State of California – Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Central Region
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EDMUND G. BROWN Jr., Governor
CHARLTON H. BONHAM, Director

Copy: JK
Orig: Clay Rodgers

August 18, 2012

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FRESNO, CALIF.

Pamela Creedon, Executive Officer
California Regional Water Quality Control Board
Central Valley Region
11020 Suncenter Drive, Suite 200
Sacramento, California 95670-6114

Re: Waste Discharge Requirements General Order
For Members of a Third-Party Group within the Tulare Lake Basin (Basin),
Excluding the Area of the Westlands Stormwater Coalition

The California Department of Fish and Game (Department) has reviewed the draft Waste Discharge Requirements General Order (Order) prepared by the California Regional Water Quality Control Board (Water Board) and referenced above. The Order will be considered for adoption by the Water Board in a public hearing scheduled for an undetermined date in February, 2013. The Order sets forth prohibitions, limitations, provisions, and requirements under which your agency would regulate discharges from irrigated lands within the Basin which could impact waters of the State (as defined under California Water Code Section 13050(e)). If adopted, this Order would replace the Coalition Group Conditional Waiver of Waste Discharge Requirements (Order No. R5-2006-0053) and would require the implementation of a comprehensive Surface and Groundwater Monitoring and Reporting Program (MRP). Currently, owners and operators of irrigated lands within the Basin are represented by a single third-party entity,the Southern San Joaquin Valley Water Quality Coalition.

In 2011, the Water Board certified a final Programmatic Environmental Impact Report (PEIR) for the long-term Irrigated Lands Regulatory Program (ILRP). The mitigation measures presented in the final PEIR were incorporated into this Order to minimize impacts to biological resources. Mitigation monitoring and reporting would be a component of the MRP portion of the Order and would require the third-party entity to report on the implementation and success of these mitigation measures. The MRP would also require the third party group to conduct assessment monitoring at a sufficient number of sampling sites to evaluate the water quality of different types of water bodies within the Basin. Specifically, as it is currently drafted, the MRP requires water quality samples be collected from perennial, intermittent, and ephemeral water courses, and "constructed agricultural conveyance structures (excluding on-farm conveyance structures)."

The Department has concerns regarding what represents an "on-farm conveyance structure" and the lack of clear distinction in the Order between these structures and a "constructed agricultural conveyance structure". As the Order states, "constructed agricultural conveyance structures" which exist throughout the Basin would be subject to monitoring under the MRP while "on-farm conveyance structures" are excluded. The Department concurs that "constructed agricultural conveyance structures " used to move irrigation waters throughout the Basin (e g.: Homeland Canal, Lakeside Ditch, Westside Canal), should be subject to the MRP. On July 25, 2012, Department staff surveyed portions of the Basin for constructed agricultural conveyance structures in the historic Tulare Lake bed. Cursory observation of large canals; including the Alpaugh Irrigation Canal, Homeland Canal, and the channelized terminus of both the Tule River and Kings River harbored egrets, herons, gulls, terns, grebes, coots, swallows, warm water fishes, and frogs. Smaller ditches and laterals receiving

and subsequently delivering water from these larger canals and channels to irrigated lands harbored some of the same species (Attachment 1).

These surface water bodies are known to provide important seasonal aquatic habitat, reproductive habitat for amphibians, resting, foraging, and nesting habitat for shorebirds and other waterfowl, support riparian habitat and nesting habitat for song birds and raptors, and provide linkage and wildlife movement corridors for rare species. Changes to the volume, duration, rate of flow, and constituents associated with discharges from irrigated lands could impact these habitats and the species that depend on them. These impacts could potentially occur at the point of discharge as well as downstream. Because fresh water in the Basin is a very precious commodity which should be used to sustain all the beneficial uses, the Department strongly recommends a prescriptive distinction be made in the MRP language between the "constructed agricultural conveyance structures" which would be included in the MRP, and the excluded "on-farm conveyance structures." The excluded "on-farm conveyance structures" should narrowly include only those temporary intra-field ditches which are constructed during the growing season to intermittently convey irrigation water and contain tail water, while the permanent "constructed agricultural conveyance structures" which clearly constitute habitat in the Basin should be considered a water course type subject to the monitoring requirements of the MRP.

Thank you for the opportunity to provide input to the Waste Discharge Requirements General Order for Members of a Third-Party Group within the Tulare Lake Basin. If you have any questions regarding these comments, please contact Julie Vance, Environmental Program Manager, at the address provided on this letterhead or by telephone at (559) 243-4005, extension 141.

