

## **LOBBIES, LAWSUITS & LEGISLATION**

### **A REPORT ON THE RUSSIAN RIVER WATERSHED**

**JUNE 3, 2010**

#### ***Summary***

Water scarcity is consistently a leading topic in Mendocino County, (County). Water is essential to our community. In addition to satisfying residential and commercial needs, water feeds the major driver of our economy: agriculture. Estimates show that agriculture provides more than 7,500 jobs in the county, with an approximate annual payroll of \$110 million. When related business receipts, payrolls, and the value of the products are included, the County economy benefits more than \$450 million per year.

Low rainfall over the past three years in the County combined with restrictions on the flow of water from the Eel River via the Potter Valley Project, has resulted in low water storage in Lake Mendocino. In 2009, an extended period of late frost resulted in over-drafting of the river waters for frost control. This brought attention to the County from the State Water Resources Control Board, (SWRCB), and the National Oceanic and Atmospheric Administration, (NOAA).

Recent water flow concerns below the Coyote Valley Dam have prompted hearings chaired by the SWRCB, which plans to begin monitoring frost control management in 2011. The use of water in agricultural frost control has the potential of drawing significant water from the river, and negatively impacting water levels for fish habitat.

Seven water districts in the Russian River Flood Control District, (RRFCD), as well as other entities within the County provide water to residential, commercial, and agricultural users. These entities speak only for their own needs. There is an absence of common governance over water management, for which the County has suffered economically and politically.

*The Valley-Wide Task Force* of 1990 and four subsequent Grand Jury, (GJ), reports have pointed out that there is a need for one voice for the management of the Russian River watershed. There must be consistent policy, uniform conservation practices, better communications and enforcement, professional management, and fiscal responsibility. Twenty years ago, County residents were not being pressured by lobbies, lawsuits, legislation, and regulatory action; it is imperative that County residents take this action now.

## **Methods**

The GJ interviewed elected officials and employees of the cities of Willits, Ukiah, the County, special districts, other jurisdictions, and attended public meetings, reviewed reports and statistical analyses concerning Lake Mendocino and the Russian River watershed.

## **Background**

The Russian River Valley in Mendocino County has a mix of independent water providers. There is no coherent central agency managing water. From the time the Coyote Valley Dam was completed, the Sonoma County Water Agency, (SCWA), has had majority control of the water because they had financial support and voter approval necessary to invest in the dam project. Sonoma County has consistently supported one consolidated county water agency. SCWA paid for its share of the bonds, which funded the construction of the dam, through revenue generated by the sale of water. Mendocino County voters have consistently rejected the concept of a unified county water agency. The Mendocino County Russian River watershed, which benefits from the dam, paid for their share of water through property assessment.

The RRFCD has a small staff, 8,000 acre feet of water rights, and aging infrastructures with limited financial reserves for maintenance and improvement. SCWA, by contrast, has approximately \$150 million in capital reserves, a staff of over 200 professionals, and a coherent voice, that has enabled it to take the lead in dealing with legislators and regulators.

Lake Mendocino is the major collector and distributor of water for the Russian River. The water contained in Lake Mendocino comes from its watershed and from the diversion canal maintained by Pacific Gas & Electric, (PG&E), which routes Eel River water through the Potter Valley tunnel with a controlled flow into the East Fork of the Russian River. The Eel River diversion average annual flow was 154,000 acre feet, and has been reduced by approximately 50,000 acre feet. The *Friends of the Eel River* organization has filed a notice to eliminate all diversions of Eel River water.

Recent water flow concerns below the Coyote Valley Dam have drawn the attention of regulatory agencies and prompted hearings chaired by the SWRCB. SWRCB plans to begin monitoring frost control management in 2011. The use of the water for agricultural frost control has the potential of drawing significant water from the river and negatively impacting water levels for fish habitat.

The Russian River watershed is facing a number of legal and regulatory challenges which will question the ownership and management of water coming from Lake Mendocino. Local agricultural interests have banded together to develop strategies to reduce their demand for river water, (e.g. ponds for frost protection, improved irrigation, etc.), and to develop strategies to counter regulatory action.

Beyond water used for agriculture, the City of Ukiah sewer plant has significant treated waste water available for landscaping and irrigation. In the Ukiah Valley, there is no infrastructure to deliver treated water. Water conservation has become increasingly important with 50% imposed customer rationing in 2009. The present demand for water is making the use of treated water necessary.

