

OFFICE OF THE AGRICULTURAL COMMISSIONER

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July 5, 2011

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Comment Letter – Proposed Russian River Frost Regulation

The County of Sonoma is in receipt of the State Water Resources Control Board's proposed regulation and Draft Environmental Impact Report (Draft EIR) related to frost protection in the Russian River watershed and submits the following comments.

In the past several years, the County has actively worked with growers, the National Marine Fisheries Service, the California Department of Fish and Game, and other interested stakeholders on ways to protect listed salmonid species from harm by use of water by growers for frost protection, while recognizing the significant importance of water use in the protection of valuable crops during the frost season. This work led to the adoption by the County of a first-of-its-kind ordinance, requiring growers operating frost protection systems within the Russian River watershed that use water to register with the County's Agricultural Commissioner, and provide information about their frost protection systems. The ordinance also allows for the imposition of fees on growers to support a monitoring program, which would include the installation of gauges in critical tributaries to measure stream stage during the frost protection season, the gathering of information about frost water use, and creation of a science panel to evaluate data.

The County's ordinance will allow the County, if the proposed regulation is adopted, to be the governing body for purposes of administering a water demand management program (WDMP) as referenced in proposed state regulation (section 862(b) of Division 3 of Title 23).

With respect to the Draft EIR, the County notes that the "worst case" estimate of the number of acres that may be affected by the regulation appears to be overstated. As noted on page 59, the estimate does not take into account existing acreage that is frost protected by means other than diversions from streams within the Russian River watershed. Typically, a "worst case" assessment in an EIR attempts to assess the maximum impact likely to occur. By including acreage that does not rely on diversions at all and thus will not be required to change existing practices, the estimate appears to overstate the likely effect of the proposed regulation.

In its analysis of potential impacts, the Draft EIR finds many of the impact areas to be "potentially significant" that in the County's view are likely to be less than significant given that some current diversions will cease. For example, on page 63, the Draft EIR finds that increased extraction of groundwater as a result of the regulation could result in reduced summer flows of surface water. However, the groundwater extractions undertaken in response to the new regulation would be replacing direct diversions of surface water. Given that the regulation does not authorize any new extractions or diversions, the conclusion that there could be a significant reduction in summer surface water flows as a result of the regulation seems unwarranted.

The Draft EIR assumes that for each of the actions likely to be taken in response to the new regulation, future environmental review can be expected to identify and mitigate site-specific environmental effects. However, in Sonoma County, some of those actions, such as agricultural wind machines and groundwater extraction, do not require a permit or are subject to ministerial permits that do not involve discretionary approvals that would trigger review under CEQA. In the absence of a discretionary permit requirement by some other governmental agency, additional CEQA review would not occur. We suggest that the language regarding future environmental review be revised to be more general in nature, recognizing that not all actions will require a discretionary permit or approval.

Thank you for the opportunity to comment on the proposed regulation and Draft EIR. The County stands ready to work in a coordinated manner with the State Board, growers, resource agencies, and other interested parties to develop a feasible local WDMP to address frost water issues.

Please feel free to contact me if you would like any additional information regarding this matter.

Sincerely,



Lisa Correia

Chief Deputy Agricultural Commissioner