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Dear Regional Water Control Board,

Thank you for providing me an opportunity to comment on this project.

I do not believe you should approve the City of Livingston's request to reconfigure the ponds at its Domestic Wastewater Treatment Plant at this time. Looking through the records the City of Livingston has a history of losing records, noncompliance, disregarding concerns, unsanctioned releases into the Merced River, poor maintenance of its facility, using its DWWTP for other uses, expanding its DWWTP without the proper EIR, and not telling the whole story.

There is more going on with the City of Livingston and its DWWTP than what this project indicates. I do not think the Water Board should move ahead with this project. The City has significant issues outstanding.

First how is the City going to pay for the reconfigurations of its DWWTP Ponds. The City of Livingston raised its wastewater rates in 2014. There is \$0 (zero dollars) rates funding source allocated for Levee Improvement/Repair. The funding is footnoted but not included in total and not included in five years of study done. Also the City has existing loan payment of \$520,000 per year. The City is required by the USDA "to maintain a reserve fund of one year's debt service...The City has been out of compliance with this requirement." (Hanford Economic Consulting Water and Wastewater Study, May 10, 2014, Table 22 Capital Improvement Plan, page 33). *Att. 1*
Where will the money coming from? The City is out of compliance already.

I do not see a provision in the proposed plan for the filling in of the decommissioned ponds. If the purpose of the plan is to move the ponds away from the Merced River than the old ponds need to be removed and restored to a more natural habitat. Otherwise the City of Livingston might use them again. I believe it is a mistake not to include in the plan a requirement to clean them up the decommissioned ponds. In the past, I told the City, "The bottom of the abandoned ponds near the river, need to be checked for heavy metals and other containments, cleaned up, filled in, and restored to the preexisting elevation."

The City maintains that the soil and the abandoned ponds are clean because water samples taken from the river do not show a level of contamination. To my way of thinking, this does not necessarily mean the soil in the bottom of the ponds is clean. The Merced River has flooded over the years and some of the abandon ponds are in the flood plain and have been flooded. Maybe with the flooding over the years, the bottoms of the ponds have been flushed out and the soil is clean, but it should be checked.

However, the Department of Fish and Game letter implies there are water quality issues with the Merced River and the City's DWWTP. "In addition, the Department Merced River Fisheries Biologist has observed similar releases across years from this site. This appears to be a

continuous problem." (State of California, Department of Fish and Game, Notice of Violation Waste Discharge Requirements Order No. 89-066, City of Livingston WWTF, Merced County and the Foster Farms Dairy Processing Facility Spill, Tuolumne River, Modesto, California, November 12, 2008)

Also Mrs. Gerri Martin had a leaf analysis done on the oak trees next to Livingston's DWWTP. "Two elements were found in abnormal amounts in oak trees. One was Molybdenum and the other was Aluminum. Neither one of these elements are found in this area in large quantities. It is very likely these elements come from an outside source. I believe they are coming from the percolation ponds. The lab made it clear that aluminum levels were 3 time normal and molybdenum was 10 times normal. The lab made it clear that the most likely source to the aluminum was from some source of organic matter. The most likely source of molybdenum is from manufacturing processes that can be left in the wastewater. (Mrs. Gerri martin email to jkipps@waterboards.ca.gov 3/3/2008 with attached leaf analysis report.) *Att. 2 (2pages)*

I do not see any mention of the cement operation be leased at the DWWTP. On Saturday, Oct. 4, 2014, I spoke with George Morrow who purchased the business from Jim Brisco. He is paying the City \$1,000 (one thousand dollars) a month rent for his cement manufacturing operation at the DWWTP. *See pictures on CD*

I do not see any mention of the DWWTP being used by the City of Livingston as a "temporary" disposal site for "green waste" rubbish. The City stores the rubbish at the DWWTP. Gilton Solid Waste drops of dumpsters and City workers fill them up. However, in the at least the last four years there has been perpetual mounds of rubbish. *See pictures on CD*

