



CITY OF SACRAMENTO
DEPARTMENT
OF UTILITIES



November 17, 2006

Ms. Pamela Creedon
Executive Officer
Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670

Dear Ms. Creedon:

The undersigned organizations continue to have serious concerns with the direction that the proposed "Basin Plan Amendment to Control Methyl and Total Mercury in the Sacramento-San Joaquin Delta Estuary (Delta)" appears to be heading. We respectfully request a meeting with you to discuss and help formulate alternative approaches to the current staff proposal that we believe can more effectively address health issues related to fish and will advance a sound regulatory process to accomplish public health objectives.

The attached document presents an overview of an alternative approach that recognizes the unique nature of methyl and total mercury in the Delta. Most importantly, the approach calls for a comprehensive and scientific evaluation to characterize methyl-mercury in the Delta, which is a critical foundation to assure an effective regulatory strategy for the Regional Board. Moreover, we believe a broad and diverse working group convened by the California Environmental Protection Agency (CALEPA) and the Water Boards can assist in framing the characterization studies and can help secure the necessary funding for these important efforts.

We look forward to talking with you at your earliest convenience.

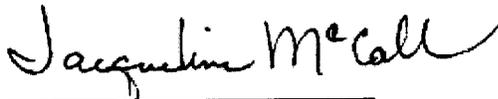
Sincerely yours,



Paul Buttner
Manager, Environmental Affairs
California Rice Commission



Jake Messerli
Director of Waterfowl and Wetland Programs
California Waterfowl Association



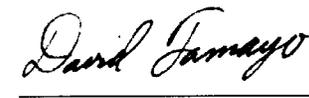
Jacqueline McCall
Chair, Water Committee
Central Valley Clean Water Association



Bill Busath
Supervising Engineer
City of Sacramento



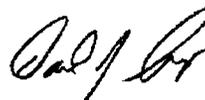
Jacqueline McCall
Water Quality Manager
City of Vacaville



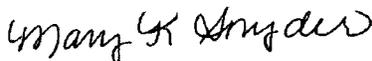
David Tamayo
Environmental Specialist
County of Sacramento



Dave Widell
Director of Conservation Policy
Duck's Unlimited



David J. Guy
Executive Director
Northern California Water Association



Mary K. Snyder
District Engineer
Sacramento Regional County Sanitation District



Susán Tatayon
Assistant Director
California Freshwater Initiative
The Nature Conservancy

cc: Water Boards

AN ALTERNATIVE APPROACH FOR THE DELTA METHYLMERCURY BASIN PLAN AMENDMENT

Methylmercury Calls for a Different Approach. Mercury and methylmercury are different than the other impairments being addressed by the Regional Board. It is widely recognized by scientists that mercury is a relic pollutant, present in Central Valley watercourses as a result of historic mining and natural erosion. Mercury is not a pollutant that is added to the waterways by any current land uses or water management and the effects of mercury in our watersheds today are not the responsibility of today's water managers, wetlands managers or landowners. For this reason, the traditional Total Maximum Daily Load (TMDL) model simply does not work for mercury or methylmercury.

The current Regional Board staff proposal follows the traditional TMDL model by arbitrarily pre-assigning responsibility for load allocations throughout the region and then mandating unspecified entities and/or individuals to prepare ad-hoc control studies to help answer questions about mercury in the system, the discharge of mercury and the process of methylation. This proposal, if adopted, would have profound impacts on a variety of state and federal mandates and objectives aimed at improving environmental and public health, particularly those associated with wetland management and restoration within the Delta and its watersheds. A different, more comprehensive, long-term approach is necessary and would be more appropriate for mercury reduction efforts.

The Need for Comprehensive and Coordinated Control Studies. There is general agreement that additional characterization and control studies are necessary for mercury and methylmercury. Rather than proceed in the proposed manner haphazardly by pre-assigning responsibility to unspecified entities for mercury load allocations in the Delta and Central Valley, a more sound approach would be for California Environmental Protection Agency (CALEPA) and the Water Boards, in coordination with resource agencies and others, to convene a working group to help frame and coordinate the necessary characterization studies. This workgroup would help develop a strategic over-arching plan to study mercury and its methylation in the Delta and could help secure funding for the effort to develop a feasible TMDL. The results from this coordinated approach would then guide future regulatory actions by the Central Valley Regional Board and could serve as a model for addressing mercury impairments in the rest of the state.

The Control Studies Should Begin with a Strong Scientific Program. A good starting foundation for this effort is the 2003 "Mercury Strategy for the Bay-Delta Ecosystem: A Unifying Framework for Science, Adaptive Management and Ecological Restoration" that was prepared for the Bay-Delta Authority. Here, the CALFED Bay-Delta Program coordinated an aggressive effort to look at mercury in the Bay-Delta over the past decade and has conducted numerous studies and made several recommendations that would help inform the state agencies on a comprehensive study plan for methyl and total mercury. We are waiting for the final review

and synthesis of this \$30 million program. We are confident that this comprehensive approach will be completed more quickly and be more comprehensive than the ad-hoc studies by individual entities that will emerge from any pre-assignment of responsibility.

The Regional Board Should Pursue Flexible Tools to Address Mercury that Do Not Pit Environmental Objectives Against One Another. Under the TMDL regulations, the Regional Board can provide reasonable assurances that load allocations will be developed when the science supports an allocation and there is a methodical way to allocate responsibility in a legally appropriate manner. While the control studies are underway, creative and flexible compliance approaches can and should be immediately pursued with interested parties. This should include an offset program and should recognize the broad and diverse scope of wetland habitat types in the Central Valley that are managed in different ways at different times of the year.

The State of California Should Fund These Studies. Californians all share the concern about mercury and methylmercury in fish and other wildlife. As a relic pollutant, controlling mercury is a large societal issue that is in the public interest and the characterization studies and related work should be supported by broad public funding from throughout the State. The proposed "Mercury Monitoring and Remediation Fund" proposed in AB 2901 (Wolk) or a similar mechanism would help serve this purpose.