

MEMORANDUM

To: Board of Directors, Sierra Lakes County Water District
From: Bill Quesnel PE, General Manager
Subject: Draft Letter re: Proposed Legislation to allow Regulation of Home Heating Oil Tanks
Date: December 2, 2016

The Board has discussed how to reduce the possibility of another fuel spill and resulting contamination of the Community's drinking water source using two approaches:

- Legislation to allow regulation of home heating oil tanks with a capacity of less than 1,100 gallons; and
- Creation of a financial assistance program to ideally incent the removal, or at least the upgrade of existing tanks

Director Oudegeest prepared the attached draft letter to the Community's elected Representatives requesting assistance with proposed legislation that would allow the District to regulate home heating oil tanks. I have edited the letter for accuracy with respect to the details of the spill and remediation activity.

Under separate cover is an outline of a grant program developed by Director Lindquist and me and modeled after a State program that helps fund the replacement or upgrade of commercial fuel tanks.

Attachment: Draft Letter to Representative Dahle and Senator Gaines

SIERRA LAKES COUNTY WATER DISTRICT

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Honorable Assembly Member Brian Dahle
State Capitol, Suite 2158
Sacramento, CA 94249

December 2, 2016

Honorable Senator Ted Gaines
State Capitol, Room 3070
Sacramento, CA 95814

The Sierra Lakes Water District (District), the provider of water and sewer service to the residents of the Serene Lakes Community, needs your assistance to pass legislation that will allow us to regulate residential heating oil tanks smaller than 1,100 gallons capacity. This legislation is very specific to the needs of our community and should have little relevance to other areas of the State.

On May 5, 2016 the District was notified of a fuel oil fuel spill from a 40+ year old underground storage tank. It could have been catastrophic; the tank itself was located less than 200-feet from the shore of Lake Serena from where we draw our drinking water and only 450-feet from the water intake pipe. The clean-up costs will be significant, and the homeowner and likely the State will bear the costs.

The District, Placer County Environmental Health, California Fish and Wildlife, Central Valley Regional Water Quality Control Board, and State Water Resources Control Board staff all responded and have been involved in the cleanup process. The homeowner hired an engineering firm and a hazardous waste remediation contractor to manage and clean up the spill.

The following work has occurred since May to lessen the extent of the spill and resulting impact to the surrounding properties and Lake Serena:

1. Snow that covered the spill area (we average 34-feet of snowfall per winter at our 7,000 foot elevation) was removed to access the tank site;
2. The fuel that remained in the tank was pumped out and the tank and supply piping were removed;
3. Two floating booms were placed in the lake to contain the leaked fuel oil close to the shoreline;
4. Sandbag dams and adsorbent pads were placed between the tank and Lake Serena to capture as much of the spilled fuel oil as possible as it was transported by surface water during the spring runoff;

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5. More than 50 soil samples and 18 lake water samples were analyzed for the presence of petroleum hydrocarbons to determine the extent of the contamination;
6. The house was removed (it was slated for demolition anyway) and the contaminated soil in the crawl space and from almost the entire lot was excavated;
7. The remediation contractor continued to remove contaminated soil in the area nearest the tank until additional sampling resulted in non-detect or very low level hydrocarbon residual in the soil. All told, approximately 1,200 cubic yards of contaminated soil was removed from the property and in some locations the depth of excavation was more than seven-feet.
8. During and after the excavation, high groundwater levels required pumping and disposal of approximately 40,000 gallons of contaminated water;
9. A number of monitoring wells were installed this fall and regular sampling will occur for at least one hydrological cycle (one year).

The District could not use the lake intake for a three week period until sampling of the lake water showed contamination had not reached the intake. During this past summer, daily, and then twice per week sampling, was performed as the District began using the lake water. Even today, the District samples the lake water twice per month for the presence of hydrocarbons. The District relied on a backup well as the Community's drinking water source during that initial 21-day period.

We were lucky the spill did not happen during heavy occupancy times in summer or winter as the output of the well is limited. We were lucky the spill occurred in spring and not when the ground was covered with snow and the spilled heating oil not visible. We were lucky only a portion of the oil in the 500-gallon tank leaked. We were lucky the spill was caught quickly and very little oil actually reached the lake.

After the majority of the leaked oil had been contained and downstream protection measures put in place, the District began to consider what long-term and pro-active solutions were required to protect the lake and community drinking water source from another spill.

First, we reviewed the District's and other regulatory agency authority for mandating tank maintenance, regular integrity testing, removal and/or upgrading of small underground home heating oil storage tanks. One would think that Water Purveyors, Counties and Cities and the Regional Water Quality Control Boards would have oversight authority. They do, but only after a spill has occurred and only to oversee cleanup of the spill. There is no authority to regulate home heating oil tanks with a capacity of less than 1,100 gallons (23 CCR §2621). Furthermore, although there are State regulations (23 CCR §2640) to regulate tanks within 1,000 feet of public drinking water wells, those regulations do not apply to surface water sources.

In 1992, the District passed an Ordinance that prohibited the installation of new underground heating oil tanks due to a "clear and present danger" to the drinking water. However, the Ordinance was not retroactive to tanks installed before 1992 and the District had no authority to require removal of tanks used for homes constructed between 1962-1992, a time period that saw extensive building in our community.

Second, Staff contacted the Placer County Building Department to determine which of the 525 houses constructed before adoption of the 1992 Ordinance might have tanks but due to

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the state of those records, that effort has been unsuccessful. Further, even if we found all the houses with tanks, the District does not have the authority to require integrity testing, much less upgrades or removal of those tanks.

The District believes an amendment to the County Water District Code allowing it to regulate the use of underground fuel tanks including integrity testing, maintenance, retrofitting and/or removal when appropriate is necessary. Those types of regulations exist for tanks greater than 1,100 gallons in capacity, but we have seen first-hand the damage that smaller tanks can cause. The proposed language could be something similar to the following:

In addition to the other powers provided by law, the Sierra Lakes County Water District shall have the following powers and shall promptly and effectively exercise such powers as may be appropriate to prevent nuisance, pollution, waste, and contamination of its drinking water source:

- (a) To regulate, prohibit, or control the discharge of pollutants, waste, or any other materials into the ground or surface waters of the District by requiring property owners with heating oil tanks located within 1,000 feet of (name of source) to obtain a permit from the District prior to use of such tanks.*
- (b) Such tanks shall be subject to the construction, testing and monitoring requirements of underground fuel tanks as described in Title 23, Division 3, Chapter 16, Article 4, Sections 2640 through 2646 of the California Code of Regulations.*

Regulation of small heating oil tanks will go far in preventing another spill and the significant costs associated with an uncontained release. In our "lucky" case, the initial response and remediation has reportedly cost the new homeowner more than \$500,000 to date with no insurance stepping in. If the State Clean-Up fund does provide financial assistance, those costs and future monitoring costs will be borne by the State in addition to the staff costs of the responding agencies. If the Sierra Lakes County Water District has the appropriate regulatory authority, most, if not all of these costs can be avoided. Had the spill occurred at a time when it would have gone undetected for a longer period due to snow and ice cover, the contamination of Lake Serena could have been much more extensive with the result being an adverse effect on the Community's drinking water source for an extended period of time at a potentially astronomical cost.

The District appreciates your consideration and support of the proposed legislation and will do whatever what we can do to help with the effort.

Sincerely,

Board President

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