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save our wetlands

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

November 4, 2014

Mr. Jim Barrett, General Manager
Board of Directors
Coachella Valley Water District
P.O. Box 1058
Coachella, CA 92236

Re: Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Mr. Barrett and Members of the Board:

NOTICE

The Clean Water Act ("CWA" or "Act") requires that 60 days prior to the initiation of a civil action under CWA § 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of the intent to sue to the alleged violator, the Environmental Protection Agency ("EPA") and the State in which the violations occur.

This Notice is provided on behalf of California River Watch ("River Watch") in regard to violations of the Clean Water Act ("CWA" or "Act") 33 U.S.C. § 1251 *et seq.*, that River Watch believes are occurring at the Coachella Valley Water District.

California River Watch hereby places the Coachella Valley Water District, as owners and operators of the Coachella Valley Water District collection system (hereinafter referred to as "the District") on notice, that following the expiration of 60 days from the date of this Notice, River Watch will be entitled to bring suit in the U.S. District Court against the District for continuing violations of an effluent standard or limitation, permit condition or requirement, or a Federal or State Order or Permit issued under CWA § 402 pursuant to CWA § 301(a), and consistent with the Code of Federal Regulations, and the Regional Water Quality Control Board, Colorado River Basin Region, Water Quality Control Plan ("Basin Plan") as exemplified by the violations of

permit conditions or limitations in the District's National Pollutant Discharge Elimination System ("NPDES") Permit.

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharge of pollutants is prohibited with the exception of enumerated statutory provisions. One such exception authorizes a polluter, who has been issued a permit pursuant to CWA § 402, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the CWA §301(a), 33 U.S.C. §1311(a) prohibition, such that violation of a permit limit places a polluter in violation of the CWA. Private parties may bring citizens' suits pursuant to 33 U.S.C. § 1365 to enforce effluent standards or limitations, as defined under 33 U.S.C. §1365(f) and elsewhere within the Act or enumerating state and federal statutes and limitations.

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the EPA to a state or to a regional regulatory agency, provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria. *See* 33 U.S.C. § 1342(b). In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board and several subsidiary regional water quality control boards, to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating discharges in the region at issue in this Notice is the Regional Water Quality Control Board, Colorado River Basin Region ("RWQCB").

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

1. The specific standard, limitation, or order alleged to have been violated.

River Watch has identified the NPDES Permit of the Coachella Valley Water District for the Mid-Valley Water Reclamation Plant No. 4 and specifically identified in this Notice the applicable standard, limitation or condition being violated. A violation of the NPDES permit is a violation of the CWA.

2. The activity alleged to constitute a violation.

Most often, the NPDES Permit limitations being violated are self-explanatory and an examination of the language of the Permit is sufficient to inform the District,

especially since the District is responsible for complying with that Permit condition. In addition, River Watch has set forth narratives below describing with particularity the activities leading to violations, and has incorporated by reference the District's own records and other public documents in the District's possession or otherwise available to the District regarding its NPDES Permit, compliance with that Permit and any other information designed to inform the District or the public.

3. *The person or persons responsible for the alleged violation.*

The entity responsible for the alleged violations identified in this Notice is the Coachella Valley Water District, identified herein as the District, as owner and operator of the Coachella Valley Water District collection system, and the Mid-Valley Water Reclamation Plant No. 4, as well as those employees of the District responsible for compliance with the its NPDES Permit.

4. *The location of the alleged violation.*

The location or locations of the various violations are identified in the District's NPDES Permit and also in records created and/or maintained by or for the District which relate to the collection system, the Mid-Valley Water Reclamation Plant No. 4, and related activities as further described in this Notice.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

River Watch has examined both RWQCB files and the District's records with respect to the collection system and the Mid-Valley Water Reclamation Plant No. 4, for the period from November 1, 2009 through November 1, 2014. The range of dates covered by this Notice is from November 1, 2009 through November 1, 2014. River Watch may from time to time update this Notice to include all violations of the CWA by the District which occur after the range of dates currently covered. Some violations are continuous, and therefore each day constitutes a violation.

