



DEPARTMENT OF PARKS AND RECREATION . P.O. Box 942896 . Sacramento, CA 94296-001
Monterey District
2211 Garden Road
Monterey, CA 93940
(831) 649-2836
(831) 647-6239 FAX

Ruth G. Coleman, Director

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December 14, 2009

Paul Murphy
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

**EI Sur Ranch Water Right Application (No. 30166)
Draft Environment Impact Report, SCH #2006061011**

Dear Mr. Murphy:

The California Department of Parks and Recreation (DPR) has an interest in the EI Sur Ranch Water Right Application DEIR since the water extraction wells and the potentially affected reach of the Big Sur River are within Andrew Molera State Park.

In general, DPR believes that minimum flow and water quality requirements adequate for the health of steelhead and other aquatic life in the lower Big Sur River should be determined and that a requirement be established to restrict or suspend irrigation pumping from the river when flows are below these levels. DPR does not have the expertise to determine the minimum flow requirements. We recommend that the Division of Water Rights work with California Fish and Game and NOAA Fisheries to determine the minimum flow and water quality requirements.

The following comments were prepared by Civil Engineer Joan Carpenter and District Services Manager Ken Gray of DPR:

Table ES-4 establishes baseline pumping level based on historic ranch use. However, all of the water pumped during the baseline period was done so without a permit and without any oversight of the river levels. The applicant's unpermitted use of the water may well have damaged resources but were undocumented. The applicant assumes a presumptive right to the baseline level but acquired that right by unauthorized export of the water from the watershed.

Note per page 3 of the Executive Summary, the permit would allow an increase in annual diversions of water. Per Table ES-4, the requested increase would be approximately a 40 percent increase. However, the maximum monthly diversion would actually be less than the 'baseline' amount. During the critical dry periods of greatest concern, the applicant would revert to the 'baseline' levels, thereby actually allowing greater diversions during critical dry periods (Per Table ES-4 and Table ES-5). DPR recommends that pumping be reduced or eliminated rather than increased during critically dry periods.

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Table ES-5 lists Impacts, Significance Levels, and Mitigations. Impact 4.2-2 indicated during extreme critical dry conditions the El Sur Ranch would be permitted to use water up to the 'baseline' level. The baseline maximum monthly diversion is 269AF which, according to their discussion regarding pasture management, would provide sufficient water to create 'optimal forage production.' Per the Table ES-5, Impacts 4.2-2, 4.3-1, 4.3-2, 4.3-4 would make management of the in-stream conditions second to management of the upland pasture. There does not appear to be any situation where the applicant would be prevented from pumping at the historic baseline levels. As requested, the applicant would be permitted to pump and maintain 'optimal forage conditions' while the river is pumped dry. DPR recommends that aquatic life in the river be given priority over irrigation needs.

Impact 4.3-4, reduction of DO levels. The applicant proposes a mitigation measure that would be constructed inside the State Park. Any project of this type would require a CEQA-approved design and likely would not be a desirable facility in the park. More importantly, the mitigation proposes in-stream facilities that require removal 'by Nov 1.' This removal of facilities from the stream will require repeated disturbance to the riparian area. The in-stream facility cannot just be removed by November 1. It must be removed at any time a large rain is forecast. For example, the Big Sur River was at flood stage in early October 2009 and any in-stream equipment had to be removed prior to such an event. Impacts from compressors and other equipment to the State Park to create an oxygen enrichment facility as a consequence of pumping water for the benefit of upland pasture do not seem appropriate. DPR recommends that alternative mitigation measures be developed that avoid these new intrusions within Andrew Molera State Park.

If you have any questions about these comments, please contact Ken Gray at (831) 649-2862 or kgray@parks.ca.gov.

Sincerely,



Mathew L. Fuzie
District Superintendent

cc: State Clearinghouse

DPLA Environmental Review Unit
California Department of Water Resources

Syd Brown, Senior Geologist, DPR

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cc: Continued:

Clarissa Sampaga, DPR

Ken Gray, District Services Manager
Monterey District, DPR

Curtis L. Price, Big Sur Sector Superintendent, DPR

Joan Carpenter, District Engineer
Monterey District, DPR

Tom Moss, Senior Environmental Scientist
Monterey District, DPR

Jeff Frey, Environmental Scientist
Big Sur Sector, DPR

Jill Poudrette, Environmental Coordinator
Monterey District, DPR