

California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

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VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

January 22, 2010

Richard J. Damelio, Ed.D. State Administrator/Trustee Vallejo City Unified School District 665 Walnut Avenue Vallejo, California 94592	Theodore Newton Operations Manager of Transportation Vallejo Unified School District Transportation 501 Oregon Street Vallejo, CA 94590
Reynaldo Santa Cruz Interim Superintendent Vallejo City Unified School District 665 Walnut Avenue Vallejo, California 94592	Melvin Jordan Assistant Superintendent Vallejo City Unified School District 665 Walnut Avenue Vallejo, California 94592
Chris Villanueva Board of Education – President Vallejo City Unified School District 665 Walnut Avenue Vallejo, California 94592	Ward Stewart Board of Education – Vice-President Vallejo City Unified School District 665 Walnut Avenue Vallejo, California 94592
Raymond V. Mommsen Board of Education – Director Vallejo City Unified School District 665 Walnut Avenue Vallejo, California 94592	Daniel Glaze Board of Education – Director Vallejo City Unified School District 665 Walnut Avenue Vallejo, California 94592
Hazel Wilson Board of Education – Director Vallejo City Unified School District 665 Walnut Avenue Vallejo, California 94592	

**Re: Notice of Violations and Intent to File Suit Under the Federal Water
Pollution Control Act (Clean Water Act)**

Dear Messrs Damelio, Glaze, Jordan, Mommsen, Newton, Santa Cruz, Stewart, and Villanueva;
and Ms. Wilson:

I am writing on behalf of the California Sportfishing Protection Alliance (“CSPA”) in regard to violations of the Clean Water Act (“Act”) that CSPA believes are occurring at Vallejo Unified School District Transportation, located at 501 Oregon Street in Vallejo, California (“Facility”). CSPA is a non-profit public benefit corporation dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of the San Francisco

Bay (“Bay”) and other California waters. This letter is being sent to you as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as “Vallejo USDT”).

This letter addresses Vallejo USDT’s unlawful discharge of pollutants from the Facility into channels that flow into local creeks, the Napa River, and the Bay. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System (“NPDES”) Permit No. CA S000001, California Regional Water Quality Control Board, San Francisco Bay Region (“Regional Board”) Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter “General Permit”). The Waste Discharge Identification Number (“WDID”) for the Facility listed on documents submitted to the Regional Board is 248I000895. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency (“EPA”), and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violations and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, CSPA hereby places Vallejo USDT on formal notice that, after the expiration of sixty days from the date of this Notice of Violation and Intent to Sue, CSPA intends to file suit in federal court against Vallejo USDT, including the responsible managers, directors, or operators, under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)) for violations of the Clean Water Act and the General Permit. These violations are described more extensively below.

I. Background.

On February 23, 1998, Vallejo USDT filed its Notice of Intent to Comply with the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity (“NOI”). Vallejo USDT certified that the Facility is classified under SIC code 4151 (“Land Transportation Facilities that have Vehicle and Equipment Maintenance Shops and/or Equipment Cleaning Operations”). The Facility collects and discharges storm water from its approximately 119,000 square foot industrial site into at least two storm water discharge locations at the Facility. The storm water discharged by Vallejo USDT is discharged to the City of Vallejo storm drain system which flows into Austin Creek; Austin Creek drains into the Napa River; the Napa River then flows into San Pablo Bay (the northern extension of San Francisco Bay).

The Regional Board has identified beneficial uses of the Bay’s waters and established water quality standards for San Pablo Bay and San Francisco Bay as well their tributaries, including the Napa River and Austin Creek, in the “Water Quality Control Plan for the San Francisco Bay Basin,” generally referred to as the Basin Plan. See http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/basin_plan/docs/basin_plan07.pdf. The

beneficial uses of these waters include, among others, contact and non-contact recreation, fish migration, endangered and threatened species habitat, shellfish harvesting, and fish spawning. The non-contact recreation use is defined as “[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tide pool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities. Water quality considerations relevant to non-contact water recreation, such as hiking, camping, or boating, and those activities related to tide pool or other nature studies require protection of habitats and aesthetic features.” *Id.* at 2.1.16. Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs peoples’ use of San Francisco Bay for contact and non-contact water recreation.

