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Comments for Workshop on Drought Issues State Water Resources Control Board February 17 & 18, 2014

My name is Felice Pace. I am Water Chair for The North Group Redwood Chapter Sierra Club and River Coordinator for Klamath Forest Alliance. I also represent Klamath Forest Alliance on and I am a contractor for the North Coast Stream Flow Coalition which is comprised of 18 member organizations which have joined together to protect and restore stream flows and related Public Trust Resources from the San Francisco Bay to the Oregon border, including the California portion of the Klamath River Basin. While these comments reflect positions held by many Coalition member organizations, they have not been reviewed and approved by all members and therefore are my own.

I appreciate the opportunity to share with the State Water Resources Control Board ideas on what the Board can and should do to address unprecedented drought conditions. These comments address the Board's request for input on "Water Availability Actions" - they do not address the "Temporary Urgency Change Petition for the Central Valley and State Water Projects"

This past Fall the largest salmon runs in recent history returned to North Coast streams and the Klamath River Basin. Unfortunately, low flow conditions in watersheds from which substantial amounts of water are diverted for irrigation or in which agricultural groundwater pumping negatively impacts stream flows prevented many returning salmon from reaching natal spawning grounds.

A significant opportunity to rebuild listed and at-risk salmon stocks was lost as a result. That lost opportunity to rebuild salmon stocks could have been avoided if irrigation from surface and groundwater had been curtailed last Fall. North Coast and Klamath River Basin watersheds in which agricultural ground and surface water use combine to dewater streams, stranding and killing salmon or preventing adults from reaching spawning grounds include the Napa, Eel, Navarro and Scott Rivers.

More damage to salmon, steelhead and other fisheries will take place this spring and summer if surface irrigation and groundwater pumping are allowed to dewater North Coast rivers and streams, stranding and killing out-migrating salmon and steelhead before they can reach the ocean and if another spawning run is prevented by low flow conditions from reaching natal spawning grounds.

Agricultural interests can be compensated for drought-related losses; but the loss of salmon and steelhead production will have impacts on humans and the environment long into the future. Therefore, I urge the SWRCB and the governor to use the powers invested in them under California law and the Drought Declaration to curtail surface irrigation and groundwater pumping where that is necessary to protect threatened, endangered and at-risk salmon and steelhead stocks.

With respect to curtailment of irrigation and groundwater pumping - and in response to the questions posed by the Board - the Board and Governor should:

- ◆ Prioritize watersheds where there are ESA-listed salmon and steelhead and where substantial evidence exists indicating that surface irrigation and/or groundwater pumping have in the past and/or are likely to dewater critical stream segments. In these watersheds all irrigation from ground or surface water should end no later than October 1st. If stream dewatering or low flows are preventing young salmon from migrating to the ocean or surviving in-stream, irrigation should be curtailed as

needed to prevent catastrophic losses which can not be easily recovered.

- ◆ Some holders of water diversion rights for stock watering divert much more water than their right because DWR has taken the position that the stockwater right is measured at point of use rather than at point of diversion. This has resulted in abuse of stockwater rights. Where surface water diversion and/or groundwater pumping must be limited to prevent stream dewatering which substantially harms listed and at-risk salmon and steelhead, water diversion for domestic use and stock watering should be limited to a maximum of 1 cubic foot per second unless a water right holder can demonstrate to a state official a valid need for a higher diversion rate.
- ◆ In deciding whether to curtail surface irrigation and/or groundwater pumping to protect listed and at-risk salmonids, the SWRCB and the Governor should rely first on adjudicated in-stream flows which have been legally determined necessary to provide for fisheries. Where adjudicated in-stream flows do not exist, the SWRCB and Governor should rely on the expert opinion of the Department of Fish & Wildlife and the National Marine Fisheries Service concerning the minimum flows needed to prevent substantial harm to listed and at-risk species. Substantial harm should be defined as harm from which it would take many years to recover.
- ◆ If the drought continues as expected, it is likely that limiting junior water right holders will not be sufficient in some watersheds to prevent substantial or irreparable harm to listed and at-risk salmonids. In those cases all water diversions - as well as groundwater pumping which is known to negatively impact stream flows - should be limited. As mentioned above, ending irrigation from surface and groundwater on October 1st would go a long way toward assuring that migrating adult salmon reach their spawning grounds next Fall and would not substantially impact agricultural production. Where irrigation must be curtailed before October 1st to prevent stream dewatering, compensation should be provided to affected parties.
- ◆ The SWRCB should do all it can to support and facilitate voluntary water forbearance programs like the program successfully operating in the Mattole River Basin. During the drought voluntary temporary transfer of water rights to in-stream uses should be encouraged and facilitated. Programs promoting and facilitating voluntary forbearance and voluntary transfers to instream use need to be provided adequate state funding. In the longer term, the SWRCB, CDFW and the legislature should encourage and fund the permanent retirement of consumptive water rights and permanent dedication of those rights to in stream use in watersheds like the Scott River Basin where surface water is known to be over-allocated.

If orchards and vineyards are lost it will take decades for their owners to recover. Allowing fields to go fallow for one year, on the other hand, results in losses for only that year. If species become more endangered as a result of our actions or the state government's failure to act, industries and communities will likely experience more regulatory constraints for years to come. Under these circumstances the wise course would be to prevent substantial and irreparable harm to all while providing disaster compensation to those whose water rights must be curtailed.

While not of our choosing, the drought provides Californians with opportunities. It could be an opportunity for more conflict among those who depend on water, once again pitting communities against one other, farmer against farmer and farmer against fish. But the drought can also be an opportunity for cooperation which aims to assure that the inevitable impacts to industries, communities and the environment are not irreparable or so substantial that recovery takes years or even decades.

Let's choose cooperation over conflict.