

September 18, 2020

The Honorable Brad DeMeo  
Presiding Superior Court Judge  
Hall of Justice  
600 Administration Drive  
Santa Rosa, CA 95403

Subject: Responses to Grand Jury Reports *Emergency Water Shortages in Sonoma Valley, The Situation Has Worsened* and *Sonoma Valley Regional Water Resources, Water for a Changing Future*

Dear Presiding Judge DeMeo:

Thank you for the invitation to respond to the Grand Jury's *Emergency Water Shortages in Sonoma Valley, The Situation Has Worsened*, (Emergency Water report) and *Sonoma Valley Regional Water Resources, Water for a Changing Future* (Water Resources report). The Department of General Services (DGS) recognizes the water resources challenges faced by the Sonoma Valley region and is committed to working in a collaborative manner on water resource issues while at the same time carrying out its statutory duties on behalf of the state of California as mandated by the state Legislature. DGS is voluntarily providing you with additional information in response to your invitation and to clarify any inaccuracies that may have been received by your body with regard to the issues addressed in the reports.

**BACKGROUND:** The Sonoma Developmental Center (SDC) is located in Eldridge, in the county of Sonoma near the community of Glen Ellen, and is composed of a developed campus covering approximately 180 acres and approximately 700 acres of open space adjacent to the Sonoma Valley Regional Park and the Jack London State Historic Park. The SDC, which previously served as a state-run residential care facility dedicated to serving individuals with developmental disabilities, officially closed in December 2018 and ceased operations as a Developmental Center in spring 2019.

In June 2019, statute was created in Government Code Section 14670.10.5 to permit a partnership between DGS and the county of Sonoma (County) that provides for a priority land use planning process for the SDC property (Property). In carrying out the land use planning and disposition process, Government Code Section 14670.10.5(c)(2) directs DGS and the County to "provide for the expeditious planning of future land uses for the site and an opportunity for community input, with the intent to reduce uncertainty, increase land values, expedite marketing, and maximize interested third-party potential purchasers of the Property."

**LEGISLATIVE MANDATE:** The statute requires an expedited land use planning process to facilitate the disposition of the property by amending the general plan of the County and any appropriate zoning ordinances, completing any environmental review, and addressing the economic feasibility of future development.

The planning and disposition process is expected to have a three-year duration. The state has partnered with the County to ensure a community-informed planning process that, in relevant part, will address local and regional issues including water resources and water supply and distribution that will serve future redevelopment of the Property.

The land use planning is being performed by the County pursuant to Government Code Section 14670.10.5. The County and DGS entered into an agreement to implement this legislation. This agreement contains provisions for the County to prepare a Water Supply Assessment and coordinate among the region's water agencies. The water agencies and contractors, including Valley of the Moon Water District (VOMWD), will be essential partners as the County develops the Specific Plan.

As pointed out in the Grand Jury's Water Resources report, the ultimate disposition of the Property – and the water uses that will go along with it – will depend on the resulting Specific Plan. To the extent that any subjects in the reports will be addressed by the land use planning process, it would be inconsistent with state law for DGS to support a separate process to address these issues.

**WATER TREATMENT PLANT:** The property features extensive watershed and water infrastructure, with a self-contained water diversion and treatment plant system; two reservoirs with a capacity of 840 acre-feet of water; a treatment facility that had produced all the potable water required by the SDC; and site-wide water distribution systems serving over 1 million square feet of existing buildings. The campus water treatment plant (Plant), originally built in the 1930s, was previously capable of treating up to 1.8 million gallons per day (MGD). Prior to SDC's closure, the state faced challenges with recruiting and retaining employees to operate the Plant and water distribution system. The state also confronted challenges related to impacts on the system's operation resulting from design constraints and decreased water demand due to present occupancy levels.

In September 2017, the State Water Resources Control Board (SWRCB) Drinking Water Division raised concerns about adequate staffing to operate the Plant and water distribution system. To address this issue, the state entered into a short-term agreement with VOMWD in February 2018 to provide part-time support staffing to the Plant's chief operator to alleviate the SWRCB's concerns. However, staffing issues continued to be a challenge due to attrition. Despite the state's recruitment efforts, by the end of May 2019, even with the VOMWD staffing agreement in place, the Plant lacked a permanent chief treatment plant operator with the required T3 certification, and the distribution system lacked a chief distribution operator with the required D2 certification. After comprehensively reviewing ongoing facility operations, the state determined that it was no longer feasible to continue operating the Plant due to staffing issues, the existing technology and design, and challenges with meeting the state regulatory requirements.

