



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

NOV 06 2014

Dear Sir or Madam:

REGARDING WATER RIGHTS: NOTIFICATION OF IMPLEMENTATION OF THE RUSSIAN RIVER FROST PROTECTION REGULATION

On September 20, 2011, the State Water Resources Control Board (State Water Board) adopted a frost protection regulation for the Russian River watershed (California Code of Regulations, title 23, section 862) that was subsequently challenged in court, and a stay of the regulation was issued. With the October 1, 2014 denial by the California Supreme Court for review of the lower court's decision, the regulations are no longer stayed from implementation. State Water Board staff has begun meeting with individual growers and organizations on the steps necessary to prepare for the 2015 frost season. The letter provides a summary of the regulations and next steps.

Overview of the Regulation's Requirements

The frost protection regulation provides that, with the exception of diversions upstream of Warm Springs Dam in Sonoma County or Coyote Dam in Mendocino County, any diversion of water from the Russian River stream system, including the pumping of hydraulically connected groundwater for purposes of frost protection from March 15 through May 15, must be diverted in accordance with a State Water Board approved Water Demand Management Program (WDMP). The purpose of a WDMP is to both assess the extent to which diversions associated with frost protection can affect stream stage as well as to manage the combined effect of those diversions to prevent salmonid stranding and mortality.

A WDMP should be administered by an individual or governing body capable of ensuring that the goals of the program will be met. In addition, the WDMP is required to include the following: (1) an inventory of the frost diversion systems within the area subject to the program; (2) a stream stage monitoring program; (3) an assessment of the potential risk of stranding mortality due to frost diversions; (4) development and implementation of a corrective action plan if necessary to prevent stranding mortality; and (5) annual reporting of program data, activities, and results. Please see the entire regulation at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/russian_river_frost/docs/approved_reg.pdf.

Implementation Schedule

The State Water Board will be implementing the regulation immediately for the upcoming 2015 frost diversion season with a phased approach consistent with the approach originally outlined in State Water Board Resolution No. 2011-0047. As a result of the delay caused by the now

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settled legal challenges, the original implementation schedule described in the resolution has been revised to allow Russian River watershed growers and groups of growers to update and submit their initial WDMPs. We highly encourage the development of watershed based or collaborative WDMPs. Although individual WDMPs are permitted under the regulation, it may be difficult for individuals to ensure that the goals and requirements of the frost regulation program will be met. In addition, larger WDMPs are likely to offer economies of scale and be a less costly option.

In order to be approved by the start of the frost diversion season, initial WDMP's **must be** submitted by February 1, 2015. Please refer to the enclosed table for a more detailed comparison of the original and revised implementation schedules.

Diversions of water for frost protection between March 15, 2015 and May 15, 2015 that are not in accordance with State Water Board approved WDMP are a violation of the regulation and subject to enforcement action.

State Water Board staff will continue to work with stakeholders in the Russian River watershed to ensure a timely, yet reasonable, implementation of the regulation. For more information about the implementation schedule and the requirements of the regulation, please visit our Russian River Frost Protection Regulation webpage at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/russian_river_frost/prctn_reg.shtml and subscribe to the *Russian River Frost Protection Lyris List* at http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml (under 'Water Rights – programs and activities').

Please contact Katherine Mrowka, Program Manager, at (916) 341-5363 or Kathy.Mrowka@waterboards.ca.gov if you have any questions or would like to request an opportunity to discuss next steps. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Katherine Mrowka, P.O. Box 2000, Sacramento, CA 95812-2000.

Sincerely,


Thomas Howard
Executive Director

Enclosure: Comparison of Original and Updated Implementation Schedules

Comparison of Original and Updated Implementation Schedules

Milestone	Original Schedule	Updated Schedule	Required Items
Regulatory Requirement	December 29, 2011	October 1, 2014	Original: Office of Administrative Law approval of Frost Protection Regulation Revised: CA Supreme Court denies petition to review Court of Appeal decision in <i>Light v State Water Board</i>
Initial Water Demand Management Program	February 1, 2012	February 1, 2015	Identity of governing body; participating diverters, including source and acreage frost protected; schedule for completing frost inventory, monitoring program, and risk assessment
Three-month update	3 Months after approval of WDMP	3 Months after approval of WDMP	Complete inventory, not including diversion data
First annual report	September 1, 2012	September 1, 2015	Updates to inventory; stream stage monitoring data, progress towards development of protective stream stages
Second annual report	September 1, 2013	September 1, 2016	Updates to inventory and stream stage monitoring data; installation of medium priority stream gages; completed risk assessment; preliminary corrective actions
Third annual report	September 1, 2014	September 1, 2017	Updates to inventory and stream stage monitoring data; completed stream gage installations and protective stream stage determinations; risk assessment revision; corrective action plan if indicated by risk assessment