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SAN GABRIEL VALLEY WATER ASSOCIATION

May 25, 2023

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Dr. Jennifer L. McLain
 Director Office of Ground Water and Drinking Water
 U.S. Environmental Protection Agency
 1201 Constitution Ave NW Washington, DC 20004

Re: Docket ID No. EPA-HQ-OW-2022-0114

Dear Dr. McLain:

The San Gabriel Valley Water Association (SGVWA) represents municipal utilities, regulated utilities, special districts, and not-for-profit mutual water companies that supply water to nearly two million residents in the San Gabriel Valley of Los Angeles County, California. In response to the Environmental Protection Agency's request for public comment, the SGVWA is submitting this letter outlining the factors that must be addressed before the final adoption of the proposed per- and polyfluoroalkyl substances (PFAS) National Primary Drinking Water Regulations (NPDWR).

The SGVWA acknowledges that the proposed PFAS NPDWR does not mandate any actions until the four parts-per-trillion (4ppt) Maximum Contaminant Level (MCL) is approved or revised. However, the SGVWA is concerned about ensuring that the San Gabriel Valley water systems can comply with the final regulations. Several important factors negatively impact the economic feasibility of the proposed MCL for PFAS. Specifically, the proposed MCL presents significant challenges for water suppliers in the San Gabriel Valley in the following ways:

1. **Transitions in the Laboratory Industry:** The proposed standards for detecting and reporting PFOA and PFOS are very close to the limit. States will be responsible for certifying labs to ensure accurate compliance monitoring results. However, the initial monitoring requirements for over 70,000 systems conducting quarterly monitoring may exceed available lab capacity. In California, new accreditation requirements have caused a 25% decrease in public labs in the past two years, and commercial labs cannot meet the increased demand. As a result, the consolidation of California's laboratory industry has raised costs and limited access to water suppliers. Additionally, special procedures for collecting samples at such levels increase the risk of inaccurate results for certain volatile PFAS.

2. **Identified Best Available Technologies (BAT) may Prove Costly and Inadequate:** As announced, the proposed MCLs will require public water systems to add advanced treatment to their current water production processes. States will have to review and approve the plans and specifications for this advanced treatment. In addition to the need for systems to conduct pilot testing of multiple treatment options, the costs associated with constructing, operating, managing, and sampling these systems can range from millions to hundreds of millions of dollars. However, if California and other states decide to adopt more stringent standards, the identified best available technologies may prove inadequate.
3. **Hazardous Waste Disposal:** The economic analysis does not include the expenses related to transporting and disposing of hazardous waste, also known as PFAS residuals, to certified disposal facilities located in other states. These additional costs can potentially double the total cost of meeting the MCL requirements.
4. **Federal Funding Gaps:** Although the Bipartisan Infrastructure Law provides billions of dollars to assist water providers, it does not cover all the expenses associated with the construction, operation, and maintenance of treatment systems. The proposed MCLs will require significant rate increases for most affected systems. Additionally, these expenses will compete with other EPA regulations that require funding, including the Lead and Copper Rule Revisions and the newly announced cybersecurity measures.
5. **Considerable Supply Chain Challenges:** The number of advanced treatment systems that will be required is significant and will need to be expedited. These challenges also apply to the supply of the media required, treatment vessels, etc., for the construction of the treatment.
6. **Scarce Workforce:** One problem associated with implementing advanced treatment systems for MCLs is the shortage of available workers. This will lead to a significant demand for more water operators in thousands of communities across the country. This demand may result in disparities in the availability of qualified operators between larger, wealthier water suppliers and those with fewer resources. Additionally, current operators may need to obtain higher levels of certification to manage and maintain the new systems, which will require additional staff time and resources. This poses a challenge to the sustainability of many small water systems.
7. **Need to Help Small Systems and DACs:** Despite efforts by the EPA and other agencies to improve access to government funding programs, small water systems and those serving disadvantaged communities still face challenges in applying for grants, managing reporting requirements, and completing projects. Even if successful in building a treatment system, many small and poorer systems cannot afford to maintain and operate them, as seen in past implementations of arsenic and nitrate standards where treatment systems stand idle.
8. **Upside-down Implementation with CERCLA Let's Polluters off the Hook:** In September 2022, EPA issued a Notice of Proposed Rulemaking (NPRM) designating PFOA and PFOS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). In April 2023, EPA issued an Advance Notice of Proposed Rulemaking (ANPRM) about possible future designations of PFAS under CERCLA.

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If such designations happen before setting an MCL, it may lead to lawsuits between drinking water suppliers and wastewater agencies detecting PFAS substances. This could cause billions of dollars in local mitigation efforts to go to waste, and responsible parties may not be held accountable to remediate the contamination they caused. However, giving exemptions to wastewater agencies and water suppliers under CERCLA requires congressional approval while the regulatory process is ongoing. This creates a race against time as the litigation time bomb counts down.

Our comments are intended to be constructive and ensure that the PFAS MCL is implemented equitably so that everyone has access to safe drinking water. As currently drafted, this standard may result in disparities between communities that can afford the necessary treatment methods and those that cannot. We hope that you will consider our feedback with this goal in mind.

Thank you for taking the time to consider our input.

Sincerely,



President, Board of Directors
San Gabriel Valley Water Association