



Linda S. Adams
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State Water Resources Control Board

Executive Office

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Edmund G. Brown Jr.
Governor

NOTICE OF ADOPTION HEARING AND NOTICE OF AVAILABILITY OF DOCUMENTS

PROPOSED RUSSIAN RIVER FROST PROTECTION REGULATION

**NOTICE IS HEREBY GIVEN THAT the State Water Resources Control Board will hold a
Public Hearing to Receive Comments and to Consider Adopting a
Proposed Russian River Frost Protection Regulation**

The Public Hearing will be held at a Board Meeting on
September 20, 2011
starting at 9:00 a.m.
in the
Coastal Hearing Room
Joe Serna, Jr./Cal-EPA Building
1001 I Street, Second Floor
Sacramento, CA 95814

BACKGROUND

In a letter dated February 19, 2009, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries) requested that the State Water Board take immediate action, such as implementing emergency regulations, to address concerns that water diversions from the Russian River stream system for purposes of frost protection of crops will cause significant salmonid mortality. The letter documents two episodes of fish stranding mortality that occurred in April 2008, one on Felta Creek in Sonoma County and the second on the mainstem of the Russian River near Hopland in Mendocino County.

In response to NOAA Fisheries' February 19, 2009 letter, the State Water Board held several workshops in 2009 and 2010 to receive information regarding (1) the need for and the effect of water diversions for purposes of frost protection of crops, (2) local voluntary efforts at managing water diversions for frost protection, and (3) the need for short- or long-term regulatory action by the State Water Board. Based on the information presented at the workshops and other available information, the State Water Board decided to promulgate a regulation to prevent stranding mortality due to frost diversions. On November 17, 2010, the State Water Board held a CEQA scoping meeting to obtain comments concerning potential regulation alternatives, significant environmental impacts, and mitigation measures. In April 2011, the State Water Board held a public workshop to obtain comments on a draft of the proposed Regulation.

The State Water Board has a duty to protect, where feasible, the state's public trust resources, including fisheries. In addition, the Board has the authority under article X, section 2 of the California Constitution and Water Code section 100 to prevent the waste or unreasonable use, unreasonable method of use, or the unreasonable method of diversion of all waters of the state.

DESCRIPTION OF THE PROPOSED REGULATION

The proposed Regulation would provide that diversions from the Russian River stream system for purposes of frost protection from March 15 through May 15 are unreasonable, unless they are in accordance with a Water Demand Management Program (WDMP) approved by the State Water Board. The proposed Regulation would apply to all diversions, including hydraulically connected groundwater, regardless of the diverter's basis of right, except for diversions upstream of Warm Springs Dam in Sonoma County or Coyote Dam in Mendocino County. Accordingly, the project location is the Russian River watershed, except for those portions of the watershed upstream of Warm Springs Dam and Coyote Dam. This project location is shown on Figure I of this notice. In order to be approved, a WDMP would be required to ensure that the instantaneous cumulative diversion rate does not result in a rapid decrease in stream stage that results in the mortality of salmonids due to stranding. A WDMP would be required to include: (1) an inventory of the frost diversion systems within the area subject to the WDMP, (2) a stream stage monitoring program, (3) an assessment of the potential risk of stranding mortality due to frost diversions, (4) the identification and implementation of any corrective actions necessary to prevent stranding mortality, and (5) annual reporting of program data, activities, and results to the State Water Board. The number and location of stream stage monitoring gages would be required to be established in consultation with the NOAA Fisheries Service and the California Department of Fish and Game. The WDMP would be required to be administered by a governing body capable of ensuring the goals of the program are met.

SIGNIFICANT ENVIRONMENTAL EFFECTS ANTICIPATED AS A RESULT OF THE REGULATION

As more fully described in the Draft Environmental Impact Report, depending on actions taken by affected persons, adoption and implementation of the proposed Regulation could result in potentially significant impacts to the following resources: aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology/soils, hazards/hazardous materials, hydrology/water quality, land use/planning, mineral resources, noise, population/housing, public services, recreation, transportation/traffic, and utilities/service systems.

DOCUMENT AVAILABILITY

The proposed Regulation, Draft Environmental Impact Report, Economic and Fiscal Impact Report, and Initial Statement of Reasons are available electronically at http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/russian_river_frost/. You may also receive copies by contacting Karen Niiya at (916) 341-5365, or by sending an email to rfrostregulation@waterboards.ca.gov.



To subscribe to an email list for future notifications about the proposed regulation, go to the State Water Board's website at http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml, and choose "**Russian River Frost Protection.**" Copies are also available for review in the Records Unit of the State Water Board's Division of Water Rights, which is located on the second floor of the Cal/EPA Headquarters Building, 1001 I Street, Sacramento, California.

SUBMISSION OF WRITTEN COMMENTS

Interested persons and parties may submit written comments on the proposed regulation or Draft Environmental Impact Report. Written comments must be received by **12:00 noon on July 5, 2011**. Participants are encouraged to submit their comments, evidence, and other material electronically and may be submitted by email to commentletters@waterboards.ca.gov (if less than 15 megabytes in total size) or by fax at (916) 341-5620. Please indicate in the subject line: "**Comment Letter – Proposed Russian River Frost Regulation.**" Written comments may also be delivered by mail to:

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board,
P.O. Box 100, Sacramento, CA 95812-2000 (by mail)
1001 I Street, 24th Floor, Sacramento, CA 95814 (by hand delivery)

Couriers delivering comment letters must check in with lobby security personnel on the first floor of the Cal/EPA Building at the above address. Questions on comment submittal may be directed to Ms. Townsend, at (916) 341-5600.

PROCEDURAL MATTERS

The hearing will be informal. There will be no sworn testimony or cross-examination of participants, but the State Water Board and its staff may ask clarifying questions. Participants are encouraged to submit written comments prior to the hearing. Oral comments will be allowed and limited to three minutes or as otherwise allowed by the Board Chairman. Any person wishing to make a comment at the hearing will be asked to complete a speaker card available in the hearing room. Parties with questions concerning the hearing may also leave a voicemail message for Karen Niiya at (916) 341-5365.

PARKING AND ACCESSIBILITY

For directions to the Joe Serna, Jr. (Cal/EPA) Building and public parking information, please refer to the map on the State Water Board Web site at <http://www.calepa.ca.gov/EPAbldg/location.htm>.

The Cal/EPA Building is accessible to persons with disabilities. Individuals requiring special accommodations are requested to call (916) 341-5881 at least 5 working days prior to the meeting. TDD users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922. An audio broadcast of the meeting will be available via the internet and can be accessed at <http://www.calepa.ca.gov/broadcast/>.



All visitors to the Cal/EPA Building are required to sign in and obtain a badge at the Visitor Services Center located just inside the main entrance. Valid picture identification may be required. Please allow up to 15 minutes to receive security clearance.

ADDITIONAL INFORMATION

Parties with questions about this notice may leave a voicemail message for Karen Niiya at (916) 341-5365 by sending email to rfrostregulation@waterboards.ca.gov.

Date May 19, 2011

Jeanine Townsend
Jeanine Townsend
Clerk to the Board



