

Proposed Emergency Regulation for Enhanced Water Conservation and Additional Water Use Information for the Protection of Specific Fisheries in Tributaries to the Russian River



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Division of Water Rights
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1

Presentation Outline

- Finding and Evidence of Emergency
- Background: Targeted Watersheds and Species
- Previous Conservation Efforts
- Proposed Emergency Regulation
- Fiscal Impacts
- Comments Received
- Next Steps

2

Finding and Evidence of Emergency

3

Drought Background Water Year 2015 – 4th Year of Drought

- January 17, 2014: Governor Brown declared a drought state of emergency (January Drought Emergency Proclamation)
- March 1, 2014: Governor Brown signed drought relief package (SB 104)
- April 25, 2014: Governor Brown issued Proclamation of Continued State of Emergency related to the drought
- December 22, 2014: Governor Brown issued Executive Order B-28-14
- January 23, 2015: State Water Board issued Notice of Surface Water Shortage for 2015
- April 1, 2015: Governor Brown issued Executive Order B-29-15

4

Finding of Emergency

- Due to severe drought conditions, immediate action is needed to prevent the waste and unreasonable use of water from priority watersheds for threatened and endangered species in light of limited water availability during the drought.

5

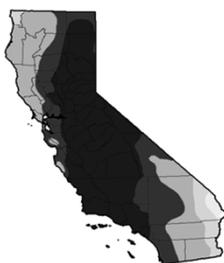
Evidence of Emergency

- California is currently in its fourth year of drought
 - Water Year 2012: Below Normal Water Year
 - Water Year 2013: Driest year on record for many parts of California
 - Water Year 2014: Critical Water Year (Governor declares drought)
 - Water Year 2015: Driest January on record for many parts of California

6

Drought Emergency - Water Year 2015

U.S. Drought Monitor
California



Intensity

D0 Abnormally Dry	D3 Extreme Drought
D1 Moderate Drought	D4 Exceptional Drought
D2 Severe Drought	

The Drought Monitor focuses on broad-scale conditions. Local conditions may vary. See accompanying text summary for forecast statements.

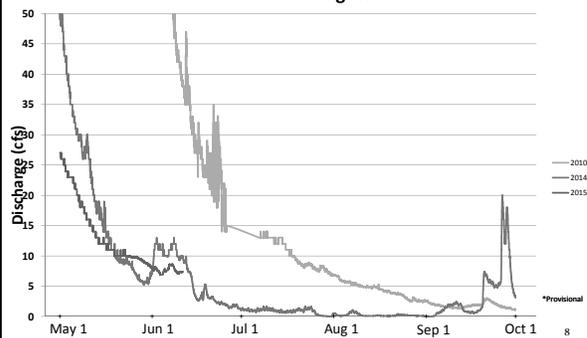
Author:
David Miskus
NOAA/NWS/NCEP/CPC

USDA   

<http://droughtmonitor.unl.edu/>

7

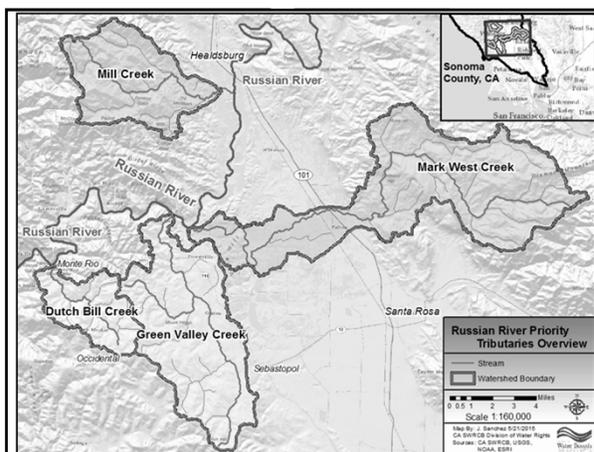
Spring and Summer Flow - Mark West Creek near Mirabel Heights



