CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

RESPONSE TO WRITTEN COMMENTS
ON THE NPDES PERMIT REISSUANCE FOR:

City of Petaluma, Water Pollution Control Plant, Sonoma County
NPDES Permit No. CA 0037810

Three comment letters were received for this Tentative Order (T.O.). One was received on September 23, 2005 from the City of Petaluma, and two were received on September 27, 2005 from San Francisco Baykeeper and U.S. EPA, Region IX. Below are the Regional Water Board's staff responses to comments. The format of this response begins with comments quoted or paraphrased for brevity. The complete comment letters are in Appendix B. Responses follow each comment presented in *italics*.

I. Response to U.S. EPA's Comments

U.S. EPA Comment 1. *U.S. EPA does not believe it is appropriate to extend compliance schedules for copper and cyanide: "The draft permit contains interim limits and compliance schedules for copper and cyanide. Finding #46 of the draft permit states that the previous permit contained a compliance schedule for copper until July 15, 2005, and for cyanide until July 15, 2003, or until site-specific objectives (SSOs) are adopted. However, the draft permit extends the compliance schedules for both of these pollutants until May 18, 2010. According to the "General Basis for Compliance Dates (Revised March 21, 2005)" document that we received from Board staff, the maximum compliance schedule allowed for the saltwater copper number is 5 years, while the maximum allowed for cyanide is 10 years. Please explain the legal basis for allowing the compliance schedules for these pollutants to extend beyond these timeframes."*

Response to U.S. EPA Comment 1. We revised the Fact Sheet, and Findings 43 and 46 of the T.O. to indicate that the basis for authorizing compliance schedule for cyanide is the Basin Plan instead of the SIP.

With respect to the legal basis for the compliance schedule for copper, the SIP allows for a maximum of 5 years but not more than 10 years from the effective date of the SIP. The SIP became effective on the effective date of the CTR for CTR pollutants: May 18, 2000. The saltwater criterion for copper is from the CTR and is the criterion that drives the WQBELs for this current draft permit. As discussed in Finding 46, the compliance schedule granted in the previous permit was allowed for development of site-specific objectives (SSO) by the Water Board. That schedule was based on the Basin Plan. Since no SSO was completed, and with the new regulations (SIP/CTR) promulgated since adoption of the previous permit, it is legal and appropriate to grant a compliance schedule for copper that expires May 17, 2010, based on the new regulations.

For cyanide, the Basin Plan allows compliance schedules of up to ten years for new objectives or standards. See Basin Plan, p. 4-14. The Regional Water Board has reasonably construed this Basin Plan provision to authorize compliance schedules for new interpretations of existing standards resulting in more stringent effluent limits, which construction has been upheld by the State Water Board in Order WQ 2001-06 (the "Tosco Order") and recently by the California Court of Appeal in an unpublished decision in Communities for a Better Environment, et al. v. State Water Resources Control Board, et al., 2005 WL 2065306 (Cal.App. 1 Dist.) ("CBE II"). Neither the Tosco Order nor CBE II limits granting compliance schedules to new interpretations of existing narrative water quality standards. Moreover, the Clean Water

Act does not differentiate between numeric and narrative water quality standards for purposes of compliance schedules. See, e.g., 33 U.S.C. Section 1313 (e)(3)(F).

In this case, the promulgation of the SIP results in new interpretations of existing standards for cyanide. As a result, the effluent limits for cyanide are more stringent. The following table shows that the WQBELs for cyanide under the SIP are more stringent than under the Basin Plan:

Water Quality Based Effluent Limits Under the Basin Plan vs. SIP (Unit: μg/L)

Pollutant	Basin Plan		SIP	
	MDEL[1]	AMEL[2]	MDEL	AMEL
Cyanide	1.0[3]	not required	1.0	0.4

[1] MDEL – maximum daily effluent limit
[2] AMEL – average monthly effluent limit
[3] This WQBEL was not established in the 1998 permit due to uncertainties about effluent data quality.

