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For Petitioner California Sportfishing Protection Alliance

BEFORE THE STATE WATER RESOURCES CONTROL BOARD

**In the Matter of Waste Discharge Requirements For)
Soper Company, Spanish Mine; California Regional) PETITION FOR REVIEW
Water Quality Control Board – Central Valley)
Region Order No. R5-2008-0104; NPDES No.)
CA0085286)**

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 (NPDES No. CA0085286) for Soper Company, Spanish Mine, on 31 July 2008. See Order No. R5-2008-0104. 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. R5-2008-0104, Waste Discharge Requirements (NPDES No. CA0085286) for the Soper Company, Spanish Mine. 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:

31 July 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 15 February 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 Permit is wrong in citing Federal Regulation 40 CFR 122.44(k)(3) as allowing best management practices (BMPs) for the discharge in lieu of Effluent Limitations.

The Permit, Finding F Effluent Limitations, cites Federal Regulation 40 CFR 122.44(k)(3) as allowing the establishment of BMPs for this discharge in lieu of Effluent Limitations which are “impracticable”. The Permit does not contain a single defensible argument of why Effluent Limitations are impracticable. The mine portal discharge is a point discharge and treatment technologies exist to properly treat the wastestream. Effluent Limitations are not only practicable, they are legally required. The Regional Board’s use of “infeasibility” as defined in this Permit could be extended to any wastewater discharger and is incorrect; there is a definable effluent surface water discharge that is treatable. It is appropriate and proper to require the wastewater Discharger to treat or control their discharge to meet water quality standards and objectives.

The Permit cites the site as an abandoned mine, which is clearly not the case since there is an owner, and responsible party, named in the Permit. The Regional Board's attempt to redefine "abandoned" as any non-operating mine is inappropriate. There are treatment technologies available to treat metals to meet effluent limitations and provide best practicable treatment and control of the discharge as required by the Board's antidegradation policy (Resolution 68-16). The Permit also cites that electricity is not available to warrant operation of a treatment system. This Finding is technically incorrect since generators are readily available and passive treatment technologies are widely utilized in the mining industry. Passive systems, which are properly designed by a professional engineer, must be required to address the worst-case conditions based on peak flows and concentration. Some may find the argument interesting that sources of power are always available to conduct industrial activities, but power is an obstacle that cannot be overcome to achieve compliance with environmental regulations. The Regional Board is legally tasked with preparing a Permit that contains protective Effluent Limitations; it is the Discharger's responsibility to achieve compliance. The Regional Board appears to be arguing that *compliance* with Effluent Limitations is impracticable; however we would also disagree that *compliance* with Effluent Limitations is impracticable. The Discharger can use best management practices, treatment or elimination of the discharge to achieve compliance with the Effluent Limitations. The Regional Board appears to have confused their role in attempting to develop a compliance strategy rather than developing a protective NPDES permit.

B. The Permit fails to contain an Effluent Limitation for copper in violation of the California Toxics Rule, Federal Regulations (40 CFR 122.44), the California Water Code (CWC), Section 13377 and the State's Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP).

The maximum observed effluent (MEC) concentration for copper was 1400.0 $\mu\text{g/l}$, Table F-5, which exceeds the California Toxics Rule (CTR) water quality standard of 3.5 $\mu\text{g/l}$. In accordance with Federal Regulations, 40 CFR 122.44, the Regional Board is required to establish an effluent limitation if a pollutant is measured in the effluent which presents a reasonable potential to exceed a water quality standard of objective. In accordance with the SIP, Section 1.3, since the maximum effluent concentration exceeded a water quality standard, an effluent limitation is required. California Water Code, section 13377, requires that: "Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance."

