Lila Tang, Chief July 7, 2006
NPDES Permits Division
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dear Ms. Tang:

Thank you for the opportunity to comment on the tentative order for the proposed NPDES permit reissuance for the Vallejo Sanitation and Flood Control District (permit number CA0037699). The purpose of this letter is to present EPA's comments on the draft permit. First, we believe some of the language that seems to approve bypass (blending) is inconsistent with Federal regulation. Second, we are concerned that the permit contains limits for copper that are significantly less stringent than the limits that would be developed under the proposed site-specific objective; we believe more stringent limits should be required to ensure protection of water quality and beneficial uses.

Bypass/Blending Provisions

The bypass language contained in the second paragraph of the discharge prohibition III.C. inappropriately allows bypasses in the form of wet weather blending at the treatment plant. The permit must be changed to make the blending (bypasses) subject to 40 CFR 122.41(m)(4). Please see the attached detailed comments on compliance, blending, collection systems, and wet weather for specific suggestions. Please consider the attached comments in addition to this letter as EPA's formal comment submittal.

Copper Limits

The permit includes water quality-based effluent limits for copper of 110 ug/l (average monthly) and 148 ug/l (maximum daily). The permit also contains alternative limits for copper based on a proposed site-specific objective; these alternative limits are 49 ug/l (monthly average) and 66 ug/l (maximum daily). The existing permit contains an interim limit of 36 ug/l as a daily maximum. Thus, the new permit limits are less stringent by a factor of 4 than the existing interim limits, and less stringent than effluent limits calculated using the proposed site-specific objective by a factor of greater than 2.

The copper limits proposed in this permit are much less stringent than previous limits for two reasons. First, they are calculated with site-specific total/dissolved metals translators rather than the more conservative CTR translators. Second, a site-specific water effects ratio of 2.5 was

used, rather the CTR default of 1.0. The limits are much less stringent than limits calculated under the draft SSO because the species recalculation that results in a more stringent water quality standard was not included.

EPA is not opposed to the use of a WER to calculate permit limits, as allowed by the CTR. However, copper loading to the Bay has been a significant problem historically, and scientific evidence is available to support a more stringent approach than proposed in this draft permit. We do not agree with the Board staff draft approach to calculate permit limits that are more than 2 times less stringent than the proposed limits under the draft SSO. EPA's WER Guidance published in 1994 specifically states that if a recalculation procedure is to be used, it should be performed prior to the development of a WER. In this case, the recalculated procedure has been conducted, but Board staff is proposing to choose a WER that will result in much less stringent limits than anticipated under the SSO.

Board staff can easily remedy this problem by using a more conservative WER in advance of the approval of the SSO. Appendix A of the draft SSO document (Larry Walker Associates, 2004) shows a range of WERs presented as "…copper objective alternatives that are directly sanctioned by the CTR." The EPA WER guidance presents several scenarios in which the most conservative WERs calculated should be selected as final WERs. We urge the Board to select a more conservative WER that will result in permit limits equal to or more conservative than those that will be calculated if the draft SSO is adopted.

Thank you for your consideration of these comments. We appreciate your efforts to reissue this permit, however, we are compelled to notify you, in accordance with 40 CFR 123.44(b) and the 1989 NPDES Memorandum of Agreement, that the EPA may object to the final permit, if necessary, based on EPA's concerns described in these comments. If you have any questions, please contact me or Nancy Yoshikawa at (415) 972-3535.

Sincerely,

Douglas E. Eberhardt, Chief
CWA Standards and Permits Office

Attachment: US EPA Comments on Vallejo Tentative Order July 7, 2006
Detailed Comments on Compliance, Blending, Collection System, and Wet Weather Issues

Provision III.A - Change this prohibition to read "Discharge of any treated or untreated wastewater..." so it is clear that discharges of raw sewage from the collection system are prohibited by the permit.

Provision III.C, 2nd paragraph - This provision inappropriately allows bypasses in the form of wet weather blending at the treatment plant. Blending as practiced by Vallejo is a bypass subject to the bypass prohibition in 40 CFR 122.41(m)(4) and Standard Provision A.13 of the Vallejo permit. The bypass prohibition at 40 CFR 122.41(m)(4) does not provide for authorization of or allowance of bypasses. The regulation does, however, provide that the Board may "approve" an anticipated bypass if the provisions of 40 CFR 122.41(m)(4)(i)(A), (B) and (C) are met (the bypass is unavoidable, there were no feasible alternatives, and the discharger submits proper notice). Approval of an anticipated bypass does not authorize the bypass, but would have the affect of barring the Board from taking enforcement against the discharger for the approved bypass.

