

 UNITED
WINEGROWERS
for Sonoma County



July 5, 2011

Via email to commentletters@swrcb.ca.gov

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State Water Resources Control Board
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Subject: Comment Letter - Proposed Russian River Frost Regulations

To Chair Hoppin and Members of the Board:

United Winegrowers for Sonoma County is an organization of both winery and vineyard owners. We represent members countywide, with many owning property in the Russian River watershed.

Lacking critical definition: After review of the revised regulation, the statement of reasons and the draft EIR, we find no response to the Board's clearly stated request for a performance standard. The old language, "harm to salmonids," has been replaced by a new term "stranding mortality." The stated purpose of the Regulation "is to prevent stranding mortality due to the cumulative effect of instantaneous diversions for purposes of frost protection of crops" (Statement of Reasons, page 3).

However, no definition is provided describing where, when, and how "stranding mortality" may occur. And, equally important, those conditions when it does not.

The Board should follow NOAA Fisheries' direction that such determination is best made by those with knowledge of actual on-the-ground conditions, leaving implementation and interpretation of "stranding mortality" to the local governing body or send the regulation back until such time a definition is provided.

Lacking meaningful data: This effort started (and remains stuck) involving just two incidents in the watershed in 2008 and the repeat of one in Sonoma County in 2009 of a small vineyard located upstream of the fish kill. Time has passed but no additional problems have been identified.

Additional data is needed to assess the nature and extent of the problem. The resource agencies have gages in many streams. Yet, after all the scrutiny and investment, no actual stream data is provided.

The remedy is to work with the efforts already underway in the watershed and collect the necessary data through the Sonoma County Ordinance and by working with Mendocino's grape and pear growers.

Groundwater: The record cites a 2009 survey of growers in Sonoma County which found 85% of wells used to supply water for frost protection were pumping from depths greater than 60 feet. The "Economic Impact of the Proposed Russian River Frost Regulation" conducted by Board staff is based on an assumption that wells at that depth "may not have a significant effect on the stage of the Russian River during the critical period. For this reason, it may be possible for the State Water Board to approve a WDMP that allows diverters to continue to pump from those wells." (Section 4.4.5, page 23).

It would appear that little positive is to be gained by the Board adding groundwater to the regulation.

Additionally, in the Statement of Reasons, it describes a two-part test for what water to include. On page 3 the purpose of the regulation is discussed and concludes either that the Board may approve a Water Demand Management Program or "the Board determines that a groundwater diversion is not hydraulically connected to the Russian River." If groundwater stays, at least the Board should provide guidance that recognizes and accepts the 60-foot rule used in the economic report. However, we find no data in the record showing how pumping groundwater impacts the instantaneous demand for water during frost events.

Cooperation: The issue is how to get a program that works. When this process began, the requirement for full participation was made known. A Frost Ordinance which accomplishes that is already in place in Sonoma County. The choice now is how best to build on action at the local level and encourage a lasting sense of cooperation.

The record suggests one of the only feasible solutions is to develop other supplemental sources of water. A preferred solution is to capture and store more wintertime flow. The Board can greatly influence that outcome.

Meeting the Requirements: The clear direction is to have growers participate in a local program. Yet, it is not clear what authority the Board intends to grant the group to take action and what requirement, beside that of participation, each individual participant will hold. The group is tasked with a broad range of assignments from monitoring to report writing to determining relative water right priorities. However, the very same problems that has the Board concluding it lacks the time and resources to do this work is simply being passed to the local groups to resolve. Our recommendation is to pursue a phased approach that will collect needed data, improve all parties understanding and allow local experimentation and determination yielding a set of corrective actions which will actually work.

Thank you.

Bob Anderson, Executive Director

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