The City of Livingston is not properly maintaining its fence line and facility from animal burrowing and vegetation. The City of Livingston's break in 2008, "of an estimated 3 million gallons of secondary treated wastewater into the nearby Merced River," was most likely because of improper maintenance of its facility by the City of Livingston. Animal burrows, roots and "an old abandoned Cat D7 dozer parked on the levee" probably lead to the break. "it is our opinion that the immediate cause of the levee failure was piping (subsurface erosion)...Consequently, it is our opinion that other factors, like animal burrows, rotted tree roots, or embankment cracking contributed to the levee failure...Frequent inspection and timely maintenance is essential for both new and existing levee embankments. It is critical to identify and fill animal burrows or visible ground cracks having the potential to compromise the ponds...Vegetation on and near the levee should be planned and trimmed to facilitate the visual inspection of the levee faces." (Condor, Levee Failure Evaluation, Livingston Wastewater Treatment Plant, page 1, 2, & 3) *Att. 3 (5pages)*

It is unknown what the coliform level in the Merced River was because "an incorrect dilution scheme that had 23 / 100mls as its upper limit of quantitation was used. This procedure was appropriate for drinking water samples, but not at all appropriate for river water samples...only

able to report that the coliform...were greater than 23 per 100mls." (J L Analytical Services, Inc., May 20, 2008) Is ecoli a form of coliform bacteria? *Att. 4*

The City of Livingston has a long history of not complying with monitoring wells at its plant. On June 4, 2014 Ms. Denise Soria Central Valley Water Board contacts Dave Davidson, Contract Operator City of Livingston. Ms. Soria inquires why there was not groundwater monitoring data for Monitoring Wells 6 and 7, (MW6, MW7) that were installed in September 30, 2008. Mr. Davidson said that "EMS was in charge of operation and sampling until early 2013. The City did not know about the well until mid 2013, but the lab would not sample them because there were not construction details." Ms. Souza tells him that "Monitoring Well Installation Report, October 28, 2008 was submitted to Regional Water Board, contact Condor Earth Technologies for a copy and begin monitoring the wells immediately." (Central Valley Regional Water Quality Control Board, Record of Communication, June 4, 2014) *Att. 5*

Currently the City maintains all the emails from EMS were deleted from the computer when the City let the employee go. EMS maintains it sent the reports to the City of Livingston.

2005, The Water Control Board notifies the City of Livingston that the City's work plan is incomplete, mentions the status of Ponds 4, 5, and 6 is not addressed, speaks about the placement of MW 6, addresses concerns of MW-1, MW-2, and MW-4 and address record keeping. (Incomplete Groundwater Monitoring Work Plan, City of Livingston Domestic WWTF, Merced County, California Regional Water Quality Control Board, December 28, 2005.) *Att. 6 (3 pages)*

August 2006, the City of Livingston has a Groundwater Monitoring Well Installation Work Plan. It has been revised as of August 18, 2006. (City of Livingston, Livingston Domestic WWTF, *Att. 7* 5C240106002) However MW 6 is not installed until September 2008. (Condor, Well Completion Reports, California Regional Water Quality Control Board, October 30, 2008) *Att. 8*

April 8, 2008, Water Board reviewed Groundwater Monitoring Plan dated 12 July 2006, speaks about Ponds 1-8, "Monthly monitoring reports indicate that effluent has been discharged only to Ponds 7 and/or 8 since August 2004, except during July and August 2006 when effluent was also discharged to Pond 2. Effluent was discharged to Ponds 4, 5, 6 from January through July 2004. It also speaks about existing monitoring wells and placement of MW6 & MW7. (Evaluation of Revised Groundwater Monitoring Plan, City of Livingston Domestic Wastewater Treatment, Merced County, California Regional Water quality Control Board, Central Valley Region, April 8, 2008.) I am confused this report makes it sound like Pond 2 was not being used. If Pond 2 was not being used than how come one month later in May 2008, there was a levee break on Pond 2 and an estimated 3 mgd of secondary effluent with a coliform greater than 23 /100mls flowed into the Merced River?

