

June 26, 2011

California Department of Water Resources
Attn. Charles Hoppin, Chairman
1001 I Street
PO Box 100
Sacramento, CA 95812-0100



Subject: Draft Environmental Impact Report- Frost Regulation

Greetings Staff and Chairman Hoppin,
State of California Department of Water Resources,

This letter is in response to the draft environmental impact report produced in the spring of 2011 by the California Department of Water Resources (DWR), a state agency tasked with water resource use including agricultural frost protection irrigation oversight. I understand that the need for a state regulation on the use of agricultural overhead irrigation for vineyard frost protection has emerged in response to documented fish strandings and compromised anadromous fish habitat attributed to the simultaneous over-drafting of streams and tributaries of the Russian River watershed. I am urging the DWR to work with National Marine Fisheries Service and the California Department of Fish and Game to develop strong and enforceable regulations using appropriate means to limit the overuse of precious water resources that fisheries need for their habitat recovery.

My interest in this issue emerged through a study I conducted at Sonoma State University as a student in the Geography Department where I analyzed regional occurrences of frost events in the springtime months over a twenty year period – from 1990 to 2009 in the Russian River watershed. This study demonstrated both a pattern of geographically defined frost trends as well as a general increase in springtime frost events over this recent twenty-year period. The data was derived from publicly available air-temperature data generated by the University of California Integrated Pest Management website and has now been used by National Marine Fisheries Services to generate maps to assist farmers with making appropriate decisions to balance concerns of fisheries with their agricultural practices. Although I am confident that there is sufficient concern about this issue among those in the agricultural industry, I do not believe that farmers will easily comply with agency recommendations. In short, my experience leads me to the idea that an enforceable regulation (as opposed to voluntary conservation measures) is sorely needed in order to adequately protect struggling fisheries from certain decline. I feel that the use of fresh water pumped in some cases directly from spawning stream habitat amounts to an excessive and unreasonable use of water, and as such, I would contend that this constitutes a violation of the public trust.

What jumped out at me with the latest draft regulation was the lack of clarity regarding enforcement. What can be expected is that there will be a lack of personnel and budget for (frost protection regulation) enforcement and the

agricultural industry will try to step up into this role by retaining consultants and the RCD's who will demonstrate so-called "best management practices", in lieu of real changes. As a former employee of a resource conservation district, I will state unequivocally that these special districts are quick to act in the interest of farmers and tend to side with private property owners at the detriment of biological resource habitat. There is no defined water master approach in this draft regulation, in spite of its apparent effectiveness in the neighboring county of Napa.

The State of California must recognize the authority of fisheries regulators who are doing their best under extremely challenging circumstances to protect biological resources habitat. It should also be noted that elected officials in the County of Sonoma have a predictable history of favoring the concerns of the vineyard industry over natural resource protection and cannot be relied upon to craft their own regulations on this issue. A water demand management program sounds good on paper, but it is unclear whether good intentions at sound science will translate into actual protection of streams and waterways that are home to wild salmon, steelhead trout and other aquatic species in the "wine country"- formerly known as the Redwood Empire!

So, I am urging the DWR to retain authority to disallow so-called "water rights" that are, in effect, an unreasonable use of water, and as such- a violation of the public trust. The way I see it, water used for frost protection is unreasonable within riparian zones recognized as critical habitat for the survival and reproduction of listed salmonids. I appreciate that the state is recognizing the importance of hydrologically connected groundwater in this draft regulation, though in practice this is still somewhat difficult to define. I suggest that the State work with NMFS/DFG to determine geographic areas where a diversion and/or overhead irrigation *moratorium* would be more appropriate. Agricultural operators need to be pressed to pursue alternatives to the use of sprinklers in these riparian critical habitat zones.

Thank you for continuing to work on this difficult and politically charged issue. Please continue to consider not just the economics of the current agricultural industry, but also the wild fisheries, which were once the main source of sustenance for Californians and of paramount economic concern, as well. The decisions made by those in power today can positively impact our future, but natural resources and especially fresh water must be carefully safeguarded. I appreciate your concern and attention to this matter.

Sincerely,

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