PUBLIC MEETING

BEFORE THE

STATE WATER RESOURCES CONTROL BOARD

In the Matter of:)
)
ADMINISTRATIVE PROCEDURE ACT)
PUBLIC HEARING TO RECEIVE)
PUBLIC COMMENTS ON PROPOSED)
MAXIMUM CONTAMINANT LEVEL)
FOR HEXAVALENT CHROMIUM AND)
DRAFT ENVIRONMENTAL IMPACT)
REPORT)
_____)

SIERRA HEARING ROOM

JOE SERNA, JR. - CALEPA BUILDING

1001 I STREET

SACRAMENTO, CALIFORNIA 95812

WEDNESDAY, AUGUST 2, 2023

9:30 A.M.

Reported by:

Peter Petty

APPEARANCES

Board Members

E. Joaquin Esquivel, Chair
Dorene D'Adamo, Vice Chair
Laurel Firestone
Sean Maguire
Nichole Morgan
Courtney Tyler, Clerk to the Board

Staff

Eileen Sobeck, Executive Director
Jonathan Bishop, Chief Deputy Director
Eric Oppenheimer, Chief Deputy Director
Andy Sawyer, Office of Chief Counsel

Also Present

Presenter Panel:

Kim Niemeyer, Office of Chief Counsel
Bethany Robinson, Division of Drinking Water
Darrin Polhemus, Deputy Director, Div. of Drinking Water

Interpreter

Maraid Jimenez

Public Comment

Oscar Ortiz, City of Indio
Thom Bogue, Dixon City Council
James P. Ward, Jr., Dixon City Treasurer
Jared Voskuhl, CASA
Tim Worley CWSA
Norman Benson
Joanne Lee, Coachella Valley Water District
Nick Blair, ACWA
Kelli Hutten
Oracio Gonzalez, City of Coachella
Trudi Hughes, California League of Food Producers
Valentin Cornejo

Public Comment (continued)

Jesus Calvillo
Rebecca "Becky" Quintana, AGUA Coalition
Jesus "Tutuy" Montes
Nydia Medina
Raquel Sanchez, AGUA Coalition
Rosabel Bejar
Yesenia Segovia
Salma Alatorre
Uriel Saldivar, AGUA Coalition
Mayra Hernandez
Maria Luisa Munoz
Rob Spiegel, California Manufacturers & Technology Assoc.
Eileen Conneely, American Chemistry Council
Karina Cervantez, Calif. Assoc. Of Mutual Water Companies
Evangelina Marujo
Yasmeen Nubani, Twentynine Palms Water District
Kyle Jones, AGUA Coalition
Edmund Fitzgerald
Andrea Abergel
Andria Ventura, Clean Water Action
Michael Claiborne, Leadership Council for Justice and Accountability
Bryan Osorio
Castulo Estrada, Coachella Valley Water District (CVWD)
Michael Pardo, Sr.
Maricela Mares-Alatorre
Antonio Juaregui, Community Water Center

I N D E X

P R O C E E D I N G S

AUGUST 2, 2023 1:39 P.M.

MR. ESQUIVEL: Hope everyone had a good lunch. Appreciate everyone's patience. We'll begin on item number five.

Here at the top, if anyone is needing translation services, please do go see the interpreter at the corner.

(Speaking in Spanish)

Thank you, everyone. I want to quickly read this introduction and we can get to today's discussion on setting the maximum contaminant limit for hexavalent chromium.

The Division of Drinking Water has proposed regulations to establish a maximum contaminant level for hexavalent chromium, a naturally occurring element found throughout California and also produced by certain industrial processes.

The proposed regulations would also establish a detection limit for purposes of reporting and other associated requirements.

The purpose of today's Administrative Procedures Act Public Hearing is to receive public comments regarding the proposed regulations.

Today's hearing will begin with staff presentations consisting of background information and

brief overview of the proposed regulations and California Environmental Quality Act documentation.

Following the presentation, we'll begin receiving your public comments. We ask that comments be kept to no more than three minutes in length to help ensure that everyone interested in commenting is afforded the opportunity.

I'll note at this point, I believe we have about 33 commenters to help folks plan, so, we'll want to make sure we're hearing everyone's voice.

Today's hearing is an opportunity for you, the public, to provide oral comments on the regulations in a public forum. If you do not wish to provide your comments orally, you may also submit written comments today, or if you haven't already, you may submit your written comments following the instructions provided in our notice of proposed rulemaking, and we'll also make sure that there's a link for folks to be able to get to that quickly.

The purpose of this hearing is to provide an opportunity for the public to provide comments on proposed regulations. Today's oral comments and all written comments received by the close of the comment period will be addressed in subsequent regulation documents developed by the State Water Board staff and will be made available to the public.

The State Water Board will not be taking an action on the proposed regulations today. The adoption of the regulations by the State Water Board is currently anticipated to happen this coming winter.

If revisions are made, the public will be provided an opportunity to comment on those revisions.

I also want to let you know this meeting is obviously being webcast and recorded, so please do speak clearly when you are called up.

For those of you on -- perhaps watching us virtually, if you are not on the Zoom platform already you need to do so in order to comment. If you have challenges doing so, there is a link at the top of the agenda and a sign-up form, but you can always email the Clerk of the Board at board.clerk@waterboards.ca.gov, and she can help ensure that you're on the platform here with us.

This hearing will, like I said, begin with a staff presentation on proposed regulation by Dr. Bethany Robinson, a Water Resource Control Engineer for the Division of Drinking Water's Regulatory Development Unit, followed by Kim Niemeyer with the Office of Chief Counsel on the draft Environmental Impact Report prepared in support of the proposed regulations.

With that out of the way, I'd like to hand it over to Ms. Robinson – Dr. Robinson, apologies.

DR. ROBINSON: Thank you. This presentation is for the proposed hexavalent chromium maximum contaminant level, and I am Bethany Robinson.

Next slide.

We're going to start this presentation with background information before moving on to the regulatory proposal, then we'll discuss cost estimates, economic feasibility and the timeline for projected events after this hearing. After the presentation, we'll move on to public comments.

Next slide.

The main objectives of this hearing are to review the proposed hexavalent chromium regulation and to provide an opportunity for the public to comment on the proposed regulation. There will not be any board action taken today. And if changes are made to the proposed regulation, there will be future opportunities to comment.

Next slide.

This slide shows a brief overview of the proposed regulations development. We held six public workshops from April, 2020 to April, 2022 that covered a range of topics: The white paper on economic feasibility, draft treatment costs, CEQA scoping, and an administrative draft of the regulation which was released in March of 2022.

The notice of proposed rulemaking was published

on June 16th, and today we are at the public hearing.

The public comment period has been extended and now closes at noon, next Friday, August 11th. The timing of board adoption depends on the number and nature of comments received and whether any changes are proposed in response.

Regular rulemakings such as these are required to be completed and submitted to the Office of Administrative Law no later than one year after the notice of publication.

I'll discuss the possible timing and effective dates at the end of the presentation.

Next slide.

This slide shows the material released for the current comment period, all of which is available on the rulemaking webpage. The Notice of Proposed Rulemaking includes information on how to comment, a summary of the proposal and other information we're required to provide.

The proposed regulation text shows each change we're proposing to California's regulations.

The initial statement of reasons, or ISOR, I-S-O-R, is where we explain each piece of the proposed regulation and why it's needed. And all of our reasoning is either in that document or one of its attachments.

Attachment 1 contains 85 tables that break down information on affected systems and their estimated costs.

Attachment 2 is the Standardized Regulatory

Impact Assessment, also called SRIA, which includes the Cost Estimating Methodology, or CEM. This is where the cost data and assumptions can be found.

Attachment 3 is a table showing all other chemicals with MCLs of other public health goals, or PHGs, and Attachment 4 is a summary of the lab surveys.

Attachment 5 contains the cost estimates for all individual sources.

Earlier this week we also released an errata sheet to correct a calculation error in the ISOR.

Next slide.

CEQA documentation has also been released, which includes a draft Environmental Impact Report and Notices of Availability and Completion.

You can find all of these documents on the rulemaking webpage, which is available at bit.ly/Cr6-rulemaking.

Next slide.

What is hexavalent chromium? It's a heavy metal used in industrial applications and found naturally occurring throughout the environment.

Chromium typically exists in two forms, trivalent and hexavalent. The trivalent form is not considered toxic, but hexavalent chromium causes cancer and is toxic to the liver and kidneys. Hexavalent chromium is also

referred to as chromium-6, chrome-6, chromium hexavalent and hex chrome.

Next slide.

Hexavalent chromium has been detected in 53 of California's 58 counties. Counties with the most sources showing occurrence of hexavalent chromium are Los Angeles, San Bernardino, Fresno, Riverside and Stanislaus.

The presence of hexavalent chromium can be naturally occurring in some ground water, or it can be contamination from industrial activities.

Next slide.

This map shows drinking water sources that have annual averages exceeding 10 micrograms per liter of hexavalent chromium. While the occurrence clusters in some areas, it's also widespread throughout the state.

Next slide.

Now let's move on to some regulatory background. What are MCLs?

The term "MCL" stands for maximum contaminant levels which are standards limiting the concentrations of chemicals in drinking water for the protection of public health.

Health and Safety Code section 116365 requires that MCLs be set as close to the corresponding public health goal, or PHG, as is technologically and economically

feasible.

Next slide.

This means that MCLs are established for the protection of public health. The public health goal, or PHG, for hexavalent chromium is 0.02 micrograms per liter.

PHGs are set by the Office of Environmental Health Hazard Assessment, or OEHHA. OEHHA evaluated cancer and noncancer health risks separately. The PHG of .02 micrograms per liter represents a theoretical cancer risk of one in 1,000,000, based on drinking two liters of water each day for 70 years.

OEHHA has also determined that a health protected value of two micrograms per liter would protect against the effects of liver toxicity.

The theoretical cancer risk at the proposed MCL of 10 micrograms per liter is one in 2,000.

Next slide.

Now that we've discussed MCLs, let's review DLRs. What are DLRs? According to the regulations, the detection limit for purposes of reporting, or DLR, means the designated minimum level at or above which any analytical finding of a contaminant in drinking water resulting from monitoring required under this chapter shall be reported to the State Board. This means that any monitoring results below the DLR are considered nondetect and are not required

to be reported.

Next slide.

Why do we establish DLRs? DLRs protect drinking water quality by assuring confident quantification of chemicals that may adversely affect public health. This is important because confidently measuring chemicals to the lowest value technologically feasible provides a solid foundation for understanding health impacts which may be used to prioritize regulations.

DLRs also support feasibility analyses for future MCL reviews and potential revisions.

Next slide.

Let’s finish up the background section with some existing requirements. Monitoring for a new MCL for an inorganic contaminant like hexavalent chromium is required to start within six months of the effective date of the regulation. However, sampling from the previous two years can be substituted for initial monitoring if it was performed in accordance with all of the monitoring regulations, including the proposed DLR of 0.1 micrograms per liter.

Permit amendments may also be required in some cases, such as when there’s an addition or change in treatment.

Next slide.

This regulatory proposal centers around the proposed hexavalent chromium MCL of 10 micrograms per liter and a DLR of 0.1 micrograms per liter. However, there are quite a few other components.

In the next set of slides, we'll cover the compliance schedule, the Consumer Confidence Report and health effects language, the Compliance and Operations Plans, the analytical methods, the best available technologies, or BAT, and which entities we expect to be affected by the proposed MCL.

Next slide.

This table shows the compliance schedule for the hexavalent chromium MCL, which is broken down by water system size.

Systems that serve 10,000 or more service connections will have a compliance date two years after the regulation takes effect.

Systems that serve 1,000 to 9,999 service connections will have a compliance date three years after the regulation takes effect.

The smallest systems, those that serve less than 1,000 service connections, will have a compliance date four years after the regulation takes effect.

The column on the right shows the earliest compliance dates for this regulation. However, the

regulation could become effective later than January 1, 2024, which would affect these dates.

There will be more discussion on when the regulation might become effective at the end of the presentation.

Next slide.

The Consumer Confidence Report is an annual drinking water quality report that systems are required to send to their consumers. This regulation includes text for typical contaminant origins which must be included in Consumer Confidence Reports when hexavalent chromium is detected.

The language for typical contaminant origins for hexavalent chromium is on the slide. I'll pause for those who would like to read it.

(Pause)

When a hexavalent chromium MCL violation occurs, public notifications will be required to include the following language that is also on the slide. I'll pause for those who would like to read that.

(Pause)

Next slide.

In addition, if a system exceeds the hexavalent chromium MCL before the applicable date in the compliance schedule, they must include the following italicized

language in their Consumer Confidence Reports. I'll pause for those who would like to read it.

(Pause)

Next slide.

Compliance plans are required for systems that exceed the MCL before their compliance date. Those compliance plans must be submitted within 90 days of the exceedance. They must ensure compliance by the compliance date, and they must be implemented once they're approved.

Next slide.

To be approved, compliance plans must include the following: The proposed method for complying with the MCL, the date by which the system will submit final plans and specifications, any dates for starting and completing construction and if a new and modified treatment process is proposed, then they will also need a pilot study, and the compliance plan must include the date by which a treatment operations plan will be completed.

Systems can make amendments to the compliance plans, and systems are required to implement their approved compliance plans.

Next slide.

Operations plans will only be required if a new or modified treatment process is proposed. When they're required, they must include the following, if applicable:

A performance monitoring program, an equipment maintenance program for each unit process, how and when each unit process is operated, the procedures used to determine chemical dose rates, any reliability features, and a treatment media inspection program.

The operations plan must be approved by DDW before treated water is served.

Next slide.

Analytical methods are used to assess water quality, and DDW has a responsibility to ensure that the analytical methods used for compliance are appropriate to assess water quality.

EPA methods 218.6 and 218.7 are both capable of reporting concentrations down to 0.1 micrograms per liter, the proposed DLR, while maintaining a high level of confidence.

We have also confirmed adequate laboratory capacity for demand at the proposed MCL and DLR using these methods.

Next slide.

Three treatment technologies have been identified as best available technologies, or BAT, for hexavalent chromium: Ion exchange, reduction coagulation filtration, or RCF, and reverse osmosis.

The effectiveness of these BATs was summarized in

the peer review documents which are available on the hexavalent chromium web page.

It's also important to note that even though these three treatment technologies have been selected as BAT, other treatment options may be allowed as well. Treatment is not restricted to BAT. BATs are identified to communicate which treatment technologies are generally expected to reliably remove a contaminant, in this case hexavalent chromium. They are not required to be used.

Next slide.

Before we look at a table of affected entities, let's define those who are affected.

We're defining an affected source as any source with a running annual average that exceeded 10 micrograms per liter between January 1, 2010, and June 21, 2021.

A running annual average is an annual average taken over four quarters and is recalculated each calendar quarter, so that only one quarter is being swapped out for each calculation.

The highest of these values, the highest running annual average, was used for each source as a historical worst case scenario.

An affected system is any system with at least one affected source. The affected population is all persons within an affected system, and the affected service

connections are all connections within an affected system.

Next slide.

This table shows estimates for the systems, sources, connections and people affected at an MCL of 10 micrograms per liter.

On the far left we have the system types, which are community systems, nontransient noncommunity, or NTNC systems, and wholesalers.

There are 160 community systems with 412 sources that are estimated to be affected. These systems serve about 1.3 million connections and 5.3 million people.

There are 62 NTNC systems with 72 sources that are estimated to be affected. These systems serve almost 600 connections and about 15.6 thousand people.

In addition, four wholesalers with 10 sources are estimated to be affected.

Next slide.

Over this next set of slides we'll discuss the estimated costs and the assumptions behind those costs.

These costs were estimated generically for California and did not use site-specific information. The costs assumed that every system would pursue treatment. These costs were broken down into per system, per source, per person and per connection cost.

Costs were estimated for a range of potential

MCLs between one, which was the previous DLR, and 50, which is the total chromium MCL.

Treatment costs were estimated separately for each source and depend on contamination levels. Higher source concentrations of hexavalent chromium cause higher treatment costs.

As previously discussed, these source concentrations are assumed to be the highest running annual average of the previous 10 years, or the historical worst case.

Next slide.

The next couple of slides will cover the cost assumptions. The cost estimates assume that each affected source would be treated, would be treated separately and would be treated to eight micrograms per liter for an MCL of 10 micrograms per liter, and I'm calling this treating to 80 percent of the MCL.

The capital cost estimates were based on treatment plants capable of treating a source's full flow to less than one microgram per liter. However, operations and maintenance, or O&M costs, are based on treating source flow from the highest running annual average to 80 percent of the MCL.

Another critical assumption is that the source flow is equal to the total amount of water produced by the

system, divided by the number of active sources. This also means that we are assuming that each source in a system will have the same flow.

Next slide.

Land costs were excluded, but sales tax of 7.25 percent were added to the capital costs.

In addition, all costs were adjusted to June, 2022 dollars, using the Engineering News Record, or ENR, cost indices.

Average flow was calculated using 150 gallons per person per day for community and wholesaler systems and 120 gallons per person per day for nontransient noncommunity, or NTNC systems.

Average flow was used for O&M costs, while a peaking factor of 1.5 was used for capital costs.

Next slide.

The cost estimates assume that all effective systems would need to prepare both compliance and operations plans, even though this is likely an overestimate.

Costs were based on an estimate of 10 hours to prepare compliance plans and 90 hours to prepare operations plans.

Cost estimates used in median California engineering salary of $113,200 times 1.4 to account for the

costs of benefits and employment taxes.

It was estimated that compliance plans would cost $752 each to prepare, and operations plans would cost $6,857 each to prepare.

Next slide.

A model was used to estimate statewide costs. In this model costs were estimated for each affected source, those with running annual averages higher than the MCL, and for each of the most common expected treatment types, SBA, for strong based anion exchange, WBA, weak based anion exchange and RCF, reduction coagulation filtration.

The treatment type with the lowest estimated cost reviews for each source. Different flow ranges had different assumptions as well, all of which can be found in the cost estimating methodology.

All sources used to estimate the cost can be found in the documents relied upon, which are available at bit.ly/Cr6-rulemaking-file.

Next slide.

This slide show the estimated annual cost for an MCL of 10 micrograms per liter. The top table is for community water systems and the bottom table is for nontransient noncommunity or NTNC systems.

Before I start discussing these values, I want to point out the far right column which shows the specific

tables in ISOR attachment one that these values come from.

We can see that for both community and NTNC systems per source cost increases with system size, which is because larger systems usually have larger sources.

The same is true for per system cost. A larger system will generally need more water for its customers which will cost more on a per system basis.

Generally, the opposite trend is seen with per connection, per person and per volume costs which all tend to decrease as the system size increases. This is due to economies of scale. Generally, larger systems have more customers over which to spread costs.

