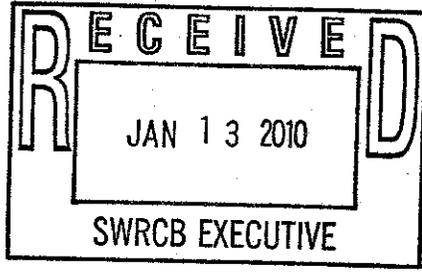


1/19/10 Bd Mtg/Wrkshp Item 7  
Russian River  
Deadline: 1/13/10 by 12 noon



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

January 12, 2010

**Re: Russian River Frost Protection Draft Regulation for the January 19<sup>th</sup> SWRCB Workshop**

Dear Chairman Hoppin and Board Members,

I am writing in response to the State Water Resources Control Board (SWRCB) draft regulation pertaining to use of water for frost protection of crops in the Russian River watershed in Mendocino and Sonoma Counties.

As a riparian right holder who diverts underflow of the Russian River for frost protection purposes, I am particularly concerned about this draft regulation. It states that my water right if used for frost protection will be determined to be significant and unreasonable unless I "can establish to the satisfaction of the board that the diversion will have a negligible effect on stream flows in any portion of the Russian River stream system that provides habitat for anadromous fish."

As proposed, this regulation imposes an unreasonable burden of proof on my frost diversion for several reasons. First, given that my diversion is adjacent to the Sonoma County Water Agency's Wohler collectors, it may be impossible to isolate the effects of my diversion on stream flow from other diversions including the much larger municipal diversions. Second, it defines no standards for establishing that my diversion has negligible effects. Finally, I believe my frost diversion is a reasonable and beneficial use of water and that the SWRCB has not sufficiently met its burden of proof whether my frost diversion and many others are unreasonable.

I ask that you reject the SWRCB staff proposed regulation reconsider the proposed regulation submitted by the Russian River Frost Program.

Sincerely,  
  
Douglas McIlroy  
General Partner  
Aquarius Ranch Associates  
[dmcilroy@comcast.net](mailto:dmcilroy@comcast.net)