

Sir went into individual ownership violated developer agreement

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
901 - P Street, Sacramento, CA 95814
MAIL: P.O.Box 2000, Sacramento, CA 95812-2000
TEL: (916) 657-1361 FAX: (916) 657-1485

Shareholders

how many wells

Williamson Act
Planning Director

ANSWER TO COMPLAINT

CID# _____
File: _____

Answer to the Complaint made by: California Sportfishing Protection Alliance
(Complainant)

The allegations made in the Complaint are correct except as follows: Please see Attachment to Answer submitted herewith,
which is incorporated herein by reference.

My use of water is: Please see Attachment to Answer submitted herewith, which is incorporated herein
by reference.

The basis of my claim to divert water is:

- An appropriative right under License No. _____, Permit No. _____, Application No. _____
- A riparian or pre-1914 claim supported by Statement of Water Diversion and Use No. _____
- Other: Please see Amendment to Answer submitted herewith, which is incorporated herein by
reference.

I offer the following possible solution: Santa Margarita Ranch looks forward to meeting with Board representatives
and giving the Board opportunities to conduct site visits.

A copy of this answer has been sent to the Complainant by: Certified Mail Regular Mail Personal Delivery

I declare under penalty of perjury that to the best of my knowledge the foregoing is a true statement.
SANTA MARGARITA RANCH L.L.C.
BY PACIFIC IMPROVEMENT L.L.C., MEMBER
BY ROE ROSE
MANAGING MEMBER

Signature: _____ Date: October 22, 1999
Address: 780 Pismo Street, San Luis Obispo, CA 23401 (Zip Code) _____ Phone No. (805) 543-4333

Return your answer to the Division of Water Rights, P. O. Box 2000, Sacramento, CA 95812-2000.
Failure to answer, or an incomplete or unsatisfactory answer to this Complaint, will result in an investigation by the Division of Water Rights.

STATE OF CALIFORNIA

Before The

WATER RESOURCES CONTROL BOARD

No. 363 CAR-2020 (40-03-07)

ATTACHMENT TO ANSWER
OF SANTA MARGARITA RANCH
TO PUBLIC TRUST COMPLAINT

BY CALIFORNIA SPORTFISHING PROTECTION ALLIANCE

Santa Margarita Ranch, LLC ("SMR") hereby responds to the Public Trust Complaint ("Complaint") of California Sportfishing Protection Alliance ("CalSPA") dated September 12, 1999 as set forth below. The paragraphs in this Answer correspond to those in the Complaint:

1. SMR is organized as a limited liability company under the laws of the state of Delaware and is qualified to do business in the state of California. SMR holds legal title on behalf of various beneficial interests to approximately 13,800 acres of land commonly known as Santa Margarita Ranch. SMR is currently planning to plant up to 3,000 acres of vineyards on various portions of a 9,600-acre section (the "Rancho Parcels") that has historically been used for farming and ranching. SMR will begin planting vineyards in Spring 2000. There are four tributaries of the Salinas River that occur on some portion of the Rancho Parcels: Santa Margarita Creek, Yerba Buena Creek, Trout Creek and Rinconada Creek. Except as so alleged, the allegations in paragraph 1 of the Complaint are denied.

2. SMR plans to irrigate the initial vineyards it plants using groundwater from wells drilled into the bedrock of the Santa Margarita Formation in the Rinconada Creek watershed. These wells will not draw water from the shallow alluvium. Rather, they will draw groundwater from below the bottom of the alluvium. The Santa Margarita Formation is comprised of marine deposited sandstone beds which reach a thickness of about 2000 feet. These beds are locally fossiliferous and are slightly to highly cemented. Accordingly, SMR's pumping of water from these wells for the vineyards will not significantly reduce streamflows or adversely impact the species as CalSPA alleges in this paragraph. SMR looks forward to having an opportunity to conduct a meeting and site visit with a State Water Resources Control Board representative to explore these matters in more specific detail. For these reasons, the allegations in paragraph 2 of the Complaint are denied.

offstream storage
store water for more than
cleaning out

Chris asks to see
offstream storage sites

how is it that
Santa Cruz is monitoring
ag pumping of groundwater } how it
came about?