8

Background: Targeted Watersheds and Species

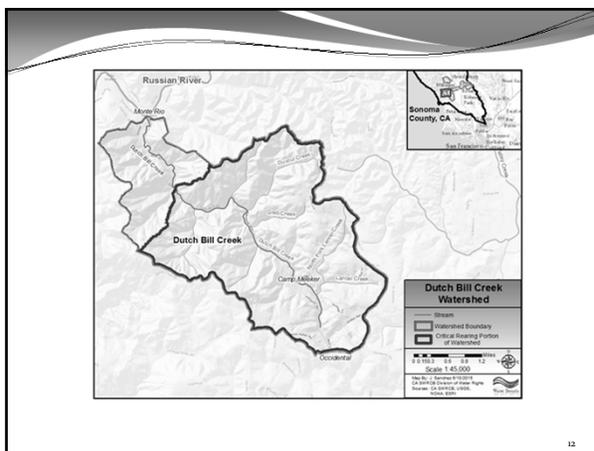
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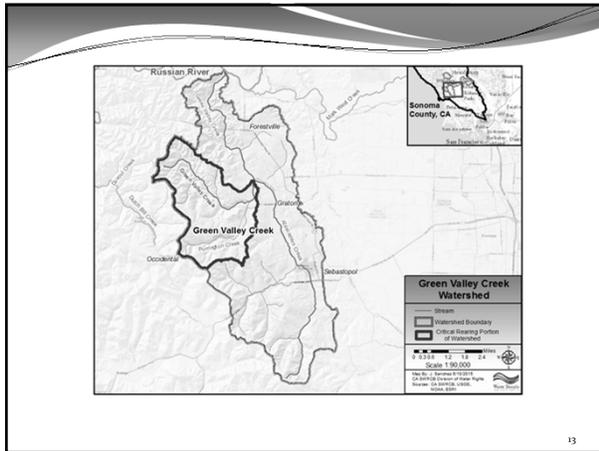
Critical Areas

- CDFW and NMFS have identified specific reaches of interest in each watershed
- These reaches provide good rearing habitat conditions for juvenile salmon during the summer
- The portions of the watersheds corresponding to those reaches are considered critical areas

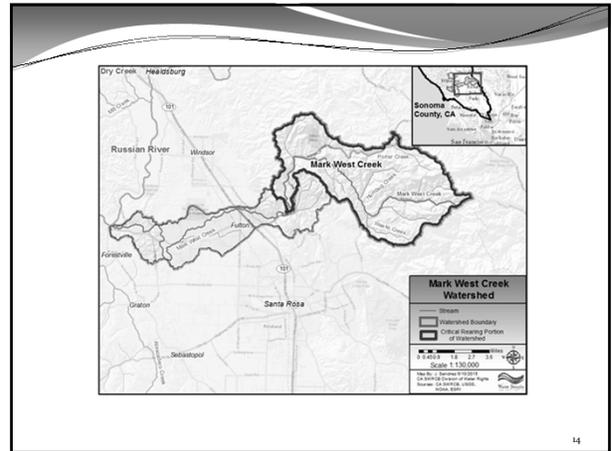
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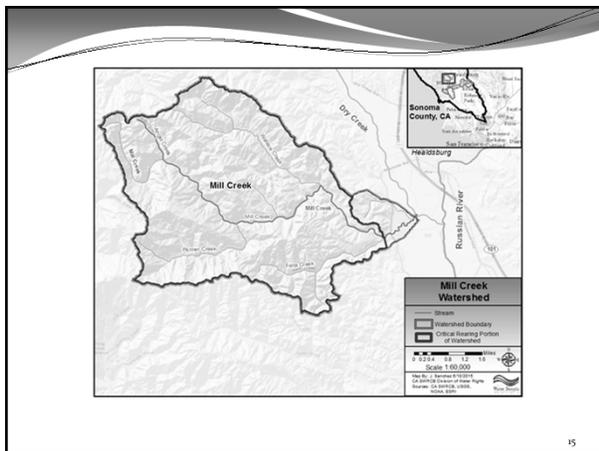
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15

