

STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

DEPARTMENT OF FISH AND GAME

OFFICE OF THE GENERAL COUNSEL
1416 NINTH STREET, 12TH FLOOR
SACRAMENTO, CA 95814
(916) 654-3821



December 30, 2002

VIA FACSIMILE

Mr. Paul Murphey, Associate Engineering Geologist
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Re: ORDER DETERMINING THE LEGAL CLASSIFICATION OF
GROUNDWATER IN ALLUVIUM UNDER NORTH FORK
GUALALA RIVER

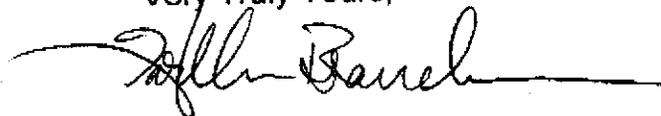
Dear Mr. Murphey:

The Department of Fish and Game (DFG) supports the State Water Resources Control Board's (SWRCB) draft order determining that groundwater pumped from the alluvium beneath the North Fork Gualala River is in a subterranean stream flowing through a known and definite channel and is thus subject to state permitting jurisdiction under the California Water Code. DFG suggests no substantive changes.

It appears that this decision will be precedential, since the SWRCB has not indicated otherwise in the draft order. DFG supports such a status. State groundwater jurisdiction has become a significant legal and policy issue as of late. Interested parties, including DFG, are in need of clearer guidance. Our agency believes that this order takes steps in that direction by adding crucial nuances to the basic test established in the *Garrapata* decision (D-1639).

If you have any questions, please contact me at (916) 443-4708. Thank you for your consideration in this matter.

Very Truly Yours,



HARLEE BRANCH
Staff Counsel

HB/hb