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving this Notice is California River Watch, referred to herein as "River Watch." River Watch is an Internal Revenue Code § 501(c)(3) nonprofit, public benefit corporation organized under the laws of the State of California, with headquarters and main office located in Sebastopol, California and mailing address of 290 S. Main Street, #817, Sebastopol, CA 95472. River Watch is dedicated to protect, enhance and

help restore the groundwater and surface water environs of California including, but not limited to, its rivers, creeks, streams, wetlands, vernal pools and tributaries. River Watch may be contacted via email: US@ncriverwatch.org or through its attorneys.

River Watch has retained legal counsel with respect to the issues set forth in this Notice. All communications should be addressed as follows:

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BACKGROUND/THE DISTRICT'S OPERATIONS

The District owns and operates six (6) Wastewater Reclamation Plants and their associated collection systems, which consist of approximately 148 miles of pressure sewer, approximately 1,094 miles of gravity sewer, 17,000 manholes, and 34 lift stations. The District provides sewerage service to approximately 265,000 residential and business customers throughout Coachella Valley, including Cathedral City, Coachella, Indian Wells, Indio, La Quinta, Palm Desert, Rancho Mirage, and the unincorporated communities of Bermuda Dunes, Indio Hills, Mecca, Sky Valley, Thermal - Oasis, Thousand Palms, and Vista Santa Rosa, as well as portions of Palm Springs and unincorporated North Shore. The NPDES-regulated wastewater treatment plant in the District's jurisdiction is Mid Valley Water Reclamation Plant No. 4 (hereinafter "the Plant"), currently regulated under Order No. R7-2012-0008, NPDES Permit No. CA0104973. It was formerly regulated under Order No. R7-2007-0001. The Plant has a design flow of 9.9 mgd and discharges secondary and secondary equivalent treated domestic wastewater to the Coachella Valley Storm Water Channel.

The District's NPDES Permit contains several discharge prohibitions related to sewer system overflows ("SSOs"). Discharge Prohibition C of the Permit prohibits the bypass or overflow of untreated wastewater or wastes to the Coachella Valley Storm Water Channel, except as allowed under the Standard Provisions for NPDES permits. Discharge Prohibition E provides that discharges shall not cause degradation of any water supply. A SSO can violate more than one prohibition at once. Violations of the NPDES Permit are violations of the CWA.

The District's aging collection system has historically experienced high inflow and infiltration (I/I) during wet weather and flooding. Structural defects which allow I/I into the sewer lines result in a buildup of pressure which causes SSOs. Overflows caused by blockages and I/I result in the discharge of raw sewage into gutters, canals, and storm drains which are connected to adjacent surface waters – all waters of the United States. As recorded in the State Water Resource Control Board's California Integrated Water Quality System ("CIWQS") Public SSO Reports, the District's collection system has experienced 42 SSOs between November 1, 2009 and November 1, 2014, with a combined volume of 1,541,009 gallons – 1,276,915 gallons of which were reported as having reached surface waters. For example, on August 30, 2013, a spill of 21,000 gallons occurred near the Coachella Canal and Interstate 10 in Indio within the District's jurisdiction. It was estimated that 20,000 gallons spilled into Coachella Canal. In another example, a 10,600 gallon spill took place on May 11, 2011 in Indian Wells. Between 6,100 – 10,600 gallons were estimated as unrecovered, and the Whitewater River Storm Water Channel was impacted. Also, on January 17, 2011, another sewage spill occurred in Indian Wells estimated at 6,000 gallons, with 5,500 reaching the Whitewater River Storm Water Channel.

Discharges to storm water channels are discharges to waters of the United States. While some areas where spills have occurred were dry at the time, the discharged pollutants remained on the surface of the land and entered receiving waters following rainfall or flooding.

