

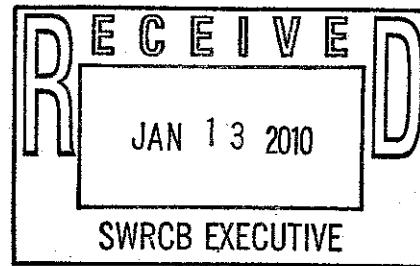
1/19/10 Bd Mtg/Wrkshp Item 7
Russian River
Deadline: 1/13/10 by 12 noon

From: Rudy Light <resident@pacific.net>
To: <commentletters@waterboards.ca.gov>
Date: 1/13/2010 11:37 AM
Subject: 1/19/2010 BOARD MEETING ITEM 7--FROST PROTECTION

13 January 2010
VIA EMAIL

Charles Hoppin, Chair
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Reference: Proposed Frost Protection Regulations for Russian River System - Item 7 of January 19, 2010 Meeting



Dear Chairman Hoppin and Board Members:

On 12 January 2010 I received notice of the workshop and the proposed regulations. With fewer than 24 hours to respond, my comments must be brief.

1. The URSA group has been meeting for more than a year to solve this problem and they have had the expertise of growers, vintners, Glenn McGourty and David Lewis of the University of California Extension staff, Mendocino County and Sonoma County Farm Bureaus, Laurel Marcus of California Land Stewardship Institute, NOAA Fisheries, Sean White of Russian River Flood Control District and personnel from the Sonoma County Water Agency. All have worked diligently devoting hundreds of man hours to solve the problem of how to maintain flows in the mainstem. There is at least one new streamflow gage near Talmage Road south of Ukiah, and all grape growers on the mainstem in Mendocino County now use meters. A system was worked out so the releases from Lake Mendocino were timed to the need of people needing water for frost protection, and the method works.

However, the proposed regulations deny that any good was accomplished by this group's efforts. This assertion is factually incorrect and what was crafted and put in place this past year is very workable for landowners and protective of anadromous salmonids.

2. At the 19 November 2009 workshop, Glenn McGourty, the University of California Extension viticulture expert with 25 years experience, addressed the Board and discussed the history of frost protection and you'll recall he said that his UC predecessor in Mendocino County felt that convincing grape growers to use water for frost protection was one of his greatest legacies. Frost protection is clearly a beneficial use of water. Mr. McGourty also pointed out that grapes use much less water than pears or prunes. The proposed regulations say that water for frost protection during the period March 15 to June 1 is an "unreasonable" use. This is patently false. Moreover, this is the critical time when frost protection is most needed in order to prevent crop failure.

3. At that same workshop, Steve Edmondson and Bob Hoffman of NOAA Fisheries cited the August 15, 1997 Report written by Division of Water Rights staff Frank Roddy and Ernest Mona. Mr. Hoffman asserted that the staff report claimed using water for frost protection should be banned. What Mr. Hoffman ignored is that the staff report said there is a lot of water available for storage, provided it is diverted at the appropriate time.

In the case of the West Fork Russian River with an average annual flow of 128,000 acre-feet (100,000 acre-feet between 15 December and 31 March), the staff report authors said in a normal year as much as 75,000 acre-feet could be stored in ponds in the West Fork Russian River watershed, and in a dry year, about half of that. Actual storage is less than 3,000 acre-feet, so the authors concluded there is a lot of water available. These authors were specifically taking the needs of anadromous fish into account because that was the primary purpose for writing it. Please read this report. It is excellent.

4. The proposed regulations do not limit withdrawals for frost protection to direct diversion for frost protection but seemingly include pumping into an offstream storage reservoir. That means no pumping from March 15 to June 1 unless there is an approved "water demand management program". This program is undefined, and given the Division of Water Rights history of moving forward on plans of any sort, will probably take a decade or more to implement. Meanwhile, no diversions will be allowed. I think you know the economic repercussions of that to individuals and to the counties.

5. The proposed regulations do not distinguish between the mainstem of the Russian River, i.e., from below the dam of Lake Mendocino south and below Lake Sonoma where Dry Creek joins the mainstem, from all the tributaries. Instead, these regulations apply to the "Russian River Stream System", which apparently means the entire Russian River Basin, all 1,485 square miles of watershed.

There was an alleged stranding in 2008 of two anadromous fish (perhaps steelhead but information is not easily obtainable) on the mainstem of the Russian River north of Hopland. The growers, water agencies, regulators and others worked in careful collaboration to solve the problem, and the reward for their efforts is to now include the whole Russian River Watershed in punitive regulations which do not address the causes of salmonid decline.

6. Paragraph (e) of the proposed regulations says that, "Compliance with this section shall constitute a condition of all water right permits and licenses that authorize the diversion of water from the Russian River stream system." It doesn't say new permits and new licenses. This proposal cannot be legal without legislative action, and it invites litigation. These proposed regulations simply take away legitimate water rights from diverters.

7. Finally, there is the issue of groundwater. The proposed regulations assume that all pumping within some distance of a stream (not necessarily the mainstem but any stream in the Russian River Watershed) is taking water away from that stream. The proposed regulations don't require there be a "subterranean connection" but merely that the water is "pumped from areas described as subterranean flow . . ." The landowner or municipal body must prove (or as the proposed regulations say "demonstrate to the satisfaction of the Board") that there is no connection of the groundwater to the stream. This is an impossible task because it requires proof of the negative hypothesis.

In conclusion, I implore this Board to reject in entirety these proposed regulations written by staff, and adopt the program for workable frost protection measures developed by the people over the last year, and which will assist salmonids.

Very truly yours,

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