WUWC
WESTERN URBAN WATER COALITION

April 25, 2018

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Director, Standards and Risk Management Division,
Office of Ground Water and Drinking Water
U.S. Environmental Protection Agency Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W., Mail Code: 4607M
Washington, DC 20460

Tracey Ward
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Office of Ground Water and Drinking Water
U.S. Environmental Protection Agency Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W., Mail Code: 4607M
Washington, DC 20460

Re: WUWC's Response to NDWAC's Request for Public Input on Health Advisory Communications and Integrated Water Management

Dear Mr. Burneson and Ms. Ward,

This letter provides input on behalf of the Western Urban Water Coalition ("WUWC") to the U.S. Environmental Protection Agency ("EPA") National Drinking Water Advisory Council's ("NDWAC's") on Health Advisory Communications and Integrated Water Management. WUWC appreciates the opportunity to provide feedback to NDWAC on these important matters.

Created in June 1992 to address the West's unique water issues, WUWC consists of the largest urban water utilities in the West, serving over 40 million western water consumers in major metropolitan areas in the western states. The delivery of safe drinking water to consumers is of the utmost importance to WUWC. The membership of WUWC includes the following urban water utilities:

- *Arizona* – Central Arizona Project, City of Phoenix and Salt River Project;
- *California* –Eastern Municipal Water District, Los Angeles Department of Water and Power, The Metropolitan Water District of Southern California, San Diego County Water Authority, Santa Clara Valley Water, and City and County of San Francisco Public Utilities Commission;

- *Colorado* – Aurora Water, Colorado Springs Utilities, and Denver Water;
- *Nevada* – Las Vegas Valley Water District, Southern Nevada Water Authority, and Truckee Meadows Water Authority;
- *New Mexico* –Albuquerque Bernalillo County Water Utility Authority; and
- *Washington* – Seattle Public Utilities.

A. The EPA National Drinking Water Program should not use Health Advisories in lieu of the regulatory process where it determines the regulatory criteria for developing National Primary Drinking Water Regulations have been met.

WUWC supports EPA's use of the regulatory process set forth in the Safe Drinking Water Act (SDWA) to create legally enforceable health-based standards that apply to public water systems. These regulatory standards are of the utmost importance to utilities. The legally enforceable health-based standards promulgated by EPA provide water utilities with necessary regulatory certainty. Further, utilities are able to build trust with the public by adhering to these standards. Health Advisories should not be used as a substitute for National Primary Drinking Water Regulations when EPA determines the regulatory criteria for developing National Primary Drinking Water Regulations have been met.

National Primary Drinking Water Regulations provide clear, enforceable standards upon which water utilities can rely. Conversely, Health Advisories are technically non-binding. EPA, however, has developed Health Advisories that set forth exposure levels, testing requirements, treatment alternatives necessary to protect public health and an obligation for water providers to provide notice to the state for certain exceedances. Therefore, in effect, these Health Advisories create standards that EPA suggests water providers must meet to ensure finished water is safe to public health.

For example, in 2015, the EPA Office of Water published the "2015 Drinking Water Health Advisories for Two Cyanobacterial Toxins" ("Cyanobacterial Toxins Health Advisory"). In the Cyanobacterial Toxins Health Advisory, EPA sets forth 10-day health advisory levels of microcystins and cylindrospermopsin for children and adults. According to EPA, these are "non-regulatory values that serve as informal technical guidance to assist federal, state and local officials, and managers of public or community water systems to protect public health from contaminants." Fact Sheet: 2015 Drinking Water Health Advisories for Two Cyanobacterial Toxins, at 1. Further, in a stakeholder meeting about the Cyanobacterial Toxins Health Advisory, EPA stated that "for those systems who choose to do so, having these two values provides an opportunity to take actions to reduce exposure in finished drinking water by refining treatment techniques to minimize public health risks." EPA Office of Water, Health Advisories for Cyanotoxins, Presentation for Stakeholder Meeting (May 11, 2015). Although the Cyanobacterial Toxins Health Advisory is non-binding, in the Health Advisory and associated materials, EPA implies that finished water must be below certain exposure levels to be safe to public health. EPA should not rely on a non-binding Health Advisory to set forth exposure

levels necessary to minimize public health risks or suggest that water providers are required to comply with non-binding Health Advisories.