River Watch's expert believes that many of the SSOs reported by the District as having been contained without reaching a surface water did in fact discharge to surface waters, and those reported as partially reaching surface waters did so in greater volume than stated. The claim of full containment is further called into question by the fact that many of the District's SSO Reports, including two of the three aforementioned examples, state the estimated start time of the SSO as the time when the reporting party first noticed it. Studies have shown that most SSOs are noticed significantly after they have begun. Since the volume of SSOs of any significance is estimated by multiplying the estimated flow rate by the duration, the practice of estimating a later than actual start time leads to an under-estimation of both the duration and the volume.

River Watch's expert has also determined that the District's method for estimating flow rate also under-estimates the volume of a SSO. Furthermore, a review of the service records calls into question the District's methodologies for determining the volume of SSOs captured. The District is a permittee under the Statewide General Requirements for Sanitary Sewer Systems, Waste Discharge Requirements Order No. 2006-0003-DWQ ("Statewide WDR") governing the operation of sanitary sewer systems. The Statewide

WDR requires that sewer system operators report SSOs to the CIWQS, and include in that reporting an estimate of the volume of any spill, the volume recovered and the volume which reached a surface water. The District's field reports generally do not indicate what method was used to estimate the total volume of the spill, which further calls into question the estimates of volume recovered and volume which reached surface water. River Watch contends that the District is grossly under-estimating the incidence and volume of SSOs that reach surface waters.

In addition to SSOs which discharge over land into surface waters, underground leakages ("exfiltration") caused by pipeline cracks and other structural defects in the collection system result in discharges to adjacent surface waters via underground hydrological connections. The District's internal reports indicate discharges to surface waters not reported to CIWQS. The District completely ignores SSOs due to exfiltration that reach surface waters. The entire system has not been inspected by means of closed circuit television. For a significant portion of the collection system, it would appear the District has no idea of its condition or the extent of exfiltration. Some sections of the system are old and in need of repair. Untreated sewage is discharged from cracks, displaced joints, eroded segments, etc., into ground water which is hydrologically connected to surface waters. Evidence indicates extensive exfiltration from lines within 200 feet of a surface water.

River Watch alleges that such discharges are continuous wherever aging, damaged, structurally defective sewer lines in the District's collection system are located adjacent to surface waters, including Coachella Canal, Whitewater River, Coachella Valley Storm Water Channel, Lake Cahuilla, and the Salton Sea. Surface waters and ground water become contaminated with fecal coliform, exposing people to human pathogens. Studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines have verified the contamination of the adjacent waters with untreated sewage.[1] Chronic failures in the collection system pose a substantial threat to public health. Exfiltration from the District's collection system is a daily occurrence and a violation of its NPDES permit and the CWA.

River Watch alleges the District also fails to adequately mitigate the impacts of SSOs. The Statewide WDR mandates that "the Enrollee shall take all feasible steps to contain and mitigate the impacts of an SSO" (Statewide WDR PROVISION D.3, pg. 7). The EPA Report To Congress on the Impacts of SSOs identifies SSOs as a major source

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1 See the Report of Human Marker Study issued in July of 2008 and conducted by Dr. Michael L. Johnson, U.C. Davis water quality expert, performed for the City of Ukiah, finding the presence of human derived bacteria in two creeks adjacent to defective sewer lines.

of microbial pathogens and oxygen depleting substances. There are numerous critical habitat areas within areas of these SSOs. There is no record of the District performing any analysis of the impacts of SSOs on critical habitat of protected species under the ESA, nor any evaluation of the measures needed to restore water bodies designated as critical habitat from the impacts of SSOs.

The Statewide WDR requires the District to take all feasible steps and perform necessary remedial actions following the occurrence of a SSO, including limiting the volume of waste discharged, terminating the discharge, and recovering as much of the wastewater as possible. Further remedial actions include intercepting and re-routing of wastewater flows, vacuum truck recovery of the SSO, cleanup of debris at the site, and modification of the system to prevent further SSOs at the site. One of the most important remedial measures is the performance of adequate sampling to determine the nature and the impact of the release. As the District is severely under-estimating SSOs which reach surface waters, the District is also not conducting sampling on most SSOs.

