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Date: 1/13/2010 11:57 AM
Subject: 1/19/2010 BOARD MEETING AGENDA ITEM 7 - Workshop on Russian River Watershed

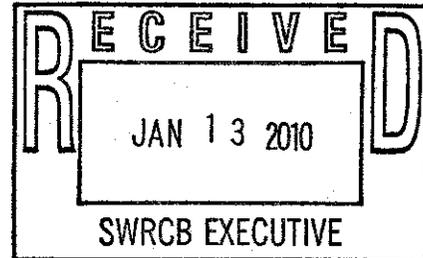
January 13, 2010

VIA E-MAIL

Clerk to the Board

State Water Resources Control Board

Email: commentletters@waterboards.ca.gov



Re: 1/19/2010 BOARD MEETING AGENDA ITEM 7
BOARD WORKSHOP ON RUSSIAN RIVER WATERSHED

According to the Board Meeting Agenda for the January 19, 2010 State Water Board Meeting and Workshop, "The State Board will hold a Workshop to receive a recommendation from staff concerning Board action to address the effects on salmonids of water diversion practices for frost protection of crops in the Russian River watershed in Mendocino and Sonoma Counties."

The Pauli Ranch is an interested party in this issue as its property is located within the Russian River watershed. The undefined, overbroad and ill-conceived terms of the draft text of the Board's proposed regulations would have significant implications for the agricultural water rights of the property owners; implications that have yet to be properly considered by the Board. As currently written, the proposed regulations would set in motion the possible adoption of rules and restrictions with the potential to injure reasonable and beneficial use of water on Pauli Ranch for frost protection, particularly given the seasonal needs of certain crops and the requirements of good agricultural practices at the winery. Further, the draft text of the Board's proposed regulations places restrictions on water use that are beyond the agency's jurisdiction, including groundwater use, in a manner that is contrary to existing law.

The Board has the jurisdiction to issue permits and licenses for appropriation of water from surface and underground streams, but the use of percolating groundwater is not subject to the Board's control. (See People v. Shirokow, 26 Cal. 3d 301, 304, fn. 2 (1980)). The draft text of the Board's proposed regulations clearly is intended to expand its reach beyond its current jurisdiction.

The workshop planned for January 19, 2010 states that it is intended to receive the staff's recommendation on this issue and that any proposed regulatory action will be publicly noticed with a public hearing. The Pauli Ranch will reserve its further comments regarding the proposed unlawful and unnecessary restrictions until that process is implemented. The purpose of these comments is to advise the Board that the proposed

Draft Text of Proposed Regulations fails to adequately consider the impact on the affected water rights holders and exceeds the jurisdiction of the Board.

Respectfully Submitted,

FOR

Janet Pauli, Interested Party

BY

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