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Water Resources  
Control Board

# Rhodes Vineyards

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Ms. Karen Niiya, Senior Engineer  
Division of Water Rights  
State Water Resources Control Board  
1001 I Street, 2<sup>nd</sup> Floor  
P.O. Box 2000  
Sacramento, CA 95814

SECRET  
MAY 1 11 36 AM '08  
KAREN NIIYA

RE: Comment Letter – AB 2121 Policy

Dear Ms. Niiya,

By the end of January 2008 I was made aware of the Draft Policy for Maintaining In-stream Flows in Northern California (hereinafter Draft Policy) and subsequent to that other documents pertaining to the Draft Policy. At this point I find that the more time and effort I spend studying these documents that even more time and effort are necessary to fully grasp or better yet, comprehend the full impacts of the Draft Policy. Moreover the origins of AB 2121, the role of the Plenary Group and the so called "Elite Group" of policy makers must be taken into consideration when attempting to digest this Draft Policy and all of this deserves more attention than time allows considering the May 01, 2008 deadline (see R.H. Light attached letter dated April 22, 2008, page 22).

For the past 40 days the farmers of Mendocino County have been operating under the threat of frost almost nightly. I and my fellow colleagues in Redwood Valley have been working throughout the early morning hours, frost protecting our crops which leaves precious little time to address the Draft Policy in full. I respectfully request an extension of the response deadline and a delay in any actions taken by the SWRCB (hereinafter the Board) until such time all those who want to respond have been given ample time. Speaking for myself, I can be a lot more help trying to craft a solution than just finding fault with the current proposal; however I must fully and completely comprehend all aspects of this Draft Policy and the accompanying documents beforehand. That takes time, and for those of us who have most recently been made aware of the Draft Policy, we have not had ample time. This is a very complex writing containing nuances in engineering calculations, potentially huge financial costs, water usage affecting my future, my family's future and the future of the local salmonid population.

Presently let it be known that I object to the adoption/implementation of the Draft Policy stemming from the closed door policy of the "Elite Group". The formation of that exclusive group, the actions it has taken with the absence of equitable representation of Mendocino County, its residents and its stakeholders in my opinion is disingenuous. It is not in the "**public interest**" to conduct meetings barring the **interested public** from attending and having their voice heard. Furthermore let it be known that I object to the adoption/ implementation of the Draft Policy stemming from the subsequent Cloak and Dagger manner in which AB 2121 was introduced and passed in the Assembly. If what I have come to understand is true, the bill AB 2121 was printed some four hours prior to a vote being taken. There is absolutely no way any responsible lawmaker can read and understand the consequences of such a bill within four hours, let alone vote affirmatively. It is not in the "public interest" to attack a small group of its citizens for a condition that exists, when the reason or reasons for that condition is unknown. It is not in the "public interest" to attack separate groups of citizens throughout the state using a divide and conquer philosophy to impose special interest legislation upon the entire state or any part of the state.

I have worked in government and become aware how some staff personnel approach these types of tasks. One such method is to reverse engineer a proposed policy. This appears to be the case here as well. The Draft Policy seems to be reverse engineered allowing almost no water to remain in Mendocino County, whereas the larger watersheds and the valley floors within Sonoma County are not so affected. Whether this was intentional or unintentionally, it is the outcome for Mendocino County.

The proposed Draft Policy leaves out Lake Sonoma and Lake Mendocino as well as the main stem of the Russian River south of the Coyote Dam, (yet includes the main stem of the West Fork of the Russian River, currently not under the control of SCWA). Both lakes combined have done more to diminish the salmonid populations within the Russian River watershed than all the farms in the proposed draft area ever could. The State of California's developing highway system has removed even more spawning territory; County and City road departments within the draft area have undoubtedly compromised even more.

Water is now being released into the Upper Russian River from Lake Mendocino and into Dry Creek from Lake Sonoma. Contrary to nature's pattern where historically those waterways dried out in the summer, they now flow year round and to what effect?

