

## DEPARTMENT OF FISH AND GAME

~~MARINE REGION~~

20 LOWER RAGSDALE DRIVE, SUITE 100

MONTEREY, CA 93940

(31) 649-2870

*Linda Hanson*  
*707 444 5562*



May 11, 1999

*Sensor of water restriction*

Charles A. Rich  
Complaint Unit  
Division of Water Rights  
State Water Resources Control Board  
P.O. Box 2000  
Sacramento, CA 95812-2000

Dear Mr. Rich:

WATER RIGHT COMPLAINT 363:CM:262.0(27-08-01) &amp; APPLICATION A029282

I am writing in response to your March 15, 1999 letter sent to Brian Hunter and copied to me regarding the subject complaint and application. I am writing on behalf of Mr. Hunter and the Central Coast Region. Your March 15 letter addresses a complaint by the California Sportfishing Protection Alliance (CSPA) alleging that July, 1998 operations of Moore Lake by Rancho San Carlos Partners (RSCP) harmed the steelhead and red-legged frog populations of Las Garzas Creek, tributary to the Carmel River. I have observed and assessed the situation in some detail, and have concluded that public trust resources (steelhead trout) were significantly harmed by incident. The National Marine Fisheries Service has included the steelhead trout of the Carmel River drainage in its "South Central California Coast" Evolutionarily Significant Unit, which is listed as "Threatened" under the federal Endangered Species Act. I have also concluded that the actions of RSCP directly contributed to this harm.

Paragraph 3 on the second page of your March 15 letter describes the content of my March 5 phone conversation with Mr. Chris Murray of your staff. The paragraph accurately describes the major points of our conversation. I would like to add that I did not observe the placement of the stop logs in the dam forming Moore Lake. The placement of the stop logs was revealed to me in a phone conversation with Joel Panzer of RSCP shortly after I observed the temporary dessication of lower Las Garzas Creek and resulting fish kill. I have field notes, photos and a sample of dead juvenile steelhead associated with the event.

The first paragraph of your March 15 letter contains a statement attributed to the CSPA referring to steelhead, that "... perhaps thousands, may have been injured ...". I have roughly estimated that a few hundred steelhead (along with a few catfish and largemouth bass) were killed by the temporary dessication of the stream I observed. The CSPA also alleges in their complaint that red-legged frog were harmed by the event. I have no evidence one way or the other that red-legged frogs were harmed.

DFG is very concerned about the effects of Moore Lake operations on the biota of Las Garzas Creek. We have communicated this concern to RSCP representatives in several phone conversations and meetings. I should say that the RSCP representatives we have been working

Charles A. Rich  
May 11, 1999  
Page Two

with since July of 1998, principally Joel Panzer, Don Wilcoxon, and Jeff Froke, have been receptive to our concerns and I am optimistic that reasonable measures can be identified, agreed to, and implemented to protect steelhead spawning and rearing habitat in Las Garzas Creek. In our most recent meeting with RSCP representatives on April 14, a number of measures were agreed to, including:

- RSCP will leave the Moore Lake Dam flash boards in place this season to avoid potential temporary dessication of the stream caused by seasonal filling "topping-off" of the Lake. For the longer term, The parties also agreed to develop a mutually agreeable protocol for installing flashboards at the end of future winter seasons, assuming the boards are removed during high flow periods.
- RSCP will evaluate project irrigation and Moore Lake management practices, including offstream storage, to avoid "peaks and valleys" in Lake outflows.
- Possible rehabilitation of Moore Lake, including removal non-native fish and frog species which are potentially impacting native species in the Lake and lower Las Garzas Creek.

The outcome of our discussions on April 14 are further described in the attached April 16 letter from Joel Panzer.

Paragraph 3 of your letter indicates with regard to the subject water rights application that "diversion to storage would take place from January 1 to April 30". In addition to this season limitation, we also believe that measures need to be taken as apart of the water rights permitting process to ensure that Lake outflows at least equal inflows after April 30.

This concludes our response to your March 15 letter. If you have any questions or require additional information, please don't hesitate to contact me at (831) 649-2882. Also, Central Coast Region staff are available to participate in your discussions with RSCP regarding the resolution of the subject complaint and processing of the subject application.

Sincerely,



Patrick J. Coulston  
Senior Biologist  
Central Coast Region

Attachment

cc: Patricia Anderson, Carl Wilcox, Tom Pedersen, Brian Hunter, Joel Panzer (RSCP)