Admitted in:
California
Oregon
Texas

Scharff, Brady & Vinding
WELLS FARGO BUILDING
400 CAPITOL MALL, SUITE 2640
SACRAMENTO, CALIFORNIA 95814
sbv-law@scharff.us

TELEPHONE
(916) 446-3400

FACSIMILE
(916) 446-7159

**MEMORANDUM**
**Via E-Mail**

**TO:** Steve Rosenbaum
Todd Delfrate

**FROM:** Jeffory J. Scharff

**DATE:** May 12, 2009

**RE:** **Sylvia Dellar Survivor's Trust v. City of Sacramento**

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As you know, we met last week to discuss the status of compliance with the Regional Water Quality Control Board ("RWQCB") directives with yourselves and representatives of the City os Sacramento ("City"). As you are aware, at that time, the Sylvia Dellar Survivor's Trust ("Dellar Trust") asserted and maintains its position that the compliance activities are as between the Dellar Trust and the City, the City's responsibility.

Unfortunately, due to unavoidable circumstances, I was unable to complete some of the internal discussion with the City and the Final Compliance Plan which will be submitted today, May 12, 2009. It contains provisions which the Dellar Trust is not in agreement with. I have discussed the same with Mr. Hicks, the City attorney, who is aware of the Dellar Trust's position as well as the Dellar Trust's comments. We anticipate submitting an addendum to the Final Compliance Plan to address these issues that by-in-large pertain the parties respective responsibilities for compliance with the RWQCB's directives.

I am aware that in writing this comment, it is the policy and position of the RWQCB that the questions of internal allocation of liability responsibility are beyond the purview of your agency. Nonetheless, as you are also aware, the parties are in litigation. However, as we discussed, we have engaged in very serious settlement discussions which we hope will resolve these differences. Nonetheless, I do not want the final compliance plan as submitted to the RWQCB to constitute an acquiescence admission or waiver of any of the assertions of the Dellar Trust as it pertains to the parties respective liabilities for compliance with your agencies directives.

Thank you for understanding this regard. Should you have any questions please do not hesitate to contact me.

JJS/lj
cc: Client
Gerald Hicks, Esq.