

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

**RESOLUTION R5-2013-0400
REQUEST FOR CLEANUP AND ABATEMENT ACCOUNT FUNDS
FOR THE
DELTA MERCURY EXPOSURE REDUCTION PROGRAM**

WHEREAS, the Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or Board), acting in accordance with the authority delegated to her by the Central Valley Water Board, finds that:

1. The Sacramento-San Joaquin River Delta Estuary (the "Delta") has been listed as an impaired water body pursuant to federal Clean Water Act section 303(d) because elevated concentrations of methylmercury in fish tissue pose a threat to humans. To address this impairment, in 2010 the Central Valley Water Board adopted Resolution R5-2010-0043, which added a program for the Control of Methylmercury and Total Mercury in the Sacramento-San Joaquin River Delta Estuary (the "Delta Mercury Control Program") to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (the "Basin Plan"). The Delta Mercury Control Program establishes a total maximum daily load (TMDL) and a control program to reduce fish methylmercury levels in the Delta and Yolo Bypass.
2. A provision in State Water Resources Control Board Resolution 2005-0060 directed the Central Valley Water Board to "investigate ways, consistent with their regulatory authority, to address public health impacts of mercury in San Francisco Bay/Delta fish, including activities that reduce actual and potential exposure of and mitigate health impacts to those people and communities most likely to be affected by mercury in San Francisco Bay-Delta caught fish, such as subsistence fishers and their families." The Delta Mercury Control Program includes elements designed to comply with this provision.
3. Reducing methylmercury levels in fish tissue in the Sacramento-San Joaquin Delta will take many years. In the interim, the Board must take steps to protect consumers of Delta fish from mercury-related health risks. The Delta Mercury Control Program requires those entities that discharge methylmercury in the Delta and Yolo Bypass to participate in a program to reduce human exposure to mercury-contaminated fish. In 2012, Board staff worked with dischargers and other stakeholders to develop a strategy to fund and implement a Delta mercury exposure reduction program (MERP).

4. The objective of the MERP is to reduce mercury exposure of Delta fish consumers most likely affected by mercury. A study of Delta anglers estimated that 5% of anglers and their families take in methylmercury from local fish at ten times the USEPA's safe intake level for methylmercury. MERP activities are intended to benefit those that eat Delta fish in excess of fish consumption advisory levels and/or are members of sensitive groups, including pregnant and nursing women, women who may become pregnant, and children.
5. The MERP strategy estimates the overall cost to form and implement the program will be \$870,000 for a six year period. MERP activities will be described in a work plan developed by stakeholders that is due to be submitted to the Central Valley Water Board's Executive Officer by 20 October 2013.
6. A multitude of dischargers are required to participate in the MERP. Some dischargers and discharger groups propose to contribute cash while other dischargers propose in-kind services that will complement the project.
7. Both Resolution 2005-0060 and Resolution R5-2010-0043 recognized that individual dischargers should only be responsible for their proportional share of the impairment. Mercury is a legacy pollutant that was lost to the environment during early mercury mining and the California gold rush. In addition to the historic sources, modern mercury sources include atmospheric deposition from industrial emissions, stormwater runoff from industrial and urban areas, and discharges of treated wastewater.
8. During the public participation process, dischargers and other stakeholders argued that the state and federal governments should be assigned some of the responsibility for legacy mercury and for implementing mercury and methylmercury controls in the Delta and upstream tributaries. The Delta TMDL assigned methylmercury allocations to open water and wetland areas, and several State agencies became responsible for implementing the Delta mercury control program, including contributing to the MERP.
9. The Central Valley Water Board is requesting a total of \$370,000 of Cleanup and Abatement Account funds for the six year project. This Cleanup and Abatement Account request will cover a portion of the State's proportional share of the program costs. Other State contributions consist of in-kind services from several of the state agencies and staff resources from agencies that include the Department of Water Resources, the Department of Public Health, and the Central Valley Water Board.
10. The California Bay-Delta Program funded exposure reduction activities in the Delta in 2005-2007. Since then, the Office of Health Hazard Assessment has issued new consumption advisories for Delta fish. The MERP project will utilize previous efforts and community connections as much as possible. The new advisories necessitate updating of educational materials, signage, and outreach and training activities.

11. The Cleanup and Abatement Account funds will be used to create and implement exposure reduction activities that may include, but are not limited to, identifying at-risk populations and working with these communities to determine what messages, educational materials, and routes of distribution are most appropriate to the communities.
12. Board staff anticipates entering into an intra-agency agreement with the Department of Public Health or contracting with a joint powers authority having public outreach experience to plan and coordinate the exposure reduction activities. The Department of Public Health has experience and expertise with exposure reduction activities and has already worked with several Delta community groups. In addition, the project will identify a project manager to manage and coordinate discharger contributions.

THEREFORE, BE IT RESOLVED THAT the Executive Officer of the Central Valley Water Board, acting in accordance with the authority delegated to her pursuant to Central Valley Regional Board Resolution R5-2009-0027, requests that the State Water Resources Control Board consider an application for \$370,000 from the Cleanup and Abatement Account for the purposes set forth herein for activities to reduce human exposure to mercury-contaminated fish in the Delta.

Original signed by
PAMELA C. CREEDON, Executive Officer

6-3-2013
(Date)