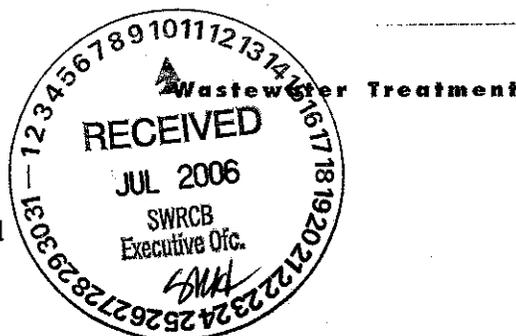




July 10, 2006

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Re: Comment Letter – Amendments to The Water Quality Control Plan for the Sacramento River and San Joaquin River Basins For The Control of Mercury in Cache Creek, Bear Creek, Sulphur Creek, and Harley Gulch

The Sacramento Regional County Sanitation District (the District) appreciates the opportunity to comment on the plan for control of mercury in Cache Creek, Bear Creek, Sulphur Creek, and Harley Gulch. The District commented on this plan before the Regional Water Board; however, we continue to have significant concerns with the elements of the proposed TMDL discussed below. Additional details on the first three issues can be found in our comments on the May 2005 version of this staff report dated June 8, 2005. As always, we would be happy to discuss our concerns directly with State Water Board staff.

- The methyl mercury allocation strategy outlined in the proposed TMDL is based on a misleading premise, i.e. that control of aqueous methyl mercury concentrations at specific locations in the Cache Creek watershed will have widespread, regional benefits in reducing fish tissue mercury levels.**

Regional Board staff's response to this comment contends that observed changes in methyl mercury concentrations as one moves downstream in Cache Creek is a result of "conserved" methyl mercury (i.e. a hypothesis that methyl mercury behaves as a conservative parameter, maintaining its integrity for days and changing in concentration over long distances in direct response to mass additions). This hypothesis lacks scientific support and, indeed, Regional Water Board staff has provided no citation or independent scientific support for it. Furthermore, the unsupported hypothesis ignores a body of information that shows methyl mercury is actually a non-conservative parameter that is created and destroyed over short time intervals (hours). Unfortunately, it appears that this hypothesis seems to be favored because it leads to a simplistic management framework wherein control of methyl mercury at any location in the watershed is valued as a significant contribution to an overall solution.

A more plausible hypothesis is that methyl mercury concentration changes as one moves downstream along Cache Creek because net methylation is variable in the stream bed, stream banks, wetlands and other methylating environments along Cache Creek. Under this hypothesis, local control of only the current man-made methyl mercury sources has little value in the overall scheme due to the overriding magnitude of in-stream methylation. As a result, major expenditures to control individual local methyl mercury sources emerge as an unreasonable implementation plan given the uncertain nature of the Regional Board staff's position.

Technology in balance with nature

- 2. The proposed prohibition on new sources or net increases of mercury or methyl mercury in the watershed is an unreasonable and unsupported provision of the proposed implementation plan.**

The District reiterates this comment partly because of the deficiencies highlighted in our June 8, 2005, comment letter and because staff has not demonstrated any benefit of this stringent requirement that is commensurate with the regulation of minor mercury or methyl mercury sources in the watershed.

- 3. The TMDL linkage analysis is incomplete in that it ignores the linkages between sources and methyl mercury concentrations in water.**

The linkage analysis calculates a protective "goal" for methyl mercury concentrations in water based on protective levels in fish-eating people & wildlife, but stops there. By ignoring the subject linkages, there is still no sense of benefits from the implementation plan and thus no basis for comparing various implementation alternatives.

- 4. The proposed aqueous methyl mercury "goals" for Cache Creek, Bear Creek and Harley Gulch should be eliminated.**

SRCSO is very concerned that the staff proposal recommends a water column "goal" instead of adopting a water quality objective for methyl mercury in Cache Creek, Bear Creek and Harley Gulch. The adoption of a "goal" that is then used with the full force and authority of a water quality objective is a transparent attempt to avoid the responsibility to adopt water quality objectives pursuant to the California Water Code, in particular, responsibility pursuant to sections 13241 and 13242. In reality, "goals" that are adopted without full consideration of Water Code factors can end up being used in permits and other regulatory requirements to establish stringent final effluent and/or receiving water limits. SRCSO requests that proposed goals be either eliminated or adopted in compliance with the spirit and intent of sections 13241 and 13242 of the Water Code.

- 5. A coordinated and comprehensive watershed-wide approach to Mercury TMDL development should be implemented, rather than developing multiple Mercury TMDLs on a sub-watershed basis.**

TMDL's are intended to be watershed-wide solutions. In that the Sacramento and San Joaquin River watersheds flow into the San Francisco Bay, coordination of mercury TMDL's for these areas seems obvious. This was the stated reason why the State Water Board, during its hearings on and ultimate remand of the San Francisco Bay Mercury TMDL, requested that San Francisco Bay and Central Valley Regional Boards coordinate their mercury TMDL efforts. TMDL's are intended to identify ALL sources of the contaminant of interest within the watershed, assess their relative loads to the extent possible, and then assign reductions in proportion to the contribution. This identifies the largest, most egregious sources and promotes meaningful and potentially cost-effective load reductions that represent the highest and best use of community resources to achieve water quality objectives. The approaches to mercury management under the TMDL's that have been developed for San Francisco Bay, Clear Lake, Cache Creek, and the Delta (draft) are not consistent, nor is it clear how these

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TMDL's are intended to work together. For instance, the Central Valley Region has not provided any rationale for carving out small subwatersheds in the Central Valley and developing the TMDL's piecemeal, beginning with Clear Lake, then moving downstream to Cache Creek, now working on the Delta and later moving back upstream to other subwatersheds. These are all segments of the watershed and each represents only a part of the mercury picture. Whether or not intentional, the overall effect of this approach is to isolate the urban areas from the major sources of mercury.

Another example of the lack of understanding of the larger approach to mercury management in the Central Valley lies in the draft Delta TMDL. The Central Valley Regional Board staff have identified that 60% of the methyl mercury sources to the Delta originates from tributaries to the Delta. The draft Delta TMDL says that those sources will be dealt with under future TMDL's. However, ignoring 60% of the methyl mercury sources to the Delta effectively magnifies the importance of the remaining 40%. The District reminds the Board now that those tributaries to the Delta contain the mercury and gold mines that are THE LARGEST source of TOTAL MERCURY in the watershed and that without total mercury, there can be no methyl mercury. The District supports those elements of the TMDL that put a priority on addressing the largest sources of total mercury in the watershed. Such an approach will provide the greatest positive effect at the earliest time, and will provide valuable information to ascertain our ability to effectively manage mercury loads in the watershed.

An overall approach to mercury TMDL development in the Central Valley and San Francisco Bay is necessary. Before proceeding with approvals of any more mercury TMDLs, the District asks that the State Water Board direct the Central Valley and the San Francisco Regional Water Boards to provide to the public with a coordinated, consistent, and comprehensive watershed-wide approach for mercury TMDL development in the Central Valley and San Francisco Bay.

Please feel free to contact me if you have any questions or wish to discuss any of these issues.

Sincerely,



Wendell H. Kido
District Manager

cc: Pamela Creedon, Executive Officer, CVRWQB
Bruce H. Wolfe, Executive Officer, SFRWQCB
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