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VIA: Electronic Submission
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For Petitioner California Sportfishing Protection Alliance

BEFORE THE STATE WATER RESOURCES CONTROL BOARD

**In the Matter of Waste Discharge Requirements and
Master Reclamation Permit For City of Lathrop
Wastewater Recycling Plant, San Joaquin County,
California Regional Water Quality Control Board –
Central Valley Region Order No. R5-2006-0094**

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) **PETITION FOR REVIEW**
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Pursuant to Section 13320 of California Water Code and Section 2050 of Title 23 of the California Code of Regulations (CCR), California Sportfishing Protection Alliance (“CSPA” or “petitioner”) petitions the State Water Resources Control Board (State Board) to review and vacate the final decision of the California Regional Water Quality Control Board for the Central Valley Region (“Regional Board”) in adopting Waste Discharge Requirements and Master Reclamation Permit for City of Lathrop Wastewater Recycling Plant, San Joaquin County, on 22 September 2006. *See* Order No. R5-2006-0094. The issues raised in this petition were raised in timely written comments and direct testimony.

1. NAME AND ADDRESS OF THE PETITIONERS:

California Sportfishing Protection Alliance
3536 Rainier Avenue
Stockton, California 95204
Attention: Bill Jennings, Executive Director

2. THE SPECIFIC ACTION OR INACTION OF THE REGIONAL BOARD WHICH THE STATE BOARD IS REQUESTED TO REVIEW AND A COPY OF ANY ORDER OR RESOLUTION OF THE REGIONAL BOARD WHICH IS REFERRED TO IN THE PETITION:

Petitioner seeks review of Order No. R5-2006-0094, Waste Discharge Requirements and Master Reclamation Permit for City of Lathrop Wastewater Recycling Plant, San Joaquin County. Copies of the orders adopted by the Regional Board at its 22 September 2006 Board meeting are attached hereto as Attachments A.

3. THE DATE ON WHICH THE REGIONAL BOARD ACTED OR REFUSED TO ACT OR ON WHICH THE REGIONAL BOARD WAS REQUESTED TO ACT:

22 September 2006

4. A FULL AND COMPLETE STATEMENT OF THE REASONS THE ACTION OR FAILURE TO ACT WAS INAPPROPRIATE OR IMPROPER:

CSPA submitted detailed comments on 20 August 2006. That letter, incorporated into the petition, and the following comments set forth in detail the reasons and points and authorities why CSPA believes the Order fails to comport with statutory and regulatory requirements. CSPA also presented detailed comments during the 22 September 2006 hearing. Although requested, CSPA only received tapes of the public hearing on 19 October and has not had adequate time to review them but believes its verbal comments further support this petition. The specific reasons the adopted Order is improper are:

A. An NPDES permit is required for land application on River Island and Mossdale

River Islands is bounded to the north and west by Old River, to the east by the San Joaquin River, and to the south by Paradise Cut. Technically without the extensive ongoing dewatering activities on River Island, the groundwater elevation, if left to the natural state, would reach the same elevation as the adjacent surface water. The Information Sheet indicates that dissolved solids can pass through the treatment process and soil profile. The Order shows that the underlying groundwater is very shallow, two feet in some locations, reported soil percolation rates may be as high as 6 inches per hour, i.e. approximately 12 feet per day, and groundwater elevations are actively controlled through dewatering activities. The discharge from these dewatering sites is to the

surrounding surface waters. Because of the ongoing dewatering activities that transport groundwater underlying the application areas to surface waters, the Discharger must obtain an NPDES permit to use River Island application areas.

Finding No. 66 describes the groundwater condition for Mossdale and states in part, “Groundwater is typically observed within 5-10 feet of the ground surface and varies seasonally, rising to less than 5-feet of the ground surface. Groundwater elevation is influenced by the nearby river stage and also dewatering activities. Dewatering is performed for construction activities and is also occurring as a result of the broken stormwater pipe located east of the Mossdale area. In the northern portion of Mossdale, groundwater flows to the southwest, toward the San Joaquin River. Groundwater flow direction in the southern portion of Mossdale is controlled by dewatering activities.” Because of the ongoing dewatering activities that transport groundwater underlying the application areas to surface waters, the Discharger must obtain an NPDES permit to use Mossdale land application areas.