The Water Control Board does a facility inspection documenting the May 2008 spill. An estimated 3.2 million gallons of undisinfected secondary treated effluent entered Merced River. Under the Inspection Summary it states Ponds 1 through 3 were in use for several months

during maintenance of Ponds 7 and 8. "According to Manchester, ponds 1 through 3 are used during preparation and disking of Ponds 7 and 8 for a couple of months each year." (California Regional Water Quality Control Board, Central Valley Region, Facilities Inspection Report, Waste Discharge Requirements Order No. 89-066, City of Livingston WWTF, Merced County, June 24, 2008) I am confused the April 2008, report stated that the monitoring wells showed that Ponds 1 through 3 were not being used except Pond 2 for two months in 2006. Only Ponds 7 and 8 were used since 2004. How can two Water Board Reports just a couple of months apart have the same Ponds being used and being not used? *Att. 9 (pages 6)*

The June 24, 2008, Facilities Inspection Report goes on to document the past Cease and Desist Order No. 98-057, which was amended by special order. The Regional Water Board, September 24, 1998, Administrative Civil Liability Complaint Order No. 98-507 for \$16,000 for the release of 60.176 million gallons to the Merced River from December 5, 1997 through February 4, 1998. The Water Board staff determined the City of Livingston's Report of Waste Discharge (RWD), November 22, 2002 for its upgrade an expansion of the WWTF was incomplete and identified information necessary to complete the RWD in December 23, 2002 letter. As of June 2008, the City had not submitted a response letter. Nine days before the huge levee break there was a small spill seepage that reached the Merced River from Pond 3 due to ground squirrel burrows. The city allowed an abandoned crawler (dozer) to remain parked since 1999 on Pond 2 levee where it sunk during the levee failure. (California Regional Water Quality Control Board, Central Valley Region, Facilities Inspection Report, Waste Discharge Requirements Order No. 89-066, City of Livingston WWTF, Merced County, June 24, 2008) *Att. 9*

The California Department of Fish and Game are upset about the May 15, 2008 spill. Under City of Livingston, The "event occurred during the fall-run Chinook salmon juvenile out migration." The Department "is disturbed that the Board did not take appropriate action in the collection and subsequent analysis of subsequent analysis of specific water quality monitoring parameters directly associated with water quality objectives necessary to demonstrate whether beneficial uses in the Merced River...were protected during and after this spill. At a minimum, the Board should have collected water samples from multiple locations along the Merced River for the following constituents: Dissolved oxygen, electrical conductivity, pH, Total coliform, fecal coliform, E.Coli, BOD, Total dissolved solids, Total suspended solids, Hardness, Standard minerals, un-ionized ammonia (NH3), Nitrate (as N), Nitrite (as N), TKN, Whole effluent toxicity testing. **In addition, the Department Merced River Fisheries Biologist has observed similar releases across years from this site. This appears to be a continuous problem.**" (bold emphasis mine) (State of California, Department of Fish and Game, Notice of Violation Waste Discharge Requirements Order No. 89-066, City of Livingston WWTF, Merced County and the Foster Farms Dairy Processing Facility Spill, Tuolumne River, Modesto, California, November 12, 2008) *Att. 10 (pages 4)*

But the City believes the spill on May 14, 2008, to be harmless, "About one million gallons of cleaned sewer water flowed Wednesday morning into the Merced River, though officials don't believe it will have any significant effects. A deep sinkhole opened at one of the ponds where the treated water is discharged, creating a canal that released the water into the river less than 100 yards away. City officials stressed that the water was not raw sewage. Larry Parlin, who contracts with the city to run the treatment plant, said the water is clean. The only reason it can't be discharged directly into the river is because it's not chlorinated." (Treated sewer water dumped into Merced River, Merced Sun-Star, May 15, 2008.) *Att. 11*

"The City will not be using Ponds 1 through 3 for an extended period considering Ponds 7 and 8 have sufficient effluent disposal capacity." (California Regional Water Quality Control Board, Central Valley Region, Facilities Inspection Report, Waste Discharge Requirements Order No. 89-066, City of Livingston WWTF, Merced County, June 24, 2008) *Att. 9*

"Additionally, the City has discontinued use of percolation ponds Nos. 1, 2, and 3 to assure that levee failure does not occur in this area. These percolation ponds are now dry, and there is sufficient capacity in the other percolation ponds located away from the river to dispose of all the WWTP effluent." (City of Livingston, City Manager Richard Warne to the California Regional Water Quality Control Board, July 23, 2008) *Att. 9*

The Water Board issues a notice of violation on January 24, 1997, and the board directs the City to complete and submit a short term plan by March 18, 1997, a technical report by May 19, 1997 and daily monitoring. "The Discharger reported that a total of 6.0 million gallons of effluent was discharged to the Merced River on 24, 26, 27, 28, 29, 30, and 31 January 1997 and on 3 February 1997. The Discharger made additional discharges of effluent to the Merced River from 3 March to 14 March 1997 totaling 10.4 million gallons."