Next slide.

I'll pause for a few seconds for those who would like to read this slide and reiterate that all these values can be found in our documents posted online.

(Pause)

Now, let's look at the breakdown of these costs on individuals. We estimate that 13.6 percent of California residents may see water bill increases as a result of the hexavalent chromium MCL. The majority of these residents, 11.5 percent of Californians, may see monthly water bill increases up to $20. A small portion of residents, 1.9 percent of Californians, may see monthly water bill increases up to $58. A very small portion of

residents, less than .3 percent, may see higher water bill increases.

When we look at the largest category of systems, those with at least 10,000 connections, the average and median monthly water bill increase is $8.

Next slide.

These estimated costs are statewide estimates and not the actual costs systems would face when complying with the MCL. Capital costs were amortized at seven percent over 20 years, and most systems would see less than a $50 increase in monthly household water bills. State financial assistance may be available.

In addition, systems with fewer than 200 connections may be eligible to use point of use, POU, or point of entry, POE, devices for compliance which can be used instead of centralized treatment.

Next slide.

This slide shows the steps taken to set an MCL.

Step one, what level can we measure to, was answered with a DLR of 0.1 micrograms per liter.

Step two, what level can we treat to, was answered with the BATs' treatment limits which have shown to be as low as about one microgram per liter.

The first two steps are part of the technological feasibility of the MCL, but the third step is all about

economic feasibility. What treatment level is economically feasible? This was answered with the proposed MCL of 10 micrograms per liter.

Let's take a closer look at technological and economic feasibility.

Next slide.

Technological feasibility is relatively straightforward. Because hexavalent chromium can be measured to .1 micrograms per liter and treated to one microgram per liter, the MCL of 10 micrograms per liter is technologically feasible.

Next slide.

Many considerations were included when determining economic feasibility, such as the estimated compliance costs, the total per system, per source, per connection, per person, and per unit of water cost, the median, maximum and monthly household cost increases, the types and sizes of affected systems, information for affected systems in the 2022 Drinking Water Needs Assessment, the impacts of future planned regulations, an analysis of household cost increases by system size, the variability of unit costs at alternative MCLs, and the cost effectiveness.

Next slide.

The Division of Drinking Water staff have

determined that the proposed MCL is economically feasible. 4.7 of the 5.3 million affected people would only see monthly cost increases of $8 or less. And there are resources available to potentially mitigated the challenges of compliance for systems that are already struggling.

Next slide.

As part of the economic feasibility analysis, it was discovered that there would be no significant cost savings for small systems at alternative MCL values without substantial reductions in protections to public health.

In addition, estimated costs are based on conservative assumptions, and for those smaller systems that might find the regulation most economically burdensome, there are ways to mitigate those costs, including the use of point of entry, POU, or -- either point of use, POU, or point of entry, POE, devices and consolidations with nearby systems.

Next slide.

This timeline shows the important dates after today for this regulation. First is the comment deadline, which has been extended to noon on August 11th. Because we only have one year to complete the rulemaking process, our deadline is one year out from the notice publication, or June 16, 2024. And if we finish this process on the very last day, the latest regulation effective date would be

October 1, 2024. You may recall that we discussed January 1, 2024, as the earliest effective date. It's more likely that the effective date will be somewhere in between January 1st and October 1st, such as April 1st or July 1st.

After the effective date, whenever that may be, systems are required to start turning in compliance plans which are due within 90 days of an exceedance. Because MCL exceedances are calculated using annual averages, it may require up to four quarters of sampling to determine whether there will be an exceedance.

The compliance deadline which has been previously discussed, would be two, three and four years after the effective date.

Next slide.

Here's a quick reminder about written comments. They can be emailed, mailed, or dropped off, and all of these instructions are in the Notice of Proposed Rulemaking, which can be found on the hexavalent chromium webpage.

Next slide.

Here are some resources, including a link to sign up for the drinking water program announcement list serve for future announcements, if you haven't already.

Thank you for your time today, and with that, I'm going to hand it over to Kim Niemeyer.

MS. NIEMEYER: Good afternoon, Board and members of the public. My name is Kim Niemeyer from the Water Board's Office of Chief Counsel, and I'm going to do a high-level overview of our draft environmental impact report, or EIR, that was prepared in support of the regulations.

Next slide, please.

Section 15187 of the CEQA Guidelines and section 21159 of the Public Resources Code require certain agencies, including the State Water Board, when adopting a rule or regulation requiring installation of pollution control equipment or establishing a performance standard, to prepare an analysis of the environmental impacts of the reasonably foreseeable methods of compliance. This EIR serves as that analysis.

The EIR looks at the potential impacts from the methods of compliance, the feasible mitigation and the reasonably foreseeable alternative means of compliance.

This EIR does not look at site-specific impacts, but considers a reasonable range of environmental, economic and technical factors, populations, geographic areas and specific sites.

Next slide.

So, what are the reasonably foreseeable means of compliance that we analyzed? Well, first we looked at the

best available technology, or BAT, identified in the regulations as the reasonably foreseeable means of compliance with the regulations.

As you already heard in the prior presentation, the regulations identify both weak and strong ion exchange, reduction, coagulation, filtration and reverse osmosis as available technologies.

The use of best available technologies to comply with the regulations is not, however, required, and public water systems can use alternative means of compliance.

Next slide.

During our CEQA scoping meeting we heard from a number of people that we should consider the environmental impacts of alternative means of compliance. Some of these were identified at that time, such as increasing reliance on surface water.

In addition, we reviewed a number of compliance plans that were submitted when the last hexavalent chromium standard was in place, which included descriptions of the actions systems planned to take to comply with the original regulations. These included blending and drilling new wells.

We also included purchasing water or consolidating with another system and using stannous chloride treatment on this list of alternative means of

compliance.

The Environmental Impact Report considers the potentially significant environmental impacts from both the reasonably foreseeable and the alternative means of compliance and often refers to all of these interchangeably as the reasonably foreseeable means of compliance.

Next slide.

So, where did we get our information from to determine impacts? First, to determine the potential impacts from the reasonably foreseeable means of compliance we relied upon the Division of Drinking Water's extensive experience, which includes regulating and permitting other treatment projects using these best available technologies.

For example, ion exchange is a very common treatment technique used for treating other constituents such as arsenic and uranium. Generally, many of the projects involving these best available technologies do not have significant environmental impacts that cannot be mitigated, but potential impacts will, in part, depend on where and how individual treatment projects are implemented.

The Water Board has also permitted, funded and been the lead or responsible agency for projects involving the identified alternative means of compliance such as consolidations and projects involving the expansion of

surface water treatment. And we relied, too, on this experience when considering potential impacts.

Second, we also reached out to some of the public water systems already treating for hexavalent chromium to find out about their systems, such as the footprint size of their treatment facilities and their operations, including their waste disposal practices.

Third, we also considered any environmental documentation prepared for the ten current hexavalent chromium treatment projects operating in the state and other environmental documents prepared previously in anticipation of having to comply with a hexavalent chromium drinking water standard.

Finally, we also looked at a number of data sets to assess environmental settings which would help us understand the potential impacts.

For example, we looked at the USEPA's superfund site boundaries and the location of CalEPA Cortese List sites and compared those with the information we have about where there are wells that exceed the hexavalent chromium proposed MCL.

We recognized, however, that project level impacts are going to vary depending on the size, location, and type of project implemented and the environmental resources in and around the project site.

We recognized that it is possible that at a specific site with particularly sensitive environmental resources the installation of treatment or addition of a new well could cause potentially significant impacts as compared with baseline conditions.

Although we have a good understanding of the areas where hexavalent chromium detections are above the proposed MCL, the State Water Board cannot predict how each public water system will choose to comply, where the site-specific compliance projects will be located, what site-specific sensitive resources may be located there, what mitigation measures are feasible, and what potentially significant environmental impacts there could be.

Because of this the analysis in the Environmental Impact Report considered many of the impacts to be potentially significant and unavoidable.

Next slide.

The type of impacts identified primarily related to the construction and operation of treatment, although it was recognized that there also could be impacts related to monitoring.

Impacts related to alternative means of compliance were much more generalized because those types of projects are going to by their very nature be very site specific. But we did identify generally some potential

impacts related to their construction and operation.

The analysis also recognized the potential for cumulative impacts related to other treatment and consolidation projects being approved or funded by the Board but did not find that the regulation would result in growth-inducing impacts because there are not existing constraints on growth due to hexavalent chromium contamination that would be alleviated by the regulation.

For the alternatives analysis, the environmental impact report considered a no project alternative, an alternative that listed stannous chloride as best available technology, and also analyzed the alternatives that were considered in the initial statement of reason, and that was the MCLs from one to 15, 20, 25, 30, 35, 40 and 45.

The alternatives analysis concluded that less stringent or higher MCL values would result in less systems having to install treatment or otherwise address the exceedance, and more stringent or lower MCL values would result in more systems having to comply with the regulations potentially resulting in more impacts.

Slide 7, next slide.

The Environmental Impact Report cannot quantify impacts associated with the implementation of any specific project. It is too speculative to assume the size, type and location of potential compliance projects.

Although it is anticipated that treatment would be installed within areas that are already disturbed, such as within the footprint of existing well sites, distribution pipes and treatment works, and that any potentially significant impacts could be mitigated, many of the impacts are identified as being potentially significant and unavoidable due to the fact that the Water Board cannot control the location of the projects, the type of mitigation, or whether mitigation will even be required.

For example, because a treatment facility could be located on prime agricultural land, the State Water Board cannot say there would be no impact on prime agricultural land in this Environmental Impact Report. However, it is likely that most public water systems would be able to avoid impacts to prime agricultural land and other sensitive locations when implementing their site-specific compliance projects.

The Environmental Impact Report identifies potential mitigation measures that lead or responsible agencies could require to avoid impacts. But because those requirements are within the responsibility and jurisdiction of other public agencies and not the State Water Board at this time, the Environmental Impact Report takes a conservative approach and finds most impacts to be significant and unavoidable.

Next slide.

Public water systems that have to prepare their own Environmental Impact Reports for their compliance projects can tier off of this EIR.

Public Resources Code section 21159.1 allows the use of focused Environmental Impact Reports for projects that consist solely of installation of pollution control equipment required by a specific agency's rules or regulations, if the agency requiring the pollution control prepared an Environmental Impact Report that included an assessment of growth-inducing and cumulative impacts from and alternatives to the project, and this EIR meets those requirements.

Public water systems will generally be the lead agency for their compliance projects. For privately-owned water systems, including many nontransient noncommunity water systems, a public agency approving the project will serve as the lead agency. In many cases this is the county, city or other jurisdiction with primary oversight over the project. In some cases, it may be the State Water Board which permits the operation of public water systems or provides funding for projects.

We also anticipate that many projects will be able to rely on other means of compliance with the California Environmental Quality Act instead of having to

prepare focused Environmental Impact Reports, including, for example, relying on mitigated negative declarations.

Next slide.

We are just about ready for your comments, and you may comment on any part of the proposed regulations, the Environmental Impact Report, or both.

Again, the regulation documents can be found at the site on the slide. In addition, hard copies of the Environmental Impact Report can be reviewed at all of the Division of Drinking Water's district offices, here at the CalEPA headquarters, and at the County Law Library in downtown Sacramento. Again, it's also available online.

The comment period, as mentioned previously, is now scheduled to end August 11th at noon.

I'll now hand it back to the Board Chair for the public comment portion of the hearing.

MR. ESQUIVEL: Thank you, Dr. Robinson and Ms. Niemeyer. I appreciate the overview, and I have no questions but just want to acknowledge and thank everyone for their good work and patience around all this. I know that we've been signaling a desire to bring this maximum contaminant limit to the Board sooner, and glad we are here at this moment to be considering this workshop and this discussion. I know the last time the Board considered and adopted an MCL was that first year that I joined the Board

in 2017, so, it's good to have this here.

I know there's been a lot of work, though, being done on the regulatory side. These moments when MCLs are here before us are not the only ones. We've been setting notification limits for PFAS response levels as well, and just really appreciate I know that you have been doing and the patience for everyone that's been part of this discussion, so, just thanks for that work.

Looking to any colleagues for any comment or question at the top. Board Member Firestone.

MS. FIRESTONE: Thanks, and I won't do comments until after public comment because I want to hear public comments, but I just had some questions if you could clarify.

So, one is on the notice to consumers, can you just clarify if systems -- no matter the system size and how much time they are potentially getting in compliance periods. So, no matter what size, are consumers going to get the same health information and the same frequency of notice of exposure if they have sources above the MCL level? I saw the language that's for if you're in a compliance period explaining that you have a certain time and what the plan is of the system to do it, but outside of that difference, is everyone, no matter what system size, getting the same language and frequency on exposure and

health impacts?

DR. ROBINSON: If it's detected in the system, they're required to report all the same information.

MS. FIRESTONE: And is there a difference with frequency if you're getting, say, a violation versus if you're in -- under a compliance plan?

DR. ROBINSON: So, the Consumer Confidence Reports are annual, but any violation, depending on the notice, would need to go out much sooner than that.

MS. FIRESTONE: Okay. So, there might be some frequency, and the type of notice would be different, but the Consumer Confidence Reports -- consumers would be getting the same information through the Consumer Confidence Reports. If they're in violation there's usually what, annual notices of violation or something in addition to Consumer Confidence Report that they're getting a notice? I just can't remember.

DR. ROBINSON: There's usually an additional notification.

MS. FIRESTONE: Yeah, okay. So, there might be an additional notice at some point, but the information is the same and everyone will be getting that no matter the size.

Okay. And then another question is, so, in the EIR we recognized there's alternative means of compliance

that probably systems will end up using, if they can, like blending, or drilling a new well, or consolidation, and we didn't include any of those in the cost estimate for the Economic Feasibility Analysis. Can you just comment on why we didn't, and if there's some way that we might be able to approach doing that to recognize that, you know, a system right next to another system that doesn't have it, we do analyze that in the needs assessment in terms of consolidation potential.

And I know it's very complicated and each system is going to be different, but I was just wondering if you could comment on is there an approach that we might be able to use to try to recognize that, because otherwise what you've recognized in the slides and in the documents is it's an overestimate because most systems that have any alternative to installing treatment on every single source are going to choose an alternate. Is there a way that we could approach addressing that reality in our cost estimates despite the understanding that every system and site has specific different needs?

DR. ROBINSON: I don't know of a way to do that at this point, but we're constantly trying to revise our methodology in the reg. unit and develop these costs better and more accurately, so as part of our comments, if anyone has a better way of developing these costs estimates, we

would like to hear it.

MS. FIRESTONE: Great. Okay, great.

MS. NIEMEYER: If I could just add to that just in terms of the nature of some of those other ways of compliance, they're so site specific. You know, drilling a new well for one system could be vastly different from the costs of another system just because of the depth that they have to go through. There's so many variables, whereas the treatment we're able to much better understand what those costs are.

MS. FIRESTONE: Yeah, it's definitely easier to estimate, I understand that.

MS. NIEMEYER: Yeah.

MS. FIRESTONE: But it's also probably an over -- well, it is an overestimate and, so, it would be great to hear public comments. You know, we're going to get public comments on if there's ways that are feasible and more realistic to get that, I'd be interested to hear what stakeholders have ideas around.

And then another question is around the assumption around treatment to nondetect versus treatment to 80 percent of the MCL. So, obviously no matter what we are going to be setting an MCL over the public health goal, and, so, you want to be, you know, minimizing the amount of exposure, and that's what we're called to do, but the MCL

that we're setting is a certain level, and I believe 80 percent we are using -- well, maybe you can comment just to, again, on why we -- for the cost estimate we're assuming it's just 80 percent and what the regulatory expectations and building expectations are in terms of operating, because my understanding is we want people to operate treatment to be able to get as low as they can, but then we're assuming that they're only going to treat to 80 percent.

DR. ROBINSON: Yeah, so, there's a couple different -- like you said, a couple different ways to look at this. When we're doing cost estimates, a lot of the 80 percent was looking at chemicals and how many chemicals they needed to buy and things like that, so we wanted to only look at what they were required to do. And while we do require systems to treat as well as they can, they're only required to treat to below the MCL, so, 9.9, you know, right below the MCL.

MS. FIRESTONE: Okay.

DR. ROBINSON: And, so, we also size the capital costs to -- the whole treatment system to be able to treat to one microgram per liter. So, we wanted to kind of balance the O&M and the capital cost because you can't go back usually and build onto your equipment. You need to do that first, and then going to a lower MCL would be easier

if you already had the capital equipment and then you just need more chemicals.

MS. FIRESTONE: Okay. So, there's a little inconsistency in how we're doing that for capital versus O&M cost assumptions kind of to balance each other out?

DR. ROBINSON: Well, it wasn't really balancing. It was the idea that if the MCL is reduced or if the system wanted to treat to a lower value, then they would need different capital equipment, and, so, to cut off that we just wanted to have capital equipment be able to treat all the way down.

MS. FIRESTONE: And then the regulatory requirement, obviously, the MCL is set as the MCL, but is there an actual enforceable requirement around treating to the lowest possible way or amount that treatment plants can be operated, or is that just a general like good practice?

DR. ROBINSON: I'm not aware of that requirement. Someone else may be able to jump in. But I think it may just be a best practice, yeah.

Also, treating to lower concentrations means usually you need to switch out your media, which is usually the most expensive part of treatment, depending on what you're doing.

MS. FIRESTONE: Right.

DR. ROBINSON: And, so, it can substantially

increase those costs --

MS. FIRESTONE: Right, yeah, yeah. No, I mean I understand. I'm not -- in terms of comments, I understand why we're making those assumptions. I just wanted to make sure I'm understanding it. So, these are just questions to clarify it.

And then I think last -- yeah, lastly, one of the things we talked about, and I know we just came up -- we just shared an errata change sheet, but one of the things we have in our reasoning is around having enough resources to help systems that are already struggling, and, so a number of the systems on the list that have -- would have to treat because of an MCL at 10 are already maybe at failing or at risk.

And, so, I'm just wondering if we can -- we just approved a SRF IUP for drinking water, and we have a fund expenditure plan coming up for SAFER. Obviously there's a lot of kind of reductions on federal and state level in terms of money coming in, so, I'm just wondering if you can share whether we still feel like we have the resources to cover those systems that are already -- in terms of the costs we've identified here, those systems that are already failing and at risk to the same extent that we're identifying in the reasoning here. Does that make sense?

MR. ESQUIVEL: That might be a question for the

division of financial assistance, but I don't know, Darrin, if you want to step in.

MR. POLHEMUS: Darrin Polhemus, Deputy Director for Division of Drinking Water. Excuse me.

