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For Petitioner California Sportfishing Protection Alliance

**BEFORE THE STATE WATER RESOURCES CONTROL BOARD**

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<b>In the Matter of Waste Discharge Requirements For</b>	)	
<b>Syngenta Seeds, Inc. Woodland Seed Processing</b>	)	<b>PETITION FOR REVIEW</b>
<b>Facility; California Regional Water Quality Control</b>	)	
<b>Board – Central Valley Region Order No. R5-2008-</b>	)	
<b>0158</b>	)	

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Pursuant to Section 13320 of California Water Code and Section 2050 of Title 23 of the California Code of Regulations (CCR), California Sportfishing Protection Alliance (“CSPA” or “petitioner”) petitions the State Water Resources Control Board (State Board) to review and vacate the final decision of the California Regional Water Quality Control Board for the Central Valley Region (“Regional Board”) in adopting Waste Discharge Requirements for Syngenta Seeds, Inc. Woodland Seed Processing Facility, on 23 October 2008. *See* Order No. R5-2008-0158. The issues raised in this petition were raised in timely written comments.

1. NAME AND ADDRESS OF THE PETITIONERS:

California Sportfishing Protection Alliance  
3536 Rainier Avenue  
Stockton, California 95204  
Attention: Bill Jennings, Executive Director

2. THE SPECIFIC ACTION OR INACTION OF THE REGIONAL BOARD WHICH THE STATE BOARD IS REQUESTED TO REVIEW AND A COPY OF ANY ORDER OR RESOLUTION OF THE REGIONAL BOARD WHICH IS REFERRED TO IN THE PETITION:

Petitioner seeks review of Order No. R5-2008-0158, Waste Discharge Requirements for the Syngenta Seeds, Inc. Woodland Seed Processing Facility. A copy of the adopted Order is attached as Attachment No. 1.

3. THE DATE ON WHICH THE REGIONAL BOARD ACTED OR REFUSED TO ACT OR ON WHICH THE REGIONAL BOARD WAS REQUESTED TO ACT:

23 October 2008

4. A FULL AND COMPLETE STATEMENT OF THE REASONS THE ACTION OR FAILURE TO ACT WAS INAPPROPRIATE OR IMPROPER:

CSPA submitted a detailed comment letter on 7 September 2008. That letter and the following comments set forth in detail the reasons and points and authorities why CSPA believes the Order fails to comport with statutory and regulatory requirements. The specific reasons the adopted Orders are improper are:

A. **The Waste Discharge Requirements fail to require compliance with California Code of Regulations Title 27 and the State and Regional Boards Antidegradation Policy.**

The Waste Discharge Requirements (WDR) for Syngenta Seeds Inc. state in Finding No. 3 that the Discharger has been discharging seed processing wastewater illegally to leachfields and to surface waters, Willow Slough, since 1972; 36 years. The wastewater up to approximately 500,000 gallons/year is characterized in WDR Findings No. 10, 13 and 14, and summarized in Finding No. 36, as containing high salt concentrations (TDS up to 2,314 mg/l) as well as EC, total nitrogen, chloride, magnesium and sodium at levels exceeding water quality objectives. Finding No. 13 shows that numerous chemicals, such as Pectinase, Tsunami and Physan 20, are used at the facility to control microbial diseases which may be discharged with the wastewater. In addition to the wastewater discharge reverse osmosis brine and boiler blowdown are discharged to a septic system permitted by the Yolo County Environmental Health Department (Finding No. 19). Groundwater at

the site is approximately 25 feet below ground surface (Finding No. 31). Groundwater beneath the site has been shown to be degraded and exceeds water quality objectives for electrical conductivity, dissolved solids, nitrate nitrogen, and sodium (Findings No. 32 and 36). Finding No. 32 concludes that since the discharge has been ongoing for only 4-years, degradation may be caused by neighboring agricultural practices. This is contrary to the fact the Discharger has been operating illegally for 36 years as presented in Finding No. 3. The discharge of reverse osmosis brine and boiler blowdown alone would be sufficient to be the cause of a significant portion of the groundwater degradation. The conclusion in Finding No. 32 is not based on the facts presented in the Findings.

