Regulate all agriculture, not just pot

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By Felice Pace

Supporters of marijuana growers insist pot farming is agriculture and should be regulated as such. Those concerned about streams, salmon and wildlife claim that's not good enough. Both are correct.

Pot growing is clearly agriculture and, like the rest of agriculture, methods used to grow it range from organic to intensely chemical. State agencies charged with protecting streams, fish and wildlife — the Department of Fish & Wildlife and State and Regional Water Boards — already have legal tools to adequately protect the environment, including stream flows, from the impacts of agriculture.

Fish & Game Code 5937 states that owners of dams and diversions must allow enough water to bypass the dam or diversion to keep fish habitat below it in "good condition." The Clean Water and Porter Cologne Acts prohibit discharges which degrade water quality and the Water Code prohibits "waste" and "unreasonable use" of water. If applied conscientiously to any agriculture operation, these tools would be effective in ending practices which significantly threaten and damage streamflow, water quality and fisheries.

The problem is that the state agencies charged with regulating agriculture — the Department of Fish & Wildlife and the Water Boards — are not willing to do their duty, at least not when it comes to regulating any form of agriculture except pot growing. Here are illustrations:

In 2001 Tom Steinstra and Glen Martin writing in the San Francisco Chronicle reported that young salmon were being stranded and were dying below agricultural diversions in the Scott and Shasta River Valleys but that game wardens were doing nothing to end the dewatering. Supervising Warden Rene Cleland explained "It's extremely politically sensitive. I was told to take no enforcement action on it. These fish are dying." Cleland's orders came from the highest levels in Sacramento.

Coho were subsequently listed as "threatened" under federal and state endangered species laws. Instead of enforcing those laws to protect Coho, however, the Department of Fish and Wildlife instituted an expensive "fish rescue" operation below agricultural diversions in the Shasta and Scott Valleys. Each year, when irrigation diversion begins, Department personnel gather Coho and Chinook stranded in remnant pools below diversions. The agency transports the young salmon and releases them in locations where streams still flow. While called "fish rescue" it is likely many relocated salmon do not survive because the habitat in which they are placed is already fully occupied. What California taxpayers are funding is not "fish rescue" but rescue of agricultural water users from the liability of having dead Coho visible below stream-dewatering dams and diversions.

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I've filed numerous complaints with the State Water Board and Department of Fish and Wildlife focused on agricultural water use in the Scott River Basin, a major Klamath tributary. I've provided evidence of stream dewatering below agricultural diversions, irrigation outside the legal irrigation season and diverting large amounts of water under much smaller water rights granted for livestock watering. Not one of those complaints led to the Water Board or Fish and Wildlife Department taking enforcement action. The same illegal practices continue today. When it comes to compliance with environmental and water law, in the State of California the agricultural industry operates with virtual impunity. That is unless the crop being grown is marijuana.

The Department of Fish and Wildlife is responsible for the push to regulate pot growing. That's a good thing; pot growing needs regulation. But the Department is not treating all agricultural water users equally. Pot growing is being scapegoated in order to divert attention from the Department's failure to enforce the laws it already has in hand to prevent stream dewatering.

Marijuana growing should be regulated as agriculture and all agriculture in California should be regulated fairly and adequately. That is the sworn duty of Department of Fish & Wildlife and the Water Boards officials. Agriculture consumes 80 percent of the water diverted from California's streams; only by adequately regulating all agricultural water use can we sustain and restore living rivers and the aquatic ecosystems on which we all depend.

A forty year resident of the Klamath River Basin, Felice Pace has been advocating for forests, rivers and salmon since 1986. He currently lives at Klamath Glen and blogs on Klamath River issues at www.KlamBlog.blogspot.com.