



"Agriculture is the backbone of Sonoma County. Water...its lifeblood."

April 29, 2010

State Water Resources Control Board
Cal/EPA Coastal Hearing Room, 1001 I St.
Sacramento, CA 95914

Sent via e-mail

Re: POLICY FOR MAINTAINING INSTREAM FLOWS IN NORTHERN CALIFORNIA COASTAL STREAMS (Cost Recovery)

Dear Members of the Board and Staff,

Thank you for the opportunity to provide final comments on the document for the policy to maintain instream flows in Northern California coastal streams through the water right permitting process. Although we remain deeply concerned that streams that may be already over-allocated in Sonoma County Class 4 water scarce areas may still be considered for new water right applications, and that this policy will not address the continuing damage to public trust resources from unpermitted water diversions and ground water extraction in the proximity our region's tributaries of the Russian River, we support the policy's protections and emphasis on measurable outcomes for the remaining new water right applications affecting northern California coastal streams.

Recommendation re: **Enforcement, Monitoring, Reporting Sections 8-10**
Cost Recovery - Permit Holder compliance monitoring fee

Per CEQA guidelines Section 21081.6, the task of designing monitoring and reporting programs in the responsibility of the public agency approving a project. The State's policy for maintaining instream flows should include the statement that a new Water Right Permit is 1) a discretionary action on the part of the State; 2) subject to the requirements of the California Environmental

Quality Act; 3) requires potential environmental impacts be mitigated; 4) includes mitigation monitoring/reporting. For the implementation of AB2121, a compliance monitoring fee should be required with the permit fee to fully cover the on-going State costs incurred with real-time monitoring and reporting of diversions and stream flows, to include inspections pertaining to the permit.

CEQA Section 21089 authorizes the lead agency to "charge and collect a reasonable fee from any person proposing a project subject to [CEQA] in order to recover the estimated costs incurred for procedures necessary to comply with [CEQA] on the project." This express authority allows the lead agency to levy fees to cover the costs of mitigation monitoring or reporting programs. The fee is limited to the estimated cost of the program, including the agency's administrative costs. Fees may be used to cover the cost of agency staff, as well as the cost of hiring special monitors or consultants, if needed. (Governor's Office of Planning and Research-CEQA Guidelines)

Existing regulations intended to protect biological habitat in our region have not been successful. Sonoma County does not require evaluation of potential impacts on streams in the review of projects under its jurisdiction and has a backlog of over 4000 local code violations unresolved. When suspected environmental damage has been reported, responsible agencies have not had the staff (funding) to respond. At present, water permit fees do not reflect the public costs of resource management.

Monitoring, reporting, and enforcement is part of the mitigation for permitting water diversions which may affect stream flows and salmonid habitat. In addition to permit-holder self-monitoring as outlined in the policy, the State's required monitoring, data collection, and enforcement must be feasible and cannot rely on a future date "when funds become available." The cost for mitigating the potential environmental impact of a project/permit should be borne by the applicant/permit holder and its economic feasibility written into the policy.

Our thanks to staff for this tremendous effort on behalf protecting public trust resources.

Craig Enyart
for the Maacama Watershed Alliance