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## State Water Resources Control Board

October 7, 2022

«MAIL\_RECEIVER\_NAME»  
«ATTN\_CO\_LINE»  
«BOTTOM\_ADDRESS\_LINE»  
«CITY», «STATE» «ZIP»

### **ORDER WR 2022-0170-DWR: CURTAILMENT ORDER IN THE MATTER OF DIVERSION OF WATER FROM DEER CREEK TRIBUTARY TO THE SACRAMENTO RIVER IN TEHAMA COUNTY**

This letter and the enclosed Order contain important information regarding the curtailment of the water rights and claims listed in Attachment A, including Water Right ID «WATER\_RIGHT\_ID» that is owned by «PRIMARY\_OWNER\_NAME».

Enclosed with this letter is an Order imposing water diversion curtailment and reporting requirements issued pursuant to an emergency regulation adopted by the State Water Resources Control Board (State Water Board) that originally became effective on October 4, 2021, and took effect as readopted on September 21, 2022. The enclosed Order specifies the steps that you, or your agent of record, must follow to curtail water diversions to ensure the drought emergency minimum flows specified under the California Code of Regulations, title 23, section 876.5 are satisfied, and to comply with reporting requirements. You or your agent of record are responsible for immediately notifying all parties that divert water under «WATER\_RIGHT\_ID» of the enclosed Order and its requirements. You will receive a similar letter and Order for each water right or claim of right in the Deer Creek and Mill Creek watersheds for which you are the designated mail receiver.

#### **Response Required: Compliance Certification Form**

Water right holders, claimants, or agents of record who receive the enclosed Order are required to submit, under penalty of perjury, an online Compliance Certification Form for each water right or claim of right by **October 15, 2022**. Your online submittal will be used to assess compliance with the enclosed Order and relevant provisions of the emergency regulation. The 2022 Mill and Deer Creeks Compliance Certification Form must be accessed on the State Water Board's Survey Portal at: <https://public.waterboards.ca.gov/WRInfo>.

The following credentials are needed to access the Survey Portal:

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

Login: «WATER\_RIGHT\_ID»  
Password: «REPORTING\_IDENTIFIER»

### **Emergency Regulation**

In response to ongoing drought conditions and to ensure critical instream flows for species protection in the Mill and Deer Creek watersheds, on August 16, 2022, the State Water Board readopted an emergency regulation ([Regulation<sup>1</sup>](#)) for Curtailment of Diversions on Mill and Deer Creeks Due to Insufficient Flow for Specific Fisheries (Cal. Code Regs., tit. 23, §§ 876.5–879.3.) The Regulation was approved by the Office of Administrative Law and went into effect upon filing with the Secretary of State on September 21, 2022. The Regulation will remain in effect for up to one year from September 21, 2022, but could be repealed if water supply conditions improve. The State Water Board may again renew/readopt the Regulation if drought conditions continue. The Regulation establishes drought emergency minimum flow requirements for the protection of specific runs of federal- and state-listed anadromous fish in Mill Creek and Deer Creek. The Order requires water right holders and claimants to cease or reduce diversions from Deer Creek to ensure the drought minimum flows specified in the Regulation are satisfied. The Regulation also allows continued diversions to provide water supplies for minimum human health and safety needs, provides a path for local cooperative solutions to more effectively support flow and fishery needs, prohibits inefficient domestic lawn watering practices, requires curtailment order reporting, and allows for limited petitioned exceptions to curtailment for livestock survival purposes during a required pulse flow event. The Regulation is available on the State Water Board's [Mill Creek and Deer Creek Drought Response<sup>2</sup>](#) webpage.

### **Curtailed Water Rights and Claims of Right in the Deer Creek Watershed**

Based on stream flow data at the California Department of Water Resources' Deer Creek Below Stanford Vina Dam gauge<sup>3</sup> (CDEC Station ID: [DVD](#)), along with weather forecasts, the Deputy Director for the Division of Water Rights (Deputy Director) has determined that without curtailment of diversions, flows in Deer Creek are likely to be reduced below the drought emergency minimum flows specified in the Regulation.

