

EXHIBIT 10

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OUR FILE NO. 03024-005

January 5, 2011

Lonnie M. Wass, Supervising Engineer
California Regional Water Quality Control Board
Central Valley Region
1685 E Street
Fresno, CA 93706

JAN 06 2011

Re: Revised Notice of Violation

Dear Mr. Wass:

This letter is in response to your "Revised Notice of Violation and Record of Violations for Assessment of Mandatory Penalties, Malaga County Water District Waste Water Treatment Facility (NPDES CA 0084239, RM 376453) Fresno County," hereinafter referred to as the "Notice" to the Malaga County Water District ("Malaga"), dated November 5, 2010, which was directed to our office for response. Because the Notice of Violation is not issued consistent with the State Water Resources Control Board's Water Quality Enforcement Policy ("Policy"), it is impossible for Malaga to determine from the Notice whether the California Regional Water Quality Control Board (Central Valley Region) (the "Board") intends to pursue formal or informal enforcement procedures. Most notably, the Notice, which is, according to the Policy an informal enforcement action, proposes the issuance of an Administrative Civil Liability Complaint ("Complaint"), a formal enforcement action without any other proposed options for compliance, a request for a written response or certification of correction or date by which the violation(s) will be corrected. Furthermore, as discussed in Malaga's previous correspondence related to the July 8, 2010, Notice of Violation, the proposed administrative civil liabilities are based on purported violations which are not supported by the data or are not violations subject to mandatory minimum penalties ("MMP") as defined by Water Code §13385, in particular, those violations classified as chronic. Among other things, Malaga disagrees with the interpretation of §13385(i)(2) as set forth in Footnote 6 of Attachment A of the Notice that there must be a sixth month period without any violation in order for a violation to be exempt under §13385(i)(2)(A).

In addition to the aforementioned, the proposed Complaint and the violations contained therein are not applicable pursuant to §13385(j) in that the alleged violations occurred while Malaga was in the process of implementing and/or completing various

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phases of a compliance project or projects and/or a pollution prevention plan and/or a time schedule order related to a previous complaint, administrative civil liability order, and/or cease and desist order issued by the Board. During the implementation of the improvements by Malaga to achieve full compliance, Malaga made regular progress reports as ordered by the Board. The Board was also aware that some of the projects undertaken to achieve full compliance by Malaga were to be funded from multiple sources including grants and other revenues administered by the State of California. Malaga also made the Board aware that due to the ongoing state budget crisis, many of the funding sources for Malaga's compliance projects were delayed which in turn delayed the completion of the projects necessary for Malaga to be in full compliance with its water discharge requirements ("WDR"). To date, Malaga has not received any notice from the Board objecting to delays in completing the projects necessary for full compliance with WDR's or expressing concern with the propriety or timeliness of Malaga's efforts to fully comply with its WDR's. Simply put, issuance of a citation for purported violations while Malaga was in the process of completing the necessary improvements to fully comply with its waste discharge order not only violates the provisions of §13385 of the Water Code but is also inconsistent with the enforcement policy. Having agreed to the installation of improvements in lieu of the imposition of the fines and to the District's use of grant funds to implement those improvements, the Board is legally estopped from taking action to fine Malaga for purported discharge violations occurring before the necessary improvements were completed.

The goal and purpose of the enforcement policy is to protect and enhance water quality through timely and consistent enforcement. The proposed enforcement action is neither timely nor consistent. As detailed in previous correspondence between Malaga and the Board, it appears that Malaga is and has been the subject of unequal and targeted enforcement by the Board. Additionally, the proposed enforcement action is not timely. The enforcement Policy indicates that MMP's should be issued within 18 months from the time a violation qualifies as a violation subject to a MMP in order to assist a permitted facility to be brought into timely compliance. The Policy further states that issuance of MMP's should be expedited in the case of a small community with a financial hardship or when the proposed penalty is \$30,000 or more. Here, the Board has recognized Malaga as a small community with a financial hardship and the proposed penalty is \$45,000 (\$60,000 prior to revision). Nearly all of the purported violations listed in the Notice occurred more than 18 months ago and many of the purported violations occurred nearly three years ago. The issuance of the proposed citation at this point would not only be untimely but would not serve the Board's policy goals as Malaga has already undertaken and completed all the improvements necessary to achieve full compliance as evidenced by Malaga's current, consistent compliance with WDR requirements. In other words, the proposed enforcement action has been rendered ineffective by the actions of the Board and Malaga during the last three years and at this point would serve only to punish the rate payers of Malaga rather than protect and enhance water quality. As such issuing of a

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citation for violations, which occurred nearly three years ago will not further the goals of the Board.

As noted here, and in previous correspondence, we view the threatened complaint and the imposition of MMP's as completely baseless and in direct contravention of the applicable law which regulates your agency's ability to act to administratively assess civil penalties and violates the agency's policies and goals. Furthermore, as previously stated, the issuance of a complaint on the basis of these purported violations will be met with a filing in the superior court for a writ of mandate aimed at requiring your agency to conform with its mandatory obligations under the law and enforcement Policy with respect to such administrative proceedings. Malaga will seek to enjoin further attempts at "enforcement" initiated by administrative complaint, or otherwise.

Very truly yours,

COSTANZO & ASSOCIATES

Neal E. Costanzo

NEC/tm

cc: Michael Taylor
Russ Holcomb
Jill Walsh
Pamela Creedon