



CAR
262.0(23-03-06)

MENDOCINO COUNTY WATER AGENCY
890 North Bush Street, Room 20
Ukiah, California 95482
(707) 463-4589 fax (707) 463-4643

July 31, 2007

Mr. Charles A. Rich, Chief
Complaint Unit, Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
1001 "I" Street, 14th Floor
Sacramento, CA 95812-2000

Re: 363:CAR:262.0 (23-03-06)
Water Right Complaint by Lee Howard Against Thomas Hill Regarding Diversion of Water by
The Millview County Water District in Mendocino

Dear Mr. Rich:

Although not a party to the on going Millview County Water District (Millview) water right complaint investigation, the Mendocino County Water Agency is very interested in the results of the investigation, as they may have significant economic consequences for the Ukiah Valley. The Ukiah Valley's developed water supply is generally insufficient to meet existing water demands during extended drought periods and as a result, economic development of the Ukiah Valley has been stymied. Accordingly, the potential loss of any existing water right that may contribute to the valley's economic development, such as the pre-1914 water right obtained by Millview from Thomas Hill and Steve Gomes, is of concern.

The Water Agency staff is familiar with the technical and legal arguments made by the respective parties, but in the absence of additional information, is unable to advocate a position on this matter, other than the general plea to proceed cautiously and methodically through the investigation, given the potentially significant economic ramifications of the findings. In reviewing your June 1, 2007 preliminary report and the associated letter from the attorneys for Thomas Hill and Steve Gomes (Carter, Vannucci & Momsen, LLP), dated July 24, 2007, several questions have arisen, which Water Agency staff urge you to more fully address in your final report:

- 1) What is the State Water Resources Control Board's position regarding the forfeiture of appropriative or pre-1914 water rights – does forfeiture automatically occur after a five year period of non use, even if no other party has asserted a claim to the unused water?
- 2) Does the five-year period of non use immediately proceed the date of any asserted claim to the unused water, as argued by the attorneys for Thomas Hill and Steve Gomes?

(1)

EX - P



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- 3) Can a diversion that began prior to 1914, from what was initially assumed to be a "percolating groundwater" source but is now identified as "underflow", now be considered a pre-1914 water right - assuming beneficial use is demonstrated?

Based on the available information, it appears that the answers to these three questions could not only play a pivotal role in the quantification of the pre-1914 water right obtained by Millview from Thomas Hill and Steve Gomes, but also the quantification of other appropriative and pre-1914 water rights currently asserted by other water right holders in the Ukiah Valley and surrounding region. Any information you could provide with respect to these three questions would be greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Roland A. Sanford".

Roland A. Sanford
General Manager

Cc: Tim Bradley
Thomas Hill
Steve Gomes
Lee Howard
Barbara Spazek
Senator Wiggins Office
Jared Carter