

Schultz, Daniel@Waterboards

From: Hilary Avalon <hilary.avalon@gmail.com>
Sent: Monday, June 29, 2015 4:10 PM
To: Schultz, Daniel@Waterboards; OAL Reference Attorney
Subject: Proposed Drought Emergency Regulation Requiring Enhanced Water Conservation and Water User Information for the Protection of Specific Fisheries in Russian River Tributaries 2015-0624-01E

Dear Sir or Madam:

I hereby apply to the OAL and request that the OAL disapprove this regulation. I attempted to fax this communication, but the fax number on the Regulation is apparently incorrect.

I am a landowner in an area affected by the proposed regulation referenced above. Whereas I am in agreement with the Water Boards' efforts to conserve water, I am writing because I am concerned about the passage of this regulation because it does not go far enough to conserve water, it circumvents involvement of the local regional water board, and it ignores the California Environmental Quality Act. In addition, I believe the regulation has missed the mark on what it requires by exempting crop watering, and in particular, viticulture, and thus will not accomplish its stated goal of preserving salmonids in the affected fisheries.

The Regional Water Board was not consulted or involved. I communicated with David Leland at the regional water board who stated the Regional Water Board had not been involved with the process. I had a meeting with Sonoma County Supervisor, James Gore, who said he had not been involved in the process. In addition, the SWRCB did not have a local meeting with constituents. It is a mistake to leave out the local regional water board and local residents, as they have more detailed knowledge of the situation in the affected areas. I was notified too late of the proposed regulation and thus missed the comment period. I submitted comment, but I do not believe it was received because the deadline had passed. I do not believe this is proper protocol, even in the face of an alleged emergency. If the State Water Resources Control Board sends out a notice, they are required to follow the guidelines of Administrative Procedures. Policies handed down from the State are not likely to be effective. I believe the Regulation should be withdrawn and rescinded and the process should begin again, including a CEQA review of what is being suggested.

It is possible the local water board was not consulted because this regulation is being passed in the face of the "drought emergency." If that is the case, then I would like to refer you to page 39, paragraph 2 of the regulation where it states, "...low flows...resulting from diversions...and exacerbated by the...drought." This is not a new problem caused by the drought emergency; this is a problem resulting from water diverting which has been ongoing and increasing for decades. I would also draw your attention to the submissions in the Comments section of the Water Boards website, along with submissions in person at the meeting at the Water Boards office in Sacramento on June 17th by other interested parties which state that these drought conditions are not caused by lack of rain; they are caused by overuse.

Whereas the body of the regulation clearly states there is insufficient data available to determine which use/diversion of the water is causing the greatest reduction in stream flows, the regulation still permits the exemption of agricultural crop watering. This is a blatant mistake. In the dearth of actual data, if you use wine industry standards to look at estimated water use, you will see that vineyards likely use the most water. The Sonoma County Wine Grape Commission standards for estimated water use equate five acres of grapevines to a five-acre homestead. If we were to extrapolate that data, it would mean a 20 acre parcel would be allowed to plant only five acres of grapes in order to maintain the projected water use. That is not the way vineyards are

planted, however, so we can easily determine the water demands on a 20 acre vineyard are four times higher than water demand for a residence on 20 acres. The Board of Zoning Adjustments and Permit and Resource Management Department would never allow an increase in density to 10 homes on a 50 acre parcel, because there would not be sufficient water to sustain the use, yet grapevines are allowed at that density. In addition to watering the grape vines, at the wineries, large amounts of water are used during wine production. In my area, and throughout Sonoma County, the proliferation of wineries and vineyards is obvious. At this time, 60,000 acres of vineyards exist within the county and over 400 wineries, and there are over 100 applications for new wineries/vineyards in the PRMD.

The Coho Salmon was declared endangered in 2005; therefore, we have had 10 years to take action to save the salmon. The low stream flow situation, whereas potentially exacerbated by the drought, cannot be considered an "emergency" because the diversions have been increasing at a steady pace and with knowledge of SWRCB and the Department of Fish and Wildlife. Therefore, I believe the current regulation should not be passed as an "emergency" regulation and should be subject to CEQA.