Although both the Basin Plan and SIP MDELs are the same, the SIP AMEL will limit the discharge to a lower long-term average level than the Basin Plan MDEL because the Basin Plan did not require an AMEL. This is because under the Basin Plan, the Discharger could practically discharge an effluent with a long-term average at the higher daily average level. Therefore, the new WQBELs are considered to be more stringent. The compliance deadline for cyanide is April 27, 2010, which is 10 years after the effective date of the SIP (April 28, 2000) as it relates to priority pollutant objectives already in place in the Basin Plans.

U.S. EPA Comment 2. *U.S. EPA believes that the existing permit limitation for total coliform (median value) is not consistent with the Basin Plan. Only after it is demonstrated that beneficial uses will not be compromised by such an exception, the Regional Water Board may grant an alternate permit limit. There does not seem to be a statement that this exception is being granted, or the basis of the exception in the permit or the fact sheet. Additionally, even if an exception exists as the basis for this permit limit, the limit should be changed from a 23 MPN/100 ml as a 7-sample median to the 5-sample median allowed in footnote (e).*

Response to U.S. EPA Comment 2. The T.O. was not modified based on this comment for the four reasons discussed below. One slight exception is the change of the 7-sample median to a 5-sample median (see note (3) below). We concur that documentation containing the basis for permit decisions should be identified and included in a permit's record, and have revised the T.O. and Fact Sheet accordingly to describe the basis.

(1) Basin Plan allows establishment of less stringent total coliform limits.

Basin Plan Table 4-2, footnote (e) states: "Exceptions to these requirements (total coliform effluent limits) may be granted by the Regional Board where it is demonstrated that beneficial uses will not be compromised by such an exception."

(2) New study shows that the City's discharge qualifies for an alternate total coliform bacteria limit.

The City recently submitted an evaluation of water quality data with respect to total coliform in Petaluma River, both upstream and downstream of the City's discharge during both wet and dry seasons. The study shows that the discharge or effluent from the City's treatment plant has bacteria levels in compliance with the Basin Plan water quality objectives, and is generally better than the receiving water (see Fact Sheet for

detailed discussion). Therefore, the discharge does not compromise the beneficial uses of the River (the assertion is true for both wet and dry seasons).

(3) Historical records support existing limit of 23 MPN/100ml.

Our review of historic files reveals that this limit has been applied consistently since the City's initial NPDES permit in 1974, and was originally based on recommendations from the State of California, Department of Public Health, through a memorandum to the Regional Water Board, dated March 18, 1969 (see attachment to this Response to Comments). In this memo, the Department of Public Health recommended disinfection criteria for the discharge from the City's treatment plant into Petaluma River, which had been determined to support the water contact recreation beneficial use in a 1963 survey. The Department of Public Health recommended year round disinfection, and specifically, criteria for the discharges during the recreational season (April 1 through October 31) as:

"1. At some point in the treatment process the median MPN of coliform organism should not exceed 23/100ml.

"2. The median value is to be determined from the results of the previous consecutive seven days for which analysis have been completed.

"3. The sample for analysis should be collected at least daily and at a time when waste water flow and characteristics are more demanding on the treatment facilities and disinfection procedures."

The T.O. currently requires collection of 5 daily samples for coliform each week instead of 7 daily samples to accommodate the City's staffing constraints. Therefore, the coliform limit will be changed to a 23 MPN/100ml as a 5-sample median to facilitate compliance determination. A 5-sample median is more stringent than a 7-sample median, so this change is still protective of the 1969 recommendation.

(4) The basis for inclusion of the 23 MPN/100ml limit is still valid.

The current Basin Plan water quality objectives (WQOs) of total coliform bacteria for the protection of the water contact recreation beneficial use, as specified in Table 3-1 of the Basin Plan, is based on 1968 recommendations from the Department of Health Services. The Department of Public Health's memo (attachment) was written after this in 1969. This means that the recommended levels of total coliform levels for water contact recreation have not effectively changed since the 1969 memo. Therefore, we believe the recommendation is still valid.

