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MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

Division of Drinking Water

January 5, 2017

Ms. Irena Asmundson
Chief Economist
California Department of Finance
915 L Street
Sacramento, CA 95814

Dear Ms. Asmundson:

Thank you for your letter dated October 24, 2016, providing comments on the Standardized Regulatory Impact Assessment (SRIA) for the proposed regulations on maximum contaminant level for 1,2,3-Trichloropropane (1,2,3-TCP), as required in California Code of Regulations, Title 1, section 2002(a)(1). Attached please find a summary of each of your comments followed by a State Water Resources Control Board (State Water Board) response.

Please contact Conny Mitterhofer with Division of Drinking Water at (916) 341-5720, should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Thomas Howard".

Thomas Howard
Executive Director

Enclosure

cc: Ms. Panorea Avdis, Director, Governor's Office on Business and Development
Ms. Debra Cornez, Director, Office of Administrative Law
Mr. Darrin Polhemus, State Water Resources Control Board
Mr. Robert Brownwood, State Water Resources Control Board
Mr. Mark Bartson, State Water Resources Control Board
Ms. Conny Mitterhofer, State Water Resources Control Board
Mr. Zachary Rounds, State Water Resources Control Board

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State Water Resources Control Board
1,2,3-Trichloropropane (1,2,3-TCP) Maximum Contaminant Level (MCL) Regulations
Response to Comments on Standardized Regulatory Impact Assessment (SRIA)

The State Water Resources Control Board (State Water Board) is in the process of adopting regulations to establish a Maximum Contaminant Level (MCL) for 1,2,3-Trichloropropane (1,2,3-TCP). In accordance with SB617, the State Water Board prepared and submitted a Standardized Regulatory Impact Assessment (SRIA) to the Department of Finance on October 6, 2016. The State Water Board received comments from the Department of Finance on the SRIA on October 24, 2016. This document contains a compilation of comments and responses on the SRIA.

Department of Finance Comments:

Thank you for submitting the standardized regulatory impact assessment (SRIA) and the summary (Form DF-131) for the proposed regulations on maximum contaminant levels for 1,2,3-Trichloropropane (1,2,3-TCP), as required in California Code of Regulations, title 1, section 2002(a)(1). As proposed regulations were not submitted with the SRIA, these comments are solely based on the SRIA.

The SRIA describes proposed regulations that set a maximum contaminant level for 1,2,3-TCP in drinking water of 5 parts per trillion (ppt), which will require treatment of water coming from around 300 wells serving around 1 million people in 18 counties. While some water systems may be able to switch to alternate sources, many systems will have to invest in treatment facilities. These facilities are estimated to cost around \$100 million to install over three years (2018-2020), and around \$22 million each year to operate beginning in 2021. These costs would be passed on to customers, estimated to be an additional \$14 per month per household. However, if households were relying on bottled water, this would cost around \$72 per month, and having treated tap water would be a cost savings. As 1,2,3-TCP is a carcinogen, the proposed regulation is estimated to avoid around 2.5 cancer cases per year for the next 70 years in the affected population.

Finance generally concurs with the methodology used to estimate annual impacts under the proposed regulation. The analysis generally meets the requirements, with two exceptions. First the impacts to businesses that are required to use potable water in their operations should be included. These businesses would also face higher costs of purchasing treated water or installing their own filtration systems. These impacts should be discussed to the extent possible. Second, if there are federal or state funds available to help water systems invest, this would lower costs to local ratepayers, but may entail fiscal costs. Again, these impacts should be discussed to the extent possible.

There are several features of the SRIA that are particularly helpful to the reader: the geographic data presented, the detailed discussion of the mechanisms by which the proposed regulation would affect individuals, and the analysis of alternatives. While the choice of doing nothing is rarely informative, 1,2,3-TCP is regulated much less stringently (if at all) in other states. The second alternative, however, is

more informative, in that it shows the tradeoff between a lower reduction in cancer cases versus cost savings in having fewer water systems install treatment facilities.

These comments are intended to provide sufficient guidance outlining revisions to the SRIA. The SRIA, a summary of Finance's comments, and any responses must be included in the rulemaking file that is available for public comment. Finance understands that the proposed regulations may change during the rulemaking process. If any significant changes to the proposed regulations result in economic impacts not discussed in the SRIA, please note that the revised economic impacts must be reflected on the Standard Form 399 for the rulemaking file submittal to the Office of Administrative Law. Please let us know if you have any questions regarding our comments.

