Southeast Water Coalition
A joint powers authority to protect the Central Groundwater Basin

AGENDA
SOUTHEAST WATER COALITION
REGULAR MEETING OF THE ADMINISTRATIVE ENTITY

City of Vernon
City Hall
4305 S. Santa Fe Avenue
Vernon, CA 90058

THURSDAY, SEPTEMBER 21, 2023
12:00 PM

1. **ROLL CALL**

2. **PUBLIC COMMENTS**

3. **CONSENT CALENDAR**

   ****Consent Calendar items will be considered and approved in one motion unless removed by an Administrative Entity Member for discussion.****

   a. **SEWC ADMINISTRATIVE ENTITY MINUTES OF JULY 20, 2023 REGULAR MEETING**
   Recommendation: Approve minutes as submitted.

****End of Consent Calendar****

4. **RECORDS RETENTION POLICY**
   Joanna Moreno, AE Chair, City of Vernon
   Recommendation: Recommend to the Board of Directors approval and adoption of Resolution No. 2023-01, Resolution of the Policy Board of the Southeast Water Coalition Joint Powers Authority Adopting a Records Retention Schedule

5. **LOS ANGELES COUNTY BOARD OF SUPERVISORS APPROVE MOTION TO INVESTIGATE PFAS LEVELS IN LOS ANGELES COUNTY DRINKING WATER**
   Joanna Moreno, AE Chair, City of Vernon
   Recommendation: Discuss the approved Motion by Supervisor Janice Hahn and any appropriate follow-up actions by SEWC

6. **DUPONT AND 3M CLASS ACTION SETTLEMENT AGREEMENTS GRANTED PRELIMINARY APPROVAL BY THE COURT**
   Joanna Moreno, AE Chair, City of Vernon
   Recommendation: Receive and file an update on the DuPont and 3M PFAS class action lawsuits.

7. **ASSEMBLY BILL 249 – WATER: SCHOOLSITES: LEAD TESTING**
   Joanna Moreno, AE Chair, City of Vernon
   Recommendation: Review and discuss potential impacts of Assembly Bill 249.

8. PROPOSED NOTIFICATION AND RESPONSE LEVELS FOR MANGANESE

Joanna Moreno, AE Chair, City of Vernon

Recommendation: Review and discuss potential impacts of the State Water Resources Control Board's proposed notification and response levels for manganese.

9. OCTOBER 5, 2023 BOARD OF DIRECTORS AGENDA

Joanna Moreno, AE Chair, City of Vernon

Recommendation: Discuss the SEWC Board of Directors Agenda for October 5, 2023.

10. WRITTEN COMMUNICATIONS

11. ADMINISTRATIVE ENTITY MEMBER COMMENTS

On September 18, 2023, the foregoing agenda was posted in accordance with the applicable legal requirements. Regular and Adjourned Regular meeting agendas may be amended up to 72 hours and Special meeting agendas may be amended up to 24 hours in advance of the meeting.

Disability-related services are available to enable persons with a disability to participate in this meeting, consistent with the Federal Americans with Disabilities Act of 1990. Please contact City of Vernon Public Utilities Department at least 24 hours in advance of the meeting at (323) 583-8811 ext. 888.

The next meeting of the Southeast Water Coalition Administrative Entity will be on Thursday, November 16, 2023, 12:00 p.m., at Vernon City Hall, 4305 South Santa Fe Ave., Vernon, CA 90058.

MINUTES OF THE

SOUTHEAST WATER COALITION

JOINT POWERS AUTHORITY

REGULAR MEETING OF THE ADMINISTRATIVE ENTITY

THURSDAY, JULY 20, 2023
12:00 NOON

The Regular Meeting of the Southeast Water Coalition Joint Powers Authority Administrative Entity, held in-person at the City of Vernon, was called to order at 12:10 p.m. by AE Chair Joanna Moreno (Vernon). At the time the meeting was called to order a quorum of members were present. Kevin Sales (KJServices Environmental Consulting) called the roll call and the following Administrative Entity members were present:

1. ROLL CALL

Jaime Moralez	City of Cerritos
Jose Arroyo-Gutierrez	City of Cerritos
Andrew Caraveo	City of Commerce
Dan Mueller	City of Downey
Derek Nguyen	City of Lakewood
Sarah Ho	City of Paramount
Chris Castillo	City of South Gate
Joanna Moreno, AE Chair	City of Vernon
Ray Cordero	City of Whittier

Others in Attendance

Nick Ghirelli	RWG
Kevin Sales	KJServices Environmental Consulting

2. PUBLIC COMMENTS

No Public Comments were received.

3. CONSENT CALENDAR

Dan Mueller (Downey) made a motion to approve the Consent Calendar. The motion was seconded by Jose Arroyo (Cerritos). The AE approved the Consent Calendar as submitted.

4. SEWC PROGRAM MANAGEMENT SUPPORT

Administrative Entity Chair Moreno presented a review of this item.

On June 8, 2023, the SEWC AE staff received a proposal for program management support from Koa Consulting for $85,740 per year. The proposal included the following tasks:

1. Monthly meeting support - $2,480 per month.
2. Administrative Support and Document Management - $1,620 per month.
3. Tracking of Strategic Plan and Grant Opportunities - $2,940 per month.

The total proposed monthly cost was $7,145, with an estimated annual cost of $85,740.

A committee of Administrative Entity (AE) members reviewed and discussed Koa Consulting's June 8th proposal. In an effort to reduce costs, the committee deemed that some tasks could be completed by the AE. These tasks include monitoring of legislative bills and tracking the strategic plan and grant opportunities. Subsequent to committee discussion, the AE Chair provided Koa Consulting with a revised scope of work and requested they submit a modified proposal.

Koa Consulting's modified proposal was submitted on July 10, 2023, and included the following tasks and their associated costs:

1. Monthly meeting support - $2,585 per month.
2. Administrative Support and Document Management - $1,405 per month.
3. Filings - $550 per month.

The total proposed monthly cost as submitted in the modified proposal is $4,540 per month, with an estimated annual cost of $54,480.

As this was the only response received to SEWC's Program Management Support RFP, Chair Moreno asked for a motion to approve the Koa Consulting revised proposal and recommend it to the SEWC Board for approval. A motion was made by Derek Nguyen (Lakewood) with a second by Dan Mueller. The motion to submit the revised proposal to the SEWC Board was approved by a unanimous vote of the AE members present.

5. SEWC AUDIT FOR FY 2022 / 2023

Chair Moreno presented an update on the proposal received to conduct the SEWC audit for FY 2022 / 2023.

The Southeast Water Coalition Joint Power Agreement, Section 7.I stipulates:
The controller of the Coalition shall cause an independent annual audit of the Coalitions' finance to be made by a certified public accountant in compliance with Government Code Section 6505.

The auditing firm that SEWC had used for the past few years, DavisFarr presented

a quote for the work that was substantially higher than it had been previously, at a fee that exceeded the amount SEWC had allocated in its budget for this service by nearly 100%.

As a result, AE Chair Moreno reached out to the City of Vernon's current auditors, The Pun Group, to request a proposal to conduct the FY 22/23 audit. The Pun Group has submitted a scope of work and fee proposal for the Fiscal Year (FY) 2022-2023 audit for an amount of $6,500. This amount is within the SEWC budgeted amount of $7,000 for this service. This figure includes the preparation and submittal of the State Controller's Special Districts Financial Transaction Report.

