UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

April 21, 2008

Jim Ponton
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Ste. 1400
Oakland, CA 94612

Dear Mr. Ponton:

Thank you for the opportunity to comment on the draft Guadalupe River Watershed Mercury TMDL Staff Report and Proposed Basin Plan Amendment (BPA), dated February 2008. We appreciate your hard work to develop the methylmercury water quality fish tissue objectives and the mercury TMDLs. We have reviewed both the objectives and the TMDLs and are pleased with the thoroughness of the analyses. The numeric water quality objectives are developed to protect aquatic organisms and wildlife and are also protective of human health. The TMDLs and allocations are detailed and appropriate. We support adoption of the package.

We have reviewed the documents and provide our prioritized comments below:

1) The BPA contains changes to the water quality objectives for mercury. Table 3-4A footnotes the new aquatic organism and wildlife objectives as protective of human health. We note the BPA does not reference the TMDL Staff Report, which contains a very thorough analysis supporting the statement in the footnote. If the BPA does not include a summary of the analysis, the BPA needs to reference the TMDL Staff Report, to support the assertion that the revised objectives are also protective of human health.

2) The BPA lists the waterbodies to which the revised water quality objectives and TMDLs apply. The BPA list includes waterbodies that are currently listed as impaired on California's CWA Section 303(d) list, and some waterbodies that are not currently included on the list. The Staff Report at pages 2-7 and 2-8 indicates that staff recommend listing the currently unlisted waters as impaired on the next 303(d) listing update. Please ensure that the Staff Report includes a specific record supporting the conclusion that the additional waters are water quality limited, and why it is important to adopt TMDLs for these segments at this time. Also, please clarify in the BPA which of the waterbodies are currently listed and which are not listed but are currently being identified as impaired. We request this information to be included within the package since these TMDLs may be submitted to EPA for approval prior to the State's next 303(d) list update. This information also clarifies to the general public the identification of impaired waterbodies and development of TMDLs for those waterbodies.

3) The BPA does not list the permit numbers to which the waste load allocations apply. Please include the permit numbers, or reference the Staff Report, and include the permit numbers in the Staff Report. If the permit numbers are contained in the TMDL Staff Report for the San Francisco Bay Mercury TMDL, please reference that report.

4) If any of the permits to which the implementation schedule applies are permits that must comply with Clean Water Act 301(b)(1)(C), we recommend the Regional Board ensure that the schedule is consistent with the provisions of the statewide Policy for Compliance Schedules in National Pollutant Discharge Elimination System Permits (adopted by State Board 4/15/08, not yet reviewed by Office of Administrative Law or U.S. EPA).

5) The BPA does not include a summary of the quantification of mercury and methylmercury sources, nor a summary of the linkage analyses between the sources, targets, loads and allocations. The BPA needs to contain a summary of this information, or the BPA needs to reference the TMDL Staff Report which contains this information.

Please note the position described in this letter is preliminary in nature and does not constitute a determination by EPA under Clean Water Act 303(c) or 303(d). Approval/disapproval decisions will be made by EPA following adoption of the water quality standards and the TMDLs, and submittal to EPA.

Thank you again for the opportunity to comment on the draft documents for the Guadalupe River Watershed mercury package. If you have any questions concerning our comments, please contact me at (415) 972-3448 or Diane Fleck at (415) 972-3480.

Sincerely,

Diane Fleck for

Peter Kozelka
TMDL Coordinator
Water Division