State Water Board Response to Comments:

The State Water Board appreciates the comments and assistance provided during the preparation and submittal of the SRIA. It is our understanding that a revised SRIA is not required and the State Water Board has, instead, made changes to the Initial Statement of Reasons and Attachment A to Standard Form 399 to reflect the following Responses to Comments.

Comment 1: The impacts to businesses that are required to use potable water in their operations should be included. These businesses would also face higher costs of purchasing treated water or installing their own filtration systems. These impacts should be discussed to the extent possible.

The proposed regulation directly impacts public drinking water systems. Public water systems are utilities, not businesses or individuals and, pursuant to Government Code Chapter 3.5, Article 2, Section 11342.610(b)(8), are specifically excluded from the definition of small businesses. The State Water Board recognizes that the direct impacts from the regulation may be passed on by the public water systems as indirect costs to businesses and individuals; these businesses and individuals may be customers of a public water system, such as a homeowner in a city, a business in a commercial park, or another public water system purchasing water for its own customers. The indirect impacts also extend to businesses or individuals whose activities include the ownership, management, and/or operations of a directly impacted public water system, such as a mobile home park or investor-owned utility. The types of businesses expected to be indirectly impacted consist of every type of business that requires potable drinking water for either their customers, employees, or processes/operations.

Of the 4,296 public water systems estimated to be impacted as a result of this regulation (see Cost Estimating Methodology), the State Water Board estimates that 2,711 of those systems are privately owned and 1,410 are locally owned (e.g., municipal water systems). The State Water Board does not track or have a way of estimating the total number of businesses contained within water systems. The State Water Board does not collect sufficient water usage data from each public water system to develop an appropriate method of estimating what costs would be passed on to businesses and how those businesses' competitiveness would be affected. Additionally, the State Water Board does not track information for each individual business that may be impacted (e.g., flow data, number of

connections, volume of drinking water used for processing or operations) and can therefore not quantify the economic impacts.

The State Water Board recognizes that costs for the treatment and monitoring would likely be passed on to a water system's customers, which may include individuals and businesses. It is anticipated that those increases will be a small percentage of a business' total costs, and would not create a significant adverse economic impact generally. The State Water Board does not have sufficient information about water usage of businesses to develop an accurate assessment of impacts.

Depending on their water needs, some businesses may incur higher water costs as a result of the treatment, while other businesses may be able to separate their drinking water from their business uses and use water not meant for public consumption (e.g. cooling, construction), potentially reducing rate increases. Similarly, businesses and individuals that were buying bottled water because of concerns about 1,2,3-TCP in the water would no longer need to buy bottled water. The actual cost passed on from the public water systems to the businesses and individuals they serve will also depend on the number of service connections within the water system (those systems with a higher number of service connections would experience lower per connection cost increases due to a larger number of connections sharing the cost of infrastructure upgrades), the volume of water requiring treatment, and the ability to qualify for grants or low-interest loans. Therefore, even though the regulation does not directly affect businesses or individuals, those entities may be indirectly impacted by the regulation; nonetheless, any economic impact to businesses statewide is not anticipated to be significant.

Comment 2: If there are federal or state funds available to help water systems invest, this would lower costs to local ratepayers, but may entail fiscal costs. Again, these impacts should be discussed to the extent possible.

The State Water Board expects that some public water systems with 1,2,3-TCP contamination in some or all of their active sources will apply for and receive loans and grants from various California funding programs. The State Water Board anticipates that funding those public water systems that have 1,2,3-TCP contamination may have an impact on the ability of California to fund other projects which may also be eligible to receiving funding due to funding being finite and thus less available for those projects. The State Water Board does not have sufficient information to project the extent of the impacts from this as funding is competitive and it is uncertain how many water systems may receive assistance. However, water systems that do receive funding assistance will not increase the fiscal costs to the State for administering these funding programs since those costs would incur for those program regardless of this regulatory action.

The State Water Board estimates that there will be no change to the Division of Drinking Water's Safe Drinking Water Account fees and caps. The fees, caps, and annual adjustments are specified in statute under sections 116565, 116577, 116585, and 116590, California Health and Safety Code.

No direct fiscal impacts are anticipated to federally funded State agencies or programs. Indirect impacts may occur as a result of an increase or redirection in the use of federally provided funds used by State

agencies for loan and grant programs to public water systems, but insufficient information exists for these indirect impacts to be calculated.