Co
State Water Resources Control Board

salt water intrusion

3. SMR Parcels enjoy annual rainfall that is above average for San Luis Obispo County (approximately 37 inches per year). A substantial portion of the water necessary for vineyard irrigation will come from this natural source, supplemented by drip irrigation supplied by the Santa Margarita Foundation bedrock wells referred to above. SMR will irrigate and frost protect vineyards based on a philosophy of "less is more," taking advantage of certain dramatic improvements in, among other things, targeted frost protection systems that allow greatly reduced use of water. Based on this philosophy, the anticipated irrigation needs of the vineyards are approximately 0.6 acre-feet per acre per year as analyzed by our farming tenant. The vineyards will be planted in a sequential manner over the next two years. The water supplying these vineyards will be similarly phased. Due to these facts, the allegations in paragraph 3 of the Complaint are denied.

where figure from citation

Kathy Letto

4. No environmental document pursuant to the requirements of the California Environmental Quality Act is required for the vineyard installation and operation. Therefore, the allegations in paragraph 4 of the Complaint are denied.

5. SMR did receive a copy of the July 21, 1999 letter from the Department of Fish and Game attached as Exhibit "A" to the Complaint, which speaks for itself. Since CalSPA has mischaracterized the contents of the letter, the remainder of paragraph 5 of the Complaint must be denied.

6. The July 21, 1999 letter attached as Exhibit "A" speaks for itself. The remainder in paragraph 6 of the Complaint must be denied.

7. SMR is not currently pumping any water from wells for any vineyard uses because no vineyards have been planted. The earliest time that SMR would pump water for such purposes would be February 2000, when the vineyards would first be planted. For these reasons, the allegations in paragraph 7 of the Complaint are denied.

8. SMR is not violating the California Constitution or any other law, and all of the allegations in paragraph 8 of the Complaint are denied.

9. SMR's anticipated pumping of water for the vineyards will not conflict with or violate any of the plans, agreements or requirements identified in paragraph 9 of the Complaint. Accordingly, the allegations in paragraph 9 of the Complaint are denied.

10. This Complaint is based on surmise and speculation, rather than the true facts. It also is not properly based on any of the identified legal authorities. Accordingly, the allegations in paragraph 10 of the Complaint are denied.

SMR denies that CalSPA is entitled to any relief whatsoever. SMR looks forward to cooperating fully with the Water Resources Control Board in any investigation that it may choose to conduct.

PROOF OF SERVICE BY UNITED STATES MAIL

I, Helen Milne, declare that I am over the age of eighteen years and not a party to this action. I am employed by Landels Ripley & Diamond, LLP ("the firm") and my business address is Hills Plaza, 350 The Embarcadero, San Francisco, California 94105-1250.

On October 29, 1999, I served the following documents in this action:

ANSWER TO COMPLAINT

by placing a copy thereof in an envelope bearing the following name and address of the person to be served:

Robert J. Baiocchi
California Sportfishing Protection Alliance
P. O. Box 357
Quincy, CA 95971

On the above date, during regular business hours, I sealed the above-described envelope and placed it for collection and mailing with the Postal Service, postage prepaid, in accordance with the firm's ordinary business practice described above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 29, 1999, at San Francisco, California


Helen Milne

State of California
Before the State Water Resources Control Board
Santa Margarita Ranch
Santa Margarita Creek, Yerba Buena Creek, Trout Creek, and Rinconada Creek, Tributaries to Salinas River Watershed thence Pacific Ocean
San Luis Obispo County
Public Trust Complaint by
California Sportfishing Protection Alliance
Against Santa Margarita Ranch

9166572167
Chris Murray

Percolating groundwater
not in our authority

- Memo/report of investigation
- goes out to competing parties

In accordance with the provisions of the California Code of Regulation, Title 23, and also the provisions of the California Water Code, and other applicable provisions, the California Sportfishing Protection Alliance (hereinafter known as "CSPA") hereby complain against Santa Margarita Ranch as follows:

