



The Environmental Justice Coalition for Water
Water Justice for All

VIA ELECTRONIC MAIL TO: COMMENTLETTERS@WATERBOARDS.CA.GOV

February 17, 2017

Public Comment
Beneficial Uses and Mercury Objectives
Deadline: 2/17/17 12 noon

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



Subject: Comment Letter – Beneficial Uses and Mercury Objectives

Dear Jeanine Townsend:

The Environmental Justice Coalition for Water (EJCW) appreciates the opportunity to comment on the Proposed Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California – Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions (“Provisions”) and the Draft Staff Report, including the Draft Substitute Environmental Document.

In brief, we strongly support the adoption of the new beneficial use categories and definitions related to tribal traditional and cultural uses of water, tribal subsistence fishing, and subsistence fishing by the general population. We believe these beneficial use designations are long overdue and therefore urge the Board to preserve the unified adoption of these designations with the statewide mercury water quality control objectives. Statewide recognition of these three new beneficial uses has been a multi-year effort of the Board, Tribes, and other interested stakeholders with numerous public outreach events, workshops, hearings, and stakeholder engagement. Recognizing these beneficial uses together with the proposed mercury objectives is the most logical path, as the two are inextricably linked. We urge the Board not to bifurcate the proceeding, but to proceed as planned from the outset and adopt the new beneficial uses and mercury objectives together.

We also support the Board’s proposed five water quality objectives, as they appear to provide a path towards ensuring reasonable protection of their associated beneficial uses. Additionally, we strongly



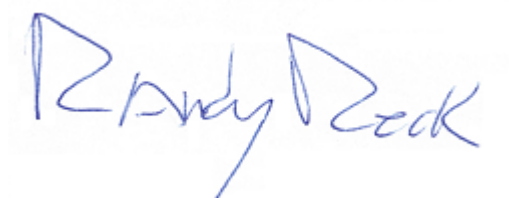
support the Board's recognition that additional water quality objectives for pollutants other than mercury may be necessary in the future to reasonably protect the two proposed subsistence beneficial uses (T-SUB and SUB). We look forward to working with the State Board as well as the Regional Boards to identify and designate specific water bodies that support subsistence fishing and to develop programs of implementation that will ensure the protection of human health on a community and individual scale.

However, we cannot support the proposal in so far as it limits its reach to inland waters not currently covered by a TMDL. Many mercury or methylmercury TMDLs were developed years or decades ago and contain mercury objectives higher than the proposed standard for sport fishing of 0.2 mg/kg in highest trophic level fish. For example, the Sacramento-San Joaquin Delta Methylmercury TMDL sets an objective of 0.24 mg/kg for trophic level 4 fish. Although existing TMDLs were found to be protective of existing beneficial uses at the time they were passed, the current action pending before the Board presents an opportunity to update statewide objectives based on the latest scientific understanding of exposure levels for human and wildlife protection. Further, a consistent statewide standard will minimize disparate impacts to Californian's based on geographic location. We believe the new water quality objectives should be applied immediately to all inland waters, including areas covered by existing TMDLs. This not only will facilitate meeting the goal of a level of mercury that is protective of fish and limited human consumption, but also ensure statewide consistency. At minimum, it should be made explicit that the new objectives should apply to all future updated mercury TMDLs.

We are also pleased to see that the State Board analyzes the Provisions' impacts in consideration of the Human Right to Water. Though brief in its analysis, we appreciate the included exception for small disadvantaged communities for the municipal wastewater treatment requirements.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Randy Reck". The signature is written in a cursive, slightly slanted style.

Randy Reck
Legal Fellow
The Environmental Justice Coalition for Water