Targeted Species

- Central California Coast coho salmon
- Central California Coast steelhead

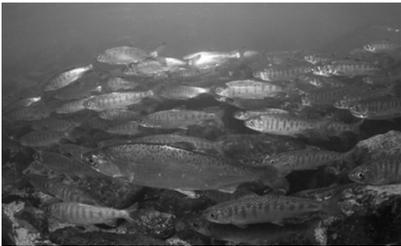
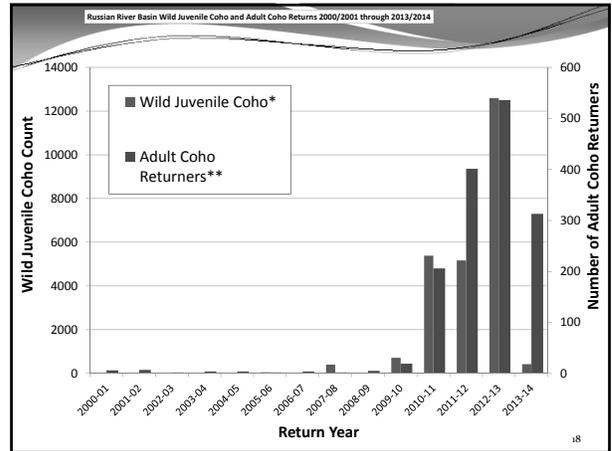
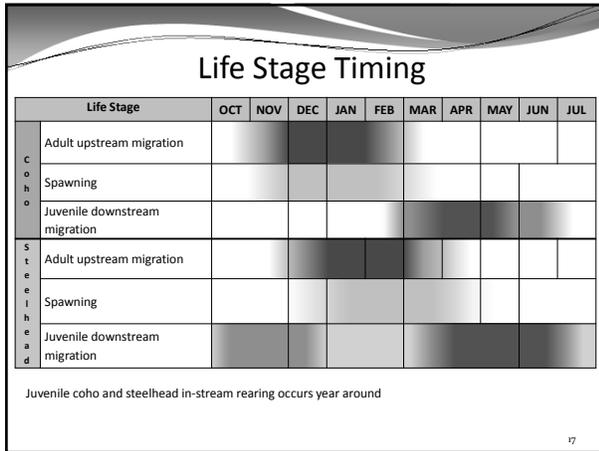


Image Credit: NOAA

16





Previous Water Conservation Efforts

22

- ### Previous Water Conservation Efforts
- October 2014 – CDFW sent letter to riparian landowners encouraging water conservation with intent of developing Voluntary Drought Initiative (VDI) Agreements
 - April – May 2015 – CDFW sent letters to riparian landowners, again encouraging VDI Agreements
 - April 21, 2015 – State Water Board and CDFW sent letter requesting landowners enter into VDIs
 - April 23, 2015 – Tom Howard and Charlton H. Bonham letter in *Press Democrat*
 - April 29, 2015 – Board members D'Adamo and Moore attend Sonoma Farm Bureau meeting
 - May 2015 – CDFW outreach meetings
- 23

- ### Previous Water Conservation Efforts (con't.)
- June 5, 2015 – Board member D'Adamo attended Sonoma County Winegrape Commission meeting
 - June 9, 2015 – State Water Board sent letters to all property owners within watersheds notifying them of proposed emergency regulation
 - June 10, 2015 – State Water Board staff attend meeting with Sonoma Country Farm Bureau
- 24

Previous Conservation Efforts (con't.)

- Result: As of June 12, 2015, CDFW entered into 22 VDI Agreements with residential landowners, and two VDI agreements with agricultural operators
- CDFW will discuss Voluntary Drought Initiative Agreements in greater detail

25

Proposed Emergency Regulation

26

Definitions

- **Gray water.** Untreated rainwater collected in a runoff capture system or any water meeting the definition provided in Health and Safety Code 17922.12.
- **Ornamental turf.** All turf other than turf used for community recreation.
- **Landscapes.** All plantings besides ornamental turf: trees, plants, but not agricultural commodities as defined in Gov't code 51201(a).

