

**Delta Methylmercury (MeHg) Total Maximum Daily Load (TMDL) and  
Basin Plan Amendment**

**Stakeholder Informational Meeting  
Draft Meeting Summary**

**MEETING DATE:** April 21, 2009

**LOCATION:** Central Valley Regional Water Quality Control Board (Board)  
Office  
11020 Sun Center Drive #200  
Rancho Cordova, CA

**ATTENDEES:** See attachment

**ACTION ITEMS**

1. Center for Collaborative Policy (CCP) will develop and launch the online document repository and project calendar.
2. CCP will revise the March 26 meeting summary as per comments provided in this meeting.
3. CCP will determine and report back to the Delta MeHg TMDL stakeholders if the “20 by 2020” water conservation program (part of the Department of Water Resources [DWR] Water Plan process) is addressing potential water quality impacts associated with increased concentrations of contaminants due to recycled water techniques.
4. Bruce Houdesheldt, Northern California Water Association, will join future Adaptive Framework Workgroup meetings. Rex Bell of PGE has stepped down from the Adaptive Framework Workgroup due to other commitments.
5. Central Valley Regional Water Quality Control Board (Water Board) will clarify funding options and possible next steps in an email to the group.

**MEETING SUMMARY**

**Welcome, Introductions, and Agenda Review**

Dave Ceppos, CCP Facilitator, welcomed everyone to the meeting reviewed the stakeholder processes thus far and addressed logistics of the Water Board facilities. Mr. Ceppos then reviewed the agenda.

Mr. Ceppos stated that during the last meeting on March 26<sup>th</sup> the group suggested holding a series of scientific presentations. Mr. Ceppos announced that Michelle Wood, Water Board Staff, would be making a presentation about the TMDL and Basin Plan Amendment process, specifically regarding the technical bases for decision-making to date on the TMDL. Patrick Morris, Water Board Staff, added that Ms. Wood’s presentation was a shortened version of what she had presented in the past, and suggested conducting another educational presentation at the upcoming May 14<sup>th</sup> meeting.

Mr. Ceppos then asked each person in the room and on the phone to introduce themselves.

Mr. Ceppos asked the group to review the draft meeting summary from the March 26<sup>th</sup> Meeting. The group suggested defining all acronyms found on the attendee list and throughout the document to make sure the summary is more user friendly. Attendees also reminded CCP that an additional Principle had been suggested at the March 26 meeting but was inadvertently forgotten.

### **Online Project Document Repository**

Christal Love, CCP presented the two options for the online document repository.

1. Adding a tab on the existing Sacramento River Watershed Project website
2. Creating a FTP-like website maintained by CCP

After discussing the pros and cons of the two options, the group agreed to move forward with the CCP managed website for the next few months and then transfer to the Sacramento River Watershed Project site once their document library is up and fully functional. One member suggested looking at the Central Valley Salts website as a model. Mr. Ceppos stated that the online document repository website could also include a calendar of upcoming meetings.

### **Review and Discuss DRAFT Outcomes from Principles Workgroup**

Mr. Morris explained that due to the Easter holiday the Principles Workgroup had a difficult time getting together after the March 26<sup>th</sup> meeting. He assured the group that this Workgroup would meet soon to work on further revising the guiding principles text and to discuss newly suggested principles.

### **Review and Discuss DRAFT Outcomes from NPDES Workgroup**

Stephen McCord, Larry Walker Associates, gave a recap of the last NPDES meeting. He stressed that the NPDES workgroup was not restricted to just pointsource dischargers; and that any work product that comes out of the Workgroup will be vetted by the full Stakeholder Group before being decided upon. He also made the broad point that if you reduce total mercury you reduce MeHg and that water treatment plants are no different.

