



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
601 Locust Street
Redding, CA 96001
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



May 18, 2021

Mr. Mike Wallace
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Mr. Bill Hardwick
Los Molinos Mutual Water Company
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SUBJECT: DROUGHT CONDITIONS ON DEER AND MILL CREEKS, TEHAMA COUNTY

Dear Mike Wallace and Bill Hardwick

This letter is in response to your April 2, 2021 and May 5, 2021 letters regarding drought conditions on Deer and Mill Creeks, in Tehama County. As you are aware, on April 19, 2021 the California Department of Fish and Wildlife (Department) met with representatives of both Stanford Vina Ranch Irrigation Company (SVRIC) and Los Molinos Mutual Water Company (LMMWC) to discuss modification of critical riffles in order to promote volitional fish passage during periods of low flow in Deer and Mill Creeks. In addition, Northern California Water Association (NCWA) representative Todd Manely was present during our visit to the Mouth of Mill Creek. This meeting was a result of your April 2, 2021 letter requesting on site meetings to discuss riffle modification, funding and regulatory requirements including compliance with the California Environmental Quality Act (CEQA) and the requirement of a Lake or Streambed Alteration Agreement (LSAA). The April 2, 2021 letter identifies actions similar to those identified in the 2014 FISHBIO Plan for Deer Creek during the 2104-2015 drought. At that time, the Department responded in a letter dated December 25, 2015 which outlined our concerns regarding proposed channel modifications and regulatory requirements needed to complete such work. In subsequent years SVRIC has sent letters requesting completion of work and the Department has responded with the same issues and concerns.

The Department appreciates your acknowledgement of passage issues on Deer and Mill Creeks during critical migration periods for State and federally listed as threatened Spring-run Chinook salmon (*Oncorhynchus tshawytscha*) federally listed as threatened

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Central Valley Steelhead (*O. mykiss*) and Fall Run Chinook Salmon (*O. tshawytscha*). At the April 19, 2021 meeting, both short and long term actions were discussed to address the passage flow issues on Deer and Mill Creeks. For this diversion season, the Department agreed to monitor both Deer and Mill Creeks to evaluate passage conditions and stream conditions in order to coordinate with the LMMWC and SVRIC to provide sufficient flows to maintain fish in good condition and promote passage. The Department agreed to consider potential hand modification of critical passage areas in conjunction with increased flows from SVRIC and LMMWC.

Beyond the 2021 diversion season the Department supports the development of a comprehensive flow and passage strategy (Strategy) for both Deer and Mill Creeks that includes temperature and flow requirements, short term fish passage actions, channel restoration, and all other relevant conditions and issues including permitting pathways. In addition, it is our understanding that on Mill Creek, LMMWC and NWCA will pursue increased conjunctive use well development to increase the capacity of existing well resources by 14 cubic feet per second defined in the 1990 Conjunctive Use Agreement and the 2006 Flow Agreement.

The Department also expressed the need to engage in local watershed agreement discussions with the goal of promoting increased improvements in conditions for all aquatic species and provide fish passage and habitat improvements while allowing SVRIC and LMMWC to continue water diversion activities. The Department hopes that together with other State and federal agencies we can work together to develop local watershed based agreements that are consistent with those goals.

As discussed at the April 19, 2021 meeting, the Department does not have the authority to set aside its regulatory requirements for the issuance of an LSAA or authorization of take under the California Endangered Species Act (CESA), both of which are discretionary acts and subject to the California environmental Quality Act (CEQA). In addition, as identified in my email dated April 7, 2021, there are other State and federal permitting requirements needed to initiate the work within Deer and Mill Creeks identified in both your April 2, 2021 and May 5, 2021 letters. However, the Department feels the above mentioned strategy and development of local watershed based agreements will likely provide the nexus for securing required State and federal approvals.

Your May 5, 2021 letter specifies that on April 21, 2021 the Governor issued an Emergency Proclamation for Drought in Mendocino and Sonoma Counties. Section 9a. of drought proclamation states the Department shall:

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Evaluate and take actions to protect terrestrial and aquatic species and, wherever possible, work with water users and other parties on voluntary measures to protect species.

The Department is meeting this objective through increased monitoring and our commitment to evaluate hand modification of passage issues in coordination with increased instream flows provided by SVRIC and LMMWC. On April 23, 2021, the State Water Resources Control Board (SWRCB) held a Watershed meeting for Mill Creek and a subsequent one on May 5, 2021 for Deer Creek. Both meetings included a hydrological update and fisheries status presentation as well as discussion related to voluntary actions that SVRIC and LMMWC were willing to commit to during drought conditions. In addition, the Department has received copies of the term sheets submitted to the State Water Resources Control Board by both SVRIC and LMMWC outlining actions to be taken during current drought conditions. The Department will coordinate with the SWRCB and respond to your term sheet in the near future.

The Department appreciates the ongoing discussion of short term voluntary actions to protect fish and wildlife resources in Deer Creek during drought conditions and looks forward to the development of a long term strategy and implementation of a local watershed based agreement process for both Deer and Mill Creeks. If you have any questions about this letter or would like to begin a discussion regarding local watershed based voluntary agreement process, please contact Senior Environmental Scientist Michael Harris at (530) 410-5334 or Michael.R.Harris@wildlife.ca.gov.

Thank you

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