

SOUTH DELTA WATER AGENCY

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February 28, 2007

Via E-Mail commentletters@waterboards.ca.gov

Ms. Song Her
Clerk of the Board
State Water Resources Control Board
P. O. Box 100
Sacramento, CA 95812-0100



Re: Comments on Bay-Delta Mercury Offset Policy

Dear Ms. Her:

The following are South Delta Water Agency's comments to the proposed State policy regarding Mercury offsets.

The General Principles on page 9 of the Informational Documents attempt to insure that an offset policy would not impact other dischargers and their compliance with the subject TMDL. However, additional review and consideration is necessary.

It is unrealistic to assume that an offset location would be at or near the location of the discharger who is attempting the offset. This means that when the offset discharger discharges methylmercury (or mercury) in concentrations or loads in excess of the applicable limits/standards, all other water users downstream of that point suffer an adverse impact. If the discharger met the limits, the downstream diverters would have less methylmercury (and/or mercury) in both their intake and their discharge than would be present when the offset allows the greater discharge.

Hence the burden of meeting the limits by the downstream discharger are increased as he/she must now remove an additional amount from his discharge in order that he/she is in compliance. At some point downstream the water quality of the system might be better, but all diverters/discharges in between these points will have been forced to do additional clean-up. Such a situation becomes even more inequitable when the offset discharger is trying to offset a new project with new or additional load/concentration.

Ms. Song Her, Clerk of the Board
February 28, 2007
Page Two

Given the multitude of diversions along the Sacramento and San Joaquin Rivers and Delta, it would be difficult to even hypothesize where an offset might be allowed which avoids this issue of transferred burden. The better policy would be to prohibit new discharges that will cause or contribute to water quality violations (40 C.F.R. Section 122.4(i), rather than try to squeeze additional discharges into a system facing such problems.

As stated in other related processes, the South Delta Water Agency believes the current approach for addressing the mercury problem is ill-conceived and illogical. Virtually none of the to-be-regulated entities who will be forced to decrease methylmercury and mercury discharges added either of these to the system, and have no control over the processes which convert one to the other. The problem is a State-wide one which requires a meaningful approach by the State to identify and remove the subject constituents. The current approach forces all consumptive users to mitigate the effects of consuming water (concentrating that which was already in their supply) and counter-act natural processes (which methylize mercury) while upstream contributions continue unabated.

Please call me if you have any questions or comments.

Very truly yours,

JOHN HERRICK

JH/dd