Data that was used to create this Draft Policy was generated from other locations with differing rainfall amounts, temperatures and terrains; some areas as far away as Alaska, drawing conclusions while making comparisons to snow melt rivers and our own Russian River. Not to make light, but we might as well have considered the Nile.

The data gathered from studies which enable or support the reverse engineering process with its "overlay of restrictions" such as *twelve percent grade over 330 feet* are spread liberally throughout the proposed draft area within the Draft Policy. Engineering theorems such as BANK FULL FLOW and 1.5 YEAR RETURN PEAK FLOW are other methods to overlay and cause further restrictions the farmer must face in his or her quest to store some of the abundant winter runoff water.

When examining the surrounding terrain of the Russian River it would not surprise me if it once behaved and exhibited many of the characteristics of the Mississippi River. It now appears more like the Colorado as it passes through the Grand Canyon. Bank Full Flow will not in my opinion return the West Fork of the Russian River back to a slow moving "geomorphically correct" salmonid spawning area.

Recently I hired an engineer to examine a section of the West Fork of the Russian River that flows through my property. The engineer spoke to the amount of water flowing at any one time through the channel, the width of the channel, the velocity of the water and the load carrying capacity of the flowing water. The engineer explained how the river bed is formed and why this river will continue to cut deeper and deeper. The eventual result in this little area of the river will be thousands if not tens of thousands of cubic yards of soil being eroded and carried down the river. The gravel deposits that were laid down over thousands of years have been incised and in many places cut completely through, exposing the soft unprotected clays, soils and silts to be further cut away. The tributaries follow suit as the physical nature of the river dictates in its quest to seek equilibrium.

If the river needs our help, it is in the raising of the river bed and where the sides have been artificially narrowed, widened by eliminating those barriers. The gravel is available in the river but presently it is carried down the stream in response to the artificially created high hydraulic velocity of the flowing water. The river needs to be slowed so the rock and gravel will drop out of the water and remain in place. It needs to jump its banks and flood. It needs its bed to be raised so to recreate the habitat that these fish need to survive. It does not necessarily need more water.

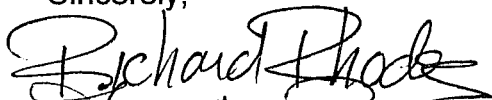

Not so long ago the Russian River would flood in the winter storms and recreate its banks. Then man moved into and settled these fertile river valleys. Those fertile valleys then became cities like Santa Rosa. Man pushed the river straight, eliminating the many twists and turns, effectively shortening the length and narrowing the width. When the river pushed back he answered with levies. When the levies proved not enough he erected two huge dams to hold back the flood waters, those same waters that helped create and maintain these incredible fish species. The physical actions of the river were changed. Is it any wonder that the biology of the river changed as well?

In the ocean, corral reefs are dying off. The whales are all but extinct. Fishing craft lay out miles upon miles of monofilament net catching anything and everything in its path. While still others bottom drag the ocean causing unseen environmental degradation, hauling to the surface all those creatures the other nets have missed. Offshore at the mouth of the spawning rivers a flotilla of boats equipped with the latest sonar and fish tracking gear await with net, gaff and hook to intercept their catch. High powered engines and the ability to respond instantly to their fish finding electronics, mechanized lifting devices, motors and winches are all part of this industry. If that were not enough, lying just offshore and out of sight are the huge fish canning factory ships.

Please find attached a letter with attachments written to the Board by R. H. Light dated April 22, 2008 and include that letter in my comments. Though I feel differently about some of the issues raised in the R.H. Light letter, presently these objections will suffice. Furthermore I would like it to be known that I object to the "subjective fashion" in which the criteria for this Draft Policy were created and to the "subjective fashion" in which the policies within the Draft Proposal are to be interpreted. The Draft Policy should contain language that addresses non permitted diversions. That language should be broad enough so the Board can affectively curtail those non permitted uses.

I am hopeful that we will be able to reach a mutually agreeable resolution and that the pending water permits will be issued. If I can be of any assistance to that end, please do not hesitate to contact me.

Sincerely,

Richard & Annette Rhodes