Finding No. 9 indicates that the Discharger may employ infiltration basins for wastewater. Finding No. 40 states, “Infiltration basins will only be utilized where the evapotranspirative concentration of effluent salts by vegetation may cause unacceptable degradation of shallow groundwater. Infiltration basins will receive no more than 60-inches of effluent per year to remove all incentive to use infiltration basins other than to protect underlying groundwater quality. The use of infiltration basins is subject to Executive Officer approval.”

Finding No. 56 states, “Based on the National Resource Conservation Service soil survey, the soils in the proposed land application areas are sandy to silty clay loams. Published infiltration rates for the soils range from 0.06 to 6.0 in/hr.” Based on the Orders Recycled Water Specification No. E 5 setback requirement of only 50-feet from surface waters, discharges from Infiltration Basins with these high percolation rates (i.e. infiltration rate 12 feet/day) will have hydraulic continuity to the adjacent surface water drainages in a matter of days.

Infiltration basins allow for continuity between waste discharges from the infiltration basins to surface water via the shallow groundwater and dewatering activities. The Discharger must obtain an NPDES permit in order to discharge waste to surface waters from the infiltration basin. As indicated by Finding No. 60, “A damaged stormwater drainage pipe is locally dewatering the southern portion of the Mossdale Landing area. The broken pipe is located on the east side of Highway 5. The damaged pipe is near recycled water storage ponds and land application areas; therefore, it could allow more rapid transport of wastewater contaminants to surface water bodies ...”

The Order is not an NPDES permit. Discharges to surface waters via infiltration basins or dewatering groundwater underlying land application areas either intentional or via broken stormwater systems must comply with Sections 307, 318, 402, and 405 of the CWA. It is illegal for the Executive Officer to approve these surface water discharges.

B. The Order lacks a legally defensible antidegradation analysis

There is no antidegradation analysis in the proposed Order. Conclusory, unsupported and undocumented statements cannot serve in lieu of a legally required antidegradation analysis.

The Fact Sheet states, “Resolution 68-16 is applied on a case-by-case, constituent-by-constituent basis in determining whether a certain degree of degradation can be justified. It is incumbent upon the Discharger to provide technical information for the Regional Board to evaluate that fully characterizes:

- All waste constituents to be discharged;
 - The background quality of the uppermost layer of the uppermost aquifer;
 - The background quality of other waters that may be affected;
 - The underlying hydrogeologic conditions;
 - Waste treatment and control measures;
 - How treatment and control measures are justified as best practicable treatment and control;
 - The extent the discharge will impact the quality of each aquifer; and
 - The expected degree of degradation below water quality objectives.
- Fact Sheet, p. 3.

The Fact Sheet then admits, “Groundwater monitoring has been conducted at the site but the area monitored is large, no systematic program for characterization was implemented, and some data was collected without sampling and analysis plans or quality assurance plans; therefore staff are unable to establish the most appropriate groundwater limits. In addition, certain aspects of wastewater treatment and control practices may not be justified as representative of Best Practicable Treatment and Control (BPTC). The Fact Sheet then observes, “[t]he proposed Order establishes interim receiving water limitations to assure protection of the beneficial uses of groundwater of the State pending the completion of certain tasks and provides time schedules to complete specified tasks. During this period, degradation may occur from certain constituents, but can never exceed water quality objectives (or natural background water quality should it exceed objectives) or cause nuisance. Fact Sheet, p. 3.

In other words, staff doesn’t know what background water quality is, the appropriate effluent limits or whether BPTC is being applied but is proposing to allow some unknown level of degradation to occur justified by some unknown benefit on the assumption that the Discharger will do in the future what is was legally responsible to do before the permit was issued.