Compliance with California Code of Regulations Title 27 is not discussed in the proposed WDR. CCR Title 27, Section 20090 exempts wastewater discharges if the following preconditions are met: WDRs have been issued, the discharge is in compliance with the Basin Plan and the waste is not hazardous. The discharge has caused or at a minimum contributed to exceedance of Basin Plan water quality objectives for electrical conductivity, dissolved solids, nitrate nitrogen, and sodium and therefore does not meet the test of being in compliance with requirements of the Basin Plan. The discharge has also not been shown to be in compliance with the Basin Plan incorporated Antidegradation Policy (68-16). The Antidegradation Policy requires that an allowance for any degradation must be shown to be in the interest of the people of the state, must not exceed water quality standards and that the discharge must provide best practicable treatment and control (BPTC) of the discharge. None of the tests of the Antidegradation Policy have been met. A Cleanup and Abatement Order should be issued immediate cessation of all wastewater discharges until the Discharger applies for, a Title 27 permit is issued, and can comply with the requirements of CCR Title 27.

#### 5. THE MANNER IN WHICH THE PETITIONERS ARE AGGRIEVED.

CSPA is a non-profit, environmental organization that has a direct interest in reducing pollution to the waters of the Central Valley. CSPA's members benefit directly from the waters in the form of recreational hiking, photography, fishing, swimming, hunting, bird watching, boating, consumption of drinking water and scientific investigation. Additionally, these waters are an important resource for recreational and commercial fisheries.

Central Valley waterways also provide significant wildlife values important to the mission and purpose of the Petitioners. This wildlife value includes critical nesting and feeding grounds for resident water birds, essential habitat for endangered species and other plants and animals, nursery areas for fish and shellfish and their aquatic food organisms, and numerous city and county parks and open space areas.

CSPA's members reside in communities whose economic prosperity depends, in part, upon the quality of water. CSPA has actively promoted the protection of fisheries and water quality throughout California before state and federal agencies, the State Legislature and Congress and regularly participates in administrative and judicial

proceedings on behalf of its members to protect, enhance, and restore declining aquatic resources.

CSPA member's health, interests and pocketbooks are directly harmed by the failure of the Regional Board to develop an effective and legally defensible program addressing discharges to waters of the state and nation.

6. THE SPECIFIC ACTION BY THE STATE OR REGIONAL BOARD WHICH PETITIONER REQUESTS.

Petitioners seek an Order by the State Board to:

- A. Vacate Order No. R5-2008-0158 and remand to the Regional Board with instructions prepare and circulate a new tentative order that comports with regulatory requirements.
- B. Alternatively; prepare, circulate and issue a new order that is protective of identified beneficial uses and comports with regulatory requirements.

7. A STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL ISSUES RAISED IN THE PETITION.

CSPA's arguments and points of authority are adequately detailed in the above comments and our 7 September 2008 comment letter. Should the State Board have additional questions regarding the issues raised in this petition, CSPA will provide additional briefing on any such questions.

The petitioners believe that an evidentiary hearing before the State Board will not be necessary to resolve the issues raised in this petition. However, CSPA welcomes the opportunity to present oral argument and respond to any questions the State Board may have regarding this petition.

8. A STATEMENT THAT THE PETITION HAS BEEN SENT TO THE APPROPRIATE REGIONAL BOARD AND TO THE DISCHARGERS, IF NOT THE PETITIONER.

A true and correct copy of this petition, without attachment, was sent electronically and by First Class Mail to Ms. Pamela Creedon, Executive Officer, Regional Water Quality Control Board, Central Valley Region, 11020 Sun Center Drive #200, Rancho Cordova, CA 95670-6114.

A true and correct copy of this petition, without attachment, was sent to the Discharger in care of: Mr. Ed Schatz, Syngenta Seeds, Inc., 21435 County Road 98, Woodland, CA 95695.

9. A STATEMENT THAT THE ISSUES RAISED IN THE PETITION WERE PRESENTED TO THE REGIONAL BOARD BEFORE THE REGIONAL

BOARD ACTED, OR AN EXPLANATION OF WHY THE PETITIONER  
COULD NOT RAISE THOSE OBJECTIONS BEFORE THE REGIONAL  
BOARD.

CSPA presented the issues addressed in this petition to the Regional Board in a 7  
September 2008 detailed comment letter that was accepted into the record.

If you have any questions regarding this petition, please contact Bill Jennings at  
(209) 464-5067 or Michael Jackson at (530) 283-1007.

Dated: 23 November 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bill Jennings". The signature is written in a cursive, flowing style.

Bill Jennings, Executive Director  
California Sportfishing Protection Alliance

Attachment No. 1: Order No. R5-2008-0158