The permit must be changed to make the blending (bypasses) subject to 40 CFR 122.41(m)(4). The Board may consider the planned blending at Vallejo as an anticipated bypass, however, to do this, the Board must evaluate the planned blending (bypass) and determine if it meets the conditions at 40 CFR 122.41(m)(4)(i)(A), (B) and (C). This evaluation should include an analysis of feasible alternatives. The conclusions of this evaluation should be stated in the permit findings along with a determination as to whether or not the blending is an approved or disapproved bypass. If the Board approves the bypasses, the permit must include the specific conditions under which the bypass would be approved, including specific minimum wet weather flow rates. (The tentative order allows blending "during wet weather". This provision is too general.) The Fact sheet notes that Vallejo is in the process of completing feasible alternatives aimed at reducing blending at the treatment plant. Specifically, Vallejo is constructing Phase III of its wet weather improvement program. Should the Board find adequate justification to approve Vallejo's anticipated bypasses, that approval should be made contingent on Vallejo completing the Phase III improvements since these improvements represent feasible alternatives for reducing bypasses. The permit should include an implementation schedule for completing the Phase III improvements and any other feasible alternatives for reducing or eliminating bypasses.

Provision VI.C.6 - This provision describes conditions in the Vallejo NPDES permit that apply to its collection system. This paragraph appropriately defines the permitted facility to include Vallejo's collection system. There are several other locations in the permit, however, where it must be made clear that the NPDES permitted facility includes both the treatment plant and Vallejo's collection system. Please modify the following to describe the facility as treatment plant and collection system:

- Cover sheet, Name of Facility;
- Paragraph I., Name of Facility;
- Finding II.B, Facility Description (should read "owns and operates a *collection system* and secondary level wastewater treatment facility.")

We also request that the Board delete the following sentence in Provision VI.C.6.: "Compliance with these requirements will also satisfy the federal NPDES requirements specified in this Order." Although the Board anticipates that compliance with the General WDR will also meet the NPDES Permit requirements, it is in appropriate to make such a sweeping statement, especially without knowing the factual context in which a specific compliance issue may arise.

Provision IV.A., Effluent Limitations and Monitoring and Reporting Program, Paragraphs IV.A. and B - The permit establishes effluent limits for discharge points E001 and E002. However, the permit inappropriately allows compliance measurements for the E001 and E002 effluent limits to be based on monitoring only at E001. 40 CFR 122.48(b) requires representative monitoring of discharges. We do not consider monitoring at E001 to be representative of the discharge from E002. The Effluent Limitations at paragraph IV.A and the Monitoring and Reporting Program must be changed to require monitoring at both E001 and E002. Compliance with the effluent limitations for each discharge point should be based on monitoring of the respective discharges.

Monitoring and Reporting Program, Paragraph X.B.2 - We agree with the requirements of MRP paragraph X.B.2 which require monitoring of blended discharges. This paragraph should specify that the monitoring be conducted at outfalls E001 and E002. In addition, we recommend that the Board clarify the sentence stipulating that "if CBOD or TSS *values exceed* the weekly average effluent limits...." Does this mean that if any single sample result exceeds the limit or the average of all samples collected during a seven day period? Finally, we suggest that MRP Paragraphs IV.A. and B make a cross-reference to the monitoring requirements in Paragraph X.B.2.

Permit Provision VI.C.2.a - This provision requires a study to evaluate the appropriateness of using TSS monitoring as in indicator of compliance with other effluent limitations. According to 40 CFR 122.48(b), the permit must require representative monitoring of the discharge. Monitoring for TSS alone is not representative of other parameters limited by this permit. The permit should retain requirements for representative monitoring. This would include monitoring of pollutant concentration and loads that are likely to change (increase or decrease) during wet weather blending including TSS, BOD, chlorine residual and coliform.

Fact Sheet, Paragraph II.A.9 - This paragraph cites EPA's 1986 letter regarding the East Bay Municipal Utility District's wet weather overflow structures. We agree with the Board's decision to not authorize discharges from Vallejo's wet weather overflow structures (Fact Sheet paragraph II.A.6). However, because

EPA's 1986 letter about EBMUD is not relevant to Vallejo, Paragraph II.A.9 should be deleted.

Attachment E, page E-5, footnote [9] – Please explain why this footnote on mercury monitoring states "the Discharger may use alternative methods of analysis (such as EPA 245), if that alternative method has a Minimum Level of 2 ng/l or less." As 1631 is the method in common use for total mercury, it is unclear why this statement is included.