annular Surface Seal. *The annular surface seal for various types of water wells shall extend from ground surface to the following minimum depths:*

The space between the well casing and the wall of the drilled hole, often referred to as the annular space, shall be effectively sealed to prevent it from being a preferential pathway for movement of poor-quality water, pollutants, or contaminants. In some cases, secondary purposes of an annular seal are to protect casing against corrosion or degradation, ensure the structural integrity of the casing, and stabilize the borehole wall.

A. Minimum Depth of Annular Surface Seal. *The annular surface seal for various types of water wells shall extend from ground surface to the following minimum depths:*

Well Type	Minimum Depth Seal Must Extend Below Ground Surface
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<i>Community Water Supply</i>	<i>50 ft</i>
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C. Flooding and Drainage. *If possible, a well should be located outside areas of flooding. The top of the well casing shall terminate above grade and above known levels*

of flooding caused by drainage or runoff from surrounding land. For community water supply wells, this level is defined as the:

"...floodplain of a 100 year flood..." or above "...any recorded high tide...", (Section 64417, Sitting Requirements, Title 22 of the California Code of Regulations.)

B. Sealing Conditions. The following requirements are to be observed for sealing the annular space:

7. Converted wells. *Wells converted from one use to another, particularly those constructed in prior years without annular seals, shall have annular seals installed to the depth required in Subsection A, above and at the thickness described in Subsection E.*

These drops in pressure and DOWC's negligence allow water which contains a concentration of human pathogens to be drawn into the water system. In addition, the close proximity of the river to the intake creates a potential for concentrations of contaminants far above the established Maximum Contaminant Level (MCL) to be drawn into the intake. The situation is further exacerbated by the inadequate treatment provided by the DOWC, and their inability to remove extreme levels of Nitrates, Gross Alpha and Uranium from the water provided. Notices for Gross Alpha could be provided as a separate notice, or as a Combined Uranium notice, and yet Del Oro has consistently failed to notify its customers of levels of Gross Alpha up to 150% above the

maximum allowed level. DOWC has also failed to provide enough safe potable bottled water historically, and more recently since March 2023.

The past and present system of the Del Oro Water Company is unable to meet current demands because of the number of leaks, in the main line distribution and water storage tank systems, and because DOWC continues to issue Will Serve letters and allows more new homes and businesses to be built, whilst failing to increase its water supply or improve its quality. In the latter half of June 2023 residents reported they had water outages lasting several hours each day for several consecutive days. DOWC has not acknowledged these outages to the California Department of Drinking Water, even though there is video evidence of these occurrences, therefore failing to test the lines for possible cross contamination. Moreover, since March 2023 the existing water system has been unable to meet required fire flows at almost all locations in the system, which could result in the loss of life, property, and essential services. For months there was not enough pressure in the fire hydrants for fire protection, and DOWC failed to inform the Fire Department, as required by the State of California Public Utilities Commission's Order 103-A. When fires did occur, use of the fire hydrants resulted in no water to homes, and the onus and expense was left to Tulare County Fire Department, as they had to deploy water tenders they have kept on stand-by, as they cannot rely on DOWC's systems or communication.

In October 2023, DOWC allowed a builder to hook up its water truck to a fire hydrant, even though we were already under Stage 4 Mandatory conservation measures, which resulted in complete lack of water for the residents of Silver Wolf Estate, and a subsequent Boil Water notice for 2 weeks was issued. The affected

customers were advised to either boil or bleach their water – in a manner which did not safely explain how to do so without causing harm to their health and offered a very limited amount of water to its customers (who were given the burden of having to go to pick it up) for human consumption. However, the water that was provided had a questionable color and a foul odor, and – when tested – showed a level of MCL above what EPA considers safe.

We respectfully ask this Commission to reverse the decision made to allow an increase in rates, and in fact, we urge the CPUC to investigate this company with the shortest possible notice and allow us to receive our water from a non-profit water purveyor, with its customers' best interests at heart, instead of profit.

We believe that an urgent need exists for taking quick action to investigate Del Oro Water Company (DOWC) in order to eliminate a public health emergency that has beset the customers of DOWC's River Island Districts 1 & 2.

Through Public Records Requests (PRAs), we tried to ascertain if DOWC is in Breach of Contract. However, multiple requests to Del Oro and the PUC have unveiled that no contract exists as such. Assuming that we are incorrect and a contract in fact does exist (please note we have not been provided with a copy) in situations where there is a contractual relationship between the water purveyor and a party to the transaction, tort law provides an additional basis upon which an aggrieved party can proceed with a claim of both intentional and unintentional torts.

DOWC has continuously failed to disclose material facts, and therefore we believe they are guilty of intentional fraud, or intentional misrepresentation at the very least.

CONCLUSION

II. Standards of Service

1. General A. *Subject to the Commission's oversight, each utility shall operate its system so as to deliver reliable, high quality service to its customers at reasonable cost.*

Del Oro Water Company has willfully and blatantly failed to do so.

For the foregoing reasons – and with the support of our State Senator Shannon Grove, Tulare County District 5 Supervisor Dennis Townsend, and Congressman Vince Fong - the residents of Springville and customers of Del Oro Water Company hereby ask this Commission to revert the rate increase, granted on July 11, 2024 and furthermore to investigate and prosecute a complaint in eminent domain to allow a non-profit mutual water company to acquire the Property, in the Superior Court of Tulare County at the earliest practical time, and to request the Court to order immediate possession of the Property before judgment, with the shortest possible notice.

August 2, 2024

Respectfully Submitted,

Water Warriors Against Del Oro,

Raffaella Woods, Spokesperson