The Coachella Canal, Whitewater River, Coachella Valley Storm Water Channel, Lake Cahuilla, and the Salton Sea have many beneficial uses as defined in the RWQCB's Basin Plan. SSOs reaching these waterways cause prohibited pollution by unreasonably affecting the beneficial uses of these waters. The District is also required by its NPDES Permit to comply with narrative standards as set forth in the Basin Plan, used when testing by numeric standards would be inadequate or impractical. Narrative standards include:

1) Waters shall not contain taste or odor producing substances in concentrations that impart undesirable tastes or odors to fish flesh;

2) Waters shall not contain floating material in concentrations that cause nuisance or affect beneficial uses;

3) The pH shall not change within 0.5 units of the range needed for COLD or WARM beneficial uses, such as cold water habitat for fish;

4) The bacteriological quality of waters shall not be degraded beyond natural background levels; and,

5) Natural receiving water temperatures shall not be altered unless allowed by the RWQCB.

River Watch has found nothing in the public record to demonstrate that the District has monitored for and complied with these narrative standards. River Watch is understandably concerned regarding the effects of both surface and underground SSOs on critical habitat in and around Coachella Canal, Coachella Valley Storm Water Channel, and the Salton Sea.

The District has also had violations of effluent limits as set forth in its NPDES Permit. Between November 1, 2009 and November 1, 2014, the District had 2 violations of permit requirements for Carbonaceous Biochemical Oxygen Demand ("CBOD"), and 2 violations of permit requirements for Total Suspended Solids ("TSS").

River Watch members residing and recreating in the area of the Plant, the collection system, and the surrounding areas have a vital interest in bringing the District's operations at the Plant and associated collection system into compliance with the CWA.

REMEDIAL MEASURES REQUESTED

1. DEFINITIONS

A. Condition Assessment: A report that comprises inspection, rating, and evaluation of the existing condition of a sewer collection system. Inspection is based upon closed circuit television ("CCTV") inspections for gravity mains; manhole inspections for structural defects; and, inspections of pipe connections at the manhole. After CCTV inspection occurs, pipe conditions are assigned a grade based on the Pipeline Assessment and Certification Program ("PACP") rating system, developed by the National Association of Sewer Service Companies. The PACP is a nationally recognized sewer pipeline condition rating system for CCTV inspections.

B. Full Condition Assessment: A Condition Assessment of all sewer lines in the sewer collection system with the exception of sewer lines located within 200 feet of surface waters.

C. Surface Water Condition Assessment: A Condition Assessment of sewer lines in the sewer collection system located within 200 feet of surface waters, including gutters, canals and storm drains which discharge to surface waters.

D. Significantly Defective: A sewer pipe is considered to be Significantly Defective if its condition receives a grade of 4 or 5 based on the PACP

rating system. The PACP assigns grades based on the significance of the defect, extent of damage, percentage of flow capacity restriction, and/or the amount of pipe wall loss due to deterioration. Grades are assigned as follows:

5 – Most significant defect
4 – Significant defect
3 – Moderate defect
2 – Minor to moderate defect
1 – Minor defect

2. REMEDIAL MEASURES

River Watch believes the following remedial measures are necessary to bring the District into compliance with its NPDES permit and the Basin Plan, and reflect the biological impacts of the District's on-going non-compliance with the CWA:

A. SEWAGE COLLECTION SYSTEM INVESTIGATION AND REPAIR

- The repair or replacement, within two (2) years, of all sewer lines in the District's sewage collection system located 200 feet from surface waters, including gutters, canals and storm drains which discharge to surface waters, which have been CCTV'd within the past ten (10) years and were rated as Significantly Defective.

- Within two (2) years, the completion of a Surface Water Condition Assessment of sewer lines which have not been CCTV'd during the past ten (10) years.

- Within two (2) years after completion of the Surface Water Condition Assessment above, the District will:

  » Repair or replace all sewer lines which have been found to be Significantly Defective;

  » Repair or replace sewer pipe segments containing defects with a rating of 3 based on the PACP rating system, if such defect resulted in a SSO, or, if in the District's discretion, such defects are in close proximity to Significantly Defective segments that are in the process of being repaired or replaced;

» Sewer pipe segments that contain defects with a rating of 3 that are not repaired or replaced within five (5) years after completion of the Surface Water Condition Assessment shall be re-CCTV'd every five (5) years to ascertain the condition of the sewer line segment. If the District determines that the grade-3 sewer pipe segment has deteriorated and needs to be repaired or replaced, the District shall complete such repair or replacement within two (2) years after the last CCTV cycle.

