

KRISTI FURMAN
Clerk of the Board

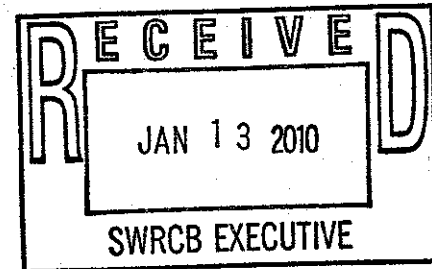


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COUNTY OF MENDOCINO
BOARD OF SUPERVISORS
501 Low Gap Road • Room 1090
Ukiah, California 95482

1/19/10 Bd Mtg/Wrkshp Item 7
Russian River
Deadline: 1/13/10 by 12 noon

January 13, 2010



Mr. Charles R. Hoppin, Chair
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-0100

Regarding: Draft Text of Proposed Regulations for Diversion of Water for Frost Protection in the Russian River Drainage

Dear Chair Hoppin and members of the Board:

I am writing to express the unanimous concern of the Mendocino County Board of Supervisors regarding this critical issue. In our letter of December 11, (see attached) we encouraged your Board to "recognize the voluntary contributions that have been made to date, identify incentives to encourage further participation and involvement, and provide for a greater level of scrutiny for those who decline to participate," an approach that we believe is consistent with the direction given at the November 18 workshop to develop a "hybrid" incorporating the existing voluntary actions into a regulatory framework.

The Mendocino County Board of Supervisors is gravely concerned that the draft regulation ignores the significant efforts of the Upper Russian River Stewardship Alliance (URSA) to successfully address the isolated occurrence of fish stranding in the upper Russian River drainage.

We encourage the State Water Resources Control Board (SWRCB) staff to capitalize on the substantial body of work that has been accomplished to date by those who are most knowledgeable of the local conditions and who are most committed to finding solutions that protect endangered fish species and safeguard our regional economy and their personal livelihoods. Perhaps more importantly, SWRCB staff has the opportunity to facilitate the development of a regional water management partnership that is consistent with the State Water Plan and could also serve as a model for other regions of the State.

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Fifth District

January 13, 2010

Reduced stream flows resulting from the simultaneous direct diversion for frost protection is the identified cause of the reported fish strandings from 2008. We are not aware of any allegations that groundwater pumping or phased diversions to storage have been identified as the proximate cause of fish mortality. We therefore see no justification for a blanket regulation applicable to "any diversion of water from the Russian River stream system, including the pumping of closely connected groundwater, for purposes of frost protection...."

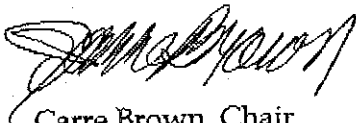
With all due respect we suggest that the draft regulations take a regional issue that is well on its way to resolution and converts it to an issue of statewide concern. Including groundwater extractions in the proposed regulation will do little or nothing to protect fish species during the frost protection season, but will clearly trigger a debate involving municipalities and other holders of water rights that will likely surpass the scope and controversy of the current frost water issue. Proposed regulations that are overly broad in scope and that rely on ambiguous and undefined terms will most likely invite expensive and protracted litigation.

We urge the SWRCB staff to recognize the impressive and in many respects unprecedented accomplishments of URSA and to work in partnership to develop the "hybrid" regulation called for on November 18. We believe this approach is both environmentally protective and fiscally prudent. Ignoring URSA's work at this critical juncture would certainly blunt local enthusiasm for future collaborative efforts to address this and other issues of mutual concern.

We therefore urge the SWRCB to refer the proposed regulations to staff to re-draft them in a way that protects listed fish species, maximizes the efficient use of state resources, incorporates the previous and ongoing work of URSA and others, and adopts appropriate measures to achieve comprehensive compliance. We believe it is imperative that these objectives be accomplished without provoking a contentious and unnecessary statewide debate or needlessly inflicting severe economic hardship on the agriculture community, local government and the citizens of Mendocino County.

Thank you for your consideration of our comments

Sincerely,



Carre Brown, Chair
Mendocino County Board of Supervisors

Copies: US Congressional Representative Mike Thompson
California Senator Patricia Wiggins
Assemblymember Wes Chesbro

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December 11, 2009

Mr. Charles Hoppin, Chair
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

RE: Letter of Support for the Development of Policy Language that Builds upon the Program of Conservation Actions, Monitoring and Transparency developed by the Upper Russian River Stewardship Alliance to Prevent the Take of Listed and Endangered Fish Species

Dear Chair Hoppin and Members of the Board:

I am writing to express the unanimous appreciation of the Mendocino County Board of Supervisors for the opportunity afforded to the Upper Russian River Stewardship Alliance (URSA), the Middle Russian River Stewardship Alliance (MRSA), and affiliated groups to make a comprehensive presentation at the November 18th workshop on the voluntary program of conservation actions designed to prevent a reoccurrence of the reported fish stranding of April, 2008. We understand the concern that all diverters are not participating. As the Board considers further action, we strongly encourage you to build on the solid foundation of voluntary actions that have already been developed. We strongly believe that what is needed at this time is clear policy direction from the State Water Resources Control Board, not yet another layer of regulation that will drive costs onto the regulated community and the regulators.

