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For Petitioner California Sportfishing Protection Alliance

**BEFORE THE STATE WATER RESOURCES CONTROL BOARD**

**In the Matter of a Cease and Desist Order for the )**  
**City of Colfax, Wastewater Treatment Plant; )**  
**California Regional Water Quality Control Board )**      **PETITION FOR REVIEW**  
**–Central Valley Region Order No. R5-2010-0001 )**  
**NPDES No. CA0079529 )**

Pursuant to Section 13320 of California Water Code and Section 2050 of Title 23 of the California Code of Regulations (CCR), California Sportfishing Protection Alliance (“CSPA” or “petitioner”) petitions the State Water Resources Control Board (State Board) to review and vacate the final decision of the California Regional Water Quality Control Board for the Central Valley Region (“Regional Board”) in adopting a Cease and Desist Order for violations of Waste Discharge Requirements (NPDES No. CA0079529) for City of Colfax Wastewater Treatment

Plant, on 28 January 2010. See Order No. R5-2010-0001. The issues raised in this petition were raised in timely written comments.

**1. NAME AND ADDRESS OF THE PETITIONERS:**

California Sportfishing Protection Alliance  
3536 Rainier Avenue  
Stockton, California 95204  
Attention: Bill Jennings, Executive Director

**2. THE SPECIFIC ACTION OR INACTION OF THE REGIONAL BOARD WHICH THE STATE BOARD IS REQUESTED TO REVIEW AND A COPY OF ANY ORDER OR RESOLUTION OF THE REGIONAL BOARD WHICH IS REFERRED TO IN THE PETITION:**

Petitioner seeks review of Cease and Desist Order No. R5-2010-0001 for the City of Colfax Wastewater Treatment Plant. A copy of the adopted Order is attached as Attachment No. 1.

**3. THE DATE ON WHICH THE REGIONAL BOARD ACTED OR REFUSED TO ACT OR ON WHICH THE REGIONAL BOARD WAS REQUESTED TO ACT:**

28 January 2010

**4. A FULL AND COMPLETE STATEMENT OF THE REASONS THE ACTION OR FAILURE TO ACT WAS INAPPROPRIATE OR IMPROPER:**

CSPA submitted a detailed comment letter on 24 December 2009. That letter and the following comments set forth in detail the reasons and points and authorities why CSPA believes the Order fails to comport with statutory and regulatory requirements. The specific reasons the adopted Orders are improper are:

The CDO documents surface waters discharges of inadequately treated sewage due to hydraulic overloading of the City's new wastewater treatment plant. The CDO requires repairs of the collection system to eliminate excessive inflow and infiltration (I/I).

- US EPA's *Construction Grants – 1985 Municipal Wastewater Treatment* assesses in Section 5.4 that 120 gallons per capita per day (gpcd) during high groundwater and 275 gpcd during a storm would not constitute excessive I/I. The corresponding peaking factors recommended by US EPA are likely significantly lower than the 5.0 required in the CDO.

However, the amount of I/I in this case should not be based on recommended acceptable

peaking factors. The wastewater treatment plant at Colfax is new. The plant was designed utilizing organic and hydraulic loadings. The allowable peak wet weather flow rates should therefore be based on the actual hydraulic design capability of the wastewater treatment plant. A goal of allowing a 5.0 wet weather peaking factor, based on national averages rather than the actual design capability of the system, will likely result in continued excessive wastewater flows and discharges of inadequately treated wastes being discharged to surface waters. It is reasonable to use the peak wet weather design capability of the new wastewater treatment plant at Colfax. Failure to utilize the actual peak hydraulic capacity of the wastewater treatment plant will result in continued discharges of inadequately sewage to surface waters.

The CDO was modified in late revisions to remove the peaking factor of 5.0 from the “It is hereby ordered that” section of the Order, however the Findings continue to indicate that a peaking factor of 5.0 is an acceptable number. The Regional Board contends that the design parameters of the wastewater treatment plant are altered by the presence of an equalization basin. The Regional Board fails to recognize that the design parameters of a wastewater treatment plant must take into account all the processes, including equalization, in assessing the capability of the system. The peak wet weather design flow of the wastewater treatment plant is the relevant amount of water that can be properly treated by the new wastewater treatment plant. Any flow in excess of that amount will not be properly treated. In failing to tie the allowable influent flow rate to the design capability of the new wastewater treatment plant is planning for continued failure of the system. The CDO as currently written is not likely to result in compliance and more time will have been wasted.