He said the key workgroup discussion topics were the following:

- Unattainable wastewater discharger allocations.
- Challenges in how to address / resolve load vs. concentration limits.
- Inconsistent inclusion of upstream dischargers in Draft TMDL.
- Regionalization; when a plant stops discharging does their effluent and /or their allocations transfer to another treatment facility.
- Benefits and drawbacks of recycling wastewater and not discharging it. When doing so, storage basins of recycled water may increase MeHg production as well as increase concentrations of MeHg and other contaminants.

The group made the following comments regarding the NPDES Workgroup Outcomes:

- Has the focus been on concentrations in discharged water, or fish tissue?  
*Mr. McCord Response: the focus is on concentrations in discharged water. The bottom line for water treatment facilities is what is coming out of the pipe. That is what they're responsible for. The concern among these dischargers is that there is enough uncertainty to warrant not having final limits now, need Phase 1 period. We need the time to study and learn*
- Work that the NPDES Workgroup is doing may be applicable to non point source conditions as well.
- Load vs. concentrations both allow discharge of pollutant into water. There should be concerns about this under the Clean Water Act. When you set a limit that dischargers have to meet, it takes away incentives to do something more than a prescribed minimum.

Mr. Ceppos reminded the group about the March 26 discussion regarding incentives and/or strategies and that this needs to be discussed further by the group.

- Can not keep nature from doing what it needs to do. In that regard, the group has not heard much about what could be done now (what would low hanging projects look like).
- The Adaptive Framework Workgroup has talked about putting a science advisory group together. In the meantime, the focus should be on controlling total mercury.
- The Water Board has always wanted regionalization to occur. If waste is transferred, the allocation should go as well. If you take away dilution, you make other problems worse.
- Problem with using less water in a water treatment plant is that the concentrations will increase. This could create disincentives to recycled water.

Mr. Ceppos suggested looking at the “20 by 2020” water conservation program (part of the DWR Water Plan process) to see if it is addressing potential water quality impacts associated with increased concentrations of contaminants due to recycled water techniques. CCP committed to doing this.

Chris Foe, Water Board Staff, added that for long run, the best way to meet any kind of limit is to reduce the flow from source loads upstream.

- Why not put into place a daily equivalent amount; as long as they are not surpassing the maximum daily load. This would allow dischargers to not get caught by something that looks like a concentration exceedance but is not when averaged over a daily discharge.  
*Mr. McCord responded that that is probably what is going to happen.*

## Review and Discuss Draft Outcomes of the Adaptive Framework Workgroup

Mr. Ceppos explained that the Adaptive Framework Workgroup reviewed Attachment A (prepared by Water Board Staff in February 2009, the Draft Basin Plan Amendment from February 2008, and the stakeholder suggestions from the March 26<sup>th</sup> meeting.

Sally Liu, The Nature Conservatory, walked the group through the results of the Workgroup discussion. The key points were as follows:

- The Workgroup would like to get feedback from the larger Stakeholder Group on ideas to identify and work with potential landowner dischargers that may be affected by controls, actions, and potentially studies.
- There may be a need to develop stakeholder relationships that may not currently exist.
- Stakeholders and the Board need to assess the effectiveness of the current Watershed Coalitions model being used to coordinate landowners under the Irrigated Lands Regulatory Program to see if that model will work for the MeHg TMDL, or whether a different approach is needed to access and coordinate stakeholders.

The group made the following comments on the Adaptive Framework Workgroup discussion outcomes:

- Some wetlands are turning total mercury into MeHg and some are not; how would the Workgroup deal with those kinds of complications?  
*Ms. Liu responded that the group did not discuss that level of detail, but wetland managers understand the complications. There is a lot of variation in the system. Mr. Ceppos added that the Adaptive Framework Workgroup would discuss how to manage and coordinate different wetlands.*
- Each Workgroup will put their suggested language into the Draft Basin Plan Amendment and then bring to the full Stakeholder Group for review.
- What is the envisioned funding source of the Technical Advisory Committee? Who is paying for those experts to come and speak to the Stakeholder Group?
- Will Stakeholders and Water Board Staff need to identify potential affected landowners in the Delta?  
*Mr. Ceppos responded that the Water Board was looking for a way to not regulate on a parcel-by-parcel basis; but rather figure out how each coalition can do its own monitoring. This is the model they have been using for irrigated lands.*
- Have Agriculture interests and parties been participating in the stakeholder process?  
*Mr. Ceppos responded by listing the four different Agriculture groups that have been participating thus far (California Rice Commission, California Farm Bureau Federation, South Delta Water Agency, and the Northern California Water Association.*
- The legacy nature of the mercury is creating the basis for the MeHg problem.
- The Irrigated Lands Regulatory Program has generated communication amongst Stakeholders but was not set up to deal with technical components like those included in the Delta MeHg TMDL.

