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April 1, 2010

Patrick Morris (Pmorris@waterboards.ca.gov)  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, #200  
Rancho Cordova, CA 95670

**Sacramento Regional Wastewater**

SUBJ: SRCSD Comments Regarding the Mercury TMDL, BPA and  
Associated Documents

**Treatment Plant**

**8521 Laguna Station Road**  
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Dear Mr. Morris:

On behalf of the Sacramento Regional County Sanitation District (SRCSD), I would like to express our appreciation to the management and staff of the Central Valley Water Board for dedicating their time and resources to the Delta Methylmercury TMDL Stakeholder process. We believe this robust stakeholder process has resulted in a Basin Plan Amendment (BPA) that represents an adaptive and fair approach to managing the methylmercury impairment in the Delta and establishes a clear set of fundamental principles that not only guided the development of this current draft of the BPA, but will provide additional direction for future implementation efforts as well. The current draft BPA:

**Board of Directors**

**Representing:**

- County of Sacramento
- County of Yolo
- City of Citrus Heights
- City of Elk Grove
- City of Folsom
- City of Rancho Cordova
- City of Sacramento
- City of West Sacramento

- Acknowledges the current state of the science;
- Recognizes the need for an adaptive management approach as additional research and data are obtained to guide future actions; and
- Requires early implementation of near term actions to reduce total mercury, while Phase 1 characterization and control studies are underway.

This stakeholder process has been very comprehensive with multiple meetings held and extensive resources committed by the District and others to work through a variety of complex issues. Many of our previous concerns that were raised in 2006 and 2008 have been addressed. However, there are a few significant remaining concerns that we believe could be resolved with minor changes that are provided in more detail below. SRCSD's comments are presented in four separate sections, in order of the documents that were presented for public comment.

One element of the BPA that requires significant attention deals with the Exposure Reduction Program requirements. SRCSD supports the concept of an Exposure Reduction Program for impacted communities that consume large amounts of Delta fish. However, as currently worded, the BPA could place an unfair burden on dischargers to demonstrate exposure has been reduced and

- Mary K. Snyder  
*District Engineer*
- Stan R. Dean  
*Director of Policy and Planning*
- Prabhakar Somavarapu  
*Director of Operations*
- Marcia Maurer  
*Chief Financial Officer*
- Claudia Goss  
*Director of Communications*

mitigated. This would be an unachievable mandate to expect dischargers to be held accountable to change the behavior of impacted communities related to consumption of Delta fish. Suggested edits are provided below and as an attachment with detailed comments. We believe that the suggested edits still achieve the overall goal to increase awareness to help reduce mercury exposure to impacted communities, without jeopardizing a discharger's ability to comply with the BPA requirements.

We respectfully submit the following comments related to the Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins for the Control of Methylmercury and Total Mercury in the Sacramento-San Joaquin Delta Estuary Draft Staff Report for Public Review for your consideration.

### **GENERAL COMMENTS REGARDING THE IMPLEMENTATION OF THE TMDL AND BPA**

- 1) SRCSD strongly recommends that the Central Valley Water Board evaluate the results from the Phase 1 Control Studies in a holistic manner. The Control Studies should be evaluated in an integrated fashion, considering the state of the Delta water quality, activities being coordinated through the Bay Delta Conservation Plan, and competing Delta interests including the need for preservation and creation of wetlands.
- 2) SRCSD supports, in general, the separate comment letter submitted by a consortium of stakeholders which we were signatory to, as well as the comment letter submitted by CVCWA related to this TMDL, Basin Plan Amendment and related Staff Report.

### **COMMENTS SPECIFIC TO THE Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins for the Control of Methylmercury and Total Mercury in the Sacramento-San Joaquin Delta Estuary:**

- 3) Executive Summary Page ES-3: Proposed Modifications to Basin Plan Chapter IV (Implementation) states "*The review also will consider the potential public and environmental benefits and negative impacts of attaining the methylmercury allocations.*"

**SRCSD Comment:** Additional considerations should include an economic evaluation of proposed control methods and a feasibility analysis for the stated fish tissue objective.

