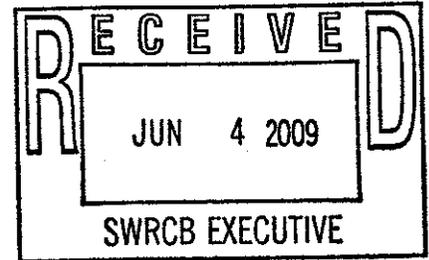




B A S M A A



Alameda Countywide
Clean Water Program

Contra Costa
Clean Water Program

Fairfield-Suisun
Urban Runoff
Management Program

Marin County
Stormwater Pollution
Prevention Program

San Mateo Countywide
Stormwater Pollution
Prevention Program

Santa Clara Valley
Urban Runoff Pollution
Prevention Program

Vallejo
Sanitation and Flood
Control District

June 4, 2009

Peter Martin Jr.
State Water Resources Control Board
Division of Water Quality
1001 I Street
Sacramento, CA 95814

Subject: Proposed approval of Basin Plan Amendment establishing a Total Maximum Daily Load (TMDL) for PCBs in San Francisco Bay

Dear Mr. Martin:

This letter is submitted on behalf of the Bay Area Stormwater Management Agencies Association (BASMAA)¹ in response to the invitation by the State Water Resources Control Board (State Water Board) to submit comments on the proposed amendment to the Water Quality Control Plan for the San Francisco Bay Region (Basin Plan) for the San Francisco Bay PCBs TMDL (hereinafter referred to as the "proposed BPA"). The proposed BPA was developed by the California Regional Water Quality Control Board, San Francisco Bay Region (San Francisco Bay Water Board) and is attached to its Resolution R2-2008-0012.

BASMAA member agencies appreciate the opportunity to comment on the proposed BPA and commend San Francisco Bay Water Board staff on the hard work put into this challenging project. BASMAA is committed to addressing urban runoff-related impairments to beneficial uses of San Francisco Bay. We agree that reducing impairment of the Bay's beneficial uses by PCBs should be a high priority to all Bay Area public agencies and citizens. As public agencies we recognize the importance of this task, and therefore seek a fair, objective, and transparent PCBs TMDL. A TMDL development process based on the best available information, sound science, feasibility, and cost-effectiveness will help establish the legitimacy and legality of the TMDL and inspire the public's confidence.

BASMAA previously submitted comments on the PCBs TMDL to the San Francisco Bay Water Board in letters dated August 20, 2007 and January 22, 2008. We request that these comments be included as appropriate by reference in the record of the upcoming State Water Board public hearing on the PCBs TMDL. Our additional comments are presented below.

Bay Area

Stormwater Management

Agencies Association

1515 Clay Street

Suite 1400

Oakland, CA 94612

510.622.2326

www.basmaa.org

¹ BASMAA is a consortium of the eight municipal stormwater programs in the San Francisco Bay Area representing 90 agencies, including 79 cities and 6 counties. BASMAA is focused on regional challenges and opportunities to improving the quality of stormwater that flows to our local creeks, San Francisco Bay and Delta, and the Ocean. The member agencies of BASMAA are responsible for complying with the requirements of municipal separate storm sewer permits issued by the State.

BASMAA comments on proposed approval of Basin Plan Amendment establishing a TMDL for PCBs in San Francisco Bay

Periodic Review of the TMDL and Adaptive Implementation

The proposed BPA calls for evaluation of new information and incorporation into the TMDL as needed any time within ten years. Furthermore, the proposed BPA states that San Francisco Bay Water Board staff will present an annual progress report to the San Francisco Bay Water Board on implementation of the TMDL that includes evaluation of new and relevant information that becomes available through implementation actions, monitoring, special studies, and the scientific literature. BASMAA requests public noticing of the annual updates and that stakeholders be given the opportunity to present new information at the annual updates and request modification of the TMDL as appropriate.

Cleanup of On-land PCBs Sites

BASMAA requests that the proposed BPA clarifies the roles of agencies in investigating and abating private properties that are potentially releasing soils/sediments containing PCBs to the storm drain system. Stormwater runoff management agencies and municipalities should not be held responsible for abatement of such properties. Instead, municipal agencies would be available to assist with identification of private properties with potential PCB contamination, and would report investigation results, including property locations and/or potentially responsible parties, to the San Francisco Bay Water Board and/or other appropriate regulatory agencies. These agencies would be expected to follow up on further investigation and oversee any necessary abatement.

