



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

APR 02 2007

SF Bay Mercury
Deadline: 4/4/07 Noon

Song Her
Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814



Re: Comment Letter – Mercury TMDL in San Francisco Bay

Dear Ms. Her:

Thank you for the opportunity to comment on the Amendment to the Water Quality Control Plan for the San Francisco Bay Region. This revised amendment establishes fish tissue objectives for mercury, vacates the existing water column objective for total mercury, and establishes a total maximum daily load (TMDL) for mercury in San Francisco Bay. We fully support this revised amendment and urge the State Board's adoption. We appreciate the commitment and hard work of the State Board and Regional Board staff to resolve the many difficult issues that arose during the last few years.

We support the Regional Board's proposal to rescind the numeric Basin Plan water column objective for mercury in San Francisco Bay, and replace it with numeric fish-tissue based objectives. The Board's use of the fish consumption information contained in the Technical Report, San Francisco Bay Seafood Consumption Study (SFEI, 2000) to determine human health objectives and compliance requirements is appropriate. The human health and wildlife objectives and respective compliance requirements are reasonable and clearly defined.

We support the changes adopted by the Regional Board concerning the TMDL, including the revisions to individual waste load allocations for NPDES municipal and industrial dischargers, the application of compliance triggers, and the requirements to monitor methylmercury in effluent. The TMDL analysis demonstrates that attainment of the new fish tissue water quality standards will be achieved.

In previous comments to the Regional Board, we noted that the implementation plan allows up to 20 years to achieve final municipal and stormwater waste load allocations (WLAs), and that if this schedule is to be implemented through compliance schedules in NPDES permits, the State will need to submit to EPA, and EPA will need to approve, a compliance schedule-authorizing provision under Clean Water Act Section 303(c). The provision will need to be approved before the State can allow dischargers to exceed water quality-based effluent limitations (WQBELs) based on final WLAs in permits, including the watershed permit on which the Regional Board is currently taking comment. The implementation plan contains language which indicates the Regional

Board's rationale to allow for implementation (compliance) schedules of up to 10 years to achieve interim WLAs and up to 20 years to achieve final WLAs. Any authorizing compliance schedule provision must be consistent with EPA regulations at 40 CFR 122.47, which require that the compliance schedule be appropriate, require compliance as soon as possible, and include interim requirements at specified time intervals. Therefore, when the State Board submits the compliance schedule-authorizing provision to EPA, it should clearly indicate how these requirements have been satisfied, or how they will be satisfied during the permit process.

Our comments in this letter do not constitute an approval, disapproval or determination by EPA under Clean Water Act section 303(c) or 303(d). We will act upon any water quality standards and TMDL submittal following formal State adoption and submittal to EPA.

We are pleased to see the revised amendment and believe it will enhance the State's ability to protect human health and wildlife in the Bay from the adverse effects of mercury. If you have any questions concerning these comments, please call me at (415) 972-3572 or refer staff to Diane Fleck at (415) 972-3480.

Sincerely yours,

 2 April 2007
Alexis Strauss
Director, Water Division