From: Allan Cameron
To: Cuevas, Veronica@Waterboards
Subject: TSO written comments, May 9 hearing
Date: Wednesday, April 10, 2019 12:02:51 AM

CDC

Comprehensive Development Consulting
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April 10, 2019

Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, California 90013

ATTENTION: Veronica Cuevas

RE: Objections to draft "TSO's", as listed herein below, set to be heard at a May 9, 2019 Board Hearing

SENT VIA EMAIL TO: veronica.cuevas@waterboards.ca.gov (sent prior to the April 10, 2019 deadline for written comments to be submitted)

Dear Ms. Cuevas,

This letter of objection applies to the following two draft "TSO's"

ONE: TSO ORDER NO R4-2019=xxxx; NPDES: CA 0054313; CI-2960
Saugus Waste Water Reclamation Plant
TWO: TSO ORDER NO R4-2019-xxxx; NPDES: CA 0054216; CI-4993
Valencia Waste Waste Water Reclamation Plant

CONCLUSION: Because of procedural, administrative, financial and legal requirements that are not met which must be remedied, these items must be taken "off calendar", and not heard on May 9, 2019.

ONE: NEW BASIN PLAN??
There is information in the Public Record, contained in these draft "TSO's" that says the Santa Clara River Basin Plan is set to expire at the end of April. If this is indeed the case, these items should be considered as part of the adoption of a new Basin Plan, during the hearings on that plan. This would permit considering these important items in the proper context of how a new plan would be effected. Such context would be missing if these items were evaluated outside the parameters of the larger plan.

TWO: PENDING COURT TRIAL CHALLENGING THIS PROJECT NOT DISCLOSED.
Nothing in the notices or reports made available to this Water Board, or to the public reveals that a court trial against the projects cited in these draft "TSO's" will take place in September of 2019. The trial will take place in a court that has ruled against the project previously. If a court ruling is issued again against this project, the dates for compliance listed in these "TSO's" will be rendered impossible to meet yet again. These items must be taken off calendar until after the September trial, so that the lack of disclosure about this pending court trial is given the proper consideration by this Water Board and the public that respects and depends upon it.

One wonders what a staff report on this issue would say, if the significant issue of the pending trial had been revealed and analysed, prior to the hearing.

THREE: NO PUBLIC OR PRIVATE FINANCING FOR THIS PROJECT ISSUED YET.
Only financing that has been approved would allow this project to meet the various new dates for "compliance" contained in these draft "TSO's". This project has no approved financing. Because of this, the dates for "Compliance" listed, are wholly speculative. There is no certainty that financing will issue, for reasons cited elsewhere. There is no public purpose served by approving anything that cannot proceed. Again, removing this item from the calendar, until financing may survive all the procedural and legal challenges against it, is the only appropriate option.

FOUR: EVEN SHORT OF THE NEW TRIAL, COURT JURISDICTION OVER THIS EXISTS NOW
The information presented to the Water Board does not appear to clearly state this fact. The Superior Court still holds jurisdiction over whether or not this project may legally proceed. When the Superior Court issued its Writ and Judgement that halted this project in 2016, clear requirements were set forth that the project was mandated to fulfill. The Court retains full authority to halt the project again if these requirements are ignored.

FIVE: THE DISTRICT IS IN VIOLATION OF EXISTING COURT REQUIREMENTS
Among these, was a requirement that the District prepare and submit a full CEQA Supplemental EIR that would address the specifics of a stated objective contained in all of its project descriptions. This objective committed the District to study all aspects of the recycled water the District pledged to supply as part of its "Chloride Compliance" project. Instead of honoring this actual court requirement, the District, at its February 25 meeting this year, actually acted to violate them. As a result of this flagrant act, court action against the District to halt the project again is highly likely.

This fact was not disclosed to the Water Board. Had it been, the framework for the May 9 hearing would likely be quite different. This is yet another reason justifying the removal of this item from the present hearing calendar.

