

**Regional Water Quality Control Board
Central Valley Region
Board Meeting – 28 January 2010**

**Response to Written Comments for
The City of Colfax – Wastewater Treatment Plant
Tentative Cease and Desist Order
XX January 2010**

At a public hearing scheduled for 28 January 2010, the Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) will consider adoption of a Cease and Desist Order (CDO) for the City of Colfax Wastewater Treatment Plant (Facility). A tentative CDO was issued on 24 November 2009. This document contains Central Valley Water Board staff responses to written comments received from interested persons. Written comments from interested persons were required to be received by the Central Valley Water Board by 24 December 2009 for the tentative CDO in order to be included in the record. Comments were received by the due date from the following parties:

1. Friends of the North Fork,
2. California Sportfishing Protection Alliance (CSPA),
3. Sierra Club, Placer Group, and
4. Allen and Nancy Edwards, Colfax Resident

Written comments are summarized below, followed by Central Valley Water Board staff responses.

FRIENDS OF THE NORTH FORK COMMENTS, 24 December 2009

DESIGNATED PARTY STATUS REQUEST: FRIENDS OF THE NORTH FORK requested designated party status for the Central Valley Water Board hearing scheduled for 28 January 2010 with regard to the tentative CDO for the City of Colfax Wastewater Treatment Plant. The commenter will be granted designated party status for the subject hearing.

FRIENDS OF THE NORTH FORK COMMENT #1: The Friends of the North Fork requested additional description of the storage reservoir dam in the findings of the CDO. *Item [Finding] 4 of the CDO . . . need to list the dam's 75-foot height.*

Response: Central Valley Water Board staff agrees and has modified the tentative CDO to include the Department of Water Resource's description of the dam. The change adds detailed description of the dam. The change does not effect the tentative CDO requirements.

FRIENDS OF THE NORTH FORK COMMENT #2: The Friends of the North Fork contends that the CDO is too vague and leaves to future identification of corrective actions to cease all seepage discharges from the reservoir that may discharge to

surface water. The Friends of North Fork contends that the CDO, instead, needs to address specific short-term and long-term solutions for removal of the storage reservoir.

Response: The Discharger collects wastewater seepage at the base of the dam and returns the seepage to the storage reservoir. However, because the unlined reservoir percolates partially treated wastewater that may seep (discharge) to surface waters, the Discharger also committed to dewatering and subsequently lining the storage reservoir. The Discharger failed to complete these measures, and therefore, is seeking a more viable alternative. The Discharger has not submitted to the Central Valley Water Board a workplan that specifies viable solutions to cease all potential wastewater seepage discharges. The Central Valley Water Board cannot specify the method of compliance. Therefore, to ensure compliance with Discharge Prohibition III.A. in WDR Order No. R5-2007-0130, the tentative CDO requires the Discharger to submit by 1 January 2011: i) a method of compliance workplan, ii) implementation schedule, and iii) projected budget to complete the proposed projects. The tentative CDO, Item 2, was modified to require the Discharger to specify the source of funding also. No other changes are necessary.

FRIENDS OF THE NORTH FORK COMMENT #3: The Friends of the North Fork contends that the CDO needs to clarify “lack of funding” in the first sentence of Finding 7 (not 6 as stated in their comments). The Friends of North Fork further contend that Finding 9 of the CDO needs to explain *What is the source and viability of the \$450,000 repair commitment [referring to 2009 Infiltration and Inflow (I&I) Study] . . . what has changed that the 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?*

Response: Central Valley Water Board staff disagrees that the Findings need clarification regarding the lack of funding. Findings 6 and 7 in the CDO provide background information to describe the Discharger’s actions to comply with the time schedule and requirements in Item 1 of CDO No R5-2007-0131. No changes are necessary.

Central Valley Water Board staff agrees that the findings should include the source of funding for the Discharger’s 2009 I&I Study and have modified Finding 9 of the tentative CDO accordingly. The change adds detailed description of the source of funding. The change does not effect the CDO requirements.

FRIENDS OF THE NORTH FORK COMMENT #4: The Friends of the North Fork contend that Item 1 of the tentative CDO should contain deadlines, or time estimates, for completing I&I rehabilitations or replacements projects.