We recognize that while the 1969 recommendation on total coliform is still valid because the standard has not changed, it is over 35 years old, and research and knowledge of other more specific bacterial indicators (e.g., E. coli, enterococci) have evolved since that time. To allow the City to apply new science and knowledge, the T.O. contains an optional provision for a receiving water beneficial use study and an alternate bacteriological limit study (Provision 13). Once the information is available, the Water Board may reopen the permit to establish alternate bacteriological effluent limits, such as fecal coliform, E.Coli, or enterococcus water quality-based effluent limits (as those specified in Basin Plan Table 3-1 or 3-2) in lieu of the total coliform effluent limits.

U.S. EPA Comment 3. "*EPA is concerned about the language in the permit that allows the discharger to establish alternative bacteria limits for subsequent orders, and the language that allows the discharger an exemption from all bacteria limits during the study data collection period. The nexus between the Basin Plan numeric water quality objectives, the designated beneficial uses, and the development of discharger-specific bacteriological limits based on a discharger-specific use study is unclear. We*

understand the Board has begun to implement this discharger-specific approach in several permits, but we have not seen these studies, and we do not have enough information to determine whether this approach complies with Clean Water Act (CWA) requirements."

Response to U.S. EPA Comment 3. To address this concern, the sentence in Effluent Limitation B.3 and Provision 13 of the T.O. was revised to read: "If there is a total coliform exceedance during the data collection period, the Discharger shall demonstrate that the exceedance is due to the study (in the process of dosage reduction), alternate bacteriological effluent limits are met, and receiving water quality objectives as specified in Table 3-1 for total coliform or fecal coliform are also met, in order for the exemption to apply." In addition, Provision 13 was revised to specify basic elements for this study, including requirements for a beneficial use study, and monitoring requirements for both effluent and receiving water during the study, to ensure that alternate bacteriological effluent limits will be protective of receiving water beneficial uses.

Regional Water Board staff note from similar studies for other dischargers that, based on water quality (for fecal coliform, E.coli, or enterococcus), as specified in Basin Plan Table 3-1 or 3-2, alternate bacteriological effluent limits reduce chlorine disinfectant use. Chlorine is a toxic element, and its manufacture and use results in generation of other toxic chlorinated organics. Therefore, reducing chlorination demand will have net environmental and economical benefits, without damage to water quality as receiving water standards will still be met.

U.S. EPA Comment 4. *U.S. EPA requests to modify the first sentence of Finding #4 to read: "This NPDES permit regulates the Discharger's sanitary sewer collection system, the WWTP and the discharge of effluent from the WWTP."*

Response to U.S. EPA Comment 4. The T.O. was modified based on this comment.

U.S. EPA Comment 4. *Finding #22 and Prohibition #4 state that, during the 36 month construction of the new treatment plant, if approved by the EO, Petaluma may discharge to the Petaluma River during the dry season. The Board needs to establish effluent limits for possible dry season discharges to the Petaluma River. (The effluent limits in section B of the permit apply only to wet season discharges.)*

Response to U.S. EPA Comment 4. We have revised the T.O. Effluent Limit B to delete "during the wet season" to indicate the effluent limits do apply year round. Thank you for pointing out this oversight.

U.S. EPA Comment 5.

(a). ***Provision A.2, first paragraph*** – "*This provision improperly extends the bypass provision (40 CFR 122.41(m)(4)) to overflows from the collection system. The federal bypass regulation applies only to bypasses of the treatment facility, not to the collection system. We are also concerned that this first paragraph may lead to misinterpretation of the applicability of the bypass regulation to bypasses at the WWTP. In fact, contrary to the implication of Provision A.2, 40 CFR 122.41(m)(4)(i) <u>prohibits</u> bypasses, but allows that, if certain criteria are met, the Director will not take enforcement against the prohibited discharge. (40 CFR 122.41(m)(2) and (4)(ii) pertain to allowable bypasses.)*

Both of our concerns explained above may be addressed by changing the first paragraph in Provision A.2 to read: "The bypass or overflow of untreated or partially treated wastewater to waters of the State, either at the WWTP or from the collection system or pump stations tributary to the WWTP, is prohibited, except as authorized by this Order."

