

SAN
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VALLEY

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TRIBUNE

PUC to probe water practices

Lawsuits prompt unprecedented review

By Laurence Darmiento
STAFF WRITER

The Public Utilities Commission has ordered an unprecedented review of state water regulations and the operations of California's largest water utilities.

The review was prompted by recent lawsuits filed against water companies in the San Gabriel Valley and Northern California that commission officials

say raise concerns about the safety of the state's drinking water, and the financial health of the largest companies that supply it.

The six lawsuits, four of which are filed by Valley residents, allege the companies should be liable for any illnesses or deaths caused by contaminated water, even if the water met all health standards at the time it was sold.

"The question becomes should the utilities have known (the water was contaminated) and

even if they didn't, are they still liable?" said Fred Curry, a commission administrator overseeing the investigation.

"If they are following the rules and end up being sued and with a judgment that costs them multi-millions of dollars, of what benefit is that to the public?"

Among the local companies being sued are Southern California Water Co., the San Gabriel

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REVIEW

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Valley Water Co. and Suburban Water Systems, all of which defend the safety of the water they supply to customers.

The March 12 order requires the state Department of Health Services to provide the commission with a comprehensive overview of water regulations, and information on the health effects of several contaminants.

The state's 20 largest water utilities, including the three Valley companies, were ordered to document how they have complied with those regulations and handled any contamination in their supplies of water over the past 25 years.

The companies serve about a fifth of the state's residents, nearly 6 million people. As profit-making entities, they are subject to PUC regulations, which require them to supply safe water at reasonable prices.

Peter Arth, the commission's general counsel, said the information collected by the investigation could result in new or tighter water standards. It also could be used to protect the companies from jury damage awards that would bankrupt them — jeopardizing the supply and cost of water for customers.

"We would take the position, and I am sure the water utilities would take the position, that under the constitution the PUC's jurisdiction overrides that of the courts in this area," Arth said.

The PUC conducted a similar review of the state's power industry several years ago when electric utilities were being sued by residents who claimed high-voltage power lines had caused cancers, he said.

The information developed

during the review established a legal record that allowed the PUC to assert its jurisdiction over the Superior Court and establish guidelines for the power lines. It also caused all the lawsuits to fail or be dropped by the plaintiffs.

The water companies being sued also could petition to place the lawsuits on hold, pending outcome of PUC review, he said.

Gary Ottoson, an attorney for Southern California Water Co., a San Dimas-based water utility that is one of the largest and is facing a lawsuit by hundreds of Valley residents, said the review was welcomed by the company.

"I think that what is going to be found is that when the water companies had any knowledge there were potential problems, they have attacked it with vigor," Ottoson said. "The last thing these people want to do is make anybody sick."

Mark Algorri, an attorney representing customers suing Southern California Water and two other Valley water companies, criticized the review.

"A more irresponsible industry cannot be found. The water is given to them by the people of California, and they are given an exclusive franchise and guaranteed profit," Algorri said. "Even if they have reason to know there are potentially dangerous contaminants, they just turn a blind eye and say they gave complied with the federal and state requirements."

The commission will focus on contamination caused by industrial solvents and a rocket fuel ingredient called perchlorate, which have contaminated water supplies in the Valley and elsewhere statewide.

The companies have 120 days to conduct the review and present their findings to the PUC.

The order does not cover 175 smaller companies, each serving less than 2,000 accounts, or the state's 56 municipal water districts, which are public agencies with elected boards.

State Supreme Court refuses to dismiss liability allegation

By Laurence Darmiento
STAFF WRITER

The state Supreme Court has refused to dismiss a key portion of a lawsuit claiming water supplied by Southern California Water Co. caused illness or death to hundreds of customers.

In a March 25 ruling, the high court let stand lower court decisions that the company could be held liable for damages stemming from the consumption of contaminated water even if the water met govern-

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ment health standards.

The ruling, issued without comment, does not establish liability in the case. Rather, it will allow some 200 customers to proceed with their lawsuit against the San Dimas-based company without having to prove the company was negligent.

Gary Ottoson, a water company attorney, said the decision had broad implications for the state water industry, and the company could seek to have it reconsidered later.

"The plaintiffs are claiming that even if all the water regulations have been met in the delivery process, that purveyors through the state of California can be held liable," Ottoson said. "If that is true, the entire regulatory process has been set on its ear."

The lawsuit alleges that water is a product, thus the company should be "strictly liable" for possible damages even if the water met health standards at the time of delivery.

The lawsuit also alleges the company was negligent because

it knew or should have known that the water it was supplying was contaminated. The company denies any wrongdoing and has stated it has supplied safe water.

The company sought to have the strict liability portion of the lawsuit dismissed last year, but the trial judge refused. The company sought relief in the Court of Appeal, which ruled against it in January. The company then took the matter up to the state Supreme Court.

The ruling sets the stage for a complicated discovery process expected to continue for at least 18 months in which both sides trade evidence.

The lawsuit against Southern California Water Co. was filed in April 1997 in Pasadena Superior Court by residents within the company's South Arcadia service area. The lawsuit claims water supplied by the company over decades caused illness and death, and seeks monetary damages.

At issue is contamination discovered in the San Gabriel Valley's underground reservoir in 1979. State and federal officials now believe that portions of it were polluted with industrial solvents as early as the 1940s.

Similar lawsuits have been filed against Suburban Water Systems and its parent Southwest Water Co., San Gabriel Valley Water Co., Covina Irrigating Co. and the California Domestic Water Co.