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**Date:** Tuesday, March 15, 2005 9:11 PM  
**Subject:** Re: TU Petition

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Re: TU Petition  
 Division of Water Rights Workshop  
 State Water Resources Control Board  
 11:00 AM March 17, 2005

Dear Chairman Baggett and Board Members:

My name is Brenda Adelman and I am Chair of Russian River Watershed Protection Committee. We represent about 1500 property owners in the lower Russian River and have worked on Russian River issues since our formation in 1980. We have provided your Board with testimony on numerous issues over the years and now wish to provide supporting comments for the TU and Audabon Petition that you are considering at your Thursday Board Meeting. We would have liked to be there in person, but we had a difficult conflict with another issue we are tracking and can not make the trip.

You may recall that we had submitted extensive testimony on the emergency low flow application by the Sonoma County Water Agency last year. We continue to be very concerned about the dire conditions in the Russian River, particularly in summer. Illegal diversions and a lack of enforcement exacerbate water quality problems greatly. If things continue as they are, we worry about impacts on threatened species, the watershed environment, as well as a great diminishing of recreational opportunities. Furthermore, we are very concerned about a potential decline in our drinking water supply. We support the following recommendations as described in the Petition.

The petition proposes the development of guidelines and procedures in order to assure coordinated, timely and effective regulation of water diversions in coastal streams from Marin County northwards to the Mattole River, including the Russian River watershed, as well as those streams in Napa County tributary to San Pablo Bay (central coast streams).

The petition is intended to assist in the implementation of AB 2121 as signed by Governor Schwarzenegger on September 30, 2004. This law requires the State Water Board, on or before January 1, 2007, to adopt principles and guidelines for maintaining instream flows in central coast streams in accordance with State policy for water quality control, for the purposes of water right administration. AB 2121 also requires the State Water Board to annually prepare a chart of pending applications to appropriate water in the Counties of Marin, Napa, Sonoma, Mendocino, and Humboldt, describing the status of each application, the actions taken in the preceding year, the proposed actions for the upcoming year, and the proposed date for final action on each application.

The petition asserts that in order to protect steelhead and coho salmon fisheries and other public trust values, reform of the water rights system is necessary. Further, the petition claims:

- 1) The State Water Board and the other State agencies named in the petition have not protected the public trust uses of the central coast streams against unauthorized diversions;
- 2) The State Water Board and the other State agencies named in the petition have not adopted adequate procedures for coordinated environmental review of water right permit applications and related permit applications;
- 3) The State Water Board does not have an adequate procedure to assure

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timely action on water right permit applications;

- 4) The State Water Board does not have an adequate procedure for consultation with responsible agencies in the preparation of environmental documents for its action on water right permit applications;
- 5) The State Water Board improperly exempts small domestic water uses and stockponds from environmental review of cumulative impacts;
- 6) The State Water Board does not have guidelines adequate to determine the existing diversions from central coast streams;
- 7) The State Water Board does not have guidelines adequate to establish water right permit conditions that protect and restore coho and steelhead fisheries in good condition;
- 8) The State Water Board does not have guidelines adequate to establish permit conditions for mitigation monitoring and reporting; and
- 9) The State Water Board does not take adequate enforcement actions to prevent or correct unauthorized diversions.

The petition includes additional claims against DFG, the State Lands Commission, and the five counties named in the petition.

The petition requests the following remedies from all agencies named in the petition:

- 1) A coordinated response to the petition with the State Water Board acting as lead;
- 2) Adoption of an interagency Memorandum of Understanding (MOU) for coordination of the agencies' respective proceedings to approve or condition water diversions and related facilities or activities; and
- 3) A systematic investigation of central coast streams to identify unauthorized diversions.

The petition requests the following remedies from the State Water Board only:

- 1) Amendment of the State Water Board's standard MOU for preparation of California Environmental Quality Act (CEQA) environmental review documents on water right permit applications consistent with the interagency MOU;
- 2) Adoption of guidelines for the substantive review of water right permit applications that use as a starting point the 2002 guidelines for protection of fish prepared jointly by DFG and the National Marine Fisheries Service;
- 3) Adoption of a general time limit for the processing of water right permit applications on central coast streams not to exceed three years;
- 4) Enforcement actions and the use of enforcement procedures that effectively prevent or correct unauthorized diversions in the central coast streams; and
- 5) Adoption of regulations to ensure that small domestic use and livestock stockpond registrations comply with CEQA.

We appreciate the Board's consideration of this matter.

Sincerely,

Brenda Adelman