The measured concentrations of copper at 1400.0 $\mu\text{g/l}$ clearly exceed the CTR water quality standard of 3.5 $\mu\text{g/l}$ and in accordance with Federal and State Regulations and the SIP, effluent limitations are required. The Permit inclusion of a Receiving Water

Limitation for copper does not meet the legal or technical requirements of an Effluent Limitation. Even if a Receiving Water Limitation were legally allowed, the Permit does not include any information regarding the extensive Basin Plan and SIP requirements for a mixing zone analysis to show that the proposed limitation would be protective of water quality and the beneficial uses of the receiving stream. The Regional Board's use of the word "infeasible" could be virtually applied to any discharge and does not meet any test. The use of passive treatment systems does not preclude Effluent Limitations if they are properly designed. Mines are routinely regulated under NPDES permits with Effluent Limitations in the Central Valley Region; the 16 to 1 mine and Empire Mine come immediately to mind, however there are numerous others. The Permit as adopted cannot ensure compliance with applicable water quality requirements. Federal Regulation, 40 CFR 122.4 (a), (d) and (g) require that no permit may be issued when the conditions of the permit do not provide for compliance with the applicable requirements of the CWA, or regulations promulgated under the CWA, when imposition of conditions cannot ensure compliance with applicable water quality requirements and for any discharge inconsistent with a plan or plan amendment approved under Section 208(b) of the CWA.

C. The Permit fails to contain an Effluent Limitation for zinc in violation of the California Toxics Rule, Federal Regulations (40 CFR 122.44), the California Water Code (CWC), Section 13377 and the State's Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP).

The maximum observed effluent (MEC) concentration for zinc was 4,300.0 $\mu\text{g/l}$, Table F-5, which exceeds the California Toxics Rule (CTR) water quality standard of 46.0 $\mu\text{g/l}$. In accordance with Federal Regulations, 40 CFR 122.44, the Regional Board is required to establish an effluent limitation if a pollutant is measured in the effluent which presents a reasonable potential to exceed a water quality standard of objective. In accordance with the SIP, Section 1.3, since the maximum effluent concentration exceeded a water quality standard, an effluent limitation is required. California Water Code, section 13377, requires that: "Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance."

The measured concentrations of zinc at 4,300.0 $\mu\text{g/l}$ clearly exceed the CTR water quality standard of 46.0 $\mu\text{g/l}$ and in accordance with Federal and State Regulations and the SIP, effluent limitations are required. The Permit inclusion of a Receiving Water Limitation for zinc does not meet the legal or technical requirements of an Effluent Limitation. Even if a Receiving Water Limitation were legally allowed, the Permit does not include any information regarding the extensive Basin Plan and SIP requirements for a mixing zone analysis to show that the proposed limitation would be protective of water quality and the beneficial uses of the receiving stream. Federal Regulation, 40 CFR

122.4 (a), (d) and (g) require that no permit may be issued when the conditions of the permit do not provide for compliance with the applicable requirements of the CWA, or regulations promulgated under the CWA, when imposition of conditions cannot ensure compliance with applicable water quality requirements and for any discharge inconsistent with a plan or plan amendment approved under Section 208(b) of the CWA.

D. The Permit fails to contain an Effluent Limitation for cadmium in violation of the California Toxics Rule, Federal Regulations (40 CFR 122.44), the California Water Code (CWC), Section 13377 and the State's Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP).

The maximum observed effluent (MEC) concentration for cadmium was $7.2 \mu\text{g/l}$, Table F-5, which exceeds the California Toxics Rule (CTR) water quality standard of $0.9 \mu\text{g/l}$. In accordance with Federal Regulations, 40 CFR 122.44, the Regional Board is required to establish an effluent limitation if a pollutant is measured in the effluent which presents a reasonable potential to exceed a water quality standard of objective. In accordance with the SIP, Section 1.3, since the maximum effluent concentration exceeded a water quality standard, an effluent limitation is required. California Water Code, section 13377, requires that: "Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance."

