STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STATE SUMMARY REPORT (Lila Tang)
MEETING DATE: August 9, 2006

ITEM: 8

SUBJECT: **East Bay Dischargers Authority (EBDA), EBDA Common Outfall, San Leandro; City of Hayward, Hayward Water Pollution Control Facility, Hayward; City of San Leandro, San Leandro Water Pollution Control Plant, San Leandro; Oro Loma Sanitary District and Castro Valley Sanitary District, Water Pollution Control Plant, San Lorenzo; Union Sanitary District, Raymond A. Boege Alvarado Wastewater Treatment Plant, Union City; Livermore-Amador Valley Water Management Agency; Alameda County -** Reissuance of NPDES Permit

CHRONOLOGY: August 2000 – Permit Reissued
June 2001 – Permit Amended, Updated Pretreatment Requirements
January 2003 – Time Schedule Order adopted, plant upgrades

DISCUSSION: This item permits the discharge of up to 100 million gallons per day of secondary treated wastewater. This is one of the largest discharges in this region because it includes the combined flows from six East Bay treatment plants. The area served encompasses most of Alameda County from San Leandro south to Fremont and east to Livermore. The combined discharge goes to Lower San Francisco Bay via a 7-mile long deepwater outfall offshore of the San Leandro Marina and west of the Oakland Airport.

Each treatment plant treats and disinfects the wastewater from its service area. Each then pumps the disinfected wastewater to a dechlorination facility in San Leandro owned and operated by EBDA, where it is discharged through the outfall. EBDA is the main entity responsible for ensuring compliance with discharge requirements of four of the six treatment plants. Because EBDA does not have legal authority over the other two plants owned by the Dublin San Ramon Services District and City of Livermore, they are regulated directly under separate NPDES permits, which follow this item.

This permit reissuance has received significant attention from the USEPA and also from the Bay Area Clean Water Agencies (BACWA) and SF Baykeeper. This is not surprising in part because of this discharge's large size and thus its potential to set the direction for future permit actions. Also, there have been some recent changes to the regulatory terrain since the last set of uncontested permit reissuances the Board considered this spring. These changes include:

- use of recent data showing copper to be less toxic in the Bay then once thought,
- adoption of new Statewide requirements for sewage collection systems by the State Water Board in May, and
- near completion of USEPA's nationwide guidance on "blending." (Blending is the bypass of wastewater around a treatment plant's biological treatment units during wet weather.)

These have resulted in over 40 comments submitted on this Tentative Order and those for the other permit reissuances under Board consideration this month. We have addressed all the comments (Appendix C) and have successfully resolved most of them through revisions to the Tentative Order. A few issues remain unresolved and the major ones are listed below.

- USEPA is concerned with our use of new copper data because it results in higher limits.
- USEPA is concerned about the Basin Plan's approach for setting the bacteria limits proposed.
- EBDA is concerned about a proposed requirement to reduce mercury if the mercury TMDL is not in place by the time permit compliance schedules end.

Our use of the new copper data is fully in accordance with USEPA regulations and guidance. USEPA does not dispute the data or the regulations, but is concerned with the resultant higher limits. Though they are higher, we believe the Tentative Order is still protective for two reasons. First, the limits follow regulations. Second, the Tentative Order requires maintenance of low copper discharge levels through pollution minimization and freezes local limits for copper in pretreatment programs. Pretreatment imposes local limits on industries that discharge to each municipal treatment plant. The Tentative Order would require that those local limits not be relaxed.

The bacteria limits in the Tentative Order are protective of the Bay. They were established in the previous permit. The Basin Plan establishes very stringent bacteria limits using total coliform that are achievable by disinfection using high levels of chlorination. Chlorine is an acutely toxic compound and both its use and production generate cancer causing byproducts like dioxins and trihalomethanes. Recognizing this, the Basin Plan allows for the use of different bacteria indicators, such as fecal coliform, if it can be demonstrated that beneficial uses are protected. Fecal coliform is a better indicator of human waste than total coliform, so limits using fecal coliform allow less chlorination. EBDA has justified its current fecal coliform limit through monitoring of multiple bacteria indicators. The monitoring goes as far back as 1986 to the present. Thus far, close to 1,000 data points have been collected showing compliance. Just 1 datum collected during an El Nino year is above the objective. USEPA is concerned that these data do not demonstrate protection of beneficial uses and prefers establishing the more restrictive total coliform limits that would require higher chlorination.

In regard to EBDA's concern about the mercury requirement, it only kicks in if the mercury TMDL is not in place by 2009. Board staff is fully committed to moving the TMDL forward (see related item this month). However, if something unforeseen does happen, it is prudent, both for the Board and EBDA, to explore any available options to avoid violations of mercury limits when the permit compliance schedule ends in 2010.

We have met with USEPA and BACWA separately and jointly over the past few weeks to address their issues. While not fully resolved, both some further revisions to the Tentative Order and further discussions in the Response to Comments appear to have satisfactorily resolved the issues for these permits. The attached Revised Tentative Order (Appendix A) reflects all these revisions.

RECOMMENDATION: Adoption of the Revised Tentative Order.

FILE NOS.: 2199.9023, 2199.9022, 2199.9037, 2199.9032, 2199.9060

APPENDICES:
A – Revised Tentative Order
B – Correspondence
C – Response to Comments

APPENDIX A
Revised Tentative Order

APPENDIX B
Correspondence

APPENDIX C
Response to Comments