



State Water Resources Control Board

Division of Drinking Water

October 21, 2022

System No. 5401003

Carmen Moreno, Board President
East Oroshi Community Services District (CSD)
13947 Avenue 418
Orosi, CA 93647

**COMPLIANCE ORDER NO. 24-E1-22R-001
ADMINISTRATOR ORDER TO EAST OROSI CSD AND SELECTION OF TULARE
COUNTY RESOURCE MANAGEMENT AGENCY (RMA) AS THE FULL-SCOPE
ADMINISTRATOR**

Enclosed is Compliance Order No. 24-E1-22R-001 (“Order”), issued to the East Oroshi CSD (“Water System”) public water system. Please note that there are legally enforceable directives associated with this Order.

The State Water Board appreciates the willingness of the Water System and Tulare County RMA (“Administrator”) to work together over the past several months. As discussed in the Order, the Water System is ordered to accept Tulare County RMA (“Administrator”) as a Full-scope administrator and allow the Administrator to exercise full authority and control over the Water System. The State Water Board looks forward to continuing to work with both the Water System and the Administrator as they develop a sustainable long-term solution.

Any person who is aggrieved by a citation, order or decision issued under authority delegated to an officer or employee of the State Board under Article 8 (commencing with CHSC, Section 116625) or Article 9 (commencing with CHSC, Section 116650), of the Safe Drinking Water Act (CHSC, Division 104, Part 12, Chapter 4), may file a petition with the State Board for reconsideration of the citation, order or decision.

Petitions must be received by the State Board within 30 days of the issuance of the citation, order or decision by the officer or employee of the State Board. The date of issuance is the date when the Division of Drinking Water mails a copy of the citation, order or decision. If the 30th day falls on a Saturday, Sunday, or state holiday, the petition is due the following business day by 5:00 p.m.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

Information regarding filing petitions may be found at:

http://www.waterboards.ca.gov/drinking_water/programs/petitions/index.shtml

If you have any questions regarding this matter, please contact Bryan Potter of my staff at (559) 447-3397 or me at (916) 341-5045.

Sincerely,

[Web-accessible version, original signed by Darrin Polhemus, P.E.]

Darrin Polhemus, P.E.
Deputy Director
Division of Drinking Water
State Water Resources Control Board

Enclosures

Certified Mail No. 7099 3220 0009 0556 2821

cc:

Dennis R Keller, Keller & Wegley Engineering
Moses Diaz, Central Valley Legal Services
Lucy Rodriguez, East Oroshi CSD
Ben Giuliani, Executive Officer, Tulare County Local Agency Formation Agency
Eddie Valero, Tulare County Board of Supervisors – District 4 (via email)
Denise England, Tulare County – Water Resources Program Director (via email)
Kurt Souza, SWRCB – Branch Chief (via email)
Michelle Frederick, Supervising Water Resource Control Engineer (via email)
Bryan Potter, SWRCB – SoCal Engagement Unit Senior (via email)
Kristin Willet, SWRCB – District Engineer (via email)
Caitlin Juarez, SWRCB – SoCal Engagement Unit (via email)
Meghan Tosney, Principal Water Resource Control Engineer (via email)
Jasmine Oaxaca, Water Resource Control Engineer (via email)
Ryan Jensen, Community Water Center (via email)
Kayla Vander Schuur, Self Help Enterprises (via email)
Vergie Nunez, La Voz de Vecinos Unidos (via email)

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3 **STATE OF CALIFORNIA**
4 **STATE WATER RESOURCES CONTROL BOARD**
5 **DIVISION OF DRINKING WATER**
6

7 **Name of Public Water System:** East Orosi Community Services District (CSD)

8 **Water System No:** 5401003
9

10 **Attention:** Carmen Moreno, Board President

11 13947 Avenue 418

12 Orosi, CA 93647
13

14 **Issued:** October 21, 2022
15

16 **COMPLIANCE ORDER NO. 24-E1-22R-001**
17 **ADMINISTRATOR ORDER TO EAST OROSI CSD AND SELECTION OF TULARE**
18 **COUNTY RESOURCE MANAGEMENT AGENCY AS THE FULL-SCOPE**
19 **ADMINISTRATOR**
20 **CALIFORNIA HEALTH AND SAFETY CODE, SECTION 116686**
21

22 The State Water Resources Control Board (“State Water Board”), acting by and
23 through its Division of Drinking Water (“Division”) and the Deputy Director for the
24 Division, hereby issues Order No. 24-E1-22R-001 pursuant to Section 116686 of the
25 California Health and Safety Code¹ to East Orosi CSD (“Water System”) as set forth
26 below.
27

¹ Unless otherwise indicated, all statutory citations are to the California Health and Safety Code.

