




Midpeninsula Regional
Open Space District

Memorandum

DATE: November 14, 2018

MEMO TO: Board of Directors

THROUGH: Ana Ruiz, General Manager 

FROM: Matt Baldzikowski, Senior Resource Management Specialist

SUBJECT: Continued Coordinated Monitoring in accordance with the Guadalupe River Watershed Total Maximum Daily Load for mercury

The District received a letter dated October 24, 2018 from the San Francisco Bay Regional Water Quality Control Board (RWQCB) under the authority of Water Code Section 13267 (attached). This letter includes two items: 1) Technical Report Requirements to Conduct and Report on Monitoring for Mercury per the Cycle 2 Monitoring Plan (2018 to 2023 – which has begun); and 2) Notice that the February 1, 2011 and June 29, 2017 Water Code Section 13267 Technical Report Requirements are satisfied.

In 2008, the RWQCB adopted the Guadalupe River Watershed Mercury Total Maximum Daily Load (TMDL), and under this plan required the four largest landowners in the New Almaden Mining District to inventory and implement projects to reduce erosion and sedimentation from former mercury mine sites. The four landowners (County of Santa Clara Parks and Recreation Department, Santa Clara Valley Water District, Midpeninsula Regional Open Space District (District), and Guadalupe Rubbish Disposal Company) are required to conduct and report on a monitoring study of mercury within the watershed. This work is being conducted collaboratively by the four parties, and is referred to as the Coordinated Monitoring Program.

Coordinated Monitoring for the first monitoring cycle (2011-2017), required under a prior 13267 letter dated November 23, 2009 was completed. The October 24, 2018 letter acknowledges that the technical report requirements for the first cycle have been satisfied.

The District and the other three parties have begun the Cycle 2 monitoring (2018-2023), as required by the RWQCB October 24, 2018 letter, and have formalized a cost-sharing agreement, which the Board considered and approved on March 14, 2018 (R-18-22).

Attachment:

Water Code Section 13267 letter dated October 24, 2018, from the San Francisco Bay Regional Water Quality Control Board (RWQCB)

San Francisco Bay Regional Water Quality Control Board

Sent via electronic mail: no hard copy to follow

October 24, 2018
CIWQS Place No. 717685

County of Santa Clara
Parks and Recreation Dept.
ATTN: Mr. Don Rocha, Deputy Director
298 Garden Hill Dr.
Los Gatos, CA 95032-7669
don.rocha@prk.sccgov.org

Santa Clara Valley Water District
ATTN: Melanie Richardson, Chief Operating
Officer Watersheds
5750 Almaden Expressway
San Jose, CA 95118-3686
MRichardson@valleywater.org

Midpeninsula Regional Open Space District
ATTN: Ana María Ruiz, General Manager
330 Distel Circle
Los Altos, CA 94022
aruiz@openspace.org

Guadalupe Rubbish Disposal Company, Inc.
ATTN: Daniel North, District Manager
P. O. Box 20957
San Jose, CA 95160
dnorth1@wm.com

Subject: Water Code Section 13267 Technical Report Requirement to Conduct and Report on Monitoring for Mercury per Cycle 2 Monitoring Plan (2018 to 2023); and Notice That February 1, 2011 and June 29, 2017 Water Code Section 13267 Technical Report Requirements are Satisfied

Dear Sirs and Madams:

This letter is to confirm that the County of Santa Clara (County), the Guadalupe Rubbish Disposal Company, Inc. (Guadalupe Disposal), the Midpeninsula Regional Open Space District (Open Space District), and the Santa Clara Valley Water District (Water District) have satisfied requirements to conduct and report on monitoring for 2011–2016, and to provide a satisfactory monitoring plan for 2018–2023. Additionally, by this letter the Water Board requires that the following monitoring and reporting be conducted for 2018–2023.

Background

The Water Board adopted the Guadalupe River Watershed Mercury TMDL on October 8, 2008. The implementation plan requires monitoring that is proceeding in cycles; cycle 1 covered 2011–2016, and cycle 2 will cover 2018–2023.