Response: Central Valley Water Board staff disagrees. Item 1 of the tentative CDO requires the Discharger to implement, at a minimum, the 2009 I&I Study that addresses systematically replacing and rehabilitating the collection system areas that show a high amount of I&I. As stated in Finding 9, in the 2009 I&I Study the Discharger commits to: 1) rehabilitating about 7500 linear feet of piping, 12 manholes, and 100 laterals, 2) completing inspection of the entire collection system, 3) upgrading 4 pump stations, and 4) spending \$450,000 annually to continue repairs of its collection system. The Discharger has secured funding for these projects from revenues gained in increasing the sewage service fees and recently from the American Recovery & Reinvestment Act (stimulus) funds; thus, the Discharger commits to starting the projects in February 2010. However, these projects only repair a portion of the Discharger's collection system, and therefore, replacement and rehabilitation of the entire collection system is expected to be an ongoing project. As such, time deadlines or time estimates cannot be determined at this time. Consequently, Item 1 is included in the tentative CDO to keep the Discharger on track towards completing repairs of the entire collection system, and requires the Discharger to submit annual progress reports to Central Valley Water Board for review. No changes are necessary.

FRIENDS OF THE NORTH FORK COMMENT #5: The Friends of the North Fork contend the CDO needs to specify the Discharger's actions to comply with the final copper effluent limits.

Response: Central Valley Water Board staff disagrees. The Discharger constructed a new Facility capable of discharging Title 22 tertiary treated wastewater. The Discharger believed the facility upgrades would allow compliance with the final copper effluent limits. However, based on the monitoring samples obtained since operation of the new Facility in January 2009, the Discharger remains unable to consistently comply with the final copper effluent limitations. At this time the Discharger has not determined the method of compliance and the Central Valley Water Board cannot specify the method of compliance. Therefore, the tentative CDO requires the Discharger to identify and implement the actions necessary to comply with the final copper effluent limitations. The method of compliance workplan and schedule are due by 1 September 2010. No changes are necessary.

CSPA COMMENTS, 24 December 2009

DESIGNATED STATUS REQUEST: CSPA requested designated party status for the Central Valley Water Board hearing scheduled for 28 January 2010 with regard to the

tentative CDO for the City of Colfax Wastewater Treatment Plant. The commenter will be granted designated party status for the subject hearing.

CSPA COMMENT #1: CSPA contends that the peaking factor used in Item 1 of the tentative CDO should be based on the design capability of the Facility instead of on national averages. CSPA states that *[m]easurable collection system I/I reductions can be difficult to achieve. It is often the case that repairs in one part of the system only make room for flow from other parts of the system that are also failing.*

Response: Central Valley Water Board staff agrees that the peaking factor used in Item 1 of the tentative CDO is not appropriate. The peaking factor in Item 1 of the tentative CDO was a goal intended to measure the progress of I&I reductions from annual replacement and rehabilitation of the collection system and is not based on established state or federal regulations.

CSPA suggests using a peaking factor based on the design capability for the Facility. This appears to be a better choice. However, the Facility equalization ponds are used to attenuate the peak flows, and therefore, the Facility design peaking factor is elevated and not a good indicator to measure I&I reductions achieved through repairs of the collection system.

Central Valley Water Board staff agrees that measuring I&I reductions for determination of the collection system repair project's achievement is difficult. Sectional repairs of the collection system are not significantly reflected in the influent flows to the Facility since the groundwater will usually find its way into another area of the collection system that is in disrepair. Consequently, until the entire system is repaired and rehabilitated, the influent flow fluctuations depict the annual rain conditions (e.g. wet or dry years) more than I&I reductions. Peaking factors can be measured within each repaired section of the collection system; however, this procedure is very costly and can consume funding needed to repair the collection system. Thus, Item 1 of the tentative Order has been modified and the annual reporting of the progress in achieving a peaking factor of 5 (Task 3 of Item 1) was removed; minor clarifications were also made.

CSPA COMMENT #2: CSPA contends that the tentative CDO *should at least require an assessment of additional solutions such as expansion of the treatment system to accommodate the high wet weather flows or construction of a new impermeable equalization basin until actual I&I reductions can be achieved.*

Response: The tentative CDO, in addition to requiring the Discharger to implement replacement and rehabilitation of the collection system (Item 1), requires the Discharger to assess viable solutions and submit and implement a comprehensive workplan and schedule for the Discharger to cease all potential seepage discharges to surface water for compliance with Discharge

Prohibition III.A. The tentative CDO does not restrict the Discharger to only lining the storage reservoir and completing I&I repairs. Additional solutions such as those suggested by CSPA can be analyzed by the Discharger. No changes are necessary.