Stormwater Runoff Implementation Cost Estimate

San Francisco Bay Water Board staff has presented Bay Area municipal wastewater management costs of approximately \$500 million annually as an upper-bound cost for stormwater dischargers to address PCBs and other pollutants of concern. This highly speculative estimate represents an annual cost well beyond anticipated future municipal resources and, according to estimates presented in the PCB TMDL staff report, is a factor of five higher than estimated total current costs associated with all aspects of urban stormwater pollution management in the Bay Area. We would like to emphasize that municipal actions to address PCBs in stormwater runoff will be constrained by available funding and that Proposition 218 severely limits the ability of local government to generate additional revenues for urban stormwater runoff programs.²

Load Reductions

Table A-5 (p. A-6) in the proposed BPA shows stormwater runoff wasteload allocations for each Bay Area county, but does not include associated load reductions, as was done in the San Francisco Bay mercury TMDL Basin Plan amendment. BASMAA requests inclusion of these load reductions by county to potentially compare to loads avoided that may be calculated by each

² Section 6 of Article XIII D of the California Constitution, a part of Proposition 218, requires that property-related fees or charges shall not be imposed or increased unless such fee or charge is approved by either a majority vote of the owners of the affected properties or, at the option of the agency imposing the fee or charge, by a 2/3 vote of the voters residing in the area affected by the fee or charge.

BASMAA comments on proposed approval of Basin Plan Amendment establishing a TMDL for PCBs in San Francisco Bay

countywide stormwater program. Calculating loads avoided on a countywide basis will be a possible means of demonstrating compliance with the wasteload allocations.

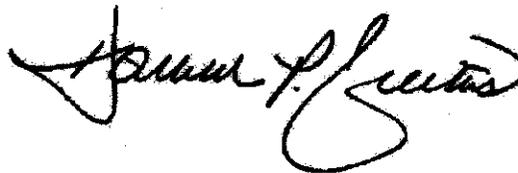
BASMAA Requests to Investigate Potential PCBs Sites

BASMAA agencies previously identified several potential PCBs release sites and requested that San Francisco Bay Water Board staff work with appropriate parties (e.g., PG&E, the Department of Toxic Substances Control and the Toxics division within the San Francisco Bay Water Board) to investigate the possibility that PCBs from these sites had entered storm drains.³ One example is the Delta Star site in the City of San Carlos in San Mateo County. Relatively high levels of PCBs were found in a storm drain sediment sample collected by BASMAA agencies downstream of this site. Electrical equipment containing PCBs was formerly manufactured at the Delta Star property and PCBs have been found in soil and groundwater at the site. Thus this site may be a source of PCBs in storm drain sediments. The San Francisco Bay Water Board is the lead agency overseeing an ongoing site cleanup.

BASMAA provided San Francisco Bay Water Board staff with this information six years ago, but to the best of our knowledge actions have not been taken to further investigate and abate potential releases of PCBs to storm drains from these sites. BASMAA strongly requests that the San Francisco Bay Water Board raise its priority for addressing such sites to expedite reducing impairment of the Bay's beneficial uses by PCBs.

Thank you for the opportunity to submit these comments. Please contact me at 925-313-2373, Jon Konnan (BASMAA PCBs representative) at 510-832-2852 x.108, or Geoff Brosseau (BASMAA Executive Director) at 510-622-2326 if you have any questions.

Sincerely,



Donald P. Freitas
BASMAA Board of Directors Chair

cc: Bruce Wolfe, San Francisco Bay Water Board
Tom Mumley, San Francisco Bay Water Board
BASMAA Board of Directors
Jon Konnan, BASMAA PCBs Representative
Geoff Brosseau, BASMAA Executive Director

³ See June 27, 2003 letter to Mr. Habte-Mariam T. Kifle, California Regional Water Quality Control Board, San Francisco Bay Region, from Robert Davidson, San Mateo Countywide Stormwater Pollution Prevention Program and July 30, 2003 letter to Ms. Jan O'Hara, California Regional Water Quality Control Board, San Francisco Bay Region, from Adam Olivieri, Santa Clara Valley Urban Runoff Pollution Prevention Program.