- Beginning no more than one (1) year after completion of the Surface Water Condition Assessment, the District shall commence a Full Condition Assessment to be completed within seven (7) years. Any sewer pipe segment receiving a rating of 4 or 5 based on the PACP rating system shall be repaired or replaced within three (3) years of the rating determination.

- Provision in the District's Capital Improvements Plan to implement a program of the Condition Assessment of all sewer lines at least every five (5) years. Said program to begin one (1) year following the Full Condition Assessment described above.

B. SSO REPORTING AND RESPONSE

- Modification of the District's Backup and SSO response plan to include the method or calculations used for estimating total spill volume, spill volume that reached surface waters and spill volume recovered.

- For Category I Spills, creation of a listing of nearby residents or business owners who have been contacted to attempt to establish the SSO start time, duration, and flow rate, if such start time, duration, and flow rate have not been otherwise reasonably ascertained, such as from a caller who provides information that brackets a given time that the SSO began.

- Taking of photographs of the manhole flow at the SSO site using the San Diego Method array, if applicable to the SSO; or, other photographic evidence that may aid in establishing the spill volume.

- Water quality sampling and testing to be required whenever it is estimated that 50 gallons or more of untreated or partially treated waste water enters surface waters. Constituents tested for to include: Ammonia, Fecal Coliform, E. coli and a CAM-17 toxic metal analysis. The District shall

collect and test samples from 3 locations: the point of discharge, upstream of the point of discharge, and downstream of the point of discharge. If any of said constituents are found at higher levels in the point of discharge sample and the downstream sample than in the upstream sample, the District will determine and address the cause of the SSO that enters surface waters, and employ the following measures to prevent future overflows: (a) if the SSO is caused by a structural defect, then immediately spot repair the defect or replace the entire line; (b) if the defect is non-structural, such as a grease blockage or vandalism to a manhole cover, then perform additional maintenance or cleaning, and any other appropriate measures to fix the non-structural defect.

- Creation of website capacity to track information regarding SSOs; or, in the alternative, the creation of a link from the District's website to the CIWQS SSO Public Reports. Notification to be given by the District to all customers and other members of the public of the existence of the web based program, including a commitment to respond to private parties submitting overflow reports.

- Performance of human marker sampling on creeks, rivers, wetlands and areas of Coachella Canal, Whitewater River, Coachella Valley Storm Water Channel, Lake Cahuilla, and the Salton Sea adjacent to sewer lines to test for sewage contamination from exfiltration.

C. LATERAL INSPECTION/REPAIR PROGRAM

- Creation of a mandatory, private sewer lateral inspection and repair program triggered by any of the following events:

  » Transfer of ownership of the property if no inspection/replacement of the sewer lateral occurred within twenty (20) years prior to the transfer;

  » The occurrence of two (2) or more SSOs caused by the private sewer lateral within two (2) years;

  » A change of the use of the structure served (a) from residential to non-residential use, (b) to a non-residential use that will result in a higher flow than the current non-residential use, and (c) to non-residential uses where the structure served has been vacant or unoccupied for more than three (3) years;

» Upon replacement or repair of any part of the sewer lateral;

» Upon issuance of a building permit with a valuation of $25,000.00 or more;

» Upon significant repair or replacement of the main sewer line to which the lateral is attached.

VIOLATIONS

River Watch contends that from November 1, 2009 through November 1, 2014, the District violated the requirements of its NPDES Permit, the Basin Plan and the Code of Federal Regulations, as those requirements are referenced in the NPDES Permit, with respect to the District's collection system, and the Plant. Said violations are evidenced in the District's Self Monitoring Reports, testing data compiled in compliance with the NPDES Permit or other orders of the RWQCB, and other documentation filed with the RWQCB or in the District's possession, and as evidenced by unpermitted discharges due to failures in the collection system. Furthermore, these violations are continuing.