So, for that question and for the context of what we're doing here we really try to stay away from making any kind of direct comparison between the regulations and whether we have funding available. We do it -- because we do have a lot of funding programs, they change all the time. The IUPs can change, funding programs can change, but I really hesitate to make a comparison of like this regulation at this moment means, you know, we expect this much funding to water systems.

So, in general, speaking as we stated in the ISOR, we believe there's funding available at the current moment, but as you know, that can change so rapidly. Funding could increase, funding could decrease, and, so, we really just present it as that opportunity presents itself, but not try to do a deep analysis on whether it's there or not.

So, sorry for the answer, but that's kind of how we really have to face the regulations approaching this.

MS. FIRESTONE: Yeah. That's my understanding. I just was -- it's helpful to clarify, so I appreciate it.

All right. Those are my questions, and I look

forward to public comment.

MS. NIEMEYER: I would just -- I did see the section I was thinking about before in our Health and Safety Code that talks about how we set out or go about establishing our MCLs. It's 116365. When it talks about the technological and economic feasibility, it has us look -- it says, "For the purposes of determining economic feasibility pursuant to this paragraph, the State Board shall consider the cost of compliance to the public water system's customers and other affected parties with the proposed primary drinking water standard, including the cost per customer and aggregate cost of compliance using best available technologies."

So, that's why we focus on the best available technologies, but it doesn't prohibit us from considering other things, but that is why our analysis is focused on what is the cost of compliance looking at those technologies.

MR. ESQUIVEL: Thank you, Board Member, and thank you for the responses.

Seeing no other comments or questions at this moment, we can begin to get into our commenters. We have about 38 individuals.

I want to start, as we always customarily do, with any elected officials, and so, first let's start with

Oscar Ortiz, the Mayor of the City of Indio. And if there are any other electives amongst our speakers here, please do either on the platform, if you're on the Zoom platform, raise your hand, or just come up after Mr. Ortiz speaks to the podium, and please do it then identify yourself.

Mr. Ortiz, good afternoon.

MR. ORTIZ: Good afternoon. First of all, thank you for your concern for the water quality for Californians and thank you to Mr. Esquivel for taking some time to talk with me earlier this week over the phone.

Today I would like to share with you my concerns as a fellow scientist, as someone who is passionate about public health and natural resources, and as a representative for my city, my staff and my residents.

Our city has three wells currently being treated for chromium-6 already. If the MCL would be set at 20 parts per billion, which is less than half of the current MCL, all of our wells would pass and we would incur no additional costs.

If the MCL is set at 10 parts per billion as currently proposed, 13 of our wells will need additional treatment at an estimated cost of 80 to 100 million dollars.

Our staff's models show that this would require an increase of 25 percent in the cost of water over the

next five years if this was implemented without any grant funding or state assistance.

As things stand today, we have no guarantees that this would not be the case for our residents. There are a few bonds proposed for funding but nothing that has passed through legislation.

We have the promising results of stannous chloride as a more affordable treatment, but no state approval for this technology.

I'm happy to say that our staff is well prepared for whatever your choices on MCL. We have done our studies, prepared a plan for implementation and are even ready to start testing with stannous chloride at one of our wells.

The questions I still have include the following. First, how much health impact can we expect between 20 parts per billion and 10 parts per billion? And is that impact worth a 100 million dollar investment from our residents' pockets during times of economic uncertainty and extreme instability in housing? And, actually, some of those wells are barely at 12, 14, and, so, we would see a very small change in the parts per billions there. Also, 100 million is equal to -- about equal to our general fund budget for a whole year.

Second, if we do move forward, what funding will

be available to help ease the impacts on our residents, especially those already struggling financially? And as we've heard, we have no assurance in that.

Third, will stannous chloride be an acceptable method of treatment because that would drastically change our economic impacts of implementation and change our whole strategy?

So, lastly, I would like to suggest that before we are given a timeline for implementation and enforcement we are given clear answers to these questions of public health impacts, financial impacts and acceptable treatments.

Thank you for your time.

MR. ESQUIVEL: Thank you, Mayor. Really appreciate it.

Any other electeds that would like to speak? Yes, sir.

MR. BOGUE: Good afternoon. Thom Bogue, Dixon City Councilman.

Now, while the comments I make do not necessarily represent those of the other council members because we have not discussed what I would or would not say today, so, I want to make that clear. These are my own comments.

First of all, when I looked at the figures that they were giving of approximate value of $8 per connection,

I'm like -- did the quick math on that. Just in our city alone to treat our wells would be $18,000,000 for six wells. Okay, and I said, you know, over a five-year period that's about right to do the installation. That does not include the additional cost of maintenance and disposal. The disposal is going to be incredibly expensive to get rid of this. So, part of the cost analysis did not cover that, or if it did, it's been misconstrued because it does not represent the actual cost.

And, again, like the Mayor of Indio, my question is, is what kind of benefit is it really going to be? What scientific study has shown that there's actually going to be a true health benefit going from 50 to two? And, oddly enough, the comparison of one in 2,000 people over a 70-year period may be impacted by the chromium-6, the federal level of 100 parts per million. Now, I do not have the exact figure they used, but the statement that we read from that report is that in a 70-year period of drinking one gallon of water per day from birth to the age of 70 a person may be impacted. So, it doesn't sound like there's much of a benefit on that level.

Number three, and this was a comparison I liked to use when I was on a talk show about this. How many people here feel arsenic and cyanide is a safe component to consume? I mean most people just say, no, no level or

cyanide or arsenic is safe to consume. But as a comparison, all your leafy vegetables and all your fruits have both those components in it.

But, you see, our body is like a little miracle machine. It can process a lot of these things as part of our consumption and maybe even use some of them. So, the question becomes, again, is where is there an analysis of what the impact is over that time and period at that level?

I didn't write down the last point I was going to make with this, but the bottom line is -- oh, that's what it was. Now, they say that one in 2,000 should be impacted within 70 years. Well, based upon our population of California of 38,000,000 people, that means we should have reported cases of 1,950 annually on average for people who have been impacted by drinking chromium-6.

Well, I just did a quick research over the last three years. I haven't seen any reported cases of people impacted by it yet, outside of the ones that have gone around factories and stuff that actually put out that type of product as part of their processes, which, frankly, if you're sticking your head in the chemical pond, I don't know what to tell you.

So, the bottom line is, is I would like to see an analysis of how many people have truly been impacted, outside of the Brockovich case, that is related strictly to

the natural occurring foundation of our soils.

Thank you.

MR. ESQUIVEL: Thank you, Council Member.

Next, we'd like to start to get into our regular commenters. I believe that is the only electives we have. Looking quickly at the Zoom platform in case there's a hand raised and there's not. So -- oh, there's an additional one in the room. Yes, sir. Please do introduce yourself.

MR. WARD: Good afternoon, Chairman, Vice Chairman and members of the Board. Thank you for being here today and letting us speak today also.

My name is James Ward. I am the Dixon City Treasurer, elected official, however, I'm here as a rate payer and as a citizen today.

Yes, I do work in the municipality of the City of Dixon. Our population is approximately 20,000 people. We are in Solano County. We are one of nine Bay Area counties. Probably have 102 municipalities included in them nine counties.

Looking at the numbers and looking at the inflation level today, the latest figures came out July 1st, and we're about three percent inflation rate. However, with the service industry such as your hotels, your restaurants, we're about at 4.7 percent. We all like to use hotels. We all like to use restaurants, but they use

water as well.

This undue financial hardship in my perspective is just another possible State mandate program, and without the State financial assistance is unacceptable. As you heard, there's no guarantees.

I ask the Board at this time to reject any proposals to implement or increase the levels of chromium-6, and I thank you for your time.

MR. ESQUIVEL: Thank you for yours as well. Yes, by all means, Board Member Firestone.

MS. FIRESTONE: Just a question following up on the comments by the Mayor from Indio. Do we have -- can staff just clarify for stannous chloride sort of timeline and regulatory approval process for, say we adopt an MCL and a system, trying to decide whether that's the way to go versus a different way to go, how they would -- sort of timeline on how they would have that certainty as to which way they could go, because obviously that's a huge difference in cost for a system and just understanding that timeline.

MR. POLHEMUS: Sure. Darrin Polhemus, Deputy Director Division Drinking Water. I'll try to answer that.

So, water systems that wanted to pursue stannous chloride would need to do pilot studies in order to determine that their water chemistry would be appropriate,

and it was talked about by Bethany -- Dr. Robinson in her components of what's there.

Understanding that a large system obviously has two years to complete and come into compliance, that could pose some difficulties associated with their timeframes associated with that, so they are going to have to make a balance and determination between the times they have of that and whether that makes the most sense for them as they proceed forward. So, we generally work with them on the pilot planning and make sure that it's expeditious as they are going to go forward with that.

And a lot of systems have already done a lot of work that they can bring back forward and, you know, they're not starting from scratch with it. But it will really depend on each system that wants to face it and where they were out before, what they further need to do in order to complete that.

MR. ESQUIVEL: Thank you, Board Member. Board Member Maguire.

MR. MAGUIRE: Yes, thank you. I might as well add a question while you're all here.

So, the commenter from Dixon mentioned a concern that the disposal costs weren't incorporated into the analysis. Can you speak to that, whether they were and, if so, how they were included.

DR. ROBINSON: Yeah. So, disposal costs were incorporated into the estimates. However, disposal is more of a component of ion exchange, and most of the sources ended up using RCF in the cost estimates. So, disposal isn't -- I think there might be some disposal with RCF, but it's not nearly as much as for ion exchange.

MR. MAGUIRE: And just on that, so, as I have understood it, ion exchange has been the go-to for many water systems that have already installed treatment for hexavalent chromium. Do you see a shift as we go forward here? I'm hearing now about stannous chloride, reduction coagulation filtration. Do you see this trend towards alternative, you know, moving away from ion exchange?

DR. ROBINSON: I think it's possible, especially because RCF, which has been shown very promising, is essentially stannous chloride with filtration afterward, and that's what a lot of these costs were estimated off of.

MR. MAGUIRE: Thank you.

MR. ESQUIVEL: Appreciate the questions, Board Member, and I think that hearing the points, of course, from our colleagues from Dixon and also the Mayor of Indio around localized analysis looking like costs are more than what's broadly painted within the reg., we did our best to do averages across systems, and, so, appreciate what is site-specific concerns and information from our colleagues

from Dixon and Indio, so, thank you.

Let's get -- any additional elected officials in the room or on the platform? Okay, great. Seeing none, let's get to then regular order which here we're going to take folks in order of comment requests received, and so, I'd like to first call up Jared Voskuhl, followed by Tim Worley, and then Norman Benson.

MR. VOSKUHL: Good afternoon, Board Members. Jared Voskuhl on behalf of CASA, the California Association of Sanitation Agencies. CASA represents over 130 public wastewater agencies and municipalities that provide the collection of wastewater treatment as well as the collection of it, the treatment of it and the recovery of resources, including recycled water and bio salts.

Just for today's question and comments, we want to thank the Board for getting the MCL to this point in the rulemaking process. We had specific comments during the public outreach period. I think there were four mentioned in the initial statement of reasons, one in May of 2020 as well as another in April of 2022, which we provided comments there describing the impacts of an MCL on wastewater agencies in terms of costs, and then looking at the ISOR and the cost impacts, wastewater treatment plants were not considered.

And, so, I just wanted to inquire with staff

whether that was, you know, a deliberate exclusion or if there was a rationale there.

And in terms of background as explained in those comment letters, MCLs become water quality objectives at the regional board level on basin plans, and those are incorporated by reference, so then wastewater treatment plants have to treat to those standards.

And, so, in this case the aquatic life beneficial use is at 11 micrograms per liter but the MCL is at 10 micrograms per liter. So, prospectively facilities would have to treat to lower it by one, but then if the MCL is lowered beyond 10 and further, then they would have to treat further, and so that's a cost impact.

I just wanted to identify and request for clarification from staff about the intention there, and if that's something that could be inserted maybe in a revised ISOR the next round of document preparation.

MS. D'ADAMO: Did staff want to respond to that or just wait? I sense an interest, but then hesitation.

MR. POLHEMUS: Yeah. So, I'll answer this question again. The inclusion of MCLs in basin plans is discretionary by the regional water boards. They have included them by reference and they can just as well modify them at a future date.

So, we do not include the costs associated with

wastewater in our determination. It's strictly focused on drinking water components.

At a later time, a regional board will have to contemplate what they want to do with our MCL and how that impacts their basin plan and their findings associated with that, and at that time they'll consider the costs appropriately, so, directly it's not included in our determination at this time.

MS. D'ADAMO: All right. Thank you, Mr. Polhemus, and thank you, Mr. Voskuhl.

Next we --

MR. VOSKUHL: Just as a point of information, from what I've heard from my member agencies is that in permits MCLs are automatically incorporated by reference, that they're not discretionary for element, so I don't want to haggle over that point.

MR. OPPENHEIMER: So, can I -- you guys are talking past each other, and I'll try and explain it is that Darrin is correct, the inclusion of an MCL in a basin plan is a discretionary action that the regional board does.

Also, each permit has limits that are discretionary, and so, it depends on how it was put in the basin plan. If it was put in as a requirement for all effluent limits, then they will be put in the permits in

that directly.

So, not all basin plans are worded the same way, and they don't all have the same requirement. So, it's a region-by-region basin plan by basin plan.

MR. VOSKUHL: I was under the understanding only Region 8 had the nonautomatic incorporation by reference.

MR. ESQUIVEL: Yeah, we can continue to clarify it, but yeah, we have 38 commenters. I want to make sure we connect with people, too.

MR. VOSKUHL: Thank you for attending to the point.

MR. ESQUIVEL: Yeah. Thank you, Mr. Voskuhl. Next, I'd like to call up Tim Worley, who will be followed by Norman Benson and then Joanne Le.

MR. WORLEY: Thank you. I am now unmuted. I hope you're hearing me okay.

MR. ESQUIVEL: We can. Good afternoon.

MR. WORLEY: Good afternoon. Thank you, Chair Esquivel and Board Members. I am Tim Worley, and among other things, I serve as Managing Director of the Community Water Systems Alliance for CWSA

I did request extra time, eight minutes, and I will try and fly through this presentation as quickly as possible.

CWSA is a project of CalMutuals, which is its

fiscal sponsor and in existence since 2019. Our founding premise is large systems helping small and underserved or disadvantaged community water systems, and our members include regional agencies, water districts, cities and mutuals ranging in size from small to large, geographically ranging from the Coachella Valley to the Monterey Bay Area, and several of our CWSA members will contend with naturally occurring chrome-6.

Next slide. Oh, so the topics of our comments are shown here. These will be further developed in our written comments, but just to give you a sense of where I'll be going.

Next slide.

So, I included this, even though you've already heard twice about the Safe Drinking Water Act and its requirements, I wanted to -- us all to remember the Human Right to Water which notes that every human being, I'm quoting, "every human being" would mean has a right to the four adjectives set out here, safe, clean, affordable and accessible water. This means wherever they reside, whether they're in a system targeted for consolidation, whether they rent or own, or whatever. Safe, clean, affordable and accessible, we often hear some people seeming to emphasize one of these more than the others, but the way that I read the Human Right to Water, the Legislature seemed to give

all the words the same importance.

But as we know, in reality there are tradeoffs between these terms, such as how safe water can be without sacrificing affordability or accessibility.

Next slide.

We were skeptical of some things about the economic feasibility white paper when it came out a couple of years ago. It did say the Water Board would consider multiple indicators which assess economic feasibility, which we think is very sensible.

Ultimately, it left the question very open ended without a bright line. It raised the issue of affordability and recognized there is a robust recent literature on the topic, but it left that discussion very unclear.

So, not knowing how the Water Board would view affordability in the context of regulating chrome-6, we wanted an independent look.

CWSA contracted for that review with Janet Clements and the One Water Econ team and Bob Raucher who are leading experts on the issue of affordability metrics. Their primary task was to look at the proposed regulation, and accepting the MCL as the proposed level consider how much funding would be needed from somewhere to have water for every "human being" that is safe as well as affordable

and accessible for the Human Right to Water.

Next slide.

The white paper on economic feasibility referred to a lively literature on measures of household water affordability and a problem with using a percentage of median household income as one of those metrics. But our team applied what are arguably much better metrics shown here. These are, one, the household burden indicator which looks at basic water service costs, meaning combined water and sewer as a percent of income for the lowest income quintile. That's the lowest 20 percent of population by income.

The second metric is called the poverty prevalence indicator, which is the percentage of community households at or below 200 percent of the federal poverty level.

These two measurements were put into a matrix that is described more in the written comments I will submit.

The project team also adopted the State Board's use of $30 per month as an indicator of possible affordability concerns.

Additionally, a low-income measure was applied which is renters paying over half of their income on housing, which represents a severe housing burden.

Next slide.

What were the results estimating the amount of funding that would be needed to avoid pushing water into unaffordable territory? The CWSA project team produced results that are very close to the State Water Board's for systems up to 5,000 service connections.

When you look at water systems over 5,000 connections, we see that much more funding would be needed than what the ISOR estimates.

The total assistance annualized would be at $123,000,000.

Next slide.

So, this table puts the estimates side by side. You can see that a more robust affordability analysis points to a need for $50,000,000 more financial support than the corrected ISOR.

Taking this analysis and comparing to the total available amount of $823,000,000, chrome-6 would hog almost 15 percent of it all.

We believe that by using a more thorough analysis with metrics that have been proposed to EPA by national associations, those being AWWA, NACWA and WEF, the State Water Board will have a more realistic picture of the effect this regulation will have on the affordability of water consistent with the Human Right to Water.

These comments have not even mentioned what Board Member Firestone brought up, which looks ahead at likely reductions in the funding available.

CWSA requests that the comment period be extended at least two weeks, one additional week beyond what has already been extended.

We would also offer to ask our Affordability Review Team to workshop with Water Board staff on measuring water affordability, although to be honest, I have not cleared this idea with them.

Next slide.

I just want to quickly comment on a few other areas we believe the regulation could do better in evaluating.

As used in the Human Right to Water, accessible can mean different things, but one aspect that may be overlooked is the barriers small systems experience with the alternative strategies for compliance. Whether they pursue compliance through point of use, or point of entry treatment, or consolidation, these are both fraught with costs and uncertainty. They require studies. The process can take a long time, although we did see that the state auditor has asked for it to be speeded up.

Either approach may require upfront money or some kind of bridge funding for studies and for infrastructure

improvements. The state audit also found problems with technical assistance provided by the state, and the recent survey CalMutual has done of its members indicates these problems are not necessarily resolved.

These issues can make safe water inaccessible regardless of how much money the State can point to.

Next slide.

The ISOR does recognize that chrome-6 is just one of several regulations that will add to the compliance burden water systems of all sizes will have.