The Basin Plan includes a narrative toxicity standard which states that “[a]ll waters shall be maintained free of toxic substances in concentrations that are lethal or that produce other detrimental responses in aquatic organisms.” *Id.* at 3.3.18. The Basin Plan includes a narrative oil and grease standard which states that “[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or otherwise adversely affect beneficial uses.” *Id.* at 3.3.7. The Basin Plan provides that “[s]urface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use.” *Id.* at 3.3.21. The Basin Plan provides that “[w]aters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.” *Id.* at 3.3.14. The Basin Plan provides that “[t]he suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.” *Id.* at 3.3.12. The Basin Plan provides that “[t]he pH shall not be depressed below 6.5 nor raised above 8.5.” *Id.* at 3.3.9.

The EPA has published benchmark levels as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (“BAT”) and best conventional pollutant control technology (“BCT”). 65 Fed. Reg. 64767 (October 30, 2000). The following benchmarks have been established for pollutants discharged by Vallejo USDT: pH – 6.0-9.0 units; total suspended solids (“TSS”) – 100 mg/L; and oil and grease (“O&G”) – 15 mg/L. The State Water Quality Control Board also has proposed adding a benchmark level to the General Permit for specific conductance of 200 µmho/cm.

II. Alleged Violations of the NPDES Permit.

A. Discharges in Violation of the Permit.

Vallejo USDT has violated and continues to violate the terms and conditions of the General Industrial Storm Water Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand (“BOD”), and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the General Industrial Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board’s Basin Plan. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility’s discharge monitoring locations.

Vallejo USDT has discharged and continues to discharge storm water with unacceptable levels of TSS, specific conductivity, oil and grease, pH, and possibly other pollutants in violation of the General Permit. Vallejo USDT’s sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed “conclusive evidence of an exceedance of a permit limitation.” *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the Facility have contained concentrations of pollutants in excess of narrative and numeric water quality standards established in the Basin Plan or promulgated by EPA and thus violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Industrial Storm Water Permit:

Date	Parameter	Observed Concentration	Basin Plan Water Quality Objective	Location (as identified by the Facility)
2/11/2009	pH	6.36	6.5 – 8.5	Front Gate
1/22/2008	Oil & Grease Sheen Observed		Narrative	Shop Ramp Area
12/19/2007	Oil & Grease Sheen Observed		Narrative	Shop Ramp Area
11/30/2007	Oil & Grease Sheen Observed		Narrative	Shop Ramp Area
10/26/2007	Oil & Grease Sheen Observed		Narrative	Shop Ramp Area
5/11/2007	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
4/27/2007	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
3/30/2007	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
2/26/2007	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
1/31/2007	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
12/8/2006	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
11/27/2006	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
10/27/2006	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
5/31/2006	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
4/28/2006	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility

3/31/2006	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
2/28/2006	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
1/31/2006	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
12/9/2005	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
11/30/2005	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
10/31/2005	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Repair Facility
6/30/2005	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Maintenance Facility
5/31/2005	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Maintenance Facility
4/29/2005	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Maintenance Facility
3/31/2005	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Maintenance Facility
3/4/2005	pH	6.05	6.5 – 8.5	Oregon Street
2/28/2005	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Maintenance Facility
1/28/2005	Oil & Grease Sheen Observed		Narrative	Gutter and Storm Drains, Runoff from Maintenance Facility

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Industrial Storm Water Permit:

Date	Parameter	Observed	Benchmark	Location (as
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		Concentration	Value	identified by the Facility)
2/11/2009	TSS	430 mg/L	100 mg/L	Front Gate
2/11/2009	TSS	572 mg/L	100 mg/L	Back Gate
1/22/2008	TSS	514 mg/L	100 mg/L	Front Gate
1/22/2008	TSS	900 mg/L	100 mg/L	Back Gate
2/26/2007	TSS	392.7 mg/L	100 mg/L	Napa Street
2/26/2007	TSS	108 mg/L	100 mg/L	Oregon Street
2/26/2007	Specific Conductivity	828 µmho/cm	200 µmho/cm (proposed)	Napa Street
2/26/2007	Specific Conductivity	268 µmho/cm	200 µmho/cm (proposed)	Oregon Street
11/27/2006	TSS	212 mg/L	100 mg/L	Napa Street
11/27/2006	TSS	850 mg/L	100 mg/L	Oregon Street
11/27/2006	Specific Conductivity	1850 µmho/cm	200 µmho/cm (proposed)	Napa Street
11/27/2006	Specific Conductivity	1850 µmho/cm	200 µmho/cm (proposed)	Oregon Street

CSPA’s investigation, including its review of Vallejo USDT’s analytical results documenting pollutant levels in the Facility’s storm water discharges well in excess of applicable water quality standards, EPA’s benchmark values, and the State Board’s proposed benchmark for electrical conductivity, indicates that Vallejo USDT has not implemented BAT and BCT at the Facility for its discharges of TSS, pH, specific conductivity, and other pollutants in violation of Effluent Limitation B(3) of the General Permit. Vallejo USDT was required to have implemented BAT and BCT by no later than October 1, 1992. Thus, Vallejo USDT is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the above numbers and observations indicate that the facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CSPA also alleges that such violations have occurred and will occur on other rain dates, including every significant rain event that has occurred since at least January 22, 2005, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CSPA alleges that Vallejo USDT has discharged storm water containing impermissible levels of TSS, pH, and specific conductivity in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Industrial Storm Water Permit and the Act. Consistent with the five-year statute of limitations applicable to

citizen enforcement actions brought pursuant to the federal Clean Water Act, Vallejo USDT is subject to penalties for violations of the General Permit and the Act since January 22, 2005.

B. Failure to Sample and Analyze Storm Events and Mandatory Parameters

With some limited adjustments, facilities covered by the General Permit must sample two storm events per season from each of their storm water discharge locations. General Permit, Section B(5)(a). “Facility operators shall collect storm water samples during the first hour of discharge from (1) the first storm event of the wet season, and (2) at least one other storm event in the wet season.” *Id.* “All storm water discharge locations shall be sampled.” *Id.* “Facility operators that do not collect samples from the first storm event of the wet season are still required to collect samples from two other storm events of the wet season and shall explain in the Annual Report why the first storm event was not sampled.” *Id.* Vallejo USDT failed to sample a second storm event during each of the 2005-2006^{*}, 2007-2008, and 2008-2009 rainy seasons for a total of six violations (three seasons of violations at two storm drains each season) of the General Permit. These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Vallejo USDT is subject to penalties for violations of the General Permit and the Act since January 22, 2005.

Collected samples must be analyzed for TSS, pH, specific conductance, and either TOC or O&G. *Id.* at Section B(5)(c)(i). CSPA’s review of Vallejo USDT’s monitoring data indicates that it failed to analyze for specific conductance in the following samples taken on the following dates at the identified storm water discharge locations at the Facility:

Date	Location (as identified by the Facility)
1/22/2008	Front Gate
1/22/2008	Rear Gate

Each of the above listed failures to analyze for specific conductance is a violation of General Permit, Section B(5)(c)(i). These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Vallejo USDT is subject to penalties for violations of the General Permit and the Act since January 22, 2005.

* Vallejo USDT’s 2005-2006 Annual Report contains two sets of sampling results; however one of those sets was dated March 4, 2005 – a date not in the 2005-2006 rainy season (October through May of those respective years). Since these results do not report data from the appropriate rainy season, they cannot count as one of the samples for 2005-2006, therefore leaving Vallejo USDT with only one valid report for the 2005-2006 season.

C. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan.

Section A and Provision E(2) of the General Industrial Storm Water Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan (“SWPPP”) no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to the General Permit to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices (“BMPs”) to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)).