1. Santa Margarita Ranch proposes development activities which includes development of a 3,000 acre vineyard located on four tributaries to the Salinas River Watershed. Those tributaries are Santa Margarita Creek, Yerba Buena Creek, Trout Creek, and Rinconada Creek.
2. The proposed activities by Santa Margarita Ranch has the potential to significantly reduce streamflows with a resulting adverse impact to federally listed steelhead trout species and their habitat, and also federally listed red-legged frog species and their habitat, including other fish species and their habitat, other aquatic species and their habitat, and riparian habitat.
3. It is the understanding of the CSPA that Santa Margarita Ranch may divert from said tributaries and the Salinas River Watershed between 3,000 to 5,000 acre-feet, and also as much as 6,900 acre-feet of water for said development activities. The proposed diversion of water by Santa Margarita Ranch has the potential to have a cumulative impacts to listed steelhead and red-legged frog species, and other aquatic species in the Salinas River resulting from existing and proposed water diversion projects. i.e. Enlargement of Salinas Dam in which the CSPA is a protestant in that matter.
4. An environmental document pursuant to the requirements of the California Environmental Quality Act and its Guidelines has not been prepared or completed for the proposed development by Santa Margarita Ranch and/or prepared and completed by any local and state agency for the proposed development activities and the diversion of water from said tributaries.
5. The California Department of Fish and Game on July 21, 1999 has advised Santa Margarita Ranch that they must file a water right application with the State Water Resources Control Board and secure a water right permit from the State Water Board to divert and use water from said tributaries. Also see Department of Fish and Game Submittal of July 1, 1999 to whom it may concern.
6. Based on the California Department of Fish and Game's (CDFG) letter of July 21, 1999 to Mr. Rob Rossi of Santa Margarita Ranch (See CSPA Exhibit "A"), the CDFG recommended as terms and condition of said diversion as follow:
 - (a) Limiting diversion to the wet months (December to March);
 - (b) Maintaining a minimum bypass of 60 percent of the average annual unimpaired watershed production above the point of diversion;
 - (c) Construction of a passive diversion designed to insure that instream flow is maintained;
 - (d) Designation of a maximum number of acre-feet to be used annually;
 - (e) Limiting maximum rate of diversion; and

share
under ground is yours

Surface water
subterranean
flowing in known channel

secretly
feel
first
water

wouldn't
breath

ignoring existing

appropriative right - issue permit

riparian right exists by virtue
superior

of ownership of
land → stream

✓ in watershed of origin

can't store it for later time

?"reasonable" beneficial
use

↓
not reasonable to
suck dry

- follow accepted irrigation practices

- entering new ground
- no water left
-

Can speak ^{Bob P.} direct testimony.

Tanner?

(f) Allowing access by Department personnel to monitor compliance.

*

7. According to the CDFG, Santa Margarita Ranch has installed a pump and is likely diverting the underflow of one of said tributaries. Diverting the underflow requires the diverter to obtain a water right permit from the State Water Resources Control Board. Also, diverting the state's water without a valid water right permit constitutes the unauthorized diversion of the state's water and is a trespass.

8. The Salinas River Watershed may be fully or over appropriated. Consequently, on any basis of rights, the diversion of water by Santa Margarita Ranch from said tributaries to the Salinas River Watershed may be the unreasonable diversion and use of the state's water in violation of Article X, Section 2 of the California Constitution.

9. The proposed diversion of the state's water by Santa Margarita Ranch may conflict with the Salinas River Live Stream Agreement and also any steelhead recovery plan and/or requirements recommended by the U.S. National Marine Fisheries Service for the Salinas River Watershed to protect threatened steelhead and their habitat from any existing and proposed activities.

10. This public trust complaint is based on the provisions of the following: (a) Common Law Public Trust Doctrine; (b) Article X, Section 2 of the California Constitution; (c) federal Endangered Species Act; (d) California Water Code; (e) California Fish and Game Code; (f) federal Clean Water Act; (g) California Code of Regulations, Title 23; and (h) other applicable federal and state statutes and codes.

Relief Requested by the CSPA

a. The CSPA respectfully requests the State Water Resources Control Board to fully investigate the CSPA complaint;

b. The CSPA respectfully requests the State Water Resources Control Board to require Santa Margarita Ranch to file a water right application with the State Water Resources Control Board. In the event the State Water Resources Control Board makes a determination that Santa Margarita Ranch must file a water right application, the CSPA respectfully request the opportunity to file a formal protest against said water right application.

c. The CSPA respectfully requests the State Water Resources Control Board to require Santa Margarita Ranch to cease all existing and proposed diversions from said tributaries until Santa Margarita Ranch has the legal authority and approval to divert the state's water.

d. The CSPA respectfully requests the State Water Resources Control Board to prepare and complete a written investigation of the CSPA complaint.

e. The CSPA respectfully request the opportunity to provide additional evidence and comments in support of its complaint.

A copy of the CSPA complaint has been served on Santa Margarita Ranch by first class mail as shown in the Certificate of Service.

Respectfully Submitted

Robert J. Baiocchi, Consultant
For: California Sportfishing Protection Alliance
P.O. Box 357
Quincy, CA 95971
Bus Tel: 530-836-1115; Fax: 530-836-2062

Dated: September 12, 1999

Enclosure to all parties - CSPA Exhibit "A"

City of Paso; Party to Complaint
not on list

see Div of
Water Rights
10/1/15

Charles (Chuck) Rich
916-657-1945
SUPERVISOR
CSPA legal response

? written report when
? investigation will start
- when board will make findings

live stream agreement

represent

Virginia