- The 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. The Regional Board denial that exfiltration occurs to leaking sewer pipelines as readily as infiltration and inflow occurs shows a critical lack of field experience and common sense. The Colfax area overlies fractured bedrock, raw sewage leaking from the system during dry periods has the potential to significantly degrade both groundwater and surface waters. It is critically important that the compliance time schedule is as short as practicable to eliminate the discharge of raw sewage to ground and surface waters and eliminate the threat to public health and all beneficial uses of water. There is nothing in the Order that addresses the requirement that the compliance period is as short as practicable.

## **5. THE MANNER IN WHICH THE PETITIONERS ARE AGGRIEVED.**

CSPA is a non-profit, environmental organization that has a direct interest in reducing pollution to the waters of the Central Valley. CSPA’s members benefit directly from the waters in the form of recreational hiking, photography, fishing, swimming, hunting, bird watching, boating, consumption of drinking water and scientific investigation. Additionally, these waters are an important resource for recreational and commercial fisheries. Central Valley waterways also

provide significant wildlife values important to the mission and purpose of the Petitioners. This wildlife value includes critical nesting and feeding grounds for resident water birds, essential habitat for endangered species and other plants and animals, nursery areas for fish and shellfish and their aquatic food organisms, and numerous city and county parks and open space areas. CSPA's members reside in communities whose economic prosperity depends, in part, upon the quality of water. CSPA has actively promoted the protection of fisheries and water quality throughout California before state and federal agencies, the State Legislature and Congress and regularly participates in administrative and judicial proceedings on behalf of its members to protect, enhance, and restore declining aquatic resources. CSPA member's health, interests and pocketbooks are directly harmed by the failure of the Regional Board to develop an effective and legally defensible program addressing discharges to waters of the state and nation.

**6. THE SPECIFIC ACTION BY THE STATE OR REGIONAL BOARD WHICH PETITIONER REQUESTS.**

Petitioners seek an Order by the State Board to:

- A. Vacate Order No. R5-2010-0001 and remand to the Regional Board with instructions prepare and circulate a new tentative order that comports with regulatory requirements.
- B. Alternatively; prepare, circulate and issue a new order that is protective of identified beneficial uses and comports with regulatory requirements.
- C. CSPA, however, requests that the State Board hold in abeyance further action on this Petition for up to two years or further notice by Petitioners, whichever comes first. CSPA anticipates filing one or more additional petitions for review challenging NPDES permit decisions by the Regional Board concerning the issues raised in this Petition in the coming months. For economy of the State Board and all parties, CSPA is endeavoring to consolidate these petitions and/or resolve the common issues presented by these petitions. Accordingly, CSPA urges that holding this Petition in abeyance for now is a sensible approach.

**7. A STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL ISSUES RAISED IN THE PETITION.**

CSPA's arguments and points of authority are adequately detailed in the above comments and our 24 December 2009 comment letter. Should the State Board have additional questions regarding the issues raised in this petition, CSPA will provide additional briefing on any such questions. The petitioners believe that an evidentiary hearing before the State Board will not be necessary to resolve the issues raised in this petition. However, CSPA welcomes the opportunity

to present oral argument and respond to any questions the State Board may have regarding this petition.

**8. A STATEMENT THAT THE PETITION HAS BEEN SENT TO THE APPROPRIATE REGIONAL BOARD AND TO THE DISCHARGERS, IF NOT THE PETITIONER.**

A true and correct copy of this petition, without attachment, was sent electronically and by First Class Mail to Ms. Pamela Creedon, Executive Officer, Regional Water Quality Control Board, Central Valley Region, 11020 Sun Center Drive #200, Rancho Cordova, CA 95670-6114. A true and correct copy of this petition, without attachment, was sent to the Discharger in care of: Mr. Bruce Kranz, City Manager, PO Box 702, Colfax, California 95713.

**9. A STATEMENT THAT THE ISSUES RAISED IN THE PETITION WERE PRESENTED TO THE REGIONAL BOARD BEFORE THE REGIONAL BOARD ACTED, OR AN EXPLANATION OF WHY THE PETITIONER COULD NOT RAISE THOSE OBJECTIONS BEFORE THE REGIONAL BOARD.**

CSPA presented the issues addressed in this petition to the Regional Board in a 24 December 2009 comment letter that were accepted into the record.

If you have any questions regarding this petition, please contact Bill Jennings at (209) 464-5067 or Michael Jackson at (530) 283-1007.

Dated: 26 February 2010

Respectfully submitted,



Bill Jennings, Executive Director  
California Sportfishing Protection Alliance

Attachment No. 1: Order No. R5-2010-0001