

ACWA

*Affordable Clean Water Alliance
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November 25, 2014

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-200
10011 I Street, 24th Floor, Sacramento CA 95814

VIA EMAIL TO: commentletters@waterboards.ca.gov

SUBJECT: Comment Letter-Upper Santa Clara River Chloride TMDL Revision

Dear Ms. Townsend and Honorable Members, State Water Quality Control Board.

On behalf of the Affordable Clean Water Alliance the following comments are submitted for your careful consideration.

1. WE SUPPORT THE REQUEST FOR ADDITIONAL TIME.

The additional time request was approved by both the Santa Clarita Valley Sanitation District Board of Directors and The Los Angeles/Ventura Regional Water Quality Control Board, as well as other numerous Stakeholder entities. ACWA joins in the request for more time.

2. BENEFICIAL USERS PRESENT NO PROOF THEY ARE HARMED.

One of the reasons why more time is necessary, is that no proof what so ever has ever been submitted to substantiate any claim by so called "beneficial users" (farmers) downstream in the Santa Clara, that any damage to crops caused by EXISTING levels of chloride has ever taken place.

This simple fact is demonstrated by overwhelming proof.

At the October 9th hearing at the Regional Board, testimony was submitted by Michael Solomon, head staff member of the United Water Conservation

District, which serves portions of the areas downstream from the Upper Santa Clara Area.

This testimony was given under oath.

The effect of the additional time which is part of the action before the Board now, is that the existing levels of chloride found in the Upper Santa Clara will continue being discharged for another approximate five years.

Upon direct questioning of Mr. Solomon by Region Board Member Glickfeld as to whether the farmers he purported to represent could somehow survive another five years of the existing chloride levels, Mr. Solomon did NOT give a simple direct answer.

Here, Mr. Solomon could have entered into the record concrete proof, establishing the crop damage he alleges his customers have sustained.

He did no such thing. As the audio record proves, Mr. Solomon gave vague comparisons between what he asserts happens to downstream farmers, and the effects of regional air quality problems. Since his comments were at a hearing of the Los Angeles Regional Water Quality Control Board, please review the full transcript of this telling exchange, as well as the actual audio recording.

ACWA incorporates by reference the full transcript of the October 9, 2014 hearing before the Los Angeles Regional Water Quality Control Board into the ACWA comments submitted here.

Here is the most damning evidence as to why the allegations of farmers downstream of the upper Santa Clara that they have suffered damage are baseless.

Public records verify that the Santa Clarita Valley Sanitation District had been discharging its treated water into the Santa Clara River for nearly 50 years.

Public records also verify that during these almost fifty years, no downstream "beneficial user" has ever filed a demand of any responsible regulatory agency that the "damage" they say then suffer be halted.

More tellingly, during those nearly 50 years, the public record reveals something else.

No "beneficial user" has ever gone to court with a lawsuit seeking to recover losses from crop damage. Surely, if these damage claims are true, the farmers would be entitled to compensation for their losses. There is a simple reason why no lawsuits have ever been filed.

When someone goes to court, they have to bring proof.

This is why the additional time requested presents an opportunity that must not be missed. Here it is.

3. NO ACTUAL MEASUREMENTS OF THE BACKGROUND CHLORIDE LEVELS
A full Background Chloride Level Characterization Study of the Upper Santa Clara has never been performed. Instead, what ever sketchy understanding of the chloride levels exists has been based upon one computer model, and numerous dated, out of the area magazine articles.

Please require that the long, LONG overdue actual study of the real conditions in the Santa Clara finally be conducted. Only those afraid of the truth would oppose such a scientific study.

Over seeing this study should be a Citizens Advisory Committee with representatives of the REAL stakeholders involved. These are, namely the upstream entities with legal rights to the water, as well as those paying water and sewage bills.

4. THIS IS ALSO A CEQA DETERMINATION HEARING

A decision will be made at this hearing as to what kind of California Environmental Quality Act (CEQA) determination will be required of this proposal. CEQA hearing laws are clear. Oral testimony is to be given the same, full consideration as written testimony. Therefor, in the context of CEQA, the restrictions listed about the content of oral testimony are improper and illegal. Pleas modify them for this hearing.

5. CEQA DETERMINATION (CATEGORICAL EXEMPTION) INCORRECT.

The action before this Board seeks to delay the construction of a mega hundred million dollar water treatment plant for about five years. These has been no study of the effect on the environment of the effects of this delay.

This is especially noteworthy, since the rationale for the plant, is that it is badly needed to avert further damage to "beneficial uses".

If this is true, then how can delaying the plant be of no consequence to the environment? The only CEQA determination applied here is a years old categorical exemption. This is clearly a CEQA violation, and needs correction.

6. 5 YEAR EXTENSION DOES NOT ACKNOWLEDGE PENDING LITIGATION

In its joint requests, the Santa Clarita Valley Sanitation District, and the Los Angeles Regional Water Quality Control Board do not mention or make calculations about the overall effect of the ongoing, pending litigation between the Affordable Clean Water Alliance and the Santa Clarita Valley Sanitation District.

This litigation challenges the adequacy of the environmental studies conducted regarding the so called "Chlorde Compliance" project. By reference, this suit is included in this testimony. Since the Los Angeles Board was once a defendant in this suit, and was discussed extensively in closed sessions, the suit is clearly in the Board's administrative record.

What has not been disclosed to the State Board is the effect of the certain victory of this CEQA challenge. The Attorney firm representing the plaintiffs is the most formidable CEQA firm in California.

More indicative of victory for the plaintiffs, however, is the defendant Santa Clarita Valley Sanitation District certified an EIR indicating that its environmental studies were complete.

This included the pumping million of gallons of concentrated brine PER DAY into the same areas where significant sources of Santa Clarita Valley drinking water is located.

After certification, and after the filing of the suit against the certification, the Santa Clarita Valley Sanitation District has now started to initiate a second EIR regarding the effects of this massive salt water intrusion into Santa Clarita groundwater. These circumstances assure lawsuit victory for ACWA.

No accounting of the large time line alteration caused by this litigation has been made public by either of the applicants for the actions before this board today.

7. EXPANDED COMMENTS TI REQUESTD.

Because of the multiple stakeholders whose viewpoints are to be placed into the record, and because these comments constitute CEQA oral testimony, we request a total of ten minutes of presentation time at the December 16 hearing before this august board.

Very truly yours,

Allan Cameron,
Chief Executive Officer,
The Comprehensive Consulting Group,
Member, Affordable Clean Water Alliance