This fee is reasonable given the services to be provided. Staff have confidence in The Pun Group's ability to complete the audits in a professional and timely manner.

Several members of the AE mentioned that their cities had also worked with the Pun Group and that they had always been satisfied with their level of support and quality of their work.

AE Chair Moreno requested a motion to recommend that the SEWC Board approve the Pun Group's proposal to conduct the FY 2022 / 2023 audit and prepare and submit the Special Districts Financial Transaction Report to the State Controller's Office on SEWC's behalf.

A motion was made by Dan Mueller with a second made by Chris Castillo (South Gate) to recommend the Pun Group's audit proposal to the SEWC Board for approval. The motion was approved by a unanimous vote of the AE members present.

6. PFAS SETTLEMENTS

Chair Moreno presented an overview of this item to the Administrative Entity members.

On June 2, 2023, The Chemours Company, DuPont de Nemours, Inc. and Corteva, Inc. announced they have reached an agreement in principle to comprehensively resolve all PFAS related drinking water claims of a defined class of public water systems that serve the vast majority of the United States population.

The class includes water systems with a current detection of PFAS at any level and those that are currently required to monitor for the presence of PFAS under EPA monitoring rules or other applicable laws. This includes but is not limited to systems in the South Carolina aqueous film-forming foam multi-district litigation ("AFFF MDL").

The companies will collectively establish and contribute a total of $1.185 billion to a settlement fund ("water district settlement fund").

On June 22, 2023, 3M announced that it had also reached an agreement to settle lawsuits that claimed that toxic "forever chemicals", polyfluoroalkyl and perfluoroalkyl substances (PFAS), had contaminated water supplies in the United States. The company said it would pay up to $10.3 billion over 13 years to fund public water suppliers in the US that have detected these chemicals in drinking water.

The settlement comes after 3M faced thousands of lawsuits for the last two decades over its manufacturing of products containing PFAS. Last year, 3M said it would stop producing the controversial chemicals by the end of 2025.

3M said its multi-billion-dollar settlement is not an admission of liability. If the settlement agreement is not approved by a court, the company said it would be prepared to continue defending itself against litigation.

Mr. Nick Ghirelli, of the law firm Richards, Watson and Gershon, stated that the proposed settlements would still need to be approved by the Court and that these announcements represented just the first step in a long process of reaching a final settlement with PFAS manufacturers and industrial users and providing compensation to local agencies that have been affected by contamination over the time that these chemicals were being produced and used.

The AE received and filed the report as presented.

7. PFAS CERCLA DESIGNATION

Chair Moreno presented the overview of this item.

The Environmental Protection Agency's (EPA) Spring 2023 Unified Agenda, released on June 13, 2023, extends EPA's estimated publication of a final rule designating certain per- and polyfluoroalkyl substances (PFAS)—namely perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS)—as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA pushed the timeline for the final rule on PFAS CERCLA designation from August 2023 to February 2024.

The delay in the CERCLA designation presents several potential implications:

1. The EPA may be broadening the hazardous substances designations.

2. The EPA is allowing time for possible congressional action.

3. EPA enforcement policy for PFAS chemicals needs further development.

4. The delay could adversely affect some landowners and prospective purchasers of land that potentially contains PFAS.

The AE received and filed the report as presented.

8. SEWC FILE RETENTION & DESTRUCTION POLICY

Administrative Entity Chair Moreno presented a review of this item.

The Southeast Water Coalition has never developed an official policy governing the retention and destruction of the Coalition's records. With the pending transfer of SEWC's administrative support function from KJServices to a new consultant and given that there are a substantial number of both paper and electronic records in KJService's possession dating back as far as 2002, it was time for the AE to discuss the issue and develop a potential policy to take to the Board for approval.

Nick Ghirelli suggested that the AE consider adopting the records retention policy of the lead agency and then prepare a resolution to take to the Board for its approval. He also stated that he would check SEWC's original JPA documents to see if there is any mention of a records retention policy or if it references the use of a particular city's policy.

The AE members did not make a motion on a specific policy at the meeting but referred the matter for additional research and the review of the City of Vernon's record retention policy as a possible document for use. No further action was taken on this item.

9. CHROMIUM 6 MCL – PROPOSED RULEMAKING

AE Chair Moreno presented the following item to the AE members.

California Health and Safety Code Section 116365.5 requires that the State Water Resources Control Board (State Water Board) establish a maximum contaminant level (MCL) for hexavalent chromium (chromium-6) in drinking water.

In 2014, the California Department of Public Health (CDPH)—which was responsible for the drinking water program before it was transferred to the State Water Board—established an MCL for chromium-6 at 10 parts per billion (ppb). In May 2017, the Sacramento County Superior Court (Court) issued a judgment invalidating the

chromium-6 MCL for drinking water and ordering the State Water Board to adopt a new MCL for chromium-6. The Court's primary reason for finding the MCL invalid was that the CDPH did not adequately document why the MCL was economically feasible, thus failing to comply with the Safe Drinking Water Act's requirement for adopting an MCL.

On June 16, 2023, the State Water Board released a Notice of Proposed Rulemaking for chromium-6, proposing an MCL of 10 ppb, which is the same MCL as that established by the CDPH in 2014.

This item was received and filed as an update by the AE.

10. AUGUST 3, 2023 BOARD OF DIRECTORS AGENDA

Kevin Sales, KJServices Environmental Consulting
Recommendation: That the Administrative Entity include the following items on the next SEWC Board meeting agenda:

1. SEWC Program Management Support
2. SEWC Audit for FY 22/23
3. PFAS Settlements
4. Proposed reduction to the funding level for the Drinking Water State Revolving Fund

11. WRITTEN COMMUNICATIONS

No written comments were received.

12. ADMINISTRATIVE ENTITY MEMBER COMMENTS

An announcement was made that two PFAS workshops were being held at the Water Replenishment's Albert Robles Center (ARC) specifically for local elected Council members. The AE suggested that a summary of the workshop be made available to the SEWC Board members at their August 3rd meeting.

13. ADJOURNMENT

AE Chair Joanna Moreno adjourned the meeting at 12:41 p.m.

_____

CHAIR

ATTEST: _____

Southeast Water Coalition
A joint powers authority to protect the Central Groundwater Basin

SOUTHEAST WATER COALITION
JOINT POWERS AUTHORITY
AGENDA REPORT

Date: September 21, 2023
To: Southeast Water Coalition Administrative Entity
From: Joanna Moreno, AE Chair, City of Vernon

Subject: RECORDS RETENTION POLICY

Recommendation: Recommend to the Board of Directors approval and adoption of Resolution No. 2023-01, Resolution of the Policy Board of the Southeast Water Coalition Joint Powers Authority Adopting a Records Retention Policy.

Discussion:

The Southeast Water Coalition (SEWC) has never adopted an official policy governing the retention and destruction of SEWC's records. With the transfer of SEWC's administrative support function from KJServices to a new consultant and given that there are substantial number of both paper and electronic records in KJServices' possession dating back as far as 2002, it is appropriate for the AE to discuss and propose a records retention policy to the Board of Directors for adoption.

Nicholas Ghirelli of Richards, Watson & Gershon prepared Resolution No. 2023-01, Resolution of the Southeast Water Coalition Joint Powers Authority Adopting a Records Retention Schedule. Resolution No. 2023-01 includes the proposed schedule as Exhibit A.