The violations include, but are not limited to, the following categories in the NPDES Permit:

Discharge Prohibitions

Violations	**Description**
1825	Collection system subsurface discharge caused by underground exfiltration - an event in which untreated sewage is discharged from the collection system prior to reaching the Plant or other wastewater treatment & reclamation facility. Underground discharges are alleged to have been continuous throughout the period from November 1, 2009 through November 1, 2014. Order No. R7-2007-0001, Discharge Prohibition III.A: "Bypass, overflow, discharge or spill of untreated or partially treated waste is prohibited." Order No. R7-2007-0001, Discharge Prohibition III.B: "The discharge of waste to land not owned or controlled by the District is prohibited."

Order No. R7-2007-0001, Discharge Prohibition III.C: "The discharge of treated wastewater at a location or in a manner different from that described in the Findings of the Order is prohibited. This prohibition does not limit flexibility in discharging different percentages of treated wastewater."

Order No. R7-2007-0001, Discharge Prohibition III.D: "Except as allowed under the Standard Provisions for NPDES permits (hereinafter Standard Provisions), included as Attachment D, the bypass or overflow of untreated wastewater or wastes to the Coachella Valley Storm Water Channel is prohibited."

Order No. R7-2007-0001, Discharge Prohibition III.F: "The discharge shall not cause degradation of any water supply."

Order No. R7-2007-0001, Discharge Prohibition III.G: "The treatment or disposal of wastes from the facility shall not cause pollution or nuisance as defined in Section 13050, subdivisions (l) and (m), respectively, of the CWC (California Water Code)."

Order No. R7-2012-0008, Discharge Prohibition III.A: "The discharge of waste to land not owned or controlled by the District is prohibited unless authorized in Waste Discharge Requirements or NPDES Permit."

Order No. R7-2012-0008, Discharge Prohibition III.B: "Discharge of treated wastewater at a location or in a manner different from that described in the Findings of this Order is prohibited."

Order No. R7-2012-0008, Discharge Prohibition III.C: "Except as allowed under the Standard Provisions for NPDES permits (hereinafter Standard Provisions), included as Attachment D, the bypass or overflow of untreated wastewater or wastes to the Coachella Valley Storm Water Channel is prohibited."

Order No. R7-2012-0008, Discharge Prohibition III.E: "The discharge shall not cause degradation of any water supply."

Order No. R7-2012-0008, Discharge Prohibition III.F: "The treatment or disposal of wastes from the facility shall not cause pollution or nuisance as defined in Section 13050, subdivisions (l) and (m), respectively, of the California Water Code."

Supporting evidence exists in the District's own mass balance data regarding the number of connections in the service area, estimates of average daily volume of wastewater per connection, influent flow volumes to the Plant reported in Self Monitoring Reports, and video inspection of the collection system.

42 SSOs – as evidenced in the CIWQS Interactive Public SSO Reports, including those discussed above, and unrecorded surface overflows witnessed by local residents.

Order No. R7-2007-0001, Discharge Prohibition III.A: "Bypass, overflow, discharge or spill of untreated or partially treated waste is prohibited."

Order No. R7-2007-0001, Discharge Prohibition III.B: "The discharge of waste to land not owned or controlled by the District is prohibited."

Order No. R7-2007-0001, Discharge Prohibition III.C: "The discharge of treated wastewater at a location or in a manner different from that described in the Findings of the Order is prohibited. This prohibition does not limit flexibility in discharging different percentages of treated wastewater."

Order No. R7-2007-0001, Discharge Prohibition III.D: "Except as allowed under the Standard Provisions for NPDES permits (hereinafter Standard Provisions), included as Attachment D, the bypass or overflow of untreated wastewater or wastes to the Coachella Valley Storm Water Channel is prohibited."

Order No. R7-2007-0001, Discharge Prohibition III.F: "The discharge shall not cause degradation of any water supply."

