



VIA US MAIL

May 17, 2007

Karl Longley, Chair
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670

**Re: Administrative Civil Liability Complaint No. R5-2007-0500, In re
Tehama Market Associates, LLC and Albert Garland**

Dear Chairman Longley:

On April 20, 2007, the Redding office for the Central Valley Regional Water Quality Control Board ("Regional Board") issued Administrative Civil Liability Complaint ("ACLC") No. R5-2007-0500 against Tehama Market Associates LLC and Mr. Albert Garland. The complaint alleges that pollutants related to construction activities discharged in storm water from the Linkside Place subdivision in Oroville on February 18, 2004 and February 25, 2004.

The matter involving the Linkside Place subdivision has a long history. The first ACLC, R5-2004-0541, was issued on November 23, 2004, but never set for hearing and eventually rescinded. Two more ACLCs were issued, ACLC R5-2006-0501 on January 25, 2006 and ACLC R5-2006-0525 on October 26, 2006. Both were set for hearing, but both hearings were cancelled after opposition briefs were received and both complaints were eventually rescinded. ACLC R5-2007-0500 is now the fourth complaint issued by the Regional Board. The applicable statute of limitations is only three years and over three years have passed since the incidents occurred. Although the statute of limitations period only starts accruing when the Regional Board discovers the facts constituting grounds for liability, Staff was on site the days the alleged incidents occurred. The statute of limitations has run. Therefore, the Regional Board is time-barred from bringing the action.

A hearing on ACLC R5-2007-0500 is currently set for the Regional Board's June meeting, but before any additional time is spent on the Linkside matter, the issue of whether the Regional Board can pursue any enforcement action due to the statute of limitations should be addressed. This issue is raised with some reluctance, because much like a player in draw poker selecting new cards after viewing an opponent's hand, the Regional Board has attempted to respond to arguments raised in opposition briefs with

each subsequent complaint. It would be no surprise if ACLC R5-2007-0500 was rescinded and a new complaint issued addressing the statute of limitations question.

Very truly yours,
O'LAUGHLIN & PARIS LLP

By:



TIM O'LAUGHLIN