



February 28, 2007

Hg OFFSET POLICY
Deadline: 2/28/07 5pm

DAVID H. WILLIAMS
DIRECTOR OF WASTEWATER

Via Electronic and U.S. Mail

Tam Doduc, Chair and Members
c/o Song Her, Clerk to the Board
Executive Office
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100



Dear Chairwoman Doduc and Members:

RE: Comments on CEQA Scoping for Proposed State Policy for Water Quality Control, San Francisco Bay, Sacramento-San Joaquin River Delta and Tributaries Mercury Discharge Offset Policy

The East Bay Municipal Utility District (EBMUD) is pleased to have the opportunity to provide comments regarding CEQA scoping for the proposed mercury offset policy. EBMUD is a large regional municipality that provides potable water and wastewater services for over 1.3 million and 650,000 customers of the East Bay, respectively. EBMUD prides itself as a steward of San Francisco Bay, exemplified by over 80 months of continued NPDES compliance at our main wastewater treatment facility.

EBMUD applauds the SWRCB for undertaking this effort to initiate a robust, transparent and technically-based development process for a workable offset policy. This offset policy has the opportunity to provide the residents of California with an additional and very important tool in the arsenal needed to clean up the waters of the state in the most cost-effective manner possible. If designed in a manner that actually results in promoting offsets, this policy will set a national model; that there is a way to move forward in the quest to continue the improvement in the quality of the our waters without major and often inefficient capital intensive end-of-pipe treatment solutions.

EBMUD was very encouraged by the comments from all the stakeholders at the CEQA workshop on February 20, 2007. Particularly noteworthy were comments indicating a SWRCB desire to produce a policy that results in a framework that addresses concerns such as local impacts while still promoting offsets through implementation concepts such as "net environmental benefit". EBMUD suggests that one alternative for the Board to consider as a way to move forward in a reasonable timeframe is to develop an adaptive-management approach for this policy. Specifically, one that provides for offset pilots coupled with a defined process for SWRCB review and policy refinement and adaptation based on the lessons learned from these pilots. This approach would likely lessen the up-front hurdles based on stakeholder concerns about worst case scenarios such as more responsibility coupled with higher costs and little regulatory relief or significant investment of staff resources engaged in technical analysis to demonstrate offset

February 28, 2007
Tam Doduc, Chair and Members
State Water Resources Control Board
Page 2

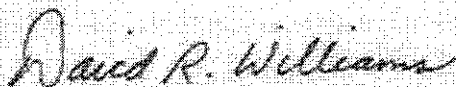
compliance simply due to the lack of illustrative models throughout the country of similar toxic pollutant water quality offset programs.

As you know, this past year the SWRCB issued general waste discharge requirements for sewer systems to approximately 2,000 sanitary sewer collection system agencies. While there remained some divergent perspectives among stakeholders, this ground-breaking process of the issuance of statewide permits for collection system agencies was completed without any formal challenges. EBMUD believes this was due, in large part, to the extensive stakeholder and outreach process that was implemented by SWRCB staff through the Board's encouragement and active oversight. EBMUD believes that this offset policy holds a similar opportunity, that through a robust, open and transparent development process, a meaningful policy could be adapted that has broad support and acceptance.

We would also like to suggest that the offset policy not be restricted to only mercury, but also allows for expansion such that it could be applied to other trace constituents whether or not a TMDL is involved. We believe this could be done in a manner that maintains the focus on mercury in terms of near-term offset projects but at least contemplates the legal authority and framework in which this policy could apply to other constituents.

As the CEQA process moves forward, there will undoubtedly be debate over key aspects of the policy such as baseline measurement, credits for recent mercury reduction efforts, offset ratios and other concerns of the varied stakeholders, but at this point we simply want to encourage the Board to move forward with this very important initiative.

Sincerely,



David R. Williams
Director of Wastewater

cc: Tom Howard
Acting Executive Officer, SWRCB