



**County Administrative
Office
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One
PETE VANDER POEL
District Two
AMY SHUKLIAN
District Three
EDDIE VALERO
District Four
DENNIS TOWNSEND
District Five

AGENDA DATE: June 23, 2020-REVISED

Public Hearing Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Published Notice Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Advertised Published Notice	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Meet & Confer Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Personnel Resolution attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
CONTACT PERSON: Denise England PHONE: 559-636-5000		

SUBJECT: State Water Resources Control Board Division of Drinking Water Administrator Program

REQUEST(S):
That the Board of Supervisors:
Provide direction to staff regarding participation in the State Water Resources Control Board Division of Drinking Water Administrator Program

SUMMARY:
In 2018 the California Legislature passed and the Governor signed AB 2501, which required the State Water Resources Control Board to develop standards, terms, and procedures for Administrators for public water systems that face technical, managerial, and/or financial challenges. In July 2019, the Legislature passed and the Governor signed into law SB 200, which established the Safe and Affordable Drinking Water Fund. The Safe and Affordable Drinking Water Fund provides \$130,000,000 annually through 2030 to provide a number of solutions to disadvantaged communities' drinking water challenges, including funding for Administrators.

In September 2019, the State Water Resources Control Board adopted the Administrator Policy Handbook, which provides direction to entities and persons that are considering becoming or are appointed as Administrators for designated water systems. The Administrator Policy Handbook is attached and can be found at https://www.waterboards.ca.gov/board_info/agendas/2019/sept/091719_6_cs1_clearversion.pdf. Although only one person or entity may be appointed as an Administrator for a particular designated water system, an administrator may utilize other service providers, such as forensic accountants, human resources

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Administrator Program

DATE: June 23, 2020

professionals, attorneys, engineers and other operators, and administrative staff, as necessary.

Recently State Water Resources Control Board staff approached County staff about its interest in becoming an Administrator for designated water systems within Tulare County. Staff reviewed the Administrator Policy Handbook and participated in two conference call with State Water Resources Control Board staff to address concerns and gain clarification regarding the Administrator's role, duties, and responsibilities. Staff needs direction from your Board before moving forward. If the County were to be appointed as an Administrator, a separate funding agreement would come to the Board for approval for each designated water system. Each Agreement would lay out specific tasks that the State Water Resources Control Board wants completed on behalf of the designated water system. The agreement would include 100% reimbursement for any costs associated with completing those tasks. The agreement would also include milestones and a date certain for the County to exit its Administrator role.

Items staff need input are as follows:

- Desire to become an Administrator for a designated water system
- What parameters need to be met before the Board becomes an Administrator (examples are)
 - Time period for community to voluntarily rectify the situation
 - Mandatory Consolidation Orders
 - Full cost recovery

FISCAL IMPACT/FINANCING:

There is no cost associated with directing staff to negotiate the County's participation in the State Water Resources Control Board Division of Drinking Water Administrator Program.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The County's Strategic Plan includes an initiative to provide for the safety and security of the public, which includes the goal of providing an adequate and safe water supply.

ADMINISTRATIVE SIGN-OFF:

Denise England_____

Denise England
Water Resources Director

cc: County Administrative Office

Attachment: Administrator Policy Handbook

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF STATE WATER)
RESOURCES CONTROL BOARD DIVISION) Resolution No. _____
OF DRINKING WATER ADMINISTRATOR) Agreement No. _____
PROGRAM)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

Provided direction to staff regarding participation in the State Water Resources Control
Board Division of Drinking Water Administrator Program



CALIFORNIA

Water Boards

STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

ADMINISTRATOR POLICY HANDBOOK

September 2019

Prepared by:

THE DIVISION OF DRINKING WATER
STATE WATER RESOURCES CONTROL BOARD
STATE OF CALIFORNIA

I. INTRODUCTION

This Administrator Policy Handbook's (Policy) purpose is to provide further direction to State Water Resources Control Board (State Water Board) staff and persons and entities considering becoming or are appointed as administrators of designated water systems as authorized by Health and Safety Code Section 116686. Along with the provision of financial assistance to water systems, the funding of technical assistance to aid water systems, and the consolidation of water systems pursuant to Health and Safety Code section 116682, the appointment of an administrator is an authority that the State Water Board will consider when it is necessary to provide an adequate supply of affordable, safe drinking water to disadvantaged communities, voluntary participants, and public water systems and to prevent fraud, waste, and abuse. Administrators may be assigned broad duties, such as overseeing all activities of a designated water system and acting as its general manager, or specific duties, such as managing an infrastructure improvement project on behalf of the designated water system. Administrators may be individual persons, businesses, non-profit organizations, local agencies, and other entities. Although only one person or entity may be appointed as an administrator for a particular designated water system, an administrator may utilize other service providers, such as forensic accountants, human resources professionals, attorneys, engineers and other operators, and administrative staff, as necessary.

The State Water Board recognizes the significance and potentially disruptive effect ordering a designated water system to accept an administrator may have on the water system and community served. The State Water Board intends to use its administrator authority carefully and only following community engagement. Generally, the State Water Board will seek to first utilize tools which maintain the existing governing structure of the subject water system, such as direct financial assistance or the funding of technical service providers, before considering the appointment of an administrator. Additionally, the State Water Board envisions situations where the subject water system and community served voluntarily seek the appointment of an administrator, such as for overseeing and managing a particular infrastructure project.

This Policy is the first version of a new programmatic approach and as such future revisions are anticipated in relatively short order as lessons are learned from the initial experiences.

II. PURPOSE AND OBJECTIVE

This Policy is adopted for the State Water Board's implementation of Assembly Bill 2501 (AB 2501), which was approved by the Governor and filed with the Secretary of

State on September 28, 2018.¹ Among other things, AB 2501 amended Health and Safety Code section 116686 to require the State Water Board to develop standards, terms and procedures for the following:

- (a) Ensuring compliance with subdivision (f) of section 116686,
- (b) Providing opportunity for public comment on selection of an administrator and the services to be provided,
- (c) Providing public access to budgets, financial information, and other documents and records related to the provision of water service to the designated water system or affected residences and to the management of the designated water system by the administrator,
- (d) Providing regular public meetings, notifications, opportunities for public comment, and other forms of engagement with customers of the designated water system for significant decisions or actions made on behalf of the designated water system, including, but not limited to, establishing operating budgets, altering water rates, adopting system policies, entering into long term contracts or financing commitments, and developing system projects or plans,
- (e) Formal requests to the State Water Board to reverse or modify a decision of an administrator or to request substitution of an administrator, and
- (f) Ensuring the administrator acts in the best interests of the community served,
- (g) Development and approval of a post-administrator drinking water service plan to ensure compliance with subdivision (e). Development of the plan shall include, but is not limited to, an evaluation of long-term public governance or community ownership options. (Health & Saf. Code, § 116686, subd. (g).)

This Policy fulfills that legislative mandate. This Policy does not address areas outside the scope of the legislative directive.

III. HUMAN RIGHT TO WATER

Section 106.3 of the Water Code provides that it is the policy of the state that every human being has the right to safe, clean, affordable and accessible water adequate to human consumption, cooking, and sanitary purposes. This section requires the State Water Board to consider this state policy when adopting policies. The State Water Board has considered the provisions of Section 106.3 of the Water Code in establishing this Policy.

¹ Senate Bill 200 (SB 200), which was approved by the Governor and filed with the Secretary State on July 24, 2019, further amended section 116686. None of the amendments contained in SB 200 changed the requirements for the development and adoption of the Policy.

IV. CLIMATE CHANGE

The State Water Board seeks to reduce the effects of climate change and to promote sustainable water resources for future generations. In 2017 the State Water Board adopted Resolution No. 2017-0012 specifying a range of actions the State Water Board's divisions and offices will take to implement its climate change program. This Policy is designed to support those efforts.

V. DEFINITIONS

Terms used in this Policy shall have the meaning as Health and Safety Code sections 116681 and 116686.

"Limited-scope administrator" is defined as an administrator who is not appointed and/or authorized to exercise total and complete managerial control over all aspects of the designated water system, but rather is appointed for the specific purposes and only with the authorities granted in the appointing order.