APPLICABLE AUTHORITIES

In order to provide affordable, safe drinking water to disadvantaged communities and to prevent fraud, waste, and abuse, Section 116686, subd. (a) authorizes the State Water Board to order a “designated water system to accept administrative, technical, operational, legal, or managerial services, including full management and control of all aspects of the designated water system, from an administrator selected by the state board.”

- Section 116686, subd. (m) defines “designated water system” as a public water system that “serves a disadvantaged community, and that the state board finds consistently fails to provide an adequate supply of affordable, safe drinking water.”
- Section 116681, subd. (f) defines a “disadvantaged community” as a disadvantaged community, as defined in Section 79505.5 of the Water Code.
- Division 26.5, Section 79505.5, subd. (a) of the Water Code states, “Disadvantaged Community” means a community with an annual median household income that is less than 80 percent of the statewide annual median household income.”
- Section 116681, subd. (a) defines “adequate supply” as “sufficient water to meet residents' health and safety needs at all times.”
- Section 116681, subd. (c) defines “consistently fails” as “failure to provide an adequate supply of safe drinking water.”
- Section 116681, subd. (l) defines “safe drinking water” as “water that meets all primary and secondary drinking water standards.”
- Section 116275, subd. (c) defines “primary drinking water standards” as maximum contaminant levels, treatment techniques adopted in lieu of maximum contaminant levels, and monitoring and reporting requirements of maximum contaminant levels as specified by regulation.

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- Section 116686, subd. (f) states that, “A designated water system shall not be responsible for any costs associated with an administrator that are higher than the costs necessary to maintain the designated water system and provide an adequate supply of affordable, safe drinking water.”

STATEMENT OF FACTS

a. Water System Characteristics

The Water System is classified as a community public water system with a population of 932, serving 103 connections. The Water System operates under Domestic Water Supply Permit No. 03-24-19PA-023 issued by the State Water Board on December 31, 2019. The Water System is using two groundwater sources that are continuous chlorinated to supply potable water to the distribution system. Well 01 was drilled in 1983 and Well 02 was drilled in 1984. California Code of Regulations, Title 22, Section 64554, requires a public water system with fewer than 1,000 service connections to maintain storage capacity equal to the system’s maximum daily demand, unless it shows that it possesses an additional source or an emergency interconnection that can meet maximum daily demand. East Orosi CSD has no standby sources, storage capacity, or emergency interconnections with adjacent public water systems and therefore does not meet the capacity requirements defined under Section 64554.

b. The Water System Serves a Severely Disadvantaged Community

The Water System serves a severely disadvantaged community as defined by Section 116681, subd. (f). Section 116681, subd. (f) incorporates the definition of a disadvantaged community provided in Water Code Section 79505.5. Section 79505.5 defines a disadvantaged community as a community with an annual median household income that is less than 80 percent of the statewide annual median

1 household income. According to the 2020 American Community Survey², 80 percent
2 of the statewide median household income is \$62,938. The definition of a severely
3 disadvantaged community is a community with an annual median household income
4 that is less than 60 percent of the statewide median household income. According to
5 the 2020 American Community Survey, 60 percent of the statewide median household
6 income is \$47,203.

7
8 The Water System serves the community of East Oroquieta. The 2020 American
9 Community Survey states that East Oroquieta is a census designated place with a median
10 household income of approximately \$33,472. This income classifies East Oroquieta as
11 both a disadvantaged community and a severely disadvantaged community.