Under Order WR 2022-0170-DWR, the State Water Board is requiring all water right holders and claimants within the Deer Creek watershed to cease or reduce diversions beginning October 15, 2022, unless the minimum flows set forth in the California Code of Regulations, title 23, section 876.5 are met. This condition of curtailment will continue until June 30, 2023, or until the Deputy Director suspends the Order. The Deputy Director may also require pulse flows that are higher than the minimum flows when recommended by the California Department of Fish and Wildlife (CDFW) or National Marine Fisheries Service (NMFS). Flows available in excess of the required minimum flows or pulse flows may be diverted pursuant to the priority of the right,

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<sup>1</sup> [https://www.waterboards.ca.gov/drought/mill\\_deer\\_creeks/docs/20220921-oal-approval-milldeer.pdf](https://www.waterboards.ca.gov/drought/mill_deer_creeks/docs/20220921-oal-approval-milldeer.pdf)

<sup>2</sup> [https://www.waterboards.ca.gov/drought/mill\\_deer\\_creeks/](https://www.waterboards.ca.gov/drought/mill_deer_creeks/)

<sup>3</sup> <https://cdec.water.ca.gov/webgis/?appid=cdecstation&sta=DVD>

except that the enclosed Order does not relieve any right holder or claimant of obligations imposed by orders issued pursuant to the Delta watershed emergency regulation or any other Board orders, or the terms and conditions of the water right.

Future updates will be provided in electronic format only, and hard copy notices will not be sent out. Notification of suspension of the Order or modification of the emergency minimum flow will be posted on the State Water Board's [Mill Creek and Deer Creek Drought Response](#) webpage and sent electronically to parties that have subscribed to the Mill Deer Drought Email List.

### **Exceptions to Curtailment**

An exception to curtailment may be authorized if: (1) the water right or claim is used only for a non-consumptive use (i.e., all water is returned to the stream) as described in California Code of Regulations, title 23, section 878; or (2) water diverted under the water right or claim is the diverter's only source of water and it is needed for minimum human health and safety needs, as described in California Code of Regulations, title 23, section 878.1.

Water right holders and claimants in the Mill and Deer Creek watersheds have also received a separate [Order Imposing Water Right Curtailment and Reporting Requirements in the Sacramento-San Joaquin Delta \(Delta\) Watershed](#). If you wish to seek an exception to curtailments under the Delta Watershed curtailments, you must submit additional information to the State Water Board using the forms available on the Board's Survey Portal.<sup>4</sup>

### **Petition for Continued Diversion for Livestock Survival**

Under section 876.5 of the Mill and Deer Creek Emergency Regulation, unless CDFW or NMFS objects, the Deputy Director shall approve a petition for a limited exception to curtailment for minimum stockwatering needs during a pulse flow event upon determination the petitioner has demonstrated that curtailing to achieve pulse flows would likely impair livestock survival and there are no reasonable water supply alternatives available (e.g. stockponds, groundwater wells, hauled water). A petition may be submitted to the Deputy Director by email to [DWR-MillDeerDrought@waterboards.ca.gov](mailto:DWR-MillDeerDrought@waterboards.ca.gov).

### **Local Cooperative Solutions**

Local cooperative solutions are described in section 878.4 of the Mill and Deer Creek Emergency Regulation. If CDFW or NMFS enter into an agreement with a diverter or diverters that would provide protection for the fishery that is comparable to or greater than that provided by section 876.5, the diverter or diverters may request approval from the Deputy Director to implement the agreement in place of State Water Board-issued curtailment orders. Other local cooperative solutions may also be proposed to the

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<sup>4</sup> <https://public.waterboards.ca.gov/WRInfo>

Deputy Director as an alternative means of reducing water use to provide and maintain drought emergency minimum flows.

Proposed local cooperative solutions may be submitted to the Deputy Director at any time, but they may not be implemented instead of complying with a curtailment order unless they have been approved by the Deputy Director. Local cooperative solutions should be submitted to the Deputy Director by email to:

[DWR-MillDeerDrought@waterboards.ca.gov](mailto:DWR-MillDeerDrought@waterboards.ca.gov).

### **Potential Enforcement**

The enclosed Order includes enforceable requirements regarding a water right or claim of right that require your immediate attention due to current and possible future limitations in water supplies.