Before the Plant shut down, VOMWD put forward an option to operate the Plant. At that time, the department identified four areas of concern with VOMWD's proposal: meeting drinking water standards, liability, costs, and timing. After consulting with the SWRCB, the state determined that VOMWD's proposed changes required design and engineering, permitting, and pilot testing new systems to ensure that the Plant produces water that meets drinking water standards. To ensure compliance with state regulations and to avoid operating a noncompliant water facility, the state determined that the appropriate solution was to deactivate the Plant, which was shuttered in September 2019.

The state notified the VOMWD that the inactivation of the Plant did not preclude the Plant's future operation by VOMWD, provided the Plant meets the regulatory requirements of the SWRCB, and provided VOMWD assumes the operational and financial responsibility and liability for the Plant. The state offered to provide access and time for VOMWD staff and its consultants to evaluate the system, determine costs for repairs, and provide a detailed final proposal and financing plan to present to the state. As of this letter's date, the state has not received a proposal or financing plan from VOMWD.

Staffing considerations and operating conditions at the Plant supported the Plant closure and were addressed in a regulatory citation and a subsequent inspection report. For example, the SWRCB cited the facility in August 2019 for operating with an insufficient operator certification level. In addition, in November 2019, the San Francisco Bay Regional Water Quality Control Board brought to DGS' attention several issues related to Plant operations based on an inspection in May 2019.

**RESTRUCTURED AGREEMENT:** With regard to Finding No. 2 in *Sonoma Valley Regional Water Resource*, the state is not a party to the Restructured Agreement for Water Supply referenced in the reports. Instead, Sonoma Water and the state have maintained a municipal water service agreement for SDC in place since 1964. As such, the Restructured Agreement provision pertaining to "Other Agency Customer" (described in the Grand Jury report as giving VOMWD the ability to exercise an option with regard to SDC) does not currently apply to the state and would only apply to any new agreements. Therefore, the Restructured Agreement and its provisions are not relevant to the state's agreement with Sonoma Water. However, this does not preclude Valley of the Moon from serving water to future redevelopment of the SDC.

**MUTUAL AID WATER LOAN AGREEMENT:** The Emergency Water report discusses a Mutual Aid Water Loan Agreement (loan agreement) between the state and VOMWD. This loan agreement established a mutually beneficial process under which limited short term "loans" of water may be made during emergencies. Notably, the agreement expressly states that nothing in the "agreement shall be construed to guarantee availability of water volumes, water pressure, or reserved capacity of any kind at any time." Moreover, the agreement provides that under no circumstances shall either the state or VOMWD be obligated to loan water to the other under the terms of the agreement. As such, this loan agreement may not be relied upon by VOMWD to meet its "local water production capacity" goals. However, the state remains open to exploring any viable options for the appropriate use of the property's water in emergency situations provided it is consistent with state law.

In response to Finding No. 2 in *Emergency Water Shortages in Sonoma Valley*, even if the Plant were reactivated, please note that the physical condition of the property's infrastructure may provide obstacles to the property's provision of emergency water, depending on the severity of a triggering event. It is also highly improbable that SDC would be able to lend water during an earthquake given the age and condition of the existing water distribution system, which is subject to continual water line failures absent any seismic activity. However, this does not preclude the provision of emergency water when new infrastructure is in place.

**RECOMMENDATIONS:** In response to the Sonoma County Civil Grand Jury's recommendations R4 in the *Emergency Water report*, and R1 in the *Water Resources report*, the state is open to utilizing excess onsite tank storage capacity on an interim basis for other parties to store their water for access during emergencies and interruptions, subject to the approval of the SWRCB. However, those entities using the infrastructure must assume all operational and financial responsibility during the use and must meet all applicable regulatory requirements of the SWRCB. Additionally, as previously noted, the condition of the existing water distribution system may impact the availability of water stored at the Property during emergencies.

In response to the Sonoma County Civil Grand Jury's recommendation R1 in the *Emergency Water report*, we highlight that a Specific Plan may address facilities that support the land uses described in the Specific Plan, including water facilities. Therefore, the ultimate uses of the property's water may depend on the resulting Specific Plan. As such, to the extent that uses of the Property's water must be vetted through the land use planning process, it would be inconsistent with state law for DGS to support a separate process to address these issues.

The Sonoma County Civil Grand Jury's reports raise important local and regional planning issues and highlight the need to complete the Specific Plan for SDC on schedule. We look forward to working together toward solutions that serve the residents of Sonoma County.

Thank you for allowing the state the opportunity to respond to the Sonoma County Civil Grand Jury's recommendations.



Daniel C. Kim  
Director