"Full-scope administrator" is defined as an administrator who is appointed and/or authorized to exercise total and complete managerial control over a designated water system.

"Administrator" is defined the same as in section 116686, subd. (m)(1), and includes both a limited-scope and full-scope administrator.

VI. MINIMUM QUALIFICATIONS FOR AN ADMINISTRATOR

- A. A candidate for administrator shall have all necessary licenses and certifications for the scope of the appointment and nature of the assignment.
- B. A candidate for administrator shall have sufficient experience for the scope of the appointment and nature of the assignment.
- C. Each candidate shall be subject to a background check.

VII. SELECTION OF ADMINISTRATOR

- A. Selection of Administrator
 - a. Prior to the selection of an administrator to provide administrative, technical, operational, legal, and/or managerial services to a designated water system, the State Water Board shall make reasonable efforts to provide notice to all ratepayers, renters and property owners who receive water service from the designated water system of the following:
 - i. The name and qualifications of the administrator being considered by the State Water Board;

- ii. The scope of the appointment and the particular services to be provided by the administrator being considered by the State Water Board; and
 - iii. The disclosure of any conflicts of interest, as defined in Title 2, Division 6, Chapter 7 of the California Code of Regulations.
 - b. The State Water Board shall provide an opportunity to submit comments by mail or electronically for at least 30 days after the notice in subd. (a) is provided.
 - c. The notice and comment period required by this section may be provided as part of the public hearing process required by Health and Safety Code section 116686, subd. (b)(2).
- B. Selection of Administrator in Emergency Situations
 - a. In an emergency situation, the State Water Board can appoint an administrator without following the process set forth in section VII.A. to provide immediate administrative, technical, operational, and/or managerial services to a designated water system as determined by the State Water Board for as long as the emergency exists.
 - b. Following the appointment of an administrator in an emergency situation, the State Water Board shall initiate the process set forth in section VII.A.
 - c. For purposes of this section, an emergency situation is defined as a situation involving an imminent threat of serious harm to the customers of a public water system under circumstances that render any delay caused by solicitation of public comment prior to selection of the administrator likely harmful and/or otherwise unreasonable.
 - d. Emergency solutions, such as bottled water, can be provided during the public selection process.
- C. Provision of Technical Assistance
 - a. The State Water Board may provide a public water system with administrative, technical, legal, operational and/or managerial assistance (technical assistance) without appointing an administrator. The State Water Board is not required to follow the processes set forth in this handbook when providing technical assistance. Technical assistance may be provided to a designated water system that has an administrator.

VIII. OBLIGATIONS OF ADMINISTRATORS

- A. Conflicts of Interest
 - a. All actions taken by an administrator shall be in the best interests of the community served and are intended to ensure the designated water system has adequate technical, managerial, and financial capacity to deliver an adequate supply of affordable, safe drinking water so that the services of the administrator are no longer necessary.

- b. Prior to taking an action or participating in a decision which could create a conflict of interest as defined in Title 2, Division 6, Chapter 7 of the California Code of Regulations, the administrator shall identify the potential conflict and disclose that information in writing 30 days prior to taking the action or participating in the decision as follows:
 - i. To the State Water Board;
 - ii. In the case of a limited-scope administrator, to the governing body and/or general manager of the designated water system;
 - iii. In the case of a full-scope administrator, to the ratepayers, renters and property owners who receive water service from the designated water system
- B. Compliance with Laws and Regulations
- a. The administrator shall comply with all applicable laws and regulations.
 - b. The administrator shall provide public notice of violations of notification levels in the method and manner required by Health and Safety Code section 11450, subd. (a).
- C. Public Access to Records
- a. A full-scope administrator shall make copies of the following documents, if available, accessible for review and copying by the public during regular business hours:
 - i. The current operating budget;
 - ii. An organization chart of all designated water system employees and management;
 - iii. Ownership information for the designated water system;
 - iv. Any reports by auditors or other financial professionals regarding the budget or finances of the designated water system;
 - v. Any current contracts for professional services;
 - vi. All complaints regarding water system service to customers; and
 - vii. Any approved Post-Administrator Drinking Water Plan.
 - b. If feasible, a full-scope administrator shall make the documents specified in subd. a of this section available on the designated water system's website.
 - c. A limited scope administrator shall make the following documents available to the governing body and/or general manager of the designed water system and, if feasible, available on the designated water system's website:
 - i. The current budget for the project(s) managed by the administrator; and
 - ii. Any contracts for professional services related to the project(s) managed by the administrator;
 - d. This section does not require the production or disclosure of any documents which are privileged or otherwise exempt from disclosure under the Public Records Act.