Attachments:

1. Resolution No. 2023-01

RESOLUTION NO. 2023-01

RESOLUTION OF THE POLICY BOARD OF THE SOUTHEAST WATER COALITION JOINT POWERS AUTHORITY ADOPTING A RECORDS RETENTION SCHEDULE

WHEREAS, maintenance of numerous records is expensive, slows document retrieval, and is not necessary after a certain period of time for the effective and efficient operation of the Southeast Water Coalition Joint Powers Authority ("SEWC"); and

WHEREAS, Section 34090 of the Government Code of the State of California provides a procedure whereby any public agency record which has served its purpose and is no longer required may be destroyed; and

WHEREAS, the State of California has adopted guidelines specifying retention periods for various government records; and

WHEREAS, the SEWC Policy Board desires to adopt a records retention schedule to ensure efficient and effective maintenance of its various documents and records.

NOW, THEREFORE, BE IT RESOLVED that the Policy Board of the Southeast Water Coalition, DOES HEREBY RESOLVE AS FOLLOWS:

1. The Policy Board hereby adopts the Records Retention Schedule attached hereto as Exhibit "A" as the official SEWC Records Retention Schedule.

2. The records of SEWC, as set for in the Records Retention Schedule are hereby authorized to be destroyed as provided by Section 34090 et. seq. of Government Code of the State of California and in accordance with the provisions of said schedule upon the request of the Coalition Secretary and with the consent in writing of the General Counsel, without further action by the SEWC Policy Board.

2. With the consent of the Coalition Secretary and the General Counsel, updates are hereby authorized to be made to the Records Retention Schedule without further action by the Policy Board.

3. The term "records" as used herein shall include documents, instructions, books, microforms, electronic files, magnetic tape, optical media, or papers, as defined by the California Public Records Act.

4. This resolution shall become effective immediately upon its passage and adoption.

Approved and adopted the 5th day of October, 2023, I the undersigned, hereby certify that the foregoing Resolution was duly adopted by the Policy Board of the Southeast Water Coalition.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____ Date:
Secretary

APPROVED:

_____ Date:
Chairperson

Exhibit A

Records Retention Schedule

SOUTHEAST WATER COALITION - RECORDS RETENTION SCHEDULE

I. PURPOSE

The purpose of this policy is to provide guidelines regarding the retention or destruction of records of the Southeast Water Coalition; provide for the identification, maintenance, safeguarding, and destruction of records in the normal course of business; ensure prompt and accurate retrieval of records; and ensure compliance with legal and regulatory requirements.

II. AUTHORIZATION

Upon the request of the Coalition Secretary and with the consent in writing of the General Counsel, records shall be destroyed and maintained in accordance with this policy by means approved by the Coalition Secretary or his or her designee.

III. RETENTION SCHEDULE

RECORD SERIES TITLE AND CONTENTS	RETENTION PERIOD	OFFICE RETENTION-NOTES
ADMINISTRATION		
Correspondence	Current year + 2	
Policy and Procedures	Permanent; as revised	
JPA Agreement and Amendments	Permanent; as revised	
Roster of Public Agency Filing	Permanent	
Accreditation	Permanent	
BOARD/COMMITTEES		
Meeting Notes	5 years	
Minutes - Policy Board	Permanent	
Minutes - Administrative Entity	Permanent	
Recordings - Audio	30 Days, provided minutes have been adopted	
Recordings - Video of Meetings	1 year	Video tapes, CDs, or other stored recording of public meetings made by or at the direction of the JPA (e.g. Board meetings)

Resolutions	Permanent	
Staff Reports	Permanent	
By-Laws	Permanent	
Agendas	Meeting date +2 years	
Meeting Notices	Meeting date +2 years	
CONTRACTS		
Agreements (excluding Capital Improvements)	End of contract + 5	
Permits, Construction	Permanent	
Permits, Other	Closed + 2	Alterations, excavations, road, street, sidewalks and curb, transportation, temporary uses
DEVELOPMENT		
Records of real property title	Permanent	Deeds, easements, liens
Bids, Unaccepted	2 years	
Bid Accepted; Notices and Affidavits	4 years	
Bids/Proposal Files (Successful Bidders) • Requests for bids/proposals • Bids/proposals received • Specifications, correspondence and backup data	End of contract + 10	
Responses to Bids/Request for Proposals/Request for Qualifications	5 years	
Capital Improvement Plans • Construction, planning design, of authority assets • Contracts for Capital Improvements	End of Contract + 10	
Studies and Reports	2 years	Engineering studies and reports, including feasibility studies
Encroachment Permits	Permanent	
FINANCIAL		
Accounts Payable	Audit + 4	

• Correspondence • A/P Distributions Journal • Cash Disbursements • Expense Reports • Invoices		
Accounts Receivable • A/R Register • Aged Trial Balance • Invoices	Audit + 4	
Audit Reporting • Correspondence/ work papers • Reports • State Controller's Report	Permanent	
Banking • Correspondence • Bank Confirmations • Bank Reconciliations • Bank Statements • Cancelled and Voided Checks • Deposit Slips • Signature Authorizations	Current year + 7	
Financial Reporting • Correspondence • Reports and Studies • Chart of Accounts	Current year + 7	
Revenue Bonds • Account statements and deposit slips • Administration • Bonds and Coupons (paid/cancelled) • Unsold • Authorization/public hearing/notice	Account Statements etc: Closed + 10 Bonds and Coupons: Closed + 2 Unsold Bonds: Closed + 2 Authorization etc: Permanent	
Budget • Adopted • Proposed	Adopted: Permanent Proposed: Current year + 2	
Ledgers • Accounts Analysis • Balance Sheets • General Ledger • Journal Entries	Permanent	
INSURANCE		

Memorandum of Coverage	Permanent	
Insurance Policies	Permanent; as revised	
Endorsements	Permanent	
Premium Deposit Determination	Permanent	
Retrospective Ratings	Permanent	
Claims Audits	Permanent	
Actuarial Studies	Permanent	
Underwriting Files	Permanent	
Certificate of Insurance	Permanent; as revised	
ENVIRONMENTAL		
California Environmental Quality Act ("CEQA") Documents/ National Environmental Policy Act ("NEPA") Documents	Permanent	Exemptions, Environmental Impact Reports, Mitigations, monitoring, negative declarations, notices of completions, and determination, comments, statements of overriding consideration
CLAIMS & LEGAL		
General Correspondence	Permanent	
Attorney Correspondence	Permanent	
All Claims Documents	Closed + 5	
Litigation	Closed + 2	
Opinions	Permanent	
MEMBERSHIP		
Membership Records	Permanent	
Program Participation Agreements	Permanent	
Appointment Resolutions & Letters	Permanent	
CONFLICT OF INTEREST		
Conflict of Interest Statements	Filing + 7	
Conflict of Interest Code	Current year + 7	
Fair Political Practices Filings	Termination of office + 7	Statement of Economic Interests for Elected Officials

Fair Political Practices Filings	Termination of office + 5	Statement of Economic Interests for Non-elected Officials

Southeast Water Coalition
A joint powers authority to protect the Central Groundwater Basin

SOUTHEAST WATER COALITION
JOINT POWERS AUTHORITY
AGENDA REPORT

Date: September 21, 2023
To: Southeast Water Coalition Administrative Entity
From: Joanna Moreno, AE Chair, City of Vernon

Subject: LOS ANGELES COUNTY BOARD OF SUPERVISORS APPROVE MOTION TO INVESTIGATE PFAS LEVELS IN LOS ANGELES COUNTY DRINKING WATER

Recommendation: Discuss the approved Motion by Supervisor Janice Hahn and any appropriate follow-up actions by SEWC.