The Russian River Valley is peppered with wells, which are not clearly delineated as containing ground or surface water. It is difficult to determine the source of well water. The source of the well water and the impact of continued drawing on this water must be determined. The SWRCB has the power to define the water source.

Although Potter Valley is not within the scope of this report, the flow coming from the Potter Valley Diversion Canal directly impacts the flow of water into Lake Mendocino via the East Fork of the Russian River. This flow was reduced approximately 30% in 2009 due to Federal Energy Regulatory Commission, (FERC). Challenges to the diversion of Eel River waters are increasing and this issue is a major area of concern.

***Water districts/providers:***

- Calpella Water District Service Agreement Area
- Hopland Public Utility District
- Potter Valley Irrigation District
- Russian River Flood Control District (RRFCD)
- City of Ukiah Water Service Area
- Millview Water District
- Redwood Valley Water District
- Willow Water District

***Local water associations and agencies:***

- Mendocino County Inland Water and Power Commission (MCIWPC)
- Upper Russian River Sustainability Alliance (URSA)
- Mendocino County Board of Supervisors, serving as: Mendocino County Water Agency, (MCWA)

**Outside agencies and/or providers:**

- Army Corps of Engineers, (the Corps)
- Federal Energy Regulatory Commission, (FERC)
- Mendocino County Farm Bureau, (MCFB)
- Sonoma County Water Agency, (SCWA)
- United States Forest Service, (USFS)
- California Department of Fish and Game, (DFG)
- Local Agency Formation Commission, (LAFCo)
- National Marine Fisheries Service, (NOAA-Fisheries)
- State Water Regional Control Board, (SWRCB)

**Findings**

1. Beginning in 2009, NOAA issued a biological opinion which placed flow controls on water releases from Lake Mendocino in order to protect endangered salmonids, without regard to the needs of local farmers and the economy of the region.
2. On November 18, 2009, the NOAA forced SCWA to reopen the 1986 Decision 1610 by Spring of 2011 to decrease the flow of water from Lake Mendocino to reduce velocity in the Russian River, from 185 cubic feet/second to 125 cubic feet/second.
3. The FERC restricted the flow into the Eel River diversion canal, Decision 77, reducing the flow into Lake Mendocino by approximately 33%. *Friends of the Eel River* filed a petition with the SWRCB to eliminate all diversions of water from the Eel River.
4. Lake Mendocino was originally built for flood control. Control of water release is based on date and/or storage level. These agencies have control: Corps, RRFCD, and SCWA.
5. Mendocino County and RRFCD, have rights to only 8,000 acre feet per year from Lake Mendocino regardless of lake level. SCWA has majority rights to the water in Lake Mendocino, (37,544 acre feet/year). They sell water to Mendocino, Sonoma, and Marin Counties.
6. The Corps has used the same manual to govern the management of the dam since the 1950's. The dam's original purpose was flood control.
7. An independent report to the SWRCB on November 18, 2009, stated that Mendocino County agricultural related production, receipts, and payroll for 2008 accounted for \$458 million.
8. URSA, RWVD, and RRFCD jointly installed USGS gauges in the river at Talmage to monitor water flow and frost control draw downs from the Russian River.
9. Farmers are constructing ponds on their properties to store water for frost control and irrigation, to mitigate the drawdown of river water.

10. There is no centralized governance over the management of water in this County and no one agency speaks for the water needs of this County. The MCWA, a special district created by the State Legislature, has no water rights and little authority or funding.
11. This County is at an extreme disadvantage communicating its needs with regulatory agencies, because there are many entities with competing interests, voices, and territorial disputes. Sonoma County is successful; they control more water and speak with one powerful voice.
12. County water districts lack the funding they need for effective management and capital improvements. Many of their installations and equipment are undersized and outmoded. Their limited number of rate-payers makes it impossible to fund needed improvements, such as water storage and conveyance.
13. There is no comprehensive plan for water sharing within the County. Millview and RVWD have instituted moratoriums on new hookups.
14. Each of the small districts has something to offer that could be shared and utilized for the good of County water users.
15. LAFCo is legally mandated to study and evaluate current operations of local governments/special districts in order to discourage overlapping jurisdictions and duplication of services.
16. LAFCo sets guidelines for the merger of districts and encourages small districts to restructure into a viable entity. One water district manager is now serving three of these small districts. All districts still maintain a Board of Directors, individual budgets, policies and procedures.
17. The City of Ukiah produces approximately 4,000 acre feet of treated waste water each year, currently stored in percolation ponds near the Russian River.
18. In 2002, City of Ukiah staff claimed that they were exploring the possibility of using treated waste water for the Municipal Golf Course, city parks, and the Ukiah Cemetery District. In the 2002-2003 GJ Final Report, *Recommendation C*, was to continue efforts to use treated waste water for the Municipal Golf Course, City Parks and the Cemetery District.

