



April 18, 2017

State Water Resources Control Board
c/o Ms. Jeanine Townsend
Clerk of the Board
P.O. Box 997377, MS 7400
Sacramento, CA 95899-7377

Re: SBDDW-17-001; Proposed 1,2,3-Trichloropropane MCL Regulation;

Dear Members of the State Water Resources Control Board::

The undersigned cities, special districts and mutual water companies, all of whom own and operate Public Water Systems regulated under California's Safe Drinking Water Act, and all of whom have one or more groundwater wells affected by 1,2,3-trichloropropane (1,2,3-TCP) contamination, hereby submit this comment letter in support of the State Water Resources Control Board's proposed Maximum Contaminant Level (MCL) for 1,2,3-TCP.

1,2,3-TCP in Drinking Water Increases Cancer Risk

According to the Board's own website, "1,2,3-TCP causes cancer in laboratory animals (US EPA, 2009). It is reasonably anticipated to be a human carcinogen (NTP, 2011), and probably carcinogenic to humans, based on sufficient evidence of carcinogenicity in experimental animals (IARC, 1995)."¹ The California Office of Environmental Health Hazard Assessment ("OEHHA") has concluded that "1,2,3-TCP represents a significant carcinogenic risk when it occurs in drinking water."² Based on that conclusion, OEHHA issued in 2009 a final, peer-reviewed Public Health Goal (PHG) for 1,2,3-TCP in drinking water of 0.7 ppt - the second-lowest health-based level ever set for a drinking water contaminant in California.

Soil Fumigants Manufactured By Shell Oil and Dow Chemical Account for Most of the 1,2,3-TCP in California Groundwater

1,2,3-TCP does not occur naturally. Although small quantities of 1,2,3-TCP have reportedly been used for industrial purposes in certain locations, most of the 1,2,3-TCP in California's groundwater comes from past use of soil fumigants on farm fields. Specifically, 1,2,3-TCP was an unnecessary impurity in fumigants manufactured by Shell Oil Company and The Dow Chemical Company that were used extensively in California in the production of multiple crops from the 1950s through the 1980s. In fact, 1,2,3-TCP-containing fumigants were among the most widely used pesticides in the history of the State. Unfortunately, while the active ingredient in Shell's and Dow's fumigants (known as 1,3-dichloropropene) quickly

¹ http://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/123TCP.shtml

² OEHHA, 2009 (http://www.oehha.ca.gov/water/phg/pdf/082009TCP_phg.pdf) (emphasis added).

breaks down after injection into the soil, 1,2,3-TCP, which the companies never disclosed as an ingredient on their products' labels but internally referred to as a "garbage" ingredient because it provided no benefit to farmers, persists in soil and groundwater for decades. Not surprisingly, most of the drinking water sources in California with repeat detections of 1,2,3-TCP are located in the San Joaquin Valley, the agricultural epicenter of the State.

Clean Water v. Affordable Water: We Have a Right to Both

When it comes to 1,2,3-TCP contamination, the undersigned water systems share the same two goals. First, we want 1,2,3-TCP removed from our groundwater supplies, and public exposure to 1,2,3-TCP in our communities eliminated. Second, we want the parties responsible for causing the 1,2,3-TCP contamination, rather than our water customers, to cover the costs of treatment. That is why we and dozens of similarly situated Central Valley water systems have turned to the courts seeking compensation from Shell and Dow to pay for, among other things, the installation, operation and maintenance of 1,2,3-TCP treatment facilities.

Shell and Dow argue, however, that an MCL is a "bright line" that should define when a contaminant damages a water supply, and that "the absence of an MCL [for 1,2,3-TCP] is the single greatest uncertainty-generating factor" impeding resolution of these lawsuits. Consequently, it is our hope that adoption of the proposed MCL at 5 ppt – a level that is the equivalent of the Detection Limit for Reporting Purposes (DLR) and is thus the level that is as close as technically feasible to the PHG – will promote swift resolution of the 1,2,3-TCP cost-recovery lawsuits and strengthen our ability to hold the responsible parties accountable for the costs of 1,2,3-TCP remediation, which, in turn, will help us to achieve our shared goal of installing 1,2,3-TCP treatment with minimal impact on our ratepayers. In contrast, setting the MCL higher than the DLR on account of the substantial costs of treatment will only further enrich the responsible parties at the expense of public health.

MCLs typically require a difficult choice between public health and affordability. But in the case of 1,2,3-TCP, the choice in favor of public health should be an easy one to make. That is because 1,2,3-TCP differs from most other contaminants of regulatory interest in a number of important respects, including: 1,2,3-TCP is an unusually potent carcinogen and there does not appear to be any genuine debate in regulatory and public health circles regarding its health risks; the contaminant is exclusively man-made; viable responsible parties have been identified in most instances of 1,2,3-TCP contamination; and most affected water suppliers have available legal remedies to shift treatment costs from their ratepayers to those responsible parties. We, therefore, urge the Water Board to adopt the proposed 1,2,3-TCP MCL at 5 ppt, and to do so as soon as possible.

Please direct any correspondence related to this comment letter to our outside counsel at the following address:

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Thank you.

Respectfully,

Arvin Community Services District
City of Kingsburg
City of Parlier
City of Reedley
Delhi County Water District
Del Rey Community Services District
Le Grand Community Services District
Orosi Public Utility District
Vaughn Water Company
Woodville Public Utility District