From: Michael Garabedian <mikeg@gvn.net>
To: <gperreira@waterboards.ca.gov>
Date: 12/24/2009 1:35 PM
Subject: CDO R5-2007-0131 Colfax North Fork American River pollution & designated party hearing status request

To:
Ms. Gayleen Perreira
California Central Valley Water Quality Control Board

Friends of the North Fork works to protect the resources and beauty of the North Fork American River canyon and watershed. We request designated party status for purposes of regional board hearings on the rescission of CDO No. R5-2007-0131. We have a board member and an activist member who take drinking water for domestic purposes from the North Fork American River for their property directly below where discharges from the Colfax Sewer plant enter the river. We hike the canyon along the river across the riverside rock over which Colfax sewer plant discharges enter the river, and we raft by this location on the river. We were a designated party in the prior hearing where our cross-examination of the city's engineer that was based on documents in the board file contributed to the board's decision to require the city to control infiltration and inflow.

State Department of Water Resources indicates that the Colfax sewer dam is 75-feet high. Current and past board documents seem to expend labor to avoid mentioning this fact, for instance, referring on page one of the draft CDO to "a spillway located approximately 4 feet below the top of the dam." The board staff's diligent attention to inaccurately referring to this essential part of the project description confirms public concerns that the state and regional board are not objective when it comes to describing matters of environmental impact including in their approach to CEQA issues. For height comparison purposes, the Army Corps cement mining debris dam, North Fork Dam for Clementine Reservoir is 155 feet high from its foundation. Item 4 of the CDO and other board documents need to list the dam's 75-foot height.

The dam, approved by the board, is a questionable element of and water control policy and municipal treatment system, and in this case is a proven failure that seems to be immune to corrective action. The board needs to consider in an adequate and factual manner the factors involved regarding removal of the dam. Plans to drain and line the overflow reservoir have been proven to be a fantasy time after time. Along with temporary solutions like lining the reservoir and a moratorium on new hook ups, the CDO needs to address the long-term solution of eliminating the need for the overflow reservoir, for example, through Colfax hooking up to a regional sewer plant. State and regional boards now list the number, height, location and effectiveness of sewer facility dams, should also address their use as a matter of policy.

Draft CDO Item 5 is too vague. It leaves to the future identification of alternative measure regarding dewatering of the overflow reservoir. The board needs to know at hearing time what the alternatives are that are referred to in Item 5. We know of no factual justification for giving additional time for III.A. compliance. The CDO needs to address both immediate and short-term corrections including lining as well as long term ones like being part of a regional system.

The phrase "lack of funding" regarding the CIP and I&I in the first sentence of Draft CDO Item 6 and its lack of explanation and definition and time frames and projects affected is obstructive, a lack of diligence, and a failure clarity in the order. The history of the Colfax facility and the approach of this board's staff to oversight until recently appeared to tacitly accept city whining that it couldn't find bidders for its projects. The CDO needs to explain exactly what the "lack of funding" is and what actions or projects the lack of funding affects. What is the source and viability of the $450,000 repair commitment, how much money has the city been spending

in each of the years since the order, what has changed that teh city now claims it can spend far more than it previously committed which may have been as little as $90,000 a year? What is the incentive program funding and source?

Nowhere in the draft CDO are there deadlines or time estimates, if there are any, in the 2009 I&I study. Item 1 of the Order part of the CDO would have the board commit gross failure of regulation of I&I. It "requires" implementation of the I&I study by "February 28" next year with annual progress reports, but per Item 9, this is "projection to start" date. This on its face means nothing given the time it takes to build I&I control projects. This means, practically speaking, that there are no deadlines for the completion of I&I projects in the order, and, worse, the annual report language suggests a moving target. We are unable to ascertain from the draft CDO what the justifications are for a four year compliance deadline. We see no deadlines between now and 2014 that would assure that compliance by 2014 and that would demonstrate that the 2014 deadline is necessary to be that far away or that is it is necessary because of the time it takes to complete each step necessary to make the 2014 deadline that would therefore justify having such a deadline so far in the future.

CDO Item 14 says the order has a "time schedule for completing the actions necessary to ensure compliance with the final copper effluent limitations." We also disagree here that a start date to implement a plan not yet known and an end date are a sufficient schedule or, indeed, any schedule at all. The board needs to have some idea which or if all of the options described in Item 12 are being studied, funded, and so forth: (1) additional treatment facilities, (2) source identification and reduction in a city the CDO says, apparently erroneously in the context of the cit in question, "no significant industrial users" (Item 1), (3) relaxation of water quality -based effluent limits. My introduction of this facility was in when I first hiked across the odiferous place of discharge entry into the North Fork, and for the staff to recommend that in the draft order the board flag effluent relaxation as an option is objectionable. It is also premature until potential copper sources are tracked back through the collection system. The board must mandate source identification and, if criteria for having one are met, that an industrial pretreatment program be developed.

Friends will be seeking to view applicable files and to obtain relevant documents prior to the hearing. We would like to visit the board office to review the file and all of the documents referred to directly or indirectly in the draft order during the week of December 28, 2009.

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