### ***Recommendations***

The Mendocino County Grand Jury recommends that:

1. a joint powers authority<sup>1</sup>, (JPA), be established to work with LAFCo to develop a unified organization that has the resources to meet the needs of all districts in a consistent and professional manner, and to speak with one voice and one vision. The consolidated authority would represent interests from the Russian River South to the Sonoma County line. (All Findings)

---

<sup>1</sup> A Joint Powers Authority (JPA) is an institution permitted under the law, whereby two or more public authorities (e.g. local governments, or utility or transport districts) can operate collectively.

2. Mendocino County Water Agency, which has no control over water rights, become more involved with districts by providing guidance on conservation measures, public training, uniform controls, and legislative assistance. The staff must provide leadership in the process of consolidating water districts and/or establishing a JPA. (Finding 10)
3. the City of Ukiah develops uses for treated waste water other than storing it in percolation ponds; the City of Ukiah promotes negotiations with regional water managers to develop infrastructure funding for alternative uses of treated waste water. (Findings 17-18)
4. a JPA formed for the development for consolidation of districts, be fashioned like Upper Russian River Sustainability Alliance's agreement of joint cooperation. (Findings 8-9)
5. the Corps needs to re-examine the assumptions used in the *Coyote Dam Operations Manual*. New rules should reflect the additional purposes, community needs, and water usage trends of the reservoir, along with climate changes in Northern California. (Findings 3-7)

### ***Discussion***

The people and agencies of the Mendocino County Russian River watershed resist change because of turf wars and egos. It is only through the effect of environmental lobbies, recent law suits and State legislation, that agricultural and urban interests have realized the need for realignment of a vision and strategy.

The recommendations of the *County and the City of Ukiah Valley-Wide Task Force* of 1990 and GJ 2002-2003 reports urged the consolidation of water management of the Russian River watershed. These recommendations have been ignored. It is time to implement these recommendations because:

- fragmentation of water services precludes a pooling of financial resources that would produce more effective services,
- cost-savings would be realized through the use of consolidated water treatment and delivery,
- a newly formed JPA is needed to closely manage the expenses and revenues and ensure adequate reserves are developed for maintenance, operating expenses, and capital replacement,
- the formation of the Russian River Stewardship Alliance, although in its infancy, is an example of bringing districts and others together with one strong common voice.

Contemporary issues including the environment, the need for conservation, changes in

legislation, regulation, and water demand by stronger entities are putting our water supply and economy at risk. Mendocino County residents do not speak with enough authority to safeguard our water supply and our quality of life. *Our economic viability is at stake!*

***Required Responses***

Mendocino County Board of Supervisors, serving as the Mendocino County Water Agency Board of Directors (All Findings; Recommendations 1-4)

Calpella Water District Service Agreement Area, Board of Directors (All findings; Recommendations 1-4)

Public Works Director, City of Ukiah (Findings 17-18; Recommendation 3)

Hopland Public Utility District, Board of Directors (All Findings; Recommendations 1-4)

Millview Water District, Board of Directors (All Findings; Recommendations 1-4)

Potter Valley Irrigation District, Board of Directors (All Findings; Recommendations 1-4)

Redwood Valley Water District, Board of Directors (All Findings; Recommendations 1-4)

Russian River Flood Control District, Board of Directors (All Findings; Recommendations 1-4)

Willow Water District, Board of Directors (All Findings; Recommendations 1-4)

***Requested Responses***

Upper Russian River Sustainability Alliance (All Findings; All Recommendations)

Army Corps of Engineers (Findings 3-7; Recommendation 5)

LAFCO General Manager (Findings 14-15; All Recommendations)

Sonoma County Water District (All Findings; All Recommendations)

Mendocino County Inland Water and Power Commissioner (All Findings; All Recommendations)

Mike Thompson, US Congress (All Findings; All Recommendations)

Wes Chesbro, California Assembly (All Findings; All Recommendations)