Russian River Property Owners Association Russian River Water Conservation Council

January 28, 2015

State Water Resource Control Board
Division of Water Rights
Attn: John O'Hagan
P.O. Box 200
Sacramento, California 95812-2000

Re: Frost Protection Regulation / Sonoma County's Russian River Watershed Pursuant to the State Water Board's Resolution 2011-0047

Dear Mr. O'Hagan:

We are submitting for your review a Water Demand Management Program (WDMP) for implementation by the Russian River Property Owners Association (Association) and the Russian River Water Conservation Council (Council). The Council will serve as the Governing Body.

This WDMP, attached as Exhibit A to this letter, is intended to replace, in its entirety, the WDMPs that the Association and the Council submitted in 2012. The geographic boundary of this WDMP is shown in Exhibit B. The diverters currently participating in this WDMP are listed in Exhibit C.

Those who enroll in this WDMP will (1) pay an annual fee to the Governing Body and (2) each time water is used for frost protection between March 15 to May 15, record the rate of diversion, hours of operation and volume of water diverted.

This WDMP seeks to ensure that diversions for frost protection do not result in a sudden drop in water levels that could cause stranding of salmonids. It recognizes that the regulation contemplates the continued use of most if not all water rights for frost protection, albeit in compliance with a WDMP. We are in contact with NMFS and CDFW regarding their consultation and technical input.

We look forward to implementing a State Water Resources Control Board-approved WDMP that addresses the concerns of the resource agencies, the SWRCB and the viticulture community in our watershed.

Paul Foppiano
President RRPOA

Pete Opatz
President RRWCC

Exhibit A: **Governing Body – Russian River Water Conservation Council**

Council's Board Officers:
President: Pete Opatz Vice President: Doug McIlroy
Secretary / Treasurer: Eric Grams

Overseeing the activities related to the WDMP, the Council and Association has appointed a Subcommittee of the Council, composed of the following members:

Al Cadd
Paul Foppiano
Allan Nelson
Scott Johnsen
Doug McIlroy

Sonoma County's Russian River WDMP: **Russian River Water Conservation Council**

Introduction

The regulation requires that any diversion of water from the Russian River stream system, except diversions upstream of Warm Springs Dam or Coyote Dam, but 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 SWRCB-approved Water Demand Management Program (WDMP). Frost water users who fail to participate in a WDMP are subject to enforcement action by the State Water Resources Control Board (SWRCB).

It is anticipated that many growers will not be required to change current operations, but only to maintain records of diversions during each frost event and report that information to the Governing Body to allow the Governing Body to assess cumulative risks based on frost protection demands, variable stream stage conditions, and presence of salmonids. The diversion records for each frost event will be reported to the SWRCB on an annual basis.

For many groundwater pumpers participating in a WDMP, the Governing Body may require little or no change in the way the diverters conduct their pumping for frost protection. To be excluded from the regulation, diverters from wells will need to make the showings required by subdivision (d) of the regulation. It is anticipated that groundwater wells will be evaluated on a case by case basis by the SWRCB.

If the stream gage monitoring suggests that cumulative frost diversions may cause stranding mortality, some diverters will need to take corrective actions to reduce that risk. Corrective actions could include diverting at different times, diverting less water, or utilizing frost protection measures that do not utilize water. The rule of priority will be recognized when considering possible corrective actions.

The Governing Body will not be enforcing the regulation. It will only be implementing a WDMP that growers will be encouraged to join. Authority for enforcement of violations of the regulation is solely retained by the SWRCB. The Governing Body can identify growers to the SWRCB that do not participate in a WDMP, or do not take corrective actions prescribed by the Governing Body, to protect its members.

(1) Schedule:

2015: Provide an initial list of participating diverters and an inventory that includes, for each participating diverter, source of water and the acreage frost protected (Exhibit C). By March 1 update the remaining Frost Inventory with source of water and the acreage protected for the additional participating diverters. By March 15 implement a Stream Stage Monitoring Program. In the first year, the Stream Stage Monitoring Program and initial Risk Assessment requirements will be implemented by installing gages in high priority streams based on consultation with NMFS and CDFW. By July 1 meet with resource agencies to receive their initial technical review and analysis towards development of a Risk Assessment and the Annual Report due September 1st. Recognize there will not be sufficient stage monitoring data during 2015 frost season to conduct a thorough Risk Assessment or to evaluate whether Corrective Actions may be necessary.