Response to U.S. EPA Comment 5(a). The T.O. was modified based on this comment.

(b) Provision A.2, second paragraph *- This paragraph establishes criteria that must be met for blending to be allowed. In the first criteria, define the term "wet season". In the second criteria, define what is meant by "when the discharge complies with the effluent and receiving water limitations...".Does this mean, for example, that blended effluent must meet the 30-day average BOD limit of 30 mg/l on the day of the blended discharge or only for the month when the blending takes place? (See comments below on SMP Part B, Section III.B.)*

Provision A.2. of the Tentative Order requires that wet weather blended effluent must comply with effluent limits and that the Discharger must "optimize storage and use of equalization units, and shall fully utilize the biological advanced treatment units and advanced treatment units". The Board needs to define in the Order what is meant by "optimize storage" and "fully utilize treatment units." Presumably, "optimization" and "fully utilize" can be interpreted as conformance with the wet weather operating scheme and flow rates cited in Findings. If this is the case, the Order should make this link.

Response to U.S. EPA's Comment 5(b). The Regional Water Board revised A.2 to define the wet season as being from October 21 to April 30, which is consistent with the dry season definition of A.5 of the draft permit. The Self-Monitoring Program was revised to clarify the monitoring and reporting requirements for internal flow rates to treatment units and oxidation ponds, for the Regional Water Board to determine whether the Discharger has managed it facility appropriately. See **U.S. EPA Comment 6(c)** and response to Comment 6(c) below for further details.

U.S. EPA Comments on Self-Monitoring Program (SMP)

U.S. EPA Comment 6. SMP Part B, Section III.B

6(a). "*This provision makes amendments to Section C.2.h of SMP Part A and establishes special monitoring requirements during wet weather blending. The second paragraph improperly cross-references Prohibition 3. The proper cross reference is to Prohibition 2."*

Response to U.S. EPA Comment 6(a). The T.O. was revised based on this comment.

6(b). *"In subsection h.i., specify that the required sampling and analysis is of the effluent.*

The last sentence in Section h.i states: "If BOD or TSS values exceed the effluent limits, daily analysis of the retained samples shall be conducted for all constituents ..... until the BOD and TSS are in compliance with effluent limits." (Emphasis added.) The Board needs to explain how one determines if the BOD and TSS values monitored during a blending incident "exceed the effluent limits". Does this mean a single sample with a BOD value in excess of 30 mg/l or TSS value in excess of 45 mg/l? Or must the Discharger wait until the end of the week or end of the month to determine if the weekly average limits or 30-day average limits are exceeded? In either instance, the Discharger will have to wait until the BOD and TSS sample results are in before they'll know whether or not to analyze samples for additional parameters limited by the Order. This wait could range anywhere from 1 day to 35 days depending on how the Board interprets "exceed the effluent limits". The longer waiting period could create problems with allowed holding times for analysis of some parameters. The Board should provide guidance to the Discharger on how to implement this requirement."

Response to U.S. EPA Comment 6(b). The T.O. has been revised to clarify that weekly average effluent limits for TSS and BOD are the triggers the Discharger is required to use to determine when analyses for other pollutant parameters must be conducted. Because of holding time concerns, retaining samples for

pH, chlorine residual and coliform are not feasible. Therefore, these 3 parameters were added to the initial blending monitoring requirement with BOD and TSS.

