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DIV OF WATER RIGHTS
SACRAMENTO

April 10, 2008

TO: Division of Water Rights

RE: **Comment Letter - AB2121**
North Coast Instream Flow Policy

I have had an opportunity to review the draft instream flow policy and have several comments.

- The resulting plan goes way overboard in protecting fish. There needs to be greater balance between fish and other water uses. Where is the cost benefit analysis analyzing a balance of uses?
- The new policy will hit the north coast grape growing industry especially hard. The wine business is a critical industry in our region; the California Farm Bureau values the North Coast grape crop at one billion dollars per year. In reviewing the financial projections cited in the policy, it is clear that few vineyard operations can afford to modify their reservoirs in order to achieve mitigated compliance. Just as the manufacturing jobs have left the United States, we will run our regional agricultural businesses out the door. There is a global winegrowing industry posed to grow market share.
- This policy will impact the multitude of small users most harshly, especially as compared to the biggest municipal water diverters. The way your policy will play out is that it will impact the newest water rights holders the most; these are the very same users who will be least able to afford to comply.
- Those folks caught up in the ten year+ backlog of water rights applications and petitions at the Division of Water Rights will be unfairly penalized. Applying these new rules retroactively to existing dams and pending applications fails the test of reasonable discretion and is perhaps litigatable.
- The science of the plan is poor. No where in the policy analysis does it address whether the restrictions will in fact improve the situation for fish. When considering the volumetric change in water flow that will result (as compared to the total amount of water during the wet season), it's difficult to imagine there will be a substantial improvement in the quality of life for our aquatic friends.

I request that a hearing be scheduled subsequent to the May 1st deadline for written comments.

Peggy B. Phelan