Cycle 1: 2011–2016 Monitoring and 2017 Report

On November 23, 2009, the Water Board issued a Water Code Section 13267 Technical Report Requirement for a monitoring plan for cycle 1 mercury monitoring in accordance with the Guadalupe River Watershed Mercury TMDL (2009 Requirements). On February 1, 2011, the Water Board issued a Water Code Section 13267 Technical Report Requirement that approved the coordinated monitoring plan (i.e., completed the 2009 Requirements) and required monitoring for 2011–2016 and report due January 30, 2017 (2011 Requirements). The purpose of the monitoring was to quantify interannual variability of mercury in fish and to assess progress in attaining TMDL targets and allocations.

In cycle 1, fish were sampled in three years in reservoirs and creeks downstream of mercury mines, as planned. These data were used to quantify the interannual variability of mercury in fish from reservoirs and creeks. Hypolimnetic oxygenation in reservoirs reduced water methylmercury concentrations. However, no decreases in fish mercury concentrations were observed in response to either source reductions from mines or reservoir oxygenation. Storm sampling was conducted in one year, as planned. Four storm events were sampled in Water Year 2015 between December 2014 and April 2015 at one location on Guadalupe River. These storm data combined with continuous data from a U.S. Geological Survey gage were used to calculate annual mercury load. The annual mercury load is highly dependent on precipitation and flow, and given the drought conditions in 2015 was 20% lower than the Water Year 2010 mercury load. Monitoring is needed in cycle 2 to assess progress in attaining TMDL targets and allocations.

To coordinate their response to the Water Board’s requirements for cycle 1 of mercury monitoring, the County, Guadalupe Disposal, Open Space District, and Water District entered into a Memorandum of Understanding (MOU) to develop a monitoring plan and conduct monitoring and reporting. The MOU expires 60 days after the Water Board approves the cycle 1 monitoring report. These four entities developed a monitoring plan, conducted monitoring from 2011–2016, and in March 2017 submitted a final report titled, “Guadalupe River Coordinated Monitoring Program 5-Year Report.” The final cycle 1 monitoring report appropriately resolved comments from Water Board staff in a letter dated February 22, 2017. Therefore, the 2011 Requirements have been satisfied and are deemed complete.

Cycle 2: 2018–2023 Monitoring Plan

On June 29, 2017, the Water Board issued a Water Code Section 13267 Technical Report Requirement for a monitoring plan for cycle 2 mercury monitoring in accordance with the Guadalupe River Watershed Mercury TMDL (2017 Requirements). To coordinate their response to the Water Board’s requirements for cycle 2 of mercury monitoring, in 2018 the County, Guadalupe Disposal, Open Space District, and Water District entered into a Cost Sharing Agreement (Agreement). This Agreement is to develop a monitoring plan and to conduct monitoring and reporting. This Agreement will expire 60 days after the Water Board approves the cycle 2 monitoring report (which is anticipated in 2024). On August 13, 2018, the County, Guadalupe Disposal, Open Space District, and Water District provided a monitoring plan satisfactory to the Water Board for cycle 2, *Monitoring Plan (2018–2023) Coordinated Monitoring Program for Guadalupe River Watershed Mercury TMDL* (Monitoring Plan). The Water Board hereby approves the monitoring plan for cycle 2, and therefore the 2017 Requirements have been satisfied and are deemed complete.

Technical Report Requirements

This letter pertains to monitoring for mercury in waters downstream of New Almaden Mercury Mining District, Guadalupe Mercury Mine, and/or Bernal Mercury Mine. The County, Guadalupe Disposal, and the Open Space District are receiving this letter because they discharged, discharge, or are suspected to have discharged or be discharging mercury mining waste into surface waters of the Guadalupe River watershed. The Water District is receiving this letter because it owns and operates reservoirs and lakes, and is responsible for reducing methylmercury production in and releases from Guadalupe, Almaden, and Calero reservoirs, and Lake Almaden.

