

STATEMENT TO SWRCB AUGUST 20, 2001

I have a few suggestions that are not in direct response to your six questions but which I think should be considered in your analysis.

1. Different Types of Basins - Test any Criteria Before Adopting One Rule Fits All. There are different kinds of groundwater basins and they kinds of subsurface flows in those basins throughout California, which you can see from reading different Court decisions on the subject. The "subterranean stream" that was involved in the old Pomeroy case seems to me to have been a unique kind of underground stream, one that is not commonly encountered when investigating groundwater. Groundwater basins and the hydrogeology of the basins in Southern California sometimes appear to be quite different from basins and valleys in the Northern part of the State. So I would encourage you in looking for answers to the questions in your analysis, that you test them against different kinds of valleys and basins that exist in California, including those in the northern part of the State. In other words select 4 or 5, or 5 or 6, or whatever number of valleys or basins that could be considered in a similar class size wise, and geologically and hydrologically similar, but distinct from the others, if differences exist.

2. The Pauma/Paula Approach would Include Many Basins. Such as Ukiah Valley. I have been doing some work in the Ukiah Valley in Mendocino County, which is probably two miles wide and 6 - 7 miles long, with the Russian River flowing southerly through the Valley. As you know, the Russian river continues to flow southerly into Sonoma County and then west into the Pacific Ocean.. There are various wells pumping water in the Ukiah valley, some closer to the River than others. So there is percolating groundwater in that valley which is *probably* migrating southerly in the same direction as the River. And because the valley has mountains on either side, the valley *itself probably* has a basement complex of bedrock which in the broad sense could be considered the "bed and banks" of the groundwater in the valley. I imagine some geologists could conclude that it's a confining basement that is "relatively impermeable". So it might be possible to find that all of the percolating groundwater in that entire Valley is, under the broad interpretation that was to be applied in the Board's 1999 draft decision in the Pauma and Pala basins is "waters of a subterranean stream flowing through a known and definite channel." But the groundwater in that valley doesn't resemble at all anything like the situation in the Pomeroy case where the Los Angeles River was gushing both surface underground through the Narrows at the lower end of the San Fernando Valley. And there are probably other valleys that resemble the Ukiah valley or basin, where the same kinds of conclusions could be drawn.

3. Examine Past Staff and Board Determinations. In any event. Board staff in the past and the Board itself has on past occasions made judgement calls on whether certain

wells are or are not pumping water from a "subterranean stream flowing through a known and definite channel." Not only in the Ukiah basin but in some of the other valleys and basins as well, including some downstream along the River in Sonoma County. Al Franks used to be employed by the Board as a geologist and used to go out and make determinations on whether it was percolating groundwater or a part of the River flow. So there is in the Board's records various staff determinations and even decisions by the Board itself on what was groundwater and what was a subterranean stream. I'll refer you to just one Decision for example that I'm familiar with. Decision 1110 in 1963, involving wells of the Miliview County Water District. That decision said in effect if the water was "underflow" or if the well log showed that the well had penetrated River gravels, then it would be under the Board's jurisdiction. Otherwise it was not. That Decision found that a well within 228 feet of the Russian River was "believed to be principally from the Ukiah groundwater basin, with the remainder derived from the underflow stream through gravels underlying the stream. A second well nearby the Board accepted as drawing from the groundwater basin exclusively.

What I think the Board needs to do as a part of its work here is to go back and look at some of those previous staff determinations and Board decisions, and to look at the criteria that the Board itself and particularly staff applied. What tests was Staff using. Any criteria adopted as a result of this investigation should remain consistent with those earlier judgments. If you now adopt new criteria that is broader or different than that previously used, you create conflict and inconsistency. There could be neighboring well owners drawing from the same source but one subject to Board jurisdiction and the other not. So you should work towards consistency with earlier board and staff determinations, that were made back 30 and 40 years ago, before the Garapatta and Pauma decisions were being considered.

And I would also encourage the study to throw into the mix perhaps five or six of these different types of basins or valleys, before you attempt to devise criteria cr that assumes that one size or one test fits all situations.