6(c). *"Provision A.2. of the Tentative Order requires that wet weather blended effluent must comply with effluent limits and that the Discharger must "optimize storage and use of equalization units, and shall fully utilize the biological advanced treatment units and advanced treatment units". (Presumably, "optimization" and "fully utilize" can be interpreted as conformance with the wet weather operating scheme and flow rates cited in Findings.) The SMP must require reporting of internal flow rates to storage and treatment units so the Board can determine compliance with the Provision A.2 requirement to optimize storage and fully utilize treatment units.*"

Response to U.S. EPA Comment 6(c). The SMP was revised to add requirements for record keeping of internal flows to treatment units and oxidation ponds during blending events. If required by the Regional Water Board staff, the Discharger must submit this data to demonstrate its compliance with these requirements. In addition, the SMP requires that the Discharger report in monthly and annual monitoring reports occurrence of blending events, their duration and certify that the blending was in compliance with effluent limits and its O&M Plan.

U.S. EPA Comment 7. ***Self Monitoring Report (SMP) Part B, section III.E*** **-** *The cross references in the title and last paragraph should be to Section F.2 rather than F.3.*

Response to U.S. EPA Comment 7. The T.O. was revised based on this comment.

U.S. EPA Comment 8.
(a). ***Self Monitoring Report (SMP) Part B, Section III.H, Reports of Wastewater Overflows*** *– "Add the following to the end of this section: "....and as specified in the Regional Water Board's letter dated November 4, 2004." This would make this SMP provision consistent with Order Provision F.11 which cites to the November 4, 2004 letter. At this point, the November 4, 2004 overflow reporting requirements are not part of this permit record and reviewers do not know what reporting is required of the Discharger. The Regional Board needs to either incorporate the overflow reporting requirements into the Order or explain the overflow reporting requirements in the permit findings or fact sheet."*

Response to U.S. EPA Comment 8(a). The T.O. was revised based on this comment. Regional Water Board staff has listed the November 4, 2004, letter as an attachment to the T.O, and added a finding to state that the Discharger shall report collection system overflows according to the Executive Officer's letter (a new paragraph at the end of Finding 83).

8(b). *"We want to point out that SMP Part B, Section III.H and Provision F.11 of the Order place the Discharger on a different overflow reporting schedule than the schedule established in SMP Part B, Section II. The November 4, 2004 letter (cited in Provision F.11) requires 24 hour reporting of large overflows and 10-day reporting of smaller overflows equal or greater than 100 gallons. SMP Part B.II requires monthly reporting of the standard observations associated with each overflow, regardless of overflow volume. (Monthly reporting of the standard observations is required in SMP Part A, Section F.4.d. The standard observations are delineated in SMP Part A, Section D.) Needless to say, the reporting obligations associated with collection system overflows are very difficult to understand because they are scattered throughout the permit and establish different reporting schedules and parameters for the same overflows. This is further complicated by the fact that the spill reporting schedule and parameters required by the November 4, 2004 letter do not appear in the permit itself. We urge the Board to consolidate the collection system overflow reporting obligations in a single place in the SMP."*

Response to U.S. EPA Comment 8(b). We have added a notation to SMP Table 1, and attached to the T.O. the November 4, 2004, letter, to clarify that the Discharger is to comply with the reporting requirements for overflows in that letter. This is also already stated in SMP Section III.H.

II. Response to San Francisco Bay Keeper's Comments

Baykeeper Comment 1.
(a). *Baykeeper objects to the compliance schedule provisions of the Permit. Baykeeper believes that the Clean Water Act (CSA) does not allow for the use of a compliance schedule in lieu of meaningful effluent limitations and, in fact, expressly prohibits states from establishing or enforcing effluent limitations that are less stringent than standards required by the CWA. Instead, the CWA sets forth that WQBELs and standards "shall be achieved….[no] later than July 1, 1977. 33 U.S.C. §1311(b)(1)(C). … This Permit seems to ignore the fact that compliance schedules are only intended to facilitate achievement of compliance with effluent limitations and are not intended to allow avoidance of these limits.*

