

Memorandum

To : Mr. Harry Schueller, Chief
Division of Water Rights
State Water Resources Control Board
Post Office Box 2000
Sacramento, California 95812-2000

Date: February 9, 2000

From : Department of Fish and Game - Post Office Box 47, Yountville, California 94599

Subject: Request for Expedition of Water Rights Complaint, Santa Margarita Ranch, Diversion of Four Streams in the Upper Salinas River Watershed

The Department of Fish and Game respectfully requests that the State Water Resource Control Board treat the attached Complaint (Santa Margarita Ranch proposed vineyard project) as a high priority item. Existing data in the Santa Margarita Ranch Draft Environmental Constraints Analysis, 1994, describes water diversions and impacts to surface flow and aquifers. The project is now being developed and wildlife habitat is being cleared for vineyards.

Preliminary data show that Public Trust Resources will be significantly impacted. Your prompt attention to this matter will be greatly appreciated. If you have any questions or require additional clarification, please call John Waithman Environmental Services Specialist, at (907) 944-5570; or Pat Coulston, Fishery Management Supervisor, at (831) 649-2882.



Brian Hunter
Brian Hunter
Regional Manager
Central Coast Region

Attachments

Memorandum

To : Mr. Harry Schueller, Chief
Division of Water Rights
State Water Resource Control Board
Post Office Box 2000
Sacramento, California 95812-2000

Date: February 9, 2000

From : Department of Fish and Game - Post Office Box 47, Yountville, California 94599

Subject: Water Rights Complaint Regarding Diversion From Four Streams in the Upper Salinas River Watershed (Santa Margarita, Yerba Buena, Rinconada, and Trout Creeks)

Complainant:

California Department of Fish and Game
Post Office Box 47
Yountville, California 94599
(707) 944-5500

Party complained against (Respondent):

Mr. Rob Rossi
750 Pismo Street
San Luis Obispo, California 93401
(805) 438-3626

Location of Respondent's Diversion:

Diversions are located in the upper Salinas River watershed on four tributaries, Rinconada Creek, Santa Margarita Creek, Trout Creek, Yerba Buena Creek in San Luis Obispo County.

Maps (1-4) of the project site are attached with creeks marked. Map 1 of 4 shows location, map 2 of 4 shows project site, map 3 of 4 shows proposed vineyard location, and map 4 of 4 shows creeks.

General location is as follows:

Proposed project is located eight miles north of San Luis Obispo (SLO). Take 101 south to SLO and exit Highway 58. This exit places you within the proposed project site, which also extends southeast of Santa Margarita.

Mr. Harry Schueller
February 9, 2000
Page Two

Description of Complaint:

The proposed project, installation of 3,000-acres of vineyards, will significantly impact streamflow in the four listed tributaries, most notably Yerba Buena and Trout Creeks. The Department requested information (letter dated July 21, 1999) and conducted a field visit (memo dated September 11, 1999). Applicant has not provided any of the requested water availability information. However, water availability information has been obtained thru San Luis Obispo County Planning Department in a document entitled Santa Margarita Ranch Draft Environmental Constraints Analysis 1994, prepared for San Luis Obispo County. A copy of this document will be mailed separately to Complaints Division. This Ranch project is comparable to the proposed vineyard project, as it utilizes the same water sources, places of use, and diversion amounts. Estimates of water use by an agricultural consultant show that the project may use 6,900 acre feet per year, resulting in several water related impacts (letter by Ms. Julie Clark, Agricultural Consultant).

The Santa Margarita Ranch project description discloses the following information:

1. Water diversion, pumping of wells, will result in an impact to surface flow in creeks.
2. Wells are diverting underflow.
3. Water diversion, pumping of wells, will result in overdraft of aquifers.

Therefore, the proposed water diversions will impact Public Trust Resources. These four creeks are located in the upper watershed of the Salinas River watershed, a degraded, overdrafted watershed. Steelhead trout and red-legged frogs are listed species present within the proposed project site and require permitting, special protection, and remedies to assure survival of the species. Other species of special concern may also be present, but adequate biological surveys have not been conducted.

Beneficial use of the water in the upper watershed should protect Public Trust Resources at the site, protect the downstream baseflow, and help alleviate saltwater intrusion in the lower watershed.

Mr. Harry Schueller
February 9, 2000
Page Three

Dismissal terms:

1. Applicant demonstrates that there is enough water available to protect Public Trust Resources and to conduct proposed viticulture project.
2. Applicant applies for appropriative water rights through the State Water Resources Control Board (SWRCB). (Note: The Department of Fish and Game has requested that the SWRCB send Mr. Rossi an appropriative water right application.)

Additional dismissal terms may be required when the applicant undergoes the California Environmental Quality Act (CEQA) process.

The applicant, Mr. Rossi, has already started his project without demonstrating that sufficient water is available to protect Public Trust Resources. This development consists of existing wells and the rapid, ongoing clearing of land to plant the viticulture crop. The Department recommends that the SWRCB require the applicant to delay any irrigation of the viticulture crop from alluvial wells until water availability information is provided and impacts to Public Trust Resources are avoided.

If you have any questions regarding our comments, please contact Ms. Patricia Anderson, Associate Fishery Biologist, at (831) 724-7130; Mr. Chuck Marshall, Associate Fishery Biologist, at (805) 237-9538; Mr. John Waithman, Environmental Services Specialist, at (707) 944-5570; or Mr. Pat Coulston, Fishery Management Supervisor, at (831) 649-2882.



Brian Hunter
Regional Manager
Central Coast Region

Attachments