CSPA’s investigation of the conditions at the Facility as well as Vallejo USDT’s Annual Reports indicate that Vallejo USDT has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. Vallejo USDT has failed to evaluate the effectiveness of its BMPs, to implement structural BMPs, and to revise its SWPPP as necessary. Vallejo USDT has been in continuous violation of Section A and Provision E(2) of the General Permit every day since at least January 22, 2005, and will continue to be in violation every day that Vallejo USDT fails to prepare, implement, review, and update an effective SWPPP. Vallejo USDT is subject to penalties for violations of the Order and the Act occurring since January 22, 2005.

D. Failure to Develop and Implement an Adequate Monitoring and Reporting Program

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(4)(c) requires visual observation records to note, among other things, the date of each monthly observation. Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the “quality and quantity of the facility’s storm water discharges from the storm event.” Vallejo USDT failed to make and report monthly visual observations as required under Section B(4) of the General Permit in February 2008, March 2008, April 2008, May 2008, October 2008, November 2008, December 2008, January 2009, February 2009, March 2009, April 2009, and May 2009, for a total of twelve violations of the General Permit. These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Vallejo USDT is subject to penalties for violations of the General Permit and the Act since January 22, 2005.

The above referenced data was obtained from the Facility’s monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations in the General Permit. To the extent the storm water data collected by Vallejo USDT is not representative of the quality of the Facility’s various storm water discharges, and/or Vallejo USDT failed to sample for “[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities” (Section B(5)(c)(ii)), CSPA, on information and belief, alleges that the Facility’s monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Vallejo USDT is subject to penalties for violations of the General Permit and the Act’s monitoring and sampling requirements since January 22, 2005.

E. Failure to File True and Correct Annual Reports.

Section B(14) of the General Industrial Storm Water Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9) & (10). Section A(9)(d) of the General Industrial Storm Water Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Industrial Storm

Water Permit. *See also* General Permit, Sections C(9) & (10) and B(14).

In addition, since 2004, Vallejo USDT and its agent, Judy Carlson[†], inaccurately certified in their Annual Reports that the Facility was in compliance with the General Permit. Consequently, Vallejo USDT has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Industrial Storm Water Permit every time Vallejo USDT failed to submit a complete or correct report and every time Vallejo USDT or its agent falsely purported to comply with the Act. Vallejo USDT is subject to penalties for violations of Section (C) of the General Industrial Storm Water Permit and the Act occurring since January 22, 2005.

IV. Persons Responsible for the Violations.

CSPA puts Vallejo USDT, Richard J. Damelio, Theodore Newton, Reynaldo Santa Cruz, Melvin Jordan, Raymond Mommsen, Daniel Glaze, Ward Stewart, Chris Villanueva, and Hazel Wilson on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CSPA puts Vallejo USDT, Richard J. Damelio, Theodore Newton, Reynaldo Santa Cruz, Melvin Jordan, Raymond Mommsen, Daniel Glaze, Ward Stewart, Chris Villanueva, and Hazel Wilson on notice that it intends to include those persons in this action.

V. Name and Address of Noticing Party.

Our name, address, and contact information is as follows:

Bill Jennings, Executive Director;
California Sportfishing Protection Alliance,
3536 Rainier Avenue,
Stockton, CA 95204
Tel. (209) 464-5067
Fax (209) 464-1028
E-Mail: deltakeep@aol.com

VI. Counsel.

CSPA has retained legal counsel to represent it in this matter. Please direct all communications to:

[†] Judy Carlson was the Director of Transportation for Vallejo USDT until recently. In her capacity as Director, she filled out and certified the Facility's Annual Reports from 2004 – 2009.