Response to Baykeeper Comment 1(a). The law is clear that for pre-July 1, 1977, water quality standards that remain substantively unchanged after that date, there must be full and immediate compliance. 33 U.S.C. Section 1311(b)(1)(C); *In the Matter of Star-Kist Caribe, Inc*. NPDES Appeal No. 88-5. For new or revised post-July 1, 1977, standards such as here, the U.S. EPA Administrator has held that schedules of compliance that will postpone compliance beyond the statutory deadline are permitted if state law allows. *Id*. In this case, both the Basin Plan and the State Implementation Policy (SIP) allow for compliance schedules such that the Regional Water Board may lawfully grant compliance schedules for the priority pollutants at issue. The Discharger has satisfied the SIP eligibility requirement for a compliance schedule through submittal of its Infeasibility Report, dated August 15, 2005, and included as an attachment to this permit. The federal regulations also permit compliance schedules, where appropriate, for water quality-based effluent limits. 40 C.F.R. Section 122.47. Thus, the T.O. does <u>not</u> result in illegal delays in compliance with water quality standards.

Regional Water Board staff agrees that compliance schedules should be used to facilitate, not avoid, compliance with applicable water quality standards. Accordingly, in connection with the compliance schedule, we have included requirements for the Discharger to pursue aggressive pollution prevention and source control.

Finally, the draft permit does <u>not</u> contain effluent limits less stringent than those required by the Clean Water Act, as alleged by the commenter. That would arguably be the case if compliance schedules are prohibited for new or revised post-July 1, 1977, water quality standards; however, no such prohibition exists, as explained above. As such, the compliance schedules proposed in the draft permit do not inappropriately immunize the Discharger from enforcement by citizen environmental groups or the U.S. EPA.

(b). "*Baykeeper especially objects to the proposed mercury limit, which is not an appropriate water quality-based effluent limitation nor is appropriate under the State Implementation Policy."*

Response to Baykeeper Comment 1(b). We respectfully disagree with this comment. The mercury limit in B.7 of the T.O. is an appropriate water quality-based effluent limit. It is based on the applicable objective in the Basin Plan and was calculated in accordance with the State Implementation Policy.

Baykeeper Comment 2. *Baykeeper also objects to the Permit's proposals concerning mass offsets. The two sentences regarding mass offsets in this Permit would allow the Facility to be off the hook for conducting meaningful pollutant treatment and reduction measures at their own operation simply by*

proposing offsets yet to be determined. Baykeeper also urges that the Board should not be encouraging offsets over improved facility performance, Baykeeper cannot support such vague offset language in the Permit. Baykeeper further expressed its concern of not having the opportunity to comment on a proposed mass offset project in the future (via a telephone conversation between Sejal Choksi and Regional Water Board staff Tong Yin, on September 27, 2005).

Response to Baykeeper Comment 2. The mass offset program is an option to provide the Discharger a way to further reduce pollutant loadings into the environment after exhaustion of economically feasible measures to improve plant performance. Therefore, approval of such a mass offset program would be contingent upon the requirements included in the T.O. being met. "Such requirements include the adoption of interim mass limits that are based on treatment plant performance, provisions for aggressive source control, feasibility studies for wastewater reclamation, and treatment plant optimization. After implementing these efforts, the Discharger may find that further net reductions of the total mass loadings of the 303(d)-listed pollutants to the receiving water can be achieved only through a mass offset program." (Finding #86).

The mass offset option provision (Provision F.12) was revised to specify that the Discharger shall demonstrate its qualification for a mass offset program. In addition, this provision states that the Regional Water Board may modify the permit to allow a mass offset program. Such permit modification can only be done through the Board's public hearing process, which provides the general public and environmental groups an opportunity to participate in such a decision.

Baykeeper Comment 3. *Baykeeper asserts that the Regional Water Board fails to set appropriate water quality-based effluent limitations for bacteria according to Table 3-1 or 3-2 of the Basin Plan, and fails to set effluent limits according to Table 4-2 of Basin Plan.*

Response to Baykeeper Comment 3. Table 3-1 of the Basin Plan specifies the water quality objectives for total or fecal coliform of a receiving water body, based on beneficial uses. Table 3-2 lists the suggested water quality criteria for other species of bacteria, which are not enforceable standards for this region. The Table 3-1 water quality objectives are less stringent than the technology-based effluent limits specified in Table 4-2, which are the effluent limits included in the T.O. (see Response to U.S. EPA Comment 2 for further response to this comment).