There are multiple discrepancies in the allegedly supporting data. The Regulation's supporting documents show the salmon numbers decreasing over time until they shoot up at the end. Salmon population data on the NOAA website show different numbers, and increases and decreases in population that are not correlated with "drought" years. The data from the National Marine Fisheries Service states that runs of salmon in northern California were abundant, yet decreasing, as recently as 2003, which does not agree with the data provided as evidence for this emergency regulation. I do not believe we should ignore information from NMFS and NOAA when it is available. NOAA is predicting 2015 will be a bad year for salmon return based on a variety of environmental factors. If the salmon do not return to the affected areas, how will we determine if that outcome is a result of individuals not complying with conservation efforts or if it would have happened anyway, based on a host of other variables noted on the NOAA website? I believe it is important to have accurate data before proceeding with regulation.

We do not have sufficient data to determine what people are doing, if anything, to affect the salmon returning, and the only reasonable way to proceed is by collecting the missing data and allowing CEQA to be utilized, as it is designed. This issue should be referred to the local water authorities and an environmental impact report should be required. Even though the Governor waived CEQA for the current Regulation, this type of situation absolutely needs a CEQA review. Part of the reason salmon are endangered is because of the degradation of their environment and even more damage may occur if regulations proceed in the absence of a CEQA review or environmental impact report. Can you tell me what is the point of having CEQA if we waive it just when the environment is most in need?

The Regulation states future curtailments might be necessary if mandatory conservation efforts fail. I do not see how mandatory conservation efforts can possibly be deemed successful based on the criteria used for judging success. If the same limited number of salmon return, did we succeed? If there is no moratorium placed on the development of new wells in the affected areas, how can the conservation effort be measured at all? It is likely that new diversions will impact the watershed - potentially as much as what will be saved by the conservation efforts of concerned neighbors. More and more new places are developed and more and more new vineyards are planted and there seems to be no limit to the number that will be allowed. All of these watershed components are connected and cannot be analyzed independently. Even with complete data from every well in the affected watershed, if new development in these areas is permitted, there will be less water in the creeks, not more.

This regulation asks individuals in the affected areas to reduce water use on ornamental turf, on landscapes, in fountains, and to wash cars and driveways because these activities waste water. Mine is a water scarce area - we already conserve and use grey water in as many places as is allowable/safe, and have for more than a decade, and I think my neighbors do the same, of necessity. It is always a drought in our neighborhood. Supporting

verbiage in the Regulation claims neighbors have complained about other neighbors violating conservation efforts. I would like to see evidence that actual violations took place, and I would ask that the offending individuals be adjudicated instead of the entire affected area. I ask for an independent review of the evidence of violations before State action is taken based on nothing.

The regulation targets only four specific watersheds vital to salmon spawning without looking downstream at the remainder of the salmon habitat. The Russian River is affected by many other diversions, as well as changes to the river bed, river edges and river path, all along its length. Without restrictions in all the affected salmon habitat areas, water saved at the upper end of the watershed can be diverted downstream, leaving salmon in the same desperate condition and people in the upper watershed inconvenienced or potentially without water. We cannot make significant changes in the system by restricting water use in merely these few areas. We must restrict water use at every diversion point in the system. If the SWRCB is genuinely interested in saving salmonids, I believe a moratorium on new diversions should be enacted while they collect the data necessary to make an informed decision. The entire habitat must be taken into consideration, not just a tiny portion of it.

In summary, to accomplish the stated goal of conserving water in order to save the salmonids, you must do the following: include agriculture crop watering within the restrictions of the Regulation; limit the number of acres in these affected areas that can be used for large scale agriculture; use discretion during the permitting process - more vineyards in Sonoma County cannot be considered a "beneficial use" when we already have over 60,000 acres of vineyards; restrict water used on existing vineyards; and limit the number of wells that can be established in these water scarce areas. It is important to establish new regulations in concert with the local water board, utilizing the California Environmental Quality Act instead of side-stepping it. I believe this Regulation would never have been allowed if it had been subject to CEQA review.

Thank you for your attention. I appreciate the opportunity to submit comment on this regulation.

Sincerely,
Hilary Avalon
11910 Graton Road
Sebastopol, CA 95472
[\(707\) 824-0330](tel:(707)824-0330)
hilary.avalon@gmail.com