On March 10, 1997, the Water Board notifies the City if it needs more time for the report submit a justification by March 25, 1997, The City never submitted the justification or the engineering report. Instead in September 1997, the City informed the Water Board that its consultant determined in July 1997 that the pond bottoms were sealed with organic materials. The City had dredged its four disposal ponds in early September and it noticed a dramatically improved pond percolation rates and the City should make it through the winter without discharging into the Merced River.

In November 1997, the City informs the Water Board its WWTF was at capacity, dredging the pond bottoms failed, and the City was going to discharge into the Merced River again.

During late 1996 and 1997, the City frequently discharged effluent to the lower ponds without first notifying the Board of the discharge and without providing a reports. I believe the lower ponds are in the flood plain of the Merced River.

The City failed to monitor fecal coliform data during January 1997 discharges into the Merced River. Consistent "increases in total and fecal coliform in the Merced River" were observed in February and March. "Downstream coliform populations exceeded water quality objectives by several orders of magnitude." (California Regional Water Quality Control Board, Central Valley Region. Order No. 98-057, Cease and Desist Order Requiring City of Livingston, Wastewater Treatment Facility, Merced County, 2/27/98) *Att. 13 (7 pages)*

The Cease and Desist is modified by Special Order No. 98-218 on October 23, 1998.

The Water Board contacts the City. The City is not following the Monitoring Reporting Program or meeting the reporting requirements. (Forms for Filing Monitoring and Reporting Reports, City of Livingston Domestic Wastewater Treatment Facility, Merced County, California Regional Water Quality Control Board, December 8, 1998) *Att. 40*

Special Order No. 5-00-005 is adopted on January 28, 2000.

February 26, 2002, According to the Water Board's file correspondence, there is **NO** RWD for the new WWTF, cannot find copy of final Initial Study/Mitigated Negative Declaration, cannot find any response to the 1 June 2001 RWQCB letter except indirectly Carollo communication with the City. (California Regional Water Quality Control Board, To Jo Anne Kipps, February 26, 2002) *Att. 14 (2 pages)*

On May 15, 2002 the City is in violation of its Cease and Desist Order and amended Order. The City has failed to meet long-term deadlines for construction. The RWD is still missing but the City intends to submit it within three weeks. The City is failing to comply with Monitoring and Reporting Program (MRP), "Specifically, monthly self-groundwater monitoring reports are missing, riverbank observations, and sludge pond monitoring data. **As you know, groundwater monitoring reports indicate that the WWTF has degraded the underlying groundwater with salts and nitrates.**" (bold emphasis mine) By June 14, 2002, the City is suppose to provide all delinquent monitoring data and a technical report with a work plan for modifying City's existing groundwater monitoring network to determine he horizontal and vertical extent of the WWTF's impacts on underlying ground water. (Notice of **V**iolation, Waste Discharge Requirements (WDRs) Order No. 89-066, City of Livingston Wastewater Treatment Facility (WWTF), Merced County, May 15, 2002.) *Att. 15*

Wastewater disappears. "Comparison of the City's population (California Department of Finance, Demographic Research Unit) and WWTF flow data indicate that although the population has increased from 7317 persons in 1990 to 10473 persons in 2000, the WWTF flow has decreased from 0.948 mgd to 0.886 over the same period. My review of flow data early in the decade indicates that it is suspect and requires further evaluation." (Central Valley Regional Water Quality Control Board, Inspection Report, Livingston Domestic WWTF, May 15, 2002) *Att. 16 (4 pages)*

"I told Mr. Manchester that Monitoring Reporting Program (MRP) requires" the City to submit monthly reports and the City is not submitting them. The City is discharging into the lower level

ponds and the City is required to notify the Water Board. (Central Valley Regional Water Quality Control Board, Inspection Report, Livingston Domestic WWTF, May 15, 2002) *Att. 16*

Under File Review, Water Board staff last inspected the City's WWTF on September 5, 2001 in response to a levee breach. On July 24, 2001, approximately 0.5 to 2.5 million gallons of undisinfectated secondary effluent spilled in to the Merced River. (Central Valley Regional Water Quality Control Board, Inspection Report, Livingston Domestic WWTF, May 15, 2002) *Att. 16*

