

April 7, 2010

Ms. Kathryn Hart, Chair
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114
Via: pmorris@waterboards.ca.gov

Re: Proposed Delta Methylmercury TMDL/Basin Plan Amendment

Dear Chairwoman Hart and Fellow Members of the Board,

Thank you for the opportunity to comment on the Delta Methylmercury TMDL/Basin Plan Amendment (BPA). Tuleyome has participated on the working group over the past year in efforts to develop an effective TMDL/BPA and implementation process.

Tuleyome is a non-profit conservation organization based in Woodland, with a regional focus that includes the Northern Inner Coast Range and Western Sacramento Valley. We work in the Cache Creek and Putah Creek watersheds and, as you are aware, we know that the Cache Creek basin contributes one-half of the mercury introduced into the Sacramento River system. We also work in the Yolo Bypass and are tracking issues related to the Cache Creek settling basin.

In its participation, Tuleyome has relied on three key principles:

- We support environmental justice causes, and therefore we generally support the comments of Clean Water Action (CWA) and the California Indian Environmental Alliance (CIEA).
- We support environmentally positive projects, like restoring wetlands and fish habitat in the Delta and the Bypass, and we don't support state programs that make it more difficult to accomplish those results.
- We support mercury reduction offset programs, including reducing mercury contamination from old mines and other sources in Delta tributaries, and in fact believe that these should have a priority in implementing the TMDL/BPA.

Environmental Justice:

Tuleyome generally supports the comments of Clear Water Action and the California Indian Environmental Alliance. CWA has done a thorough job of analysis and advocacy for the protection of the public and the interests of disadvantaged communities.

In particular, we want to emphasize our concurrence with the CWA comment that “the proposed BPA does not represent a consensus of all stakeholders, especially those most impacted by methylmercury in the Delta and in Delta fish.”

We complement Water Board staff for their efforts to be inclusive in this process. They really made a tremendous effort. We also want to state that we felt that everyone who was in the room was receptive to a range of concerns and supportive of an inclusive effort, and we complement them. They care.

Nonetheless, we concur with CWA and the CIEA that adequate resources and time were not available to implement a valid stakeholder process. To be clear, the “stakeholder group” process did not fully represent tribes, community groups, and other actual stakeholders so much as it was a platform for a group of dischargers with vested interests in the outcome.

Wetlands and Fisheries:

Wetlands and fisheries are vital elements in the web of life in the Delta. We strongly support monitoring and the adoption of best management practices to minimize methylation of mercury in these habitats. However, potential tradeoffs between incremental methylation and enhanced wetland and fisheries habitat have not been fully characterized in the TMDL/BPA process, and thus represent a need for additional scientific study and policy formulation. In addition, the potential effects of the Bay Delta Conservation Plan’s development and adoption are likely to affect the TMDL/BPA in ways that cannot be fully foreseen at this time. We recommend that the TMDL/BPA adopt clear goals statements regarding the protection of these resources while remaining flexible with respect to implementation.

Mercury Offsets Program:

We concur with CWA that mercury and methylmercury “hotspots” must be addressed to the fullest extent feasible. However, we also recognize that efforts to attain incrementally small reductions may not be feasible or the most cost-effective approach to reducing total mercury and methylmercury loading in the Delta. As a result, we support offset programs that can provide large gains in mercury and methylmercury reductions that benefit everyone throughout the watershed. In particular, the benefits that result from source-reduction and clean-up programs at “hot spots” throughout the Cache Creek basin should be recognized as a cost-effective approach throughout the TMDL/BPA.

It may be difficult to establish uniform guidelines for these offset programs. Offset programs must be beneficial to all parties, but they cannot be an excuse for dischargers to evade responsibility. In the end, the dischargers (and their rate payers), the environment, and public must all benefit. While addressing mercury releases from existing sources, we nonetheless urge that the Water Board expand its efforts to develop and implement regional offset programs as a cost-effective approach to mercury reduction in the Delta.

Conclusion:

Developing this TMDL/BPA has been a long and difficult process. It is time to move forward. We encourage you in particular to address the CWA comments; environmental justice issues generally, which are particularly poignant with this TMDL program; and Tuleyome's concerns with respect to wetlands, fisheries, and mercury offset programs.

Tuleyome looks forward to participating in the implementation of the Delta Methylmercury TMDL/Basin Plan Amendment. Please maintain us on your list of interested parties during future Water Board TMDL/BPA considerations.

Sincerely,

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