

Elemental-Bio-Terrestrial Solutionists

APR 2 2009

1 April 2009  
SWRCB EXECUTIVE

**To: All Members of the State Water Resources Control Board**

**From: Patrick Porgans & Associates, Inc., on Behalf of NOWWE** [Fnt:lap1/nowwepatoboardfrostprotecttoesatake]

**Attention: Clerk of the Board**

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

**Re: Submittal of Comments for the "4/7/09 Russian River Frost Protection Workshop"**

In accordance with the "procedural matters" referenced in the State Water Resources Control Board's Notice of Public Workshop, "4/7/09 Russian River Frost Protection Workshop," Porgans & Associates (P&A) submits the following comments and is also advising the Board of its intention to participate in the "workshop." P&A's participation is at the request and direction of New-Old Ways Wholistically Emerging (NOWWE).

On behalf of NOWWE, P&A will provide input and information regarding the current and long-standing hydrological impacts associated with water consumptive demands within the Russian River watershed; impacts to salmonid populations, ESA "take" issues relative to frost control protections, unauthorized use of the waters of the state, illegal diversions, water appropriations, and monitoring and compliance issues. We respectfully direct staff to the historical record, which contains formal comments submitted by P&A on behalf of NOWWE, relative to the "North Coast Instream Flow Policy- AB 2121"; State Water Boards Strategic Planning Update;<sup>2</sup> SWRCB's Policy Directions on Water Right Enforcement;<sup>3</sup> complaints and/or concerns pertinent to appropriation and/or over-appropriation of water;<sup>4</sup> and P&A and NOWWE's letter to Board, "Request that it Hold all Future Water Right Application in Russian River Watershed in Abeyance."<sup>5</sup> Additional and other related communications, sent by P&A and/or NOWWE, are in the record, addressing our concerns over the Board's action and/or failure to act, in accordance with California Water Code Section 1825, and the Board's failure to protect "all" beneficial users/uses, including ESA listed species. [Note: The aforementioned are only a representative example of our communications with the Board and/or its staff, please refer to your records/files should you required additional documents.]

Lastly, for the record, our involvement in this "workshop" can be viewed as perfunctory and as a means to formally notify the Board that "voluntary efforts" as a rule are not very fruitful. In light of the deplorable conditions of salmonid species, within the watershed, NOWWE and P&A expect the Board to exercise the full extent of its "regulatory jurisdiction" to effectively address the ongoing-unmitigated impact to listed species and the degradation of the waters of the State. Failure by the Board to do so will prompt legal proceedings against the Board for aiding and abetting a "take" of listed species, as defined by the Endangered Species Act. Thank you for your time and attention.

(916) 543-0780 Fax: 543-4490 Cell: 833-8734 [progansinc@sbcglobal.net](mailto:progansinc@sbcglobal.net) P.O. Box 60940, Sacramento, CA 95860

<sup>1</sup> Victoria Whitney's Response to P&A 16 Jan. 2008, Funding AB 2121 Policy, SWRCB N. Coast Instream Flow Policy.

<sup>2</sup> NOWWE to Board 25 April 2007.

<sup>3</sup> P&A to Board 15 June 2007.

<sup>4</sup> V. Whitney's Response to P&A's Request for Clarification of Distribution of Water Rights by Diversion Amounts 2 August 2007.

<sup>5</sup> P&A and NOWWE to Board 3 April 2007.