

Hand delivered by
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on
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State Water Resources Control Board Workshop
Wells Fargo Center, Santa Rosa, California
North Coast Instream Flow Policy
6 August 2008

Comments by Rudolph H. Light
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STATE WATER RESOURCES CONTROL BOARD

My name is Rudolph Light and I live on the West Fork of the Russian River in Redwood Valley in Mendocino County.

The North Coast Instream Flow Draft Policy was released for public comment in late December 2007, and public comments were due by May 1, 2008. About 668 comments were received, and once the 475 nearly identical form letters and a number of letters which weren't too relevant to the Policy were accounted for, there remained quite a few commentaries of substance. Staff has had time to read them all and take into consideration the content of both the public comments and peer reviews.

The Draft Policy will be submitted to the Board in the next four months. Before that occurs, I would like to ask the Division staff eight very important questions. I realize that not all questions can be answered in detail today, but each is framed as a yes or no question, which can be answered now.

I'll read each of them first for the benefit of the audience, and will hand the questions to staff. Then, the staff can reply to each one when they have the questions in their hands. It won't take long to provide us with a brief response.

1. Are you certain that implementation of the Draft Policy will significantly improve anadromous fish habitat and fish passage in streams, and are you certain it will increase population numbers of coho, chinook and steelhead?

2. Has what you are proposing in the Draft Policy ever been done before in any watershed of any size? And, has such a policy been operable before on a multibasin level of 4,900 square miles, the size of the Policy area?

3. Would you be willing to experiment and try out the provisions of the Policy for a few years on a medium-sized watershed, say 100 square miles, to see if you obtain the desired outcome, and then if the experiment proves successful, apply the Policy to a larger area at a later time?

4. Do you agree with the cost estimates provided by the engineering firm of Wagner and Bonsignore that the direct costs to landowners to implement the Policy will be somewhere between a quarter of a billion dollars and 1.8 billion dollars? (Wagner and Bonsignore Commentary Sec. 10.7.1) and that there will also be high costs incurred by the agencies to administer the Policy?

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5. Section 11.1.1 states [quote], "The State Water Board also will consider adding terms and conditions to existing water rights or revising ambiguous or inappropriate terms and conditions when analyzing petitions. Additionally, the State Water Board may impose terms and conditions to implement this policy through a public trust proceeding, an enforcement proceeding or as a result of a complaint investigation." [end of quote] This sounds like it will allow an environmental organization to file a complaint on an already licensed diversion and as a result the Division can impose the new conditions of the Policy on that license. So therefore, does the Division intend to modify conditions of already licensed onstream ponds or diversions to pit ponds to make them retroactively compliant with the Policy even when the licensee has not filed a change petition? If so, would these new conditions require demolition of an existing permitted dam, and therefore require construction of new offstream storage? Also, if demolition were not required for a pond, would a modification require a licensee to construct bypass facilities to meet the new MBF or MCD requirements on existing permitted ponds?

6. Do you still plan to use the formulas for Minimum Bypass Flow and Maximum Cumulative Diversion rates as written in the Draft Policy of December 2007? (Secs. 2.3.2 and 2.3.3)

7. Will you exempt small watersheds from the MBF and MCD requirements, and if so, below what Drainage Area size would the exemption apply? (Secs. 2.3.2 and 2.3.3)

8. Do you still intend to include small domestic uses and stock pond registrations in the Policy? (Sec. 5.0)

Thank you in advance for your answers.