



# Big Bear Municipal Water District

## Lake Management

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### Comment Letter - Statewide Mercury Policy - CEQA Scoping Comments

The Big Bear Municipal Water District appreciates this opportunity to share our thoughts concerning CEQA scoping for a proposed statewide mercury control program for reservoirs. The District was organized in 1964 to stabilize the level of Big Bear Lake for recreation and the environment. The District manages the only reservoir in San Bernardino and Riverside Counties that has been designated as mercury impaired. The Basin Plan lists the following beneficial uses for Big Bear Lake; cold fresh water habitat, warm fresh water habitat, water contact recreation, municipal and domestic water supply, agricultural water supply, rare, threatened or endangered species and ground water recharge. State Board Resolution No. R8-2006-0023 amended the water quality control plan for the Santa Ana River Basin to incorporate a nutrient TMDL for dry hydrologic conditions.

Unlike other impaired reservoirs in the State, the elevated level of methyl mercury in warm fresh water fish species tissue from Big Bear Lake is not derived from mining related sources. Airborne mercury deposited on the 47 square mile watershed and directly on the surface of Big Bear Lake is the only significant source entering this system. Recently completed studies by the South Coast Air Quality Management District indicate atmospheric deposition of mercury in Big Bear falls within the typical range for other remote and rural locations throughout the nation. It is well below levels reported for urban locations. Based on actual data AQMD calculated dry deposition rates half of what a study performed by Tetra Tech in 2002 estimated. If, as it appears, atmospheric deposition of mercury is the only significant source of mercury, any remedial measures for the Big Bear Lake situation will necessarily be different than for reservoirs with primarily mining related mercury sources.

Water samples have been collected and analyzed, and sediment samples have been collected and analyzed and fish tissue has been collected and analyzed in Big Bear Lake. But, no one knows if methylmercury impacted warm fresh water fish from Big Bear Lake pose a risk to human health and the environment. No one knows what human consumption statistics are for warm fresh water fish species caught in Big Bear Lake. How many people

subsist on bass flesh from fish caught in Big Bear Lake and what is their gender and childbearing status? What birds or mammals consume sufficient quantities of methylmercury bearing fish that would cause them harm? The State should answer these questions before a Mercury Control Program for Reservoirs is contemplated for Big Bear Lake.

The District believes that a more thorough description of the proposed project is needed in order for the State Water Resources Control Board to appropriately process a CEQA document. While information provided prior to this meeting summarizes in general terms the intent of the proposed policy, there is too little detail for the Big Bear Municipal Water District to identify a comprehensive list of environmental issues that must be addressed in the CEQA document.

For instance;

- What control actions might the policy propose for the atmospheric deposition source of mercury to Big Bear Lake?
- CEQA scoping documents suggest that changes in approaches to reservoir management could be used in a new policy. What does this mean?
- Would new source water be required?
- Will additional releases be called for?
- Will existing source water be prohibited from entering the reservoir?
- The Big Bear Municipal Water District has legal responsibilities for making releases to satisfy down-stream fisheries in accordance with Order WR 95-4. Any policy must address this requirement.
- The Big Bear Municipal Water District has contracts that obligate the sale of water for use in snowmaking. How might a policy imposed by the State impact this contract?
- The Big Bear Municipal Water District has agreements with San Bernardino Municipal Water District to provide water to the legal water rights holder of the water stored in the Lake. How might a policy imposed by the State impact this agreement?
- What might be the impact on the water rights held by Bear Valley Mutual Water District when reservoir releases are needed to satisfy their rights?
- Changes in fisheries management practices limiting populations of stocked fish are suggested. The District stocks warm fresh water fish to satisfy the beneficial use of the lake as a warm fresh water habitat. Does the proposed policy suggest elimination of this designated beneficial use for the Lake in order to avoid one risk of mercury exposure?
- Are other options going to be explored such as a catch and release policy for warm fresh water species?

- How much effort is proposed to identify and document what real risk to human health and the environment there is from methylmercury in warm fresh water fish caught in Big Bear Lake?
- Does anyone know what, if any, risk there actually is based on how the public ingests warm fresh water fish caught in Big Bear Lake?
- Will the policy propose to conduct a creel survey of Big Bear Lake to make this determination?
- How can an effective policy be developed without knowing first what the risk is?

Speaking on behalf of the Big Bear Municipal Water District the most efficient and timely approach to the control of mercury in Big Bear Lake is to select Element 1: Alternative 1: No Action. Additionally the District believes that Element 2: Alternative 2: No action will best serve the health and welfare of the population using and providing the resources necessary to manage Big Bear Lake. A Regional Board approach is effective and efficient because Regional Board Staff have been working with the District and other stakeholders for years on other water quality related issues.

One size does not fit all and establishing policies from Sacramento will ignore unique and important features directly or indirectly related to the mercury risk in Big Bear Lake. Beneficial uses, climate, watershed topography, lake bottom bathymetry, fish and wildlife, geologic setting and provenance, replenishment source water, mercury source, management jurisdiction, water rights, legal agreements, environmentally obligated legally enforceable release policies, and water sales contracts must all be considered in any CEQA document if a statewide policy will be pursued.

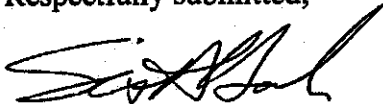
The Potential Implementation Actions listed in the CEQA Scoping documents correctly do not ignore regional and state responsible parties such as the Air Quality Management District, Air Resources Boards and the U.S. EPA. These agencies must be held accountable for addressing atmospheric deposition that is impacting Big Bear Lake. Unlike watershed derived contaminants, the source mercury impacting Big Bear Lake is a regional, national and probably international issue that deserves broadening the list of potential responsible parties to include them. These agencies must carry a substantial portion of the burden that any new mercury policy imposed by the State places on Big Bear Lake.

The District believes that the CEQA document must address the following potentially significant impacts;

1. Land use and planning – The proposed policy says that modification of water storage and discharge patterns in Big Bear Lake is contemplated. State Water Resources Control Board Order WR 95-4 obligates the District to release reservoir water to maintain a healthy downstream brown trout fishery. What impact might there be associated with this?

2. **Water** – The proposed policy says that modification of water storage and discharge patterns in Big Bear Lake is contemplated. The Big Bear Municipal Water District is bound by court order and legal agreements to store and release water from Big Bear Lake in a manner that protects the rights of the down-stream water right holder, Bear Valley Mutual Water Company. Additionally, those rights are further protected by agreements with San Bernardino Valley Municipal Water District that define when and how reservoir releases are made. An obligation by the proposed policy to alter these agreements will have significant impacts.
3. **Recreation** – The imposition of new, unfunded obligations by the State could have a significant impact on the ability of the District to continue providing the public several of the beneficial uses defined in the Basin Plan. Although the law says available financial resources cannot be considered when contemplating application of the Clean Water Act, the State should consider the unintended negative consequence on other beneficial uses of Big Bear Lake when resources are diverted to address what is most likely to be an insignificant risk to human health and the environment.

Respectfully submitted,



Scott Heule  
General Manager

Cc: Hope Smythe, California Regional Water Quality Control Board, Santa Ana River Region