The measured concentrations of cadmium at $7.2 \mu\text{g/l}$ clearly exceed the CTR water quality standard of $0.9 \mu\text{g/l}$ and in accordance with Federal and State Regulations and the SIP, effluent limitations are required. The Permit inclusion of a Receiving Water Limitation for cadmium does not meet the legal or technical requirements of an Effluent Limitation. Even if a Receiving Water Limitation were legally allowed, the Permit does not include any information regarding the extensive Basin Plan and SIP requirements for a mixing zone analysis to show that the proposed limitation would be protective of water quality and the beneficial uses of the receiving stream. Federal Regulation, 40 CFR 122.4 (a), (d) and (g) require that no permit may be issued when the conditions of the permit do not provide for compliance with the applicable requirements of the CWA, or regulations promulgated under the CWA, when imposition of conditions cannot ensure compliance with applicable water quality requirements and for any discharge inconsistent with a plan or plan amendment approved under Section 208(b) of the CWA.

E. The Permit fails to contain an Effluent Limitation for lead in violation of the California Toxics Rule, Federal Regulations (40 CFR 122.44), the California Water Code (CWC), Section 13377 and the State's Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP).

The maximum observed effluent (MEC) concentration for lead was 120.0 $\mu\text{g/l}$, Table F-5, which exceeds the California Toxics Rule (CTR) water quality standard of 0.6 $\mu\text{g/l}$. In accordance with Federal Regulations, 40 CFR 122.44, the Regional Board is required to establish an effluent limitation if a pollutant is measured in the effluent which presents a reasonable potential to exceed a water quality standard of objective. In accordance with the SIP, Section 1.3, since the maximum effluent concentration exceeded a water quality standard, an effluent limitation is required. California Water Code, section 13377, requires that: “Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.”

The measured concentrations of lead at 120.0 $\mu\text{g/l}$ clearly exceed the CTR water quality standard of 0.6 $\mu\text{g/l}$ and in accordance with Federal and State Regulations and the SIP, effluent limitations are required. The Permit inclusion of a Receiving Water Limitation for lead does not meet the legal or technical requirements of an Effluent Limitation. Even if a Receiving Water Limitation were legally allowed, the Permit does not include any information regarding the extensive Basin Plan and SIP requirements for a mixing zone analysis to show that the proposed limitation would be protective of water quality and the beneficial uses of the receiving stream. Federal Regulation, 40 CFR 122.4 (a), (d) and (g) require that no permit may be issued when the conditions of the permit do not provide for compliance with the applicable requirements of the CWA, or regulations promulgated under the CWA, when imposition of conditions cannot ensure compliance with applicable water quality requirements and for any discharge inconsistent with a plan or plan amendment approved under Section 208(b) of the CWA.

G. The Permit fails to contain an Effluent Limitation for nickel in violation of the California Toxics Rule, Federal Regulations (40 CFR 122.44), the California Water Code (CWC), Section 13377 and the State’s Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP).

The maximum observed effluent (MEC) concentration for nickel was 140.0 $\mu\text{g/l}$, Table F-5, which exceeds the California Toxics Rule (CTR) water quality standard of 20.0 $\mu\text{g/l}$. In accordance with Federal Regulations, 40 CFR 122.44, the Regional Board is required to establish an effluent limitation if a pollutant is measured in the effluent which presents a reasonable potential to exceed a water quality standard of objective. In accordance with the SIP, Section 1.3, since the maximum effluent concentration exceeded a water quality standard, an effluent limitation is required. California Water Code, section 13377, requires that: “Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill

material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.”

The measured concentrations of nickel at 140.0 $\mu\text{g/l}$ clearly exceed the CTR water quality standard of 20.0 $\mu\text{g/l}$ and in accordance with Federal and State Regulations and the SIP, effluent limitations are required. The Permit inclusion of a Receiving Water Limitation for nickel does not meet the legal or technical requirements of an Effluent Limitation. Even if a Receiving Water Limitation were legally allowed, the Permit does not include any information regarding the extensive Basin Plan and SIP requirements for a mixing zone analysis to show that the proposed limitation would be protective of water quality and the beneficial uses of the receiving stream. Federal Regulation, 40 CFR 122.4 (a), (d) and (g) require that no permit may be issued when the conditions of the permit do not provide for compliance with the applicable requirements of the CWA, or regulations promulgated under the CWA, when imposition of conditions cannot ensure compliance with applicable water quality requirements and for any discharge inconsistent with a plan or plan amendment approved under Section 208(b) of the CWA.