Furthermore, the Regional Board’s Staff Report acknowledges that wastewater will be discharged to surface water via subsurface flow and/or reclamation dewatering activities. Therefore, the discharge will result in an increase in the mass loading of waste constituents discharged to both the underlying groundwater and surface waters. The

RWD did not require the effluent to be sampled for priority pollutant constituents and the concentrations are unknown. Without knowing wastewater pollutant concentration the Regional Board could not have known the potential pollutant mass loading.

It is well known within the industry that domestic wastewater contains mercury and OC pesticides such as Lindane from lice shampoo. The San Joaquin Sacramento Delta is listed by U.S EPA 303 d list as impaired for a number of constituents including mercury and organo-chloride (oc) pesticide that are bioaccumulative substances. The Order is completely silent regarding the Delta's listed impairments and fails to recognize that River Island is a new source discharge. This is a blatant violation of the state's antidegradation policy.

State Board guidance for complying with antidegradation requirements is set forth in the Administrative Procedures Update 90-004 (APU 90-004). For example, the Fact Sheet must discuss:

1. The water quality parameters and beneficial uses that will be affected by the project and the extent of the impact.
2. The scientific rationale for determining that the proposed action will or will no lower water quality.
3. A description of the alternative measures that were considered. There is no alternatives analysis.
4. A description of the socioeconomic evaluation. This must include a comprehensive financial impact analysis evaluating the economic and social costs (tangible and intangible) compared to benefits. Among other requirements it must compare the baseline socioeconomic profile of the community with and without the project vis-à-vis the long and short-term socioeconomic impacts of maintaining existing water quality. And more.
5. And finally, it must discuss the rationale for determining that the proposed action is or is not justified by socioeconomic considerations. Fact Sheet, p. 3.

The Regional Board must apply the antidegradation policy whenever it takes an action that will lower water quality. (State Antidegradation Guidance, pp. 3, 5, 18, and Region IX Guidance, p. 1.) Application of the policy does not depend on whether the action will actually impair beneficial uses. (State Antidegradation Guidance, p. 6. Actions that trigger use of the antidegradation policy include issuance, re-issuance, and modification of NPDES and Section 404 permits and waste discharge requirements, waiver of waste discharge requirements, issuance of variances, relocation of discharges, issuance of cleanup and abatement orders, increases in discharges due to industrial production and/or municipal growth and/other sources, exceptions from otherwise applicable water quality objectives, etc. (State Antidegradation Guidance, pp. 7-10, Region IX Guidance, pp. 2-3.) Both the state and federal policies apply to point and nonpoint source pollution. (State Antidegradation Guidance p. 6, Region IX Guidance, p. 4.) Both apply for bypass through groundwater migration to surface waters.

The federal antidegradation regulations delineate three tiers of protection for waterbodies. Tier 1, described in 40 CFR § 131.12(a)(1), is the floor for protection of all waters of the United States. (48 Fed. Reg. 51400, 51403 (8 Nov. 1983); Region IX Guidance, pp. 1-2; APU 90-004, pp. 11-12.) It states that “[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.” Uses are “existing” if they were actually attained in the water body on or after November 28, 1975, or if the water quality is suitable to allow the use to occur, regardless of whether the use was actually designated. (40 CFR § 131.3(e).) Tier 1 protections apply even to those waters already impacted by pollution and identified as impaired. In other words, already impaired waters cannot be further impaired. The Delta is impaired water body for mercury, OC pesticides and unknown toxicity, which will be exacerbated by the discharge.