12
13 **c. The Water System Has Consistently Failed to Provide an Adequate Supply**
14 **of Affordable, Safe Drinking Water**

15 Section 116555 requires all public water systems to comply with primary drinking
16 water standards as defined in Section 116275, subd. (c). Primary drinking water
17 standards include maximum contaminant levels, specific treatment standards, and
18 monitoring and reporting requirements as specified in regulations.

19
20 In July 2015, California changed the reporting units for nitrate from a maximum
21 contaminant level (MCL) of 45 mg/L as NO₃ to 10 mg/L as nitrogen (N). The change
22 in reporting units brought California in line with the USEPA and the other 49 states in
23 the nation whose nitrate MCL is 10 mg/L (as N). Laboratories were allowed to report
24 in either set of units for samples analyzed through December 31, 2015. Title 22,
25 Division 4, Chapter 15, Article 4, Section 64431 of the California Code of Regulations
26 sets the MCL for nitrate (as nitrogen) at 10 mg/L. Section 64432.1(a)(2) requires public

² The State Water Board utilizes the American Community Survey (ACS) 5-Year Estimates to determine the MHI of a community.

1 water systems using groundwater that submit a sample containing nitrate at a level
 2 equal to or greater than 50 percent of the MCL to monitor for that contaminant on a
 3 quarterly basis.

4
 5 On April 15, 2010, the Tulare County Environmental Department issued the Water
 6 System a compliance order for exceeding the MCL for nitrate which required the Water
 7 System to sample for nitrate quarterly.

8
 9 On July 1, 2014, the Tulare County Environmental Health Department ceded
 10 regulatory jurisdiction over the Water System to the Division. In 2015, quarterly
 11 samples from Well 02 each exceeded the nitrate MCL. On November 9, 2015, the
 12 Division issued the Water System compliance order 03_24_15R_001 for exceeding
 13 the nitrate MCL in Well 02, which directed the Water System to return to compliance
 14 by December 1, 2018. The Water System has not addressed the nitrate issue in Well
 15 02 to date. Well 01 also exceeded the nitrate MCL in 2018, 2021, and 2022.

16
 17 Results of quarterly samples between 2010 and the present are shown in Table 1,
 18 below.

19
 20 Table 1. Nitrate Monitoring Results

Sample Date	Well 02 -West	MCL
02/10/10	58 mg/L *	45 mg/L as NO ₃
07/24/10	31 mg/L	45 mg/L as NO ₃
01/13/11	51 mg/L *	45 mg/L as NO ₃
06/30/11	50 mg/L *	45 mg/L as NO ₃
10/24/11	51 mg/L *	45 mg/L as NO ₃
02/01/12	Non-Detect	45 mg/L as NO ₃
02/27/12	50 mg/L *	45 mg/L as NO ₃
04/10/12	41 mg/L	45 mg/L as NO ₃
08/22/12	59 mg/L *	45 mg/L as NO ₃

10/22/12	42 mg/L	45 mg/L as NO ₃
01/03/13	45 mg/L	45 mg/L as NO ₃
04/01/13	63 mg/L *	45 mg/L as NO ₃
07/22/13	43 mg/L	45 mg/L as NO ₃
09/25/13	40 mg/L	45 mg/L as NO ₃
12/12/13	44 mg/L	45 mg/L as NO ₃
01/02/14	44 mg/L	45 mg/L as NO ₃
04/25/14	62 mg/L *	45 mg/L as NO ₃
07/28/14	49 mg/L *	45 mg/L as NO ₃
10/20/14	50 mg/L*	45 mg/L as NO ₃
01/12/15	52 mg/L *	45 mg/L as NO ₃
04/15/15	48 mg/L *	45 mg/L as NO ₃
07/27/15	11 mg/L *	10 mg/L as N
10/26/15	11 mg/L *	10 mg/L as N
01/14/16	11 mg/L *	10 mg/L as N
04/04/16	11 mg/L *	10 mg/L as N
07/25/16	10 mg/L	10 mg/L as N
10/17/16	12 mg/L *	10 mg/L as N
01/06/17	12 mg/L *	10 mg/L as N
04/07/17	12 mg/L *	10 mg/L as N
07/24/17	12 mg/L *	10 mg/L as N
10/23/17	11 mg/L *	10 mg/L as N
01/15/18	11 mg/L *	10 mg/L as N
04/18/18	11 mg/L *	10 mg/L as N
06/12/18	12 mg/L *	10 mg/L as N
07/20/18	12 mg/L *	10 mg/L as N
02/19/19	11 mg/L *	10 mg/L as N
03/22/19	12 mg/L *	10 mg/L as N
04/19/19	12 mg/L *	10 mg/L as N
07/22/19	12 mg/L *	10 mg/L as N
10/23/19	9.2 mg/L	10 mg/L as N
01/22/20	9.5 mg/L	10 mg/L as N
04/24/20	10 mg/L	10 mg/L as N
07/30/20	10 mg/L	10 mg/L as N
10/27/20	10 mg/L	10 mg/L as N
02/25/21	10 mg/L	10 mg/L as N
04/28/21	11 mg/L *	10 mg/L as N

