



**Linda S. Adams**  
*Acting Secretary for  
Environmental Protection*

# State Water Resources Control Board

## Executive Office

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**Edmund G. Brown Jr.**  
*Governor*

## NOTICE OF PUBLIC WORKSHOP

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**The State Water Resources Control Board will hold a Public Workshop  
to Consider Comments on a Proposed Russian River Frost Protection Regulation**

The Public Workshop  
will commence on  
**Wednesday, April 6, 2011**  
**No earlier than 11:00 a.m.**

in the  
Coastal Hearing Room  
Joe Serna, Jr./Cal-EPA Building  
1001 I Street, Second Floor  
Sacramento, CA

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### SUBJECT OF WORKSHOP

The State Water Resources Control Board (State Water Board or Board) is developing a proposed Russian River Frost Protection Regulation (Regulation) that will be adopted in accordance with title 2, division 3, chapter 3.5 of the Government Code (commencing with section 11340). The purpose of this workshop is for the State Water Board to consider comments regarding the proposed Regulation, which is being developed to address the effects of water diversion practices for frost protection of crops on salmonids in the Russian River watershed in Mendocino and Sonoma Counties. After receiving information from the public and hearing staff recommendations, the State Water Board may provide direction to staff regarding modifications to the proposed Regulation before the State Water Board initiates the formal rulemaking process by issuing a notice of proposed rulemaking. The public will have further opportunity to comment on the proposed Regulation and other rulemaking documents during the regulatory comment period.

### 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 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.

The State Water Board has permitting authority over certain diversions, as specified in Water Code sections 1200 and 1201. The Board also has a duty to protect, where feasible, the state's public trust resources, including fisheries. Lastly, 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.

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. On October 27, 2010, the State Water Board issued a Notice of Preparation for the preparation of an Environmental Impact Report (EIR) for the proposed Regulation.

The proposed Regulation would prohibit diversions from the Russian River stream system for purposes of frost protection from March 15 through May 15, 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, unless the Board exempts a diversion. In order to be approved, a WDMP would be required to ensure that the instantaneous cumulative diversion rate does not result in a reduction in stream stage that is harmful to salmonids and would be required to include stream flow and water diversion monitoring and reporting requirements. 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.

The State Water Board has drafted an Initial Statement of Reasons for the proposed rulemaking action, which includes the specific purpose of the regulation, and the rationale for the State Water Board's conclusion that the regulation is reasonably necessary to carry out the purpose for which the regulation is proposed. The State Water Board has also drafted an Economic Analysis Report, which presents the assumptions, and calculations that were made in estimating the economic impact of the proposed regulation. In addition, the State Water Board is in the process of completing the EIR for the proposed Regulation. Preliminary drafts of the proposed Regulation, Initial Statement of Reasons, and Economic Analysis Report are available electronically at: [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/hearings/russian\\_river\\_frost/](http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/russian_river_frost/).

#### **MATTERS FOR DISCUSSION IN THE WORKSHOP**

The State Water Board is principally interested in receiving information regarding the content of the proposed Regulation. After receiving information from the public and hearing staff recommendations, the State Water Board may provide direction to staff regarding modifications to the proposed Regulation and supporting documents prior to issuing a Notice of Proposed Rulemaking.

## PROCEDURAL MATTERS

Documents related to this workshop will be available electronically at:

[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/hearings/russian\\_river\\_frost/](http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/russian_river_frost/).

Live video broadcast of this workshop will be available at <http://www.calepa.ca.gov/Broadcast/>.

To ensure a productive and efficient workshop in which all participants have an opportunity to participate, time limits may be imposed at the discretion of the Board Chairman. The workshop will be informal. While a quorum of the State Water Board may be present, the Board will not take formal action at this workshop. There will be no sworn testimony or cross-examination of participants; however, the Board and its staff may ask clarifying questions. The workshop is an opportunity for staff and interested persons to provide oral comments to the State Water Board Members. The Board Members may provide direction to staff, but no final action will be taken until a subsequent, noticed Board meeting.

## INFORMATION REGARDING WORKSHOP

Questions concerning this notice may be directed to Karen Niiya, Senior Engineer, at (916) 341-5365 or [rfrostregulation@waterboards.ca.gov](mailto:rfrostregulation@waterboards.ca.gov).

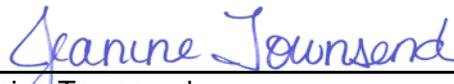
To subscribe to an email list for future notifications about the proposed regulation, go to the State Water Board's website at [http://www.waterboards.ca.gov/resources/email\\_subscriptions/swrcb\\_subscribe.shtml](http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml), and choose "Russian River Frost Protection."

## PARKING AND ACCESSIBILITY AND SECURITY

A map to the Joe Serna Jr./Cal-EPA Building and parking information are available at <http://www.calepa.ca.gov/EPABldg/location.htm>. The Joe Serna Jr./Cal-EPA Building is accessible to people with disabilities. Individuals who require special accommodations at the Joe Serna Jr./Cal-EPA Building are requested to contact Catherine Foreman, Office of Employee Assistance, at (916) 341-5881.

Due to enhanced security precautions at the Cal-EPA Headquarters Building, all visitors are required to register with security staff prior to attending any meeting. To sign in and receive a visitor's badge, visitors must go to the Visitor and Environmental Services Center, located just inside and to the left of the building's public entrance. Depending on their destination and the building's security level, visitors may be asked to show valid picture identification. Valid picture identification can take the form of a current driver's license, military identification card, or state or federal identification card. Depending on the size and number of meetings scheduled on any given day, the security check-in could take up to fifteen minutes. Please allow adequate time to sign in before being directed to the workshop.

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Date                      March 23, 2011

  
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Jeanine Townsend  
Clerk to the Board