A water right holder or claimant who violates the enclosed Order or the Regulation may be subject to administrative fines, a cease and desist order, or prosecution in court. The State Water Board has enforcement discretion, and decisions related to enforcement and associated penalties are based on the specific circumstances of the violation. Fines may be up to \$1,000 per day of violation and up to \$2,500 for each acre-foot diverted or used in excess of a valid water right. (Wat. Code, §§ 1052, 1055, 1846.)

### **Request for Reconsideration**

You may submit a petition within 30 days of the date of the enclosed Order to request that the State Water Board reconsider the Order. The process and grounds for reconsideration are provided by California Code of Regulations, title 23, sections 768 through 771. To ensure timely consideration, any petition for reconsideration should be sent by email to [DWR-MillDeerDrought@waterboards.ca.gov](mailto:DWR-MillDeerDrought@waterboards.ca.gov).

### **Questions, Resources, and How to Stay Informed**

If you need more information or have any questions, please visit the [Mill Creek and Deer Creek Drought Response](#) webpage. You may also contact staff at [DWR-MillDeerDrought@waterboards.ca.gov](mailto:DWR-MillDeerDrought@waterboards.ca.gov).

It is highly recommended that all water right holders and claimants or their agents in the Deer Creek watershed sign up to receive future notifications through the State Water Board's Mill Deer Drought email list. To subscribe, visit the State Water Board's [Mill Creek and Deer Creek Drought Response](#) webpage or [State Water Board Email Lists webpage](#) under "Water Rights."<sup>5</sup>

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<sup>5</sup> [https://www.waterboards.ca.gov/resources/email\\_subscriptions/swrcb\\_subscribe.html](https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html)

«PRIMARY\_OWNER\_NAME»  
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You may also visit the State Water Board's [Mill Creek and Deer Creek Drought Response](https://www.waterboards.ca.gov/drought/mill_deer_creeks/) webpage: [https://www.waterboards.ca.gov/drought/mill\\_deer\\_creeks/](https://www.waterboards.ca.gov/drought/mill_deer_creeks/) frequently for updates. All future updates on curtailments and other important information related to the regulation and related orders will only be provided through electronic communications.

Sincerely,

*ORIGINAL SIGNED BY*

Erik Ekdahl, Deputy Director  
State Water Resources Control Board

Enclosure: Order WR 2022-0170-DWR: Curtailment Order in the Matter of Diversion of Water from Deer Creek Tributary to the Sacramento River in Tehama County

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**ORDER WR 2022-0170-DWR**

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**CURTAILMENT ORDER**

In the Matter of Diversion of Water from

**DEER CREEK TRIBUTARY TO THE SACRAMENTO RIVER IN TEHAMA COUNTY**

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**BACKGROUND**

1. In response to drought conditions, on May 10, 2021, Governor Gavin Newsom issued a Proclamation of a State of Emergency (May 2021 Proclamation) for 41 counties, including those within the Sacramento-San Joaquin Delta (Delta) watershed which include Tehama County, where Deer Creek watershed is located. The May 2021 Proclamation finds that it is necessary to act expeditiously to mitigate the effects of drought conditions in the State, both to ensure the protection of water for health, safety, and the environment and to prepare for potential sustained drought conditions.
2. The May 2021 Proclamation directs the State Water Resources Control Board (State Water Board) and California Department of Fish and Wildlife (CDFW) to evaluate the minimum instream flows and other actions needed to protect salmon, steelhead, and other native fishes in critical stream systems in the State and to work with water users and other parties on voluntary measures to implement those actions if possible. If voluntary measures do not occur, the proclamation directs the State Water Board to consider the development of emergency regulations to establish minimum drought instream flows.
3. In response to ongoing drought conditions and associated water supply shortages, on August 3, 2021, the State Water Board adopted an emergency regulation authorizing the curtailment of diversions in the Delta watershed when water is determined to be unavailable at a water right holder's or claimant's priority of right. (Cal. Code Regs., tit. 23, § 876.1 et seq.) The Enhanced Water Use Reporting and Curtailment of Diversions due to Lack of Water Availability in the Sacramento-San Joaquin Delta Watershed emergency regulation (Delta watershed emergency regulation)<sup>1</sup> was approved by the Office of Administrative Law and went into effect upon filing with the Secretary of State on August 19, 2021. Pursuant to the Delta watershed emergency regulation, on August 20, 2021, the State Water Board issued an Initial Order Imposing Water Right