This screenshot of the resolution the Board adopted earlier this year leaves off a couple things on a second page. It also leaves off rules that are being developed for water efficiency, data reporting on drought or things other than water quality and so on. It's a lot. We have to wonder what straw will finally break the camel's back.

Next slide.

I believe you'll hear from every water utility and every water association that, one, they are very thankful that the regulation includes a period to come into compliance, but second, two to four years is not nearly enough time. CWSA would say that five years is much more realistic, and for small systems more time than that may need to be permitted.

You will also hear from NGOs most likely that the compliance period is too long. Keep in mind, they are not necessarily in touch with the realities of planning, designing, CEQA compliance, even expedited, public bidding and construction with current supply chain issues.

I just recently heard from one water district currently in construction of a treatment plant that the time to get a steel tank is a full year after placing the order.

Next slide.

We also have questions about the estimation of treatment costs that assumed nearly universal selection of RCF as the treatment method. The ISOR notes that ion exchange has constraints. That's true, but we do wonder if RCF is truly possible for 98 percent of systems. This is kind of the flip side of Board Member Firestone's presumption that cheaper alternatives will be available to most systems. Undoubtedly, water systems will pursue cheaper alternatives if possible, but the experience to date, as Board Member Maguire noted, does not necessarily support that presumption. The systems that I am aware of are using ion exchange.

In a chart in Dr. Robinson's presentation, the affected sources sum to 494, just doing some quick math on the fly. That appears to be a change from the 501 in the

ISOR. So, it's not a big difference, but again, it seems to be another moving target.

Next slide.

So, there is one statement in the ISOR I just have to call out, and it's kind of a wonder to me that someone didn't take it out before it was published because of its potential to be taken out of context and mislead the public. You can read it for yourself. The whole state is not covering the cost of those customers of the affected systems. So, I do find it hard to comprehend how an obvious misuse of an average like this would remain in the ISOR.

Another example of somewhat farfetched rhetoric is the last bullet point. I just include these to say that we would have expected a somewhat more objective presentation without this kind of statement.

Next slide.

This really is my last comment. The data call-in by OEHHA being just a few months ago, we don't know how objective that review of the public health goal will be, but we do know that a sizeable quantity of peer reviewed published articles put a big question mark on the linear dose response for both cancer and noncancer end points.

So, I just include this to suggest that the regulatory process seems to be a little out of whack, and

I'll just leave that there.

Final slide.

I've probably taken more than the time I asked for, and I apologize, but I do appreciate your indulgence. Thank you very much for listening to our comments. Feel free to contact me if there are any questions. Thank you.

MR. ESQUIVEL: Thank you, Mr. Worley. I appreciate your comments.

Next, I'd like to call Norman Benson, to be followed by Joanne Le.

MR. BENSON: Good afternoon. Thank you for taking my comment.

I believe regulations must be a last resort and fashioned using facts, not fables. Erin Brockovich is a Hollywood movie, a fable, not a factual documentary. Masry and Vitatoe's law clerk, Erin Brockovich sued the sockets off PG&E via the Texas sharpshooter fallacy. By sheer chance alone, people with specific diseases can be found clustered near one another.

Chrome-6 is a natural substance that can be found in rocks, volcanic dust and soil. This means it will be found naturally in water and the food we eat.

Your white paper asserts that ingesting chromium-6 at your proposed maximum contaminant level of 10 parts per billion is so toxic that at that level the associated

cancer risk is one in 2,000.

Interestingly enough, chromium-6 is equivalent in reference dose with a natural insecticide, caffeine. I do not mean to say that caffeine or chromium-6 do not have levels at which they are toxic. They do. Every substance, no matter how toxic, has a level at which it is benign, and every substance, no matter how benign, has a level at which it is toxic.

Since caffeine is like chromium-6 in its toxicity, what does the proposed MCL look like if applied to a beverage like Coca Cola? A toddler would be allowed one-fiftieth of one milliliter, one-third of a drop, of Coca Cola per day. Any more than that would exceed the proposed MCL of 10 parts per billion.

Under the current federal MCL, 100 parts per billion, one-fifth of a milliliter, would be allowed.

Lo siento, but I have a hard time swallowing an assertion that four drops of Coca Cola per day will damage a toddler. And rather than assert, you should be able to show that your current 50 part per billion MCL has produced benefits above the federal standard such as fewer deaths, fewer cancers.

Last point. Mandates are not magic. They’re the use of government force to create a societal change. The proposed regulation will criminalize and punish people for

doing something that had previously been legal.

If the Water Board passes this regulation, I believe it will accomplish three things. It will, one, create more criminals; two, make people pay more for water, and the third, make more public water systems provide drinking water encased in plastic bottles that meet the federal standard, not the state.

This proposed regulation is based on virtue-signaling politics, not science. The federal law is bad; this proposed regulation is a magnitude worse.

I thank the Water Board for taking my comment.

MR. ESQUIVEL: Thank you, Mr. Benson, for your comments. Next, I'd like to call Joanne Le, to be followed by Nick Blair. Good afternoon.

MS. LE: Can you see me and/or hear me?

MR. ESQUIVEL: We can. Good to see you.

MS. LE: Okay. Good afternoon, Chairman, and the State Water Board members.

My name is Joanne Le, and I'm the Director of Environmental Service for the Coachella Valley Water District.

The District is a public agency responsible for providing high quality water supply at reasonable costs to our residents and businesses of approximately 270,000 in population throughout most of the Coachella Valley. And

chrome-6 is naturally occurring in the minerals and groundwater found here in our service area and groundwater basin. About a third of our wells distribute it over a 50 square mile area exceeded the proposed MCL -- chromium-6 MCL.

And while we understand the importance of adopting an MCL for the protection of public health, we remain concerned with the following deficiencies as they have not been adequately addressed as previously commented by our agency.

So, first of all, the State Water Board cost analysis of up to $4.75 per person per year and conclude that this is economically feasible. However, the cost of this MCL will uniquely burden our system that serves disadvantaged communities that has naturally occurring chrome-6 as I mentioned earlier.

Secondly, the proposed compliance period of two years for large water systems such as ours remains a challenge.

The Federal Safe Drinking Water Act allows a period of up to five years for water systems to install capital facilities needed to comply with new federal drinking water MCLs. So, we would urge you to consider this compliance timeline as a base period by which water systems should strive to comply with the proposed MCL as

the practicalities of planning, designing, funding, permitting and installing new treatment facilities. And flexibility should be granted depending on the progress made.

And, lastly, I just wanted to point out that in the last few years our agency has successfully piloted a study of the addition of stannous chloride to reduce chromium-6 concentration to that of well below the proposed MCL granted without filtration. This treatment method, as the Mayor of Indio pointed out, is the most cost-effective option and can be employed immediately by our district should we gain approval from DDW to launch a full-scale implementation that is specific to our water systems.

We have submitted this plan to DDW earlier this year in January, and we urge the State Water Board work with staff to fast track the review and approval of our plan for timely implementation to comply with the MCL should the State Board remain firm on the proposed compliance period of two years for large water systems like ours.

That is all I have. Thanks so much for your time.

MR. ESQUIVEL: Thank you for yours, Ms. Le. Really appreciate the good comments and engagement around this, even the research around stannous chloride to begin

with. Appreciate that leadership, and work, and feedback, disagreement and otherwise, so, thank you.

Next, I'd like to call Nick Blair. Mr. Blair.

MR. BLAIR: Good afternoon, Chair Esquivel, Board Members. My name is Nick Blair. I'm with ACWA, Association of California Water Agencies. We represent over 460 public water agencies throughout the state of California. Thank you for the opportunity to speak today.

ACWA supports ensuring the safety of water supplies to meet or exceed state and federal standards. We really appreciate all the work that the staff has put into this process so far, but with that being said, as numerous other water systems have noted, we remain concerned with potential impacts to public water systems that they will potentially face in complying with the proposed MCL, especially in light of the recently published errata document.

So, we are hoping to see more work done to affirm the economic feasibility of the proposed MCL. We continue to have questions about capital cost considerations in compliance which have already been raised, the effects that disadvantaged communities and small systems throughout the state will potentially have to shoulder, and the need to continue to identify funding sources for these affected systems. The published errata acknowledges where cost

estimates were understated, and as Tim noted, they may be even higher than what the errata document states.

So, we also hope to see more analysis on the proposed best available technologies and treatment methods, namely, if RCF is cost feasible compared to ion exchange, and also if POU, POE is affordable for small systems, and then also consideration of some other alternatives like stannous chloride.

We want to express appreciation for the added compliance timelines, as has been noted already, but similar to what others have said, we have concern that some public water systems may be challenged even to meet what has been laid out, so we want to continue to work towards solutions such as what the federal guidelines layout for water systems that are trying their best to be compliant.

So, with that being said, appreciate the time today. We support the idea that more time is needed to update analyses and accept comments, potentially another week for the comment period. We will be submitting comments by the deadline along with our coalition partners. Happy to take any questions, otherwise, thank you.

MR. ESQUIVEL: Thank you, Mr. Blair. Appreciate that.

And, you know, what I do want to make sure and note is that as we adopt this MCL, this Board, or at least

myself, I'll just speak for myself, are very cognizant that it doesn't live in an island, that it impacts affordability that there are other MCLs.

The federal government is currently developing, MCLs, even on PFAS, sooner than we are, too, so these discussions are really important, and we are doing our best to be incredibly sensitive.

Appreciate the good feedback we've heard, but just didn't want it to kind of go unnoted that, you know, the breakdown on how we need to be viewing affordability, the complex ways in which not just meeting this MCL, but having to meet state conservation budgets that this Board will be adopting later this year, and/or other efforts I think are really -- I just want to note that the complexity of the issues that folks are faced are understood by this Board, and we always strive to do better and want to understand how we do to get it right here amongst it.

So, appreciate the comments we've heard so far and look forward to further comment and to hear from everybody.

Next I'd like to call up Maria Gonzalez, to be followed by Kelli Hutton and then Oracio Gonzalez. Okay, not able to be here, okay. The next I believe I have up on my list, Kelli Hutton. You should be unmuted here any second now, or at least invited to unmute.

MS. HUTTON: Hi - Can you hear me?

MR. ESQUIVEL: Yes, we can. Good afternoon. Thanks for joining us.

MS. HUTTON: Thank you for having me. My name is Kelli Hutton. My husband and myself bought our first home in Moss Landing, California in August, a year ago. We closed escrow on the same day our first child was born, and living in a home with water that has been compromised due to contaminants has been pretty stressful with a newborn and a small child, and I just think that any kind of regulations that can be tightened down for anything that can cause harm to any living human or pet would be greatly appreciated by all members of my community. Living with compromised water is very stressful and I appreciate what can be done to tighten up the allowable limits of chromium-6 and any other contaminants.

Thank you.

MR. ESQUIVEL: Thank you, Ms. Hutton. I appreciate your participation in joining us here and your comments on this item.

Next, I'd like to call Oracio Gonzalez, who will be followed by Trudi Hughes.

MR. GONZALEZ: Hi, Board Members. I'm Oracio Gonzalez on behalf of the City of Coachella, a working class community in eastern Coachella Valley.

We certainly want to thank you for the concerted focus on wanting to make sure that all Californians have access to safe drinking water. It is a goal that the City certainly shares. But without providing communities like Coachella, a small disadvantaged water system with the viable predictable path for financing the cost of complying with this MCL, it unfortunately ends up just setting these communities up for failure.

In Coachella, like the other communities in the Coachella Valley, we have naturally occurring chromium-6 that has been in our water since before the modern Coachella Valley with all of its music festivals existed.

For the City, based on our analysis of the proposed MCL, it would cost us about 36.2 million dollars to build the treatment infrastructure to meet the standard. Once passed on to our residents this would result in about 120 percent increase in average monthly bills. From an affordability perspective this would actually push our affordability index to 4.4 percent, almost three times higher than the 1.5 percent MHI that the state uses to gauge affordability.

For residents whose average income is about $35,000 a year, such an increase is not only unrealistic, but it places the City in the untenable position of having drinking water that most of its residents can’t afford.

I'd be remiss if I didn't point out that we are referring to a desert environment that often has, you know, temperatures in excess of 120 degrees. The idea that our residents couldn't afford drinking water really is a matter of life and death.

As you finalize this regulation, we certainly wanted to encourage you to continue to look to alternative technologies like stannous chloride because those technologies would dramatically change the cost picture for the city of Coachella.

In addition, we really want to encourage you to really drill down on the costs and providing that viable path for communities like Coachella to be able to meet this standard.

Thank you for your time. Appreciate it.

MR. ESQUIVEL: Thank you. Mr. Gonzalez, quick question. I did want to just ask because we have had a little discussion around this. When it comes to that cost estimate, is that for ion exchange or --

MR. GONZALEZ: Yes, it is, ion exchange.

MR. ESQUIVEL: Thank you. Next, I'd like to call up Trudi Hughes, who'll followed by Valentin Cornejo.

MS. HUGHES: Good afternoon. I'm Trudi Hughes. I'm the President and CEO with the California League of Food Producers.

Our organization represents food processing in California. Our members can, dry and freeze fruits and vegetables.

So, thanks for the opportunity to comment on the proposed chrome-6 MCL.

As I testified in the past, my membership is an unlikely regulated entity under the drinking water standards. It offers a unique perspective in this discussion. Many of our members have private wells and are thus considered nontransient noncommunity water systems making them subject to drinking water standards.

My members take compliance with these standards very seriously as their water systems not only serve their employees, but are also used in their plants to wash raw food products, clean and sanitize food contact surfaces and in and on final products.

The FDA requires that food processors meet all drinking water standards.

The League has expressed concerns about this proposed MCL over the last several years on a number of fronts, primarily including the cost of compliance that we've heard a lot about, and also the science used to establish the MCL.

So, compliance with the proposed chrome-6 MCL would be extremely expensive for my members, and I think

you've heard from the last speaker from Coachella Valley we have naturally occurring chrome-6 here in the north state, so the members that are most affected by it are in the northern part of the Sacramento Valley, and Dixon, and Williams, and some of the other areas up north.

And we're talking about cost of compliance into the millions of dollars per plant, which is catastrophically high for industries that operate on low margins and is really under a lot of other cost pressures and regulatory pressures as well.

This is really going to have an impact on food prices and the ability for these folks to compete both with other states and internationally.

So, while we absolutely agree that California faces some very real water quality issues that deserve immediate attention, we believe that this is -- that it is critical that any new drinking water standards produce the public health benefits that are worth the significant added cost of implementation. And I completely agree with some of the former speakers, particularly Mr. Ortiz with the City of Indio and Mr. Bogue with Dixon.

I know that the Board staff has attempted to tackle the economic feasibility issue, but to date there hasn't been a robust analysis of the real cost and implications to the regulated community in general and my

membership in particular.

We are also continuing to be very concerned about the underlying sciences of establishing a MCL for chrome-6, and I think so were the previous speakers. The chrome-6 public health -- excuse me, public health goal must be based on the best available science.

And on March 27th of this year OEHHA announced that it would be completing an update to the 2011 public health goal for chrome-6 and providing interested parties the opportunity to submit new scientific data. However, on June 4 the State Water Board issued its proposed MCL despite OEHHA's announcement.

So, I would strongly, strongly urge the Board to pause and staff to consider holding this rulemaking process until an updated public health goal is completed.

So, in conclusion I just have to reiterate that it's imperative that we have an MCL that is based on sound science and takes into consideration the cost implications and the real world impact on the regulated community.

So, thank you very much for your time. Appreciate it.

MR. ESQUIVEL: Thank you, Ms. Hughes. Next, I'll like to call up Valentin Cornejo, who will be followed by Jesus Calvillo.

MR. CORNEJO: (Speaking in Spanish, using the

services of interpreter)

From the community that I come from we still don't have the drinking water yet. We just have our own silos -- wells. We have 104 wells, and 90 percent of them has got a high volume of chrome between 12 and 32. That's why we come to represent our community so that we can have clean water. We're here because the statute of the water has not done the priority. Our health in our community we live with a contamination that the Board has delayed in establishing a regulation that will protect our health and our families.

The contamination is nitrate, arsenic and chrome. That's why we ask you to proceed as fast as you can because we don't have clean water.

Thank you very much.

MR. ESQUIVEL: (Speaking in Spanish) Next, Jesus Calvillo. (Speaking in Spanish)

MR. JONES: Chair, could I ask if we could have staff provide translation for our --

MR. ESQUIVEL: Yes, of course.

MR. JONES: Thank you.

MR. ESQUIVEL: Thank you.

MR. CALVILLO: (Speaking in Spanish using services of interpreter)

Good afternoon.

MR. ESQUIVEL: We'll get you another mike. Sorry. One quick tech check.

INTERPRETER: Hello.

MR. ESQUIVEL: Okay. Thank you.

MR. CALVILLO: Good afternoon. My name is Jesus Calvillo and I am from Royal Oaks.

We come talking about the same problem, that our water has chrome-6 and more contaminants. Yes, and to reiterate, we come for the same reason that --

INTERPRETER: Would you repeat.

MR. CALVILLO: Okay. We come asking for you to provide safe, clean accessible drinking water for our families and for our grandchildren, and that is why we're here, and I would like to thank you. Thank you very much.

MR. ESQUIVEL: (Speaking in Spanish) Next I'd like to call Becky Quintana.

MS. QUINTANA: Hello. My name is Rebecca Quintana and I'm from Tulare County, and I'm a member of the AGUA Coalition. We represent over 30 communities from the Central Valley and the Central Coast, and I'm here on behalf of my community, my family, my children and my grandchildren, and also for all Californians.

My concern is with the level that they're trying to set for the chrome-6, and that really concerns me because in our community we've dealt with nitrates and

everything in the Central Valley, and it really -- I hear you guys and people talking about money, money, money and all of the finance. You know, you can't put value on life. I mean there's no -- you can't compare money to a life. I lost a daughter to cancer, and money shouldn't really be a big thing. Life is more important than money in my eyes. And I just hope that you guys take into consideration that setting a good MCL level that will protect all humans, children, parents, grandchildren, and I just hope you guys put it into your heart that you guys will be protecting us Californians and our families.

Thank you.

MR. ESQUIVEL: Thank you, Ms. Quintana. I appreciate your participation, raising your voice here today. Thank you.

Next I'd like to call up Jesus "Tutuy" Montes, to be followed by Nydia Medina.

MR. MONTES: I am Tutuy from Visalia, California, part of the AGUA coalition for some years. Some of you up there know me, have saw me, been coming here for years. Thank you for the work you do.

I've had to not only suffer with water issues for some years, but I want to follow something that my colleague -- women are sacred in my world, so is water, so is life.

I had a statement that I wrote out, I have to do, you know, but as I heard some of the other people talking, I wrote down a couple of things.

Are we saving money or are we saving lives? The power of a woman, that warrior woman, because she gives life, brings that life into this world.