The City has failed to submit monthly riverbank observations, sludge pond data, including weekly influent water circulation flow, influent circulation water dissolved oxygen and effluent circulation dissolved oxygen readings as well as depth to sludge measurements, and river temperature measurements. The riverbank report data includes seepage, vegetation, and discoloration observations, and quarterly river temperature measurements. From the 2001 groundwater monitoring data, it is likely that groundwater mounding is occurring beneath the evaporation/percolation pond area. Review of groundwater data submitted for 2001 reveals the nitrate concentration from monitoring Wells No. 1-4 are below the maximum contaminant level except for the 1st and 2nd quarter results of MW 2, which had NO₃-N concentrates of 110 and 21 mg/l respectively. (Central Valley Regional Water Quality Control Board, Inspection Report, Livingston Domestic WWTF, May 15, 2002) *Att. 16*

The City of Livingston's modification and expansion at the WWTF was suppose to be completed by October 2003 and in full compliance by January 2004. (City of Livingston Wastewater Treatment Facility -Modification and Expansion Project, Request for Revised Dates Special Order No. 98-218, letter from Carollo to the Water Board, May 21, 2001) But monitoring wells are not installed, reports not done, documents missing. I do not know if the City is yet in full compliance of its existing facility. *Att. 17 (2 pages)*

MW6 and MW7 are installed on September 30, 2008. The Water Board reviews Condors report, There are still questions regarding the City's monitoring wells, "An evaluation of the efficacy of the groundwater monitoring network, and the need for replacing MW-1 and MW-4, needs to be performed. However, the subject report does not include data for the other wells at the site. Monitoring and Reporting Program No, 89-066 requires analyses of groundwater samples on a quarterly basis. An evaluation of the groundwater monitoring network should be performed following receipt of second quarter 2009 groundwater monitoring results." (Report Review, Monitoring Well Installation Report, City of Livingston Domestic Treatment Facility, California Regional Water Quality Control Board, May 1, 2009) *Att. 41*

It seems to me, the City of Livingston has a history of inadequately monitoring and reporting. The Water Board has mentioned this several times.

Construction is barely finished on the City's new percolation ponds 6 and 7. The City of Livingston aggressively starts work to do an enormous expansion of its Domestic Wastewater Treatment Facility next to the Merced River. In December 2004, the City of Livingston, over land

it has no jurisdiction over, assumes the role of lead agency and grants a developer approval to install a 30-inch "dry" sewer trunk line. Somehow the 30-inch line turns into a 42-inch sewer trunk line. (A 42-inch line is huge. It is designed to serve a population of over 100,000 people. Why does a city the size of Livingston needs a line that big? Where is the water going to come from?) The City of Livingston claimed the nearly 6 mile project was CEQA exempt and has the developer wait one year. At the beginning of 2006, the City aggressively begins construction, over a mile of "dry" sewer trunk line. After several complaints to Merced County, the agency that has jurisdiction over the land, Merced County Counsel sends a letter and then Merced County Planning and Community Development Dept. issues three (3) Cease and Desist Orders. By the number of APN's of agriculture parcels there is a significant amount of acreage involved in the cease and desist order. My understanding is the City claims it is right in doing what it was and is doing. (Merced County Grand Jury Final Report, 2006-2007, Complaint 06-07-15: City of Livingston, Sewer Trunk Line, page 72-76) (February 16, 2006 Letter from Merced County Counsel Rueben E. Castillo to City of Livingston Attorney Mr. Thomas Hallinan, Jr.) (Merced County Planning and Community Development Department Stop Order for APN's. 047-160-003, 047-170-026, 047-170-027, 047-170-005, 047-240-002, 047-240-014, 047-240-004, 047-240-003, and 047-170-020, Merced County Planning and Community Development Department Stop Order for APN's. 047-260-031, 047-260-040, 047-260-028, 047-260-280, 047-260-029, and 047-260-039, and Merced County Planning and Community Development Department Stop Order for APN's. 047-160-001, 047-260-031, 047-260-040, 047-260-028, 047-260-029, and 047-260-039, Merced County Planning and Community Development Department First Violation (3) letters to developer with Gov. code section 65400-65404, letter to City of Livingston, Letter to Merced County and City of Livingston from San Joaquin Raptor/Wildlife Rescue Center, Protect our Water, and Bryant Owens dated February 6, 2006, City of Livingston's City of Livingston's reply letter dated February 9, 2006 to San Joaquin Raptor/Wildlife Rescue Center, Protect our Water, and Bryant Owens, Merced County's reply letter February 7, 2006 to San Joaquin Raptor/Wildlife Rescue Center, Protect our Water, and Bryant Owens)"...asked Mr. Manchester if the expansion will include any collection system upgrades. He told me that he performs the collection system maintenance and that major renovation of the collection system will not likely be a part of the WWTF expansion." (Central Valley Regional Water Quality Control Board, Inspection Report, Livingston Domestic WWTF, May 15, 2002)

