

# THE SUN-GAZETTE

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## Tooleville water tainted with unregulated contaminant

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**Cancerous chrom-6 taints Tooleville's water, but is currently unregulated by the state after being struck down in court on appeal from manufacturer, taxpayer associations**

TOOLEVILLE – Instead of turning on the faucet to fill her pots to cook dinner, Maria Olivera turns to her drums of state issued water sitting next to the stove at her home in Tooleville.

“Our life is not normal,” said Olivera, who’s lived in the small, unincorporated area of under 400 residents since 1974.

Tooleville spans all of two dusty dirt roads at the edge of the Friant-Kern Canal, where the blue hue of flowing water is just out of sight over raised levees. Along with it, the basic human right of having clean drinking water. Nitrates from farming fertilizers have rendered the water undrinkable in Tooleville, and the community is dependent on biweekly water deliveries.

Andi Galdamez, a community development specialist with nonprofit Self-Help Enterprises, helps the Tooleville Nonprofit Mutual Water Association—where Olivera voluntarily serves as the board secretary—stay in compliance with their water system, which serves about 76 households in the disadvantaged community. She said the two-road town reliant on bottled water has an additional undeniable contaminant in their water system.

“You can’t talk about Tooleville without talking about hexavalent chromium,” Galdamez said.

Hexavalent chromium, or chrom-6, is one of the contaminants infecting Tooleville’s water system. The toxic heavy-metal was spotlighted in the story of Erin Brockovich told in the eponymous 2000 film, who discovered the reason many people in Hinkley, Calif. were being diagnosed with cancer was due to chrom-6. The contaminant had seeped into the water supply after PG&E dumped industrial waste in unlined ponds at the utility company’s compressor station in the 1950’s and ‘60s, and Hinkley’s residents were paying the price. The resulting \$333 million settlement in 1996 was the largest settlement ever paid in a direct-action lawsuit at the time.

In the case of Tooleville, cancer-causing chrom-6 is naturally occurring in the water, from the erosion of natural chromium deposits in rocks, plants, soil and animals.

“There’s no one you can really point the finger at and take to court,” Galdamez said.

### **A GLASS HALF-EMPTY**

The requirements to implement public health law to regulate a contaminant like chrom-6 are twofold. First, the state must conduct health studies to determine if the contaminant affects the health of the people.

“Yes, it does,” Galdamez said of chrom-6, a known carcinogen and cause of skin irritation and ulceration.

Secondly, economic feasibility studies must be completed to determine the costs of regulating and fixing water systems with chrom-6 contamination. To Tooleville’s dismay, in 2017 chrom-6 regulation in California was struck down in the Superior Court of Sacramento County after the California State Water Board was sued by the California Manufacturers and Technology Association and the Solano County Taxpayers Association for beginning regulation without completing the economic feasibility studies.

In 2015, Tooleville received a violation from the state water board for exceeding the maximum contaminant level (MCL) for chrom-6, during the time it was being regulated as a contaminant by the state.

“We know for sure they have received violations for it back when it was a regulated contaminant. It’s not being regulated right now, so technically their water is in compliance. So there’s no legal grounds to take big action,” Galdamez said. “Anywhere else in California where this is happening—that’s the case there, too.”

In 2017, Tooleville’s water was tested for chrom-6 at 14 parts per billion (ppb), well above the MCL previously established MCL of 10 ppb in 2013 by the California Department of Public Health (CDPH). In 2011, the California Office of Environmental Health Hazard Assessment (OEHHA) established the amount of chrome-6 in drinking water to minimize lifetime cancer risk at .02 ppb.

Currently, California regulates total chromium at a 50 ppb MCL—a combination of trivalent chromium, or chromium-3, a human dietary element found in vegetables, fruits, meats, grain and yeast, and it’s more toxic, cancerous counterpart chrom-6. The Environmental Protection Agency at the federal level regulates total chromium at a 100 ppb MCL.

## **WHITE PAPERS FOR CLEAR WATER**

Despite chrom-6 remaining essentially unregulated, the state still recognizes there’s a problem in Tooleville and is funding bottled water being sent to the town. Going beyond the band-aid of bottled water is where it gets murky.

