

Mendocino County

Russian River Flood Control & Water Conservation Improvement District

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November 29, 2010

Mr. Bill Cowan
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-0200

RE: Proposed RR Frost Regulation NOP Comments

Dear Mr. Cowan:

The Mendocino Russian River Flood Control and Water Conservation Improvement District (District) provides up to 8,000 acre feet a year of agricultural and municipal water supply to interior Mendocino County via Lake Mendocino and the upper Russian River. Our water rights are used in part, to irrigate and frost protect 4,912 acres of high-value agricultural land. After carefully reviewing the October 27th, 2010 NOP notice, and attending the November 17th scoping meeting the District would like to submit the following comments:

Potential Alternatives: While there are no alternatives identified in the NOP, the District feels there are several alternatives that need to be considered in the EIR.

- 1) No regulation- Significant strides to eliminate the problems observed in 2008 have been implemented. Since 2008 over 60cfs of instantaneous demand in the upper Russian River has been reallocated to diversion from storage. This demand offset, when combined with the installation of new mainstem gages and the development of coordinated release protocols has largely mitigated the problems documented in Mendocino County. In Sonoma County, the direct diversion cited as the source of problems in 2008 and 2009 has been reallocated to groundwater. With the only documented problems mitigated the on-going need for a regulation is based entirely on unsubstantiated speculation.

In addition, any "protection" that the proposed regulation could potentially provide is already provided by, or is superseded by, the Federal Endangered Species Act, the California Endangered Species Act and the California Fish and Game Code. Creating an additional layer of regulation is not warranted.

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- 2) Programmatic Policy for Facilitating the Ability to Store Water- The District feels that the problems associated with frost diversions can be effectively managed by the construction and utilization of offstream storage. Unfortunately efforts to build or utilize storage have been thwarted by SWRCB policies that penalize diverters and expose their rights to protest while attempting to “do the right thing”. A policy facilitating storage and protecting the rights of diverters making environmentally beneficial permit modifications would allow the instantaneous demand associated from frost diversions to be easily managed.

Biological Resources: Although the NOP states that the purpose of the proposed regulation is “to benefit biological resources” the District believes that there are many potential negative impacts to biological resources that may occur as a direct or indirect or indirect result of land use changes.

The inability to frost protect will essentially eliminate viticulture in the Upper Russian River. Due to the fixed costs associated with the ownership of agricultural land, the unintended consequence of this prohibition will be either crop conversion or urbanization.

- 1) Crop Conversion- There is currently no economically feasible alternative crop for this region that does not require frost protection. In addition all potential alternatives have a significantly higher annual water demand than viticulture. It is likely that any replacement crop will not only increase demand but also shift peak demand to the low flow season. It is important to remember that viticulture’s peak demand occurs during the wet season, and is only problematic during prolonged drought. The District feels that this scenario is more readily managed than an alternative crop with a peak demand that occurs during the driest time of the year.
- 2) Urbanization- The risk of urbanization is significant. Several large tracts of former agricultural land have already been re-zoned and are under consideration by the City of Ukiah for annexation. Commercial or residential land use conversion will likely increase water demand as well as lead to degradation of water quality and permanent elimination of terrestrial habitat.

While the proposed regulation is intended “to benefit biological resources”, the District feels that a careful analysis of likely outcomes will show that the biological resources of the Upper Russian River could be negatively impacted. The EIR should fully consider the effects of the proposed regulation on crop conversion, urbanization, annual water demand, and shifts in the season of peak demand.

Hydrology and Water Quality: The NOP notes that the proposed regulation may lead to the increased use of copper-based compounds. It is important to note that copper is deleterious to many aquatic organisms including invertebrates, amphibians, as well as fish. In addition to protected salmonids, the Russian River watershed is habitat to

endangered invertebrates (e.g. California freshwater shrimp) and several protected amphibian species such the California tiger salamander and the red-legged frog. The EIR should fully consider the effects of increased use of copper based compounds on these species.

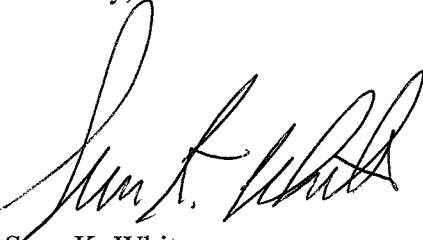
Land Use Planning: See comments under Biological Resources.

Utilities and Service Systems: The NOP states that the proposed regulation could cause diverters to seek “alternative sources of water from water purveyors”. The District would like to remind the SWRCB that the District has already put its 8,000 af to full beneficial use and does not have sufficient water rights to absorb increased demand from crop conversion or urbanization. Most of the other water purveyors in the Upper Russian River have similar constraints or are operating under existing moratorium. The EIR should consider the impacts of reallocating demand from direct diversions to municipal systems.

While the District understands the intent of the proposed regulation, we are seriously concerned that many of the unintended outcomes could be far worse than the current situation and more difficult to remediate. Therefore it is imperative that the EIR thoroughly consider all of the potential ramifications of the proposed regulation.

We appreciate the opportunity to review and comment on the NOP as well as attend a centrally located scoping meeting. Please feel free to contact me if you have any questions or comments regarding this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean K. White". The signature is fluid and cursive, with a large initial "S" and "W".

Sean K. White
General Manager