



## California Sportfishing Protection Alliance

*"An Advocate for Fisheries, Habitat and Water Quality"*

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12 March 2015

State Water Resources Control Board Members

Tom Howard, Executive Director

1001 "I" Street, 24<sup>th</sup> Floor

Sacramento, CA 95814

[Commentletters@waterboards.ca.gov](mailto:Commentletters@waterboards.ca.gov)



VIA: Electronic Submission

Hardcopy if Requested

RE: State Water Resources Control Board Meeting, 17 March 2015, Item 9: Consideration of a Proposed Resolution Amending and Readopting a Drought Emergency Regulation Regarding Informational Orders

Dear Mr. Howard and Members of the Board:

The California Sportfishing Protection Alliance (CSPA) has reviewed the State Water Resources Control Board's (State Board) proposed Resolution Amending and Readopting a Drought Emergency Regulation Regarding Informational Orders and respectfully submits the following comments.

Given the consequences of the present drought, the significant imbalance between water supply and demand and the egregious over-appropriation of water in California; the proposed emergency regulation is both reasonable and prudent. The State Board cannot meet its constitutional mandate to ensure that the state's waters are reasonably and beneficially used and are not wasted or unreasonably diverted without acquiring the specific information the proposed regulation seeks to obtain. Indeed, CSPA believes information on all water right claims, including riparian and pre-1914 rights, plus water availability and the manner of diversion and the reasonable use of water is essential to the State Board's mission, regardless of drought, and should have been acquired long ago.

Such information is also fundamental to any potential adjudication of the state's water rights. CSPA has long advocated the necessity of adjudication and presently has a petition to adjudicate pending before the State Board. California cannot resolve the enormous disparity between actual water supply and claims to water without adjudication and, in its absence, citizens and fisheries will continue to suffer.

CSPA does believe the 30-day window for providing information may be too restrictive for individuals seeking to prove century-old water rights, especially where the State Board has not done a particularly exemplary job of informing water users of the reasons the requested information is necessary or providing them with sufficient guidance on the kinds of information that might be acceptable to support ancient water rights claims. The states of Colorado and

Idaho provided extensive information and assistance to individuals seeking to provide proof of water right claims during their adjudications and California would be wise to follow their example.

Lastly, there are some who seem to believe that only water right holders have legal standing to bring complaints for unauthorized diversion/use or that complaints are limited to unlawfully acts by riparian or pre-1914 water rights holders or that complaints must allege the illegal diversion of “stored water.” To the contrary, any citizen who enjoys our rivers and fisheries has standing to bring a complaint against an unlawful diversion or unreasonable use or manner of diversion of water that harms the public trust, including improper diversion of riparian flows that provide ancillary benefit to public trust assets.

In fact, the Board’s own website acknowledges that, “The State Water Board’s Division of Water Rights relies on the public to help identify illegal diversions of water and violations of water right permit and license conditions.”<sup>1</sup> Nor does a complaint have to be conclusive and specific to a particular violator. It only needs to provide information sufficient to raise a significant possibility that unlawful actions are occurring within a watershed to lead the State Board to investigate.

Thank you for your consideration. If you have questions or require clarification, please don’t hesitate to contact us.

Sincerely,



Bill Jennings, Executive Director  
California Sportfishing Protection Alliance

cc: Members of the State Water Resources Control Board  
Tom Howard  
John O’Hagan  
Barbara Evoy  
Jean McCue  
Les Grober  
Rich Satkowski  
Andrew Tauriainen

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<sup>1</sup> [http://www.waterboards.ca.gov/waterrights/board\\_info/faqs.shtml#toc178761111](http://www.waterboards.ca.gov/waterrights/board_info/faqs.shtml#toc178761111)