Tier 2 waters are provided additional protections against unnecessary degradation in places where the levels of water quality are better than necessary to support existing uses. Tier 2 protections strictly prohibit degradation unless the state finds that a degrading activity is: 1) necessary to accommodate important economic or social development in the area, 2) water quality is adequate to protect and maintain existing beneficial uses, and 3) the highest statutory and regulatory requirements and best management practices for pollution control are achieved. (40 CFR § 131.12(a)(2).) Cost savings to a discharger alone, absent a demonstration by the project proponent as to how these savings are “necessary to accommodate important economic or social development in the area,” are not adequate justification for allowing reductions in water quality. (Water Quality Order 86-17, p. 22; State Antidegradation Guidance, p. 13.) If the waterbody passes this test and the degradation is allowed, degradation must not impair existing uses of the waterbody. (48 Fed. Reg. at 51403). Virtually all waterbodies in California may be Tier 2 waters since the state, like most states, applies the antidegradation policy on a parameter-by-parameter basis, rather than on a waterbody basis. (APU 90-004, p. 4). Consequently, a request to discharge a particular chemical to a river, whose level of that chemical was better than the state standards, would trigger a Tier 2 antidegradation review even if the river was already impaired by other chemicals.

Tier 3 of the federal antidegradation policy states “[w]here high quality waters constitute an outstanding national resource, such as waters of national and State parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water shall be maintained and protected. (40 CFR § 131.12(a)(3).) These Outstanding National Resource Waters (ONRW) are designated either because of their high quality or because they are important for another reason. (48 Fed. Reg. At 51403; State Antidegradation Guidance, p. 15). No degradation of water quality is allowed in these waters other than short-term, temporary changes. (Id.) Accordingly, no new or increased discharges are allowed in either ONRW or tributaries to ONRW that would result in lower water quality in the ONRW. (EPA Handbook, p. 4-10; State Antidegradation Guidance, p. 15.) Existing antidegradation policy already dictates that if a waterbody “should be” an ONRW, or “if it can be argued that the waterbody in question deserves the same treatment {as a formally designated ONRW},” then it must be treated as such, regardless of formal designation. (State Antidegradation Guidance, pp. 15-16; APU 90-

004, p. 4.) Thus the Regional Board is required in each antidegradation analysis to consider whether the waterbody at issue should be treated as an ONRW. It should be reiterated that waters cannot be excluded from consideration as an ONRW simply because they are already “impaired” by some constituents. By definition, waters may be “outstanding” not only because of pristine quality, but also because of recreational significance, ecological significance or other reasons. (40 CFR §131.12(a)(3).) Waters need not be “high quality” for every parameter to be an ONRW. (APU 90-004, p. 4) For example, Lake Tahoe is on the 303(d) list due to sediments/siltation and nutrients, and Mono Lake is listed for salinity/TDC/chlorides but both are listed as ONRW.

The State Board’s APU 90-004 specifies guidance to the Regional Boards for implementing the state and federal antidegradation policies and guidance. The guidance establishes a two-tiered process for addressing these policies and sets forth two levels of analysis: a simple analysis and a complete analysis. A simple analysis may be employed where a Regional Board determines that: 1) a reduction in water quality will be spatially localized or limited with respect to the waterbody, e.g. confined to the mixing zone; 2) a reduction in water quality is temporally limited; 3) a proposed action will produce minor effects which will not result in a significant reduction of water quality; and 4) a proposed activity has been approved in a General Plan and has been adequately subjected to the environmental and economic analysis required in an EIR. A complete antidegradation analysis is required if discharges would result in: 1) a substantial increase in mass emissions of a constituent; or 2) significant mortality, growth impairment, or reproductive impairment of resident species. Regional Boards are advised to apply stricter scrutiny to non-threshold constituents, i.e., carcinogens and other constituents that are deemed to present a risk of source magnitude at all non-zero concentrations. If a Regional Board cannot find that the above determinations can be reached, a complete analysis is required.

