



SOUTH YUBA RIVER CITIZENS LEAGUE

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December 28, 2008

Attn: Spencer Joplin
California Regional Water Quality Control Board, Central Valley Region
11020 Sun Center Drive, Suite 100
Rancho Cordova, CA 95670-6144

Dear Water Board Staff,

The South Yuba River Citizens League (SYRCL) works to protect and restore the streams and rivers of the Yuba Watershed. We are concerned about violations of waste discharge requirements by the Donner Summit Public Utilities District (DSPUD) and are providing comments on Administrative Civil Liability Complaint R5-2008-0626.

The mandatory minimum penalties assessed in the recent ACL are appropriate for the violations of effluent limitations for nitrate and ammonia occurring between the period of April 1, 2007 and September 30, 2008. We recognize that many violations of this type occurred prior to April 1, 2007 but were not subject to penalty due to a five-year waiver provided by Cease and Desist Order R5-2002-0089.

The ACL Complaint appears to omit consideration of mandatory minimum penalties other than those concerning nitrate and ammonia. SYRCL submitted a report to the RWB on September 30, 2008 which noted findings from an analysis of DSPUD monitoring data from the first half of 2007. Some notable findings:

1. Coliform – average of 11 measurements in June 7- July 5 greater than 4 MPN/100; Requirement is that 7-day median must be less than 2.2 MPN/100.
2. TSS -- May 2007 did not meet 85% removal requirement
3. Turbidity – receiving water measured as increasing from 1.5 to 3.3 NTU on 2/15/2007; Requirement is no more than 1 NTU increase.

It seems likely that additional violations of the type listed above may have occurred in the latter half of 2007 and in 2008. Administrative Civil Liability Order R5-2007-0528 (November 15, 2007) covers 76 violations by DSPUD from January 2000 to December 2006, including violations involving failure to meet required levels for pH, BOD, Total Coliform Organisms, and Total Suspended Solids. Since the ACL Complaint R5-2008-0626 does not mention violations in Coliform, TSS and Turbidity, we must conclude that they were not considered. We respectfully request that an accounting of all potential violations -- including Coliform, TSS and Turbidity – be prepared and included in the issuance of a final Notice of Violation.

The discretionary penalty assessed in the ACL complaint is appropriate considering the failure of DSPUD to effectively upgrade its facility to meet discharge requirements for nitrate and ammonia. SYRCL commends the RWB on this discretionary action and notes that the penalty is quite minimal considering the irresponsibility and cost defrayment by DSPUD. DSPUD and their consultant have attempted to cast doubt on the linkage between nitrate levels in their effluent and biostimulation in the South Yuba River, yet the record concerning excess nitrate discharge into the South Yuba River leaves little uncertainty.

In my September 30 comments to the RWB concerning DSPUD, I noted several “possible” types of violations that warrant consideration. First of all, the principal term of WDR Order R5-2002-0088 is that discharge occurs “only when weather or snow conditions preclude land disposal”. I provided rainfall and streamflow data, in contrast to dates of discharge, suggesting DSPUD discharges to the river on occasions when land disposal is possible. Secondly, it appears that DSPUD has submitted certain reports (e.g. Report of Waste Discharge and CTR requirements) past dates specified in their waste discharge requirements. SYRCL respectfully requests confirmation and clarification on these two matters concerning potential violations by DSPUD.

We thank you for your work in protection of water quality. Please keep us informed of all matters and documents concerning discharge by DSPUD.

Sincerely,

Gary Reedy
River Science Director