- Without past human actions, mercury may not be in the Delta.
- One meal a week of contaminated fish may not be a practical consumption level.
- The Irrigated Lands Regulatory Program was developed for Agriculture interest groups; wetland managers would like to use a different approach.
- If people were not managing wetlands, and wetlands still existed, then there would still be MeHg created regardless of any human action.

Mr. Ceppos reminded the group that they have expressed a desire to not get bogged down in process and to keep moving toward solutions. He also noted that many of these comments are similar to comments at previous meetings. He encouraged the group that their best interest is to focus on moving forward, rather than reiterate previous challenges.

- Would not support waivers for wetlands, want to see wetlands restored. Do not support the Ag Waiver Program. The coalition model is not the right model for this problem.

Mr. Ceppos asked if the Stakeholder Group supported doing studies and actions during Phase I. The commenter responded that if wetland managers would be trying to implement actions along the way, then they supported the proposed model; just did not want to wait eight years before beginning actions.

- We cannot go back to the natural system that existed before the nineteenth century gold rush.
- Should there be a waiver against future permits against Duck Unlimited or mitigation as long as habitat is there for conservation and not commercial gain?  
*Ms. Liu responded that this is part of the phase 1 process.*

Mr. Ceppos suggested that the rest of the items on the Adaptive Framework Workgroup discussion topics list be picked up at the end of the meeting or at a future meeting. Mr. Ceppos quickly reviewed the three discussion topics that the group did not have time to discuss.

1. The Workgroup needs to get feedback from the larger Stakeholder Group about proposed methods to integrate stakeholder input to a technical advisory committee (TAC), and for a TAC and a Stakeholder Group to work together.
2. The Workgroup needs to get feedback from the larger group on a proposed idea to create a “Stakeholder Science Committee”
3. The Workgroup needs to discuss Principle 10 (from March 26 meeting further), and the role of proportional contribution / responsibility and associated liability of related dischargers.

## **Review and Discuss Proposed Schedule and Stakeholder Process**

Pamela Creedon, Executive Officer, Water Board, presented the Board’s perspective on the stakeholder process, proposed schedule, and participants.

Mr. Ceppos introduced the project schedule / table CCP created. He said this format would allow the Stakeholder Group and Staff to track the status of each component of the revised TMDL report and Basin Plan Amendment. He added that the table was populated with current information provided by Water Board Staff. Ms. Creedon clarified that the Board was not doing a technical TMDL, they are doing a TMD and that "Technical TMDL" has specific connotations within EPA that do not apply to this TMDL.

Mr. Ceppos presented two main points to the group:

1. Stakeholders say they do not want this to be a protracted endless process.
2. There are a compelling set of milestones that the Board is trying to achieve. There is a lot of work that needs to be done; it may not be possible to finish by mid May.

He stated that these issues were critical to what would be discussed at the Regional Board Meeting on Thursday April 23, 2009.

The Stakeholder Group made the following comments regarding the Boards consideration of the continuation of this stakeholder process:

- There has been a lot of benefit created by the discussion; how much more time is needed for the stakeholder process?
- This process has been exactly what we wanted. In the end we will end up with a good TMDL. This process has brought the stakeholders together.
- So far the Stakeholder Group has been talking about process, and big general key concepts. Have not seen the discussion that is needed.
- We should be less focused on what date the TMDL needs to be completed by, and more on what the best solutions we can create.
- There is a tremendous amount of momentum in this Stakeholder Group that makes it hard to enter into the process as a newcomer.
- This Stakeholder Group has established an ongoing process. Supportive of an adaptive framework approach. This kind of stakeholder engagement is essential. Would like to know more details regarding the schedule and level of detail.

