

April 1, 2010

Ms. Katherine Hart, Chair and Board Members
Central Valley Regional Water Quality Control Board (Board)
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670

RE: Basin Plan Amendment (BPA) for the Control of Methyl and Total Mercury in the Sacramento-San Joaquin Delta Estuary

Dear Chairwoman Hart,

The Nature Conservancy (Conservancy) is pleased to support the BPA for the Control of Methyl and Total Mercury in the Sacramento-San Joaquin Delta Estuary.

The Conservancy has been actively protecting and restoring wetland habitat in the Sacramento-San Joaquin River Delta region for over two decades. Our objectives are to ensure that restoration of the Delta is unimpeded while addressing the potential methylmercury production on restored lands, and to ensure that mercury control measures that are implemented in Phase II are cost-effective and lead to meaningful reductions of methylmercury.

As a collaborative, science-based organization, the Conservancy relies on the best available science and collaborative partnership efforts to achieve its conservation goals. We have been involved in the development of the Methylmercury TMDL and BPA for many years and supported the stakeholder process that led to the February 2010 public review documents.

We appreciate the collaborative effort put forward by the Board to ensure that the stakeholders understand and support development of the BPA, which we as stakeholders will ultimately have to implement. As such, we are pleased that the draft Resolution indicates continued support of collaborative efforts between stakeholders and Board staff in the development of an adaptive management plan.

We believe the following are important elements of the BPA that have benefited from the rigorous discussion and vetting that has resulted from the stakeholder process:

- The “Phase 1 Delta Mercury Control Program Review” (BPA, p. 9) is an important component of the BPA to ensure that control studies are the right track and are not having unintended consequences to other natural processes and their associated benefits:

“The Regional Water Board shall assess: (a) the effectiveness, costs, potential environmental effects, and technical and economic feasibility of potential

methylmercury control methods; (b) whether implementation of some control methods would have negative impacts on other project or activity benefits; (c) methods that can be employed to minimize or avoid potentially significant negative impacts to project or activity benefits that may result from control methods; (d) implementation plans and schedules proposed by the dischargers; and (e) whether methylmercury allocations can be attained.”

- Consideration of scheduling constraints: The Phase 1 schedule allows for flexibility in Mercury Control Studies Schedule requirements with Executive Officer approval, if more time is needed for collaborative stakeholder-driven studies to be developed, funded, and completed. This flexibility is appreciated, such that these collaborative, integrated approaches can be developed and implemented, and, therefore, provide valuable study results useful to all nonpoint source discharges.
- Recognition that mercury contamination is a legacy issue and will require significant funding to address: “The State of California should establish the means to fund a portion of the mercury control projects in the Delta and upstream watersheds.” (BPA, p.15)
- Reducing levels of methylmercury will take time, but in the meantime efforts must be made to address the significant public health threat that it poses. For this reason, the Conservancy believes the draft Exposure Reduction Plan (March 1, 2010) is a good start and we look forward to participating in its development.

As participants in the Stakeholder group, the Conservancy commits to working collaboratively in the coming years. We urge the Board to support your staff in continuing to work with the Stakeholder group during Phase 1 of the Delta Mercury Control Program, and to base your conclusions, recommendations, and decisions on scientific evidence and social/environmental costs and benefits. Additionally, we urge you to seek funding that will assist the Stakeholder group to work together to understand and resolve the impacts caused by the methylmercury impairment.

Sincerely,

A handwritten signature in black ink that reads "Leo Winternitz". The signature is written in a cursive, slightly slanted style.

Leo Winternitz
Delta Project Director