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VII. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4; 73 FR 75340) each separate violation of the Act subjects Vallejo USDT to a penalty of up to \$37,500 per day per violation for all violations occurring during the period commencing five years prior to the date of this Notice of Violations and Intent to File Suit. In addition to civil penalties, CSPA will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. §1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

CSPA believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. We intend to file a citizen suit under Section 505(a) of the Act against Vallejo USDT and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, we would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, we suggest that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Bill Jennings, Executive Director
California Sportfishing Protection Alliance

SERVICE LIST

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Washington, D.C. 20460

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Eric Holder, U.S. Attorney General
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Jared Blumenfeld, Regional Administrator
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Bruce H. Wolfe, Executive Officer II
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

ATTACHMENT A
Rain Dates, Vallejo USDT, Vallejo, California

January 7, 2005	May 11, 2005	January 10, 2006
January 8, 2005	May 18, 2005	January 11, 2006
January 9, 2005	May 19, 2005	January 12, 2006
January 10, 2005	June 9, 2005	January 13, 2006
January 11, 2005	June 15, 2005	January 14, 2006
January 12, 2005	June 16, 2005	January 15, 2006
January 25, 2005	June 17, 2005	January 16, 2006
January 27, 2005	June 18, 2005	January 17, 2006
January 28, 2005	June 19, 2005	January 18, 2006
February 14, 2005	August 13, 2005	January 19, 2006
February 15, 2005	August 15, 2005	January 20, 2006
February 16, 2005	August 18, 2005	January 21, 2006
February 18, 2005	August 19, 2005	January 22, 2006
February 19, 2005	August 20, 2005	January 23, 2006
February 20, 2005	August 30, 2005	January 24, 2006
February 21, 2005	September 19, 2005	January 25, 2006
February 22, 2005	September 20, 2005	January 26, 2006
February 27, 2005	September 21, 2005	January 27, 2006
February 28, 2005	October 15, 2005	January 28, 2006
March 2, 2005	October 24, 2005	January 29, 2006
March 4, 2005	October 26, 2005	January 30, 2006
March 11, 2005	October 28, 2005	January 31, 2006
March 18, 2005	October 29, 2005	February 1, 2006
March 19, 2005	October 30, 2005	February 2, 2006
March 20, 2005	November 4, 2005	February 3, 2006
March 21, 2005	November 7, 2005	February 4, 2006
March 22, 2005	November 8, 2005	February 17, 2006
March 23, 2005	November 9, 2005	February 18, 2006
March 27, 2005	November 28, 2005	February 19, 2006
March 28, 2005	December 1, 2005	February 26, 2006
March 29, 2005	December 2, 2005	March 2, 2006
April 4, 2005	December 17, 2005	March 3, 2006
April 7, 2005	December 18, 2005	March 4, 2006
April 8, 2005	December 25, 2005	March 5, 2006
April 9, 2005	December 30, 2005	March 6, 2006
April 23, 2005	December 31, 2005	March 7, 2006
April 25, 2005	January 1, 2006	March 8, 2006
April 26, 2005	January 2, 2006	March 10, 2006
April 27, 2005	January 3, 2006	March 11, 2006
April 28, 2005	January 4, 2006	March 12, 2006
May 4, 2005	January 5, 2006	March 13, 2006
May 5, 2005	January 6, 2006	March 14, 2006
May 6, 2005	January 7, 2006	March 15, 2006
May 8, 2005	January 8, 2006	March 16, 2006
May 9, 2005	January 9, 2006	March 17, 2006

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Rain Dates, Tomra Pacific, Inc., Fremont, California