A lot of people, oh, the cost is going to go up. I've heard in the past coffee, you know, how much does a Starbucks cost? Some people, you know, they might go eat at not just Burger King but Red Lobster, depending on your income. Hear a lot about the money.

Human life put down, didn't matter.

I'm not going to read my statement other than to say my brother is fighting cancer right now. We know that there's a bunch of chemicals out there that cause cancer. Somebody said, you know, something about I ain't going to insult anybody here behind me. You're looking at the back of my head or looking at the screen because you ain't looking at my eyes or look at the back of my head. I'm just saying in this issue are we going to look at people in their eye or are we going to look at them at the back of their head. They don't matter. They don't matter.

Earlier when we were -- when I was discussing what I might say up here, you know, thank you, thank you for the work that some of you have been doing to sit on

this board in the years that I've seen you here, the years that you've been here. Appreciate that.

A lot of people that I send that message, it's important that we come up here, that your voice does matter back in my community, to be involved. Being a father, grandfather, great grandfather, me working with men in my community to being involved and take that initiative, because I go to a lot of places, and guess what, women always seem to be there more than the men. So, I work with fathers. When I see some of these fathers suffer like I suffer because they have to see, they can't do anything a certain way because they think the government doesn't work for them anymore. I just want to say that much about that, otherwise I'll go on, and on, and on and want to take eight minutes like somebody else, or take, you know.

But I speak from my heart, and I know that my palabra, I know that my word and my words touch your hearts. That's because that energy knowing that we can love give way to all our relations, not just the human relations, but the plants, the birds, those in the water, all our relations, and water, one of our most important relationships.

Thank you.

MR. ESQUIVEL: Thank you, Mr. Montes. Thank you for bringing your voice here and your participation through

all this. Thank you.

Next I'd like to call up Nydia Medina, to be followed by Raquel Sanchez.

MS. MEDINA: Good afternoon. My name is Nydia Medina and I will tell you what I've had to experience. This is my son Raul. He is incapacitated. I come from the Orosi community. And aside from me, there are communities on either side where there exists arsenic, nitrate and chrome-6. We've had it plenty of time. Chrome-6 has found us and it has been here for 10 years. It's affected us. We ask you that you lower the MCL at this moment. It is currently at 6. As a mother, grandmother and great grandmother I ask that this be done now so that more innocent people will not continue to die of cancer and liver problems. Do the work now and not in ten more years. Please do not continue to lie to the State of California. As members of the Water Boards you are failing us. This is a voice that asks for -- this is a voice that asks for the Water Boards to listen to them. And we thank you. God bless you all.

BOARD CHAIR ESQUIVEL: Gracias Senora Medina (speaking in Spanish).

Next, I'd like to call Raquel Sanchez y luego Rosabel Bejar.

MS. SANCHEZ: (Through Interpreter) Good afternoon Board members. My name is Raquel Sanchez. I'm a member of the AGUA Coalition. And I live in Tulare County.

I belong to -- I'm served by a public water system. Our communities are farmworking communities and hardworking communities. They live with contaminated water, with nitrates, arsenic, and chrome-6, as well as other contaminants that cause sicknesses, serious illnesses. We've had this problem for many years. We want a solution and urgent support. We ask for your support in lowering, changing the level of chromium-6. As our children are the future of tomorrow and they'll be the ones that are contaminated. Thank you.

BOARD CHAIR ESQUIVEL: Gracias Senora Sanchez.

Next we have Rosabel Bejar and then Yesenia Segovia.

MS. BEJAR: Good afternoon. Good afternoon Board members. I urge you to support safe and clean drinking water. I brought my child here and urge you to protect the water so that she

doesn't suffer the consequences of contamination. That's it. Okay, thank you.

BOARD CHAIR ESQUIVEL: Gracias Senora Bejar, gracias.

Next we have Yesenia Segovia y luego Salma Alatorre.

MS. SEGOVIA: Hello, my name is Yesenia and I will be representing the Central Valley. I would like to express my concern on the suggested MCL for chromium-6. I believe that chrome-6 should be significantly lower than suggested, than the suggested 10 MCL.

The suggested 10 MCL is not enough to keep us Californians safe from facing major health issues in the future.

So, I ask if you could please lower the MCL from 10 MCL just to anything lower, where we won't be drastically affected. Just like past colleagues that were just here, I feel that we shouldn't be negotiating lives and money. I really think that, if you guys could do better. Thank you.

BOARD CHAIR ESQUIVEL: Thank you, Ms. Segovia.

I'd next like to call up Salma Alatorre

and be followed by Uriel Saldivar and then Mayra Hernandez.

MS. ALATORRE: Hi Board members. I'm Salma Alatorre and I'm 15 years old. I'm from Kettleman City. And every day I wake up and I shower with chrome-6. Every day I wash my face with chrome-6. I wake up in the morning before school and I fill up this water bottle with water, with little water bottles because chrome-6 cannot be consumed by humans on a daily basis.

I come from a town that's faced a lot of adversities with environmental justice, where our water is contaminated, our air is contaminated, soil is contaminated. And I ask that as Board members, who are in charge of our lives, that you lower the MCL level and you think about the children that have to shower every day in this contaminated water. With not only chrome-6, but nitrates and arsenic. Since I was born I've been living in contaminated areas where drinking water is not accessible to me from the tap.

I wish that I could be like the people in this room, who have reusable water bottles. And I think to myself maybe they filled their water bottles straight from the tap, which I've never

done before. And, hopefully, if you're able to really listen to the community members that came to talk to you today that you'll consider lowering the MCL level.

In Kettleman City cancer isn't a fable, it's a reality. And maybe one day, after all these years of living in Kettleman City I will have cancer and I will die. And scientists will cut open my body and find that it was due to the contamination in my town. Consider that when you are deciding this. Thank you.

BOARD CHAIR ESQUIVEL: Thank you so much Ms. Alatorre. I really appreciate your powerful words and your engagement around this work. Thank you.

Next I'd like to call Uriel Saldivar.

MR. SALDIVAR: Hello Water Board members. My name is Uriel Saldivar and I'm here alongside with the AGUA Coalition. I was born and raised in Tulare County and most communities there have a plague of many water issues ranging from nitrate and arsenic contamination, and depleting water levels, and so forth.

But today I'm here to talk to you about chrome-6. Specifically because the proposed MCL of

10 parts per billion does not prioritize public health.

We've been discussing chrome-6 and accompanying MCL for over 20 years, I mean most of my lifetime. When I was looking at some of the original articles and it's crazy to think that after all this time so little has been done concretely. And this inaction is unacceptable.

But during that time we have been studying the issue quite extensively and one of the things that we know is that it's projected to, with this proposed MCL of about 10 parts per billion, that one in every 2,000 residents will develop cancer.

Now, acting back to the community right to water and one of the presentations that was brought forth earlier, and how the State Water Board is in charge to further that, and along with every single Water Board member. Quite frankly, an MCL that allows and has that default of one in 2,000 does not prioritize the public health and is not furthering the community right to water.

However, the State Water Board can avoid this grave injustice by prioritizing an MCL that actually aligns with the science and protects the public health. I was hearing earlier about

different comments about economic feasibility, and the financing. And I mean I've worked alongside a lot of these community members and they're also working on the affordability aspect of this.

These are all different prongs of the community right to water, access, affordability, and quality, right. And I greatly appreciate the work from the State Water Board on all of these fronts, but one shouldn't be taking a backseat to the other. And what does it mean to have an MCL if it's going to be very easy to come into compliance. It doesn't cost much, but it's not really protecting or increasing the water quality.

I know that recently the State Water Board have, along with many stakeholders on this call today, and in this room, were able to push for innovative, landmark pieces of programming for affordability, like the Water Arrearges Program during the pandemic, or the 1.5 billion in drinking infrastructure. These alignments can happen. We can be creative and these conversations do not preclude those types of partnerships.

But today the intentionality, I really urge you to focus on the public health. And I know that many folks here today are more than welcome to

further partnerships and having those conversations to be creative, and ensuring that every single Californian can have access to safe and affordable drinking water.

With that, just thank you for your time for being able to comment. And we welcome further conversations because I know that every member of the AGUA Coalition, and generally speaking from folks that administer these different water systems, they also prioritize those three things, right.

But we strongly urge you to not have public health take a step back today. So, thank you.

BOARD CHAIR ESQUIVEL: Thank you, Mr. Saldivar. Really appreciate the comments, and the work, and engagement around everything.

Next I'd like to call Mayra Hernandez, who will be followed by Maria Luisa Munoz.

MS. HERNANDEZ: Hello Chair, members of the Board. My name is Mayra Hernandez and I'm a community solutions advocate with Community Water Center.

But today I want to share a personal story and share why it is that I do the work that I do,

why I work with low-income communities, communities of color that are impacted by contamination throughout the State of California.

So, I was born and raised in Merced. I lived in an unincorporated area on the outskirts of Merced. And our water was provided to us by Meadowbrook Water Company. And in 2008, I was 11 years old, we got a letter in the mail. It was all in English. And so, my parents are monolingual Spanish speakers. And so, at 11 years old I had to translate what this letter said.

And basically what it said is the water is contaminated with chrome-6. You shouldn't drink it. Tried to convey that message to my parents and my parents, and my parents are like chrome-6, what's that? I don't know what that is. Just ignore it.

And it goes to show that we need to make sure that our communities have access to information and resources in their language, right.

And so, basically, you know, chrome-6 was really what got me started in environmental justice and social justice. And, unfortunately, in my community, this community is locally known as Beachwood, and back in 2008 there was approximately

2,200 people in that community.

And, basically, we had about five or six of our neighbors die of cancer. And again, we go back to that one statistic that for every 2,000 one person will get cancer. In my community, five to six people obtained cancer and actually died.

So, there is communities -- or there are communities where, you know, people are dying from, you know, an array of things. We have air pollution, water pollution, and we need to do the best that we can do to make sure that we limit all of these contaminants and exposure to these contaminants, right. Because, okay, let's say we leave it at ten but we still have arsenic, we have nitrate, we have, you know, the runoff of pesticides that are still carcinogens.

And so, basically -- and I'm getting a little emotional because it's something that I'm really passionate about, right.

And so, I think, you know, moving forward it's a real thing and the communities that are most affected are low-income communities, communities of color that, realistically, no one really cares about. Media doesn't cover it because there's like, well, it's just one person that died in the

community with cancer. It's a farmworking community, who's going to pay attention to that. Right.

So, the communities are there, but no one really knows about them. And I do because I go door to door in multiple communities to learn about what people know about their water, and work with them to provide more information and resources, and help them obtain interim and long-term solutions for those issues.

And so, I currently work in the Central Coast and I've talked to many people that have chrome-6 in their water. They didn't know that they had that before, and so we tested their well. And their mothers and fathers died of cancer.

Is it directly related? We can't for sure know, right. But what a coincidence, right?

So, I think I'm out of time, but thank you.

BOARD CHAIR ESQUIVEL: Thank you, Ms. Hernandez, appreciate the work, and advocacy, and engagement around all this. Thank you.

Next I'd like to call up Maria Luisa Munoz, who will be followed by Rob Spiegel.

MS. MUNOZ: (Through Interpreter)

BOARD CHAIR ESQUIVEL: Senora Munoz?

(Interpreter speaking Spanish)

MS. MUNOZ: Whatever we're doing is not working.

BOARD CHAIR ESQUIVEL: Okay, gracias.

(Interpreter speaking Spanish)

MS. MUNOZ: And most of the Board members are talking about the contaminants. If they can come to the Central Valley and drink the water. Yes, and I'd like to know if in the next meetings you can have people that can interpret at the same time as we are asking for the information as leaders.

BOARD CHAIR ESQUIVEL: Si. (Speaking Spanish)

I believe she's asking if we can make sure that we have interpretation that's happening simultaneously for folks. And I thought that's what we were providing. And there may have been an issue with some of the online interpretation or translation, or no.

THE INTERPRETER: That's what we're supposed to be doing, yes.

MS. MUNOZ: The leaders of the water in the Central Valley when they talk to them and

they're interpreting, they're not saying stop or good morning, or how are you. They're interpreting at the very same time. And since 1:00 p.m., I'm waiting to be able to talk and that's not happening.

BOARD CHAIR ESQUIVEL: Okay, gracias, Senora Munoz.

We'll go to then our next commenter, which I think is Rob Spiegel.

INTERPRETER JIMENEZ: Chair Esquivel, would it be possible that I just provide a brief summary of what she said in her testimony.

BOARD CHAIR ESQUIVEL: Yeah, that's helpful. Yeah, thank you.

INTERPRETER JIMENEZ: So, yes, I just want to comment quickly for Maria Luisa to provide a summary of what she had spoken on. And she invited the Board members to go over to the Central Valley and drink the water that was present there. She also mentioned that she has to pay for bottled water. And she is concerned that because of the MCL that is being proposed that it's potentially going to start an issue with cancer that will be widespread across their communities. And she had a request that as the work continue and as water

leaders come here to speak take their time. She's been waiting since 1:00 p.m. She would like simultaneous translation to be available so that as she's speaking it's not having her to pause, having her to wait, and having someone -- someone who can speak and provide that information as she is saying it real time. Uh-hum, thank you.

BOARD CHAIR ESQUIVEL: Thank you. Gracias, Senora Munoz.

I'd next like to call Rob Spiegel, who will be followed by Eileen Conneely.

Is Mr. Spiegel on the platform?

MR. SPIEGEL: Good afternoon and thank you members. A little technical glitch on our end, but all figured out.

So, as I said, good afternoon and thank you, Rob Spiegel. I'm the Senior Policy Director for the California Manufacturers and Technology Association, or CMTA. And we very much appreciate the opportunity to provide these public comments for the proposed drinking water standard on hexavalent chromium.

Before I begin I do also want to align and agree with the comments that were shared by my colleague, Trudi Hughes, representing the

California League of Food Producers.

So, for CMTA we have submitted individual comments on the MCL and we have also joined with other statewide businesses and industries as part of a broader coalition effort.

And fundamentally, we find that the MCL and the related ISOR lack the sufficient economic considerations that are needed to ensure that this MCL is economically feasible, but also affordable.

The errata that was released on July 31st, which was just a mere 72 hours ago, illustrates the concerns that we and the other stakeholders have had relating to the staff determination that the proposed MCL is somehow economically feasible.

The estimated numbers for the additional demand on grant funding for compliance assistance, which has now since been corrected, were off by a factor of more than 10. So, for example, on page 61 of the ISOR it was concluded that approximately $6 million would cover compliance costs for about 135,000 affected households. This roughly estimated to an average cost of about $45 per household, per year.

The errata revision now pegs total cost of $73 million per year for those affected households

and an average cost of $526 per household, per year.

If we want to amortize that over the 20-year period that's assumed in this proposed MCL, the additional demand on grant funding alone amounts to an additional 1.5, almost $1.5 billion.

So, this correction represents almost a 10 percent -- or almost 10 percent of all the grant funding available in the last fiscal cycle just for this one MCL. And even that conclusion is frankly misleading because most of the grant funding identified in the ISOR will be committed to other projects that respond to the nearly $15 billion in needed costs identified through the Water Board's 2021 Drinking Water Needs Assessment just to meet other additional drinking water standards, and to improve infrastructure resiliency in the face of climate change.

But this is also prior to the Board issuing any new or revised MCLs for arsenic, PFOA, PFOS, NDMA, styrene, cadmium, mercury, revisions to the Federal Lead and Copper rule, 1,4-dioxane, and any of the other USEPA proposals that are being set to be prepared for other new drinking water standards.

So, members, this is just one of the many problems that we have identified with the economic feasibility analysis in this ISOR that collectively and substantially understate the economic impact of the proposed MCL.

So, what we are asking for is that these deficiencies should not only be corrected in a revised analysis, but we'd like that revised analysis to actually inform the selection of the MCL so that we can reduce the number of Californians who will struggle with drinking water affordability as a result of this regulation.

Again members, thank you for your time, appreciate the consideration. We're happy to continue to be a collaborative partner and stakeholder through this process. Thank you.

BOARD CHAIR ESQUIVEL: Thank you, Mr. Spiegel, I appreciate the input, and contributions, and continued discussion around the work. Thank you.

Next I'd like to call up Eileen Conneely, who will be followed by Trudi Hughes.

MS. CONNEELY: Thanks. You can hear me now?

BOARD CHAIR ESQUIVEL: We can, thank you.

MS. CONNEELY: Yeah. Great, thank you. Hi, my name is Eileen Conneely and I'm here on behalf of the American Chemistry Council, and we appreciate as well the opportunity to comment on this proposed MCL.

I just want to note that according to the Water Board's initial statement of reasons the proposed MCLs based on OEHHA's 2011 Public Health Goal for Noncancer and Cancer Effects, each of which is based on outdated science and methodologies.

As the Water Board's aware, OEHHA's currently conducting a full review of the Public Health Goal which could lead to a change in both values.

The Water Board's decision to move forward with the proposed MCL while the Public Health Goal review is underway seems to presumptively assume that the more than 40 research studies published since the Public Health Goal was issued in 2011 have no bearing on the current Public Health Goal values or the MCL.

We believe such a presumption undermines the objectivity and scientific integrity of the MCL development process.

The Noncancer Public Health Goal of 2 micrograms per liter was derived using outdated risk assessment methodologies. Specifically, OEHHA based the Public Health Goal values on points of departure for tox end points in rodent studies using no observable adverse effect levels, and lowest observable adverse effect levels. These are known as NOELs and LOAELs.

As opposed to the modern, and widely accepted, and scientifically superior method of benchmark dose modeling.

In addition, I just want to note that OEHHA should be aware the modeling of the increase of epithelial cells in small intestines in mice that was conducted by USEPA in 2010 is incorrect, and we'll discuss that in our written comments.

Finally, I want to note that the physiologically based pharmacokinetic models, also known as PBPK models, for hexavalent chromium have been published since 2011 and they've been used by several regulatory bodies, including USEPA and Health Canada, to derive tox criteria for hexavalent chromium.

The full use of these models has resulted in tox values equating to 50 to 100 micrograms per

liter, which is similar to the current California and EPA MCLs for total chrome.

Additionally, it's inappropriate to base the proposed MCL on the cancer-based public health goal of .02 micrograms per liter. The public health goal was derived prior to the publication of over 40 research studies informing the mode of action for hexavalent chromium induced oral tumors and PBPK models that support cancer slope factors that begin within the lowest dose regions of response and, thereby, better account for the low dose kinetics of hexavalent chromium.

This approach is necessary to more accurately characterize cancer risk to humans exposed predominantly to low levels of naturally occurring chromium.

