

## Community Letter Requesting Cooperation in the Protection of Endangered Salmonids - Coho, Chinook and Steelhead

*Re: Community Letter Requesting Cooperation in the Protection of Endangered  
Salmonids - Coho, Chinook and Steelhead*

February 10, 2014

Dear Vineyard Owner or Manager:

You are receiving this letter because you have been identified in public records as using and/or requiring large amounts of water for vineyard crops.

Many groups, including vineyard owners and managers such as you, are working diligently to prevent the extinction of endangered Coho and Chinook salmon and threatened Steelhead trout. As the spawning and migration season approaches, we wanted to contact you and thank you for any efforts you might take to avoid harm to these fish. We are confident that all vineyard owners and managers are aware of the potential impacts of water diversions to the critical habitat of these salmonids.

It is illegal to de-water a creek or stream to the extent it endangers or kills these fish. California River Watch remains concerned that certain vineyard owners or managers will place profit above compliance with the law, and continue to use large amounts of water during critical habitat times, threatening the survival of these fish including their feeding, breeding, sheltering and/or migration.

### **The Problem**

The Endangered Species Act ("ESA") is designed to protect critically imperiled species from extinction as a "consequence of economic growth and development untempered by adequate concern and conservation." Protected under the ESA are endangered or threatened salmonid species found in Sonoma and Mendocino Counties including Coho,

Chinook and Steelhead. It is a violation of the ESA to "take" an endangered species. A "take" as defined in the ESA includes to harass, harm, wound, kill, trap, capture, collect, or attempt to engage in any such conduct. A "take" includes direct as well as indirect harm and need not be intentional. Each fish killed or harmed would be considered a separate violation of the ESA.

The National Marine Fisheries Service ("NMFS") has identified major threats to salmonids as including water impoundments, withdrawals, conveyance systems, and diversion for vineyards, all of which have led to significant habitat modification and direct mortality of salmonids. The State Water Resources Control Board has also identified activities such as excess irrigation and temperature control (especially frost protection), as harming salmonids. Rapid draw downs of water resources near salmonid habitat have caused a "take" of listed species and a violation of the ESA. Despite knowledge and warnings, many vineyard owners and managers de-water the habitat to a such a low level as to create an unsustainable environment for salmonids.

Young fish, or "fry", emerge from their eggs/redds in April or May and have poor swimming ability. They are susceptible to stranding and take refuge in cobble substrates. In the Russian River basin, fry have been observed dead as a result of sudden agricultural water draw downs and stranding, as have older fish known as "smolts". These anadromous fish, in order to survive long enough to migrate to the sea, require freshwater habitat with year round flows, deep pools, adequate food, adequate shelter, and clean cold waters.

Fry of endangered species utilize shallow gravels for protection from predators and to grow and become proficient swimmers. They spend a summer in the creek in which they were born, and are completely dependent upon adequate flows, cool water, and deep pools for growth and survival in their various life stages. When the flows are reduced by vineyards' overuse, surface waters recede from the gravels. This habitat modification due to decreased flows often times happens dramatically and quickly, leaving fish stranded, dead or seriously stressed, inhibiting survival and growth due to overcrowding and predators.

The rapid draw downs that have harmed and continue to harm endangered species are associated with both direct diversions from surface waters and pumping of wells in proximity to creeks. These diversions of water are used to protect budding grapes from frost and are also used for heat protection and general irrigation practices. De-watering of habitat occurs in the springtime when grape growers use the water to wet the vines and buds in order to protect them from fluctuations in temperatures. De-watering also occurs in the summertime when temperature fluctuations place the grape crop in a tenuous situation due

to its susceptibility to heat. This rapid de-watering constitutes a “take” when the habitat can no longer provide a healthy or safe environment for salmonids.

It is expected that frost and heat protection of crops will continue. These activities must be conducted in a manner which will not harm listed species.

As early as 1972, courts in Napa County ruled frost protection activities in the Napa River Basin were harmful to listed fish species. In 2011, a Sonoma County vineyard owner was sued successfully under the ESA for a frost protection caused “take”. There is more than sufficient legal precedent finding that certain frost protection activities violate both state and federal law.

**Who to Contact If You Witness a Potential Violation**

If you witness any major withdrawals or fish kills, please contact one of the following agencies or organizations:

County of Sonoma  
Agricultural Division  
133 Aviation Boulevard, Suite 110  
Santa Rosa, CA 95403  
Phone: (707) 565-2371

Sonoma County District Attorney’s Office  
Environmental and Consumer Law Division  
2300 County Center Drive, Suite 170-B  
Santa Rosa, CA 95403  
Phone: (707) 565-3161

California Department of Fish & Game  
Bay Delta Region  
7329 Silverado Trail  
Napa, CA 94558  
Main Line: (707) 944-5500  
Reporting line: Cal-TIP (888) 334-2258

California River Watch  
290 S. Main Street, #817  
Sebastopol, CA 95472  
Email: [US@ncriverwatch.org](mailto:US@ncriverwatch.org) (an anonymous submission may be made through the website)

**Public Participation**

California River Watch appreciates your interest in and assistance with the survival and recovery of Coho, Chinook and Steelhead. As stated previously, this letter has been sent to vineyard owners and managers identified as requiring water for frost protection. If you believe your vineyard has been improperly identified, please contact California River Watch to so advise. After verification, we will remove you from the list of persons to be notified.

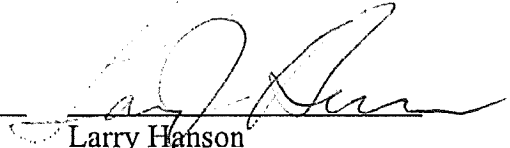
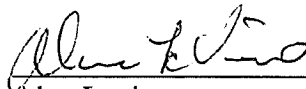
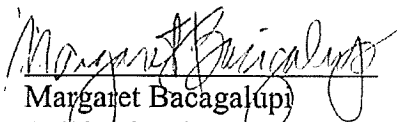
California River Watch, together with numerous other groups and public agencies, are monitoring waterways. California River Watch plans to post on its website a list of all vineyards, along with the owners and managers of those vineyards, which have taken steps to effectively prevent the adverse effects of de-watering. A list of vineyards, owners and managers known to have violated the ESA by de-watering salmonid habitat will also be posted. California River Watch will continue to prosecute violators through the citizen suit provision of the ESA.

Thank you for your courtesy and cooperation.

California River Watch

Coast Action Group

Forest Unlimited



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