



January 30, 2012

Charles Hoppin, Chair
State Water Resources Control Board
PO Box 100
Sacramento, CA 95812-0100



Subject: Petition of CSPA Regarding Order R5-2007-0113 (Lodi), SWRCB/OCC File A-1886, Order WQ-2009-0005 as Amended by Order WQ-2012-XXXX

Dear Mr. Hoppin:

WateReuse California appreciates the diligence with which parties have pursued a resolution of the Title 27 issues that arose in this case. Nonetheless, WateReuse California believes that additional clarification that recycling facilities are exempt from Title 27 can and should be provided in the final amendment to Order WQ-2009-0005, consistent with Water Board's goal of fostering additional water recycling as described in its Recycled Water Policy. In particular, WateReuse California is concerned that, independent of unusual facts associated with the Lodi case, the draft order does not provide sufficient clarity that typical recycled water facilities and programs are exempt from Title 27 under Title 27 Section 20090. WateReuse California requests that Draft Order WQ-2012-XXXX be revised to provide specific language to address this concern. Clarification can be added to indicate that such facilities and programs are exempt under Title 27 Section 20090 (a) ("sewage exemption") and/or (h) ("reuse exemption"). Suggested language to provide the necessary clarity is provided below.

- **Clarification that recycled water programs are included in the reuse exemption.** We request that text be added on page 9 immediately after the reference to footnote 24 as follows: “. . . control use that would otherwise occur . . .”²⁴. Recycled water produced, stored and used under waste discharge requirements, water recycling requirements, or other permitting mechanism, including but not limited to recycled water received from recycled water producers or distributors, is considered by the Board to be ‘salvaged from waste’ and thus subject to the reuse exemption in Section 20090(h). However, Lodi applies a wastestream . . .; and/or
- **Clarification that recycling facilities not owned or operated by a municipal wastewater treatment plant are included in the sewage exemption.** Footnote 22 is a welcome addition that helps, but does not fully clarify that all water recycling facilities, even those included as part of a distribution system, are subject to the unconditional sewage exemption. Important water recycling facilities such as storage ponds may not be *directly* “subject to” water discharge or water recycling

Recycling Water to Meet the World's Needs

January 30, 2012

Page 2

requirements, but may still be considered “under the control” of the associated treatment plant because they are indirectly subject to these requirements through regulation by the municipal wastewater treatment plant that produces the water, or a distributor that provides the water. We request that text be added at the end of footnote 22 as follows: “. . . of the municipal treatment plant, including but not limited to storage ponds owned or operated by persons that receive recycled water from recycled water producers or distributors.”

Thank you for your consideration. Please contact me with any follow-up questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David W. Smith". The signature is written in a cursive, flowing style.

David W. Smith, PhD
Managing Director