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<sup>1</sup> [https://www.waterboards.ca.gov/drought/delta/docs/deltareg\\_oal\\_approval.pdf](https://www.waterboards.ca.gov/drought/delta/docs/deltareg_oal_approval.pdf)

Curtailment and Reporting Requirements to all water right holders and claimants in the Delta watershed, requiring compliance with specific water diversion curtailment and reporting requirements. Due to ongoing drought conditions, on July 20, 2022, the State Water Board revised and readopted the Delta watershed emergency regulation. The Delta watershed emergency regulation was approved by the Office of Administrative Law and went into effect upon filing with the Secretary of State on August 12, 2022 (Readopted Delta Watershed Regulation).<sup>2</sup>

4. On September 22, 2021, the State Water Board adopted an emergency regulation titled Curtailment of Diversions on Mill and Deer Creeks due to Insufficient Flow for Specific Fisheries (Regulation).<sup>3</sup> The Regulation added sections 876.5, 876.7, and 878.4, and amended sections 878.1 and 879 in title 23, division 3, chapter 2, article 24 of the California Code of Regulations.<sup>4</sup> The Regulation was approved by the Office of Administrative Law and went into effect on October 4, 2021. Due to ongoing drought conditions, the State Water Board readopted the Regulation with minor amendments on August 16, 2022.<sup>5</sup> The Regulation establishes drought emergency minimum flow requirements for the protection of specific runs of federal- and state-listed anadromous fish in Mill Creek and Deer Creek. The Regulation provides that diversions from Mill Creek and Deer Creek are unreasonable if those diversions will cause flows to drop below specified minimum flows. Under the Regulation, diversions will be curtailed as appropriate to maintain those minimum flows, with the exception of diversions necessary for minimum human health and safety needs. The diversion or use of water in violation of the Regulation is an unreasonable diversion or use and a violation of Water Code section 100.
5. Pursuant to section 876.5, the State Water Board has determined that it is an unreasonable use of water under Article X, section 2 of the California Constitution to continue diversions that would cause or threaten to cause flows to fall beneath the drought emergency minimum flows provided in subdivision (c) of section 876.5, except to provide for a limited number of exceptions including minimum health and safety needs in accordance with section 878.1.
6. In February 2022, State Water Board staff, in coordination with CDFW and the National Marine Fisheries Service (NMFS), held a Deer Creek watershed meeting with Deer Creek stakeholders to discuss possible interim and long-term measures to protect threatened fish species on Deer Creek during the current drought year. To date, agreements have not been reached for Deer Creek regarding either drought emergency or long-term flows, but the possibility that agreements will be reached is not foreclosed.

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<sup>2</sup> <https://www.waterboards.ca.gov/drought/delta/docs/2022/20220812-reg-oal-approved.pdf>

<sup>3</sup> [https://www.waterboards.ca.gov/drought/mill\\_deer\\_creeks/docs/2021-0924-01e-approval.pdf](https://www.waterboards.ca.gov/drought/mill_deer_creeks/docs/2021-0924-01e-approval.pdf)

<sup>4</sup> All further section references are to California Code of Regulations, title 23, unless otherwise indicated.

<sup>5</sup> On August 16, 2022 the Board readopted most of the operative sections of the Regulation, with other applicable sections of California Code of Regulations, title 23, division 3, chapter 2, article 24 having been adopted or readopted by the Board in the course of other recent emergency rulemaking processes.

Pursuant to section 878.4, agreements that provide comparable protection to the fisheries as the flows identified in section 876.5 may be able to substitute for curtailments if the agreements cover a significant percentage of the water diverted in the watersheds.

