



California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

Chris Shutes, Water Rights Advocate

1608 Francisco St., Berkeley, CA 94703

Tel: (510) 421-2405 E-mail: blancapaloma@msn

Web: www.calsport.org



July 4, 2011

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812
(via e-mail: commentletters@waterboards.ca.gov)

RE: Proposed Russian River Frost Regulation

Dear Ms. Townsend and members of the Board:

The California Sportfishing Protection Alliance offers the following comments on the April 27, 2011 draft of the proposed Russian River Frost Control regulations, adding § 862 ("Russian River, Special) as an amendment to Division 3 of Title 23 of the California Code of Regulations.

In general, CSPA commends the Board for developing a mandatory regulation to address the cumulative effects of frost control diversions in the Russian River watershed. The Board should adopt the Frost Control amendment without further delay.

This rule is one of the few serious efforts the Board has made to address the cumulative effects of diversions. For too long, an ethic that denies responsibility for the cumulative effects of diversions based on the small increment of effect of each individual diversion has dominated discourse and action by and before the Board. CSPA recommends a more general change in the paradigm, so that cumulative effects of diversions throughout the state are adequately addressed and mitigated.

There are several aspects of the proposed frost control amendment that are to be commended. Fish kills in the Russian River watershed that result from frost protection diversions have been recognized as an important problem worthy of regulatory action; they must never be allowed to occur again. Participation by Russian River watershed frost protection diverters is appropriately compulsory. It is important and correct that groundwater connected to surface flows will be regulated by the proposed amendment.

CSPA's concerns with the proposed amendment deal principally with monitoring, reporting, and enforcement.

Comprehensive diversion monitoring and reporting to the State Board must be required. The data must be publicly available. Real time telemetered monitoring and reporting of diversion data is not a requirement of the current draft; it is not clear to CSPA how a program that addresses instantaneous diversion levels can be effectively executed without telemetered diversion data. Should the Board not immediately require real time diversion reporting, it should consider a seamless means of so doing should the current program fail to account for and assign responsibility to non-compliant diverters or simply to diversions that cause stranding.

Comprehensive streamflow gauge data must be integral to the amendment. This at least must be uploaded automatically to the internet in real time.

CSPA is concerned that “governing bodies” will not enforce requirements. Growers are often reticent or simply unwilling to report other growers. The Board must ensure that the Board has authority to require compliance, and it must exercise that authority. Individual responsibility must be achievable and transparent, and the Board must enforce it.

Thank you for the opportunity to comment on the proposed rule regarding Russian River frost control.

Respectfully submitted,



Chris Shutes
Water Rights Advocate
California Sportfishing Protection Alliance