



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

Dorothy Rice
Executive Director
California State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-0100

RE: Guadalupe River Watershed
Mercury Water Quality Standards

Dear Ms. Rice:

The U.S. Environmental Protection Agency (EPA) has reviewed the amendment to the Water Quality Control Plan for the San Francisco Bay Region (Basin Plan) to vacate a mercury water column water quality objective and replace it with methylmercury fish tissue water quality objectives, for certain waters within the Guadalupe River watershed. I am pleased to inform you that we are approving this Basin Plan amendment.

The California Regional Water Quality Control Board, San Francisco Region (Regional Board), adopted the amendment under Resolution No. R2-2008-0089 on October 8, 2008. The California State Water Resources Control Board (State Board) approved the amendment on November 17, 2009 under Resolution No. 2009-0082, and the California Office of Administrative Law (OAL) approved the amendment on February 24, 2010. EPA received the State Board's request for approval on January 4, 2010, and OAL's approval letter on February 25, 2010. By this letter, EPA is approving the Basin Plan amendment as a water quality standard pursuant to Section 303(c) of the Clean Water Act (CWA) and its implementing regulations at 40 CFR Part 131.

The Amendment

Regional Board Resolution R2-2008-0089 adopted a Basin Plan amendment to vacate the 0.025 ug/l, 4-day average freshwater water quality objective for waters of the Guadalupe River watershed, except Los Gatos Creek and its tributaries upstream of Vasona Dam, Lake Elzman, Lexington Reservoir, and Vasona Lake.

The Basin Plan amendment also established two fish tissue water quality objectives for mercury for the protection of aquatic life and wildlife: 0.05 milligram (mg) methylmercury per kilogram (kg) fish, average wet weight concentration measured in whole trophic level 3 fish 5 – 15 centimeters (cm) in length; and 0.1 mg methylmercury per kg fish, average wet weight concentration measured in whole trophic level 3 fish greater than 15 cm to 35 cm in length. The objectives also protect humans who consume on average 17.5 grams per day of fish from the

applicable waters in the Guadalupe River watershed. The objectives apply to waters of the Guadalupe River watershed, except Los Gatos Creek and its tributaries upstream of Vasona Dam, Lake Elsman, Lexington Reservoir, and Vasona Lake.

Today's Action

Section 303(c) of the CWA requires EPA to approve or disapprove new or revised state-adopted water quality standards. For purposes of CWA section 303(c), water quality standards generally include designated uses and water quality criteria (or "beneficial uses" and "water quality objectives," respectively under California law), and antidegradation policies.

EPA has determined that both portions of the above Basin Plan amendment are subject to EPA's CWA section 303(c) approval authority. Pursuant to CWA section 303(c) and the implementing federal regulations at 40 CFR Part 131, EPA hereby approves this amendment. EPA's approval is based on our finding that these portions of the amendment are consistent with the requirements of the CWA and EPA's regulations at 40 CFR Part 131.5 and 131.6.

Public Participation

EPA compliments the State on its efforts to include the public in the development and review of new and revised water quality standards. Public involvement is an integral component of a successful water quality program. Based on our review, the public review procedures followed by the State in the development and approval of Regional Board Resolution No. R2-2008-0089 were consistent with the procedural requirements for public participation in triennial reviews, adoption, and revision of state water quality standards.


ESA Consultation with the U.S. Fish and Wildlife Service on EPA's Action

Section 7(a)(2) of the ESA states that each federal agency shall ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species (listed species) or result in the destruction or adverse modification of critical habitat. On March 3, 2010, EPA initiated informal consultation with the U.S. Fish and Wildlife Service on our action concerning the revised aquatic life mercury water quality objectives. On May 24, 2010, we received correspondence indicating no Federally listed species under the Service's jurisdiction would be affected by the revised water quality objectives.

EPA commends the San Francisco Regional Board staff for its excellent work in establishing fish tissue water quality objectives for mercury in the Guadalupe River watershed. If there are any questions regarding our approval action, please contact Diane Fleck of my staff

at (415) 972-3480. As always, we look forward to continued cooperation with the State in achieving our mutual environmental goals.

Sincerely yours,


Alexis Strauss
Director, Water Division

1 June 2010

cc: Bruce H. Wolfe, California Regional Water Quality Control Board,
San Francisco Bay Region
Thomas Gardner, U.S. Environmental Protection Agency, Office of Water (4305T)
Thomas Maurer, U.S. Fish and Wildlife Service