Based on our review of the available literature published after the 2011 Public Health Goal, several regulatory agencies have concluded that the data support a threshold nonmutagenic mode of action for the tumors observed and the two-year cancer bioassay from NTP from 2008. And that would include the Food Safety Commission of Japan, Health Canada, TCEQ, and the WHO.

These agencies have developed similar

reference dose and tolerable daily intake values that result in drinking water concentrations ranging from approximately 30 to 100 parts per billion.

Additionally, several published articles have demonstrated a lack of genotoxic response in target tumor tissues following exposure to high concentrations of hexavalent chromium in drinking water, providing clear support for nonmutagenic mode of action for hex chrome in the small intestine.

So in conclusion, based on research studies published after the 2011 Public Health Goal, several regulatory agencies have proposed safe drinking water levels protective of cancer and noncancer effects ranging from 30 to 100 parts per billion. These conclusions reached by other agencies in the US and abroad provide clear evidence that the available scientific data on chromium-6 health effects has changed substantially since the 2011 Public Health Goal was published.

As such, the Water Board should not propose or adopt a new MCL for hexavalent chromium until OEHHA updates both the cancer and noncancer values for chromium-6.

Thank you so much for your attention.

BOARD CHAIR ESQUIVEL: Thank you, Ms. Conneely.

Next, I'd like to -- Trudi Hughes was on here twice, so Ms. Hughes I'll continue on.

We'll go on to Karina Cervantez, who will be followed by Robert Solano, and then Bonnie Pond.

MS. CERVANTEZ: Good afternoon Chair Esquivel and members of the Board. My name is Karina Cervantez, with the California Association of Mutual Water Companies.

Our association proudly works with over 350 mutual water companies, many among the smallest water entities in the state, with 200 connections or fewer.

We remain committed to supporting efforts to help the state deliver on its promise that every person has the right to clean, safe, and affordable drinking water.

We urge the Water Board to continue to ensure the overall health of our water systems by providing the necessary technical assistance and financial resources to support small water systems in complying with the best available methods, not necessarily the cheapest, and implement a financial

plan to support these systems that cannot afford the recommended technology to meet the proposed chromium-6 MCL.

As noted in the ISOR, many community water systems will need an alternative to expensive centralized treatment. Two methods that may have considerable cost savings, particularly for small public water systems, are point of use and point of entry devices, and consolidation with nearby water systems.

We all recognize consolidations are not simple, fast, or easy to implement. Understanding the best path forward to physical consolidation requires costly studies and administrative processes that can be difficult to implement, especially for small systems. And rarely do we see from start to completion any consolidation that would fit within the two- to four-year timeframe for the compliance outlined here today.

We do appreciate the recent efforts to look critically at the point of use and point of entry devices, and the benefits and challenges of their use, including the difficulty in engaging customers and homeowners, limited certifications for some of the contaminants of concern, and the

lack of resources to install and maintain these devices.

Small systems wishing to pursue this option still have outstanding questions regarding their long term use, gaining household access, and liability concerns.

We respectfully ask for a reconsideration of the given timeframe of two to four years to achieve compliance, taking into account the potential administrative, financial, and operational challenges that consolidation, and point of use, and point of entry may introduce for smaller systems.

And with the recent updates on the estimated household costs we join others in requesting that the State Water Board extend the comment period on the proposed MCL by an additional 30 days. This will allow impacted systems the opportunity to reevaluate the economic feasibility of compliance.

Again we thank you so much for the opportunity to comment today.

BOARD CHAIR ESQUIVEL: Thank you, Ms. Cervantez.

I don't believe Robert Solano or Bonnie

Pond, and I have Evangeline --

(Off-mic conversation)

BOARD CHAIR ESQUIVEL: Okay. I will then -- we'll go to Robert Solano.

(Off-mic conversation)

UNIDENTIFIED SPEAKER: Hi. I'm sorry, Robert Solano wasn't able to make it.

BOARD CHAIR ESQUIVEL: Okay, no problem. Did you want to provide any other comment, though? I just want to provide the opportunity now.

Okay, then we'll go on and I believe next we have Bonnie Pond.

UNIDENTIFIED SPEAKER: Sorry, again she wasn't able to make it.

BOARD CHAIR ESQUIVEL: Okay. And then we have then listed Evangelina Marujo.

MS. MARUJO: Hello? Mi nombre --

BOARD CHAIR ESQUIVEL: Yeah, I think we're trying to unmute them again at this point.

We'll circle back with Ms. Marujo. And I believe -- yeah. Okay, then we'll next go to Yasmeen Nubani.

MS. NUBANI: Hi, good afternoon. Can you hear me?

BOARD CHAIR ESQUIVEL: We can. Good

afternoon. Thanks for the patience.

MS. NUBANI: Thank you for the opportunity to make comments to the Board. My name is Yasmeen Nubani. I am commenting on behalf of Twentynine Palms Water District.

For context, they're a special district located in the California high desert area. These are about 18,000 residents, a hundred percent of which are classified as a disadvantaged community. Further, 75 percent of those people are classified as severely disadvantaged, which makes the cost of water a constant concern for our district.

We have only one source of water, which is groundwater from a basin, a groundwater basin. And we currently treat naturally occurring arsenic and fluoride from our wells.

We have gained national recognition for our treatment plant that utilizes regenerable materials to keep the cost rate low for our customers.

However, our paramount concern lies with the affordability and economic feasibility of treating hexavalent chromium. We have the one well that would be out of compliance with the proposed MCL. It is currently testing at about 16 parts per

billion. And that well serves a portion of our service area that does not have an easily available alternative supply of water and it's too far away from our existing treatment plant to be able to stack treatment.

Additionally, that well has had a $1 million investment in the past three years to redrill and reinforce the well's reliability already.

So, the cost of treating this well or in the alternate case shutting down the well and securing a new water source may well exceed the prior investment and feasibility of the district to do so, which will result in high stranded cost for our district.

Additionally, we are concerned about the environmental impacts of residual disposal and the subsequent greenhouse gases that will be released from having to conduct treatment and haul those residuals away to another state.

We live in a desert community that not only champions water conservation, but cares really deeply for our surrounding environment, particularly being in very close proximity to Joshua Tree National Park.

We understand and appreciate the efforts the Division of Drinking has put into attempting to quantify the complexities of the proposed MCL affordability. However, in light of the recent errors in calculating the average cost of treatment per household, we do ask that DDW further extend the comment period to an additional 30 days, as many of our colleagues have done before myself, on the proposed MCL.

And to also take another look at evaluating the cost impacts that will follow after adoption of the MCL.

We do feel that the current calculations may not accurately reflect the burdens that will be placed on our community and are really concerned that there might not be enough support provided to address them.

We believe it's crucial to strike a balance between ensuring water quality and the affordability of water for small and economically vulnerable communities like ours.

Thank you very much for your time and consideration of my comments.

BOARD CHAIR ESQUIVEL: Thank you, Ms. Nubani. I appreciate your patience here. I know

we've had some technical challenges and we've gone a bit long here, but I really appreciate the good input and the engagement around the discussion. Thank you.

Next I believe we'll go to folks here in the room. Although, do you know other -- Mr. Prado and others, I see you on the list here, so we'll be going back to our virtual commenters here as well.

But here in the room, let's go to Kyle Jones, who will be followed by Edmund Fitzgerald and then Andrea Abergel.

MR. JONES: Good afternoon Chair and Board members, Kyle Jones. I'm the Policy and Legal Director with Community Water Center and also representing the AGUA Coalition today.

And so, just as a way of background we are an NGO that has also served as a TA provider, providing technical assistance for consolidations, and supporting drinking water solutions in the Central Coast and the Central Valley. And I, personally, am a CEQA attorney.

And so, I understand, along with our members, our staff, and the members of the AGUA Coalition just how long and hard it takes to get drinking water solutions going.

But we also recognize it's critically important that we do the best we can to make sure that we're providing safe water that is drinkable for all. And unfortunately, with an MCL at 10 we think we're aiming too high and we're just going to leave too many communities out, or too many communities who are having to treat to levels that are not really safe and we're going to be telling their water is safe.

We reject the idea that we have to choose between safe or affordable drinking water. In a state as resourced as California we can do both. And I know in so many other programs we talk about how we can try to do better for communities.

And I think, unfortunately, just the way we do things sometimes where we silo approaches, and don't take into an analysis holistically, we leave out options that otherwise should point to conclusions that we could do better.

I think in this case, you know, I want to remind the Board about the MCL statute and what it says, and how it's been interpreted. And that the Board has to set the MCL as close as economically and technologically feasible to the public health goal. And that has been interpreted by the courts

as meaning as capable of being done.

And so, if there is a lower MCL that is capable, the Board has no discretion to set an MCL higher.

Here we're really concerned with how the Board has conducted its analysis. And I think staff has done a great job of insulating and justifying how an MCL of 10, it shouldn't be any higher than that. And they've definitely done a lot of work showing that 10 is defensible.

But we don't think there's been enough work to show that something other than 10, a lower MCL is also capable of being done.

When I looked at the SRIA, we note that what the Board did was just look at costs for avoided cancer, and note that it got higher with lower levels, including up to $40 million for avoided cancer.

I just think that that's a hard thing to tell people, that people have loved ones, who have had family members impacted, that $40 million is just too high for their life.

I would also just note that, as we've noted today, the economic analysis is just absolutely conservative. It's necessarily untrue

in the sense that it is going to be way higher than what's going to be happening in reality.

We know that for most systems centralized treatment is not going to be the way to go. It's going to be consolidation. It's going to be finding a new source, drilling a new well, getting an intertie and purchasing water.

And instead, we just assume the highest cost possible and then say, oh, it's too expensive to go any lower and to protect more people.

We know there's other things that could have been factored in. What systems are within three miles of somebody with safe water? Where are places near other sources?

And we feel like in the past six years we could have done some of the work to come up with more assumptions that would support a lower MCL.

We also think there's a lot of benefits that are not being calculated. The SRIA notes that some folks are spending 50 to 100 dollars a month on bottled water, which is far more than the cost per household in some of this MCL. But we're not factoring in any of those savings.

We know that we have resources out here that there's financial assistance could be provided

to pay for centralized treatment. We know that although it's only proposed to be 30 systems now, that operations and maintenance costs for some of these really expensive systems are proposed to be funded.

So, we urge the Board to look back and look at this MCL, listen to the residents out there who are concerned about their water being unsafe, and redo the analysis to take all these things into consideration, as is required by the Human Right to Water. And come up with a better result for all Californians.

Thank you.

BOARD CHAIR ESQUIVEL: Thank you Mr. Jones, appreciate the comments.

Next I'd like to call up Edmund Fitzgerald, who will be followed by Andrea Abergel, and then Andria Ventura.

MR. FITZGERALD: Yes. I think we're looking at this in the wrong way. This should not be an emotional decision. It needs to be very logical. I really appreciate the comments from Eileen Conneely, who talked about the science. I don't think that we've adequately looked at the science.

I have a document here, a press release from the American Chemistry Council, that says there were 30 studies, peer-reviewed studies that show no basis for these reductions in chromium levels.

Frankly, I'd like to know why the U.S. federal government, if this is a problem is still at 100 parts per billion. If it was really a problem, you'd think that they would take action. Don't they care about the people of the United States?

And California is the only one that reduced it to 50 parts per billion. There has been no substantiation at any of these levels. I have not seen a study yet that shows what the results were at one part or all the way up to 45 that your staff supposedly reviewed. That's problematic.

The other thing that I have is that the paper on the economic feasibility, I didn't even see it. To begin with, I was going to ask where it was.

I also have here a Superior Court decision and in it, contrary to what your staff is saying, it says that -- if I can get to the right page. Here we go, the costs are at -- the bills are

estimated to go up by $5,630 per year, or $469.17 per month.

This is what the judge is saying, and he says: No. This number is the department's own estimate. So, how the hell can you tell me it's only going to go up $4, when your own department has these much higher figures?

The feasibility, just based on that alone brings into question any decision made without actually having scientific evidence that we're going to see any benefit at all for reducing this down to 10 parts per billion.

I would tell you the easiest, quickest way to solve all this, if you really want to do it, drop it to 30 parts per billion and be done with it. Your litigation goes away, all of this goes away. You bring it back in at 10 parts per billion, you haven't changed a damn thing, and you've haven't justified anything. And it's going back into litigation. And here we go again, it's going to be another two or three years down the road.

The other thing I found while I was researching chromium-6, or chromium in itself, is that it's a trace element needed by the human body

for insulin uptake. So, are we going to ban vitamins now? Because chromium can be changed to trivalent chromium, or chromium-6.

And I'd like to know why we're basing any of this on a historical thing of dumping waste done by PG&E years ago, which is the Erin Brockovich scenario. Yeah, there was a problem there. But that was industrial waste, a concentrated waste.

This is highly dispersed. And this is total chromium we're looking at. I want to see exactly what the causes are for -- excuse me, I'm running a little bit over -- for just the chromium-6.

And I think I've already given you my conclusions. Oh, as far as the costs go, in the City of Dixon we're setting aside $18 million to treat five wells. So, don't tell me it's only going to cost a certain amount.

And the other estimates there, engineering department about $130,000. Our engineer is a lot more expensive than that. And the study, the study's going to be a lot more than what you're estimating.

All of these costs are highly, not conservative, but highly liberalized to get past

the indoctrination point that we really need to do this. I don't see that. Thank you.

BOARD CHAIR ESQUIVEL: Thank you, Mr. Fitzgerald.

Next I'd like to call Andrea Abergel. Andrea Abergel and then Andria Ventura.

MS. ABERGEL: Hi, good afternoon. It's fun when there's two with the same name, different pronunciation.

But good afternoon Chair and Board members. Andrea Abergel with the California Municipal Utilities Association. We appreciate the opportunity to provide oral comments on the proposed Hexavalent Chromium MCL today.

CMUA represents over 50 public water agencies that serve water to over 75 percent of Californians. We are submitting written comments, along with ACWA and others, so the comments I'm making today are going to be included in that letter, but just to emphasize a few points.

I know this rulemaking has been a long time coming and we're all eager to cross the finish line here. However, we cannot cut corners or make decisions without thinking through the possible consequences of those decisions.

The errata released this week raises concerns and more questions about other cost estimates or assumptions. What is apparent is that the initial numbers were very off. These changes necessitate more time to review.

We acknowledge that the written comment deadline has been pushed back a week, to August 11th, but we request that staff extend that comment period by at least an additional week, or longer.

We support the fellow associations and other water industry representatives' requests for additional time to review.

Our public water system members are primarily concerned about the proposed compliance timeline. The proposed two- to four-year compliance period presents challenges for public water systems to seeking to install best available technologies, or to pursue alternatives.

The realities of planning, designing, funding, installing and permitting new capital facilities needs to be considered and the flexibility to do so needs to be provided.

The Federal Safe Drinking Water Act allows a period of up to five years for public water systems to install capital facilities to comply

with the federal MCLs.

So, we urge the State Water Board to extend the compliance period to mirror the federal compliance allowance.

Along with additional time to comply, additional funding directed to all public water systems is necessary. I know other commenters have highlighted the estimated costs and importance of funding, so I'm just going to ditto those and move on.

But beyond the compliance timeline and funding, our members would like further clarification of the treatment methods that will be accepted to reach compliance. We encourage the Water Board to embed flexible methods for public water systems to choose which technologies or combination of treatment work best for their agencies, both financially and physically.

Lastly, we've made prior comments throughout the public process over the past couple years regarding the economic feasibility assessment that have not been addressed. We're concerned that ISOR doesn't fully capture the cost of compliance, especially the capital cost, and the household cost increases for households that are served by small

public water systems.

We request that staff add the estimated capital costs to figures or clearly identify where those capital costs were already considered.

Additionally, we believe that the ISOR should more clearly depict the reality of cost increases for affected households.

The errata changed the estimated monthly costs for households from tens of dollars to hundreds of dollars, and up to over a thousand dollars for small systems.

The reality of compliance costs really needs to be considered here.

Thank you again for the opportunity to speak today. We hope that staff considers our comments and the written comments that we're going to submit, and revises the rulemaking accordingly. Thank you.

BOARD CHAIR ESQUIVEL: Ms. Abergel --

BOARD MEMBER FIRESTONE: Can I ask a question?

BOARD CHAIR ESQUIVEL: Yes, please, Board Member Firestone.

BOARD MEMBER FIRESTONE: Just following up on that. Just can staff comment? My understanding

is that the -- I think we're all really frustrated, including I know staff that worked really hard on this, that we had the problems that required us to issue the errata and changes. And so, understand everyone I think involved is frustrated by that.

But my understanding is it's not that the costs, the overall -- it's not that the costs and tables were wrong, it was that we had some text that summarized that for certain parts that summarized that incorrectly.

But I don't think the costs were underestimated in terms of the core of what we relied on in the analysis.

And I just -- can you just clarify that? Because to me there's a big difference, and you know, in a couple paragraphs and the reasoning we included really much lower numbers than is the reality that was included in all of the analysis, and the tables, and the rest of the document.

MS. ROBINSON: Yeah, you're exactly right. So, the costs that are in the cost tables did not change. But when we summarized one of those costs, we had a calculation error that was propagated through the text.

MS. NIEMEYER: And just to clarify, it was

that we put -- the text said annual, but we had put the monthly.

MS. ROBINSON: Right.

MS. NIEMEYER: And so, but the numbers were essentially the same. We didn't have an error that --

BOARD MEMBER FIRESTONE: Right. Yeah, that's what I understand. I just wanted to clarify that. Okay, thanks.

BOARD CHAIR ESQUIVEL: Yeah, I appreciate that, Board Member. It is in -- you know, the changes here aren't, you know, ones that would take a month to really absorb and understand, and so I appreciate that.

Next I'd like to call up Andria Ventura.

MS. VENTURA: Thank you. Again, my name is Andria Ventura. I am the Policy Director for Clean Water Action and I'm here on behalf of our organization and the tens of thousands of members across California.

And this is going to be difficult for me because I have been working on this MCL, on behalf of Clean Water Action and our members, longer than this young woman has been alive, at least 15 years.

And I have to say that while Clean Water

Action has always respected and continues to respect this Board, and the Division of Drinking Water, and many of our really great water systems throughout the state, and we prefer to work with you, we have to -- our first loyalty is to speak the truth for our communities.

And so, I have to say that after six years of waiting for a new MCL we see this proposal of 10 parts per billion as very disheartening. We see it as an insult to the people of the State of California who are affected by hexavalent chromium and to the human right to water.

We see it as a give, maybe not on purpose, but we see it as a give to polluters and the recalcitrant water systems who are dragging their feet on this, and an embarrassment to the administration.

I was going to spend a lot of my time here talking about where we saw the ISOR not really answering why this has to be as high as it is, but Mr. Jones actually spoke to much of that. So, I want to respond to some of the things I've heard today.

