Santa Clara Valley
Urban Runoff
Pollution Prevention Program

Campbell • Cupertino • Los Altos • Los Altos Hills • Los Gatos • Milpitas • Monte Sereno • Mountain View • Palo Alto
San Jose • Santa Clara • Saratoga • Sunnyvale • Santa Clara County • Santa Clara Valley Water District

April 21, 2008

Ms. Carrie Austin
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Proposed Basin Plan Amendment and Staff Report for the Guadalupe River Watershed Mercury Total Maximum Daily Load (TMDL)

Dear Ms. Austin:

This letter is submitted on behalf of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) regarding the *Proposed Basin Plan Amendment (BPA) and Staff Report for the Guadalupe River Watershed Mercury Total Maximum Daily Load (TMDL)*, dated February 2008. The SCVURPPP has been actively engaged in the development of the Mercury TMDL for the San Francisco Bay and has participated on the Guadalupe River Watershed Mercury TMDL workgroup. We would like to thank you for this opportunity to comment on the BPA and Staff Report and commend you for your hard work. Our comments are focused on clarifications and requested revisions to the Staff Report and BPA that are needed to link the previously adopted and approved TMDL for Mercury in the San Francisco Bay and the up-coming Municipal Regional NPDES Permit (MRP) that will be issued to Bay area municipal stormwater programs in the near future.

Comment #1 - Consistency with the San Francisco Bay Mercury TMDL

The Basin Plan Amendment (BPA) for the San Francisco Bay Mercury TMDL[1] assigns load allocations (LAs) and waste load allocations (WLAs) to "Urban Stormwater Runoff" dischargers, including the SCVURPPP. The WLA for SCVURPPP in the Bay Mercury TMDL is 23 kg/yr and includes the mass of mercury attributable to urban stormwater runoff from the Guadalupe River watershed (7.2 kg/yr). To demonstrate progress toward attaining the WLA in the Bay Mercury TMDL, SCVURPPP can use one of the following methods described in the BPA for the Bay:

1. Quantifying the annual average mercury load reduced by implementing (a) pollution prevention activities, and (b) source and treatment controls;

[1] Adopted by the San Francisco Bay Regional Water Quality Control Board on August 9, 2006; approved by the State Water Resources Control Board on July 17, 2007; approved by the State of California Office of Administrative Law on November 7, 2007.

699 Town & Country Village • Sunnyvale, CA 94086 • tel: (408) 720-8833 • fax: (408) 720-8812
1410 Jackson Street • Oakland, CA 94612 • tel: (510) 832-2852 • fax: (510) 832-2856
1-800-794-2482

2. Quantifying the mercury load as a rolling five-year annual average using data on flow and water column mercury concentrations; and,
3. Quantitatively demonstrating that the mercury concentration of suspended sediment that best represents sediment discharged with urban runoff is below the suspended sediment target (0.2 mg/kg).

In contrast to the Bay TMDL, the Guadalupe River TMDL uses a mercury concentration-based approach to assigning WLAs. The proposed WLA for urban stormwater runoff in the Guadalupe TMDL is 0.2 mg/kg in suspended sediment. This concentration-based WLA infers that progress towards meeting the WLA will only be demonstrated using method #3 described above. To remain consistent with the Bay TMDL, we request that the Guadalupe River BPA either explicitly include or reference ALL methods described above.

Comment #2 - Sources vs. Pathways

Throughout the staff report and BPA, there are numerous references of mercury "sources" to the Guadalupe River. These sources include atmospheric deposition, background soil, and urban and non-urban stormwater runoff. For clarification, urban runoff is a transport pathway, not a source. The source of mercury found in urban runoff is air emissions that deposit onto watersheds and inappropriately discarded items or materials that contain mercury. It is important that these "true sources" of mercury be acknowledged in the Staff Report and BPA so as additional information on the proportion of mercury attributable to these sources become available, source controls should be required by the Water Board and implemented to reduce mercury-related impacts to the Guadalupe River and the San Francisco Bay. Therefore, we request that the term "source" be replaced by "source category" to better depict the multiple sources that collectively contribute the mercury in urban stormwater runoff.

In the same vein, we also request that the following language that is current contained in the Mercury TMDL for the San Francisco Bay also be included in its entirety under "Implementation Actions for Urban Runoff" in the BPA for the Guadalupe River TMDL:

> *Urban runoff management agencies have a responsibility to oversee various discharges within the agencies' geographic boundaries. However, if it is determined that a source is substantially contributing to mercury loads to the Bay or is outside the jurisdiction or authority of an agency the Water Board will consider a request from an urban runoff management agency which may include an allocation, load reduction, and/or other regulatory requirements for the source in question.*
>
> *Within the jurisdiction of each urban runoff management agency, Caltrans is responsible for discharges associated with roadways and non-roadway facilities. Consequently, Caltrans shall be required to implement the following actions:*
>
> *I. Develop and implement a system to quantify mercury loads or loads reduced through control actions;*
>
> *II. Prepare an annual report that documents mercury loads or loads reduced through control actions; and,*
>
> *III. Develop an equitable allocation-sharing scheme that reflects Caltrans load reduction responsibility in consultation with the urban runoff management agencies, and report the details to the Water Board. Alternatively, Caltrans may choose to implement load reduction actions on a watershed or regionwide basis in lieu of sharing a portion of an urban runoff management agency's allocation. In such a case, the Water Board will consider a separate allocation for Caltrans for which they may demonstrate progress toward attaining an allocation or load reduction in the same manner mentioned previously for municipal programs.*

Comment #3 - Consistency with the Municipal Regional Permit

The SCVURPPP supports the concept of developing a "regional monitoring collaborative" described in the Municipal Regional NPDES Permit Draft Tentative Order (Draft TO), dated December 14, 2007. However, it is unclear whether the reference to a "coordinated watershed program" in the Implementation Section of the Guadalupe River BPA is referring to the same concept. If these two concepts are one in the same, we request that the due date for submittal of a coordinated watershed monitoring plan (currently October 15, 2008 in the BPA) defer to the date eventually included in the adopted Municipal Regional NPDES Permit. If the concept is different than the one included in the Draft TO, we request that language providing additional clarification be included in the Guadalupe River BPA.

Thank you again for the opportunity to comment on the Staff Report and proposed BPA. In addition to the comments submitted herein, the SCVURPPP also supports and incorporates by reference the comments submitted by the Santa Clara Valley Water District (SCVWD) and the City of San Jose.

Please contact me at (510) 832-2852 if you have any questions regarding the comments or requested changes.

Sincerely,

Originally Signed By

Adam W. Olivieri, Dr.PH, P.E.
SCVURPPP Program Manager

cc: Bruce Wolfe
Tom Mumley
SCVURPPP Management Committee

699 Town & Country Village • Sunnyvale, CA 94086 • tel: (408) 720-8833 • fax: (408) 720-8812
1410 Jackson Street • Oakland, CA 94612 • tel: (510) 832-2852 • fax: (510) 832-2856
1-800-794-2482