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January 3, 2011

**Via Email: [jdmarschall@waterboards.ca.gov](mailto:jdmarschall@waterboards.ca.gov)**

James D. Marshall, P.E.  
Regional Water Quality Control Board, Central Valley Region  
11020 Sun Center Dr., Suite 200  
Rancho Cordova, CA 95670

**Re: *Consideration of Order Amending Waste Discharge Requirements  
Order R5-2007-0036 (NPDES Permit No. CA0079154)  
Our File No.: 3535-032***

Dear Mr. Marshall:

Westlands Water District ("Westlands") submits the following comments on the draft Order Amending Waste Discharge Requirements Order R5-2007-0036 (NPDES Permit No. CA0079154) ("Permit") for the City of Tracy ("Tracy"), Tracy Wastewater Treatment Plant, San Joaquin County.

On May 19, 2009, the State Water Resources Control Board ("State Water Board") adopted WQ 2009-0003 in response to the Environmental Law Foundation and the California Sportfishing Protection Alliance's petition for review of Tracy's Permit. With respect to electrical conductivity ("EC"), that State Water Board order stated, among other things, that:

The record reflects that the discharge of the City's wastewater with high levels of EC has the reasonable potential to contribute to an excursion above water quality standards in Old River. The challenges associated with salinity management in the Central Valley are significant, and the record reflects that the Central Valley Water Board attempted to craft a creative solution. However, the approach taken is inconsistent with federal requirements to establish a final effluent limitation in an NPDES permit when a pollutant will be discharged at a level that will cause or contribute to an excursion above a water quality standard. Thus, the Permit must be remanded to the Central Valley Water Board for the

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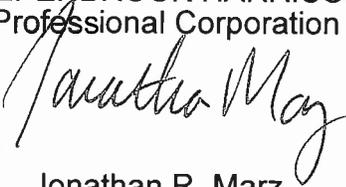
inclusion of final effluent limitations for EC consistent with water quality objectives applicable to Old River.

(WQ 2009-0003, at p. 5.) In its remand order, the State Water Board ordered the Central Valley Regional Water Quality Control Board to “[a]mend the Permit to include a final effluent limitation for Electrical Conductivity in compliance with the objectives in the Bay-Delta Plan, and, if appropriate, initiate a water quality planning process.” (*Id.* at p. 19.)

Westlands reviewed the draft Order amending the Permit. That “redline” document reveals no revisions regarding its treatment of electrical conductivity. It thus appears the draft Order amending the Permit neither addresses nor resolves the issues regarding electrical conductivity raised by the State Water Board in WQ 2009-0003.<sup>1</sup> (WQ 2009-0003, at pp. 5-10, 19.) Westlands therefore respectfully requests that the draft Order amending the Permit be further amended to respond fully to the State Water Board’s comments in WQ 2009-0003.

Best Regards,

DIEPENBROCK HARRISON  
A Professional Corporation

By 

Jonathan R. Marz  
Attorneys for Westlands Water District

cc: Craig Manson, Westlands Water District  
Jason Peltier, Westlands Water District

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<sup>1</sup> The Notice of Public Hearing regarding the draft Order recognizes that the State Water Board adopted WQ 2009-0003 and “remand[ed] the NPDES permit to the Central Valley Water Board for modifications.” However, the Notice also states that “as part of a 28 April 2010 legal settlement agreement between the Discharger and the Central Valley Water Board some permit changes were deemed necessary.” Westlands does not have a copy of that “legal settlement agreement” and is unaware of any State Water Board order revising or otherwise modifying WQ 2009-0003. These comments are therefore based on the Permit, WQ 2009-0003, and the draft Order amending the Permit.