First of all, let's remember a couple of truths. First of all, yes, we've heard that

sometimes hexavalent chromium is natural. So is lead, so is mercury, so is cadmium. That doesn't change the toxicity.

We also have to remember something else here. Setting an MCL and where you set it is not just about getting treated water down to a safe level. That is obviously part of it. It is also where you cut off who's getting treatment and who isn't.

And at 10 parts per billion, we believe millions of people who have hexavalent chromium in their water, drinking unsafe levels. I'm one of them.

We wonder why it took six years to just come back with the same MCL we had years ago. And the argument that we needed to, you know, make sure that we would win the next court case really doesn't hold water for us because, you know, we won the TCP -- well, I shouldn't say we. The Division of Drinking Water won that case. We know how to do economic analyses. And I would agree with Mr. Jones who said, you know, there is good documentation why this shouldn't be higher than 10. We think that DDW did a very good job on that and we appreciate that.

But there are biases in this conservative approach. First of all, I'm sorry, I keep saying this and I've been saying it for 15 years, but drinking water systems have had 20 years to protect this. We are out of compliance with state law today because we were supposed to have a drinking water standard in 2004.

You know, 20 years is a long time to prepare for the inevitable. And, you know, while that gets ignored and not part of the calculus here, communities that are impacted know about that delay. They also know that we're still hearing that, oh, we need more time, we need more time. Twenty years is a very long time to prepare.

But more importantly at this point we do think, and I will reiterate something that Mr. Jones said before, you know, yes, you want to go to the best technology and kind of price that out. But that may not be what's viable for individual water systems. And if that's not what's viable, we do have to factor in how they can bring in lower costs like consolidation, like other water sources, like stannous chloride where it fits.

There may not be a panacea out there, but those options are out there. And when you give

them shorter shrift in an analysis, you are potentially unintentionally, but you are rigging the system to have a very high number and a very high MCL.

I want to just point out one last thing before I end and that is that this is no longer, after all of these decades, about the regulated community, about responsible parties. This is about people who are drinking this stuff. And I find it very interesting that people representing water systems, who struggle with this, you know, community leaders who are struggling with this and it's valid, come up here and say we have to protect ratepayers. But all of us that are drinking hex chrome are asking you to set a lower MCL and protect us.

Cancer is expensive. The science is there to demonstrate the impact. And it is because of the people that are drinking this water the Clean Water Action opposes the 10 parts per billion.

Thank you for hearing me once again.

BOARD CHAIR ESQUIVEL: Thank you, Ms. Ventura. I appreciate patience and engagement on this project, and your voice and advocacy. Thank you.

Next, I'd like to call up Michael Claiborne, followed by Bryan Osorio, and then Castulo Estrada. And I have currently our last speaker as Michael Prado, but do know we have -- I know we have a speaker that we'll be getting back to, Ms. Marujo as well.

So, Mr. Claiborne.

MR. CLAIBORNE: Good afternoon Board members. My name is Michael Claiborne. I'm an attorney with the Leadership Counsel for Justice and Accountability. We work alongside disadvantaged communities in the Central Valley and the East Coachella Valley. Many of the communities we work alongside lack access to safe and affordable drinking water today. Many of those communities are impacted by elevated levels of hexavalent chromium.

Today I'm encouraged by several things. I'm happy to be here at long last to discuss a proposed standard or a new proposed standard for hexavalent chromium. And I'd like to thank staff and the Board members for getting us to this point.

I'm also proud to live in a state with an agency like OEHHA that has wrestled with the science, developed and established a strong public

health goal in response to that science.

And I'd urge the Board members to reread OEHHA's technical analysis, if you haven't done so recently. And especially its response to comments in 2011, just really impressive stuff. I did reread that today and I was impressed once again.

I'm also thrilled that this Board has demonstrated that with prior MCLs that it can establish drinking water standards through a legally defensible administrative process that withstands challenges to economic feasibility analysis, which I expect you'll see again.

That said, I align my comments with Community Water Center, Clean Water Action, and most importantly with residents from the Central Valley and the Central Coast who spoke in favor of the prompt adoption of a strengthened and more health-protective standard for hexavalent chromium. I think we can do better than 10 milligrams per liter and quickly adopt a standard that's closer to OEHHA's public health goal, that better protects all Californians from exposure to this carcinogen.

I also want to speak a little bit more to the compliance time schedules and affordability. Regarding the compliance dates listed in table

64432-b -- before I get into concerns, I do want to say that one really good aspect of the time schedules is the inclusion of a requirement to submit a compliance plan within 90 days of an exceedance. I think that makes a lot of sense and should help to ensure that water systems are doing the things that they need to, to ensure that they meet the compliance data. I think that was a really good inclusion.

I do have three concerns, though. The first is that the compliance time schedules treat small and very small water systems differently in a way that will have an impact of exposing communities that are disproportionately low income, and disproportionately serve communities of color to this dangerous contaminant for a longer period of time without adequate justification.

We recognize that compliance will take time and it will take longer for communities that have to apply for grant funding to implement a solution, but it should not take longer for systems with fewer than 1,000 connections to apply for grant funding, than those with between 1,000 and 9,999.

I will note that we work alongside small

water systems, provide technical assistance, and are very familiar with the process for applying for planning and construction grant funding, and implementing those projects. They absolutely take time, but it takes about the same amount of time for very small and small, in my opinion.

So, we suggest at a minimum eliminating the four-year compliance period and moving the very small water systems to the three-year compliance category.

The second concern I have is similar to the first, setting a compliance date may make sense, but systems should be required to comply in a period that is as fast as possible. The draft regulation should be revised to clarify that the compliance date in 64432-b is the maximum compliance period, not the default, and that systems should be required to comply faster, if that's feasible.

My third concern is along the lines of a concern that Board Member Firestone raised earlier today. We'd like to see additional direction in the draft regulation or a staff report regarding the contents of the notice that goes out to residents served by impacted systems. The notice

should be clear about health risks associated with hexavalent chromium in drinking water, and they must state the residents shouldn't drink the water in the interim as solutions are being developed.

They also need to be translated into languages spoke by those served by the impacted water systems.

Then as one final point, and I'm sure I'm over my time, I had only a few points when I started and now it's a novel. As one final point, while we're very much in support of a health-protective standard for hexavalent chromium, we're equally concerned with potential impacts on affordability for low-income households.

We urge the Board to ensure through grant funding and direct O&M support to aid systems serving disadvantaged communities and ensure that implementation does not make water more unaffordable. We have funding sources, thankfully, and need to ensure that they're utilized effectively.

And I'd also note that we continue to advocate and look for the Board's partnership in advocating for establishing of statewide low-income rate assistance program that would aid the lowest

income households throughout the state in affording their water. An ongoing challenge, not necessarily associated with this process, but that is relevant.

And then, we appreciate the Board's recognition that treatment isn't always or even usually the best response for small water systems serving disadvantaged communities.

Often, the solution for small systems, like Tooleville, which has chrome-6 above the proposed standard and the old standard, for many communities like Tooleville the answer is not treatment, it's consolidation.

We're implementing a consolidation project in Tooleville. Tooleville's in support, has been for 20 years, and they're not going to install treatment.

And to go to a prior commenter, es todos, thank you.

BOARD CHAIR ESQUIVEL: Thank you, Mr. Claiborne, really appreciate the comments.

Next, I'd like to call up Bryan Osorio, and then we'll go to Evangelina Marujo.

Good to see you.

MR. OSORIO: Good to see you, too.

Good afternoon Chair and Board. My name's

Bryan Osorio and I speak to you as a resident of the City of Delano. It is the most northern city in Kern County and it's one of the handful of cities in Kern County that's surrounded by areas contaminated with chromium-6.

I have family members, like my father-in-law, mother-in-law, and friends who live in these contaminated areas. And since they aren't part of a public water system, they have domestic wells, they are even more vulnerable to receiving unsafe drinking water.

I speculate that this MCL level will impact them in the way that resources are available to them, interim resources are available to them, because it will impact their eligibility.

Consolidation is unlikely. And as we have heard today, there are going to be limited resources to bring systems to compliance.

I ask that you protect all Californians with an MCL that protects public health and also partner to help make those infrastructure and treatment upgrades to all impacted systems and domestic wells.

To finish here, from today's discussion so far I'm taken aback that those opposed to reduce

chrome-6 MCL are arguing that it's not that dangerous, or that the people I know that I know will be impacted will be just fine to simply justify more cost-effective alternatives.

As Tutuy expressed it beautifully: Are we saving money or are we saving lives.

And it's not too oversimplified the fact that there are going to be significant financial costs. But to ground us in the fact that inaction has already cost people their lives. Safe drinking water should not be contingent on your zip code.

Thank you.

BOARD CHAIR ESQUIVEL: Thank you, Mr. Osorio, really appreciate those words and the engagement around this, truly. I know, I appreciate today's discussion. I know there's been a lot of back and forth.

Next I'd like to call up Evangelina Marujo, who will be followed by Castulo Estrada, and then our last speaker will Michael Prado, Sr.

MS. HERNANDEZ: So, Chair, I have Evangelina on the phone. Is that okay?

BOARD CHAIR ESQUIVEL: Yes, please.

MS. HERNANDEZ: Okay. And then, I'll translate for her.

MS. MARUJO: (Through Interpreter) Hello, my name is Evangelina Marujo. And I live in the community of Royal Oaks. She lives in Royal Oaks, in Monterey County.

So, I analyzed my private well and it has 11.6 or 7 -- did she say 6 or 7 -- 7 parts per billion of chrome-6.

I'm concerned for the health of the children, and my family, and my community. Even the plants dry up when I water them, the leaves are dry. I am cautious, I only water the roots so that the leaves won't get dry.

I know that it costs a little bit more to have safe drinking water in California. But I prefer for it to be paid with money and not with the health of our children, our family, and our community.

I would like for the State Water Board to consider the human right to water when adopting the MCL. And that it protects the health, so at 1 part per billion. And that is all.

BOARD CHAIR ESQUIVEL: Gracias Senora Marujo.

MS. MARUJO: Mucho.

BOARD CHAIR ESQUIVEL: Muchas gracias para

tu tiempo. Gracias.

And thank you, Ms. Hernandez.

MS. HERNANDEZ: Thanks very much.

BOARD CHAIR ESQUIVEL: Gracias.

Next I'd like to go to our last two commenters, as I understand, although actually there actually might be a couple more.

But I'll go to Castulo Estrada and then Michael Prado, Sr.

MR. ESTRADA: Good afternoon Mr. Chair and members of the Board. My name is Castulo Estrada and I'm a Board Member of the Coachella Valley Water District, and I also manage the public water system at the City of Coachella.

I'd like to primarily echo the comments made by Mr. Tim Worley with CWSA, the comments made by CBWD, and the comments made by Oracio Gonzalez who spoke on behalf of the City of Coachella.

I think what we want to emphasize is perhaps two or three things. One is we'd like you to consider the compliance period. I think Mr. Worley correctly pointed out the complexity that we have to go through when we implement these types of projects. The planning, the environmental clearance, the issues with construction and

sometimes securing material, those are real issues.

And to the comments that were made by Mr. Oracio Gonzalez as it relates to the affordability of the ion exchange systems that we've already kind of explored, we did that back maybe seven years ago. And we here, at the City of Coachella, probably spent about $800,000 trying to pursue that technology, trying to come up with a design to implement those systems.

I know CBWD spent about $10 million for the design back then. CBWD calculated the capital cost for those systems.

At the City of Coachella we have six wells. It's a small system. All of the six wells are over the 10 parts per billion. CBWD has about a hundred wells and about 33 wells at CBWD are over the proposed MCL.

And so for us it was, as Oracio mentioned, about $36 million for capital cost, for CBWD it was above $200 million.

Because those types of costs would require a tremendous amount of rate increases for our customers, we took a close look at other treatment alternatives, in particular stannous chloride. Both agencies, at CBWD and the city, have done a

lot of work to try to pursue that technology. I think it's shown a lot of good results. And as you've heard from CBWD, they have already made some progress in working with the Water Board to try to amend their permit.

At City of Coachella we aim to do the same. I imagine that even folks at Indio Water Authority are probably going to try to do the same.

And so, we'd just like to encourage that the Water Board is open, that the staff is open to working with our agencies so that we can get to a point where we are able to show whatever that data it is that you need to see, so that we can move forward with implementing these other alternatives that seem to be a lot more cost effective.

And so with that, I'd just want to thank you for the opportunity and wish you a good day. Thank you.

BOARD CHAIR ESQUIVEL: Thank you, Mr. Estrada, appreciate the contributions to this project and I know a lot of work that's ongoing out there. So, thank you.

Next I'd like to call up Michael Prado, Sr., who will be followed by Maricela Mares-Alatorre, and then Antonio Juaregui.

MR. PRADO: Hello, can you hear me.

BOARD CHAIR ESQUIVEL: We can. Good afternoon. Thanks for sticking with us here.

MR. PRADO: Good afternoon. It's been a long day, huh.

Well, I'm here before you. My name is Michael Prado, Sr. Bear with my speech, I have a health issue, MG, myasthenia gravis.

But I'm here today to speak on behalf of AGUA in the Central San Joaquin Valley. I've been a member since it was organized. And also, I'm a Board Member and President speaking on the Sultana Community Services District.

I have lost several members to cancer, ten or better, in the Central Valley right here in Dinuba, Cutler, Orosi Sultana area, Reedley. And we need to do a stronger number to do away with the contaminant.

We are a real low on the number and we need to do a better job. I know it's a hard job, but all of us together, all of us, it's going to take all of us. Not just myself, not just our Board, but all of us to do something about it. And that is why I'm here today.

I could reiterate everything that has been

presented before you, but I won't go into that because that will take a while. But I'm sure you know what you were told and that's more in front of you or on the phone today. Please take it into consideration and let's do something better.

Lastly, I am a SAFER Advisory Board Member, a working group member. I'm doing my fourth year -- third year, excuse me. I've completed the first two years and I'm on my second term, let's say.

The first term I was on there I mentioned to Izel (phonetic) Vasquez, that used to be an employee on the State Water Board. And she is in school now, furthering her education to become an attorney, God willing one of these days.

But I ministered and I mentioned to her chromium-6, when are we going to start looking at that a little closer. Us, on the SAFER Advisory Board, we can only advise what needs to be done. We are not there to implement it. Please listen to our advice if and when it is brought before you.

Thank you very much for your time, Board, president and counsel. God bless you all. And let's do it. Thank you.

BOARD CHAIR ESQUIVEL: Thank you so much

Mr. Prado, really appreciate your contributions to this, the SAFER Advisory Committee, all the good work that's going on there. So, thank you.

Next I'd like to call up Maricela Mares-Alatorre, who will be followed by Antonio --

MS. MARES-ALATORRE: Juaregui.

BOARD CHAIR ESQUIVEL: -- Juaregui. Gracias, gracias.

MS. MARES-ALATORRE: Buenos tardes all, Maricela Mares-Alatorre. I'm also with Community Water Center.

But today I'm going to talk to you as a person that lived in Kettleman City for 45 years. So, as you know, even if you haven't watched Erin Brockovich, Kettleman City is a community that has suffered from environmental injustices for many years and from many different sources.

So, I'm also speaking to you as a person, you know, generally from California and the Central Valley. Our communities deserve clean and affordable drinking water. And that's in your power to do that by ensuring that the MCL protects water. And not only, you know, is it in your power, it's your duty to provide resources for water systems that are reluctant to do this, so

that they can treat water, and that people can have -- don't have to drink contaminated water.

Don't give in to the industry that's only interested in profits and not people. Even with the proposed MCL, you're still acknowledging that one in 2,000 people will get cancer.

Kettleman City only has 1,500 residents and I've seen whole families decimated by cancer, whole families. People that got settlements from that fabled Erin Brockovich, and all it served them for was to bury bodies. And that's only one in a -- you're saying one in 2,000. I'm talking about 1,500 people.

So, that's why it's so important that you use the MCL to protect lives. That's in your power to do.

And I thank you, I know it's been a long day.

BOARD CHAIR ESQUIVEL: Thank you. It has, but thank you for sticking with it and, importantly, providing your voice amongst it, also. Thank you, Ms. Mares-Alatorre, thank you.

Next I'd like to call up Antonio Juaregui.

MR. JUAREGUI: Good afternoon. My name is Antonio Juaregui. I'm the Political Power Building

Advocate here with Community Water Center, and I'm the what stands between, you know, the end of the meeting or just this item, right. So, I'm going to keep it long.

(Laughter)

MR. JUAREGUI: So, you know, one of the things that stood out to me as well, is when we were discussing the MCLs and the chrome-6 is just how, you know, it happens naturally, it's in the environment. It is what it is.

But that response of just, hey, don't panic, it's organic, it is killing people, it just doesn't fly anymore. And it's not going to bring the solutions that the community that has been asking, asking of this Board, asking of the leadership, asking to take action.

And so, Board, today you heard many powerful testimonies from folks who traveled all over the state to just give you a small glimpse into the everyday issues and challenges that they face in their life. Right. To tell you what happens in their community, what happens in their home, and most importantly what happens in their tap water and how that affects their bodies, and their children, and their grandchildren.

And so, this is an opportunity to take the things and the stories that the community members have brought on and mentioned, and use that as a way to change the course of their communities and to really invest in them. Because they're asking for that investment. They've seen the damages that neglect and that lack of action has caused.

And so, look into the future, listen to what the community's asking, and take those bold decisions for the solutions that we need so that we can all be healthy, and live a more dignified life. Thank you.

BOARD CHAIR ESQUIVEL: Thank you, Mr. Juaregui. Way to finish strong. And know, and as everyone knows it's been a long afternoon. And really appreciate everyone's contributions to what is always a balancing act for this Board as we do our best to remain protective of public health, but also do, I know the balancing that's all amongst it. So, just thank you for everyone's voice.

Here, and what I'll note is obviously we -- the fundamental tensions seem to be around cost, the impacts upon affordability, but then also needing to ensure we're being protective of public health.

And I know it's basic amongst it, but what I feel and I, you know, here still listening, and I appreciate that OEHHA at this point is looking at additional information of the public health goal. What I know of the science as it is, and where I'm comfortable still yet is with remaining at 10.

But at the same time I know that there were some changes. I hear that there's -- you know, I hear the call for additional time. I'd be open and would want to hear from Dr. Robinson, and Ms. Niemeyer, and others if, you know, extending an additional week has a huge impact. If not, I want to ensure to afford that space for folks.

But, you know, I am concerned around delay, further delay on the timeline and getting to a decision before this Board. Because, you know, obviously this is just a workshop, the Board isn't making a determination today. We're very much in listening mode.

But, you know, I guess the question is does the addition of additional week on the public comment period for this disrupt our, you know, sort of plan? Knowing that we have a year, you know, that the clock starts ticking when it comes to, you know, our work with the Office of Administrative

Law.