7. Pursuant to section 876.5, subdivision (b), the Deputy Director for the Division of Water Rights (Deputy Director) has been delegated authority to issue curtailment orders upon a determination that without curtailment of diversions flows are likely to be reduced below the drought emergency minimum flows specified in section 876.5, subdivision (c).
8. Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*) (CV SR salmon) are listed as threatened under the state and federal Endangered Species Acts, and California Central Valley steelhead (*Oncorhynchus mykiss*) (CCV steelhead) are listed as threatened under the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). Deer Creek has been identified as a high-priority tributary for the protection and recovery of wild populations of CV SR salmon and CCV steelhead. Deer Creek is one of only three Sacramento River tributaries that supports a self-sustaining and genetically distinct population of CV SR salmon. Deer Creek also supports CCV steelhead.
9. On November 27, 1923, the Superior Court of Tehama County entered a judgment (Adjudication) granting 100 percent of the flow in Deer Creek to the predecessors in interest of the Stanford Vina Ranch Irrigation Company (approximately 65 percent) and Deer Creek Irrigation District (approximately 35 percent). The Adjudication identified the average amount of water naturally flowing in Deer Creek, during the irrigation season, as 150 second feet or 6,000 miner's inches. At times when the natural flow in Deer Creek is less than, or more than, 150 second feet or 6,000 miner's inches, the Adjudication diminishes, or augments, respectively, the flow allocations proportionally. (Adjudication, Articles XI and XIII, pp. 10, 11.) Stanford Vina Ranch Irrigation Company's points of diversion are downstream of the point of diversion for Deer Creek Irrigation District. (Adjudication, Articles XI and XIII, pp. 10, 11.) The Adjudication was amended in 1926 to grant approximately 66 percent of the Deer Creek flows below USGS gauge 11383500 to Stanford Vina Ranch Irrigation Company, 33 percent of the Deer Creek flows to Deer Creek Irrigation District and one percent of the Deer Creek flows to Sheep Camp Ditch for stock watering.
10. Agricultural diversions have resulted in reduced instream flows or dewatering of stream sections in the lower Deer Creek between the confluence with the Sacramento River and diversion dams, which impedes fish migration. Pursuant to section 876.5, subdivision (a), for the protection of threatened and endangered fish and due to the ongoing drought and environmental conditions, the State Water Board has determined that curtailments of water diversions from Deer Creek are needed to meet the drought emergency base flow requirements beginning October 15, 2022.
11. Additional detail regarding the drought emergency, the listed CV SR salmon and CCV steelhead, the importance of the emergency minimum flows in Deer Creek to the fisheries, the effect of the Regulation, and the need for curtailment orders to meet the flows in the absence of voluntary agreements is contained in the Finding of Emergency,



Informative Digest, and Revised Fiscal Impact Statement<sup>6</sup> and in State Water Board Resolution No. 2022-0030<sup>7</sup>, which are hereby incorporated.

12. Pursuant to section 876.5, subdivision (c)(2)(A)(i), base flows from October 15 through March 31 of 50 cubic feet per second (cfs) or full flows without diversions, whichever is less, are required in Deer Creek when adult CCV steelhead are present.
13. Pursuant to section 876.5, subdivision (c)(2)(B)(i), base flows from October 15 through June 30 of 20 cfs or full flows without diversions, whichever is less, are required in Deer Creek when juvenile CV SR salmon or juvenile CCV steelhead are present and adult CV SR salmon or adult CCV steelhead are not present.
14. Pursuant to section 876.5, subdivision (c)(2)(C)(i), base flows from April 1 through June 15 of 50 cfs or full flows without diversions, whichever is less, are required in Deer Creek when adult CV SR salmon are present.
15. Pursuant to section 876.5, subdivision (c)(2)(C)(ii), from April 1 through June 15 pulse flows of 100 cfs or full flows without diversions, whichever is less, may be required in Deer Creek when adult CV SR salmon are observed between Stanford Vina Dam and the Sacramento River. The pulse flows, including the flow ramp down period, will last a minimum of 24 hours to a maximum of 72 hours. Pulse flows may be required if: 1) the average daily flow measured at the United States Geological Survey (USGS) Deer Creek Near Vina gauge (#11383500) is 100 cfs or less for three consecutive days or  
2) CDFW or NMFS submits a request for such pulse flows and it is approved by the Deputy Director.
16. Pursuant to section 876.5, subdivision (c)(2)(D)(i), from June 1 through June 15 pulse flows of 100 cfs or full flow without diversions, whichever is less, may be required in Deer Creek when juvenile CV SR salmon or juvenile CCV steelhead are observed in the lower reaches of Deer Creek and CDFW or NMFS submits a request for such pulse flows that is approved by the Deputy Director. The pulse flow, including the flow ramp down period, will last a minimum of 24 hours to a maximum of 48 hours.
17. The Regulation also prohibits inefficient domestic lawn watering practices. Pursuant to section 876.7, subdivision (a), domestic lawn watering shall be limited to no more than 18.5 gallons per day per 100 square feet throughout the effective period of the Regulation.
18. Attachment A is a summary of available water rights data on Deer Creek that was assembled from the State Water Board's electronic water rights information management system and Report Management System queries.

