



**American Water Works
Association**

The Authoritative Resource on Safe Water SM

**Statement
of Mr. Charles Murray, General Manager, Fairfax Water, Va.,
on behalf of the American Water Works Association**

**Regarding
Public Health and Drinking Water Issues**

**Before the Senate Committee on Environment and Public Works
February 2, 2011**

Headquarters Office:

6666 W. Quincy Avenue, Denver CO 80235
T 303.794.7711 // F 303.347.0804
www.awwa.org

Government Affairs Office:

1300 Eye Street NW, Suite 701W
Washington, DC 20005
T 202.628.8303 // F 202. 628.2846

**Statement
of Mr. Charles Murray, General Manager, Fairfax Water, Va.,
on behalf of the American Water Works Association**

**Regarding
Public Health and Drinking Water Issues**

**Before the
Senate Committee on Environment and Public Works**

February 2, 2011

Good morning, Madam Chairwoman and members of the Committee. My name is Charles Murray and I am General Manager of Fairfax Water, Virginia's largest drinking water utility and one of the nation's 25 largest drinking water utilities. Fairfax Water is a non-profit, public water authority governed by a 10-member board of directors who are appointed by the Board of Supervisors of Fairfax County. Fairfax Water provides retail or wholesale service to nearly 1.7 million people in the Northern Virginia communities of Fairfax, Loudon and Prince William counties, the City of Alexandria, the Town of Herndon, Ft. Belvoir, and Dulles Airport. To my staff and me at Fairfax Water, that translates to nearly 1.7 million reasons to provide drinking water quality of the highest quality.

This morning, I am testifying on behalf of the American Water Works Association (AWWA), and we welcome this opportunity to speak to the drinking water issues that are before the committee today. AWWA is an international, nonprofit, scientific and educational association of professionals dedicated to safe drinking water. We have always supported drinking water regulations that are developed through a transparent process, are based on the best available science, and that provide meaningful public health protection in an affordable manner.

Two of the key issues before the Committee are chromium-6 and perchlorate. As you know, the Safe Drinking Water Act (SDWA) mandates a rigorous process for evaluating risks to public health and determining what risk management actions are appropriate. The Act requires that the regulatory process use the best available, peer-reviewed science, a principle this administration has strongly endorsed, as described by the March 9, 2009, Memorandum for the Heads of Executive Departments and Agencies on Scientific Integrity. These principles are important to ensure that the Agency directs water providers to address actual risks and doesn't misdirect limited resources based on incomplete or faulty information. Once misdirected, a community's resources cannot easily be recovered to address genuine risks and other important community needs.

Unfortunately, the recent EPA actions on chromium-6 seem to discount the principles of the Safe Drinking Water Act, the same principles to which the Administration is committed.

For example,

1. **Unregulated Contaminant Monitoring Rule.** EPA's recent chromium-6 monitoring guidance does not employ a fully validated analytical method.

Nor are there validated performance standards for laboratories. Absent these things, it is not possible to be confident about the error bar around any sample, to compare samples analyzed by different laboratories, or even to confidently compare different samples analyzed by the same laboratory. Moreover, there is no mechanism provided for the Agency's collection of test results so as to inform future potential regulatory decisions. Given these shortcomings, the scientific value of the data that utilities may collect is unclear.

The Agency has available to it a regulatory structure that addresses these issues through the Unregulated Contaminant Monitoring Rule (UCMR). UCMR is a time-tested process for obtaining a meaningful and actionable national occurrence dataset for contaminants of potential concern in drinking water. All laboratories currently engaged in UCMR monitoring are using well-characterized analytical methods that meet known performance requirements. Similarly, sampling requirements are developed with the goal of producing a dataset that supports regulatory decision-making. If the Agency wished utilities to undertake extensive testing for chromium-6, we believe the UCMR process would have provided the appropriate tool.

- 2. Risk Communication / Health Advisories.** EPA has not completed a risk assessment to support its recommendations on chromium-6. Neither water systems nor the public have a clear idea of whether minute quantities of chromium-6 represent a health risk, and if so, the nature of that risk. Therefore, utilities are placed in the untenable position of not being able to explain to their customers the relevance of the monitoring that EPA has recommended. Risk communication with the public on potential health effects in drinking water is difficult under the best of circumstances. The Agency's seemingly hurried response to chromium-6 questions compounds this challenge.

The preliminary Integrated Risk Information System (IRIS) Toxicological Review on chromium-6 has not completed peer review. The Toxicological Review is built upon a number of embedded assumptions, some of which are known to be controversial. Moreover, the IRIS document is just the first step in the risk assessment process, as it only characterizes the potential hazard associated with chromium-6. Actually completing the risk assessment process will require substantial effort by EPA. To date, EPA has not clearly conveyed this process to the public.

