

**Communication "A"; August 23, 2011 Special Calistoga City Council Meeting
Item 1: Final Kimball Reservoir Bypass Plan**



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CITY OF CALISTOGA
City Clerk

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RECEIVED

June 29, 2011

Calistoga City Council
Special Meeting
Kimball Dam Bypass Project
Wednesday June 29, 2011 6:00 p.m.

David Hines
National Marine Fisheries Service

Corrine Gray
Department of Fish and Game

John O'Hagan
Enforcement
State Water Resources Control Board

The City of Calistoga has a long and storied history of dewatering the Napa River. See Living River Council's (LRC) State Water Resource Control Board Complaint filed 7/2008- see attached. After years of the people trying to protect flows in the Napa River, the City of Calistoga is attempting to restore minimum flows to the Napa River instead taking all the water for urbanization. The City of Calistoga must restore healthy flows for fishing, swimming and recreation. Salmonids including threatened and endangered Chinook and steelhead need healthy sustained flows so these important species can survive droughts and pollution impacts not yet accounted for in the Napa River watershed.

LRC urges all the resource agencies to rely on AB2121 Instream Flow Policy document, 'Maintaining Instream Flows for Northern California Coastal Stream' as a guiding document for the City of Calistoga to follow the Regional Criteria for establishing healthy flows to Kimball Creek. This must be done without depleting riparian groundwater/groundwater resources in Kimball Creek/Calistoga.

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1. Shouldn't the public hearing remain open while the 'Instream Flow Study' is being conducted? The public has the right to see the final project.
2. Living River Council, LRC, may consider a formal complaint with the State Water Resources Control Board, SWRCB, if the public hearing closes prior to the Instream Flow Study by the City of Calistoga because the temporary By-Pass plan is capable of harming federally listed species such as Chinook salmon.
3. In 2004 the California State governor, signed AB2121 requiring that all North Coast streams and rivers in Napa, Marin, Sonoma, Mendocino and Humboldt counties must have principals and guidelines governing applications to divert water to protect public trust resources. The City of Calistoga has been diverting water from Kimball Creek 1938 without protection for public trust resources. This negligence by the City has killed fish which can not live without water. While Calistoga retained a biologist, the current staff report is void of the needs of fish in the interim by-pass flow schedule. What are the qualifications of the Mr.Podlech? Has he done flow regimes for the life cycle of salmonids?
4. Shouldn't the City retain a fish biologist to protect flows for fish?
5. While the City contends that a CEQA document is not necessary, the SWRCB has on-going jurisdiction and may require CEQA at anytime.
6. This project has significant cumulative impacts that impact the Napa River, an impaired waterbody on the 303(d) list of the Federal Clean Water Act. LRC requested that the Napa River be listed for lack of flow in 2010. Additionally, the Napa River Sediment TMDL requires that flows be improved for spawning Chinook and steelhead, federally listed as threatened. This staff report void of these concerns. Shouldn't the City be discussing this and include this information in this staff report?
7. In paragraph three on page 1, the City states that some harm can occur to public trust resources. The Napa River has significant cumulative impacts from lack of flows so much so that only a few hundred salmonid smolts return to the ocean each year but historically, thousands returned to the ocean. The major limiting factor is lack of flows. The City should not minimize flows for fish.
8. Napa County has a Climate Action Plan that takes into account climate changes occurring due green house gases warming the planet. Droughts are part of the climate cycle of California since our climate is considered Mediterranean. In 2006-2009 California suffered a drought. Droughts are occurring more frequently throughout the world due to climate changes. What is the City's plan to protect public trust resources during drought conditions?
9. The North Bay Aqueduct or the State Water Project is vulnerable and may not be able to supply Calistoga with water. What is the plan for conservation?
10. Shouldn't the City do exhaustive public hearings on water availability?
11. Shouldn't the City consider a moratorium on new development because additional water resources are limited if not unavailable?
12. Isn't it possible that growth in the City of Calistoga is now beyond the available water? Hasn't the City has been killing fish to give water to vineyards and people?
13. Has the City supplied the SWRCB with the requested map showing all the places of use of water from Kimball Creek? Did the City exceed their permit for places of use? Is so what were the violations and has that been reconciled? Is the public aware of all the places of use of water from Kimball Creek?
14. If the City is not doing real-time stream gauge monitoring why not? The public needs to see the by-pass flows in action as it is happening. Therefore, the City should have high speed internet connection to the real time stream gauge. Protecting public trust resources hinges on the reliability that the by-pass project moves sufficient water downstream to keep the stream viable.

Living Rivers Council, mission is to protect 'Living River Principals' the foundation of Measure A, the county wide ordinance that supports the renewal conservation and protection of the Napa River Watershed. Healthy flows for fish along with swimming, fishing and recreation are important public trust values. The City of Calistoga should protect healthy flows for the down stream beneficial uses and make this transparent to the public in their Bypass Project.

LRC would like to stay involved throughout the process to insure the most protection for public trust resources.

Thank You,

Chris Malan
Manager
Living Rivers Council, LRC
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