Baykeeper Comment 4. *Baykeeper requests to be placed on any list of interested persons to be notified of any further proceedings before the Regional Water Board or the State Water Board concerning this Permit.*

Response to Baykeeper Comment 4. The Regional Water Board will send such notice and will notify the State Water Board about Baykeeper's interest in receiving further notices concerning this Permit.

III. Response to City of Petaluma's (Petaluma) Comments

Comments on the Tentative Order (T.O.)

Petaluma Comment 1. *The City requests that the last sentence of Finding 11 be reworded as follows, to be consistent with the current permit and plant practice.*

> *11. Wet Weather Flow Handling.* During wet season, daily flows in excess of approximately ~~5.25~~ 6.0 mgd are directed to the Pond Influent Pump Station and pumped directly, after rag removal in a screening unit, to the oxidation pond system for treatment.

Response to Petaluma Comment 1. The T.O. was modified based on this comment.

Petaluma Comment 2.*The City requests that Finding 19 be reworded to reflect that an antidegradation analysis study was submitted with the Report of Waste Discharge.*

Response to Petaluma Comment 2. The T.O. was modified based on this comment. However, the antidegradation analysis cannot be approved by the Executive Officer at this time because more information will be needed from the City. Therefore, a sentence stating, "the analysis demonstrated that the proposed plant expansion to 6.7 mgd ADWF is consistent with the federal and state antidegradation polices" was removed from the finding.

Petaluma Comment 3. *The City requests that a footnote be added to Finding 27, indicating the City's potential intent to appeal to the Regional Water Board on Petaluma River's marine habitat beneficial use definition, to be consistent with the City's current permit.*

Response to Petaluma Comment 3. The T.O. was modified based on this comment.

Petaluma Comment 4. *The City requests that Finding 29 be removed. The City believes that the Regional Water Board cannot issue water quality-based effluent limitations (WQBELs) based on criteria that have not been adopted. The City's previous permit indicates "A different water quality based effluent limitation may be included in a subsequent permit revision after additional information on such factors as attainability, impacts on beneficial uses, and site specific limits is developed." Additionally, this Finding is not consistent with other Bay Area permits, such as the Town of Yountville's permit.*

Response to Petaluma Comment 4. Finding 29, as revised, is consistent with Federal regulations, 40 CFR 122.44 (d)(vi), and Chapter 4 of the Basin Plan, which states, where numeric water quality objectives/criteria have not been established, water quality-based effluent limits can be established based on U.S. EPA criteria, supplemented where necessary by other relevant information, to attain and maintain narrative water quality criteria (WQC) to fully protect designated beneficial uses. This finding is also consistent with other recently adopted permits, such as the Napa Sanitation District's and City of St. Helena's permits. Therefore, Finding 29 is retained and revised slightly to correct a typographical error, and to reflect the fact that promulgated WQC for this Region are also in the California Toxics Rule and National Toxics Rule.

Petaluma Comment 5. *The City requests that Finding 49 be edited to remove reference to the U.S. EPA Gold Book, because the U.S. EPA Gold Book criteria are not promulgated numeric criteria in California.*

Response to Petaluma Comment 5. The T.O. was modified based on this comment.

Petaluma Comment 6. *The City requests that Finding 58.c. be edited as follows to delete a sentence: "~~The Discharger asserts that its oxidation pond system provides metal removal usually equivalent to a tertiary-level treatment plant~~". This statement was qualitative and not intended for use in this legal document.*

Response to Petaluma Comment 6. The T.O. was modified based on this comment.

Petaluma Comment 7. *The City requests that Finding 59 on mercury be edited as proposed: (1) to remove the same sentence in Finding 59.c as in Finding 58.c (same as Comment 6 above), (2) to state*

that mercury effluent limitations will be revised after the mercury TMDL is adopted and the Regional Water Board reopens the permit; and (3) to allow revision of the triggers when effluent data from the WWTP is available.