Background:

On July 25, 2023, the Los Angeles County Board of Supervisors unanimously approved a Motion by Supervisor Janice Hahn to begin investigating the levels of per- and polyfluoroalkyl substances (PFAS) in Los Angeles County (LA County) drinking water. The Motion proposes a County-led study in collaboration with the State Water Resources Control Board (State Water Board) to assess PFAS levels in LA County. The goal of the study is to educate the county and to determine which PFAS are traceable and being tested for.

The Motion calls for the Department of Public Health to engage with the State Water Board to:

1. Complete the following and report back in 90 days: Index which water systems in the county currently test for PFAS, catalogue which PFAS are being tested for, explore options to assist and encourage water systems to increase testing, and identify potential state and federal funding; and
2. Complete the following and report back in 120 days: determine the status of statewide PFAS regulations, including any potential gaps, determine whether the rulemaking reflects concerns of LA County communities, and advocate for state and federal funding to support implementation of treatment.

Discussion:

During the Southeast Water Coalition Board of Directors (SEWC Board) Meeting on August 3, 2023, one of the SEWC Board members made reference to Supervisor Janice Hahn and her interest in the PFAS issue. The SEWC Board member requested that the Administrative Entity investigate how the County could assist SEWC cities with the PFAS issue, and potentially request Supervisor Janice Hahn attend a future SEWC Board meeting.

Attachments:

1. Motion by Supervisor Janice Hahn
2. "Hahn Raises Concerns About 'Forever Chemicals' in Drinking Water in LA County." *The Los Angeles Post,* 25 July 2023.

AGN. NO.

MOTION BY SUPERVISOR JANICE HAHN July 25, 2023

PFAS in LA County Water Systems

The quality of drinking water is a rising concern nationally and locally. Every resident of Los Angeles County has the right to safe, clean, affordable, and accessible water for human consumption, cooking, and sanitary purposes. The State of California codified this right by adopting AB685 in 2012, which recognized the human right to water. Per- and poly-fluoroalkyl substances (PFAS), “forever chemicals,” are a class consisting of thousands of man-made chemicals that have been around since the 1940s, but are now raising increased concerns due to environmental prevalence and persistence, toxicity, and human exposures through water and food. The State Water Resources Control Board is the regulatory agency responsible for enforcing statewide water quality standards including PFAS Maximum Contaminant Levels (MCLs) once established by US Environmental Protection Agency.

Legacy long-chain perfluoroalkyl acids (PFAAs) include perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS), which are historically two of the most widely used and studied chemicals in the PFAS group. Due to their persistence, toxicity

	MOTION
SOLIS	_____
MITCHELL	_____
HORVATH	_____
BARGER	_____
HAHN	_____

and bioaccumulation potential, actions have been taken voluntarily by industries and regulators worldwide to reduce the release of PFAAs including PFOA, PFOS and perfluorohexane sulfonic acid (PFHxS). PFAS are also widely-documented in human plasma and can be maternally transferred pre- and post-natal. Some PFAS have also been linked with human developmental, metabolic, and immune disorders as well as certain types of cancers.

Potential pathways to drinking-water resources are diverse, including biosolids application, outdoor products (e.g., ski waxes), industrial releases, firefighting foams, and discharges from wastewater treatment, septic, stormwater, and landfill systems. A recent study that will be featured in the August 2023 edition of Environmental International indicates that drinking-water exposures may be more common in the Southern California regions.

In 2019, the Los Angeles County Chief Sustainability Office completed the "OurCounty" Countywide Sustainability Plan to serve as the roadmap for regional sustainability. The Plan, which was adopted by the Board, includes several actions related to addressing drinking water issues in the region, including Strategy 1E, to ensure access to safe clean affordable water, advocating for drinking water affordability (Action 17), assessing systems for resiliency and water quality issues (Action 18), and providing support for small water systems to access financial resources (Action 22). The Los Angeles County Department of Public Works (DPW) has been implementing part of the "OurCounty" plan through various actions including coordinating the development of an integrated and resilient local water plan referred to as the Los Angeles County Water Plan (CWP), led by the DPW. In collaboration with a diverse group of stakeholders, the CWP

is developing specific actions and strategies for the region to address areas of need such as enhanced water infrastructure, livable communities, healthy watersheds, and water resources optimization.

A County-led study in collaboration with the State Water Resource Control Board (SWRCB) to assess PFAS levels in our community water systems is warranted. The goal of this study would be to educate the county and determine which PFAS we are currently testing for and to understand what PFAS are traceable in our community water systems. Small public water supplies and private-wells may be disproportionally affected by PFAS.

I, THEREFORE, MOVE that the Board of Supervisors direct the Department of Public Health, in consultation with the Department of Public Works and the Chief Sustainability Office, and Chief Executive Office-Legislative Affairs and Intergovernmental Relations to engage with the State Water Resources Control Board, to:

1) complete the following tasks and report back in writing in 90 days:
    a. Index and catalogue which water systems are/are not currently testing for PFAS in the 206 community water systems in the County, including small water systems in the county;
    b. Catalogue which PFAS the water systems are testing for;
    c. Explore options to assist and encourage large, medium, and small water systems to increase PFAS testing;
    d. Identify potential state and federal funding to support these efforts.

2) Complete the following tasks and report back in writing in 120 days:

   a. Determine the status of the statewide PFAS Maximum Contaminant Level (MCL) standards and make recommendations to strengthen regulations upon establishment of MCL standards, including any potential gaps in proposed regulations;

   b. Determine if testing standards and notification processes can be enhanced through regular monitoring by all water systems;

   c. Determine where or not concerns specific to County communities are reflected in rule-making, and provide the Board with updates on the process on an annual basis until standards are adopted;

   d. Advocate for State and Federal funding to support implementation of treatment system retrofits to address PFAS in drinking water.

# # #

JH:jt

The Los Angeles Post

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Hahn Raises Concerns About 'Forever Chemicals' in Drinking Water in LA County

BY ADMIN · JULY 25, 2023

Board Approves Hahn Motion to Begin Investigating Problem

Los Angeles, CA (July 25, 2023) —Today, the Los Angeles County Board of Supervisors approved a proposal by Supervisor Janice Hahn to begin investigating the levels of toxic polyfluorinated alkyl substances (also known as PFAS or forever chemicals) in drinking water here in Los Angeles County. Her effort follows the publication of a nationwide survey that found forever chemicals in 45% of the nation's drinking water and identified Southern California as a region where they may be even more common.

"These forever chemicals don't naturally break down in the environment and can build up in our bodies and cause serious health problems," said Supervisor Hahn. "We need to know whether they are in our drinking water and at what concentrations so we can start putting together a plan to get them out."

PFAS are a class consisting of thousands of man-made chemicals that have been around since the 1940s. They are found in everything from firefighting foam, to stain resistant fabric, to nonstick cookware. Although their use has been largely phased out in the US, they continue to be found in our environment. Studies have linked these chemicals to serious health problems including decreased fertility, increased risk of high cholesterol, obesity, high blood pressure, certain cancers, and liver and immune-system damage.