The first Annual Report is due on September 1, 2015. This report will update the Frost Inventory and include (A) diversion data from frost events between March 15 and May 15, pursuant to subdivision (c)(1)(E) of the Regulation, the rate of diversion, hours of operation, and volume of water diverted for each frost event); (B) a review of stream stage monitoring data and (C) progress towards development of protective stream stages.

2016: Updated Frost Inventory and Stream Stage Monitoring data and installation of stream gages in medium priority streams. Conduct Risk Assessment, notifying growers of the potential risk based on first year's experience. Complete second Annual Report and submit to SWRCB by September 1, 2016.

2017: Completed determinations of stream stages knowing these may be need to be revised in future years if additional data or information indicates a revision is necessary. Update the Risk Assessment. Develop a Corrective Action Plan, if necessary, and include an implementation schedule. Complete third Annual Report and submit to SWRCB by September 1, 2017.

(2) Stream Stage Monitoring:

Implementation of the stream stage monitoring program will be site specific and carried out by the Governing Body in consultation with NMFS and CDFW. The precise locations of the stream gages, within a given stream segment, will be determined in consultation with NMFS and CDFW and subject to landowner cooperation. Gages will be properly installed, calibrated and maintained to ensure a secure location that accurately represents stream stage conditions in the reach. All gage sites will be described in the monitoring reports using maps, photo-documentation and written descriptions. Exact location of each gage and record of calibration and maintenance will be kept by the Governing Body. Records and access to gage location will be made available to SWRCB, upon request.

Results from the first year will be used as the basis for future recommendations on monitoring program design. All stream gages will collect and record data at 15-minute intervals from March 15 through May 15, at a minimum.

(3) Risk Assessment:

If areas of risk are identified through this process, a notice letter will be provided to the specific grower(s) with information of the risk and options to help mitigate that risk. It should be clear that the regulation is intended to apply and does apply only to diversions of water for frost protection from March 15 to May 15 of each year, including diversions from tributaries and diversions to refill ponds or reservoirs used for frost protection. If natural stranding occurs, the regulation does not place fault or responsibility on the frost protection diverters who are participating and complying with a SWRCB-approved WDMP or diverters exempted by the SWRCB. Because the regulation is based on and addresses only stranding mortality caused by diversions for frost protection and in no way relies on or equates to "take" under either the Federal or California Endangered Species Acts, it does not limit or reflect the authority of NMFS under the Federal Endangered Species Act or CDFW under the California Endangered Species Act.

The regulation does not define when "a reduction of stream stage causes salmonid stranding mortality." This term is not specifically defined because it will vary for each stream segment geometry and flow conditions. During consultations with NMFS and CDFW, it is possible that the stage determined to be protective will be too restrictive on frost diversions. Further consultation can provide for a lower stage

provided cumulative frost diversion rates are more closely monitored to restrict the rate that stream stage is decreased as a result of frost diversions.

(4) Corrective Actions:

The regulation anticipates varying needs and situations of diverters for frost protection and, therefore, provides flexibility allowing the WDMP to appropriately address the specific problems and needs of the participating growers. The regulation allows adaptive management as an avenue for taking corrective actions to solve any identified problems.

In cases where corrective action is determined to be necessary, the regulation does not require any specific measures to be taken. The Governing Body and the grower will determine the best corrective action to be undertaken, consistent with the terms of the regulation.

The regulation is designed to require diverters in problem areas to take corrective action, which may require significant monitoring in the highest risk areas or other corrective actions.

(5) Annual Reporting:

The regulation requires the Governing Body to monitor stream stage data every 15 minutes and gather growers' hours of operation and volume of water diverted for each frost event. That data must be provided to the Governing Body to assess risks and consider corrective actions. The regulation provides that the SWRCB is to receive an Annual Report and supporting data by September 1 of each year from the Governing Body. The SWRCB's records are available for public review.

Initial annual reporting will alert the Governing Body and the SWRCB to existing problem areas and lead to development of corrective actions in these areas. The annual reporting provides a necessary component that allows for SWRCB review and public review of operations.

