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16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE EASTERN DISTRICT OF CALIFORNIA
18 FRESNO DIVISION

19 FRIENDS OF YOSEMITE VALLEY,)
20 et al.,)
21 Plaintiffs)
22 v.)
23 DIRK KEMPTHORNE, in his)
24 official capacity as Secretary of)
25 the Interior, et al.,)
Defendants.)

Case No. CV-F-00-6191 AWI DLB
FIFTH DECLARATION OF
EDWARD WILLIAM DELANEY, JR. IN
SUPPORT OF DEFENDANTS'
REPLY BRIEF FOR MOTION OF
STAY PENDING APPEAL
DATE: March 5, 2007
TIME: 1:30 p.m.
PLACE: Courtroom 2
JUDGE: Hon. Anthony W. Ishii

26 I, Edward William Delaney, Jr., declare as follows:

27 1. I am employed by the National Park Service (NPS) at Yosemite National Park where I
28 have worked since 1993. I am the Chief of Project Management, responsible for the supervision

1 of design and construction, including the engineering analysis of Yosemite Valley utilities
2 systems. I have a Bachelor of Science degree in Civil Engineering and I have been a Registered
3 Professional Engineer since 1985.

4 2. I have reviewed the plaintiffs' Memorandum in Opposition to the Motion for Stay
5 Pending Appeal (Opposition Memo Doc. 391) and supporting declarations (Docs. 392, 393,
6 394). The purpose of this declaration is to provide clarification regarding the Yosemite Valley
7 sewer repair projects enjoined by the U.S. District Court and the importance of allowing the
8 repairs to proceed while the NPS prepares a new Merced Wild and Scenic River Comprehensive
9 Management Plan (Merced River Plan).

10 3. The Yosemite Valley Sanitary Sewer System Capital Improvement Plan (CIP) was
11 completed in September 2002, with an addendum in 2003. The CIP was required as part of the
12 Cleanup and Abatement Order issued in August 2002 by the California Regional Water Quality
13 Control Board. The CIP includes a condition assessment of the Yosemite Valley sewer system
14 and identifies priority for repairs to the existing sewer lines in their current location. The CIP
15 classified four categories of repair priority for the sewer system: "emergency," "immediate,"
16 "intermediate," and "long-term." Emergency repairs were prescribed to be completed as soon as
17 practical. Immediate repairs were to be completed within one to three years. Intermediate
18 repairs (CIP Phase 2) were to be completed within three to six years. Long-term repairs (CIP
19 Phase 2) were to be completed within seven to ten years. As it is now, four and one-half years
20 since the completion of the CIP, completion of emergency, immediate, and intermediate repairs
21 are due.

22 4. We have proceeded aggressively with completion of emergency and immediate
23 projects previously approved by the Court, and will have completed 14,659 of 15,871 linear feet
24 (92 percent) of "emergency" sewer line repairs and 17,546 of 21,552 feet (81 percent) of
25 "immediate" repairs at the end of the current construction contracts. This comprises 11 of 40
26 segments identified in Exhibit A in the Fifth Declaration of Alexander R. Peterson (Doc 382).
27 We are actively proceeding with development of remedial actions for the remaining emergency
28 and immediate segments. Of the remaining immediate segments, 2,801 of 4,006 feet were not

1 included in the current contracts due to their location in sensitive resource areas.

2 5. Exhibit A of my declaration is a drawing that shows the remaining CIP repairs,
3 including CIP Phase 2, after the current construction contracts are complete, as well as three
4 specific Integrated Utilities Master Plan (IUMP) routes to avoid sensitive resource areas. The
5 IUMP was prepared to: 1) identify alternatives for utility routing to rectify deficiencies identified
6 in the CIP, and 2) optimize utility routing to avoid sensitive resource areas, such as meadows,
7 wetlands, and riverine areas. The Exhibit A drawing also indicates the locations and boundaries
8 of meadows, wetlands, and other sensitive resource areas.

9 6. In many cases, the remaining immediate, intermediate and long-term classified
10 segments of sewer line, if repaired in accordance with the CIP, would involve construction
11 activity in their existing locations in meadows, wetlands, riverine areas and a river crossing. In
12 contrast, repairs routed in accordance with the IUMP in the three specific areas shown in Exhibit
13 A, would avoid the damaging activity in Ahwahnee Meadow and Cooks Meadow, and eliminate
14 a river crossing by relocating lines around these sensitive areas and into already hardened
15 roadways and developed areas. These specific IUMP routes would not change or expand any
16 services provided, or alter the origin and terminus of sewage collection services. Simply put,
17 whether repaired under the CIP or the IUMP, the lines will start and end at the same points along
18 the existing pipelines. The only difference would be the route: either under roadways for the
19 IUMP or in ecologically sensitive areas, like meadows and wetlands for the CIP. Regardless, the
20 location of the lines will in no way “facilitate development,” as claimed by the plaintiffs
21 (Opposition Memo 16:23).

22 7. Contrary to plaintiffs’ claims, complete implementation of sewer system repairs,
23 including CIP Phase 2, is critical to ensure compliance with the August 2000 Cleanup and
24 Abatement Order and to prevent public health hazards and harm to natural resources. The CIP
25 timeframes presented to the California Regional Water Quality Control Board indicate that most
26 categories of repairs are overdue or due now. Integrating the three key IUMP routes with the
27 remaining CIP repairs is the most sensible and responsible solution that addresses Cleanup and
28 Abatement Order needs and does not change or expand facilities or services. Without approval

1 to integrate the IUMP routes with the remaining CIP repairs, CIP repairs in sensitive areas in the
2 Merced River corridor will regrettably be undertaken, resulting in unending wetland and
3 meadow disturbance both from initial repair activity and future maintenance activities.

4 I declare under penalty of perjury that the foregoing is true and correct. Executed on
5 February 23, 2007, at Yosemite, California.

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8 Edward William Delaney, Jr.
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