Jessi Snyder, community development director at Self-Help Enterprises, said the bottled water deliveries actually started from an MCL violation for nitrates, which have been present in Tooleville’s water for decades. She said fluxes in contaminant levels complicate the situation.

“Groundwater moves just like surface water does,” Snyder said, “and that means levels of contamination can fluctuate over time. [Tooleville’s] nitrate levels have gone down below the maximum contaminant level for the last four or five years.”

The same can be said for chrom-6. The most recent state test of the Morgan Street well in Tooleville on March 22 clocked chrom-6 levels at 12 ppb, down from the 14 ppb in 2017, albeit still above the state’s previously established MCL. Their water has been fluctuating between 11-14 ppb since the state began tracking chrom-6 levels in 2015. Fortunately for towns like Tooleville, the bureaucratic machine recognizes these fluxes in contaminant levels.

“The State Water Resources Control Board recognizes that nitrate levels fluctuate, and that they’re likely to go above the MCL again,” Snyder said. “Plus, they know about this hexavalent chromium issue.”

So what's the state doing about it? In February 2020 the state water board published a white paper—generally the first step toward legislation—with a public workshop in April 2020 discussing an economic feasibility analysis on hexavalent chromium. The state water board says it is evaluating comments received on treatment technologies and cost estimating, and a publication of a notice of proposed rulemaking is projected for early summer 2021.

At the April 2020 workshop, financial concerns were at the top of the list for several speakers, including Richard Morrison, head of the Wildwood East Mutual Water Company in Yuba City, Calif. where their small community water system with a budget of under \$25,000 received a 2016 estimate to fix arsenic and chrom-6 issues at \$2.6 million, or about \$52,000 for each of the 48 connections. Wade Cowan, the mayor of Winters, Calif. —where wells have been tested for chrom-6 at 22 ppb—spoke out of concern of a clearly defined plan in the white paper, saying regulating chrom-6 would ruin the city's finances and raise residents' water bills by over 300%.

“The truth is when you regulate contaminants, it does affect your operation and maintenance costs,” Galdamez said. “That does usually result in higher water bills—now be it by two or five cents, but if there's not that many people living in the community where the water system is, it could go up by a few dollars.”

Michael Claybourne, an attorney with the Leadership Counsel for Justice and Accountability, spoke at the workshop representing the Tooleville Mutual Nonprofit Water Association.

“The residents of Tooleville and other similarly situated systems have a human right to safe drinking water,” Claybourne said. “This right applies regardless of whether a community is small or large, rural or urban, or whether the water system serves a community of color.”

Claybourne advised to consider economic feasibility within the context of small disadvantaged communities of color like Tooleville, where he said every resident they've talked to is supportive of an MCL that is as protective of public health as possible.

“As recognized by the white paper, small disadvantaged communities like Tooleville would struggle to afford just about any treatment, absent support from the state,” Claybourne said. “The answer is not to fail to protect public health because it can be expensive.”

SB-88, existing California law which enables the state water board to order mandatory consolidation for water systems in disadvantaged communities that are consistently out of compliance, paired with existing funding opportunities from the state and the Safe and Affordable Funding for Equity and Resilience (SAFER) program, could be Tooleville's saving grace.

“SB-88 consolidation would provide a clear solution in Tooleville after a new standard for chrom-6 is set,” Claybourne said, “As the nearby city of Exeter could supply safe and affordable drinking water to residents.”

Regulation alone—while potentially a catalyst for a fix—won't bring a long-term solution to Tooleville. The residents of Tooleville have been in a hard-fought campaign for over a decade to consolidate their water system with neighboring Exeter's, which Exeter turned down in 2019 shortly after discovering the pitfalls of their own water system.

The Tooleville Nonprofit Mutual Water Association will meet this month after over a year-long hiatus due to the COVID-19 pandemic, where board member Olivera said they will discuss renewing their efforts toward consolidation. The Sun-Gazette will continue to report on Tooleville's water contamination and consolidation efforts.