Order No. R7-2007-0001, Discharge Prohibition III.G: "The treatment or disposal of wastes from the facility shall not cause pollution or nuisance as defined in Section 13050, subdivisions (l) and (m), respectively, of the CWC (California Water Code)."

Order No. R7-2012-0008, Discharge Prohibition III.A: "The discharge of waste to land not owned or controlled by the District is prohibited unless authorized in Waste Discharge Requirements or NPDES Permit."

Order No. R7-2012-0008, Discharge Prohibition III.B: "Discharge of treated wastewater at a location or in a manner different from that described in the Findings of this Order is prohibited."

Order No. R7-2012-0008, Discharge Prohibition III.C: "Except as allowed under the Standard Provisions for NPDES permits (hereinafter Standard Provisions), included as Attachment D, the bypass or overflow of untreated wastewater or wastes to the Coachella Valley Storm Water Channel is prohibited."

Order No. R7-2012-0008, Discharge Prohibition III.E: "The discharge shall not cause degradation of any water supply."

Order No. R7-2012-0008, Discharge Prohibition III.F: "The treatment or disposal of wastes from the facility shall not cause pollution or nuisance as defined in Section 13050, subdivisions (l) and (m), respectively, of the California Water Code."

River Watch lastly estimates that there are 126 occurrences of a failure to report an SSO by the District. It is estimated by the EPA and private studies that for every SSO reported, there are at least 3 are unreported. In some cases the overflows occur during storm events or due to stoppages and there is no incident report made due to lack of any observation of the event. In other cases SSO events are reported, but by the time personnel arrive at the site they have ceased and no follow-up is done. In some cases the incident is reported and observed by staff, but a formal report is not made to the State, in violation of the Statewide WDR.

Effluent Limit
Violations Description

1 Effluent Discharge Exceeding the Permit Limit for Carbonaceous Biochemical Oxygen Demand ("CBOD").

Order No. R7-2012-0008, IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations, 1. Final Effluent Limitations – Discharge Point 001

1 Effluent Discharge Below the Permit Maximum for average monthly percent removal of CBOD 5-day @ 20 Degrees Celsius.

Order No. R7-2012-0008, IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations, 1. Final Effluent Limitations – Discharge Point 001

1 Effluent Discharge Exceeding the Permit Limit for Total Suspended Solids ("TSS") Weekly Average Limit.

Order No. R7-2012-0008, IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations, 1. Final Effluent Limitations – Discharge Point 001

1 Effluent Discharge Exceeding the Permit Limit for Total Suspended Solids ("TSS") Monthly Average Limit .

Order No. R7-2012-0008, IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations, 1. Final Effluent Limitations – Discharge Point 001

CONCLUSION

The violations as set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the affected community. Members of River Watch use the affected watershed for agricultural water supply, domestic water supply, recreation, fishing, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource is specifically impaired by the District's violations of the CWA as alleged in this Notice.

CWA §§505(a)(1) and 505(f) provide for citizen enforcement actions against any "person," including a governmental instrumentality or agency for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), §1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. §1365(a). Violators of the Act are also subject to an assessment of civil penalties up to $37,500 per day/per violation for all violations pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §1319(d), 1365. See also 40 C.F.R. §§ 19.1 - 19.4. River Watch believes this Notice sufficiently states grounds for filing suit in federal court under the "citizen suit" provisions of the CWA to obtain the relief provided for under the law.

The CWA specifically provides a **60-day** "notice period" to promote resolution of disputes. River Watch strongly encourages the District to contact River Watch through its counsel, within **20** days after receipt of this Notice to: (1) initiate a discussion regarding the allegations detailed in this Notice, and (2) set a date for a site visit. In the absence of productive discussions to resolve this dispute, or receipt of additional

information demonstrating that the District is in compliance with the strict terms and conditions of the General Permit, River Watch intends to file a citizen's suit under CWA §505(a) when the 60-day notice period ends.

Very truly yours,

Jack Silver

JS:lhm

cc: Administrator
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Regional Water Quality Control Board
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