



CVCWA

CENTRAL VALLEY CLEAN WATER ASSOCIATION

Formerly the Central Valley Wastewater Manager's Association

Representing Over Forty Wastewater Agencies

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August 12, 2005

Via electronic and U.S. Mail

Arthur G. Baggett, Jr., Chair and Members
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

SUBJECT: **COMMENTS REGARDING PROPOSED AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY REGION THAT WOULD INCORPORATE A TMDL FOR MERCURY IN SAN FRANCISCO BAY—September 7, 2005 Board Meeting**

Dear Chairman Baggett and Members of the Board:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to provide comments regarding the three options for addressing the proposed Total Maximum Daily Load (TMDL) for mercury in the San Francisco Bay. CVCWA consists of 47 local public agencies located within the Central Valley Region that provide wastewater collection, treatment and water recycling services to millions of Central Valley residents and businesses.

CVCWA has followed with interest the development of the mercury TMDL for the Bay. In many ways, the mercury TMDL developed and adopted by the San Francisco Bay Region is a model for TMDL development in the State, taking a true watershed approach to a complex and challenging water quality problem and developed with a strong scientific foundation. CVCWA strongly supports State Water Board approval of the TMDL as developed and adopted by the Regional Board.

By now, the SWRCB has received a great deal of technical information and argument regarding the mercury TMDL, and has spent significant time to review and analyze that input. CVCWA will not repeat the detailed comments submitted by the Bay Area Clean Water Agencies and others regarding the TMDL. Rather, this letter attempts to address some of the issues that appear to be prompting the SWRCB to consider a remand of the TMDL. CVCWA does not believe a remand of the TMDL is appropriate or supported by the record.

A Review of POTW Data Conducted by CVCWA Indicates that Concerns About POTW Contributions of Methylmercury are Misplaced.

CVCWA has conducted a review of methylmercury in municipal treatment plant effluents that will be presented to the Water Environment Federation's Technical Exhibition and Conference, otherwise known as WEFTEC. (*Regional Assessment of Methylmercury Discharges from Municipal Treatment Plants in California's Central Valley. June 2005*) CVCWA decided to undertake the study after our members received a Water Code Section 13267 order from the Central Valley Regional Board requiring Central Valley NPDES permit holders to monitor for methylmercury in their effluent. Because of the many anticipated technical and scientific issues that would arise out of the collection of the methylmercury data, CVCWA decided that it would be important to conduct an independent review of the data collected.

Twenty-six POTWs participated in the Central Valley study and provided effluent methylmercury data to CVCWA. Some of the participants also provided upstream, downstream and influent methylmercury data. From this and other available data, the study shows that the total annual methylmercury loads from all POTWs included in the study are 2 to 3 percent of the annual methylmercury loads to the Delta. Thus, the data indicate that complete removal of the combined methylmercury loads from the POTWs included in this study (which represent approximately 75% of the total effluent flow from all municipal wastewater dischargers in the Central Valley) would not change the methylmercury mass loadings within the watershed by a meaningful amount.

For your information we have attached a copy of the study. You should note it lists most of the **major sources** of mercury in the Central Valley.

Trading and Offset Programs are Not Currently Viable Options.

CVCWA understands that some of the SWRCB members believe that a remand of the TMDL directing establishment of individual POTW waste load allocations (WLAs) and requiring further reductions in loadings from de minimis point sources will promote implementation of a mercury offset program. Given that pollutant trading and offsets have been opposed by the nongovernmental organizations now seeking a remand, we question the likelihood of such a program succeeding. In addition, the individual WLAs will hinder, rather than facilitate offsets, by limiting the Regional Board's flexibility in permitting. Perhaps most importantly, no pollutant trading or offset program has been successfully developed or implemented anywhere in California. As a case in point, the Sacramento Regional County Sanitation District has been working closely with representatives of the State Board, the Central Valley Regional Board, USEPA and other stakeholders for the past

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four (4) years to define salient elements of a feasible offset program for mercury in the Central Valley, as required by its NPDES permit . Implementation of an initial project under this program is currently stalled due in part to disagreement over the definition of the POTWs "fair share of responsibility for causing or contributing to any violation of water quality standards". It appears to CVCWA that this is an attempt to leverage POTW contributions to the mercury problem.


The SWRCB should capitalize on the work completed to date in the Central Valley and facilitate the adoption of a voluntary, equitable, mercury offset program. Unlike the approach advocated by the SRCSD permit, the mandatory offset concept proposed in Resolutions No. 2 and 3, which seeks to force implementation of offsets through the proposed mercury TMDL as a condition of growth in the Bay area, will not create positive incentives to get POTWs to clean up other sources of mercury and will be met with stiff resistance by those agencies.

The Proposed Remand Resolution is Overly Prescriptive and not Supported by the Record.

We urge the SWRCB to approve the mercury TMDL as adopted by the Regional Board. A decision to remand will represent a step backward to simply "control the controllable" by ratcheting down on point sources, without consideration of the fact that such controls will provide no measurable benefit in the levels of mercury in water, sediment or fish in San Francisco Bay. The proposed prescriptive remand will impede the watershed approach embodied in the TMDL and will discourage POTWs in other regions from embracing the Bay Area partnership model of collaborative funding and technical study. For this reason, if the SWRCB determines that a remand is appropriate, CVCWA urges that the remand resolution be revised to remove the rigid requirements for pollution prevention, additional advanced treatment, and individual WLAs. We understand the Bay Area Clean Water Agencies have provided alternative language to accomplish this.

Thank you for your consideration of our comments.

Sincerely,



Warren Tellefson, Executive Officer

Attachment: CVCWA Methylmercury Study

cc: Michele M. Pla, Executive Director, BACWA

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