Response to Petaluma Comment 7. The T.O. was modified based on this comment.

Petaluma Comment 8. *The City requests that Finding 65.c. regarding toxicity testing associated with ammonia be edited as proposed to reflect discussions with Lila Tang and Tong Yin on August 22, 2005 and to be consistent with Provision 5.d.*

Response to Petaluma Comment 8. The T.O. was modified based on this comment.

Petaluma Comment 9. *The City requests that footnote [2] to Table 4 be removed. The State Implementation Policy (SIP) specifies a range of allowable MLs, and guidance for choosing which ML is applicable. Other recent permits (e.g. City of St. Helena) deferred this information to the SIP table.*

Response to Petaluma Comment 9. The T.O. was not modified based on this comment. Previously adopted permits usually contain a similar footnote that specifies that the Discharger shall achieve the lowest Minimum Levels (MLs) among those specified in the SIP tables. However, the footnote has been revised. The revised footnote specifies that those minimum MLs contained in the footnote table are for compliance determination purposes only. The SIP tables specify the MLs that individual analytical methods must achieve. Therefore, this footnote table is necessary to clarify compliance determination criteria.

Petaluma Comment 10. *The City requests that Provision 7.a.ii. be edited to not list specific pollutants which must be addressed in the Pollution Prevention and Pollutant Minimization Program.*

Response to Petaluma Comment 10. The T.O. was partly modified based on this comment. The provision only lists the pollutants, which the permit grants a compliance schedule, e.g., copper and cyanide, as pollution prevention is a prerequisite for granting compliance schedules.

Petaluma Comment 11. *The City requests that Provision 14 be changed back to an optional study for both copper and nickel translator studies. The City believes that even though nickel has a final limit, new information such as a site-specific objective may serve as future justification for changing this limit.*

Response to Petaluma Comment 11. A sentence was added at the end of the provision to provide an option for the City to collect data for development of other metal translators, including nickel, concurrently with the copper translator study. In fact, this is an optional study. This provision does not limit the City in developing translators for other metals. However, in the future, when the site-specific translators for nickel are available, if the City can comply with the existing water quality-based effluent limits (carried over from the previous permit), the Regional Water Board has no basis to establish a less stringent effluent limit based on the new water quality objectives and the site-specific translators.

Petaluma Comment 12. *The City proposes some editorial changes for the Regional Water Board to consider.*

Response to Petaluma Comment 12. The T.O. was modified, except f. and h., based on the comments. In addition, the pretreatment tables in the Self-Monitoring Program were also modified to reflect the correct requirements for the City. The sample type for the pretreatment program, however, was not specified in the SMP (removed from Table 3), while the Regional Water Board is working with Napa

Sanitation District and the Bay Area Clean Water Agencies to clarify pretreatment program requirements with respect to sample types, e.g., grab vs. composite samples.

Comments on Tentative Order Fact Sheet

Petaluma Comment 13. *The City requests that any changes made due to comments made by the City or others be reflected in the Fact Sheet so that there are not conflicting bases or explanations for the Permit's requirements. The City requests some minor editorial comments that the City requests to clarify the text.*

Response to Petaluma Comment 13. The T.O. Fact Sheet was modified based on these comments, except 13.c.

Petaluma Comment 13.c. *The City requests to remove reference to the Gold Book in item III on p.5. Numeric criteria from the U.S. EPA Gold Book are not promulgated numeric criteria in California and should not be used as a basis for settling effluent limitations.*

Response to Petaluma Comment 13.c. The T.O. Fact Sheet was not modified based on this comment. This document is listed under the title "General Rational and Regulatory Bases", so it is not used as the basis for setting effluent limits, if not appropriate. But it can be a basis for establishing permitting rules in this permit.

Attachment. Department of Public Health, Technical Memo, March 18, 1969.