



May 15, 2020

Ms. Jeanine Townsend
Clerk to the Board
STATE WATER RESOURCES CONTROL BOARD
P. O. Box 100
Sacramento, California 95812-2000
Via: commentletters@waterboards.ca.gov

Re: COMMENTS – White Paper On Economic Feasibility Analysis In Consideration of a Hexavalent Chromium MCL

Dear Ms. Townsend:

On behalf of the Southern California Water Coalition (SCWC), we would like to submit the following brief comments and an accompanying framework in response to the White Paper On Economic Feasibility Analysis In Consideration of a Hexavalent Chromium MCL (“the White Paper”), released for public comment by the State Water Resources Control Board in February 2020. SCWC was created in 1983, in response to drought, to coordinate the activities of counties, special districts, and the business community in the stewardship and protection of Southern California’s water supplies. Our members come from Kern, Ventura, Los Angeles, Orange, San Bernardino, Riverside, Imperial and San Diego Counties. Besides coordinating with our members, SCWC’s Water Quality Task Force has been working with the Community Water Systems Alliance (CWSA) to educate and activate elected officials who govern water systems serving disadvantaged communities. These efforts are helping to create informed consensus about economic feasibility. We thus retained the services of Corona Engineering to develop the attached Framework on Economic Feasibility to satisfy the requirements of larger water suppliers while meeting the needs of small and disadvantaged community water systems in complying with safe drinking water standards.

With respect to the White Paper, we disagree with the White Paper’s premise that accounting for economic feasibility of drinking water standards by factoring community water systems of limited financial means and their residents, sacrifices the greater good for people who live in more affluent areas. The consequence of the white paper is that the few that cannot afford the State-recommended water treatment systems, that wealthier communities can afford, should be made to pay by whatever means necessary - while failing to convincingly identify where those financial resources would come from, or consider a plan to provide them.

We agree with comments by others, such as the California Association of Mutual Water Companies (CalMutuals), that the State Water Board should strive to be responsive to the Superior Court ruling that invalidated the MCL for hexavalent chromium in 2017, by developing a policy to be followed by the Division of Drinking Water (DDW) in determining economic feasibility in the MCL process. If the White Paper’s premise is followed in setting a new MCL for hexavalent chromium, or, any other contaminant of emerging concern, it will encourage uncertainty and add potentially





high costs for all impacted water suppliers, because of the standard's continued vulnerability to subsequent legal challenges. It suffices to remind ourselves that the courts are still involved in determining the long-term fate of the standard for 1,2,3 TCP adopted in 2017 by the State Water Board. The case is based on the same arguments about the lack of an adequate economic feasibility study. Almost 200 water systems working to comply with the 1,2,3 TCP standard and their rate payers will be enormously harmed if the MCL is invalidated by the courts. At the same time, the statute of limitations for filing claims to recover costs from responsible parties for 1,2,3 TCP contamination is expiring at the end of 2020 making it potentially impossible for about 100 water suppliers to file claims - most of them being small systems and disadvantaged communities.

Suggested Framework for Economic Feasibility

As previously mentioned the Southern California Water Coalition has been working with partner organizations and water agencies in the development of an alternative framework for determining economic feasibility by Corona Engineering, for presentation to the DDW and the State Water Board. To facilitate your understanding the concepts we support, we will present the Executive Summary of the report in this letter and are providing greater detail in the attached report.

Executive Summary

Corona Environmental Consulting has worked with the Southern California Water Coalition (SCWC), along with several other water utility groups and individual water utilities, to develop this suggested framework for how the Board should analyze economic feasibility. This framework is structured around two key questions:

1. Do the proposed MCLs (or other standards or policies) provide public health benefits that justify the costs of implementation? If benefits are deemed to exceed or otherwise justify costs, then
2. Is the MCL affordable?

We believe the Board should adopt a methodology based on the proposed framework as a systematic and consistent approach to evaluate the economic feasibility of a new Cr(VI) MCL and all future potential drinking water standards.

Screening level assessment

Before proceeding to set an MCL, the framework first proposes a screening-level assessment to ensure that suitable data is available to describe the full range of impacted system sizes and locations and analyze the corresponding benefit and cost implications. This assessment should identify whether further data collection and/or technical analysis is warranted. The initial screening should consist of the following components:

- Ensure that sufficient occurrence data are available by system size and geographic location.
- Ensure risk assessment calculations are based on the best available information.
- Ensure that benefits can be quantified for the risk-driving health endpoint.



Benefit-cost analysis (BCA)

BCA is a necessary step to help ensure that the MCL will be an efficient and effective investment of resources in public health protection. This includes the following steps:

1. Consider statewide capital/initial costs as well as operations, maintenance, and replacement costs for best available technology, as well as costs for non-treatment options.
2. Analyze benefits relative to costs incrementally across possible MCL levels to understand where the change in benefits is greatest relative to the cost.
3. Consider feedback from the affordability assessment to inform selection of the MCL.

Affordability assessment

The final step in the economic feasibility framework is to evaluate the affordability of the proposed MCL resulting from the BCA. This includes the following:

- Apply community-level affordability metrics to determine whether the proposed MCL is affordable for impacted communities.

We agree with the Board that no one metric or threshold is sufficient as a decision rule for identifying affordability concerns. However, several methods and metrics exist that will allow the Board to identify those communities for which the cost of compliance will pose an undue economic hardship for a disproportionate number of households.

- Quantify the range of potential assistance needs based on those communities for which costs associated with compliance are deemed to be unaffordable.
- Evaluate the ability of the state to provide the projected level of assistance, including through grants, loans, and other methods. A key consideration in this assessment is to understand whether the demand will divert spending on infrastructure rehabilitation and other necessary investments that are likely to provide greater health protection benefits to ratepayers.

Small system considerations

Most proposed MCLs will be more economically and technically challenging for small systems to satisfy compared to large systems. However, the populations served by these small systems deserve the same level of public health protection as larger systems. The costs of all potential options for small system compliance should be examined, including for point of use treatment, consolidation (both physical and/or managerial/technical consolidation options), and non-treatment options. The resulting impacts to individual communities should be assessed and examined as part of the affordability assessment.



Thank you for the opportunity of presenting our comments and recommendations on a State Water Board policy on economic feasibility for MCLs. We recognize the challenges the State Water Board faces in protecting public health in an equitable manner that helps all of the state's residents. SCWC is eager to engage and we look forward to your response.

Sincerely yours,

A handwritten signature in blue ink that reads "David Harrison".

David Harrison
Chairman
Water Quality Task Force
Southern California Water Coalition
2621 Green River Road, Suite 105-#234
Corona, California 92882

Attachment: Alternative Framework for Determining Economic Feasibility by Corona Engineering on behalf of SCWC

Cc: The Honorable Joaquin Esquivel, Chair, SWRCB
Members of the State Water Resources Control Board
Mr. David Zonana, Supervising Deputy Attorney General
Mr. Charles Wilson, President and CEO, SCWC
Mr. Ray Kolisz, Chairman, CWSA
Mr. Adan Ortega, Executive Director, CalMutuals
Ms. Cindy Tuck, Legislative Director, ACWA