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<sup>6</sup> [https://www.waterboards.ca.gov/drought/mill\\_deer\\_creeks/docs/2022-ereg-finding-digest.pdf](https://www.waterboards.ca.gov/drought/mill_deer_creeks/docs/2022-ereg-finding-digest.pdf)

<sup>7</sup> [https://www.waterboards.ca.gov/drought/mill\\_deer\\_creeks/docs/4-2022-0030-resolution-reg-text.pdf](https://www.waterboards.ca.gov/drought/mill_deer_creeks/docs/4-2022-0030-resolution-reg-text.pdf)

**FINDINGS:**

1. Section 876.5 subdivision (c)(2) establishes drought emergency minimum flows for Deer Creek under certain conditions.
2. The conditions under which the drought emergency minimum flows identified in section 876.5, subdivision (c) apply are, as of the date of this order, in effect, and are likely to continue. In early October, 2022 CDFW informed the State Water Board that CCV steelhead are present in the Sacramento River and likely near the confluence with Deer Creek.
3. The Deputy Director has determined that without curtailment of diversions from Deer Creek the flows in Deer Creek have been, and are likely to continue to be, reduced below the drought emergency minimum flows specified in section 876.5, subdivision (c)(2).

**IT IS HEREBY ORDERED:**

1. Effective October 15, 2022, all water right holders and claimants in the Deer Creek watershed, including those identified in Attachment A, are subject to curtailment pursuant to California Code of Regulations, title 23, sections 876.5 through 879.3, and shall, in the order of priority, immediately cease or reduce their diversions from Deer Creek to ensure the drought minimum flows specified in section 876.5, subdivision (c) are satisfied through June 30, 2023, or until the Deputy Director suspends the curtailment order, as follows:
  - a. During the period of October 15, 2022 through March 31, 2023, all diverters on Deer Creek shall bypass 50 cfs or full natural flow without diversion, whichever is less, in order to ensure base flows for adult CCV steelhead migration. Flows in excess of the 50 cfs base flow can be diverted in accordance with priority and basis of right, except that this order does not relieve any right holder or claimant of obligations imposed by orders issued pursuant to the Delta watershed emergency regulation or any other Board order, or the terms and conditions of the water right.
  - b. During the period of April 1 through June 15, 2023, all diverters on Deer Creek shall bypass 50 cfs or full natural flow without diversion, whichever is less, in order to ensure base flows for adult CV SR salmon migration. Flows in excess of 50 cfs base flow can be taken in accordance with priority and basis of right, except that this order does not relieve any right holder or claimant of obligations imposed by orders issued pursuant to the Delta watershed emergency regulation or any other Board orders, or the terms and conditions of the water right.
  - c. During the period of October 15, 2022 through June 30, 2023, all diverters on Deer Creek shall bypass 20 cfs or full natural flow without diversion, whichever is less, in order to ensure base flows for juvenile CV SR salmon and juvenile CCV steelhead outmigration. Flows in excess of 20 cfs base flow

can be taken in accordance with priority and basis of right, except that this order does not relieve any right holder or claimant of obligations imposed by orders issued pursuant to the Delta watershed emergency regulation or any other Board orders, or the terms and conditions of the water right. When adult CCV steelhead or CV SR salmon are also present, 50 cfs or full natural flow without diversion, whichever is less, is required as described above.

