



Brian J. Johnson

California Director

October 17, 2013

Felicia Marcus, Chair
and Members of the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
Via email to commentletters@waterboards.ca.gov



Re: Revised North Coast Instream Flow Policy

Dear Ms. Marcus and Members of the Board:

On behalf of Trout Unlimited (TU) I submit the following comments for the 2013 Revisions to the Policy for Maintaining Instream Flows in Northern California Coastal Streams (Policy) to be considered at an Adoption Hearing October 22, 1013. Trout Unlimited is America's oldest and largest coldwater fisheries conservation organization, with 150,000 members nationwide and 10,000 in California.

As you know, TU was the sponsor of A.B. 2121, which mandated development of the Policy. We were involved in the Policy's development at every step the way. Many portions of the final Policy stem directly from Joint Recommendations made by TU and representatives of the wine industry. The final Policy including the joint recommendations was supported by groups ranging from TU, Russian RiverKeeper, and the California Sportfishing Protection Alliance to the Wine Institute, California Farm Bureau Federation, and United Winegrowers of Sonoma County.

TU urges the State Board to readopt the Policy as set forth in the most recent draft. I regret that I will be unable to attend the State Board meeting on October 22 because of a long-standing commitment in another part of the state, which will detain me and other TU staff members from our water program. Please accept my apologies.

Although we believe the State Board complied with CEQA in its adoption of the Policy and should adopt the proposed 2013 revisions, we also agree that the State's management of groundwater and subterranean stream resources must be improved. Two issues stand out. First, enforcement actions tend to focus on unregistered ponds (because they are relatively easy to identify), and not unregistered stream pumps or wells diverting from subterranean streams (both of which are harder to identify). This has unintended consequences. TU and many farm interests want to encourage diversions to storage as a replacement for direct diversions, but this is harder when direct diversions remain relatively unregulated. Second, we hear regularly from water users who are discouraged by the lack of guidance from the State regarding subterranean stream classifications. Except in an enforcement context, the State does not appear to have a mechanism for advising water users when their well is located in a subterranean stream. As a result, it is hard

to advise people when their diversion requires an appropriative water right or a riparian statement of diversion and use.

In recent conversations with Division of Water Rights staff, I have been encouraged by their expressions of interest in working on this subject. The SED for the Policy is not the best venue for that discussion, but I sincerely hope that we can make progress soon. If Board Members agree, TU would be enthusiastic about resuming those discussions immediately with your staff, other stakeholders, and the Department of Fish and Wildlife.

Thank you for considering our comments. We look forward to working with the State Board, water users, and other stakeholders to implement the Policy.

Sincerely,



Brian J. Johnson