- 4) Basin Plan Amendment page BPA-3 third paragraph states, "*Load allocations for the tributary inputs, urban areas outside of MS4 service areas, open-water habitat, and atmospheric deposition, and waste load allocations for the MS4s, are based on water years 2000 through 2003, a relatively dry period. Annual loads are expected to fluctuate with rainfall volume and other factors. As a result, attainment of these allocations shall be assessed as a five-year average annual load.*"

**SRCSD Comment:** The Basin Plan Amendment should allow similar averaging during Phases 1 and 2 for NPDES dischargers to allow for influent/effluent mercury and methylmercury load fluctuations. This consideration is important since the NPDES dischargers' load is relatively small compared to the overall load in the receiving waters. A

minor fluctuation in ounces of mercury or grams of methylmercury discharged on an annual basis could result in exceeding the assigned interim total mercury mass limits in Phase 1 or final methylmercury wasteload allocations in Phase 2. A minor increase in the discharge load is unlikely to result in a measurable impact to the Delta mercury / methylmercury concentration or load in the receiving waters.

- 5) **SRCSD Comment:** Basin Plan Amendment page BPA 4 second paragraph should be corrected to state “*Until the NPDES permitted facility achieves compliance with its WLA during Phase 2, the discharger shall submit annual progress reports on pollution minimization activities implemented and evaluation of their effectiveness, including a summary of mercury and methylmercury monitoring results.*”

**SRCSD Comment:** Basin Plan Amendment page BPA-4 third paragraph should be revised to state, “*The limit shall be assigned in permits and reported as an annual load based on a calendar year.*”

#### **COMMENTS SPECIFIC TO THE Draft Exposure Reduction Program:**

SRCSD supports the concept of an Exposure Reduction Program for impacted communities that consume large amounts of Delta fish. However, as expressed in the recent meetings, it would be extremely difficult to change the behavior of impacted communities related to consumption of Delta fish. Although activities can be undertaken to help reduce mercury exposure, the ability to demonstrate the mitigation of health impacts would not be achievable.

- 6) **SRCSD Comment:** Executive Summary Page ES-3 last bullet item, suggested rewording: “*Requirements and a schedule to plan and implement an exposure reduction program ~~to~~ protect for humans consuming large quantities of Delta fish.*”
- 7) **SRCSD Comment:** See the attachment to this letter for markups provided to the Draft Delta Methylmercury Control Program Basin Plan Amendments, 1 March 2010 Exposure Reduction Program.

#### **COMMENTS SPECIFIC TO THE Amendments to the Water Quality Control Plan Draft Staff Report for Public Review:**

- 8) On page 50 following the heading “Population growth”, the last sentence says “*Even so, the relative bioavailability of mercury in point source discharges and atmospheric deposition remains unknown; it is conceivable that discharges from these sources could be more bioavailable than other nonpoint sources and therefore could have a disproportionate effect on ambient methylmercury if such sources were to increase.*”

**SRCSD Comment:** We recommend deleting this sentence in its entirety since there is no conclusive scientific basis for this statement and the relative bioavailability of mercury from point sources versus other nonpoint sources. The March 2008 Localized Mercury Bioaccumulation Study performed on behalf of SRCSD indicates, to the contrary, that effluent from the Sacramento Regional Wastewater Treatment Plant does not appear to be more bioavailable than mercury from background sources.

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We would like to reiterate our support for the formal stakeholder process that took place and we look forward to initiating similar practices for future regulatory efforts. We are also committed to working with you during future Stakeholder meetings related to the Delta Methylmercury TMDL and its future implementation. If you have any questions or concerns regarding our comments, please contact me at 916-876-6092.

Sincerely,



Terrie Mitchell  
Manager, Legislative & Regulatory Affairs

Attachment: SRCSD Edits 4-1-2010 to *Draft Delta Methylmercury Control Program Basin Plan Amendments, 1 March 2010*

cc:

Mary Snyder – SRCSD District Engineer  
Stan Dean – SRCSD Director of Policy & Planning  
Debbie Webster – CVCWA  
Pamela Creedon, Executive Officer CVRWQCB  
CVRWQCB Chair and Members

Draft Delta Methylmercury Control Program Basin Plan Amendments, 1 March 2010  
Exposure Reduction Program section