07/29/21	10 mg/L	10 mg/L as N
10/28/21	10 mg/L	10 mg/L as N
01/28/22	11 mg/L *	10 mg/L as N
03/23/22	12 mg/L *	10 mg/L as N
04/28/22	13 mg/L *	10 mg/L as N

1 * Indicates a sampling result above the nitrate MCL.

2

3 As explained in the Applicable Authorities section above, a Water System consistently
4 fails to provide an adequate supply when it has an exceedance of an MCL. Table 1
5 shows that over the last 12 years, most samples showed an exceedance of the
6 applicable nitrate MCL. The Water System has therefore consistently failed to provide
7 an adequate supply of affordable, safe drinking water.

8

9 **d. Administrator Appointment**

10 On September 10, 2020, the Division provided the Water System with notice and an
11 opportunity to show by September 30, 2020, that (1) the Water System “has not
12 consistently failed to provide an adequate supply of affordable, safe drinking water”;
13 and/or (2) that the Water System, “has taken steps to timely address its failure to
14 provide an adequate supply of affordable, safe drinking water.” The Division did not
15 receive any correspondence from the Water System. The notice is shown in
16 Attachment A.

17

18 Pursuant to Section 116686, subd. (b)(2) and the Administrator Policy Handbook, on
19 March 5, 2021, the State Water Board notified by mail all ratepayers, renters, and
20 property owners in the Water System’s service area as well as representatives of the
21 Water System of a public meeting on April 7, 2021 to provide information on the
22 proposed administrator for the Water System and receive input on the potential
23 administrator appointment (Attachment B). This notice also included the name,
24 qualifications, proposed scope of the appointment and the services to be provided by

1 the administrator being considered, and disclosure of conflicts of interest, as defined
2 in Title 2, Division 6, Chapter 7 of the California Code of Regulations.

3
4 On April 7, 2021, the State Water Board conducted a public meeting pursuant to
5 Section 116686, subd. (b)(2) for the affected ratepayers, renters, and property owners
6 in the Water System’s service area. Public comment and feedback were solicited
7 during the meeting. The closing period for public comment on the administrator
8 selection was April 14, 2021. No comments expressed concern about the
9 qualifications of the proposed administrator.

10
11 **FINDINGS**
12

- 13 1. Based on the above Statement of Facts, the Water System is a designated water
14 system pursuant to Section 116686, subd. (m)(2), because it “serves a
15 disadvantaged community and that the state board finds consistently fails to
16 provide an adequate supply of affordable, safe drinking water.” East Orosi’s
17 median household income according to the 2020 American Community Survey
18 was \$33,472, approximately 47 percent of the statewide median household
19 income of \$78,672. Table 1 shows that the Water System exceeded the nitrate
20 MCL 33 times in Well 02 between 2010 and 2022.
- 21
- 22 2. The Division has complied with the procedural requirements in Section 116686
23 and the Administrator Policy Handbook to appoint an administrator to the Water
24 System. Neither the Water System nor community members expressed any
25 concern about the proposed administrator.
- 26
- 27 3. On November 10, 2020, the Division contacted Tulare County Resource
28 Management Agency (Tulare County RMA) to confirm their willingness to be the

1 administrator (“Administrator”) for the Water System pursuant to Section 116686
2 (Attachment C). Tulare County RMA confirmed their willingness to be the
3 Administrator for the Water System on November 10, 2020. On October 18,
4 2022, Tulare County passed a resolution authorizing entering into a funding
5 agreement with the State Water Board and authorizing and designating
6 representatives for the East Orosi CSD full-scope administrator project. Tulare
7 County approved an administrator grant agreement with the State Water Board
8 for the period of November 1, 2022 through September 30, 2024 in the amount
9 of \$585,923. (Attachment C).