Even a minimal antidegradation analysis would require an examination of: 1) existing applicable water quality standards; 2) ambient conditions in receiving waters compared to standards; 3) incremental changes in constituent loading, both concentration and mass; 4) treatability; 5) best practicable treatment and control (BPTC); 6) comparison of the proposed increased loadings relative to other sources; 7) an assessment of the significance of changes in ambient water quality and 8) whether the waterbody was a ONRW. A minimal antidegradation analysis must also analyze whether: 1) such degradation is consistent with the maximum benefit to the people of the state; 2) the activity is necessary to accommodate important economic or social development in the area; 3) the highest statutory and regulatory requirements and best management practices for pollution control are achieved; and 4) resulting water quality is adequate to protect and maintain existing beneficial uses. A BPTC technology analysis must be done on an individual constituent basis.

Conclusory statements that degradation of waters belonging to the people of the state is allowable because it provides some unknown benefit to a private party when that party has failed to conduct the required studies (i.e., alternatives and socioeconomic analyses), documentation and determination of BPTC and the Board has failed to comply

with the procedural requirements set forth in APU 90-004 cannot meet any credible legal test of compliance with the state's antidegradation policy.

C. The Order fails to comport with Title 27 Requirements

The Order fails to comport with Title 27 requirements. The Fact Sheet states, “[d]ischarges of domestic sewage and recycled water can be treated and controlled to a degree that will not result in unreasonable degradation of groundwater. For this reason, they have been conditionally exempted from Title 27. Discharges of domestic sewage and treated effluent which are regulated by WDRs and treatment and storage facilities associated with the WWTF are considered exempt from Title 27 under Section 20090(a), provided that the discharges and facilities will not result in a violation of any water quality objective. As the exemption specifically excludes the discharge to land of: 1) solid waste such as grit and screenings that result from treatment of domestic sewage, and 2) residual sludge that will not be further treated at the WWTF, such discharges must comply with provisions of Title 27.” Fact Sheet, p. 7.

However, the Discharger's blatant failure to adequately characterize groundwater quality and identify BPTC, coupled with staff's failure to conduct the legally required antidegradation analysis, makes a mockery of any exemption from Title 27 requirements. Title 27 does not allow degradation of groundwater quality.

D. The Project lacks a long-term agreement

Finding No. 6 states, “The Discharger owns the mechanical treatment system and the land where it is located. The WRP treatment facilities site plan is shown on Attachment B, which is attached hereto and made part of this Order by reference.”

The Discharger owns the “mechanical” treatment systems but does not own all the land application areas, which provide additional waste removal and biological treatment system via the soil column and crops. The Order does not discuss any long-term agreements between the property owners and the City for wastewater disposal. According to Regional Board Staff Report no agreements are necessary because the Order is for recycled water. The Order relies on the Discharges water balance to determine the hydraulic capacity of the WWTP and amount of land application are a needed. The WTP sole disposal area for the discharge is the recycle water area and it is inappropriate to allow the disposal of wastewater without first obtaining a long-term use agreement on for the average dry weather hydraulic capacity of the facility. Without long-term agreements the Regional Board has no justification for any establish flow limitations. Any long-term agreement must insure wastewater disposal for cited hydraulic capacity at a minimum for the life of the Order.

E. The Project should have a Pollution Prevention Plan

CWC Section 13263.3 (a) “The Legislature finds and declares that pollution prevention should be the first step in a hierarchy for reducing pollution and managing

wastes, and to achieve environmental stewardship for society.” Pollution prevention for source control and reduction measure for salinity and waste nutrients is necessary to achieve water quality objectives and for the facility to comply with Resolution No. 68-16. Without preparing a Pollution Prevention Plan, which is the most basic “Best Practicable Control” the Discharger has not implemented BPTC measures.

Finding No.33 states in part, “The Discharger is encouraged to consider use of potassium hydroxide rather than sodium hydroxide. Potassium is more likely to be taken up by the crop in land application areas.” It is obvious the Regional Board is aware that pollution prevention plan that describe chemical substitutions is necessary for the discharge to meet water quality objectives. In fact, Information Sheet indicates that pretreatment and source control are necessary for the Discharger to comply with Resolution 68-16. The Information Sheet, page 6, states “Dissolved solids can pass through the treatment process and soil profile; effective control of such constituents relies primarily upon source control and pretreatment measures. In the best of circumstances, long-term land discharge of recycled water will degrade groundwater with dissolved solids (as measured by TDS and EC). The proposed Order sets water quality objectives for the interim while site-specific, constituent-specific limits are developed in conjunction with a BPTC evaluation of source control and pretreatment.”

