

March 30, 2009

Ms. Wendy S. Wyels,
Chief, Compliance and Enforcement Section
Ms. Sue McConnell, Senior WRCE
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6144

RE: Draft Cleanup and Abatement Order for El Dorado County Department of
Transportation, Rubicon Trail, El Dorado County

Dear Ms. Wyels , McConnell, and members of the Regional Board:

I oppose the issuing of a CAO at this time. I believe the timing of the Water Board is unfortunate and will hamper a process that was already moving forward after prior delay. The RWQCB may believe it has to eventually issue a CAO, however, it is within its power to exercise discretion and restraint during the process giving time for the various entities to resolve issues put forth in the Draft CAO. As the Water Board is now aware, there are a many outside factions viewing the Rubicon Trail in a divergent manner.

I believe the current CAO will rush this matter to the State Board and litigation in Federal Courts as the competing interests are forced to protect their rights or attempt to enforce their viewpoints. This will once again delay the process of implementing beneficial changes to the environment.

The evidence shows the Rubicon Trail is and has been a public right of way. It is not a potential ski area or hiking trail as some seem to think. There are many other areas for those choices. The Rubicon Trail does not need to be closed during the snow months because there are known techniques and methodologies for minimizing erosion other than closure. If there is concern about a lack of toilet facilities - then all hikers or skiers must also carry wag bags in addition to vehicles. A vehicle is much more likely to reach a public restroom in a timely manner where other users are not.

There is little empirical evidence to support the sediment volume levels said to be discharging into the watershed from the Rubicon Trail. The RWQCB has put forth that the Rubicon Trail is responsible for increased sediment load filling spawning gravels and reducing aquatic habitat, however, it is not considering the many uphill sources such as Forest Service roads and trails. Surely that and other sediment winds up on the Rubicon Trail as it travels downhill in the watershed. If the RWQCB refuses to address this then perhaps El Dorado County will be forced to recoup costs from the uphill sources which is going to strain relationships that would otherwise be cooperating.

Photographs and "studies" are being submitted to provoke passions and attempt to prove particular viewpoints but it is highly suspect what location and time those were taken in. They are not proper

evidence. Some of the photographs are over 10 years old if the dates on given on websites are to be believed but in any case do not reflect the current situation on the trail.

The small communities around the Rubicon Trail depend on it being open for millions of dollars of income each year. An economic analysis should be done. Also, the RWQCB cannot resort to closure without showing that the cost of remediating the damage will far outweigh the cost impact to local communities. Especially in the current difficult economy, the RWQCB should consider the effects of the CAO on the overall economy of the local communities, including impact on job opportunities and businesses. A cost-benefit analysis would be helpful.

I also believe a delay should be granted for the public hearing. It saddens to see such silly and mean-spirited politics. Not surprisingly, the Rubicon Trail, being one of the most famous 4X4 routes in the world, has motivated anti-OHV forces to commit resources in an attempt to FUD the process. A few of these are known for presenting misleading studies and materials. El Dorado County and the Rubicon Trail Foundation have both requested an extension of time to review the many comments and also allow the California Geological Survey to release its study. I see no reason why there must be a rush to judgment, especially when there are so many conflicting stories. El Dorado County has listed some actions being taken to address concerns stated in the CAO. We are also exiting the wet season and there is no proven need for closure during the dry months.

I would hope the RWQCB succeeds to stay above the fray by proceeding in a prudent and deliberate manner that will bring facts to the table and minimize rhetoric in order to achieve benefit to the natural environment - rather than allow politics and power rush to feed the litigation environment.

Sincerely yours,

A handwritten signature in black ink that reads "Charles Cox". The signature is written in a cursive, slightly slanted style.

Charles Cox