MORE

NEXT STORY
California Republican Party Endorses Navy Veteran and Business Owner Michael Maher for Congress

PREVIOUS STORY
Los Angeles County Earns Designation as a Certified Age-Friendly Employer

OPINION

ARTS / CA & LOCAL / OPINION & LETTERS FROM READERS
After Sam Altman tweeted that he had watched "Ex Machina", should he also watch "Mad Scientists: A.I. Maxima?
20 SEP, 2023

OPINION & LETTERS FROM READERS / SCIENCE & TECH / U.S.A.
How Climate Change Changes Us
20 SEP, 2023

EDUCATION / OPINION & LETTERS FROM READERS / U.S.A.
In Publishing, Diversity Depends Not Only on

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MOUSAI ARTS FESTIVAL



September 2023

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« Aug

GREENS



"One challenge we face is that our drinking water in LA County is managed by over 200 separate water systems – some of whom are likely testing for these chemicals and some of whom are likely not," said Supervisor Janice Hahn. "That is why this motion is so important so that we can begin collecting this information."

Supervisor Hahn's motion, which was approved unanimously, sets out to begin an investigation into forever chemicals in drinking water in LA County.

First, it asks for a report back from Public Health, Public Works, and our Chief Sustainability Office in 90 days with information about which of the 206 water systems in LA County currently test for PFAs and, if so, which chemicals, options for helping water districts to conduct more testing, and identifying potential state and federal funding sources to support more testing in the future.

Second, it asks for a more extensive report back in 120 days with an analysis of the statewide PFAS regulations that are currently in the works, whether there are any gaps in the proposed regulations, and whether they reflect concerns of communities in the County of Los Angeles.

How

18 SEP, 2023

OPINION & LETTERS FROM READERS

Undocumented Immigrant Population Grows at Unprecedented Levels

15 SEP, 2023

OPINION & LETTERS FROM READERS / U.S.A.

How a Hate Crime in Indiana Became a Rallying Cry for Asian Americans

5 SEP, 2023

OPINION & LETTERS FROM READERS / U.S.A.

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31 AUG, 2023



Southeast Water Coalition
A joint powers authority to protect the Central Groundwater Basin

SOUTHEAST WATER COALITION
JOINT POWERS AUTHORITY
AGENDA REPORT

Date: September 21, 2023
To: Southeast Water Coalition Administrative Entity
From: Joanna Moreno, AE Chair, City of Vernon

Subject: DUPONT AND 3M CLASS ACTION SETTLEMENT AGREEMENTS GRANTED PRELIMINARY APPROVAL BY THE COURT

Recommendation: Receive and file and update on the DuPont and 3M PFAS class action lawsuits.

Discussion:

In August 2023, the 3M Company's (3M) and DuPont de Nemours and related companies' (DuPont) class action settlement agreements were granted preliminary approval by the Court. The settlement amounts for the DuPont and 3M lawsuits are $1.185 billion and $12.5 billion, respectively.

Both settlements are designed to resolve claims for PFAS contamination in Public Water System drinking water. The 3M funds are to be allocated over a 13-year period to pay for testing and remediation of PFAS-contaminated water systems. Many water purveyors have already received the notice for the DuPont settlement, which explains the process for filing a claim.

The proposed settlements will be reviewed by class members and go through a final hearing before they can be finalized.

A website (https://www.pfaswatersettlement.com/) has been established to provide information regarding the 3M and DuPont proposed settlements. Important dates and deadlines are currently listed as follows:

Deadline Description	DuPont Deadline Date	3M Deadline Date
Deadline to Submit Objections	11/4/2023	11/11/2023
Deadline to Submit Requests for Exclusion	12/4/2023	12/11/2023
Court's Final Fairness Hearing	12/14/2023 at 10:00 AM EST	2/2/2024 at 10:00 AM EST

Phase One Public Water System Settlement Claims Form	60 Days After the Effective Date	60 Days After the Effective Date
Phase One Special Needs Claims Form	45 Days After the Phase One Public Water System Claims Form Deadline	45 Days After the Phase One Public Water System Claims Form Deadline
Phase Two Testing Claims Form	1/1/2026	1/1/2026
Phase Two Public Water System Claims Form	6/30/2026	7/31/2026
Phase Two Special Needs Claims Form	8/1/2026	8/1/2026
Phase One Supplemental Fund Claims Form	12/31/2030	12/31/2030
Phase Two Supplemental Fund Claims Form	12/31/2030	12/31/2030

Attachments:

1. Kelleher, Shannon. “Historic 3M PFAS Settlement Gets Preliminary Court Approval.” *The New Lede,* 30 August 2023.

THE NEW LEDE

Redefining environmental journalism – An initiative of EWG



Historic 3M PFAS settlement gets preliminary court approval

SHANNON KELLEHER

114 Shares 63 51

AUGUST
30
2023

A federal court on Tuesday granted preliminary approval for a "landmark" $12.5 billion payout by chemical conglomerate 3M to resolve claims in a class action lawsuit and help public drinking water providers remove toxic per- and polyfluoroalkyl substances (PFAS) from communities around the United States.

The court approval comes a week after DuPont and related companies received preliminary approval for a $1.185 billion settlement that similarly addresses class action claims over toxic PFAS contamination in US water systems. Together, the deals mark the largest drinking water settlement in history.

Both settlements relate to water system contamination by PFAS in aqueous film-forming foam (AFFF), used as a firefighting agent and widely used by military and civilian airports as well as municipal fire departments.

The AFFF litigation is one aspect of more extensive and ongoing litigation against 3M and DuPont that blame the companies for knowingly contaminating the environment with PFAS for decades despite evidence that the substances pose a risk to human health. Lawyers representing plaintiffs in the litigation have uncovered internal corporate records dating back to the 1960s revealing corporate concerns about PFAS that were not shared with the public or regulators.

"These new proposed settlements for public water providers in the AFFF litigation represent not only historic amounts of potential recoveries for victims of PFAS contamination, but also reflect the decades of work our team has undertaken to make sure the information these companies had – but withheld – as to the threat these 'forever chemicals' pose to human health and the environment is finally revealed to the public, and that the proper parties are held financially responsible for the enormous damage caused," plaintiffs'

attorney Rob Bilott, who has led PFAS litigation for more than 20 years, said in a press release.

PFAS are a class of thousands of chemicals that do not naturally break down. The so-called "forever chemicals" have been linked to health problems including cancer, decreased fertility, and kidney disease. Due to their ability to resist water, oil, and heat, PFAS have been used in consumer goods ranging from raincoats to nonstick cookware. New water utility data released by the Environmental Protection Agency suggests PFAS is present in more than 400 water systems across the US.

Both 3M and DuPont were facing trial in federal court in South Carolina in early June, but decided to settle days before the trial was to get underway.

An earlier version of the 3M settlement was announced at the end of June, but attorneys general representing 22 US states and territories objected to terms of the deal, including arguing that it could shift liability from 3M to water providers.

Although the attorneys general dropped their objections on Monday, in a letter to US District Judge Richard Gergel they expressed continued concern over the total amount 3M has agreed to pay and the period time over which it plans to pay it.

"The amount falls far short of what is needed to address the harm 3M's products have caused public water systems and appears at odds with the scope of release that would be required in exchange for participation in the Settlement," the attorneys general wrote. "Moreover, the protracted payout period increases the risk that 3M will face insolvency before it has fully paid out that amount."