Att. 29 (6pgs)
 Att. 30 (5pgs)
 Att. 31 (3pgs)
 Att. 32 (10pgs)
 Att. 33
 Att. 34 (3pgs)
 Att. 35
 Att. 36
 City of Liv.
 reply to
 Grand Jury
 Att. 37
 (5pages)

In addition to this, according to a Sept. 14, 2006, Merced Sun-Star Article, the City of Livingston, solicits the excavating of proposed percolation pond #9 and selling the soil to Cal Trans, saving the City about 2.3 million "because the pond needed to be dug anyway." (Mrs. Gerri Martin's letter to City of Livingston, Dept. of Public Works, Mr. Paul Creighton, Oct. 17, 2007) Between 2006 and March 27, 2008 the City of Livingston sells 123,366.37 cubic yards of soil for \$614,161.85 to Agee Construction who sells the dirt to Caltrans for the Sultanna interchange on Hwy 99. The City of Livingston continues to disregard the need to do an EIR and continues to excavate/develop and sell dirt out of proposed percolation pond #9. (City of Livingston Sale of Dirt updated 3/27/08.)

Att. 18

Att. 19

Where is the material going to be stockpiled since the City of Livingston is already excavating Proposed percolation Pond 9? "The area reserved for future Pond 9 will be used to stockpile excess material after creation of the new levee for Pond 10 and 1R. Pond 9 will be constructed

as part of the next DWWTP expansion project." (6.1.1 Future Pond 9 –Stockpile Area, City of Livingston, Basis of Design, Carollo Engineers, October 2010, page6.) *Att. 23*

In addition to this in 2006/2007 the City of Livingston purchases Mrs. Horta's APN's 047-140-016, 047-140-017, property adjacent to the West of its DWWTP and the Merced River. An EIR is not completed at the time of this activity. (Merced County Parcel Map Bk. 47-pg. 14) *Att. 21*

Then in the summer of 2007, the City of Livingston, works on procuring 80 to 100 more acres. "However, my clients have also directed me to share with you their complete shock and surprised when they first learned of the City's proposed plans to locate its proposed Wastewater Treatment Facility expansion on 80-100 acres of agriculture land owned by the Arakelian family for three generations from the appraiser for the City less than a month ago. Therefore my clients strongly object to the complete lack of notice provided to them of the City's plan to expand the Wastewater Treatment Facility on the Arakelian property to the west of the facility...The existing ponds immediate north of Vinewood Avenue appear not to have been used since their construction; yet, no landscaping or other mitigation of the adverse aesthetic impacts of the facility have been implemented or installed. Therefore my clients question the advisability of proceeding westward from the existing WWTF, when it appears more logical to proceed in an easterly direction for the expansion of the WWTF...(August 7, 2007, letter to City of Livingston from Richard L. Harriman, Attorney at Law, Representing the Albert Arakelian Family) *Att. 22 (3 pages)*

"However, in the future Livingston's need for additional percolation pond area may force the City to a direct discharge to Merced River issues such as these should be evaluated in a detailed facility plan...It is apparent that Livingston will require an expanded treatment facility to be operational by the year 2008." (Bold emphasis mine) (Paragraph below Table 6, Final – *Att. 23*

Decemeber 2005 page10) Previously, in this letter I cited the City of Livingston and the Water Board stating there was sufficient capacity for the needs of the City. The City just completed construction on its upgrade so it would stop discharging into the Merced River and now it plans on developing to the possibility of discharging into the Merced River?

