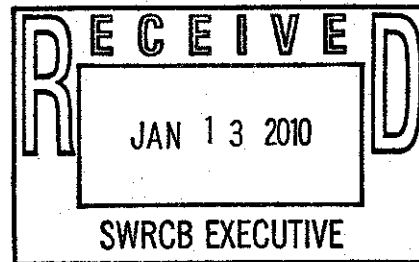




**Brian J. Johnson**  
Director, California Water Project  
Staff Attorney

January 13, 2010

Mr. Charlie Hoppin, Chair  
and Members of the Board  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814  
Via email to [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)



**Re: 01/19/10 Board Meeting - Russian River Frost Protection Workshop**

Dear Mr. Hoppin and Members of the Board:

On behalf of Trout Unlimited (TU), I submit the following comments for the Workshop to receive a recommendation from staff concerning diversion practices for frost protection in the Russian River watershed.

We strongly support moving forward with a formal rulemaking and urge you to direct staff to do so as quickly as possible.

We also support the staff draft as a starting point for the rulemaking. In particular, we are supportive of the draft's apparent interest in ensuring full participation by landowners while also leaving room for landowner-led, local solutions to specific problems.

It makes sense that the solution for the upper Russian River might not be the same as the solution for Dry Creek or for any particular tributary. We believe that it is important to leave room in the rule for a certain level of regional variation. As we have said many times, a large number of grape growers have already devoted considerable time and money to improving their operations and they ought to be supported.

At the same time, a rulemaking is necessary to ensure that the efforts of the leading growers are not thwarted by non-participants and that landowner-led solutions are effective. It is clear that even one or two diversions on a small tributary can have a significant impact. No voluntary plan can ensure full participation, and a strictly voluntary plan would ultimately fail to protect salmon and steelhead. An opt-in plan would also have the unintended effect of forcing the proactive growers to compete against growers that lag behind or refuse to do their fair share.

As we said at the last workshop, we do not believe that the reasonable use rule needs to conflict with grower-led local solutions. Rather, we hope the rule can support those programs and ensure a level playing field.

When the draft is published for formal comment we will make specific recommendations on the text. Rather than restate our prior recommendations or comment on the details of the draft, we will instead highlight three things.

First, we are very pleased that the draft recognizes the critical importance of real-time monitoring and reporting of both diversions and streamflows. Without this information it will be

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impossible for anyone involved to know whether people are participating, whether management changes are having their predicted effects, and whether the program should be modified to better protect fish or be made more cost effective for growers. The program will also have to be transparent to the public and to the wildlife agencies (e.g., NMFS and DFG) in order to function as intended. As you and other Board members have recently said, the lack of good information about water diversions and stream flow in California is a major contributor to our state's water crisis.

Second, the success of the program as drafted depends heavily on the criteria used by the Board to approve water demand management programs. It will be necessary for the Water Board to state more definitively what will be required of such a program before the rulemaking is completed. The grape grower groups have developed a useful starting point, and both your staff and the wildlife agencies have provided extensive comments. We hope that your agency can continue its work with NMFS and DFG, the grape growers, and other interested parties to develop these plans and begin the task of recovering salmon and steelhead.

Third, the time for action is this year. Russian River coho salmon populations have crashed and the only things standing between the population and its extinction are frantic restoration efforts and the broodstock effort, which is the salmon equivalent of the captive condor program. Steelhead populations are somewhat stronger but remain in dire straights. Please act decisively to avert this looming emergency.

Thank you for your consideration of our comments.

Sincerely,



Brian J. Johnson