

ITEM: 7

SUBJECT: Delta Mercury Control Program- TMDL and Basin Plan Amendment- *Informational Item- Status of the Stakeholder Process*

BOARD ACTION: No Board action required. Informational item only.

BACKGROUND: The Sacramento-San Joaquin Delta Estuary (Delta) is impaired due to elevated levels of mercury in fish tissue. In February 2008, staff released a revised total maximum daily load (TMDL) draft technical report and a draft Basin Plan amendment (BPA) staff report. The TMDL report discusses mercury and methylmercury from municipal and industrial wastewater, urban runoff, wetlands, open channels, agricultural return flows, and tributaries. The TMDL report also describes beneficial uses, fish tissue numeric targets, the linkage between methylmercury in water and fish tissue, and methylmercury load reductions required to meet the targets. The BPA staff report proposes a regulatory program to control both total mercury and methylmercury in the Delta.

In April 2008, the Central Valley Water Board opened the hearing for the TMDL and control program and heard public comments. There were many concerns about assigning methylmercury allocations to the various point and non-point sources and the achievability of the allocations and fish tissue objectives. The Board directed staff to work through a stakeholder process to address and resolve stakeholder concerns.

In August, staff began working with the Center for Collaborative Policy (CCP) to conduct a facilitated stakeholder process. In the fall, CCP held about 60 stakeholder assessment interviews to gather information from the regulated community and environmental justice groups that represent the fishing community.

In December, CCP convened the first stakeholder meeting, presented the findings of the stakeholder assessment, and discussed options for a stakeholder process. A goal of the stakeholder process is to seek consensus, but it is not a requirement. At four subsequent meetings, the TMDL constraints were presented along with in-depth conversations about where

the focus of the mercury and methylmercury controls should be. At the stakeholder meetings there have been representatives from irrigated agriculture, wetlands, wastewater, stormwater, state and federal agencies, environmental justice, wildlife protection, and utilities.

Early on in the process, CCP proposed an approach to “bifurcate” the TMDL/Basin Plan amendment so that the process could move forward more quickly and the Board could consider adopting the TMDL/Basin Plan amendment this fall. The purpose of the bifurcated approach is to break the control program into two parts and work with the stakeholder in developing both parts. The first part would be the technical TMDL to meet EPA requirements (fish tissue objectives and load and waste load allocations) and an adaptive implementation plan framework to meet Porter-Cologne requirements. The first part could be presented to the Board in fall 2009. After TMDL adoption, the stakeholder group would work together to develop the detailed adaptive implementation plan for the TMDL, including prioritizing and developing control studies for inorganic mercury and methylmercury sources. There was general support among the stakeholders for this approach.

Several workgroups were formed to develop and address specific issues raised by the stakeholders, including developing guiding principles, NPDES permit requirements, adaptive framework strategies, and assurances for those regulated and impacted by methylmercury. The workgroups have met several times and presented their findings to the large stakeholder group.

RECOMMENDATION: No recommendation, information item only.

Mgmt. Review _____
Legal Review _____

23/24 April 2009
11020 Sun Center Dr. #200
Rancho Cordova, CA 95670