



# California Rural Legal Assistance Foundation

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April 18, 2017

Felicia Marcus, Chair  
Tam M. Doduc, Member  
Steven Moore, Member  
Dorene D'Adamo, Member  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Re: 1,2,3-Trichloropropane MCL

VIA Email: SBDDW-17-001  
commentletters@waterboards.ca.gov

Dear Chair Marcus and Board Members Doduc, Moore, and D'Adamo:

On behalf of the California Rural Legal Assistance Foundation we urge the State Water Resources Control Board to adopt the Division of Drinking Water's proposed **5 part per trillion** (ppt) maximum contaminant level ("MCL") for 1,2,3-trichloropropane ("TCP") with all expediency. TCP is a synthetic chemical that puts the health of Californians in at least 16 counties served by almost 100 water systems at risk.<sup>1</sup> At least half of the affected water systems are in Fresno, Tulare and Kern counties where we have been working for years to improve access of rural communities to clean water, reliable infrastructure and adequate health care.

### **1,2,3-TCP is a known human carcinogen**

Since 1992, California has recognized TCP as a chemical "known to the State to cause cancer" under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65, 1992).<sup>2</sup> Concluding that "1,2,3-TCP represents a significant carcinogenic risk when it occurs in drinking water," the California Office of Environmental Health Hazard Assessment ("OEHHA") issued a Public Health Goal (PHG) for TCP in drinking water of 0.7 ppt in 2009.<sup>3</sup> According to the State Water Board's Standardized Regulatory Impact Assessment, "[e]xposure to concentrations of 1,2,3-TCP in drinking water that exceed the PHG will result in an increased risk

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[http://www.waterboards.ca.gov/drinking\\_water/certlic/drinkingwater/123TCP.shtml](http://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/123TCP.shtml)

2 <https://oehha.ca.gov/media/downloads/proposition-65/p65single01272017.pdf>,  
pg. 21.

3 <https://oehha.ca.gov/water/public-health-goal/final-public-health-goal-123-trichloropropane-drinking-water>



for cancer.”<sup>4</sup> To protect Californians from an increase in lifetime cancer risk due to TCP in water, the State Water Board should adopt an MCL **no greater than 5 ppt**, which is the detection limit for reporting purposes (“DLR”) and therefore currently the technologically feasible exposure limit.

### **Disproportionate impacts in low income rural communities of the central valley**

The documented source of most of the TCP pollution of California’s groundwater is an avoidable impurity in soil fumigants manufactured by Shell Oil Company and Dow Chemical Company and used extensively in California from the 1950s through the 1980s. Shell and Dow neglected to disclose to farmers that TCP was a contaminant in their products or the harm it posed to human health.

More than half of the state’s contaminated wells are found in the agriculturally rich San Joaquin Valley, particularly in small, poor, rural communities in Kern, Fresno, and Tulare Counties.<sup>5</sup> TCP is one of a number of pollutants impacting water supplies in these rural, lower-income communities where health and wellbeing of residents is also threatened by disproportionate exposure to air pollution, soil contamination and basic infrastructure deficiencies and lack the adequate resources to address these problems or the associated health problems.

### **The 5 ppt recommendation is appropriate and defensible**

Health & Safety Code §116365(a) requires the State Water Board to establish a contaminant MCL as close to its PHG as is technologically and economically feasible, placing primary emphasis on the protection of public health. An MCL of 5 ppt is currently the technically feasible limit because it is TCP’s detection limit for reporting or DLR.

Because TCP is a synthetic, manufactured chemical that does not occur naturally, viable responsible parties have been identified, and affected water suppliers have available legal remedies to recoup water treatment costs. In fact, setting the MCL at 5 ppt would expedite cost-recovery efforts that have been pending for years, while providing strong health protection and limiting current and future medical costs. Choosing to allow greater cancer risk because of waer treatment costs would benefit only the parties responsible for the contamination.

### **Adopt a health-protective MCL as soon as possible**

The SWRCB’s Standardized Regulatory Impact Assessment said, “Based on the inability to obtain alternative sources of drinking water, disadvantaged communities would continue to use and consume drinking water containing high levels of 1,2,3-TCP. In

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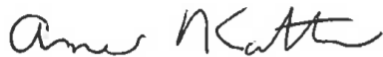
[http://www.dof.ca.gov/Forecasting/Economics/Major\\_Regulations/Major\\_Regulations\\_Table/documents/Final\\_SRIA\\_10062016.pdf](http://www.dof.ca.gov/Forecasting/Economics/Major_Regulations/Major_Regulations_Table/documents/Final_SRIA_10062016.pdf)

<sup>5</sup> The exception to this is Los Angeles County, which is the second most affected in the state.

disadvantaged or severely disadvantaged communities, the incidence of cancer cases over a lifetime would be greater as compared to other impacted communities. Therefore, the proposed regulation would offer the most health benefit to these types of communities.” Given that the state has recognized the dangers of TCP since 1992, it is critical to expedite water supply treatment so as to minimize and mitigate the harm to people who depend on water supplies contaminated with TCP. Consequently, the adoption of a 5 ppt MCL should not be delayed any further.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Anne Katten". The signature is written in a cursive, flowing style.

Anne Katten, MPH

CRLAF Pesticide and Work Safety Project Director

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