27

California Department of Fish and Wildlife Letter (in coordination with NMFS)

- Dated May 28, 2015
- Does not recommend curtailments at this time
- Recommends State Water Board develop emergency regulations for Dutch Bill, Green Valley, Mark West, and Mill Creek watersheds to:
 - Immediately implement conservation measures to limit the amount of water extracted from the watersheds
 - Issue an informational order to determine the extent of diversions in each of the watersheds

28



• Immediate goal: **Maintain minimal hydrologic connectivity**

Proposed Emergency Regulation

- CCR § 876(d)(1) : Conservation measures
 - Would prohibit application of potable and non-potable water to:
 - ornamental turf
 - landscapes in a manner that causes runoff
 - landscapes more than two days per week
 - landscapes between 8:00am to 8:00pm
 - landscapes during and within 48 hours after measurable rainfall

30

Proposed Emergency Regulation

- CCR § 876(d)(1) : Conservation measures continued
 - Would prohibit use of water:
 - for washing motor vehicles
 - for filling or refilling decorative ponds, fountains and water features
 - in fountains and water features, except in recirculating systems
 - for application to driveways and sidewalks

31

Proposed Emergency Regulation

- § 876(d)(2) : Other measures
 - Hotel and motel operators would be required to provide guests with the option to not have their linens and towels laundered daily

32

Proposed Emergency Regulation

- Conservation measures continued
 - § 876(d)(3): Conservation measures would take effect immediately and apply to landowners and water users within the critical areas of the watersheds
 - § 876(d)(3): The Deputy Director may extend those requirements to some or all of the remainder of the watershed(s) at a later time, or lift the requirements for all or any portion of the watershed(s)
 - § 876(d)(4) Parties who have entered into a VDI equivalent to the regulation would be exempted from water conservation measures in regulation

33

Proposed Emergency Regulation

- § 876(e): Informational Orders
 - Order would require landowners and suppliers of water within the watershed to provide information on diversion and use of surface and subsurface water
 - Any party receiving an order under this subdivision shall provide the requested information within 30 days.
 - The Deputy Director may grant additional time for the submission of information regarding diversion and use of water upon substantial compliance with the 30-day deadline and a showing of good cause.

34

Proposed Emergency Regulation

- § 876(e): Informational Orders continued
 - Needed because:
 - Groundwater pumping is large portion of total diversion
 - Withdrawals of hydraulically-connected groundwater can lower stream levels
 - Due to lack of information, State Water Board cannot reasonably assess how much water is being diverted and the effects on surface flow

35

Proposed Emergency Regulation

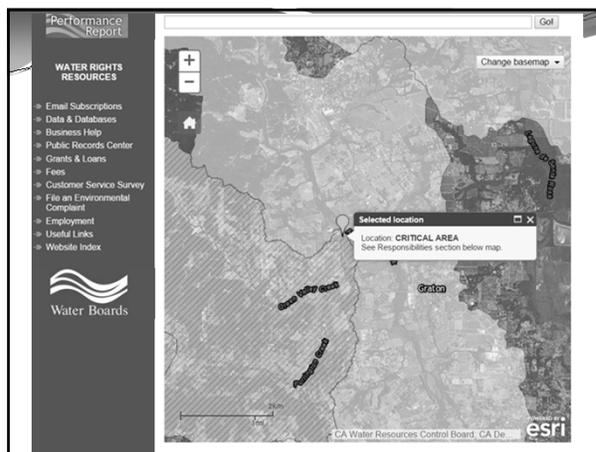
- § 876(e): Informational Orders continued
 - Required information may include:
 - Date of first use
 - Location and Type of diversion (surface or sub-surface)
 - Types of beneficial use
 - Distances of wells from surface streams
 - Well depth
 - Well screen interval(s)
 - Place of use
 - Estimated 2014 diversion amount
 - Estimated 2014 use amount
 - Source of water
 - Volume of storage
 - Estimated pumping rate
 - Amount of water anticipated to be needed in 2015

36

Watershed Lookup Tool

- A map-based tool for landowners and water users to determine if they are in a priority watershed or a critical area
- Available online at http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/russian_river/#lookup

37



Obtaining Well Information

- Landowners who are subject to the informational order can obtain well information from Department of Water Resources
- Requires submittal of the Well Completion Report Request form (for owners)
- Form is available at http://www.water.ca.gov/groundwater/wells/well_completion_reports.cfm