SIX: THE DISTRICT ITSELF SAYS IT NEEDS A FULLY APPROVED EIR, WHICH IS MISSING
The Sanitation District itself, after considerable study eight years ago, announced that its proposed "Chloride Compliance Project" would need to have a fully approved California Environmental Quality ACT (CEQA) EIR approved beyond challenge in order for the project to seek and obtain all its financing and discretionary permits from multiple

agencies, allowing the project to proceed to construction.

No such fully approved EIR exists, and never has.

What ever construction activity may have happened on this site is now proceeding "at its own risk", which is considerable. It can be stopped easily at any time.

The Water Board must not condone this flagrant gambling with public funds, by acting as if the project is somehow able to proceed, when the evidence in the public record does not support such a conclusion.

SEVEN: PROJECT RADICALLY DIFFERENT FROM WHAT BOARD SAW BEFORE
The project now asking for more time to be built is much different from what the Board considered in the past.

a) The environmental impact report is now fully "state" and out of date.
b) This same EIR is now legally invalid per existing court judgement and writ still in effect.
c) The project before the Water Board is radically different than the one placed before the ratepayers in a legally mandated "proposition 218" rate increase election. The ratepayers have never seen, nor agreed to pay for this different project.
d) The provision of recycled water, always an integral part of this "Chloride Compliance" project has been illegally reneged and abandoned by the District
e) No Court permission for this project objective of recycled water to be taken out has been asked of, or granted by the Court, which still has jurisdiction over this project, a fact not revealed to the Water Board.
All of these changes require that the Water Board take this item "off calendar", until and unless these defects are addressed and corrected.
(f) The final evidence that verifies that only one project exists, is the applications presented to the Water Board years ago. Only a single project was submitted, and only a single EIR for that project has ever been proposed or issued.

EIGHT: NO OTHER PUBLIC AGENCY HAS AGREED TO ASSUME THE DELETED PROJECT
If the Water Board allows action on these agenda items now, it will be acting as if the critical project objective of providing additional supplies of recycled water is somehow still being provided. It is not. This Sanitation District, with no Court Permission, has reneged and renounced any intention to fulfill its obligations TO the Court, the public, and its non resident ratepayers. These non resident ratepayers are major industrial, commercial and retail giants. Their operations span the globe. They have only recently been made aware of the damage to their long term business plans, caused by the reneging of increased supplies of recycled water. This water source, if supplied would decrease costs and increase revenue for these enterprises, both directly and and indirectly. They now wish to protect their interests.

No other public agency has agreed to assume this recycled water responsibility.

No other agency could. Only the Sanitation District has voter/ratepayer/court permission and the requirement for providing this recycled water project benefit.

NINE: ONLY ONE PROJECT EXISTS, NOT TWO, CONTRARY TO DISTRICT ASSERTIONS. Recently, the District has begun to assert a non fact. This "non fact", is that there are, somehow, now "two projects", not just the historic single project. The District now attempts to claim that the so called "Chloride Compliance Project" is one project, and that. somehow there is a second, separate project the District now calls "the recycled water project". This has never been true.

This false assertion is easily dis proven.

(A) Only a single, full, "stand alone" CEQA EIR had ever been proposed or issued by the District.
(B) This single EIR has always had the provision of recycled water contained in it. As a matter of fact, recycled water provision has always been listed as a PROJECT OBJECTIVE of the "Chloride Compliance Project".
(C) In addition to the first full EIR (invalidated by the Court) five additional "supplemental" EIR's have been proposed for this same, single project. No second, separate, stand alone EIR for "Recycled Water" had ever been proposed, much less issued. All five additional "supplemental" EIR's also listed recycled water provision as a component part, and project objective of each of these "supplements".
(D) When the "proposition 218" ratepayer/parcel election was held, only one project was presented to receive funding from the ratepayers. This was the so called "Chloride Compliance" project, which has always had the provision of recycled water contained within it as a "project objective". No "second project" has ever been offered to the ratepayers for approval.
(E) The District did NOT ask the Court to permit it to consider the provision of recycled water as a project wholly separate from the "Chloride Compliance" project. The District only asked to be able to study the recycled water component of the "Chloride Compliance" project in a CEQA "Supplemental EIR". The EIR to which the District proposed a "Supplement" was still the 2013 full EIR on the whole Chloride Compliance Project. This EIR was set aside by the Superior Court, and still has that status.
(F) If there indeed had ever been a legitimate "separate" second project for recycled water, it could only have had its own separate, stand alone CEQA EIR, not just a supplement. The District fully understands that. It has never proposed ANY "second full EIR" for recycled water. If only the Districts public pronouncements were consistent their actions, credibility might result.