- D. Community Accountability and Engagement Plan
 - a. Within 90 days of appointment, the administrator shall develop and implement a Community Accountability and Engagement Plan.
 - b. The administrator may be required to coordinate with the State Water Board and/or a technical service provider in the development and implementation of the Community Accountability and Engagement Plan.
 - c. The Community Accountability and Engagement Plan shall be tailored to the specific services the administrator is appointed to provide, and shall contain the following:
 - i. Description of the actions and activities the administrator shall undertake to meaningfully engage with the community regarding the administrator's duties;
 - ii. Description of how the administrator will incorporate input from the community in the provision of services to designated water system;
 - iii. Description of means of communication the administrator will utilize to engage with the community; and
 - iv. Timeline for implementing the Community Accountability and Engagement Plan.
 - d. The administrator may be required to seek State Water Board approval of the Community Accountability and Engagement Plan.
- E. Local Workforce Development
 - a. To the extent technically and economically feasible, the administrator shall use local suppliers, contractors, and service providers.
 - b. To the extent technically and economically feasible, the administrator shall provide training and other opportunities for local workforce development.

IX. OBLIGATIONS OF FULL-SCOPE ADMINISTRATORS

- A. Public Meetings
 - a. The administrator shall hold public meetings as required by the applicable designated water system's bylaws and/or policies, and all applicable laws and regulations. At a minimum, public meetings shall be held once every three months. At each public meeting, the administrator shall provide the community served with the following:
 - i. An update on the performance of the designated water system;
 - ii. An overview of the designated water system's financial health;
 - iii. An update on major projects or plans;
 - iv. An update on any changes to water rates; and
 - v. An update on any other significant matters related to the designated water system.
 - b. The administrator shall hold a public meeting prior to taking any of the following actions:
 - i. Establishing a final operating budget;

- ii. Entering into significant long-term contracts;
 - iii. Approving and/or entering into contracts for significant planning projects or infrastructure improvements,
 - iv. Entering into significant financing commitments, including any financing contracts with the State Water Board,
 - v. Adoption of final system policies, and
 - vi. Altering water rates, as set forth in Health and Safety Code section 116686, subd. (d)(2).
 - c. The administrator shall take reasonable efforts to provide a ten-day notice of the public meeting to all affected ratepayers, renters, and property owners, unless applicable law requires a longer public noticing period.
 - d. The administrator shall provide an opportunity for public comment at each public meeting.
 - e. Translation services shall be provided in a language other than English if it is known that more than ten percent (10%) of the community speaks that language.
 - f. As appropriate, the administrator shall provide regular updates to the community served through newsletters, emails, the designated water system's website, billing flyers, and other similar means of communication about the performance of the designated water system, an overview of the designated water system's financial health, updates on major projects or plans, updates on any changes to water rates, and updates on any other significant matters related to the designated water system.
 - g. All written communications shall be provided in a language other than English if it is known that more than ten percent (10%) of the community speaks that language.
- B. Post-Administrator Drinking Water Service Plan
- a. Within twelve months of commencing duties as an administrator, the administrator shall submit to the State Water Board a Draft Post-Administrator Drinking Water Service Plan. The timeframe for submittal may be extended upon written approval by the State Water Board.
 - b. The Draft Post-Administrator Drinking Water Service Plan shall contain each of the following elements:
 - i. Identification and evaluation of the technical, managerial, and financial issues preventing the designated water system from serving its customers with an adequate supply of safe and affordable drinking water;
 - ii. Identification and evaluation of significant future issues the designated water system may encounter that may impact the water system's ability to supply its customers with an adequate supply of safe and affordable drinking water;

