

**commentletters - 1/19/2010 BOARD MEETING: BOARD MEETING/WORKSHOP - DIVISION OF WATER RIGHTS RE: Frost Protection in Russian River Watershed**

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**From:** "Nick Frey" <frey@sonomawinegrape.org>  
**To:** <commentletters@waterboards.ca.gov>  
**Date:** 1/13/2010 4:45 PM  
**Subject:** 1/19/2010 BOARD MEETING: BOARD MEETING/WORKSHOP - DIVISION OF WATER RIGHTS RE: Frost Protection in Russian River Watershed

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Dear Chairman Hoppin and members of the Board:

I represent approximately 1600 vineyard owners in Sonoma and Marin counties. Many of those own vineyards in the Russian River Valley watershed. The staff recommended amendment to Division 3 of Title 23 of the California Code of Regulation is of great concern. You have two sites in the Watershed where fish kills have been confirmed. Based upon two sites, both of which have taken steps to eliminate or reduce instantaneous water demand during frost events, the scope of the proposed regulations seems unjustified.

The Sonoma County Winegrape Commission will have held 5 grower meetings by January 14 explaining the issues that must be addressed and asking for basic information or grape acres, acres frost protected and sources of water used. Diverters will be contacted first to determine if the diversion for frost is direct or from a reservoir. This basic information will allow us to begin determining actual demand, which is needed to assess if other sites are at risk of dewatering due to frost. If such sites are found, then mitigation efforts can be directed to the problem sites.

The proposed regulation raises 3 primary concerns:

- Defining water use for frost protection is an unreasonable use. Ask the Governor of Florida if using water for frost protection this past week was unreasonable. Any plant agriculture that survived the freeze did so because water was available for frost protection.
- Vaguely defining "pumping of closely connected groundwater" as an unreasonable use is a significant expansion of regulatory authority that needs scientific and legal review. This includes relying on a map prepared by Stetson Engineering, Inc. that has not been adequately vetted.
- Requiring growers to prove a negative – "ensuring ... diversion rate does not result in a reduction of stream flow that is harmful" is an unreasonable and subjective standard.

Protecting threatened and endangered salmonids is clearly a responsibility under the Endangered Species Act, and growers recognize this is important. But growers need assurances that the State Water Resources Control Board will support their efforts to accomplish that protection and still be able to farm. Off-stream storage for frost or irrigation can be a critical part of managing water demand and protecting salmonids. Storing water during peak flows to offset demand during low flows makes sense, and I ask that your Board work with staff to assist growers in managing water resources more effectively to support the fishery and agricultural production. Perhaps we will find situations where the two activities are not compatible, but that will not be the case in the entire Russian River watershed.

On behalf of growers in Sonoma and Marin Counties, I ask that you work with us to collect data that are needed to quantify if or where there are risks to salmonids due to frost protecting vineyards. If regulation is needed, it should be more informed than is possible today.

Thank you for your consideration.

Sincerely,

Nick Frey

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