Sincerely,

Jeffrey R. Single, Ph.D.
Regional Manager

cc: Clay Rodgers, Assistant Executive Officer
California Regional Water Quality Control Board
Central Valley Region
1685 E Street
Fresno, California 93706

Attachment 1

Great Egrets (*Ardea alba*) and Snowy Egrets (*Egretta thula*) fishing along field ditch sourced by Homeland Canal.

Asian clam above the water line in ditched sourced by Homeland Canal.

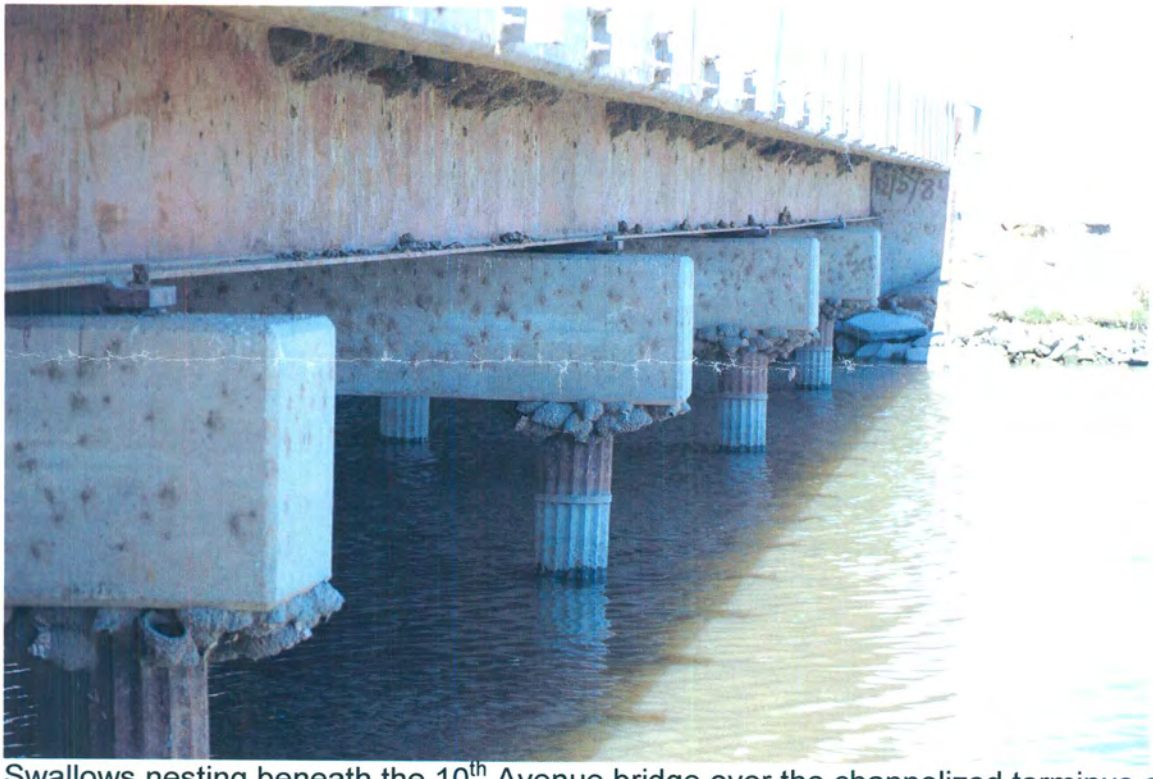
Attachment 1

California gulls (*Larus californicus*) and Caspian terns (*Hydroprogne caspia*) on ditch which diverts Homeland Canal water along Dairy Avenue south of the city of Corcoran.

Great Egret (*Ardea alba*), Snowy Egret (*Egretta thula*), and Great Blue Heron (*Ardea herodias*) fishing in the Homeland Canal near its intersection with Dairy Avenue south of the city of Corcoran.

Attachment 1

Unknown warm water fishes in Homeland Canal at its intersection with Dairy Avenue south of the city of Corcoran.



Swallows nesting beneath the 10th Avenue bridge over the channelized terminus of Tule River, south of the city of Corcoran

Attachment 1

Great Egret (*Ardea alba*) and Snowy Egret (*Egretta thula*) along field ditch sourced by Homeland Canal. The ditch runs north-south, immediately west of Dairy Avenue and diverts water from the Homeland Canal.