

September, 2009

## **Dear Russian River Supporter:**

### ***Water Agency Changing Course.....***

Much to the chagrin of Sonoma County water contractors, half of whom provide water delivery services outside the Russian River watershed, the Sonoma County Water Agency has finally taken action to change its course.

At their September 15<sup>th</sup> Board meeting, Water Agency Directors (Supervisors) dropped their seventeen year quest for additional water rights that would allow increased water diversions of 26,000 acre feet a year (326,000 gallons per acre foot) from the Russian River. That action included dropping the Water Project, its Environmental Impact Report (EIR), and the Application to the State Board for increased water diversions.

This is a bombshell of a policy change and had been greeted with great anger by the City of Santa Rosa and the other contractors, who filed an unprecedented temporary restraining order against the County to stop this action. The Court did not approve the Order. The meeting was held and the decision was made. Most County personnel and environmentalists viewed this change in a positive light, as did RRWPC and yours truly.

For the last several months, Water Agency personnel had been meeting with the cities to explain their new direction, which included shelving their recent 5000 page "Water Project Environmental Impact Report" (EIR) that addressed impacts from the increased water diversions as well as construction of a very expensive pipeline to transport water from Lake Sonoma to the river (among other projects).

Dropping the quest for more water resulted partly from new requirements in the Biological Opinion, which had been released a year ago. This is a Federal Order containing various requirements to protect endangered fish species. The most significant impact to the lower river is the requirement to begin changing Decision 1610, the State Law governing Russian River stream flows. The goal is to permanently lower those flows. The Agency was concerned about asking for more water on the one hand and decreased flows on the other. RRWPC will be tracking Decision 1610 changes very closely and will keep you informed on future developments.

The reasons for the Agency's change of direction are even more complicated than just the Biological Opinion. The Board Transmittal indicated that the change was necessitated by, "...reduced flows into the Russian River from the Eel River, the issuance of new federal requirements that restrict the Agency's ability to use the channel of Dry Creek to convey water from Warm Springs Dam to the Russian River, climate change, new strategies for managing demands for water and energy, and economic conditions that make it unlikely that the Agency's water contractors would impose the water rates necessary to finance the project."

In spite of these well-known circumstances, contractors still claimed to be taken by surprise by the SCWA Board's proposed resolution on August 25<sup>th</sup> specifying the new direction and the formal shelving of the Water Project EIR. New directions included increased conservation, wastewater reuse, aquifer storage and recovery, Dry Creek habitat enhancement, closing the river's mouth each summer, permanently lowered flows, etc. While we don't completely support all of these, the dropping of increased water deliveries to contractors is an important first step. The water saga continues....stay tuned for the next installment .....

### ***RRWPC files lawsuit on RRCSD wastewater pond...***

RRWPC has been negotiating with County attorneys for several months regarding the Russian River County Sanitation District (RRCSD) Storage Basin Project, Our goal was to resolve four issues with the District to avoid a lawsuit. County attorneys indicated a desire to settle at first and provided a few proposals, but half were not responsive.

The EIR and storage basin project had been approved last March by the District Directors (Board of Supervisors). During the last five months our group, along with our attorney, Ellison Folk, had been attempting to negotiate a settlement with the District on behalf of local ratepayers. Ellison is a lead attorney for one of the North Bay's most prestigious environmental law firms, Shute, Mihaly, & Weinberger in San Francisco.

The project calls for constructing a 3.5 million gallon storage basin at the geologically problematic treatment plant site at the end of Neeley Road. Registered geologist, Ray Waldbaum, and also Jane Nielson, former geologist at the U.S. Geological Survey for almost 25 years, had submitted comments expressing their concerns. They noted incomplete and inadequate geological studies provided for the project, especially in regard for the site's propensity for landslides.

RRWPC further expressed concerns about the possibility of high ground water breaching the bottom of the pond during major floods, which could cause sewage spills into the River since the pond would hold raw sewage in the wintertime. This was a concern shared by Regional Water Quality Control Board staff and, in our view, inadequately addressed by the Environmental Impact Report.

Another issue requested additional environmental review of any tree cutting, earth moving, drainage changes, etc. to make room for 90 trucks a day that will traverse the narrow winding road to the treatment plant. We were also very concerned about maintenance on that heavily impacted rural road where children play and people walk their dogs.

Finally, RRWPC requested assurances that no other communities or large areas would be hooked up to the system without additional environmental review and analysis of the capacity of the system during wet weather inundation from floods.

Due to a lack of agreement between parties, on September 1, 2009, Russian River Watershed Protection Committee (RRWPC) filed a lawsuit against the Russian River County Sanitation District (RRCSD) regarding approval of the Environmental Impact Report (EIR) and selection of the Equalization Basin Project. Our negotiation process will continue now under the Court's direction. We hope to achieve a settlement if possible.

### ***RRWPC Photo Project...***

We have continued to take photographs of the Russian River over the summer. We are happy that recreation seemed to continue intact. Nevertheless, we are very concerned about all the nutrient pollution we witnessed, including many large swaths of invasive Ludwigia along the banks and different kinds of algae in the water. More later.....

### ***RRWPC needs your help...more than ever!***

RRWPC has been taking on many challenges, but our income has not kept up with our needs. Our legal action is a big expense for us and **we are currently very much in need of your financial help.** Please give as generously as you can, and also please pass this information on to other interested parties who might want to be informed on this issue. We know this is a very hard time and many of you are hurting financially, but even a small amount would be appreciated. You can contribute using the enclosed card and envelope or through PayPal at our website: [www.rrwpc.org](http://www.rrwpc.org). You can contact us further by email at [rrwpc@comcast.net](mailto:rrwpc@comcast.net) RRWPC does not sell or loan our mailing list to anyone.

Three days after the contractors' meeting, a regular Santa Rosa Board of Public Utilities meeting was scheduled. Listed on the Agenda was notice of a joint meeting with the Santa Rosa City Council to discuss the current water supply situation. Agency staff spoke for over an hour, and then requested legal council to give an opinion about the Agency's proposed action.

I had never experienced a meeting where the City's lawyer advised clients on their legal options IN OPEN SESSION. The Council wondered who owned the water rights in Lake Sonoma, and the attorney responded that the Water Agency has power in this situation. The City could sue based on contractual terms, but not on the actual water rights. She also stated however, that the City determines the water deliveries necessary, and the right to plan for them, and the Water Agency can't tell them how much water to request.

***SCWA could lose some of their 75,000 AFY allotment....***

Contractor's discussed the situation at length at their monthly meeting on August 31<sup>st</sup>. Their key question was, "What's the hurry for this action?" The SCWA responded with the list of deadlines they have to meet, including filing an application to begin the process of revising Decision 1610 (State Law on Russian River stream flows).

Apparently, the State Water Board had been pressuring the Water Agency to drop their application for increased water rights as part of the Decision 1610 application (required

by Biological Opinion). Water Agency staff had expressed concern to the contractors on numerous occasions that it was highly unlikely that they would be granted rights to an additional 26,000 AFY, and they could also lose part of their current allotment of 75,000 AFY. This year, contractors only used 55,000 acre feet, due to very successful conservation programs, and the State Board is now indicating that they should live within these limits.

This is also the purpose for the Urban Water Management Plan, produced every five years, indicating the amount of water needed by the contractors, along with an analysis of how much is available. Part of the new direction is to revise and update this document to include growth projections that would stay within the current water rights allotment (75,000 acre feet a year). This would mean limiting growth, which is the main reason for the contractors' protest, although, on the front page of the Press Democrat after their meeting about filing a lawsuit, they denied this was the case.