CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Environmental Services Department

April 21, 2008

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

Subject: City of San José Comments on the Guadalupe River Watershed Mercury Total Maximum Daily Load (TMDL) Project Proposed Basin Plan Amendment

Dear Ms. Austin:

Thank you for the opportunity to comment on the Guadalupe River Watershed Mercury Total Maximum Daily Load (TMDL) Project Proposed Basin Plan Amendment (BPA) dated February 2008. The City of San José is a co-permittee of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) and has had a proactive stormwater pollution prevention and control program since the first countywide municipal stormwater permit was adopted in 1990. San José staff has also been actively engaged in the development of the Baywide Mercury TMDL and has served on the Guadalupe River Watershed Mercury TMDL workgroup. San José supports the Proposed Basin Plan Amendment's coordinated watershed approach to addressing mercury impairment. However, within the Proposed BPA, San José requests clarifications and revisions to address the logistical and administrative challenges related to interagency cooperation, and to better align the implementation actions with the San Francisco Bay TMDL for mercury.

Load Allocations

The Proposed Guadalupe BPA states that the Baywide TMDL for mercury will address the Urban Stormwater Load Allocation, but then lists a mathematically calculated allocation for the Guadalupe Watershed, implying that that allocation must be met within the confines of the watershed. However, the last sentence in the BPA section entitled "Mercury Source Control Actions" states: *"Urban stormwater runoff implementation actions that reduce loads of mercury to San Francisco Bay will also count towards achieving the Guadalupe TMDL allocation to the urban stormwater source."* We interpret this to mean that if large controllable urban stormwater sources found anywhere in the SCVURPPP County-wide Program area, the reduction of those sources can be counted toward meeting the urban stormwater implementation goals of the Guadalupe TMDL. If this is not the intent, then clarification of the language is needed.

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Coordinated Watershed Monitoring Program
The October 15, 2008 date for submission of a coordinated watershed monitoring plan is impracticable. This deadline allows insufficient time to engage all possible partners, some of whom remain unidentified. The City requests that the deadline provide 24 months from TMDL adoption for submission of a coordinated watershed monitoring plan.

Special Studies
The Implementation Actions for Urban Stormwater Runoff state that *"Additionally, urban runoff Permittees shall participate in special study 3b during the second 10-year phase..."* but the wording describing that special study indicates that it is contingent on the results of study 3a. The City requests the wording in the Implementation Actions for Urban Stormwater Runoff be revised to reflect this contingency.

Consistency with Baywide Mercury TMDL
As written, the Guadalupe Mercury TMDL and Proposed BPA do not agree completely with the Baywide Mercury TMDL with respect to methods for the Urban Stormwater Runoff Source Category to demonstrate progress toward achieving interim loading milestones or allocations. The Waste Load Allocation (WLA) for SCVURPPP in the Baywide 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; calculated in the Guadalupe Mercury TMDL). To demonstrate progress toward attaining the WLA in the Baywide Mercury TMDL, SCVURPPP can use one of the following methods described in the BPA for the Bay:

1) *Quantify the annual average mercury load reduced by implementing (a)pollution prevention activities, and (b) source and treatment controls. The benefit of efforts to reduce mercury-related risk to wildlife and humans should also be quantified. The Water Board will recognize such efforts as progress toward achieving the interim milestone and the mercury-related water quality standards upon which the allocations and corresponding load reductions are based. Loads reduced as a result of actions implemented after 2001 (or earlier if actions taken are not reflected in the 2001 load estimate) may be used to estimate load reductions.*
2) *Quantify the mercury load as a rolling five-year annual average using data on flow and water column mercury concentrations.*
3) *Quantitatively demonstrate 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).*

The proposed Guadalupe Mercury TMDL prescribes only a mercury concentration-based approach to assigning WLAs. The proposed WLA for urban stormwater runoff in the Guadalupe Mercury TMDL is 0.2 mg/kg in suspended sediment. This concentration-based WLA implies that only method #3 described above can be used to demonstrate progress in the Guadalupe Mercury TMDL. To maintain consistency with the Baywide TMDL, the City requests that Guadalupe TMDL either explicitly include or reference all three methods described above for demonstrating progress in the Guadalupe TMDL or explicitly defer to the Baywide TMDL on

criteria and methods to meet the stormwater allocation.

Conclusion

San José is a proud and active steward of the environment, including our local creeks and the San Francisco Bay. San Jose's City Council has adopted a Green Vision, which sets forth a bold set of specific goals for advancements in environmental protection in our community. In keeping with that Green Vision, the City of San José looks forward to working with its citizens, local and regional stakeholders, and the Regional Water Board to find meaningful and feasible solutions to mercury pollution problems.

The City of San José incorporates herein by reference the comments submitted under separate cover by SCVURPPP. The City of San José acknowledges the time and effort that Water Board staff has dedicated to the production of the TMDL and Proposed Basin Plan Amendment. We appreciate your consideration of our comments and look forward to working cooperatively to address water quality issues within our jurisdiction and throughout the San Francisco Bay. If you have any questions, please contact Steven Osborn, Stormwater Program Manager, at 408-277-5635.

Sincerely,

JOHN STUFFLEBEAN
Director, Environmental Services