H. The Permit fails to include an Effluent for Cobalt as required by Federal Regulations 40 CFR 122.44 and the permit should not be adopted in accordance with the Clean Water Act and the California Water Code Section 13377.

Federal Regulations, 40 CFR 122.44 (d)(i), requires that; “Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.” The Water Quality Standard for cobalt is 50 $\mu\text{g/l}$. The wastewater discharge maximum observed concentration was 80.0 $\mu\text{g/l}$. Clearly the discharge exceeds the water quality objective. The proposed Order fails to establish an effluent limitation for cobalt. The Permit inclusion of a Receiving Water Limitation for nickel does not meet the legal or technical requirements of an Effluent Limitation. Even if a Receiving Water Limitation were legally allowed, the Permit does not include any information regarding the extensive Basin Plan and SIP requirements for a mixing zone analysis to show that the proposed limitation would be protective of water quality and the beneficial uses of the receiving stream. Federal Regulation, 40 CFR 122.4 (a), (d) and (g) require that no permit may be issued when the conditions of the permit do not provide for compliance with the applicable requirements of the CWA, or regulations promulgated under the CWA, when imposition of conditions cannot ensure compliance with applicable water quality requirements and for any discharge inconsistent with a plan or plan amendment approved under Section 208(b) of the CWA. California Water Code, section 13377, requires that: “Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits

which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.”

I. The Permit fails to include an Effluent for Iron as required by Federal Regulations 40 CFR 122.44 and the permit should not be adopted in accordance with the Clean Water Act and the California Water Code Section 13377.

Federal Regulations, 40 CFR 122.44 (d)(i), requires that; “Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.” The Water Quality Standard for iron is 300.0 $\mu\text{g/l}$. The wastewater discharge maximum observed concentration was 35,000 $\mu\text{g/l}$. Clearly the discharge exceeds the water quality objective. The proposed Order fails to establish an effluent limitation for iron. The Permit inclusion of a Receiving Water Limitation for nickel does not meet the legal or technical requirements of an Effluent Limitation. Even if a Receiving Water Limitation were legally allowed, the Permit does not include any information regarding the extensive Basin Plan and SIP requirements for a mixing zone analysis to show that the proposed limitation would be protective of water quality and the beneficial uses of the receiving stream. Federal Regulation, 40 CFR 122.4 (a), (d) and (g) require that no permit may be issued when the conditions of the permit do not provide for compliance with the applicable requirements of the CWA, or regulations promulgated under the CWA, when imposition of conditions cannot ensure compliance with applicable water quality requirements and for any discharge inconsistent with a plan or plan amendment approved under Section 208(b) of the CWA. California Water Code, section 13377, requires that: “Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.”

J. The Permit fails to include an Effluent for Manganese as required by Federal Regulations 40 CFR 122.44 and the permit should not be adopted in accordance with the Clean Water Act and the California Water Code Section 13377.

Federal Regulations, 40 CFR 122.44 (d)(i), requires that; “Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any

State water quality standard, including State narrative criteria for water quality.” The Water Quality Standard for manganese is 50.0 $\mu\text{g/l}$. The wastewater discharge maximum observed concentration was 2,100.0 $\mu\text{g/l}$. Clearly the discharge exceeds the water quality objective. The proposed Order fails to establish an effluent limitation for manganese. The Permit inclusion of a Receiving Water Limitation for nickel does not meet the legal or technical requirements of an Effluent Limitation. Even if a Receiving Water Limitation were legally allowed, the Permit does not include any information regarding the extensive Basin Plan and SIP requirements for a mixing zone analysis to show that the proposed limitation would be protective of water quality and the beneficial uses of the receiving stream. Federal Regulation, 40 CFR 122.4 (a), (d) and (g) require that no permit may be issued when the conditions of the permit do not provide for compliance with the applicable requirements of the CWA, or regulations promulgated under the CWA, when imposition of conditions cannot ensure compliance with applicable water quality requirements and for any discharge inconsistent with a plan or plan amendment approved under Section 208(b) of the CWA. California Water Code, section 13377, requires that: “Notwithstanding any other provision of this division, the state board and the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.”