TEN: THE WATER BOARD NEEDS A VALID CEQA DOCUMENT. THIS PROJECT HAS NONE. The Water Board has still another compelling reason to remove this item from its agenda, with no action being taken at this time. The project before it in this agenda item, in addition to being radically different from the project seen before by the Water Board, has NO APPROVED CEQA DOCUMENT. Until it does, the Water Board cannot act.

ELEVEN: THE WATER BOARD MUST AWAIT THE RESULTS OF THE SEPTEMBER TRIAL
All the actions contained within these two "TSO's" could be completely rescinded, depending upon the results of the September trial. This is what happened before. Taking this item off the agenda without action is the only sure way to prevent this from happening again.

TWELVE. "TSO'S" CONTAIN STARTLING INFORMATION THAT REQUIRES INVESTIGATION
The Sanitation District, in these two "TSO" drafts list information never disclosed about levels of Chloride in the Santa Clara River. The last publicly disclosed information about chloride levels in the Santa Clara indicated that the average levels were usually about 130 milligrams per liter of water. Information in these "TSOs" indicates that, based upon chloride levels only sketchily cited, that levels may be as high as 230 milligrams of chloride per liter of water.

Most of that is listed as coming from sources outside the control of Santa Clarita Valley ratepayers.

This points to a structural and scientific defect that has persisted surrounding this issue for years.

There has never been a watershed wide Chloride Background Level Survey (CBLS) conducted over all the reaches of the river, and at least during two different times of the year. It should be the responsibility of the Water Board to take the lead, and convene Santa Clarita Valley stake holders to participate in a Water Board supervised CBLS study. This long overdue study would result in much needed, now absent precision about the truth of the Chloride situation in the Santa Clara. Such a study could also offer economies of scale for the identification of other chemicals known to be in the river, such as ammonia, VOC's, lead, arsenic, and others that are over due also for understanding, given the changed circumstances in the Santa Clara due to climate change and large, on going population growth.

THIRTEEN: AS HAS BEEN TRUE NOW FOR YEARS, NO FINES ARE APPROPRIATE
Since no claims or tort actions have ever been filed in court by downstream "beneficial users" asking that monetary damages be awarded to them, from losses caused by water from Santa Clarita, it is safe to assume that no such damage has ever occurred, and will not in the future, while the defects and issues identified herein are remedied. Therefor, the wise and appreciated restraint shown by the Water Board for years now, as far as "fines" are concerned, is clearly the best practice in the future. The District, unlike in the past, now has fully informed stake holders who stand ready to defend against any action that may be contemplated. However. Constructive, positive action is called for now, which will result in significant benefits for all concerned good will oriented interests,

CONCLUSION
For legal, scientific, procedural, administrative, financial, and issues of credibility, the only acceptable choice at this time is for this item to be taken off the hearing schedule until the issues cited herein are addressed..

The earliest possible date for this item to be brought back for consideration must be after the ruling of the court in the September trial trial has been issued.

The staff and management of CDC appreciates this opportunity to comment on this ongoing issue so critical to the water future of the Santa Clarita Valley.

cc: The Silverstein Law Firm
CDC Santa Clarita Valley Sanitation District File
ACWA