10

11 4. As set forth in California Environmental Quality Act (“CEQA”) Guidelines, Section
12 15061, this Order is exempt from the provisions of CEQA because it can be seen
13 with certainty that there is no possibility that the Order will have a significant effect
14 on the environment. This Order requires the Water System to accept
15 administrative, technical, operational, legal, and managerial services, including
16 full management and control of all aspects of the designated water system from
17 an administrator selected by the State Water Board. The Order does not propose
18 or require the Water System to undertake any actions which will have a
19 significant effect on the environment.

20

21

ORDER

22

23 The State Water Board hereby orders as follows:

24

25 1. Effective November 1, 2022, the Water System is ordered to unconditionally
26 accept administrative, technical, operational, legal, financial, and managerial
27 services, including full management and control of all aspects of the designated
28 drinking water system from Tulare County RMA. Full management and control

1 includes hiring, dismissal, and reassigning staff to support administrator and
2 operational duties.

3

4 2. The Water System shall provide historical and current records. This includes but
5 is not limited to, to all electronic and hard copies of operating records of the water
6 system, customers' accounts, water quality and quantity records, water system's
7 design and operation plans, access to water system facilities, and access to
8 finances including restricted and unrestricted funds.

9

10 3. The Division of Financial Assistance approves \$585,923 in funding, for the term of
11 the project from September 10, 2020 to September 30, 2024. Tulare County RMA
12 may provide financial support for administrator functions as defined in the
13 approved Scope of Work, which will be included in the executed funding
14 agreement. The approved Scope of Work includes a Community Accountability
15 and Engagement Plan, a Post-Administrator Drinking Water Service Plan, and
16 tasks necessary to assist the Water System. The administrator is not legally liable
17 for costs outside the approved Scope of Work. Other costs related to the
18 operations and maintenance of the water system shall be paid from water rates,
19 infrastructure improvements shall be completed from water rates and/or
20 application for funding grants, as applicable.

21

22 4. This Order shall remain effective and in place until rescinded, terminated, or
23 otherwise modified by the State Water Board.

24

25 The Division reserves the right to make such modifications to this Order and/or to
26 issue such further order(s) as it may deem necessary to protect public health and
27 safety. Such modifications may be issued as amendments to this Order and shall be
28 deemed effective upon issuance.

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Nothing in this Order relieves the Water System of its obligation to meet the requirements of the California Safe Drinking Water Act, CHSC, Division 104, Part 12, Chapter 4 (“SDWA”), or any regulation, standard, permit or order issued thereunder.

PARTIES BOUND

This Order shall apply to and be binding upon the Water System, its officers, directors, agents, employees, contractors, successors, and assignees.

SEVERABILITY

The requirements of this Order are severable, and the Water System shall comply with each and every provision hereof notwithstanding the effectiveness of any other provision.

FURTHER ENFORCEMENT ACTION

The California SDWA authorizes the Division to issue orders and citations with assessment of administrative penalties to a public water system for violation or continued violation of the requirements of the California SDWA or any regulation, permit or order issued or adopted thereunder including, but not limited to, failure to correct a violation identified in a citation or order. The California SDWA also authorizes the Division to take action to suspend or revoke a permit that has been issued to a public water system if the system has violated applicable law or regulations or has failed to comply with an order of the Division; and to petition the superior court to take various enforcement measures against a public water system that has failed to comply with an order of the Division. The Division does not waive any further enforcement action by issuance of this order.

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Date

Darrin Polhemus, P.E.
Deputy Director
Division of Drinking Water
State Water Resources Control Board

- Attachments:
- A. Administrator Designation Letter
 - B. Public Meeting Notice
 - C. Tulare County RMA Correspondence