



CLEAN WATER ACTION

February 28, 2008

Attn: Dale Bowyer
San Francisco Regional Water Quality Control Board
1515 Clay Street, 14th Floor
Oakland, CA 94612
Sent via electronic mail to mrp@waterboards.ca.gov

RE: Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit

Dear Members and Staff of the Regional Board:

On behalf of **Clean Water Action, the North Richmond Shoreline Open Space Alliance, the Environmental Justice Coalition for Water, the Ma'at Youth Academy** and our thousands of members throughout the Bay Area, we are writing to express our concern with the weak language in the proposed Municipal Regional Stormwater NPDES Permit (MRP) regarding risk reduction in our subsistence fishing communities.

Along with its high levels of bioaccumulative contaminants such as PCBs and mercury, San Francisco Bay also has a high percentage of its local population that subsistence fish out of economic need and/or cultural tradition. A 1998 study by the Asian Pacific Environmental Network showed that subsistence consumption rates can be as high as 100-450 g/day of Bay-caught fish, hundreds of times higher than what state fish consumption advisories for many popular species describe as safe.¹ This means that our low income communities and communities of color are at particular risk from exposure to these toxic chemicals. In its Resolution 2005-0060, the State Board provided clear direction to the Regional Board on the serious issue of protecting vulnerable fishing populations from the pollution contaminating the Bay's fish, especially when so many have no other choice but to fish locally for food.

Language echoing the State Board's directive was included in the mercury TMDL for San Francisco Bay, including in the various sections addressing discharger responsibilities to reduce mercury. The Regional Board also wisely included it in the PCBs TMDL, recognizing the State Board's intent of protecting people who rely on the Bay for basic nutrition from all bioaccumulative pollutants. The Basin Plan amendment for PCBs mirrors the State Board's resolution by clearly stating that the Regional Board will work with other state agencies and with dischargers to pursue exposure management strategies, including "investigating and implementing actions to address the public health impacts of PCBs in San Francisco Bay/Delta fish, including **activities that reduce the actual and potential exposure of, and mitigate health impacts** to, people and communities most likely to be consuming PCB-contaminated fish from San Francisco Bay, such as recreational and subsistence fishers and their families." (Emphasis added)

¹ APEN, 1998, "A Seafood Consumption Survey of the Laotian Community of West Contra Costa County, CA." Asian Pacific Environmental Network, Oakland, CA.

Given the Regional Board's commitment to meeting the State Board's mandate as stated in these two TMDLs, we are confused why the proposed language related to exposure reduction in the MRP is watered down. Provision C.12.i. simply reads:

“Permittees shall take actions to manage human health risks from PCBs in Bay fish consumed by humans. The Permittees may coordinate with Bay Region wastewater dischargers in this effort. This requirement may be satisfied by a combination of related efforts through the RMP or other similar collaborative efforts.”

Provision C.11.i includes similar language.

The risk-reduction language in Provisions C.11.i. and C.12.i. must be strengthened to implement specific requirements of the Basin Plan resulting from the mercury and PCBs TMDLs. As currently worded, this language is inadequate to ensure dischargers will fully participate in fulfilling the commitments in the Basin Plan, especially given the stormwater community's reluctance in the past to take on their responsibilities to impacted communities while they continue to discharge. Consequently, the language must state clearly that dischargers have a responsibility to ensure that actions necessary to truly reduce the amount of contamination fishers are exposed to are taken and that health impacts are addressed. At the very least, the appropriate language from the Basin Plan should be incorporated into the MRP, while also reflecting the need to work with local communities to develop effective strategies, as follows:

“Permittees shall investigate and implement community based actions to address the public health impacts of bioaccumulative contaminants in San Francisco Bay/Delta fish (such as mercury and PCBs), including activities that reduce the actual and potential exposure of, and mitigate health impacts to, people and communities most likely to be consuming contaminated fish from San Francisco Bay, such as recreational and subsistence fishers and their families.”

Strategies that reduce actual exposure to contaminants goes beyond posting warning signs or providing fishers with information about the contamination given that many in the Bay Area fish out of fundamental need, as well as cultural tradition. Our various organizations have been working directly at the community level to identify ways to reach out to impacted fishers and involve them in determining what actions will best meet their needs and protect their families. We urge the Board and the regulated community to remember that exposure reduction strategies will be effective only with full community input and involvement in implementation. We are committed to working with you to connect your efforts with these communities in order to facilitate a collaborative process. However, unless the Regional Board provides clear, strong direction in its NPDES permits, the responsibilities of the permittees will remain unclear at best, potentially resulting in programs that will do little to lead to real reductions in the amount of mercury, PCBs, and other toxins Bay Area fishers are exposed to.

Sincerely,

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