Timetable:

January 31: Receive technical assistance from NMFS and CDFW
February 1: Provide initial list of participants
March 1: Update list of participants
March 15: Install gages
May 1: Provide remaining inventory information, except for diversion data
May 15: Collect and summarize gage data
July 1: Collect and summarize growers' data of water used for frost protection and meet with resource agencies for initial technical review and analysis
September 1: File annual report with agencies

Exhibit B: Russian River Watershed Map

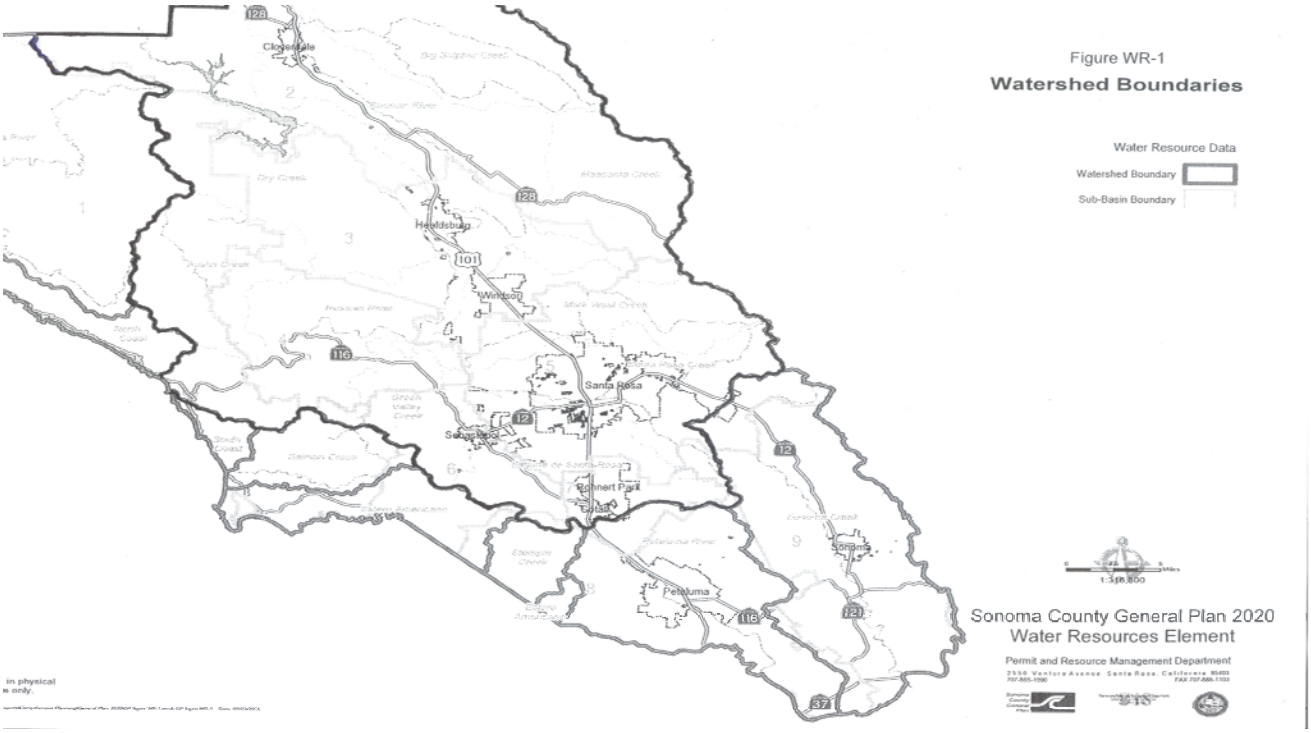

Exhibit C: Initial List of Participants

Owner	Manager	Acres	Water Source
Bauer Vineyard	Hugo Bauer	38	groundwater well
Rancho Miguel	Harry Black	84	groundwater well
Cadd Vineyards	Larry Cadd	38	groundwater well
Caldwell Vineyards	Wes Caldwell	15	groundwater well
Belle Terre Ranch	Ron Dick	120	groundwater well and storage
Constellation Wines US	Keith Horn	625.6	Russian River underflow
Constellation Wines US	Keith Horn	63.8	Russian River underflow
Constellation Wines US	Keith Horn	44	Russian River underflow
Constellation Wines US	Keith Horn	59	Russian River underflow and storage
Constellation Wines US	Keith Horn	71.89	groundwater and storage
Constellation Wines US	Keith Horn	31.4	groundwater and storage
Constellation Wines US	Keith Horn	40	Russian River underflow
Constellation Wines US	Keith Horn	25	Russian River underflow
Constellation Wines US	Keith Horn	94	Russian River underflow
Jimtown Ranches	Alexander Clark	127	groundwater well
Fanucchi Vineyards	David Fanucchi	40	groundwater well

Farrow Ranch			
	Carol Farrow	51	reservoir / unnamed tributary
Foppiano Vineyards			
	Paul Foppiano	43	groundwater well
Geyser Peak Winery			
	Ben Vyborny	27.1	groundwater well
Hafner Vineyards			
	Park Hafner	13.5	groundwater well
Herrick Vineyards			
	Greg Herrick	17	groundwater well
HOCV-AVV Joint Venture			
	Mark Hauser	197.66	groundwater well / stream / reservoir
Jackson Wine Estate			
	Carolyn Wasem	307.97	groundwater well and reservoir
Larsen Vineyards			
	Carter Larsen	21.9	Russian River
Mauritson Farms			
	Ben Vyborny	110	groundwater well
McInerney Vineyards			
	John McInerney	8	groundwater well
Alexander Mountain Vineyards			
	Joe Mendes	17.4	Russian River
Wasson Vineyards			
	Bill Munselle	120	groundwater well
Munselle Vineyards			
	Bret Munselle	33	groundwater well
Murphy Vineyards			
	Dennis Murphy	150	groundwater well
Pastori Vineyards			
	Frank Pastori	15	groundwater well
River Rock Entertainment			
	Victor Trentadue	137	groundwater well
Rodney Strong Vineyards c/o Vino Farms LLC			
	Doug McIlroy	2	groundwater well