Ms. Creedon stated that Water Board Staff has been involved in this TMDL since 2002. The original TMDL due date was 2007. Ms. Creedon stated she was looking to complete the process by February 2010. She said she was trying to work through other avenues to find funding to continue the Stakeholder Group process.

Comment Continued:

- If there are members of the Environmental Justice community at the table they are the ones who need the money.
- Has some mechanism been set up for groups to contribute funding?
- The Water Board should allow this process to slow down or go on hold and wait until funding becomes available again.

*Ms. Creedon replied that she has staff funded by EPA who will continue to work on this TMDL until it is done.*

Mr. Ceppos explained that bridge funding can be through contracts or in-kind services. The five thousand dollars contributed by Sacramento Regional County Sanitation District came in through an existing contract with CCP. CCP would create a unified scope and approach to simplify the contracting process for contributing agencies. Mr. Ceppos said CCP has had a number of conversations over the last few days with Water Board Staff regarding funding options. One option would be to have CCP step out, and Water Board Staff move the stakeholder process forward without them; or simply reduce CCP presence.

When asked if there was a specific dollar amount the Water Board was looking for; Mr. Ceppos replied that 74 thousand dollars would bring the stakeholder process through December 2009. Mr. Ceppos added that this situation will not create a pay to play scenario. Should some stakeholders choose to financially contribute they would get the same treatment as those who did not contribute. Mr. Ceppos said that because of recent economic conditions, the public input process has changed. For the last two years large stakeholder processes have begun to be funded by multiple groups more frequently.

Mr. Morris informed the group there was funding for this stakeholder process through April 2009. Mr. Ceppos added that he was in the process of getting approval for CCP to continue to work at risk for another month or two.

Comments Continued:

- Do not want to take the pressure off the TMDL deadline. Appreciate the time and effort being given. Future TMDL's should fall into place and go faster in the long run because of this TMDL.
- It is important to know what stakeholders are able to financially contribute.
- This is a very valuable process; it would be a shame to see it stop.
- Would like to know how the schedule and milestone targets will be met.
- The reality is that if funding falls through, the process could continue and the Regional Board would make the ultimate decision. Does not want the TMDL to be appealed through the courts.
- Very supportive of this process; despite the rocky start. Sacramento Regional County Sanitation District will match previous contribution. All agencies are facing a tough financial time right now.
- We are very supportive of this process; however we do not have budget to contribute to the meetings. Will continue to participate, have an interest in the stakeholder process and protecting the environment.
- City is in the business of regularly paying fines to the Regional Board. Can City pay in advance to help fund the Stakeholder process?
- Can the group go forward with much reduced budget?

Mr. Morris added that the stakeholder process will not end when CCP is no longer involved. He stated he was hoping that the stakeholders would take the lead in the future.

Ms. Creedon assured the Stakeholder Group that just because the process may not include CCP; it does not mean the process can not continue.

Mr. Ceppos suggested that if members of the group had gotten to a point where they felt like they had been heard and there is sufficient stakeholder capacity, they should move forward without CCP. He stated the email from Ms. Creedon asked for communication regarding funding support. He said he had heard a lot of support for this process and will go forward with the recommendation of a formal group. He said the May 18<sup>th</sup> target deadline was not feasible in CCP's opinion. Mr. Ceppos added that the group could also move forward with a truncated 3 month process.

Mr. Morris committed to sending a follow up email to the group clarifying the funding situation and potential options.