The following is draft text for the Exposure Reduction Program section of the Basin Plan amendment. This text reflects discussions at the December 2009 and January 2010 Delta Methylmercury Stakeholder Group meetings, a workgroup meeting on 10 February 2010, a stakeholder meeting on 24 February 2010, and written comments. The following text replaces BPA text contained within the February 2010 staff report. For the full text of the proposed Basin Plan amendment, see the Central Valley Water Board's website:  
[http://www.waterboards.ca.gov/centralvalley/water\\_issues/tmdl/central\\_valley\\_projects/delta\\_hg/april\\_2010\\_hg\\_tmdl\\_hearing/apr2010\\_propbpa\\_exec\\_summ.pdf](http://www.waterboards.ca.gov/centralvalley/water_issues/tmdl/central_valley_projects/delta_hg/april_2010_hg_tmdl_hearing/apr2010_propbpa_exec_summ.pdf)

Exposure Reduction Program

While methylmercury and mercury source reductions are occurring, the Regional Water Board recognizes that activities need to be undertaken with people who eat Delta fish to reduce their methylmercury exposure and potential health risks. The Exposure Reduction Program is not intended to replace timely reduction of mercury and methylmercury in Delta waters.

The Central Valley Water Board will investigate ways, consistent with its regulatory authority, to address public health impacts of mercury in Delta fish, including activities that if possible are intended to help reduce actual and potential exposure ~~of and mitigate health impacts~~ to those people and communities most likely to be affected by mercury in Delta caught fish, such as subsistence fishers and their families.

By [one year after Effective Date], Board staff shall work with dischargers, State and local public health agencies, and stakeholders, including community-based organizations and Delta fish consumers to complete an Exposure Reduction Strategy. The purposes of the strategy will be to recommend to the Executive Officer which dischargers will be responsible for participating in an Exposure Reduction Program and propose a process for developing, funding and implementing the program in a collaborative manner. The level of participation should be based on the dischargers proportional contribution to the mercury impairment. At a minimum, point source dischargers and the state and federal agency dischargers shall be responsible for conducting the Exposure Reduction Program. In the absence of participation recommendations provided through the Exposure Reduction Strategy, methylmercury dischargers shall be individually responsible for the Exposure Reduction Program requirements.

The objectives of the Exposure Reduction Program are to:

- help reduce actual and potential mercury exposure, if possible, of Delta fish consumers most likely affected by mercury;
- develop and implement community-driven activities to reduce mercury exposure;
- raise awareness of fish contamination issues among people and communities most likely affected by mercury in Delta-caught fish such as subsistence fishers and their families;
- integrate community-based organizations that serve Delta fish consumers, Delta fish consumers, and public health agencies in the design and implementation of an exposure reduction program; and
- identify resources, as needed, for community-based organizations to participate in the Program.

The dischargers, individually or collectively, or based on the Exposure Reduction Strategy, shall submit an exposure reduction workplan for Executive Officer approval by [two years after Effective Date]. The workplan shall address the Exposure Reduction Program objectives and dischargers' coordination with other stakeholders. Dischargers shall integrate or, at a minimum, provide good-faith

opportunities for integration of community-based organizations and consumers of Delta fish into planning, decision making, and implementation of exposure reduction activities.

The dischargers shall implement the workplan by [four years after Effective Date]. Every three years after workplan implementation begins, the dischargers, individually or collectively, shall provide a progress report to the Executive Officer. Dischargers shall participate in the exposure reduction program based on their proportional contribution to the mercury impairment and until they meet all requirements related to their individual methylmercury allocation.

The California Department of Public Health, the California Office of Environmental Health Hazard Assessment, and the local county public health and/or environmental health departments should collaborate with dischargers and community members to develop and implement exposure reduction programs and provide guidance to dischargers and others that are conducting such activities. The California Department of Public Health and/or other appropriate agency should seek funds to contribute to the Exposure Reduction Program and to continue it beyond 2030, if needed, until fish tissue objectives are attained.

The State Water Board should develop a statewide policy that defines the authority and provides guidance for exposure reduction programs, including guidance on addressing public health impacts of mercury, activities that reduce actual and potential exposure ~~of, and mitigating health impacts~~ to those people and communities most likely to be affected by mercury.