- d. Upon notification to the Deputy Director from CDFW or NMFS that adult CCV steelhead or CV SR salmon migration has ended but juvenile CV SR salmon or juvenile CCV steelhead are present, base flow requirements will be reduced to 20 cfs pursuant to section 876.5 of the emergency regulation. At that time all diverters on Deer Creek shall bypass 20 cfs or full natural flow without diversion, whichever is less, in order to ensure base flows for juvenile CV SR salmon and juvenile CCV steelhead migration. Flows in excess of the 20 cfs base flow can be diverted by water right holders in accordance with priority and basis of right, except that this order does not relieve any right holder or claimant of obligations imposed by orders issued pursuant to the Delta watershed emergency regulation or any other Board orders, or the terms and conditions of the water right.
- e. When a pulse flow is required under section 876.5, subdivision (c), all diverters on Deer Creek are curtailed and must cease diverting to ensure that the pulse flow of 100 cfs or full flow without diversions, whichever is less, is bypassed at their point of diversion. If full natural flows exceed 100 cfs at a time when pulse flows are required, then flows in excess of 100 cfs can be diverted by water right holders in accordance with water right priority and basis of right, except that this order does not relieve any right holder or claimant of obligations imposed by orders issued pursuant to the Delta watershed emergency regulation or any other Board orders, or the terms and conditions of the water right. A water right holder may petition for a limited exception to curtailment for livestock survival during a pulse flow event. The Deputy Director shall approve such a petition provided CDFW and NMFS do not object and the petitioner demonstrates that 1) curtailing diversions to achieve the pulse flows would likely impair livestock survival, and that 2) there are no reasonable water supply alternatives available (e.g. stockponds, groundwater wells, hauled water). A petition may be submitted to the Deputy Director by email to [DWR-MillDeerDrought@waterboards.ca.gov](mailto:DWR-MillDeerDrought@waterboards.ca.gov).
- f. All water rights and claims are curtailed under this order, as specified in this order, unless the diversion is subject to an exception to curtailment as described by section 878 (non-consumptive uses), section 878.1 (minimum human health and safety needs), or section 878.4 (local cooperative solutions) of the emergency regulation.
- g. Water right holders and claimants in the Deer Creek watershed are also subject to the Initial Order Imposing Water Right Curtailment and Reporting Requirements in the Sacramento-San Joaquin Delta Watershed, issued pursuant to the [Delta watershed emergency regulation](#). This order does not

relieve any right holder or claimant of obligations imposed by orders issued pursuant to that regulation or any other Board order, or the terms and conditions of the water right.

- h. Compliance with the drought emergency minimum flows in Deer Creek required under section 876.5, subdivision (c)(2) will be assessed by the State Water Board based on the Department Water Resources' Deer Creek below Stanford Vina Dam gauge reporting (California Data Exchange Center (CDEC) Station ID: [DVD](#)).
2. Pursuant to section 876.7, subdivision (a), which originally took effect October 4, 2021 and remains in effect after the September 21, 2022 readoption, domestic lawn watering in excess of 18.5 gallons per day per 100 square feet is prohibited.
3. In accordance with section 876.5, subdivision (d), water right holders or agents of record who receive this Order are responsible for immediately providing notice of this Order to all diverters exercising the water right or claim covered by this Order.
4. «**PRIMARY\_OWNER\_NAME**» or their agent or successor is required, by October 15, 2022, to submit under penalty of perjury an online Compliance Certification Form in accordance with section 879, subsection (a) of the Regulation. The online Compliance Certification Form must be accessed using the Login: «**WATER\_RIGHT\_ID**» and Password: «**REPORTING\_IDENTIFIER**» on the Water Right Form and Survey Submittal Portal located at: <https://public.waterboards.ca.gov/WRInfo>. Where the diversion or place of use for the water right(s) listed in Attachment A is in an area subject to a wildfire evacuation order, or where such an evacuation order inhibits the ability of «**PRIMARY\_OWNER\_NAME**» or their agent or successor to access the necessary information to complete the Curtailment Certification or to log on to complete the form, the deadline is automatically extended until ten (10) days after the lifting of the evacuation order.
5. All subsequent modifications to this Order, including curtailment suspensions, updates to Deer Creek flow requirements pursuant to section 876.5, or other modifications, shall be noticed electronically, including electronic communications sent through the State Water Board's "Mill Deer Drought" email distribution list and posted to the State Water Board's [Mill Creek and Deer Creek Drought Response](#) webpage.<sup>8</sup>
6. Pursuant to section 876.5, the State Water Board has established an email distribution list that water right holders and claimants are encouraged to join to receive drought notices and updates regarding curtailments. Diverters and right holders/claimants who do not join the email distribution list must check the State Water Board's drought webpage regularly (at least weekly, and more frequently when hydrologic conditions are changing and times when more than one potential trigger for curtailment may be in effect). Notices provided by email or by posting on the State Water Board's drought web page shall be sufficient for all purposes related to drought notices and updates regarding curtailments.