In issuing the preliminary approval, Judge Gergel described the settlement as "sufficiently fair, reasonable, and adequate," and found that it "substantially fulfills its purposes and objectives." He noted that the settlement does not include an admission of liability by 3M.

The 3M funds are to be allocated over a 13-year period to pay for testing and remediation of PFAS-contaminated water systems that serve tens of millions of people in residences, schools and businesses.

Before it can be finalized, the proposed settlement will be reviewed by class members and put to a final hearing.

“This landmark settlement is a victory for Americans who care about protecting our water supply so their families can rest at night knowing their water is being safeguarded,” said attorney Michael London.

London, Bilott and a coalition of other US lawyers are working on PFAS litigation on behalf of what they say is an “ever-expanding range of injured parties.”

The lawyers have set up a website to provide information as to estimated ranges of potential recoveries by individual public water providers under both the 3M and DuPont proposed settlements.

The legal team said in a press release that it is continuing to pursue claims such as natural resource damages, personal injury cases, medical monitoring, and private property damage from PFAS contamination.

(Featured image by Acroterion, Wikimedia Commons. CC BY-SA 4.0.)

Justices ring death knell for isolated US wetlands

As hydrogen projects accelerate, fears mount about environmental impacts

RELATED POSTS

Southeast Water Coalition
A joint powers authority to protect the Central Groundwater Basin

SOUTHEAST WATER COALITION
JOINT POWERS AUTHORITY
AGENDA REPORT

Date: September 21, 2023
To: Southeast Water Coalition Administrative Entity
From: Joanna Moreno, AE Chair, City of Vernon

Subject: ASSEMBLY BILL 249 – WATER: SCHOOLSITES: LEAD TESTING

Recommendation: Review and discuss potential impacts of Assembly Bill 249.

Discussion:

Assembly Bill 249 (AB 249) would require community water systems that serve school sites to prepare a sampling plan for each school site and test for lead in the potable water system outlets of the school sites before January 1, 2027. The bill would also require community water systems to report findings to the schools and to test potable water system outlets that replace outlets found to have excess levels of lead.

AB 249 passed both the Senate and Assembly on September 11 and September 13, respectively, and is now headed to the Governor's desk for consideration.

Attachments:

1. Assembly Bill No. 249

Assembly Bill No. 249

Passed the Assembly September 13, 2023

_____

Chief Clerk of the Assembly

Passed the Senate September 11, 2023

_____

Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2023, at _____ o'clock ___M.

_____

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 116270.5 and 116277 to the Health and Safety Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 249, Holden. Water: schoolsites: lead testing.

Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. The act requires the state board to establish a grant program, in consultation with the State Department of Education, to award grants to local educational agencies for the purposes of improving access to, and the quality of, drinking water in public schools serving kindergarten or any of grades 1 to 12, inclusive, and preschools and child daycare facilities located on public school property.

This bill would require a community water system that serves a schoolsite, as defined, to test for lead in the potable water system outlets of the schoolsite before January 1, 2027, except as provided. The bill would require the community water system to report its findings to the applicable schoolsite or local educational agency and to the state board. The bill would require the local educational agency or schoolsite, if the lead level exceeds a specified level at a schoolsite, to notify the parents and guardians of the pupils who attend the schoolsite, take immediate steps to make inoperable and shut down from use all potable water system outlets where the excess lead levels may exist, and work to ensure that a lead-free source of drinking water is provided for pupils, as specified. The bill would require a community water system to test a potable water system outlet that replaces an outlet that is found to have excess levels of lead. The bill would require a community water system to prepare a sampling plan for each schoolsite where lead sampling is required under these provisions, as specified. The bill would require the schoolsite, local educational agency, and state board to make the results of schoolsite lead sampling publicly available by posting the results on its internet website. The bill would require a schoolsite and a local educational agency, if an

internet website is not maintained, to provide the results upon request. By imposing additional duties on local agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 116270.5 is added to the Health and Safety Code, to read:

116270.5. (a) The Legislature finds and declares all of the following:

(1) The federal Centers for Disease Control and Prevention states that there is no safe level of lead in children.

(2) The State Department of Public Health reports that lead exposure at very low levels can cause learning, behavioral, and attention difficulties in children, and nervous system and organ damage. Exposure to high levels of lead can be fatal.

(3) No effective treatments ameliorate the long-lasting developmental effects of lead toxicity, and it is believed that these effects are permanent.

(4) As of January 2023, the United States Environmental Protection Agency estimated that as much as 20 percent of a child's lead exposure comes from lead in drinking water, when water lead levels are five parts per billion. Drinking water can be an even larger source of lead exposure for infants who consume mostly water-based formula.

(5) The United States Environmental Protection Agency's maximum contaminant level goal, the value the agency deems acceptable for health, is zero for lead in water.

(6) In 2016, the American Academy of Pediatrics recommended that state and local governments take steps to ensure that water fountains in schools do not exceed water lead concentrations of one part per billion.

(b) It is therefore the goal of the state to ensure all of the following:

(1) Water served to or consumed by children while they attend school or are cared for in licensed childcare facilities contains no more than zero parts per billion of lead.

(2) State requirements for lead in drinking water in schools are at least as health protective as national standards and complement the requirements established by the United States Environmental Protection Agency for the control of lead and copper imposed pursuant to Title 40 of the Code of Federal Regulations.

(3) Any future state requirements for the testing of lead in drinking water in schools will use the most protective standard possible, or no more than five parts per billion of lead.

SEC. 2. Section 116277 is added to the Health and Safety Code, to read:

116277. (a) (1) A community water system that serves a schoolsite shall test on that schoolsite for lead in each of the schoolsite's potable water system outlets on or before January 1, 2027. The appropriate local educational agency shall provide the community water system that serves the schoolsite with the specific location of each potable water system outlet at the schoolsite.

(2) (A) This section does not apply to a potable water system outlet in a building on a schoolsite that satisfies either of the following criteria:

(i) The building was constructed after January 1, 2010.

(ii) The building was modernized after January 1, 2010, and all faucets and other end point devices used for providing potable water were replaced as part of the modernization.

(B) This section does not apply to a faucet or fixture at a schoolsite where prior testing already showed results of five parts per billion of lead or higher and the schoolsite has taken action to replace the faucet or fixture, or where the schoolsite has otherwise replaced the faucet or fixture since the prior testing.

(3) (A) Each local educational agency or schoolsite shall allow the community water system access to each schoolsite where lead sampling is required pursuant to this subdivision to conduct testing.

(B) Before a community water system enters a schoolsite to conduct lead sampling, the community water system shall request access to the schoolsite from the local educational agency or schoolsite pursuant to this subparagraph. The community water

system shall provide a written notice to the local educational agency or schoolsite at least 30 days in advance of the date on which the community water system intends to enter the schoolsite. If the local educational agency or schoolsite fails to respond to the notice within 30 days, the community water system shall provide a second written notice to the local educational agency or schoolsite.

(C) If the local educational agency or schoolsite refuses to allow the community water system access to the schoolsite or fails to respond to the second written notice described in subparagraph (B) within 30 days, the community water system shall notify the state board that the local educational agency or schoolsite is not in compliance with the requirements of this section.

(D) If a community water system provides the notices described in subparagraphs (B) and (C) but is not permitted to access the schoolsite, the community water system shall be deemed to have complied with the requirements of this section with respect to that schoolsite.