K. The Permit establishes a technically invalid defacto mixing zone contrary to the legal requirements of the Basin Plan and the SIP.

By establishing Receiving Water Limitations rather than the legally required Effluent Limitations the Permit allows for dilution within the receiving stream and establishes a defacto mixing zone. Effluent Limitations should reasonably be established as end-of-pipe limits at the water quality standard or objective, since it appears that there is insufficient evidence or information to properly develop a technically and legally valid mixing zone that would allow for dilution. The Regional Board would appear to agree with this conclusion, since the permit was modified by late revision to include requirements for a mixing zone study. The cart should appropriately be placed behind the horse and the permit must contain end-of-pipe limitations until and if a proper mixing zone analysis is completed. The Fact Sheet (page F-12) discussion of *Assimilative Capacity/Mixing Zone* does not address a single requirement of the Basin Plan or the SIP for establishing a technically valid or legal mixing zone. In any case, a technically and legally defensible mixing zone analysis would result in Effluent Limitations not Receiving Water Limitations.

The Basin Plan, page IV-16.00, requires the Regional Board use EPA’s *Technical Support Document for Water Quality Based Toxics Control (TSD)*. The TSD, page 70, defines a first stage of mixing, close to the point of discharge, where complete mixing is determined by the momentum and buoyancy of the discharge. There is no knowledge of whether the wastewater discharge is completely mixed in the first stage. The second

stage is defined by the TSD where the initial momentum and buoyancy of the discharge are diminished and waste is mixed by ambient turbulence. The TSD goes on to state that in large rivers this second stage mixing may extend for miles. The TSD, Section 4.4, requires that if complete mix does not occur in a short distance mixing zone monitoring and modeling must be undertaken. The Permit contains no information regarding mixing of the effluent and the receiving stream and it is doubtful that any such information exists since there is no evidence that a mixing zone analysis has been undertaken. The Permit cites a minimum 100 to 1 dilution within the receiving stream, but does not state the source of the flow data and it is doubtful that a receiving stream flow gage is present within Poorman Creek. The Permit does not cite the lowest 10 year instream flow rate as required by the SIP (Table 3) for calculating dilution ratios. The Permit does not discuss additive toxicity as required by the Basin Plan.

The extensive SIP, Section 1.4.2.2, requirements for a mixing zone study apply here and must be analyzed before a mixing zone is allowed for this discharge. The proposed Receiving Water Limitations in the Permit are not supported by the scientific investigation that is required by the SIP and the Basin Plan.

SIP Section 1.4.2.2 requires that a mixing zone shall not:

1. Compromise the integrity of the entire waterbody.
2. Cause acutely toxic conditions to aquatic life.
3. Restrict the passage of aquatic life.
4. Adversely impact biologically sensitive habitats.
5. Produce undesirable aquatic life.
6. Result in floating debris.
7. Produce objectionable color, odor, taste or turbidity.
8. Cause objectionable bottom deposits.
9. Cause Nuisance.
10. Dominate the receiving water body or overlap a different mixing zone.
11. Be allowed at or near any drinking water intake.

The Permit's mixing zones have not addressed a single required item of the SIP. A very clear unaddressed requirement (SIP Section 1.4.2.2) for mixing zones is that the point(s) in the receiving stream where the applicable criteria must be met shall be specified in the Permit. The "edge of the mixing zone", the point of compliance, has not been defined.

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. R5-2008-0104 (NPDES No. CA0085286) 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 15 February 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. Paul Violett, Vice President, Soper Company, 19855 Barton Hill Road, Strawberry, Valley, California 95981.

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 15 February 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: 30 August 2008

Respectfully submitted,



Bill Jennings, Executive Director
California Sportfishing Protection Alliance

Attachment No. 1: Order No. R5-2008-0104