Similarly, the EPA Office of Water published a PFOA and PFOS Drinking Water Health Advisory in November 2016 ("PFOA and PFOS Health Advisory"). In the PFOA and PFOS Health Advisory Fact Sheet, EPA states:

> A number of options are available to drinking water systems to lower concentrations of PFOA and PFOS in their drinking water supply. In some cases, drinking water systems can reduce concentrations of perfluoroalkyl substances, including PFOA and PFOS, by closing contaminated wells or changing rates of blending of water sources. Alternatively, public water systems can treat source water with activated carbon or high pressure membrane systems (e.g., reverse osmosis) to remove PFOA and PFOS from drinking water. These treatment systems are used by some public water systems today, but should be carefully designed and maintained to ensure that they are effective for treating PFOA and PFOS.

While the PFOA and PFOS Drinking Water Health Advisory is non-binding, it suggests there is an obligation to provide treatment for PFOA and PFOS to protect the drinking water supply even in the absence of regulation.

WUWC supports EPA's efforts to protect the public from harmful contaminants in drinking water. EPA, however, should not rely on non-binding Health Advisories to instruct water providers where a concern for public health has led EPA to develop standards. Rather, EPA should utilize the regulatory process to develop enforceable standards for these contaminants. Such regulatory standards will provide both water providers and the public with necessary regulatory certainty and build trust between the utilities and the public they serve.

B. Integrated Water Management ensures water supplies are adequately protected while simultaneously promoting efficient use of resources.

One of EPA's current goals is to ensure regulatory schemes are consistent and work together to set forth clear standards for the regulated community. *See, e.g.*, EPA Docket ID No. EPA-HQ-OA-2017-0190 (in accordance with Executive Order 13777, "Enforcing the Regulatory Reform Agenda," seeking input on regulations that may be appropriate for repeal, replacement, or modification). The SDWA and the Clean Water Act (CWA) are two statutory schemes that must be consistent and work together given the significant overlap between the two statutes.

Water providers consistently face conflicts between the regulatory requirements of the SDWA and the CWA. Although there is overlap between the two regulatory programs, they

operate independently with differing statutory goals. In some instances, this leads to conflicts between the two statutes, such as conflicting indicators of contamination and treatment approaches.

To ensure these programs work in tandem efficiently without diminishing important environmental protections, WUWC supports EPA's efforts to carefully examine the SDWA and CWA regulatory programs to identify areas in which integration between the SDWA and CWA programs would be beneficial. For example, recycled water use is an area in which improved integration of the SDWA and CWA would be helpful for water providers. Implementing more stringent wastewater discharge requirements could facilitate downstream advanced water treatment for potable water reuse.

WUWC has historically been, and will continue to be, an ardent supporter of the goals of the SDWA and CWA. WUWC members have a strong interest in clean water for municipal water supplies and in the regulatory processes protecting water quality. Accordingly, WUWC recognizes that integration of the SDWA and CWA must be carefully considered to ensure environmental protections are not diminished. For instance, integration of the two Acts could also result in reducing wastewater discharge requirements, which would require water providers to provide additional source control and water treatment. WUWC members have an extensive background in this type of regulatory analysis, as well as the on-the-ground impacts. WUWC would be eager to work with EPA to provide guidance on SDWA and CWA integration efforts going forward.

Thank you for your consideration of these comments. If you have any questions, please contact our counsel Donald C. Baur of Perkins Coie, LLP at (202) 654-6200.

Sincerely,

Michael P. Carlin
Chairman