CSPA COMMENT #3: CSPA contends that the tentative CDO does not mention that the excessive leaks into the sewage collection system during periods of high groundwater and rainfall directly correspond to sewage leaking out of the system during dry periods.

Response: CSPA's comment is unsupported and unsubstantiated and does not provide additional information that improves the CDO. No changes are necessary.

PLACER GROUP SIERRA CLUB COMMENTS, 24 December 2009

PLACER GROUP SIERRA CLUB COMMENT #1: The Placer Group Sierra Club urges the Central Valley Water Board to NOT capitulate in allowing additional time to comply (previous CDO deadline of Oct 1 09 conditions not met), or to NOT allow any more wastewater seepage discharges.

Response: The previous CDO No. R5-2007-0131, in part, required the Discharger to comply with Discharge Prohibition III.A by 1 October 2009. Currently, the Discharger has not demonstrated that all potential wastewater seepages have ceased. Therefore, the tentative CDO continues enforcement of the requirement to demonstrate compliance with Prohibition III.A past the 1 October 2009 deadline contained in the previous CDO No. R5-2007-0131, effective upon issuance by the Central Valley Water Board. The tentative CDO was modified to include language to clarify that CDO No. R5-2007-0131 is rescinded except for enforcement purposes.

PLACER GROUP SIERRA CLUB COMMENT #2: The Placer Group Sierra Club urges the Central Valley Water Board to NOT allow any further copper limit non-compliance discharges . . . by postponing enforcement for four more years.

Response: See response to FRIENDS OF THE NORTH FORK COMMENT #5.

PLACER GROUP SIERRA CLUB COMMENT #3: The Placer Group Sierra Club contends that until the constant sewage leakages are stopped and the pond is lined, the tentative CDO should include:

- 1) *a moratorium on all new hook ups, including any which may have been approved, and a rescission or cut off of any hookups since the previous Oct 09 CDO deadline;*
- 2) *a complete closure of the Colfax Sewage Treatment Plant via a halt of all effluent flows to the wastewater facilities, including a shut off or sealing of all trunk lines and current or potential laterals;*
- 3) *an installation of “porta potty” toilets as a stop gap measure to handle human waste either for every equivalent dwelling (EDU) and/or shared EDU use, with the costs to be paid monthly to the provider by the landowner. Avoidance of the “porta potty” rental/lease fees should be granted only upon vacancy/boarding up of the EDU. Failure to comply by landowners should result in lien and legal action. Arrangements must and can be made for other household wastewater use and disposal.*
- 4) *a restoration of Smuthers Ravine.*

Response: The Placer Group Sierra Club recommendations do not provide additional protection of the beneficial uses applicable to the unnamed tributary of Smuthers Ravine. No changes are necessary.

PLACER GROUP SIERRA CLUB COMMENT #4: The Placer Group Sierra Club contends that the tentative CDO *is especially egregious and unacceptable in that it appears the lining of the pond is no longer mandated.*

Response: The Placer Group Sierra Club comment is inaccurate. CDO No. R5-2007-0131 did not require the Discharger to line the pond, but required the Discharger to “Submit workplan and schedule for ceasing wastewater seepage discharges from storage reservoir,” and “to submit progress reports.” The Discharger, in compliance, submitted a workplan which included installation of a liner for the storage reservoir. However, the Discharger has been unsuccessful in dewatering the storage reservoir in preparation of the lining project. At this time the Discharger has not determined a viable method of compliance and the Central Valley Water Board cannot specify the method of compliance. The tentative CDO requires the Discharger to assess viable solutions and submit and implement a comprehensive workplan, schedule, budget, and source of funding; and requires the Discharger to submit progress reports, including a discussion of seepage characterization and water quality impacts assessment. No changes are necessary.

PLACER GROUP SIERRA CLUB COMMENT #5: The Placer Group Sierra Club contends that because *Colfax's median household income is listed as \$44,200 per year, [we find] the "disadvantage label" is perplexing.*

Response: The Clean Water State Revolving Fund's (CWSRF) definition of a "Disadvantaged community" is "a community with a median household income less than 80% of the statewide average." Colfax's median household income of \$44,200 per year falls within the CWSRF's definition of a disadvantaged community. No changes are necessary.