We are confident that URSA, MRSA, and their affiliates are committed to further refining the conservation actions already identified and to working in partnership with all relevant regulatory agencies and the State Water Resources Control Board to further identify solutions.

I will not reiterate here the list of short and long term solutions that have been implemented to date, but it is worth noting that the voluntary efforts of the regulated community have accomplished a great deal in a very short period of time. It is unlikely that emergency regulations, had they been imposed in March of 2009, would have resulted in the timely and successful implementation of the same number of problem solving solutions.

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The upper Russian River is highly regulated with fully monitored and carefully managed releases from storage that can be modified to address instream flow demands on the main stem. Improved utilization of these management techniques, and the re-purposing of existing, and construction of new off-stream storage have successfully addressed the problem of instantaneous draw down on the main stem.

It is imperative that diverters continue to work with other agency and State Water Resources Control Board staff to implement additional off stream storage projects, water right adjustments and other strategies that offer solutions that assure the long term protection and recovery of listed species.

Scientific studies have shown that Coyote Dam has had a major effect on channel morphology with concurrent impacts to the tributaries. The main stem channel has become progressively incised with negative impacts to connected flow in the tributaries. In some cases, management of the main stem flow can address these problems, but it is important to know that direct diversion for frost protection did not cause these problems and a ban on direct diversion will not prevent them.

It must be understood that conditions in the tributaries are highly variable and the blanket imposition of policies may have little or no benefit to listed species, yet have severe consequences for the regulated community. The detailed monitoring called for in the URSA and MRSA protocols will provide the data needed to identify additional problem areas and solutions. Substantial evidence was presented on November 18th that these groups, given a modest amount of time, are more than capable of effectively identifying and implementing solutions.

The development of policy language should not create unnecessary road blocks to improving water management for both agriculture and fisheries. Policy language should state that efforts to make infrastructure changes requiring modification of water rights that will reduce negative impacts on the fishery will receive the highest priority and that staff is directed to develop innovative methods to facilitate that outcome.

The development and implementation of policy should recognize the voluntary contributions that have been made to date, identify incentives to encourage further participation and involvement, and provide for a greater level of scrutiny for those who decline to participate.

Statements by some regulatory agencies indicate that the problem of fish stranding related to direct diversion for frost protection is persistent and pervasive but there is a lack of evidence to support these sweeping statements. When specific problems have been identified, as they were in 2008, the regulated community acted swiftly to identify and implement solutions. A higher level of transparency, by and between all parties, is essential to achieving the optimum protection of listed species.

Arbitrary or blanket actions taken without adequate supportive data will not solve problems. Monitoring alone will not solve problems. The development of effective watershed based solutions will be enhanced by an unbiased scientific approach to define and interpret appropriate monitoring, and to design site specific protocols. Accurate data and sound science are needed to identify solutions. Realizing the importance this process, the URSA and MRSA programs include an independent Science Advisory Group to assist both the regulated community and the agencies in providing for the collection and assessment of appropriate data and the evaluation of proposed solutions.

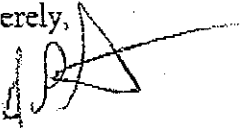
In considering the development of additional policy language it is prudent to bear in mind the significant contribution the agricultural community makes to the economy of the upper and middle Russian River regions in terms of direct economic impact, jobs provided, local and state revenues generated, and the overall contribution to the regional identity and economy.

The Mendocino County Board of Supervisors strongly supports all necessary actions to insure the protection and recovery of listed species, but any actions taken must be based on clear evidence and accurate scientific data. The evidence submitted by URSA and MRSA on November 18th conclusively demonstrates the effectiveness of the actions taken to date.

In conclusion, the Mendocino County Board of Supervisors supports the development of effective policy language that builds on the successful voluntary actions taken to date, avoids penalizing those who are already participating, and encourages evidence based solutions.

Thank you for your consideration of these comments.

Sincerely,



John Pinches, Chair
Mendocino County Board of Supervisors

cc: State Senator Patricia Wiggins
Assemblyman Wesley Chesbro
Sonoma County Supervisor Paul Kelley