"NOP & NIR for City of Livingston's DWWTP Expansion, Page 13, The City is pursuing grant funding for a Future Regional Wastewater Treatment Plant." City of Livingston denies it. (Mrs. Gerri Martins Letter and page 13 listing F. Project Characteristics) It also states under project characteristics that the" estimated cost is \$24-28,000,000. The upgrade will be funded in part through the California State Revolving Fund Loan Program. The City is also seeking other grant funding..." *Att. 24 (2 pages)*

"This \$28.8 million project will increase the capacity of the Livingston Wastewater Treatment Plant from 2-million gallons per day (mgd) to 4-million gallons per day (mgd). The City of Livingston has completed over 90% of the engineering and environmental study for this project

and **will be ready to out to bid on May 1, 2009.** (Assembly California Legislature, Cathleen Galgiani, letter to California Regional Water Quality Control Board, February 13, 2009) *Att. 25 (2 pages)*

"The City needs to expand its wastewater treatment plant to accommodate new growth the total estimated cost of the domestic wastewater treatment plant expansion is \$28,294,069. The City anticipates that it will complete 25 percent of the construction during FY 2008 and has budgeted \$6,259,750 in developer reimbursements or bond proceeds to cover the construction costs...Sanitation Enterprise Fund will continue to lose money during FY 2008 unless rates are adjusted. Projected operating losses to this fund are \$234,668 during the fiscal year. The total negative fund balance at the end of FY2008 will grow from \$398,985 to \$473,655." (City of Livingston Proposed Budget 2007-2008, page 10.) The City did not have adequate funding for current operations for its WWTP so the City is going to expand the facility. This does not make fiscal sense. Also, the need to expand contradicts the statements previously cited in this letter. *Att. 38*

The City of Livingston has applied for State Revolving Fund Program, Project No.'s 4803-110 City of Livingston, Replace Treatment Ponds with Advanced Treatment Facility for \$17,200,000 and 5155-110 City of Livingston Domestic Wastewater Treatment Plant \$29,000,000. (California - 2008/2009 Project Priority List for State Revolving Fund Program, page 15 of 27) *Att. 26*

The sad thing is the City of Livingston could have fiscally relocated the plant when it was doing its 2002 WWTF upgrade. The City of Livingston on its Negative Declaration for its upgrade to its DWWTP said alternative 4 which required obtaining 40 acres of land adjacent to the existing facility. This alternative was chosen over constructing the DWWTP at a site away from the Merced River. The reason alternative 4 was chosen was because the cost of land in the engineering report was being estimated at \$6,000 an acre, but the cost of the land was being negotiated. Forty (40) acres at \$6,000 per acre would be cheaper than the cost of obtaining a large amount of land. After alternative 4 is chosen, the Joseph/Mike Gallo family and the City "negotiate" a price of \$25,000 an acre. So instead of the cost of the land in the upgrade costing \$240,000 the City pays \$1,000,000 (one million dollars). If the engineering report was correct and \$6,000 was a reasonable estimate for land prices, the City of Livingston could have purchased over a hundred acres of land at a site away from Merced River and still been \$400,000 dollars ahead. So, due to the City of Livingston's "negotiating" actions the City negated the reason for upgrading with a land expansion near the Merced River.

In addition to all of the above the City under the (Gallo Annexation Project Draft Initial Study, Mitigated Negative Declaration, December 2011, pages 4.0-38 to 4.0-40) would have approximately 106,527 trips per day. This land is adjacent and near the Merced River and the DWWTP. The plan also mentions the possibility of having a gas station adjacent to the Merced River. Some of this acreage is in the 100 year flood plain. The City of Livingston Traffic Master Plan includes "the development of a new crossing over the Merced River." (City of Livingston Traffic/Circulation Master Plan October 25, 2007 page 32) *Att. 27*

Att. 39

I believe in the past there could have been injury or even possible loss of life. There are family's downstream of the DWWTP. With a levee break of 3 million gallons, if there had been children in the Merced River it could have been very bad. When the installation of the illegal 42-inch sewer trunk line was going on, workers were in a deep trench with sandy loam soil sides with mounds of dirt on the side and heavy equipment, with no shields up. We are fortunate there was no cave ins and loss of life. (see photo taken 1/21/2006 by Merced County.) *Att. 28*

I believe a lot more is going on than what is represented in the Tentative Waste Discharge Requirements and Special Order For City of Livingston, Domestic Wastewater Treatment Facility, Merced County.

Thank you for your time and attention to this matter,

Mrs. Colette Alvernaz
Mrs. Colette Alvernaz