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<sup>8</sup> [https://www.waterboards.ca.gov/drought/mill\\_deer\\_creeks/](https://www.waterboards.ca.gov/drought/mill_deer_creeks/)

7. Pursuant to section 879.2, failure to comply with the Regulation or this Order, including diversion or use in violation of curtailment, is subject to enforcement action, including the imposition of any applicable penalties pursuant to Water Code sections 1052, 1058.5, 1831, 1845, and 1846. To the extent of any conflict between the requirements of this Order and any other applicable orders or conditions of approval, the diverter must comply with the requirements that are most stringent.
8. Nothing in this Order is intended to or shall be construed to limit or preclude the State Water Board from exercising its authority under any statute, regulation, ordinance, or other law, including but not limited to, the authority to bring enforcement against diverters for unauthorized diversion or use in violation of Water Code section 1052.
9. Nothing in this Order shall excuse individual water right holders and claimants from meeting any more stringent requirements that may be imposed by applicable legally binding legislation, regulations, or a water right permit requirement. This Order does not authorize any act which results in the taking of a threatened, endangered, or candidate species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C. §§ 1531-1544). If a “take” will result from any act authorized under this Order, the diverter shall obtain authorization for an incidental take. Diverter shall be responsible for meeting all requirements of the applicable Endangered Species Act(s) for actions authorized under this Order.

STATE WATER RESOURCES CONTROL BOARD

*ORIGINAL SIGNED BY*

Erik Ekdahl, Deputy Director  
Division of Water Rights

Dated: October 7, 2022

<b>ATTACHMENT A: ACTIVE WATER RIGHTS AND CLAIMS IN DEER CREEK WATERSHED</b>	
<b>WATER RIGHT ID</b>	<b>PRIMARY OWNER</b>
A001041	STANFORD VINA RANCH IRRIGATION CO
A008469	U S LASSEN NATL FOREST
A012096	KEN C WILLIS
A015933	DEER CREEK LODGE INC
A016223	THOMAS T DENNEY
A016224	JOSEPH JAMES TREMARI
A016238	WALTER ALBERT
A018477	DOROTHY ANNE TREMARI
A020250	DEER CREEK LODGE INC
A032251	GRANT LEININGER
C003886	DAVID LINGLE
C005299	RICHARD D SUMMERS
F003439S	U S LASSEN NATL FOREST
F003440S	U S LASSEN NATL FOREST
S000729	STANFORD VINA RANCH IRRIGATION CO
S000730	STANFORD VINA RANCH IRRIGATION CO
S000731	DEER CREEK IRRIGATION DISTRICT
S001308	SIERRA PACIFIC INDUSTRIES
S001309	SIERRA PACIFIC INDUSTRIES
S001310	SIERRA PACIFIC INDUSTRIES
S001311	SIERRA PACIFIC INDUSTRIES
S001312	SIERRA PACIFIC INDUSTRIES
S001313	SIERRA PACIFIC INDUSTRIES
S001314	SIERRA PACIFIC INDUSTRIES
S007869	ROBERT POLK
S008305	SIERRA PACIFIC INDUSTRIES
S012359	SIERRA PACIFIC INDUSTRIES
S012360	SIERRA PACIFIC INDUSTRIES
S012361	SIERRA PACIFIC INDUSTRIES
S012374	SIERRA PACIFIC INDUSTRIES
S012375	SIERRA PACIFIC INDUSTRIES
S012376	SIERRA PACIFIC INDUSTRIES
S012377	SIERRA PACIFIC INDUSTRIES
S012396	SIERRA PACIFIC INDUSTRIES
S013595	SIERRA PACIFIC INDUSTRIES
S013596	SIERRA PACIFIC INDUSTRIES
S013597	SIERRA PACIFIC INDUSTRIES
S013598	SIERRA PACIFIC INDUSTRIES
S013600	SIERRA PACIFIC INDUSTRIES
S016163	U S LASSEN NATL FOREST
S016808	SIERRA PACIFIC INDUSTRIES
S018670	RUMIANO FARMS
S023166	RUMIANO FARMS