



C A L I F O R N I A   R I C E   C O M M I S S I O N

April 14, 2010

Ms. Katherine Hart, Chair  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670

Subject: Basin Plan Amendment for the Control of Methyl and Total Mercury in  
the Sacramento-San Joaquin Delta Estuary

Dear Ms. Hart:

We are writing to provide comments on the Basin Plan Amendment (BPA) for the Control of Methyl and Total Mercury in the Sacramento-San Joaquin Delta Estuary. These comments are submitted on behalf of the 2,500 California rice growers that produce premium-quality rice on approximately 500,000 acres. About 95 percent of these acres are located in the Sacramento Valley. In addition to rice production, our fields provide critical habitat for 230 species of wildlife, including millions of migrating waterfowl and shorebirds along the Pacific Flyway. These fields are designated as Shorebird Habitat of International Significance by the Manomet Center for Conservation Science.

The California Rice Commission (CRC) appreciates the opportunity to work with your staff during the development of this BPA. We appreciated the opportunity to fully participate in the stakeholder workgroup and compliment your staff for its exemplary commitment to this process. We realize that you and your staff have worked very hard in an attempt to figure out a strategy for tackling this unique methyl mercury pollution situation considering the existing statutes designed to address such problems. It is for this reason that we regret the non-supportive position that we must convey in this letter.

Despite your dedicated, optimistic efforts, CRC believes that the adoption of this proposed program would represent poor public policy. It is well known that vast amounts of mercury are now widely distributed throughout the watershed in what we often refer to as the "legacy" component—mercury deposited from human activity tens of decades ago. Without effective control of this legacy component and naturally-occurring mineral soils and springs, which is very likely infeasible, real improvements in the fish tissue objective in the Delta will not be realized for a century or more. This clearly illustrates that time is really the only effective control measure.

We believe that adopting a regulation with significant costs to California's economy that will not predictably achieve a stated regulatory standard (fish tissue objective) just because a federal agency requires such action is inappropriate. If the federal statute does not fit our unique methyl mercury problem in California, then the State's responsibility should be to report this finding to the U.S. Environmental Protection Agency and invite them to offer a more appropriate alternative compliance option.

CRC strongly recommends that the Central Valley Regional Water Quality Control Board recognize the inconsistency between its methyl mercury problem and the applicable statutory requirements by resisting the adoption of the proposed Methyl Mercury BPA. In our opinion, the implementation of this proposed regulation will not make significantly more progress towards the Delta fish tissue objective than a "no action" alternative.

We appreciate your consideration of our comments and respectfully request that they be fully considered by your Board as you consider action on the proposed BPA. Please feel free to contact me at (916) 387-2264 if you have any questions.

Sincerely,



Paul Buttner  
Manager of Environmental Affairs

- c: Board Members, C.V. Regional Water Quality Control Board
- Pamela Creedon, E.O., C.V. Regional Water Quality Control Board
- Kenneth D. Landau, Assistant E.O., C.V. Regional Water Quality Control Board
- Patrick Morris, Mercury TMDL Unit, C.V. Regional Water Quality Control Board