**BACWA Testimony for Feb 7 Mercury Objective Beneficial Uses State Water Board Hearing**

The Bay Area Clean Water Agencies is a Joint Powers Agreement whose members include all POTWs in the nine county Bay Area under the jurisdiction of San Francisco Bay Water Board. Our member agencies are proud of the work we’ve been doing to reduce mercury discharges through traditional pretreatment controls and innovative pollution prevention strategies. BACWA also supports the protection of tribal and subsistence uses. However we are concerned that the proposed implementation requirements for these beneficial uses will not get us any closer to the water quality objectives to protect these beneficial uses, and will be inappropriately burdensome to the rate payers of public wastewater treatment facilities.

Total mercury loads to the San Francisco Bay are about 920 kg/year, according to SFEI’s 2015 estimate. Bay Area POTWs have decreased their loads from 4.5 kg/yr in 2008 to 2.2 kg/yr in 2015 through the implementation of a very successful mercury TMDL. We’ve achieved these reductions largely by the implementation of very successful dental amalgam programs throughout the region, mercury reduction in hospitals, thermometer exchange programs and many other examples.

Concentrations in rivers draining old mining watersheds near San Jose exhibit concentrations of Hg ranging from several hundred to several thousand parts per trillion.  Concentrations in wastewater effluent range from 1-15 parts per trillion.  While BACWA agencies have reduced their inputs of mercury to the Bay more than ten-fold in the last 50 years, the concentration of mercury in Bay fish remains the same.  Even if we cease discharge altogether, concentrations of mercury in fish tissues will not decline any faster, due to the enormous reservoir of mercury-containing sediments already in the Bay and the legacy mining sources upstream of the Bay.

While BACWA appreciates that the implementation requirements in the staff report explicitly carve out existing TMDLs, our members are concerned that these new beneficial uses may have the unintended consequence of forcing a reopening of the SF Bay mercury TMDL. Very few of our members would be able to meet the extremely low water quality-based effluent limits that would be calculated from water quality objectives associated with these beneficial uses. Even with advanced treatment, there is no guarantee that agencies would be able to achieve mercury concentrations below 1 ng/L since most agencies have already optimized their pollution prevention alternatives under the current TMDL. In response to such a low effluent limits, agencies would also need to stop accepting reverse osmosis concentrate from current and future water recycling projects, since this by-product will increase the mercury concentrations in POTW effluent, although it would not increase loads to the Bay.

BACWA is concerned that by adopting the proposed provisions, the Water Board may be making a decision that would unintentionally lead to the reallocation of resources away from more pressing issues such as repairing aging infrastructure to control SSOs and prepare for sea level rise, studying effects of nutrients and potential technologies for reducing nutrient loads, and planning resource recovery projects - to controlling mercury to levels that would have a negligible effect on water quality in the SF Bay ecosystem. BACWA supports the comments provided by CASA on bifurcating the beneficial uses piece from the wildlife water quality objectives, and extend the time period for the beneficial use development. This would provide an opportunity to give additional consideration to the implementation requirements so that they do not unfairly burden insignificant sources of mercury such as POTWs, and target them towards actions that would have a meaningful impact in reducing mercury in the water environment.