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March 27, 2009

California Regional Water Quality Control Board  
Central Valley Region  
11020 Sun Center Drive #200  
Rancho Cordova, CA 95670-6114  
Attn: Sue McConnell

Re: Draft Cleanup and Abatement Order for El Dorado County Dept. of Transportation, Rubicon Trail,  
El Dorado County

Dear Ms. McConnell,

Please accept this letter on behalf of the Maidu Group of the Sierra Club. The Sierra Club is a national, non-profit conservation organization dedicated to protecting the environment. The Maidu Group is a part of the Sierra Club representing members in El Dorado and Amador counties.

We are writing to express our strong support for the draft cleanup and abatement order (CAO) issued by the Central Valley Regional Water Quality Control Board on January 23, 2009. For quite some time, the Rubicon Trail, and the National Forest lands immediately surrounding the trail, have seen excessive use and abuse by off-road vehicles. Vehicle waste and human waste have marred the environment. Oil and gasoline have entered the streams which cross and adjoin the trail. Off-road vehicles have damaged sensitive riparian habitat. During the wet season, ORV usage has been particularly damaging. El Dorado County, the governmental agency responsible for maintaining and protecting the trail, has done nothing about these problems. We support the Regional Board's decision to require El Dorado County to correct this unacceptable situation.

We would like to submit the following specific comments regarding the draft CAO:

**Background**

1. As noted in the draft CAO, the Rubicon Trail receives an enormous amount of ORV usage in a very short period during the summer months. Such intense usage of such a fragile environment can't help but lead to degradation. The adjoining Desolation Wilderness has long maintained strict trailhead quotas to limit environmental impacts. It is obvious that trailhead quotas need to be established and strictly enforced by El Dorado County for the Rubicon Trail.

2. As noted in the draft CAO, the lack of human sanitation facilities must be addressed and corrected by El Dorado County. A trail head quota system will reduce the amount of human waste being deposited in the Forest Service lands surrounding the Rubicon Trail, but a "pack it in, pack it out" mentality for all human wastes must be implemented.
3. As noted in the draft CAO, El Dorado County has allowed ORV access to the Rubicon Trail throughout the year. This has resulted in excessive soil compaction, sedimentation, and erosion. Off road vehicles groups have stated that 30,000 man hours have been expended to mitigate environmental impacts of ORV usage. This should be included as background information for the current conditions on the trail.

### **Environmental Impacts**

1. The draft CAO notes that in 2004, the Spider Lake area was closed to camping due to significant amounts of human fecal waste littered around the Spider Lake area. It should be stated that the majority of this waste came from ORV users camped in that area. Also the closure of the Spider Lake area impacted hikers who pass by Spider Lake on their way to Desolation Wilderness destinations.
2. The draft CAO refers to studies done by the Discharger's environmental contractor as well as those done by the Central Valley Water Board staff which reflect the contaminants and increased sedimentation resulting from ORV usage of the Rubicon Trail. We believe that the estimate of 75-100 cubic yards of sediments is significant, but also is likely a gross underestimate of the actual amount of sediment discharged into state waters as the result of ORV usage on the trail.
3. Other environmental impacts that may not be as quantifiable, but are certainly worthy of note include the impact on surrounding National Forest lands of the presently allowed excessive ORV usage of the Rubicon Trail. One need only hike a section of the Rubicon Trail then continue into Desolation Wilderness to see the impact the present level of ORV usage has on the environment. This writer has done so on several occasions during summer months. I have seen broken vehicle parts strewn along the trail, as well as empty soda and beer cans, various plastic containers (some of which contained oil), cardboard and paper. Upon continuing my hike into Desolation Wilderness, no such trash was seen.
4. As we noted in our comments regarding Background, the ORV community claims that 30,000 hours of volunteer efforts on their part have been dedicated to cleaning up the Rubicon Trail area. Just imagine how degraded the area would be if those hours hadn't been put in. Again, we come back to the need to reduce the number of ORVs using the trail.
5. There is a disturbing trend toward winter usage of the trail by extreme off road vehicles. These vehicles can virtually go anywhere and their owners seem intent to prove this in many areas, including the Rubicon Trail. Advocates of these vehicles often claim that they only use the trail when there is adequate snow cover to avoid impacting the soil and vegetation beneath, but a visit to the Rubicon Trail after these vehicles have been there will prove otherwise. These extreme, non-street legal machines should not be allowed on the Rubicon Trail at any time of year.

### **El Dorado County Planning Process**

1. As noted in the draft CAO, El Dorado County spent over four years studying and assessing ORV usage on the Rubicon Trail. Although a Draft Environmental Impact Report (DEIR) was issued in October, 2007, the county did not complete a final EIR and apparently has no plans to do so. We believe that El Dorado County has an obligation to restart the entire EIR process and see it through to completion.
2. Although El Dorado County has asserted ownership of the Rubicon Trail under Revised Statute

2477, a legal easement for the trail has never been recorded. We believe that such a legal easement needs to be recorded in order for El Dorado County to legitimize its claim of ownership. If this is not done, we feel that operation and maintenance of the Rubicon Trail should revert to the National Forests.

### **The Draft CAO Itself**

1. Although the draft CAO requires El Dorado County to implement a vehicle use reduction plan on the Rubicon Trail to address vehicle use during wet weather conditions, we believe that ORV usage during other times of year should also be addressed by this order. We believe that adequate documentation exists to close the Rubicon Trail to vehicle usage during wet weather conditions and to limit vehicle usage of the trail during other times of year. The peak summer usage period must be addressed by such a plan.
2. We strongly agree with the provisions set forth in the Board's proposed Operation and Management Plan. However, we would suggest the inclusion of an enforcement provision requiring El Dorado County to provide adequate enforcement personnel to assure that all aspects of the O&M Plan are observed.

### **Concluding Comments**

We would like to reiterate our strong support for the actions of the Regional Board in assessing the impacts on the Rubicon Trail caused by excessive and abusive ORV usage and in developing an Operation and Management Plan that addresses these impacts. We strongly believe that a total closure of the trail during wet weather conditions is necessary. Studies and visual inspection of the trail show that this is obviously needed. We also firmly believe that dry season usage of the trail must be limited. A quota system that addresses environmental and human impacts should be developed. Extreme, non street legal vehicles should not be allowed on the Rubicon Trail due to the excessive damage they inflict on the environment.

Although El Dorado County has asserted ownership of the Rubicon Trail as an "unmaintained county road", the county has done nothing to control environmental abuse of the trail and the surrounding National Forest lands. The CAO finally requires the county to do something. If the county is not willing to do this, it needs to disclaim ownership of the trail and let other agencies step in and restore this scenic, sensitive and valuable portion of our Sierra Nevada.

Respectfully,



Robert T. Johnson  
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