

KRISTI FURMAN  
Clerk of the Board



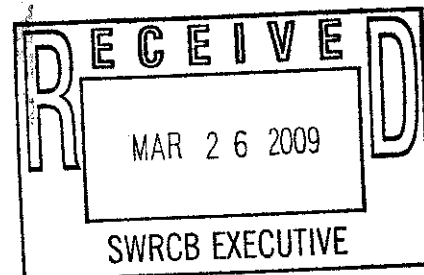
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**COUNTY OF MENDOCINO**  
BOARD OF SUPERVISORS  
501 Low Gap Road • Room 1090  
Ukiah, California 95482

4/7/09 Bd Wrkshp  
Russian River Frost Protect.  
Deadline: 4/2/09 by 12 noon

March 17, 2009

Mr. Charles R. Hoppin, Chairman  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100



RE: Letter of Opposition to State Water Resources Control Board Proposal to Prohibit Water Diversions for Frost Protection Purposes in the Russian River Drainage During the 2009 Frost Protection Season

Dear Mr. Hoppin:

On behalf of the Mendocino County Board of Supervisors, I am writing to express our unanimous and strong opposition to the proposal to prohibit water diversions for frost protection purposes in the Russian River Drainage during the 2009 Frost Protection Season. A blanket prohibition on water diversions for frost protection will unnecessarily expose agricultural producers to an extreme risk of crop damage and potential for significant economic hardship. A significant loss of jobs related to agricultural production and a potentially disastrous economic impact to the local economy is likely to occur if the blanket prohibition is implemented and spring frost occurs. Overall losses are estimated at \$235 million. In this time of economic melt-down no business or local Government can absorb this loss.

During public deliberation before the Board of Supervisors on March 17th, testimony included information about the formation of a Frost Protection Task Force as a result of the historic frost event in the spring of 2008. The purpose of the Task Force is to identify and implement actions that will protect fish and their habitats, and accommodate the frost protection needs of agricultural growers in the Russian River drainage (Please read Attachment A for background detail). Mendocino County representatives invited to the table last fall by regulatory agency representatives were actively engaged in what they believed was a good faith effort that would result in an action plan for all needed water uses in the Russian River watershed, including fish. Mendocino County representatives met with local stakeholders after each Task Force meeting to work toward a positive solution. Their actions to date include:

- 1) Informing water users that drastic reduction in water use will be demanded if severe drought conditions continue;
- 2) Implementation of a program to educate growers about BMPs and other methods for frost protection;
- 3) Identification of direct diverters who are willing to build off-stream storage facilities and;
- 4) Enlisting the assistance of the USDA Natural Resource Conservation Service and the Fish Friendly Farming Program for technical assistance on the building of off-stream storage and grant-writing assistance to secure funding.

**THE BOARD OF SUPERVISORS**

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Fourth District

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Fifth District

Mendocino County representatives who attended the March 5th Task Force Meeting, as stated in Attachment A, were stunned to hear that SWRCB intended to promulgate emergency rules implementing a prohibition on water diversions for frost protection purposes in 2009 - regardless of prevailing stream flow conditions and whether or not such water diversions would result in a "taking" of listed species. Further, there was no consideration given to the fact that most Russian River agricultural water users do have the right to use water for spring frost protection.

All Mendocino County Russian River water purveyors are acutely aware of the need to conserve water resources and carefully consider the most equitable and environmentally responsible way to allocate our scarce resources. We believe these difficult decisions are best made at the local level and should not be unilaterally imposed without consideration for the reasonable alternatives that have been identified and which are being implemented.

It is important also for the State Water Resources Control Board to understand that the requirement for a water master, as suggested by Ms. Victoria Whitney, is not appropriate and should not be considered. The Russian River is a regulated water body and to this date no data has been collected or presented to support the requirement of a water master.

The Mendocino County Board of Supervisors urges your careful consideration of this matter before taking any action. It is simply not equitable to impose draconian measures that have the potential to create severe economic losses without first implementing the good faith alternative measures that have been identified. Should you have any questions or comments regarding this request, please do not hesitate to contact me.

Sincerely,



John Pinches, Chair  
Mendocino County Board of Supervisors

Attachment

cc: Ms. Victoria Whitney, California State Water Resources Control Board  
Mr. Lee Howard, Russian River Flood Control District  
Mr. Dick Butler, NOAA Fisheries Service  
Mr. David Koball, Mendocino County Farm Bureau  
Mr. Roland Sanford, Mendocino County Water Agency  
Ms. Pam Jeane, Sonoma County Water Agency  
Mr. Don Butow, Redwood Valley County Water Agency  
Ms. Janet Pauli, Inland Water and Power Commission  
Mayor Phil Baldwin, City of Ukiah  
Mr. Greg Nelson, Mendocino County Planning Commission

## Attachment A

AGENDA TITLE: Discussion and Possible Action: Submittal of Letter to State Water Resources Control Board in Opposition to Proposal to Prohibit Water Diversions for Frost Protection Purposes in the Russian River Drainage during the 2009 Frost Protection Season

In April 2008 the Russian River drainage experienced an unusually long series of cold nights, which prompted grape growers to divert significant quantities of water for frost protection purposes. During this time there were ~~the~~ two documented fish stranding incidents, one in Mendocino County and one in Sonoma County, involving species listed under the Endangered Species Act. The National Marine Fisheries Service (NMFS) continues to investigate the strandings, which would constitute an illegal "take" of protected species, and has reportedly initiated enforcement actions against at least one grape grower in Sonoma County.

The two incidents also prompted the formation of a Frost Protection Task Force consisting of representatives from the NMFS, the State Water Resources Control Board (SWRCB), Russian River Flood Control and Water Conservation Improvement District (the District), agricultural interests in Mendocino and Sonoma counties, and other resource management agencies. The purpose of the Task Force is to identify and implement actions that will protect fish and their habitats, and accommodate the frost protection needs of grape growers in the Russian River drainage. The Task Force has been meeting for nearly one year and while progress has been made, the issue has yet to be resolved to the satisfaction of all parties.

Immediately following the February Task Force meeting, the regulatory agency representatives met privately and apparently decided that immediate action was needed. See the attached letter from NMFS to the State Water Resources Control Board (SWRCB), dated February 19, 2009.

In their February 19, 2009 letter to the SWRCB, the NMFS requests that the SWRCB "...take immediate action, such as implementing emergency regulations, to protect this important public trust resource from further harm". None of the regulatory agencies shared this position with the District or the agricultural interests on the Frost Protection Task Force who had been negotiating in good faith.

Mendocino County interests who attended the March Task Force Meeting were stunned to hear that SWRCB intended to promulgate emergency rules implementing a prohibition on water diversions for frost protection purposes in 2009 - regardless of prevailing stream flow conditions and whether or not such water diversions would result in a "taking" of listed species.

A blanket prohibition on water diversions for frost protection purposes will unnecessarily expose growers to considerable risk of crop damage and the potential for significant economic hardship. A significant loss of jobs related to grape and wine production are also likely as is the loss of significant revenue to local agriculturalists and wineries. For this reason, it is strongly recommended that the Board of Supervisors submit a letter to the Chair of the State Water Resources Control Board expressing opposition to a blanket prohibition on water diversions for frost protection purposes in the Russian River drainage.