- 3. Taking Regulatory Action.** The tone, delivery, and content of EPA's chromium-6 action implies that regulatory change is urgent and a foregone conclusion. In fact, the current Maximum Contaminant Level (MCL) for total chromium was addressed in the second six-year review of drinking water regulations that was published on March 29, 2010. As a result of this review, EPA stated that "The Agency does not believe a revision to the NPDWR [National Primary Drinking Water Regulations] for total chromium is appropriate at this time. A reassessment of the health risks associated with chromium exposure is being initiated, and the

Agency does not believe that it is appropriate to revise the NPDWR while that effort is in process.”

EPA has a clear process for reviewing existing Maximum Contaminant Level Goals (MCLGs) and MCLs in response to evolving science. Under the SDWA, the decision on whether or not an MCL should be revised includes a consideration of whether doing so provides a meaningful opportunity for health risk reduction. In its two six-year reviews, the Agency has had opportunities to lower the MCL for chromium and elected not to do so. We believe this important fact should have been conveyed by the Agency in its recent memorandum on chromium-6.

The decision-making process outlined in the Safe Drinking Water Act is consistent with both the Presidential Memorandum on Scientific Integrity and the more recent Executive Order on Improving Regulation and Regulatory Review. These two directives emphasize the importance of making smart decisions based on the best available science so that regulations result in a public health benefit.

AWWA believes EPA’s recent activity related to chromium-6 discounts the scientific rigor of the SDWA and contravenes the spirit of the presidential memorandum and executive order. We believe that future actions on chromium-6 and other contaminants must use proven processes and be better informed by sound science.

Perchlorate

We believe that the same scientific processes and faithfulness to the Safe Drinking Water Act must be maintained in considering whether or how to regulate perchlorate in drinking water. As you know, the SDWA defines three key criteria for regulation of contaminants:

- i. the contaminant may have an adverse effect on the health of persons;*
- ii. the contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern; and*
- iii. in the sole judgment of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.*

Given the weight of evidence available at that time and AWWA’s independent assessment of occurrence and exposure, we concurred with EPA’s preliminary determination that regulation of perchlorate would not present a “meaningful opportunity for health risk reduction for persons served by public water systems.” We continue to support that preliminary determination. AWWA also concurs with the agency’s Inspector General, who said that regulatory action under the Safe Drinking Water Act is not appropriate.

Data from the UCMR has revealed that detection of perchlorate in drinking water was geographically widespread but at very low concentrations. Significantly, there is little correlation between perchlorate detection in drinking water and known points of perchlorate release to the environment identified by the USEPA (with the exception of certain points in the Lower Colorado River). Perchlorate has been detected in drinking water in less than 5% of the nation’s large community water systems (>10,000

population served). When detected, perchlorate was typically present at concentrations of less than 12 ug/L and was generally found in less than one-half of the sources for systems which sampled multiple sources.

Recommendations

We acknowledge that scientific processes for determining the actual risks to human health from different substances or compounds can seem frustratingly slow. However, it is only by following methodical, peer-reviewed studies that we can know where actual risk lies. We recommend that Congress allow the UCMR, Contaminant Candidate List and Six-Year Review processes created in the 1996 Amendments to the Safe Drinking Water Act to be allowed to work. AWWA and its members pledge to continue to provide field data and studies related to these processes and to continue to make our methodologies transparent.

We also recommend that the resources of community water systems and more significantly their customers be focused on the direct threats to safe water about which we are certain. Studies by AWWA and EPA show that hundreds of billions of dollars must be invested in water infrastructure soon and very soon if we are to continue to provide safe and sufficient water to our fellow citizens and the health protection that wastewater systems provide. We realize that water utilities also have responsibilities to maintain or work toward self-sustaining rates, exercise the best asset management practices, and better communicate the need for investment in water infrastructure. We pledge to continue these efforts.

We realize these are tough times for the federal budget. However, there is a continuing need for additional funding for human health effects research for drinking water contaminants. We urge Congress to support additional funding in this arena and we urge that EPA's research efforts be tied more closely to its regulatory program. We would like to see the Agency's finite water research dollars prioritized toward projects that study water contaminants.

We thank the Committee for its efforts to reauthorize and improve the state revolving loan fund program in the last Congress. We offer our cooperation in working toward similar legislation in this Congress.

Conclusion

The bottom line is that Congress should not legislate individual drinking water standards. The SDWA was amended in 1996 to provide a scientifically sound and transparent method for selecting the appropriate substances for regulation and for selecting the appropriate maximum contaminant level for contaminants. We should allow the best available science, not the political process, to be the ultimate driver in regulatory decisions.

AWWA and its members look forward to continuing to work with all facets of the drinking water community to ensure that the Nation focuses its resources on the greatest threats to public health, and that the nation's drinking water supply remains safe and affordable.

###