



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

JUL 03 2012

Bruce H. Wolfe
Executive Officer
California Regional Water Quality Control Board,
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, California 94612

Dear Mr. Wolfe:

The U.S. Environmental Protection Agency (EPA) has completed a review of San Francisco Bay Regional Water Quality Control Board (Regional Water Board) Resolution No. R2-2012-0040, *A Total Maximum Daily Load (TMDL) and Implementation Plan for Mercury in Tomales Bay*, and the associated Staff Report. Since the TMDL and Implementation Plan do not require the Regional Water Board to take any new regulatory action to implement the TMDL, the TMDL is complete upon Regional Water Board adoption of the Resolution and does not require further action by the State Water Resources Control Board. I am pleased to inform you that we are approving the TMDL for mercury in Tomales Bay.

The Regional Water Board adopted Resolution No. R2-2012-0040, on May 9, 2012. EPA received the Regional Water Board's request for approval on June 11, 2012. By this letter, EPA is approving the TMDL pursuant to CWA section 303(d)(2) and its implementing regulations at 40 CFR Part 130.

The Regional Water Board Resolution

The Regional Water Board adopted Regional Water Board Resolution No. R2-2012-0040 which includes Exhibit A, *Summary of Tomales Bay Mercury TMDL*. Exhibit A summarizes the TMDL elements and the implementation plan. The Staff Report, *Total Maximum Daily Load (TMDL) for Mercury in Tomales Bay*, dated April 2012, contains detailed discussions of the TMDL elements and implementation plan.

Today's Action

Section 303(d)(2) of the CWA requires EPA to approve or disapprove TMDLs for identified impaired water bodies. CWA section 303(d)(1) requires the TMDLs to be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety.

EPA has determined that the portions of the above Resolution to establish a mercury TMDL for Tomales Bay are subject to EPA's approval authority under CWA section 303(d)(2). EPA has reviewed the Resolution and associated Staff Report, and has concluded the TMDL adequately addresses the pollutant of concern and, upon implementation, will result in attainment of the applicable water quality standards for Tomales Bay. The TMDL includes load and wasteload allocations as needed, takes into consideration seasonal variations and critical conditions, and provides an adequate margin of safety. All required elements are addressed.

Public Participation

EPA acknowledges the State on its efforts to include the public in the development and review of the Resolution to establish a mercury TMDL for Tomales Bay. Public involvement is an integral component of a successful water quality program. On March 12, 2012, the Regional Water Board publicly noticed and distributed the proposed Resolution and Staff Report, and took written comment. On May 9, 2012, the Regional Water Board held a public hearing and heard public testimony on the proposed Resolution. Based upon our review, we have concluded that the public review procedures followed by the Regional Water Board in the development of Regional Water Board Resolution No. R2-2012-0040 were consistent with the procedural requirements for public review and comment on TMDLs, and demonstrate how public comments were considered in the final TMDL.

The TMDL submittal also contains a detailed plan for implementing the TMDL. The plan states that implementing actions required for the Walker Creek Mercury TMDL and for the cleanup of the Gambonini Mine will be sufficient to implement the mercury TMDL for Tomales Bay. Current federal regulations do not define TMDLs as containing implementation plans; therefore, EPA is not taking action on the implementation plan provided with this TMDL submittal. However, EPA concurs with the State's proposed implementation approaches.

EPA commends the Regional Water Board staff for its excellent work concerning the mercury TMDL for Tomales Bay. If there are any questions concerning our approval action, please call me at (415) 972-3409, or Diane Fleck of my staff at (415) 972-3480. As always, we look forward to continued cooperation with the State in achieving our mutual environmental goals.

Sincerely yours,



Nancy Woo
Acting Director, Water Division

cc: Thomas Howard, Executive Director,
California State Water Resources Control Board