

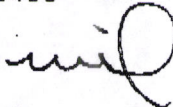
State of California
Department of Fish and Wildlife

Memorandum

Date: March 11, 2013

To: Charles R. Hoppin, Chair
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Attention: Ernest Mona, Control Engineer
Hearing Section
Division of Water Rights
Via Fax (916) 341-5400

From: Neil Manji, Regional Manager 
Northern Region
Department of Fish and Wildlife

Subject: **California Department of Fish and Wildlife Policy Statement on the Revocation Order for Millview County Water District, Russian River (Subterranean Stream), In Mendocino County**

Enclosed is the Department of Fish and Wildlife's (Department) Policy Statement for the Hearing for Millview County Water District, Russian River (Subterranean Stream), for the Proposed Revocation of License 5763 (Application 15679) before the State Water Resources Control Board, April 1 and 2, 2013. Department staff will read the Policy Statement into the record at the Hearing.

If you have any questions, please contact Staff Environmental Scientist Jane Arnold at (707) 441-5671 or Environmental Scientist Wes Stokes at (707) 799-7106.

ec: California Department of Fish and Wildlife

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Charles R. Hoppin, Chair
State Water Resources Control Board
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Before the
State Water Resources Control Board
April 1-2, 2013

In the Matter of Proposed Revocation for License 5763 (Application 15679) Millview County Water District, Russian River (Subterranean Stream).	Policy Statement of California Department of Fish and Wildlife
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The Department thanks Hearing Officer and Board Members of the State Water Resources Control Board for the opportunity to express our interest and policy in regard to this matter.

The Department of Fish and Wildlife's (Department) Mission is to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public.

Fish and wildlife resources are held in trust for the people of the State of California. Under Fish and Game Code Section 711.7, the Department is designated as trustee for the State's fish and wildlife resources. Fish and Game Code Section 1802 grants the Department jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species. Additionally, Fish and Game Code Section 1600 *et seq.* grants the Department jurisdiction over projects that substantially divert water from lakes, rivers, or streams.

The Department seeks to maintain native fish, wildlife, plant species, and natural communities for their intrinsic and ecological value and for their benefits to all citizens in the State. This includes habitat protection and maintenance of habitat in sufficient amounts and quality to ensure the conservation of all native species and natural communities. The Department is also responsible for oversight and assurance of the diverse uses of fish and wildlife including recreational, commercial, scientific, and educational.

As trustee agency for the aquatic resources in this State, the Department has a material interest in assuring that water flows within streams are maintained at levels that are adequate for long-term protection, maintenance, and proper stewardship of these resources. Russian River stream flow supports Chinook and coho salmon, steelhead trout, and other sensitive aquatic species. Because of the Department's mission to conserve these resources, the Department filed protests in 2003 and 2008 with the State Water Resources Control Board (SWRCB) against the petitions for change filed by Millview County Water District for Water Applications 3601 and 17587.

The Upper Russian River and its tributaries support Chinook salmon and steelhead trout. Both species are listed as threatened pursuant to the federal Endangered Species Act (ESA). Coho salmon are present in the watershed downstream and are listed as endangered pursuant to ESA and California Endangered Species Act. Chinook and coho salmon and steelhead trout spawn and rear in the Russian River and its tributaries during the period at issue in this hearing. The Upper Russian River not only supports native aquatic species onsite, but also contributes flow crucial to supporting listed anadromous and other species in the lower reaches of the watershed. Seasonal water temperatures, sufficiently low to protect anadromous fish and other native aquatic life, holding and rearing habitat, along with timely attraction flows for migration are critical to supporting all life stages of steelhead and other aquatic species in the Russian River.

In addition to their many other values, anadromous fish are important to California's economy. In 2008 and 2009, the Governor of California declared States of Emergency for commercial salmon fishing, resulting in estimated loss of over \$500 million dollars to California's economy and thousands of jobs (Governor's States of Emergency Proclamations, 2008 and 2009). Recovery of listed salmonids to support commercial, recreational, and Native fisheries is important to the economy of California and an integral strategy for recovery plans for listed salmonids.

Water Code Section 1257 requires SWRCB to consider the relative benefit to be derived from all beneficial uses of water including but not limited to those listed for fish and wildlife resources. Categories of beneficial uses of water in the Upper Russian River Hydrologic Unit relevant to fish and wildlife resources include Cold Freshwater Habitat; Migration of Aquatic Organisms; Commercial and Sport Fishery; Rare, Threatened, or Endangered; Spawning, Reproduction, and/or Early Development; and Wildlife Habitat. SWRCB has designated the Russian River as fully-appropriated. The Russian River is also listed as sediment- and temperature-impaired pursuant to Clean Water Act, Section 303(d). These beneficial uses of water will be negatively impacted by the licensed rate of diversion and face value amount of water.

The Department cautions that water diversions from the Russian River have the potential to cause site-specific and/or cumulative adverse impacts by degrading established instream habitat for Chinook and coho salmon, steelhead trout, and other native aquatic species. The Department understands SWRCB in this hearing is addressing Millview's attempt to divert substantial amounts of water from the Upper Russian River pursuant to water rights that have not been exercised in any significant quantity for a period of more than five years. The Department is very concerned Russian River fishes have already experienced deleterious effects from water diversions and cannot withstand additional water diversions, especially during low-flow periods. The Department encourages SWRCB to place great weight on the need to preserve existing flows in the Russian River for protection of instream habitat as a beneficial use of water for Chinook and coho salmon, steelhead, and other native aquatic life, and to revoke diversions that have not been in use.

The Department takes seriously its responsibility to safeguard the natural resources of California, including Russian River aquatic resources it holds in trust for the public. To that end, the Department firmly supports the proposed Revocation before the Board. We believe that such action is consistent with the Fish and Game Code and will be in the public's best interest overall. Because of the low-flow conditions of the Russian River and the status of anadromous fish dependent on adequate instream flows, the Department believes the current and proposed diversions (subject of this hearing) by Millview would be substantial and thus, subject to Fish and Game Code Section 1600 *et seq.*

AUTOMATIC COVER SHEET

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TO :

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FROM : DFG-REGION 1 NCNCR

FAX #: 530 225 2055

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