MR. POLHEMUS: Yeah, so, you know, as Dr. Robinson mentioned, the errata sheet really adjusts some language. It didn't change the tables, it didn't change fundamentally most of the data we reported.

It also was not parts that we relied on for determining economic feasibility.

So, in my opinion the week is adequate to give people time to kind of figure that out on their own and validate that. It shouldn't really change their comment structure, in my assessment, much.

We would like to get started on the comments that come in. We have a lot of comments today. We have a lot of comments that will certainly be given to us by written comments. And so, certainly my preference is we did the week, understanding that it would have been way to short to say you were due Friday, after issuing the errata. But that the week we believe is adequate for the small magnitude of the errors that were presented. Certainly, it's the Board's discretion if you want to go longer. You know, another week after that isn't dramatic, but it does start -- it

does delay the time by which we can begin addressing comments, which we have to go through.

And that will be our longest workload next is to go through every single comment, give them due process, understand them, and make sure that we address them appropriately.

BOARD CHAIR ESQUIVEL: Okay. I'd be interested to hear from fellow Board colleagues, but be open to giving additional week, even very much understanding that, you know, the error that was correct in the errata sheet is not one that was of, you know, fundamental significance to our economic feasibility. It was in how we summarized it and swapped out monthly for annual.

So, but nonetheless, you know, upon hearing, you know, the various feedback from folks, I'm more apt to go ahead and give an additional week, than not, so as just to provide that good basis for the continued discussion before the Board on this. But again, I appreciate everyone's contributions today.

Board Member Maguire.

BOARD MEMBER MAGUIRE: Just Chair Esquivel, I'd just like to agree with you there. I think one more week is not -- in the big scheme of

things I think we -- you talked about, Dr. Robinson, a range of potential adoption dates, and I think that was a six-month range. So, in my mind on issues as significant as this, and as complex as this, and a lot of the feedback we've heard today I actually would appreciate having folks take that additional week to think about these issues. And, you know, if that's what it takes then, you know, I think it's well worth the time, in my opinion.

BOARD CHAIR ESQUIVEL: Appreciate that, Board member.

I don't have anything else to add at this moment, other than I wanted to voice, you know, the support of extending for an additional week.

I've appreciated everything we've heard from, again, both community members, system managers, systems that will be impacted. I want to make sure -- and we hear this, not just on this maximum contaminant limit setting, but any of the regulations that really come before this Board that we're not getting it right on understanding the costs and the impacts. And I think that it is here always our desire to do better at creating that more perfect representation of what's going to happen. But I think, you know, we could spend a

lot of time on that and lose sight of what is actually what we're trying to do here, which is be protective of public health and advance this.

So, I know there was a comment made, well, why isn't the federal government pursuing this if it's such an important MCL or public health issue. Unfortunately, I don't think the federal government has set any maximum contaminant limits for like 30 years at this point. So, you know, I've forgot how long it's been since they really have driven one. I think the MCL on PFAS will be the first here in a long while. So, we're fortunate to be able to pursue things that are impacting public health that maybe is not nationally able to be driven.

MR. POLHEMUS: And I can add to that, Chair Esquivel, as well. When the USEPA looks at setting an MCL, they look nationwide. And chrome-6 is -- while it is in other parts of the nation, it is certainly more concentrated in the southwest of the United States, and in some parts of the, I think the Appalachia area.

BOARD VICE CHAIR D'ADAMO: Can I interrupt you? I'm sorry. I just -- I just wanted -- it looks like vans are leaving. But I just wanted to really thank you all for being with us all

afternoon. I know it's a long drive home. And just really appreciate all of your involvement and thank you for sticking with us, and thank you for your leadership, it really means a lot.

BOARD CHAIR ESQUIVEL: Thank you. Thank you, Vice Chair.

BOARD VICE CHAIR D'ADAMO: Sorry.

MR. POLHEMUS: Oh, no problem at all. And so, I was just pointing out that the difference between, you know, we look at California and the population of California. They are much more broadly impacted with chrome-6 than the national population as a whole, so that does need to be factored in when you're trying to weigh what USEPA may consider versus what they would do in just California. So, it is a little bit different of an analysis on their part.

BOARD CHAIR ESQUIVEL: I really appreciate that, thank you.

Looking to fellow Board colleagues. And I'll note that Board Member Morgan, I know at 3:30 had to slip out and for her family there. So, we don't have the benefit of any of her comments here, before us.

But any Board members, other Board

members, please comments, questions at this point?

BOARD MEMBER MAGUIRE: Yeah, well, I, too have been in listening mode today, so that was a lot to take in and a wide range of perspectives on this issue. Which, you know, I was just reflecting on the fact that it's been all the entire time that I've been on the Board the number one priority from a drinking water perspective, which is going on five years, but right, by the way, for us to have this MCL completed. And we're still a ways away from that.

And so, I do feel that sense of urgency in moving forward. I'm glad we're here today. I'm glad we're in this position to be taking the next step. And I certainly appreciate the concerns that we haven't gotten it right, that 10 is not the right number, that perhaps it should be another number that's lower.

And also, the concerns about the economic feasibility and the costs, and the drivers on affordability, and all those pressures.

And we are trying to find that right -- well, I certainly am trying to find that right spot in balancing all of the different competing issues on drinking water that we're facing with PFAS, with

all the contaminants that are out there. With water supply reliability concerns, just coming out of the drought recently, and understanding those pressures, and looking at SGMA, and those challenges. And those are all generalities and don't put a dollar number to what we're deciding on today.

And ultimately, this is a -- it's a human health risk management decision.

So, you know, one comment that came up, that was raised a few times was about the Public Health Goal. And a lot of this, as the Health and Safety Code requires, it's a test for, you know, how close can we technically, technologically and economically get to the Public Health Goal?

Well, what I've heard is that the Public Health Goal is under review.

So, I do want to say that for me, personally, it's going to be important to have some clarity on and answers to that question. If OEHHA's in the process of reviewing the Public Health Goal based on new literature, whatever the case may be whether it's lower, or higher or stays the same, I feel quite compelled to understand what the outcome of that process is before we draw any

final conclusions here.

So, I'm hopeful, I don't know what OEHHA's timeline is on the Public Health Goal review, but it would be nice if we could find out from them in the near future or if, Mr. Polhemus, if you happen to know. But if we don't, if we can find out generally what their timeline is, so we can see how that lines up with the rulemaking process here, I think it would be helpful. At least speaking on my own, you know, from one Board member's perspective to just understand where we're at on that.

Because it drives so much of what we're talking about here in terms of human health protection.

MR. POLHEMUS: Yeah, from the beginning we've been in really close communication with the scientists at OEHHA and, you know, know exactly where they're at in their process.

They have a process they need to follow as well, you know, and I don't really want to interfere with that. But we will know information soon from them, before we adopt our MCL. We've been working in parallel. We did not want to wait on our process to start it and then extend this even longer. As many commenters said, this has

been a long time in coming.

So, we're trying to be really efficient and overlap with them, but we will, I believe, have information from them soon. They have shifted a lot of their priorities, just as we shifted ours to make chrome-6 happen for us, they are doing the same in-house to deliver us some answers.

And it's not just a fresh start, right. They've been following it since 2011. A lot of people think that their data call in, you know, they've been monitoring the public research data all along, in my conversations with them. And so, they're doing their normal process to make sure they do it by the rules they have to follow, to make sure everything's done. But I'm confident that we'll be able to have some information from them before we proceed to bring you something to adopt.

BOARD MEMBER MAGUIRE: That will be very helpful, thank you.

Just a couple other comments, if I could. So, I'm a civil engineer and a lot of my experience is actually working in the consulting side with water systems. And in particular, it was right around the time of the adoption of the arsenic

rule.

So, I worked with a number of water systems in looking at alternatives. Right, because of course, just like the conversation we're having today every single one of those systems did not want to install treatment, if they could possibly avoid it.

So, they looked at every other option. And blending was almost always the go to. And a lot of the agencies I was working with were a bit larger, so consolidation wasn't really one of the leading alternatives, frankly.

But, you know, these groundwater-dependent systems just don't have a whole lot of other places to turn. Tried looking at drilling new wells, or screening off sections, wedging off sections of existing wells, and all these different things. And sometimes it panned out and sometimes it didn't.

But invariably, there's going to be many systems that will have to treat here. There will be others that find more cost-effective means of complying and I think that's fantastic. And I'm encouraged by the review -- the emerging treatment approaches, if they pan out. Like with the

stannous chloride, I think that's exciting.

And in fact, you know, I'm actually interested in better understanding the range of costs. Because I think some systems will still go with ion exchange. We heard, you know, some costs there. Some will go with the reduction coagulation filtration. Some maybe, if DDW is comfortable, perhaps could go with stannous chloride or other approaches.

So, for me it's not a, you know, one dollar number. I mean maybe that's what we need to do here for this analysis. But understanding what that curve looks like in terms of the range of possible outcomes we may have, reflecting that, yes, I think it's understandable that the cost assessment that was done so far is conservative. But it may not be unrealistic at the end of the day, when we think about all these different nuances.

I know, you know, lots of wells are on tiny, little postage stamp sites and, you know, you can only make so many -- you can't really install treatment there, so then you're looking at other locations, and then you have to build a pipeline, and all these pieces. Projects end up costing,

many times, more than what you might assume as a default project cost.

So, for me it's on balance. You know, are we in the right ballpark? Does this give us a right frame of reference for making this sort of weighing that we have to do that's very difficult and, you know, not something I relish but something that's our responsibility at the Board to make these sorts of decisions about protective drinking water standards.

So, I just wanted to share that. As we go forward here, I'm looking forward to the comments and the input that we get from water systems, from the nongovernmental organizations about their experiences. Technical assistance providers, you know, what are you seeing boots-on-the-ground, you know, are our costs in line with what you've been experiencing in your help with water systems addressing a whole range of contaminants.

And just knowing that a lot of the systems that we're talking about today are dealing with not just hexavalent chromium, but other, you know, nitrates, 1,2,3-TCP, arsenic. You know, a lot of these constituents are co-occurring. And so, the reality is we may be talking about treatment for

one constituent today, but next year it may be another one, or three or four others. And they may already be behind the curve on catching up with many that are already on the table.

So, in my mind, you know, the cumulative costs, all of these things have a bottom line impact on water affordability. And you speak to -- you know, we speak to that, we try to again address that from the perspective of hexavalent chromium, but it's a tough question to answer.

And I'd like to think that we have an abundance of dollars available for grants to help every community that will need it, but I think there's no assurance of that where we sit here today.

And, you know, even in the analysis it opined about $700 or $800 million being available. You know, I think, and someone else had commented that much of that funding is committed. And I would say it's probably committed several times over already, not considering hexavalent chromium.

And so, I think we have a lot of questions to answer about where that assistance, where those dollars will come from. Not to say that we shouldn't take a step forward here, but there are

questions that we really need to wrestle with and understand a little bit better as we work through the rulemaking here over the next year.

I think I'll leave my comments at that. Thank you.

BOARD CHAIR ESQUIVEL: Thank you, Board Member.

BOARD MEMBER MAGUIRE: For sure.

BOARD VICE CHAIR D'ADAMO: Well, just in the interest of time I'll say that I concur with Board Member Maguire. I'm mostly concerned about affordability and just looking for a better, a better way to determine what's likely to occur.

Of course, if I were representing a public water agency I'd come in here and assume the worst. You pretty much have to. But, you know, any way to make it a little more realistic for us.

I know that we can't count on stannous chloride but, you know, and I guess I'll put that back to you all, and to the commenters, you know, on some way to make it a little more real.

Because I'm concerned about, number one is public health, but a close second is affordability, and just concerned about the multiple contaminants and all the issues that Board Member Maguire

raised.

So, look forward to ongoing briefings and reading the comments.

BOARD CHAIR ESQUIVEL: Thank you, Vice Chair.

Board Member Firestone.

BOARD MEMBER FIRESTONE: Thanks. Yeah, so many comments and issues, and this is a long time coming. Thanks for all the work.

And I agree that it would -- I would say in terms of what staff have done in the economic analysis, and the EIR, and statement of reasons, like I think we've done a huge amount to meet the legal requirements.

I think for us, then as policymakers, as we're trying to balance it's nice to know things like how do our -- so, this is not something that we need to be or maybe should be required to be part of the economic analysis, but I would like to know what our estimates are for being able to support small, disadvantaged communities that we're estimating to be having to adjust or, you know, do something because of this regulation. And sort of, I would say looking at also CalEnviroScreen 90 percent.

I think one of the things that we heard from community members is that, you know, there's really disproportionate health burdens and they're hit on so many levels with contaminants.

And, you know, certainly also those same communities are struggling with affordability on so many things in life. And so, I think if we can -- if we're looking at how our state resources should be invested, we're focused within SAFER. And if we can look at what that would mean in terms of those communities getting solutions through the funding that we have, I would really like to know what that looks like.

And to Board Member Maguire's point, honestly with all these different rollbacks, and changes, and earmarks and things that are going on, I don't -- I've kind of lost track of where we are.

And so, I know that's not DDW, that's DFA. But if we can -- if you can help get that, you know, to help inform the Board balancing, not the legal requirements, I would really appreciate that.

And also, I think within that, you know, one of the things that I think is clear in all of this analysis is there's capital. But if you're doing treatment, it's really the O&M, right, that

really adds up over time. And we are looking at -- we're -- we haven't adopted the Fund Expenditure Plan yet, but we're looking at and planning on doing a O&M affordability program. And so, it would be helpful to understand maybe what that means for a affordability program needs and demands, and what's available for capital. Because there's obviously very different funding sources available.

So, just look to staff on what's doable on that. But it seems like we have a lot in our needs assessment that could be helpful.

We already do this, I think, but if we don't I would just also want to make sure that as we're talking about a compliance period, if there are systems that are not -- that are below the MCL, but it's maybe the first year or second year, and so they're still in their compliance period, that they'd still be just as prioritized for funding as somebody that doesn't have a compliance period. I think that is something that we would do anyway, but I just wanted to make that clear on the record.

I am concerned about making -- looking at what our capacity is going to be too fast, very quickly approve and process pilots and plans.

Because I think what we're wanting to do is get people to -- and I think we should be more explicit, this was brought up by Michael Claiborne, about trying to make sure that compliance or that -- they're not called compliance plans. I forget what they're called. But the plans for how they're going to come into compliance are going to be the earliest feasible.

So, not just saying the default is you have four years, but it's that it's the earliest feasible. There may be some very small systems that can do that in one year, we don't know. Everything is site specific.

And so, I do think that we should be saying it should be the earliest feasible, even with building in a compliance period, that that's -- but that to support all of those compliance plan approaches that we're making sure we really have the capacity and are able to fast track, move quickly on approvals and reviews of pilots and plans.

You know, I really sympathize with and, you know, many of the water systems and cities that want to make sure their systems have safe drinking -- or their consumers have safe drinking water, but

it's a huge difference in cost and an entirely different project than if you're doing stannous chloride, than if you're doing ion exchange, or something else.

And so, we need to be able to have the capacity to do that with the systems. So, it would be great to hear back, you know, again just understanding how we feel like we're going to be able to do that piece in a timely manner.

I think one of -- one of just sort of bigger picture here, one of the real balancing or perspectives I think for me is that there's a lot of unknowns on cost. Every -- you know, some -- we're making these general estimates and there's a real question on whether you can do -- whether blending's an option. Whether, you know, there's these lower cost treatments. Whether it's going to be way more than what we're estimating. So, there's not clarity on that. Everything's going to be site specific.

But what we are setting here is how many people are going to be exposed to chrome-6 at a high level, or at different levels. And that's really what is clear. I think we're identifying -- or by setting this we're dictating who continues to

be exposed and who's not, and at how much.

And I actually -- Andrea, I know, just had to leave. But I think her point on every, any MCL we set there's going to be people that are -- people are going to be exposed over the Public Health Goal, and that's true with a couple, a handful of other MCLs like arsenic, and there's a couple other ones that are similar in scale.

So, if we can -- but the level that we set it at means that there's treatment in -- there's treatment in some communities and not others. So, if we're setting it at 10 and a system has it at 9, the people who's in 9 continue to be exposed to chrome-6, whereas the people that are -- that have it at 10 are going to be much lower -- have much lower exposure.

So, I do think the exposure, how many people are exposed is what we're -- is one of the more -- the things that we have more certainty around in terms of as compared to the cost.

So, I just want to -- I guess I just wanted to say I'd really like to hear from folks on that, understand the difference and order of magnitude there on exposure. And I know that's in the -- one of these two acronym documents.

To just -- but I think as we are -- as I'm trying to weigh this affordability and assistance piece, I also, I think, am trying to weight the, you know, level of exposure and the number of people that we're protecting from exposure.

And I think those were the main -- I think those were my main comments. There's so much that folks brought up and I'm really looking forward to hearing comments. And I really appreciate the questions or the participation. And it's been a long day and now my head's a little fuzzy, too.

MS. NIEMEYER: So, some of the tables have that information. Like I was looking at the number of sources affected. So, you can see at the different numbers. And I think we also have it -- so, Table 24 has like the total population.

So, some of those numbers that will kind of help you to see what the different effects are.

BOARD MEMBER FIRESTONE: Yeah. No, I understand that. I think I was saying that -- I was recognizing that that is in the table, and just trying to recognize that for me, as I'm processing all the information that is, you know, kind of overwhelming, that it's not just -- well, the costs I find hard to wrap my head around because there's

so many uncertainties, and site specific. And I feel like the exposure is a little more clear and straight forward.

And so, I think that was more of a policy balancing point than a question. Thanks.

BOARD CHAIR ESQUIVEL: Thank you, Board Member.

Again, just incredible. Thanks to everyone. It has been a long afternoon, but a really good discussion, a good back and forth, and here a lot further to unpack a bit.

Just reaffirm it would be good to go ahead and just give folks another week. This is an important MCL and would be supportive. So.

MR. POLHEMUS: Okay. We will notice here in the next day or two that it's extended to the 18th, August 18th, Friday, noon.

BOARD CHAIR ESQUIVEL: Okay. Thank you. It is much appreciated on that front.

MS. NIEMEYER: And just to clarify, that will be on everything. So, that's on the environmental document and the regulation documents.

BOARD CHAIR ESQUIVEL: That's helpful.

Thank you all. That concludes this

hearing then, and Item Number 5. And again, really appreciate everyone's good contributions and discussion. Looking forward to further moving this along the process.

(Adjourned at 5:34 p.m.)

REPORTER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

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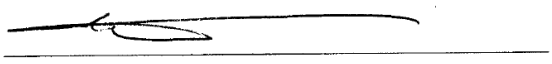

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Barbara Little
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