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GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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## State Water Resources Control Board

JAN 24 2012

Mr. Alfred White  
Director of Viticulture  
La Ribera Vineyards  
6800B Old River Road  
Ukiah, CA 95482

Dear Mr. White:

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

Thank you for taking the time to talk, via phone, with staff of the State Water Resources Control Board (State Water Board or Board), Division of Water Rights (Division) on December 20, 2011. We appreciate the opportunity to discuss your draft for a Water Demand Management Program (WDMP) for the new Russian River Frost Protection Regulation (Regulation) adopted by the Board. The regulation was approved by the Office of Administrative Law on December 29, 2011 and became effective on that date.

You submitted WDMP proposals for the diversion of water for frost protection at La Ribera Vineyards along the Russian River and for the Mendocino Wine Group, LLP, in Mendocino County. After your phone conversation with staff, it appears your submittal for La Ribera Vineyards is substantially complete and may be acceptable once additional information is provided to the State Water Board. You noted during the phone conversation with staff that you do not divert water for frost from the Russian River during the hours of a frost event because you are diverting from your 50 acre-foot and 16 acre-foot ponds and cannot physically turn on your river pumps. You stated that you will refill your ponds with water from the Russian River during non-frost events. While this proposal is consistent with the goals of the Regulation, this operation still requires you to be part of a WDMP under the Regulation because you will still be diverting water from the Russian River stream system between March 15 and May 15 for refilling your ponds.

You also submitted an operation proposal (not required at this time) based on the minimum flows set for the Russian River in State Water Board Decision 1610, your Department of Fish and Game (DFG) 1600 permit, and the ramping flows in Table 3 of the National Marine Fisheries Service (NMFS) Biological Opinion for the Russian River. You propose to refill your reservoirs when flows in the river are above the minimum flows in Decision 1610 or when the ramping rates in Table 3 of the NMFS Biological Opinion are met. While your proposal may be consistent with the goals of the Regulation in concept, you should note that it may not adequately address the risk of stranding mortality. Even if flows are above the minimum requirements of these other decisions and permits, the risk of dewatering a section of the river exists if the diversion of water by

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numerous diverters is uncoordinated. Additionally, even if everybody individually monitors a stream gage and ceases their diversions because flows drop, the river will still experience the effect of the cumulative withdrawal. You have put together a proposal that in concept may constitute an adequate stream stage monitoring program, but until you consult with DFG and NMFS it will not be accepted by the State Water Board. Please note that, pursuant to State Water Board Resolution No. 2011-0047, a complete stream stage monitoring program is not required for approval of an initial WDMP. In order for your initial WDMP proposal for La Ribera Vineyards to be found acceptable, you will need to submit a *schedule* for developing a stream stage monitoring program and conducting a risk assessment in consultation with DFG and NMFS.

The goal of the regulation is for diverters to coordinate and manage their diversions to minimize the cumulative impacts of their diversions on fishery resources and prevent stranding mortality. While nothing in the regulation prohibits you from turning in an initial WDMP for your individual ranches, this type of submittal is unlikely to meet the goals of the regulation in the long term. The State Water Board recognizes that implementation of this regulation will take time. This is why the resolution adopted by the State Water Board included a phased approach to meeting all of the requirements of the regulation. While your submittal may meet the requirements of an initial WDMP, assuming you submit the required schedule, in the long term you will not be able to meet the other requirements of the regulation unless you actively manage your diversions with other diverters in the vicinity of your diversion and conduct a proper risk assessment based on all diversions affecting the stream reaches from which you divert for frost protection. As a matter of cost and efficiency, the State Water Board anticipates that diverters will form groups in order to accomplish this rather than simply operate numerous individual WDMPs. Specifically, risk assessments submitted under individual-diverter WDMPs will likely not be acceptable without full consideration of all other diversions for frost protection on the same stream reach. For this reason, it is strongly recommended that you consider working with the group of diverters along the reach of the Russian River where your diversions occur to develop one WDMP for the group. This approach provides better assurance that the goals of the Regulation can be met and at the same time minimizes the costs to individual diverters.

The submittal for Mendocino Wine Group, LLP, which identifies the source of water for frost protection as sheet flow and springs, requires additional work. While the submittal states that no diversion of water takes place, during your phone conversation with staff you clarified that water is collected from the springs and from sheet flow in three ponds and that you withdraw that water for frost protection. Like the diversion of water from surface streams and hydraulically connected groundwater, the diversion of water from a spring for frost protection purposes is considered subject to the Regulation because the diversion of the spring water could lead to cumulative effects in streams where salmonids are present. During your phone conversation with staff you stated that you did not need to divert water from the springs during the frost season if that would allow you to be exempt from the Regulation. I would be happy to consider any evidence you may have confirming that you have the ability to fill and frost protect from your ponds solely with diffused surface water from precipitation, but until I or my staff can confirm that your frost protection operation does not involve the diversion of water from the Russian River stream system you should divert water at this ranch in accordance with a Board-approved WDMP to ensure that your frost protection diversions are not unreasonable. I would like to point out that prior to your management of the ranch, Division staff conducted an investigation of the reservoirs and determined that the water being collected was percolating groundwater. Enclosed is a copy of a December 6, 2002 letter with those findings. Based on the findings of this letter, your reservoirs would be subject to the Regulation and you will need to resubmit an initial WDMP that meets the requirements for an initial submittal as stated in State

Mr. Alfred White  
La Ribera Vineyards

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Water Board Resolution 2011-0047, or join another WDMP that is approved by the Division's Deputy Director for the upcoming frost season.

Please submit any additional information or a new WDMP to the Division by the February 1, 2012 deadline. 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](mailto:johagan@waterboards.ca.gov) Written correspondence should be addressed as follows:

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

Sincerely,



Barbara Evoy, Deputy Director  
Division of Water Rights

Enclosure