- iii. A detailed plan for developing the necessary technical, managerial, and financial competencies, in the shortest timeframe possible, so that the services of the administrator would no longer be required;
 - iv. The additional resources that will be needed to implement the Post-Administrator Drinking Water Service Plan;
 - v. An evaluation of the feasibility of long-term public governance or community ownership options for the designated water system; and
 - vi. An evaluation of the feasibility of connecting to or consolidating the designated water system with another public water system.
- c. The administrator shall hold at least one public meeting prior to the submission of the Draft Post-Administrator Drinking Water Service Plan to the State Water Board.
- i. The public meeting shall comply with the notice and public comment requirements set forth in subd. (A)(c)-(d) above.
 - ii. This public meeting may be combined with other public meetings.
- d. Upon receipt of the Draft Post-Administrator Drinking Water Service Plan, the State Water Board shall have 60 days to deem the plan complete or reject it as incomplete.
- e. If the State Water Board rejects the Draft Post-Administrator Drinking Water Service Plan as incomplete, then the administrator will have 60 days to resubmit the plan.
- f. If the State Water Board deems the Draft Post-Administrator Drinking Water Plan complete, then the administrator shall take reasonable efforts to provide notice of the State Water Board's consideration of approval of the plan to all ratepayers, renters, and property owners served by the water system.
- i. The notice shall provide at least 30 days for the submission of comments by mail or electronically.
- g. The State Water Board may hold a public hearing to solicit additional public comment prior to considering approval of the Draft Post-Administrator Drinking Water Plan.
- i. The State Water Board shall make reasonable efforts to provide a 30-day notice of the public meeting to all affected ratepayers, renters, and property owners.
 - ii. The State Water Board shall provide an opportunity for public comment at the public meeting.
- h. Once approved by the State Water Board, the Post-Administrator Drinking Water Plan shall be posted on the State Water Board's website.
- i. The administrator shall contact the State Water Board regarding the need to update the Post-Administrator Drinking Water Plan.

X. COSTS

- A. The State Water Board shall be responsible for the following costs:
 - a. Salary and any benefits for the Administrator;
 - b. Administrative costs attributed solely to the Administrator, including, but not limited to, additional computers, phones, furniture, and working space requirements.
 - c. Extraordinary legal, accounting, and other similar administrative and managerial fees that cannot be paid for by the designated water system's rates, fees, charges, and existing accounts.
- B. The designated water system shall be responsible for all ordinary costs associated with operating and maintaining the water system including, but not limited to, all planning and construction projects required to meet applicable water standards and requirements.
- C. Subject to fund availability and project eligibility, the State Water Board may provide funding for construction and planning projects, and ongoing operation and maintenance costs, as set forth in applicable funding guidelines and policies.

XI. CHALLENGES TO SELECTION OF ADMINISTRATOR AND ADMINISTRATOR DECISIONS

- A. Any ratepayer, renter, or property owner who receives water from a designated water system which receives services from an administrator may submit a petition to the State Water Board for the reversal or modification of a decision of an administrator or substitution of the administrator.
- B. The filing of a petition does not stay or in any way void or limit the decision or action of the administrator being challenged in the petition.
- C. Any such petition shall include the following information:
 - i. Contact information, including name and address, of the petitioner; and
 - ii. Identification of the reason(s) the petitioner seeks substitution of the administrator or reversal or modification of the administrator's decision.
- D. A petition seeking modification or reversal of an administrator decision must be received by the State Water Board within 30 days of the date of the administrator's decision. A petition seeking substitution of an administrator may be submitted at any time.
- E. Upon receipt of a timely-filed petition, the Office of Chief Counsel of the State Water Board shall review the petition and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and take action on the petition in the manner determined by the State Water Board. The State Water

Board shall notify the petitioner in writing if the State Water Board will review and take action on the petition. A petition will be deemed dismissed if the State Water Board does not notify the petitioner within 90 days of the receipt of the petition that the State Water Board will review and take action on the petition.