March 20, 2006	December 15, 2006	December 6, 2007
March 21, 2006	December 21, 2006	December 7, 2007
March 24, 2006	December 23, 2006	December 17, 2007
March 25, 2006	December 24, 2006	December 18, 2007
March 27, 2006	December 25, 2006	December 20, 2007
March 28, 2006	December 26, 2006	December 28, 2007
March 29, 2006	December 27, 2006	December 29, 2007
March 31, 2006	January 4, 2007	December 30, 2007
April 1, 2006	January 17, 2007	January 3, 2008
April 2, 2006	January 26, 2007	January 4, 2008
April 3, 2006	January 27, 2007	January 5, 2008
April 4, 2006	February 7, 2007	January 6, 2008
April 5, 2006	February 8, 2007	January 7, 2008
April 7, 2006	February 9, 2007	January 8, 2008
April 8, 2006	February 10, 2007	January 9, 2008
April 9, 2006	February 11, 2007	January 10, 2008
April 10, 2006	February 12, 2007	January 21, 2008
April 11, 2006	February 13, 2007	January 22, 2008
April 12, 2006	February 25, 2007	January 23, 2008
April 13, 2006	February 26, 2007	January 24, 2008
April 14, 2006	February 27, 2007	January 25, 2008
April 15, 2006	February 28, 2007	January 26, 2008
April 16, 2006	March 20, 2007	January 27, 2008
April 17, 2006	March 26, 2007	January 28, 2008
May 19, 2006	April 1, 2007	January 29, 2008
May 20, 2006	April 4, 2007	January 30, 2008
May 21, 2006	April 11, 2007	January 31, 2008
October 5, 2006	April 14, 2007	February 1, 2008
November 2, 2006	April 16, 2007	February 2, 2008
November 3, 2006	April 20, 2007	February 3, 2008
November 9, 2006	April 22, 2007	February 19, 2008
November 10, 2006	May 4, 2007	February 20, 2008
November 11, 2006	September 22, 2007	February 21, 2008
November 13, 2006	October 12, 2007	February 22, 2008
November 14, 2006	October 14, 2007	February 23, 2008
November 26, 2006	October 15, 2007	February 24, 2008
November 27, 2006	October 16, 2007	March 12, 2008
December 9, 2006	October 17, 2007	March 13, 2008
December 10, 2006	November 10, 2007	March 14, 2008
December 12, 2006	November 11, 2007	March 15, 2008
December 13, 2006	November 19, 2007	April 23, 2008
December 14, 2006	December 4, 2007	October 4, 2008

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Rain Dates, Tomra Pacific, Inc., Fremont, California

October 31, 2008	March 16, 2009	January 1, 2010
November 1, 2008	March 22, 2009	January 2, 2010
November 2, 2008	April 7, 2009	January 3, 2010
November 3, 2008	April 8, 2009	January 6, 2010
November 4, 2008	May 1, 2009	January 8, 2010
December 14, 2008	May 2, 2009	January 10, 2010
December 19, 2008	May 3, 2009	January 12, 2010
December 21, 2008	May 4, 2009	January 13, 2010
December 22, 2008	May 5, 2009	January 14, 2010
December 23, 2008	June 3, 2009	January 16, 2010
December 24, 2008	June 7, 2009	January 17, 2010
December 25, 2008	August 27, 2009	January 18, 2010
January 2, 2009	September 12, 2009	January 19, 2010
January 19, 2009	September 13, 2009	January 20, 2010
January 20, 2009	September 24, 2009	January 21, 2010
January 21, 2009	October 13, 2009	January 22, 2010
January 22, 2009	October 15, 2009	
January 23, 2009	October 16, 2009	
January 24, 2009	October 18, 2009	
February 5, 2009	October 19, 2009	
February 6, 2009	October 20, 2009	
February 7, 2009	November 6, 2009	
February 8, 2009	November 7, 2009	
February 9, 2009	November 17, 2009	
February 11, 2009	November 18, 2009	
February 12, 2009	November 20, 2009	
February 13, 2009	November 27, 2009	
February 14, 2009	December 4, 2009	
February 15, 2009	December 6, 2009	
February 16, 2009	December 7, 2009	
February 17, 2009	December 10, 2009	
February 22, 2009	December 11, 2009	
February 23, 2009	December 12, 2009	
February 24, 2009	December 13, 2009	
February 25, 2009	December 16, 2009	
February 26, 2009	December 18, 2009	
March 1, 2009	December 20, 2009	
March 2, 2009	December 21, 2009	
March 3, 2009	December 26, 2009	
March 4, 2009	December 27, 2009	
March 5, 2009	December 29, 2009	
March 15, 2009	December 30, 2009	