The Regional Board may require the Discharger to conduct a pollution prevention plan in order to reduce waste discharges and protect the high quality waters of the state. For example, since the WWTP services area consists of new developments yet to be constructed, the Discharger could easily prohibit the use of water softeners that requires salt to regenerate. The Discharger’s CEQA documents indicate that City may install wellhead treatment for salts and thus eliminate the need for home water softeners. Given the close proximity to Region 2 where brine disposal is available, this source reduction measure is viable. The Order fails to require the Discharger to conduct a pollution prevention plan to reduce the potential impacts from sodium and other mineral salts necessary to meet water quality objectives as specified in the Order’s groundwater limitations.

F. CEQA documentation is not complete for the project

Our review of the cited CEQA documentation shows that the project description for wastewater disposal only considered irrigation of crops with recycled water and does not describe infiltration basins to be used for wastewater disposal on River Island or Mossdale. The Order authorizes a “new project” for the disposal using infiltration at potentially dozens of sites for which CEQA documentation was not consider. CPRC Section 21065 defines "Project" as an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

1. An activity directly undertaken by any public agency.

2. An activity undertaken by a person which is supported, in whole or in part through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
3. An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

The discharge of wastewater to land and surface waters using infiltration basins is a project for which the Regional Board has made a discretionary decision in that the Order has been adopted. The Discharger's wastewater disposal using infiltration basins has potential significant impacts to the environment and as such must comply with CEQA regulations.

In that staff may contend that City of Lathrop is a public agency and are responsible for the all CEQA documentation. CPRC Section 21001.1 states, "projects to be carried out by public agencies be subject to the same level of review and consideration under this division as that of private projects required to be approved by public agencies." In short, the Regional Board must now ensure that CEQA is satisfied.

Title 14 Section 15050 states, "Where a project is to be carried out or approved by more than one public agency, one public agency shall be responsible for preparing an EIR or Negative Declaration for the project. This agency shall be called the Lead Agency." The Regional Board is the first public agency to undertake an action for the "project" and has jurisdiction over the wastewater disposal site, and therefore, the Regional Board is the designated lead agency for the project. As discussed, the project will have significant impacts to the environment and therefore, an EIR must be prepared by the Regional Board for public review.

G. Public is deprived of a right to review and comment

Finding No. 62 states "River Island land application areas which were approved through the Executive Officer's 10 May 2006 RWER approval." However, the Discharger did not submit all the information for the RWD until 10 May 2006, i.e. Finding No.1. It is unclear how the Executive Officer could approve the project without having a complete RWD. What is more troublesome is the fact that the Regional Board approved RWER project prior to releasing the draft tentative Order and well in advance of the September 2006 hearing. The public has not been afforded the opportunity to comment on the River Island project since the Regional Board approved the project occurred without public notice or holding a public hearing. It is almost impossible for the public to have meaningful input to project after the project has been approved and implemented. The Regional Board's approval of the River Island project without a public hearing is illegal. The Regional Board cannot simply hold a hearing after the fact to justify their earlier approval of the project.

H. The project lacks 100- year flood protection

Finding No. 54 states in part, “With the exception of some of the River Islands land application areas and potential land application area No. A26 and A27 (described in the RWD) all areas proposed for wastewater collection, treatment, storage and reclamation facilities are outside the 100-year flood zone.”

The land application areas are treatment units and therefore must have 100-year flood protection. The WWTP relies entirely on land application for wastewater disposal. While the Regional Board contends that the RWD’s water balance indicates the facility has storage capacity sufficient to holding capacity for the wet season. However, the water balance clearly shows that the Discharger does not have holding capacity to retain the wastewater in the event of flooding similar to what occur on the neighboring Island of Jones Tract. The Order fails to require the Discharger to upgrade River Island and other application area with the necessary flood protection.