(b) When testing for lead, a community water system shall develop a sampling plan, conduct testing, and interpret results pursuant to, but not limited to, Modules 4 and 5 of the United States Environmental Protection Agency's 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities toolkit, EPA 815-B-18-007, or subsequent United States Environmental Protection Agency guidance as identified by the state board.

(c) (1) Each community water system, in cooperation with the appropriate corresponding local educational agency or schoolsite, shall prepare a sampling plan for each schoolsite where lead sampling is required pursuant to subdivision (a). In developing the plan, the community water system may request assistance from the state board or any local health agency responsible for regulating community water systems.

(2) A local educational agency may perform the lead sampling required pursuant to subdivision (a) itself, in which case the community water system shall provide local educational agency employees working at the schoolsite training for purposes of this section.

(d) A community water system that serves a schoolsite where lead sampling is required pursuant to subdivision (a) shall report the water lead level findings to both of the following:

(1) The applicable schoolsite or local educational agency, within 10 business days after the community water system receives the results from the testing laboratory, or within two business days after the community water system receives the results if it is found that the water lead level from any potable water system outlet on the schoolsite exceeds five parts per billion of lead.

(2) The state board, as specified by the state board.

(e) If the testing results show lead levels in excess of five parts per billion for any potable water system outlet, the applicable local educational agency or schoolsite shall do all of the following:

(1) (A) Notify the parents and guardians of the pupils who attend the schoolsite where the elevated lead levels are found no later than 30 schooldays during the academic year, or otherwise within 60 days after receiving the results from the community water system, and provide information developed by the state board on the impact of elevated lead levels on children.

(B) The local educational agency or schoolsite may include a description of a remediation plan as part of the notice provided pursuant to this paragraph.

(2) Take immediate steps to make inoperable and shut down from use all potable water system outlets where the excess lead levels may exist.

(3) (A) Work to ensure that a lead-free source of drinking water is provided for pupils at each potable water system outlet that has been shut down due to elevated lead levels.

(B) For purposes of subparagraph (A), providing a lead-free source of drinking water may include, but is not limited to, replacing any fixtures that are contributing to the elevated lead levels, providing onsite water filtration, or providing alternative sources of potable water.

(f) A local educational agency or schoolsite shall not attempt to remediate excess levels of lead by flushing the water in a potable water system outlet.

(g) If a potable water system outlet is replaced because of excess levels of lead found as a result of the lead sampling conducted pursuant to subdivision (a), the community water system shall test the replacement potable water system outlet.

(h) The local educational agency and schoolsite shall each post all test results on a publicly accessible internet website that the local educational agency or schoolsite maintains. If a local

educational agency or schoolsite does not maintain an internet website, the local educational agency or schoolsite shall provide the test results upon request.

(i) The state board shall make the results of schoolsite lead sampling conducted pursuant to subdivision (a) publicly available by posting the results on its internet website, including, but not limited to, periodic updates on sampling results and associated data descriptions and disclaimers.

(j) (1) The state board shall work with community water systems and schoolsites to eliminate duplicative testing that may occur based on applicable federal requirements in a regulation promulgated by the United States Environmental Protection Agency on or before January 1, 2027, including through application for a waiver from those requirements.

(2) Nothing in this subdivision relieves a community water system from compliance with the lead sampling requirements in this section.

(k) For purposes of this section, the following definitions apply:

(1) "Local educational agency" means a school district, county office of education, or charter school.

(2) "Potable water system outlet" means all cold water outlets, including single-handle faucets that dispense both hot and cold water, which are reasonably expected to be used for drinking and food preparation as depicted in Module 4 of the United States Environmental Protection Agency's "3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities" manual.

(3) "Lead-free" has the same meaning as in subdivision (e) of Section 116875 of the Health and Safety Code.

(4) "Schoolsite" means a public school that receives funding pursuant to Title I of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. Sec. 6301 et seq.).

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2023

_____

Governor

Southeast Water Coalition
A joint powers authority to protect the Central Groundwater Basin

SOUTHEAST WATER COALITION
JOINT POWERS AUTHORITY
AGENDA REPORT

Date: September 21, 2023
To: Southeast Water Coalition Administrative Entity
From: Joanna Moreno, AE Chair, City of Vernon

Subject: PROPOSED NOTIFICATION AND RESPONSE LEVELS FOR MANGANESE

Recommendation: Review and discuss potential impacts of the State Water Resources Control Board's proposed notification and response levels for manganese.

Discussion:

In March 2023, the State Water Resources Control Board (State Water Board) heard a presentation about the draft notification and response levels for manganese. The proposed notification and response levels are 20 parts per billion (ppb) and 200 ppb, respectively.

The American Water Works Association (AWWA) and the California Municipal Utilities Association (CMUA) submitted a letter State Water Board expressing concern about the proposed levels. The letter urges the State Water Board to set the response level at 500 ppb and the notification level at 50 ppb to match the secondary maximum contaminant level to reduce confusion regarding notification requirements. The AWWA-CMUA letter also expresses concerns regarding limited toxicity studies, affordability, accessibility, and availability of sources.

The State Water Board will take the letters into consideration before finalizing notification and response levels.

Attachments:

1. AWWA-CMUA Letter Regarding Proposed Notification and Response Levels for Manganese

March 21, 2023

Honorable Joaquin Esquivel, Chair and Board Members
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

SUBJECT: Proposed Notification and Response Levels for Manganese

Dear Chair Esquivel and Board Members:

On behalf of the California-Nevada Section of the American Water Works Association (CA-NV AWWA) and the California Municipal Utilities Association (CMUA), we respectfully write to convey our comments on the proposed adoption of a Notification Level (NL) and Response Level (RL) for manganese. Collectively our members represent community water systems responsible for serving nearly all the state's water consumers, and take their responsibility to provide safe drinking water very seriously. We understand that on March 21, 2023, the Division of Drinking Water (DDW) will present an informational item on the proposed manganese NL/RL revisions during the State Water Resources Control Board meeting. Our associations support appropriate efforts to control and regulate manganese to protect public health, and respectfully offer the following comments for your consideration.

On January 27, 2023, DDW provided public notice of proposed revisions to the manganese notification and RLs to 20 micrograms per liter (µg/L) and 200 µg/L, respectively. The proposed NL of 20 parts per billion (ppb) for manganese is below the current Secondary Maximum Contaminant Level (SMCL) of 50 µg/L established in California. Currently, the NL and RL in California for manganese are 500 µg/L and 5,000 µg/L respectively.

1. Need clarity on notification requirements and recommendations

Board Agenda Item #5 describes notification requirements for the laboratory to notify the supplier within 48 hours of receiving a result exceeding the RL and requires analysis of a field duplicate or collection and analysis of a confirmation sample. It also requires reporting results to the State Water Board within 48 hours if the average of the original sample and subsequent sample exceed the RL, and to inform the State Water Board within seven days if the results do not exceed the RL. Further, it requires public notification to consumers if the system is not able to resample within 48 hours. These notification requirements are much more conservative than California's Health and Safety Code notification and response requirements (§116455), which require the water system to notify the governing body and/or Public Utilities Commission and/or associated consecutive water systems within *30 days* after being informed of a confirmed detection exceeding a maximum contaminant level, a NL, or a RL. The proposed notification requirements and recommendations are overly conservative for manganese.

