

NEW YORK
LONDON
SINGAPORE
PHILADELPHIA
CHICAGO
WASHINGTON, DC
SAN FRANCISCO
SILICON VALLEY
SAN DIEGO
SHANGHAI
BOSTON
HOUSTON
LOS ANGELES
HANOI
HO CHI MINH CITY

DuaneMorris®

FIRM and AFFILIATE OFFICES

COLIN L. PEARCE
DIRECT DIAL: +1 415 957 3015
PERSONAL FAX: +1 415 704 3098
E-MAIL: clpearce@duanemorris.com

www.duanemorris.com

ATLANTA
BALTIMORE
WILMINGTON
MIAMI
BOCA RATON
PITTSBURGH
NEWARK
LAS VEGAS
CHERRY HILL
LAKE TAHOE
MYANMAR
OMAN
A GCC REPRESENTATIVE OFFICE
OF DUANE MORRIS

MEXICO CITY
ALLIANCE WITH
MIRANDA & ESTAVILLO
SRI LANKA
ALLIANCE WITH
GOWERS INTERNATIONAL

April 4, 2017

VIA E-MAIL

Jeanine Townsend
Clerk to the State Water Resources Control Board
State Water Resources Control Board
1001 I St., 24th Floor
Sacramento, CA 95814
commentletters@waterboards.ca.gov



Re: **City of Bakersfield's Comments on Proposed 1, 2, 3 – Trichloropropane Regulations and Associated Draft Initial Study/Mitigated Negative Declaration**

Dear Ms. Townsend:

We are special water counsel to the City of Bakersfield (“Bakersfield” or “City”). On behalf of Bakersfield, we submit the following comments on the proposed 1, 2, 3 – Trichloropropane (“TCP”) regulations and associated Draft Initial Study/Mitigated Negative Declaration, which the State Water Resources Control Board (“Water Board”) will consider adopting in the summer of 2017.

Bakersfield appreciates the efforts of the Water Board to adopt a primary drinking water standard for the protection of public health with regard to TCP. Bakersfield also understands that the Water Board has set an adopted Maximum Contaminant Level (MCL) as close to the contaminant’s public health goal (PHG) as is technologically and economically feasible at the time of adoption, while placing primary emphasis on protection of public health.

A significant number of wells within Bakersfield (approximately 40) are currently impacted by TCP. Bakersfield staff are working diligently with consultants to construct and install treatment systems on its impacted wells to ensure that it is in compliance with the proposed TCP regulations, and to protect the health of City residents.

DUANE MORRIS LLP

SPEAR TOWER, ONE MARKET PLAZA, SUITE 2200
SAN FRANCISCO, CA 94105-1127

PHONE: +1 415 957 3000 FAX: +1 415 957 3001

Jeanine Townsend
April 4, 2017
Page 2

Given the number of impacted wells within the City, and the time, cost and efforts involved in the development and installation of treatment systems on individual wells, Bakersfield respectfully requests that the Water Board provide additional time to come into compliance with the new regulations. Bakersfield's request for additional time is necessary because of the number of significant capital improvement projects it will be required to undertake in order to install treatment systems on its TCP impacted wells to be in compliance with the proposed MCL.

Bakersfield notes that The California Safe Drinking Water Act provides for a public water system to seek an exemption from any MCL or treatment requirement from the Water Board provided that it satisfy certain requirements. (Health and Safety Code § 116425(a).) With the granting of an exemption, the Board may set out a schedule for interim measures and compliance that will require compliance to be achieved within 12 months of the granting of the exemption. (Health and Safety Code §§ 116425(b) and (c).)

Bakersfield notes that for hexavalent chromium, the Water Board granted, pursuant to Section 116431, a longer period of time to achieve compliance with the primary drinking water standard in connection with and based on an approved compliance plan. (See Health and Safety Code § 116431.)

Bakersfield could also present additional information in a compliance plan as to why compliance may not presently be feasible under the proposed timetable, as well as options to achieve and maintain compliance by the earliest feasible date and the actions that Bakersfield is taking and will take to achieve compliance. While implementing the approved compliance plan or while a compliance plan is pending approval, Bakersfield would request that it not be deemed in violation of the primary drinking water standard for TCP.

Thank you for the opportunity to provide these comments to the proposed TCP regulations and associated Draft Initial Study/Mitigated Negative Declaration for the Water Board's consideration. Please let us know if you have any questions or require any further information on these matters.

Sincerely,

Colin L. Pearce

cc: Alan Tandy, City Manager, City of Bakersfield
Virginia Gennaro, City Attorney, City of Bakersfield
Art Chianello, Water Resources Manager, City of Bakersfield