

Comment to ORDER NO. R1-2010-0033 - WASTE DISCHARGE REQUIREMENTS

Via email to [creed@waterboards.ca.gov](mailto:creed@waterboards.ca.gov)

C/O Charles Reed P.E.

North Coast Regional Water Quality Control Board  
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Gentlemen,

I live in the city of Arcata, within 10 miles of the proposed Freshwater Tissue pulp plant. I have reviewed the proposed Cease and Desist Order no. R1-2010-0039 and Freshwater's letter of April 21, 2010 to your Board. Also, I reference written public statements made by Mr. Bob Simpson about the proposed operation of the pulp mill.

I am concerned that the procedures and protections in the order are not sufficient to ensure the plant will be brought into compliance. In particular, there is insufficient motivation for the plant owner to construct a secondary treatment once commercial operation of the plant has commenced. After that time, the prospect of a potential enforcement closing due to non-compliance will be very small as the livelihoods of employees and suppliers will have to be weighed.

And my concerns are elevated by the statement of Mr. Simpson which has been that the discharge of the mill, as is, is not a problem at all. The following is an excerpt from Mr. Simpson's statement:

"However, BOD in the Pacific Ocean is not an issue or concern due to the size of the receiving water (Pacific Ocean), and because the ocean constantly produces oxygen through wave action and tidal influence. In fact, studies have been conducted over 20 years, which you can confirm through Humboldt State University, that conclude the Samoa mill's BOD has no oxygen impact to the receiving water, but the fish to thrive at the end of the outfall line. You could accuse the Samoa mill of chumming(sic) the fish!

The real issue with the Samoa mill is not about pollution, it is about a 37 year old antiquated EPA evaluation system that regulates BOD regardless of where pulp mill effluent is discharged, i.e., stream, river, lake, or ocean. As you might conclude, EPA's antiquated regulation of BOD was, and it remains, a politically backed decision supported by industry lobbyist's to eliminate a perceived environmental advantage over ocean discharging pulp mills, such as the Samoa mill, in comparison to competing pulp mills located on northwest rivers and lakes, and pulp mills located on the shores of the Great Lakes."

In notes on a website(The Humboldt Herald), Mr. Simpson has written:

"Our State Water Board is "NOT" to blame, nor are they the agency that can make change. They are simply enforcing the rules setforth by EPA. Internally, I believe the the Water Board staff agree with with my conclusion. Externally, they tow the line of EPA."

If Mr. Simpson's statement is accurate, then I think any water board staff he refers to should not be tasked with evaluating his proposals, as they may be prejudiced. If Mr. Simpson's statement isn't accurate, it indicates he has low regard for your Board and he is likely to not follow through aggressively on actions necessary to bring the plant into compliance.

Finally, in his April 23, 2010 letter, Mr. Simpson rightfully discloses many uncertainties and risks in meeting the proposed compliance schedule. But he proposes no mitigations or plans to deal with those risks, merely assigning all the onus to other parties not taking ownership of the actions and efforts Freshwater can affirmatively take to expedite and further the approval process. As the manager of a very important project, Mr. Simpson's letter shows little commitment but much finger pointing.

It also appears to me that little or no work has been done by Freshwater that shows commitment to building secondary treatment. The engineering plans cited are old, prepared by the predecessor company Evergreen at no cost to Freshwater. At this point it appears Freshwater has invested nothing in actually planning for secondary treatment even though it has had over a year to do so. In fact, in its website Freshwater states:

"FTC's immediate goals were to determine whether the current pulp chip supply was sufficient to re-start the pulp mill, and obtain a congressional variance for waste discharge limits of Biochemical Oxygen Demand (BOD) in the mill's wastewater."

So it appears likely that having been rebuffed from a variance, Freshwater is now attempting to "game the system" to achieve the same end. Mr. Simpson has repeatedly appealed for "community support", ostensibly to exert political pressure to allow the plant to operate at variance with the discharge requirements.

I request that the Water board modify the Cease and Desist Order to strengthen the provision to ensure Freshwater will fulfill its promises, prior to commercial operation. In particular, the August 8 milestone should be expanded beyond "Provide financial assurances for funding design and construction of the wastewater treatment plant at the Facility in a form acceptable to the Regional Water Board Executive Officer" to include specific bonding or restricted depository requirements to ensure monies are committed. If that isn't possible, I request that the plant not be allowed to discharge until the November 11, 2010 milestone, contact award, is met.

Regards,

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