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NEW TECHNICAL CONDITIONS AND DEADLINES FOR THE INSTALLATION OF MONITORING AND REPORTING SYSTEMS FOR UNDERGROUND WATER EXTRACTIONS

Based on recent amendments to the Water Code, which created new monitoring and reporting duties for holders of underground water rights, the Water Bureau (“DGA”) has issued **DGA Resolution No. 1238** (the “Resolution 1238”), setting out new technical conditions and deadlines for the installation of monitoring and reporting systems of effective extractions of underground waters, at a national level.

Main features introduced by Resolution 1238 are:

1. Sets out four requirement categories according to the extent of flows authorized in a particular extraction point, regarding deadlines, technical conditions and frequency requirements for the transmission of information;
2. Orders DGA Regional Offices to enact resolutions that set out the flow detail for the four categories detailed above, for all the country’s regions (the “Regional Resolutions”);
3. Extends the obligation to install and maintain such monitoring and reporting systems, to all holders of underground water rights, since the publication of the particular Regional Resolutions in the Official Gazette.

The first Regional Resolution to be enacted was **DGA Valparaiso Exempt Resolution No. 1065**, which specified the monitoring and reporting duties for extraction of underground water in the Petorca Province (the “Resolution 1065”).

Among other aspects, Resolution 1065 suspends the right to exercise an underground water right which: **a)** is acquired; or **b)** has been subject to an intake point amendment; until the monitoring and reporting system is installed, registered in the DGA online platform, and data transmission begins, with general deadlines being not applicable for such cases.

Non-compliance with these new underground water’s extraction monitoring and reporting duties are sanctioned with fines ranging from USD\$710 and USD\$35,600, which are duplicated upon reoccurrences, per every breach detected by DGA.



If you have any questions regarding the matters discussed in this news alert, please contact the following attorneys or call your regular Carey contact.

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