

commentletters



From: coz@1access.net
Sent: Sunday, November 29, 2015 8:28 PM
To: commentletters
Subject: PROPOSED APPROVAL OF AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE NORTH COAST REGION TO MAKE NONSUBSTANTIVE REVISIONS TO SECTION 1 (INTRODUCTION) AND SECTION 5 (PLANS AND POLICIES) AND TO UPDATE SECTION 3 (WATER QUALITY OBJECTIVES) c/o Jeani...

Response to Water Quality Amendments

The proposed DWR language revisions seek to take any intent for actions based upon proven objective-significant naturally conducive holistic habitat benefit and instead supplant it with 'Board' determined subjective defined reality-detached 'narrative and numeric objectives'.

Narrative and numerics used are based upon inaccurate premise, both in the hypothetical unsupportable 'natural background temperature' Klamath (Tetra) model and in the misrepresentation that a multiple 'beneficial use' requirement based upon regulations selective to a singular most parameter-sensitive species can somehow be construed mutually inclusive and enhance to all other beneficial uses. In setting objectives inconsistent with various known pre-european regional natural habitat conditions, proposed objectives frequently inordinately and inequitably negatively impact other beneficial uses and species without significant potential improvement to that habitat's historically non-indigenous (upper mid stem Klamath coho) DWR selected species. As a consequence, and by the amended wording which specifically allows such inequity to occur without 'programmatic' limitation, the Board effectively sidesteps requirement for support of ALL beneficial uses and instead replaces the legislative intent with a regulatory policy of rewilding through emphasis upon removal of virtually all 'controllable' (read 'human', Resolution R1-2015-0018 Attachment 2) impacts regardless of significant tangible benefit.

The CEQA review finds major 'significant and unavoidable' impacts to public and private interests as a consequence of the regulatory enforcements resulting from implementations of these changes. Those 'impacts' acknowledge the 'unavoidable' effective taking of private vested property, use, and rights. "These impacts include potential conflict with or conversion of prime agricultural land or land subject to the Williamson Act from implementing grazing restrictions, riparian buggers or riparian restoration; municipal, domestic, agricultural and industrial water supply could be impacted by certain restrictions on the extraction of water from riparian areas or areas of known thermal refugia; switching from surface water diversions to groundwater pumping could lower water table, reduce soil moisture, contribute to land subsidence and reduce aquifer storage capability; the increase in groundwater extraction could reduce surface water flows and result in increased pollutant concentration due to less dilution; the removal of surface water impoundments could result in a short term violation of water quality standards as sediments and organic rich waters flow downstream; and regulation on water use could lead to the conversion of agricultural lands (CEQA)." Perhaps the Board can kindly cite the 'Public Trust' presumed exemption existing within our country's Constitutional requirement for compensation for private takings. It is not sufficient to simply dismiss those 'impacts' by once again conveniently claiming "the (unaffected) Regional Water Board finds that the potentially significant, unavoidable environmental impacts could be acceptable in light of the benefits set forth above for the attainment and protection of beneficial uses, and that each of the benefits constitute an overriding benefit warranting approval of the Basin Plan amendment, independent of the other benefits". Particularly when the rationale overriding those impacts are "of the beneficial use most sensitive to DO", "vital to supporting the socioeconomic background of the region due to the role that cold freshwater streams play in supporting recreational, commercial and subsistence fishing", a rationale that fails to assess or compare percentage impacts relative to economic losses and destruction to all other required beneficial uses.

Additionally, the proposed changes seemingly diminish referenced input and accountability to the public in triennial review and instead shifts even greater autonomy and authority to the Board by narrowing future 'review' to its own 'determination' of applicable 'numerics'. Under these changes the Board can levy subjectively determined thresholds of crime and punishment to vested owners having the greatest site specific knowledge and consequence from environmental impacts. It is especially disconcerting when under these changes the same Board can unilaterally break those thresholds at Board convenience devastating environment and vested owner interests under Board policy directed subjective 'determination' that the exponential exceedance of those thresholds is suddenly 'acceptable' and 'may' eventually result in potential improvement to a single beneficial use regardless of detriment to all other beneficial uses.

As a result of these 'minor wording' changes and as referenced in the attendant CEQA review acknowledging the 'unmitigated and unavoidable' regionally and individually destructive impacts resulting from implementation of these revisions which remain unaddressed, the net consequence of the above is an effective 'confiscation without compensation' taking of rights and property, and does so without adequate accountability, limitation, assurance, or requirement to achieve the underpinning mandated multiple beneficial use.

Sincerely,

Siskiyou County Water User's Association

Submitted by: Rex Cozzalio