It is unclear how many times a utility must notify their respective board members and/or city officials or the public. Frequent notifications could erode public trust, something that our members take seriously and work hard to enhance and maintain. In addition, we already have health language associated with the SMCL of 50 µg/L. **To reduce confusion, we urge Deputy Director Polhemus to set the manganese**

NL equal to the manganese SMCL of 50 µg/L. Similarly, until a primary MCL is developed, a RL of 500 ug/L would remain 10 times the NL. It is also unclear how customers would learn if their water has any detections between 20 µg/L and 50 µg/L unless water systems notify them, which is not required by law for the NL. Customers will likely continue to be notified in the annual consumer confidence report if the SMCL is exceeded. It does not appear that the NL of 20 µg/L will achieve more in terms of notification, beyond what the SMCL already does.

2. Need clarity on Response Level exceedance requirements

Public notification requirements in the proposal are inconsistent with the requirements for other notification/response levels. Board Agenda Item #5 states that "[w]hen a manganese water quality result in excess of the response level occurs, DDW recommends that the laboratory notify the supplier within 48 hours of receiving the result, and analyze the field duplicate or collect and analyze a confirmation sample." DDW does not specify source removal, only public notification, but does not specify a timeframe for that notification. We support the approach to not require source removal and to focus on more reasonable notification requirements, such as for other noncarcinogenic contaminants.

3. Impact on waivers

Per Section 64449.2, Title 22, California Code of Regulations - Waivers for SMCL Compliance, "*If the average of four consecutive quarters of sample results for a constituent that does not have a primary MCL is not greater than three times the secondary MCL or greater than the State NL, an existing community water system is eligible to apply for a nine-year waiver of a secondary MCL in Table 64449-A".* In other words, systems can apply for a waiver if their quarterly running average (QRAA) does not exceed 150 µg/L.

With the proposed reduction of the NL to a lower level that the current SMCL, waivers will be rescinded when a source exceeds 20 ug/L. This will have a significant impact on utilities, as the establishment of an NL will essentially result in additional monitoring. NLs are not enforceable and should not result in additional monitoring, or the requirement to initiate quarterly monitoring.

4. Lack of clarity regarding compliance

DDW recommends that water systems monitor quarterly any source in which manganese has been detected above the NL. It is not clear if compliance is based on the mean QRAA or a single sample. In addition, the fact DDW refers to "source" is troublesome. Many systems monitor for manganese concentrations post-treatment and at entry-points to the distribution system (EPTDS). In general, treated finished waters, will have lower manganese concentrations than raw water sources. We recommend the addition of language to allow the option for systems monitoring at the EPTDS, to base their compliance on the EPTDS QRAA meeting the 20 ug/L NL.

5. Potentially deters operational monitoring

Current monitoring of SMCL is required is once every three years for groundwater sources and annually for surface water sources. Systems monitoring their treatment processes performance for manganese removal, often collect finished treated water samples more frequently than currently required.

However, public water systems may be deterred from conducting additional monitoring that may trigger additional monitoring and notifications based on exceeding the proposed lower NL. Hence, we recommend that DDW exempt operational samples collected more frequently than required to assess treatment process performance from triggering notifications based on the NL.

6. Limited toxicity studies

Basing the NL and RL on one laboratory animal study that may not be reproducible, and is likely overly conservative, for a contaminant that is not a carcinogen, is going to result in a lot of unnecessary notification. DDW should consider the recommendations from the Office of Environmental Health Hazard Assessment (OEHHA) (letter dated on May 3, 2022) to review post 2010 human and animal studies. DDW should also consider the studies evaluated by the World Health Organization (WHO) and its recommended health guidance value of 80 ppb that was issued on December 22, 2021.

7. Sampling burden

The proposed NL/RL requirements are as follows:

When a manganese water quality result in excess of the RL occurs, DDW recommends that the laboratory notify the supplier within 48 hours of receiving the result and analyze the field duplicate or collect and analyze a confirmation sample.

If the average of the two manganese sample results (original sample result and the subsequent sample result) exceeds the RL, report the result to the State Water Board within 48 hours. If the average does not exceed the RL, inform the State Water Board of the results within seven days from the receipt of the original analytical result.

If a system is unable to resample within 48 hours, it should issue a public notice to the consumers in order to avoid exposures to young children and should collect and analyze a confirmation sample within two weeks of notification of the results of the first sample.

Based on the proposed current NL/RL guidelines, a field duplicate will need to be collected every time a sample is collected. This is extremely onerous and conservative for a contaminant that is not carcinogenic. Water systems do not even do this for lead. On behalf of our members, we would like to request that the State Board reconsider these onerous requirements, particularly based on limited toxicology studies and without cost-benefit analysis.

8. Detection Limit for Reporting Purposes (DLR)

Manganese does not currently have an established DLR. The proposed DLR for the State's Phase 1 trace metals DLR update is 20 µg/L for manganese. The Section supports an approach to establish a DLR of 20 µg/L for manganese and collect occurrence information, which could then help inform the State's Board efforts towards understanding statewide impacts of a future primary MCL.

9. Consider affordability, accessibility, and sources

To the extent sources exceeding the RL or even the NL are taken out of service, that may very well impact accessibility and affordability for consumers. The Water Board must recognize the foreseeable

tension between the Human Right to Water goals of safety, accessibility, and affordability. Setting a higher and overly conservative margin of safety could prompt a water system to take a source of water out of service, shifting water sources if possible, but affecting accessibility if a new source is unavailable. Either a strategy of shifting sources or adding treatment for a new contaminant will add to the system's operating expenses. CA-NV AWWA respectfully raises this point that, while familiar to the Board, bears repeating. New infrastructure funds from the federal government are welcome, but water system ratepayers ultimately bear the responsibility for operating costs.

Because the process of setting the NL/RL does not go through the Administrative Procedure Act a comprehensive cost evaluation has not been completed. Looking at the State Water Board's data, it is estimated that over 3,700 sources and over 1,900 Public Water Systems, will be impacted by the proposed NL/RL.

Ultimately, a primary concern with manganese is legacy depositions in the distribution system. An NL/RL primarily associated with the source will have little impact on what the consumer will consume at the tap. Rather, appropriate operation and maintenance of treatment and distribution facilities, such as a regular flushing program, may have a far greater effect to reduce exposure to manganese than the NL and RL currently proposed.

Summary

We recommend that the Division of Drinking Water postpone action on the NL/RL for manganese and consult with water suppliers on the issues raised here.

Alternatively, we urge DDW to revise the Notification Level to 50 and the Response Level to 500, as discussed in enumerated paragraph 1.

CA-NV AWWA appreciates the opportunity to express these comments, and we thank the Division of Drinking Water and the State Water Board for consideration of the tradeoffs inherent in protecting public health and ensuring public access to affordable water. Please contact us with any questions about our views, at smosburg@ca-nv-awwa.org or aabergel@cmua.org.

Sincerely,

Sue Mosburg
California-Nevada Section, AWWA

Andrea Abergel
California Municipal Utilities Association

cc: Darrin Polhemus
Eileen Sobeck
Eric Miguelino

Who We Are

The California-Nevada Section of the American Water Works Association (CA-NV AWWA) is a professional association historically focused on drinking water safety, with over 4,700 members in California who are collectively responsible for serving nearly all the state's water consumers.

The California Municipal Utilities Association (CMUA) represents 74 publicly owned electric utilities, water agencies, and gas and oil services statewide. Together, CMUA members provide water service to 70 percent of Californians and electric service to 25 percent of the state.