5. THE MANNER IN WHICH THE PETITIONERS ARE AGGRIEVED.

CSPA is a non-profit, environmental organization that has a direct interest in reducing pollution to the waters of the Central Valley. CSPA’s members benefit directly from the waters in the form of recreational hiking, photography, fishing, swimming, hunting, bird watching, boating, consumption of drinking water and scientific investigation. Additionally, these waters are an important resource for recreational and commercial fisheries.

Central Valley waterways also provide significant wildlife values important to the mission and purpose of the Petitioners. This wildlife value includes critical nesting and feeding grounds for resident water birds, essential habitat for endangered species and other plants and animals, nursery areas for fish and shellfish and their aquatic food organisms, and numerous city and county parks and open space areas.

CSPA’s members reside in communities whose economic prosperity depends, in part, upon the quality of water. CSPA has actively promoted the protection of fisheries and water quality throughout California before state and federal agencies, the State Legislature and Congress and regularly participates in administrative and judicial proceedings on behalf of its members to protect, enhance, and restore declining aquatic resources.

CSPA member’s health, interests and pocketbooks are directly harmed by the failure of the Regional Board to develop an effective and legally defensible program addressing discharges to waters of the state and nation.

6. THE SPECIFIC ACTION BY THE STATE OR REGIONAL BOARD WHICH PETITIONER REQUESTS.

Petitioners seek an Order by the State Board to:

- A. Vacate Order No. R5-2006-0094 and remand to the Regional Board with instructions prepare and circulate a new tentative order that comports with regulatory requirements.

7. A STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL ISSUES RAISED IN THE PETITION.

CSPA's arguments and points of authority are adequately detailed in above, its 20 August 2006 letter that was accepted into the record and oral testimony presented to the Regional Board on 22 September 2006. Should the State Board have additional questions regarding the issues raised in this petition, CSPA will provide additional briefing on any such questions.

The petitioners believe that an evidentiary hearing before the State Board will not be necessary to resolve the issues raised in this petition. However, CSPA welcomes the opportunity to present oral argument and respond to any questions the State Board may have regarding this petition.

8. A STATEMENT THAT THE PETITION HAS BEEN SENT TO THE APPROPRIATE REGIONAL BOARD AND TO THE DISCHARGERS, IF NOT THE PETITIONER.

A true and correct copy of this petition, without attachment, was sent electronically and by First Class Mail to Ms. Pamela Creedon, Executive Officer, Regional Water Quality Control Board, Central Valley Region, 11020 Sun Center Drive #200, Rancho Cordova, CA 95670-6114.

A true and correct copy of this petition, without attachment, was sent to the Discharger in care of Cary Keaten, P.E., City of Lathrop, 390 Towne Centre Drive, Lathrop, CA 95330.

9. A STATEMENT THAT THE ISSUES RAISED IN THE PETITION WERE PRESENTED TO THE REGIONAL BOARD BEFORE THE REGIONAL BOARD ACTED, OR AN EXPLANATION OF WHY THE PETITIONER COULD NOT RAISE THOSE OBJECTIONS BEFORE THE REGIONAL BOARD.

CSPA presented the issues addressed in this petition to the Regional Board in oral testimony at the 22 September 2006 hearing on the Order and in comments submitted to the Regional Board on 20 August 2006 that were accepted into the record.

If you have any questions regarding this petition, please contact Bill Jennings at (209) 464-5067 or Michael Lozeau at (510) 749-9102.

Dated: 21 October 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bill Jennings". The signature is fluid and cursive, with the first name "Bill" being more prominent than the last name "Jennings".

Bill Jennings, Executive Director
California Sportfishing Protection Alliance

Attachments:

A. Order No. R5-2006-0094