Rodney Strong Vineyards c/o Vino Farms LLC Doug McIlroy	48	groundwater well
Rodney Strong Vineyards c/o Vino Farms LLC Doug McIlroy	131	groundwater well
Rodney Strong Vineyards c/o Vino Farms LLC Doug McIlroy	76	groundwater well
Rodney Strong Vineyards c/o Vino Farms LLC Doug McIlroy	24	groundwater well
Rodney Strong Vineyards c/o Vino Farms LLC Doug McIlroy	33	groundwater well and storage
Rodney Strong Vineyards c/o Vino Farms LLC Doug McIlroy	24	groundwater well
Saini Vineyards John Saini	1	groundwater well
Saini Dry Creek Properties John Saini	25	groundwater well and storage
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	29	Russian River underflow
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	32	groundwater well
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	11	Russian River underflow
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	91	Russian River underflow
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	18	Russian River underflow
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	20	groundwater well and storage
Silverado Winegrowers c/o Vino Farms Marissa Ledbetter	18	Russian River underflow
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	212	Russian River underflow
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	129	Russian River underflow

Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	12	groundwater well
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	46	Russian River underflow
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	90	Russian River underflow
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	212	Russian River underflow
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	125	Russian River underflow
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	91	Russian River underflow
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	45	Russian River underflow
Silverado Sonoma Vineyards c/o Vino Farms LLC Pete Opatz	124	groundwater well and storage
Treasury Wine Estate/Chateau St. Jean John Garduno	542.7	groundwater well
Treasury Wine Estate/Chateau St. Jean John Garduno	41	groundwater well
Treasury Wine Estate/Chateau St. Jean John Garduno	84.4	Russian River underflow
Treasury Wine Estate/Chateau St. Jean John Garduno	25.8	groundwater well
Vimark Vineyards Mark Trione	348	groundwater well
Vino Farms LLC Marissa Ledbetter	12	Russian River underflow
Vino Farms LLC Marissa Ledbetter	69	Russian River underflow
Vino Farms LLC Marissa Ledbetter	47	Russian River underflow
Vino Farms LLC Marissa Ledbetter	37	Russian River underflow
Vyborny Vineyard Management Ben Vyborny	95	groundwater well