### **TMDL Technical Presentation**

Michelle Wood, Board Staff, presented an overview of the scientific foundation for TMDL development and basin planning (see attached PowerPoint presentation). The group made the following comments during portions of the presentation. The presentation ended early, to be picked up at the May 14<sup>th</sup> meeting.

(Slide 6 Comments)

- Are you defining allocations based on source analysis?

*Ms. Wood responded that the source analysis feeds into implementation alternatives analysis. Board Staff used all these pieces to calculate the allocations.*

(Slide 9 Comments)

- How do the numeric targets relate to drinking water?

*Ms. Wood responded that drinking water targets are different than wastewater, but connected. Drinking water has higher target levels.*

(Slide 10 Comments)

- What is the 0.3 mg/kg based on?

*Janice Cook, Board Staff, responded that it was based on body weight and consumption amount. The safety factor is 3 fold (300%). The size of the fish matters.*

(Slide 11 Comments)

- Are the numeric targets the EPA default value?

*Ms. Cook responded that their default is to protect subsistence fishers.*

(Slide 14 Comments)

- What does it matter what the average is; doesn't it come down to what the situation is in the Delta?

*Ms. Wood responded that there were 600 waterways used in the sample. The average gives an idea of how low the Delta can go. Ms. Cook added that the average provides a starting point.*

- *What about need to protect the most sensitive beneficial uses.*

*Mr. Foe responded that the Board Staff first looked at wildlife, and then looked at humans, and found a number that was a “fishable” amount that also worked with wildlife.*

- *Working with communities to lower their risk to exposure is another way to go.*

*Mr. Foe stated that the Board Staff knows they can not protect everybody. There are people currently eating 10 times the EPA recommended dose.*

Several members of the group expressed their desire to have had the technical presentation earlier in the day.

Mr. Ceppos agreed, and stated that the scientific presentation would be picked up again early during the May 14<sup>th</sup> meeting.

**Adjourn**

### April 21 Attendees

Dave Ceppos	Center For Collaborative Policy
Christal Love	Center For Collaborative Policy
Patrick Morris	Central Valley Regional Water Quality Control Board
Michelle Wood	Central Valley Regional Water Quality Control Board
Chris Lee	Solano County Water Agency
Mark List	CA Dept of Water Resources
Lysa Voight	Sacramento Regional County Sanitation District
Judi Quan	Delta Protection Commission
Bob Schneider	Tuleyome
Erik Ringelburg	Wallace-Kuhl & Associates
Robert Morrow	E System Analysts
Tony Pirondini	City of Vacaville
Sally Liu	The Nature Conservancy
Paul Buttner	CA Rice Commission
Becky Wood	Teichert
Andria Ventura	Clean Water Action
Jeff Wingfield	Port of Stockton
Holden Brink	Cosumnes River Preserve, Bureau of Land Management
Tim Stevens	CA Dept of Fish and Game
Mark Cooke	City of Woodland
Erich Delmas	City of Tracy
David R. Williams	Central Valley Flood Protection Board
Nancy Moricz	Central Valley Flood Protection Board
Dan Fua	Central Valley Flood Protection Board
Gita Kapahi	State Water Resources Control Board
Thomas Maurer	U.S. Fish and Wildlife
Janis Cooke	Central Valley Regional Water Quality Control Board
Rudy Rosen	Ducks Unlimited
Carolyn Yale	U.S. Environmental Protection Agency
Stephen McCord	Larry Walker Associates
Terrie Mitchell	Sacramento Regional County Sanitation District
Jeff Willett	City of Stockton
Kim Spear	City of Roseville
Kari Fisher	California Farm Bureau Federation
Stefan Lorenzato	Yolo County Flood Control and Water Conservation District
Cory Koger	U.S. Army Corp of Engineers
Greg Yarris	California Waterfowl Association
Dan Cloak	Dan Cloak Environmental Consulting
Hong Lin	City of Sacramento
Christine Cordero	Center for Environmental Health
Misty Kaltreider	Solano County
Bruce Houdesheldt	Northern California Water Association
Pablo Garza	The Nature Conservancy