PLACER GROUP SIERRA CLUB COMMENT #6: The Placer Group Sierra Club contends that *the \$3.04 per month rate increase(2.8%) for 2010 is hardly a realistic fee increase considering the challenges, and is not indicative of a good faith attempt to resolve the noncompliance issues facing Colfax.*

Response: For the fiscal year 2008/2009, the Discharger proposed a new rate increase from base sewer rates of \$66.20/EDU/month and \$83.67/EDU/month (rates vary based on properties of the connected lift-stations) to \$99.40/EDU/month and \$177.42/EDU/month. The sewer rates were to progressively increase to \$142.60/EDU/month and \$228.04/EDU/month by fiscal year 2013/2014. As required by Proposition 218, the City of Colfax held a public protest hearing that resulted in a successful protest against these rate increases; however, the rate increase to \$108.44/EDU/month passed. The Water Board has no authority to control rate increases. The Discharger must comply with Proposition 218 before enacting further increases.

PLACER GROUP SIERRA CLUB COMMENT #7: The Placer Group Sierra Club contends that Finding 3 of the tentative Order inadvertently implies that excessive precipitation is the culprit of the excessive I&I instead of the disrepair of the collection system.

Response: Central Valley Water Board staff agrees and Finding 3 of the tentative CDO has been modified as shown below in underline/strikeout format:

3. The Discharger's wastewater collection system extends over approximately 974 acres, consists of approximately 50,000 linear feet of pipeline, 200 manholes, and 700 laterals. Much of the original collection system was built in the early 1900s. The Discharger has not repaired or rehabilitated the collection system; consequently, the collection system experiences excessive ~~rain-induced and groundwater-induced~~ infiltration and inflow (I&I). The wet weather maximum peak influent flow is 4 mgd and the maximum daily average wet weather influent flow is 1 mgd.

PLACER GROUP SIERRA CLUB COMMENT #8: The Placer Group Sierra Club contends that in Finding 9, *the reliance seems to be on the Discharger's commitments to perform in 2010. . . How can the CRWQCB [Central Valley Water Board] justify compliance in this case?*

Response: See response to Friends of the North Fork comment #4.

PLACER GROUP SIERRA CLUB COMMENT #9: The Placer Group Sierra Club contends that Finding 12 *appears to excuse the violations.*

Response: See response to Friends of the North Fork comment #5.

PLACER GROUP SIERRA CLUB COMMENT #10: The Placer Group Sierra Club contends that Findings 13 through 17 *cites exemptions from mandatory minimum penalties for discharger violations, and [The Placer Group Sierra Club] fails to see the nexus between CWC section 13385(j)(3). There has not been compliance with either a CDO or a time schedule order, and all the requirements have not been met.*

Response: Findings 13 through 17 are specific to the effluent limitations for copper only. As stated previously in the response to The Placer Group Sierra Club comment #1, rescission of the previous CDO No. R5-2007-0131 does not prevent the Central Valley Water Board from taking enforcement actions for violations that occurred while that Order was in effect.

PLACER GROUP SIERRA CLUB COMMENT #11: The Placer Group Sierra Club contends that the copper interim limit in the tentative Order *borders on negligence with all parties.*

Response: Central Valley Water Board staff disagrees. WDR Order No. R5-2007-0130 contains new copper final effluent limitations at an average monthly of 2.7 µg/L and maximum daily of 5.5 µg/L. The Discharger could not immediately comply with these new limitations; thus, WDR Order No. R5-2007-0130 required the Discharger to submit a corrective action plan and implementation schedule to assure compliance with the final copper effluent limitations, and included an interim copper limitation of 17.7 µg/L effective until 31 December 2008. To comply, the Discharger constructed a new Facility capable of discharging Title 22 tertiary treated wastewater. The Discharger believed the facility upgrades would allow compliance with the final copper effluent limits. However, based on the monitoring samples obtained since operation of the new Facility in January 2009, the Discharger remains unable to consistently comply with the final copper effluent limitations. At this time the Discharger has not determined the method of compliance; therefore, the tentative CDO requires the Discharger to identify and implement the actions necessary to comply with the final copper effluent limitations contained in WDR

Order No. R5-2007-0130. The tentative CDO also contains an interim maximum daily copper effluent limitation of 6.7 µg/L, which is based on the performance of the new Facility and more stringent than the interim limitation of 17.7 µg/L contained in WDR Order No. R5-2007-0130. No changes are necessary.

ALLEN AND NANCY EDWARDS COMMENTS, 15 December 2009

DESIGNATED STATUS REQUEST: ALLEN AND NANCY EDWARDS requested designated party status for the Central Valley Water Board hearing scheduled for 28 January 2010 with regard to the tentative CDO for the City of Colfax Wastewater Treatment Plant. The commenters will be granted designated party status for the subject hearing.