This letter pertains to the following requirements of the [Monitoring Program in Chapter 7.7.1.6 of the Water Quality Control Plan \(Basin Plan\) for the San Francisco Bay Basin](#):

- 2) Monitoring of mercury load at the points of discharge to demonstrate progress in reducing loads (applicable to mercury mines, and reservoirs and lakes)
- 3) Fish tissue mercury monitoring to assess progress in attaining targets (applicable to mercury mines, and reservoirs and lakes)
- 4) Monitoring of mercury load to San Francisco Bay to assess progress in attaining the legacy and urban stormwater runoff mass load allocations assigned by the Bay mercury TMDL (applicable to mercury mines, urban stormwater runoff, and reservoirs and lakes)

In accordance with the Basin Plan, and because of demonstrated progress on abating discharges of mining waste and participation in an approved coordinated watershed monitoring program, we are hereby waiving monitoring requirement 2, through April 30, 2023. It is your responsibility to request an extension of this waiver in writing; we suggest you do this by December 31, 2022.

During 2018 to 2023, you are required to conduct monitoring and submit progress and interim monitoring reports. A final report is due by January 31, 2024.

- 1) Monitor mercury in fish in accordance with the approved cycle 2 Monitoring Plan (see above) to assess progress in attaining targets.
- 2) Monitor the mercury load to San Francisco Bay in accordance with the approved cycle 2 Monitoring Plan (see above) to assess progress in attaining the legacy and urban stormwater runoff mass load allocations assigned by the Bay mercury TMDL.
- 3) Submit annual progress reports by June 30 in each year from 2018 through 2023. These brief progress reports are not expected to exceed three pages each, and shall describe (1) significant contracting, permitting, or practical difficulties, and (2) current or anticipated requests to the Water Board (e.g., waivers, proposed changes in monitoring or reporting procedures).
- 4) Submit interim monitoring reports that describe monitoring attempted and accomplished, field conditions, samples collected, and provide data tables. Interim monitoring reports

are due by January 31 after the year in which monitoring occurred. Submit an interim monitoring report in January 2023 that includes a detailed table of contents proposed for the 2018—2023 monitoring report, including lists of tables, figures, descriptions of data analysis, and appendices. If monitoring occurs in 2023, no interim report is due in January 2024.

- 5) Submit a draft of the final 5-year monitoring report by January 30, 2024, in accordance with the Monitoring Plan. Revise the report in response to written comments from Water Board staff. Submit a final monitoring report within 45 days of receipt of Water Board comments.

This requirement for a report is made pursuant to California Water Code section 13267, which allows the Water Board to require technical or monitoring program reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. The attachment provides additional information about the 13267 requirements. Any extension in the above deadlines must be confirmed in writing by Water Board staff. Failure to comply with this letter may subject you to civil liability in an amount not to exceed \$1,000 for each day of violation. Falsifying any information in the required report may subject you to misdemeanor charges and civil liability not to exceed \$25,000 for each day of violation.

If you have any questions, please contact Carrie Austin of my staff at (510) 622-1015 or by e-mail Carrie.Austin@WaterBoards.ca.gov.

Sincerely,

for Bruce H. Wolfe
Executive Officer

cc: Vincent Gin, Santa Clara Valley Water District vgin@valleywater.org
Rechelle Blank, Santa Clara Valley Water District rblank@valleywater.org
Jennifer Castillo, Santa Clara Valley Water District jcastillo@valleywater.org
Kirsten Struve, Santa Clara Valley Water District kstruve@valleywater.org
Elisabeth Wilkinson, Santa Clara Valley Water District ewilkinson@valleywater.org
Mark Seelos, Santa Clara Valley Water District mseelos@valleywater.org
Clayton Leal, Santa Clara Valley Water District cleal@valleywater.org
Kirk Lenington, Midpeninsula Regional Open Space District klenington@openspace.org
Matt Baldzikowski, Midpeninsula Regional Open Space District mbaldzikowski@openspace.org
Mark Frederick, Santa Clara County Parks and Recreation mark.frederick@prk.sccgov.org
Michael Winter, Guadalupe Rubbish Disposal Company, mwinter@wm.com
Mark Verwiel, Guadalupe Rubbish Disposal Company mverwiel@wm.com

Kevin Lunde, San Francisco Bay Regional Water Quality Control Board
kevin.lunde@waterboards.ca.gov