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NOAA Protects Endangered Salmon in Russian River Watershed

Charges Vineyard with Violating Endangered Species Act; Continues Work with Task Force

Today, NOAA's Office of General Counsel for Enforcement and Litigation served a \$115,500 Notice of Violation and Assessment (NOVA) to Green Pastures Valley, LLC in Sonoma County, for allegedly killing endangered coho salmon with vineyard practices in 2008 and 2009.

The NOVA charges that the pumping of water from Felta Creek by Green Pastures Valley LLC led to the take of 316 coho salmon in the spring of 2008, with 31 of those fish dying. NOAA alleges Green Pastures Valley LLC was aware of the existence of coho salmon in that Creek before the incident, and informed the vineyard that its frost protection practices were having adverse impacts on endangered species in the watershed. However, in the spring of 2009, the firm allegedly again used practices that killed an additional five fish.

"This penalty should send a strong message that we put a high priority on protecting species listed under the Endangered Species Act," said Don Masters, Special Agent in Charge of the Southwest Division of NOAA's Office of Law Enforcement (OLE). "But make no mistake, we would much rather work with landowners to find ways to protect these fish instead of issuing penalty assessments."

The agricultural community in Mendocino and Sonoma counties often use sprinkler irrigation to protect crops, such as grapes and pears, during cold temperatures. The coating of water on the crops freezes, protecting the plants themselves from freezing. Since the water must be repeatedly sprayed on the crops, these frost protection practices can remove a large quantity of water from the nearby Russian River and its tributaries, causing salmon to strand on dry land.

Coho salmon in the Russian River watershed are listed as "endangered" under the Endangered Species Act (ESA). Chinook and steelhead salmon are also found in the watershed, and are listed as "threatened" under the ESA. It is illegal to unlawfully "take" – meaning to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect – or to attempt to engage in any such conduct with any species protected by the ESA.

NOAA OLE created the Frost Prevention Pumping Task Force in 2008, and since then the group has been spearheading cooperative solutions to local vineyards' frost protection practices. Special Agent Derek Roy, based in the Santa Rosa field office, has been working with federal, state and nongovernmental agencies as well as local vineyard owners to address these problems, as Community Oriented Policing and Problem Solving (COPPS) is one of the four pillars of NOAA OLE.

The group's efforts have changed farming practices, lessening the demand for water in the Russian River Watershed during a frost event. For example, local vineyard owners have constructed off-stream storage ponds, an investment of \$1.8 million in 2009.

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The California State Water Board also has drafted new regulations requiring water diversions between March 15 and June 1 to adhere to a board-approved water demand management program to ensure that the reduction in stream flow does not harm fish.

"Cooperation with the agricultural industry and responsible resource agencies is key to preventing the future loss of steelhead, coho and Chinook salmon in the Russian River Watershed from this type of water diversion," Masters said.

NOAA Fisheries' Habitat Conservation Division conducted an investigation after the 2008 incident that determined that Green Pastures Valley LLC was responsible for the salmon stranding. The NOVA charges the firm with seven counts of violating the ESA, one count for each day Green Pastures Valley LLC pumped water from Felta Creek. Six of the days were in 2008, and one was in 2009.

Green Valley Pastures LLC has 30 days from the receipt of the NOVA to pay the penalty, seek to have the assessment modified, or request a hearing before an administrative law judge to deny or contest all or any part of the charges and the penalties assessed.

The mission of NOAA OLE is to ensure compliance with the laws and regulations enacted to conserve and protect our nation's marine resources. To report a suspected violation, contact the NOAA OLE national hotline at 1-800-853-1964.