

State Water Resources Control Board

MAR 23 2012

Redwood Empire Packing
Attn: Randall Ruddick
8801 Old River Road
Ukiah, CA 95482

WATER DEMAND MANAGEMENT PROGRAM SUBMITTED FOR COMPLIANCE WITH THE RUSSIAN RIVER FROST PROTECTION REGULATION, MENDOCINO COUNTY

Dear Mr. Ruddick:

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) received and reviewed the Water Demand Management Program (WDMP) that you submitted for initial compliance with California Code of Regulations, title 23, section 862 (the Regulation) commonly known as the Russian River Frost Protection Regulation. Your proposed WDMP does not contain a schedule for completing a stream stage monitoring program and conducting a risk assessment, which is a requirement of the initial WDMP. Therefore the WDMP you have submitted is not acceptable at this time. In order for your initial WDMP proposal to be acceptable, you will need to submit a schedule for developing a stream stage monitoring program and conducting a risk assessment that includes the required consultation with the Department of Fish and Game (DFG) and National Marine Fisheries Service (NMFS). An acceptable schedule should identify milestone dates for: collection of required inventory information; a determination of the number, type, and location of stream gages; a determination of the stream stage that should be maintained at each gage; installation of stream gages; and conduction of a risk assessment of cumulative frost diversions affecting stream stage.

On February 2, 2012, the Mendocino County Superior Court granted a stay of enforcement of the Regulation pending resolution of two lawsuits filed against the State Water Board regarding adoption of the Regulation. This is not a ruling on the merits of the cases, it is simply a ruling on whether the Regulation is enforceable prior the court issuing a ruling on the merits. The hearing is currently scheduled for June 4-5, 2012. This letter is being sent to provide you with a response regarding your WDMP submittal should you choose to voluntarily proceed in the interim.

Your submittal indicates that your source of water for frost protection is groundwater. Therefore the Regulation applies to your diversion. If you are claiming that the groundwater well is not hydraulically connected to the Russian River Stream System, the Regulation provides a specific process by which you may show that you are not diverting water hydraulically connected to the Russian River stream system. Pursuant to the Regulation, the governing body of a WDMP may develop and submit criteria for identifying whether or not groundwater diversions are hydraulically connected, as that term is defined in the Regulation. The criteria are subject to the approval of the Deputy Director of the Division and, if approved, groundwater diverters meeting the criteria may be exempted from the Regulation.

MAR 23 2012

Your submittal indicates that you are serving as an individual administering your WDMP. Once you have submitted an adequate initial WDMP that is approved by the Deputy Director of the Division, you may then submit criteria for identifying whether or not your groundwater diversions are hydraulically connected. Criteria should include analysis of the well performance and hydrogeology of the area. A cursory review of aerial imagery indicates that you may be the only frost diverter within the Parson's Creek watershed. While you may also wish to seek out a larger WDMP group that may be able to help you with development of criteria and could help minimize some of your costs, if you are in fact the only diverter in this particular watershed that may not be practical.

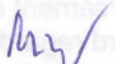
Copies of initial WDMPs with schedules that have been accepted by the State Water Board are available at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/russian_river_frost/prctn_reg.shtml

Division staff will continue to be available to answer questions and discuss ways for diverters to meet the goals and terms of the Regulations while the Mendocino County Superior Court considers the lawsuits. Should you have any questions or if you would like to meet with Division staff, please contact Mr. John O'Hagan of my staff at (916) 341-5368 or by email at johagan@waterboards.ca.gov. Written correspondence should be addressed as follows:

State Water Resources Control Board
Russian River Frost Regulation
Attn: John O'Hagan
P.O. Box 2000
Sacramento, CA 95812-2000

Sincerely,


Barbara Evoy, Deputy Director
Division of Water Rights

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