39

STATE OF CALIFORNIA - THE NATURAL RESOURCES AGENCY		FORM NO. D-10 (Rev. 01/01)	
DEPARTMENT OF WATER RESOURCES			
NORTHWEST REGION 2440 Main Street Red Bluff, CA 95950 (530) 529-7300 (530) 529-7322 (Fax)	SOUTH CENTRAL REGION 3500 Industrial Blvd. West Sacramento, CA 95691 (916) 278-9612 (916) 278-9678 (Fax)	SOUTHWEST REGION 3374 E. Shields Ave Ste A7 Fresno, CA 93726 (559) 233-3302 (559) 233-3301 (Fax)	SOUTHEAST REGION 770 Fairmont Avenue Glennville, CA 91203 (916) 588-1640 ext. 233 (916) 543-4864 (Fax)
WELL COMPLETION REPORT REQUEST-OWNER			
California Water Code Section 13762 allows the release of copies of confidential Well Completion Reports to any person who obtains written authorization from the owner of the well. Well owners may use this form to authorize the release of a Well Completion Report by the Department of Water Resources. DWR requires the township, range, and section of the property where the well is located to start a search. Attach a map or a sketch with a north arrow, and provide as much identifying information listed below as possible; use additional paper if necessary. Sign the form, and submit it to the appropriate DWR District office.			
Location of well (city and county): _____		Year drilled: _____	
Street Address: _____			
Distances and directions from cross streets or other landmarks: _____			
Township _____ Range _____ Section _____		Quadrant _____ Well Use _____	
Owner at time of drilling _____		Driller _____	
Depth of well _____		Diameter and type of casing _____	
Other identifying information, such as assessor's parcel number (on tax statement), subdivision or tract, lot number, well number, well completion report number, driller, date completed, etc.: _____			
I certify that I am the present owner of the well described above.		Complete this part only if you wish a copy sent to someone other than yourself. Please send a copy of this Well Completion Report to:	
Name (please print) _____		Name (please print) _____	
Company Name (please print) _____		Company Name (please print) _____	
Address _____		Address _____	

40

Proposed Emergency Regulation

- § 876(f): New diversions
 - A new diversion is a diversion initiated after issuance of a watershed-wide informational order
 - Any owner of a new diversion within the watershed would be required to submit any information required by in the informational order prior to the commencement of the new diversion

41

Proposed Emergency Regulation: Reporting and Violations

- Violations of the regulation are subject to enforcement by the Board under section 1846 of the Water Code and any other applicable authorities. In addition:
- § 876(d)(6)
 - Taking any action prohibited by the conservation measures or failing to take the action in subdivision (d)(2) is an infraction
- § 876(e)
 - Each landowner is responsible for immediately providing notice of any informational orders to all water users associated with the parcel
 - The failure to provide the information request within 30 days is a violation subject to civil liability

42

Fiscal Impacts to Local Agencies and Governments

- Estimated cost to state and local agencies and governments: \$4,846,856
- Costs are for:
 - Replacing ornamental turf (\$4,118,400)
 - Time spent completing and submitting information (\$336,505)
 - Time for Department of Water Resources to respond to requests for well completion information (\$391,950)

43

Summary

- Emergency action is needed to provide a small but critical amount of water for species at high risk of extirpation in this drought emergency.
- The conservation actions will provide critical flows.
- The information provided will allow the State Water Board to make decisions on further actions in the drought emergency.
- The proposed regulation addresses, and is tailored to only address, the drought emergency.

44

Comments Received

- American Rivers
- California Sportfishing Protection Alliance
- Amy Norris
- Kimberly Burr (Submitted 2 Letters)
- Gold Ridge Conservation District
- Christopher J. Neary
- O'Conner Environmental, Incorporated
- O'Laughlin & Paris LLP on behalf of San Joaquin Tributaries Authority
- Porgans and Associates
- Sierra Club California
- Sonoma County Farm Bureau
- The Bay Institute
- Trout Unlimited, California Trout, and the Nature Conservancy

45

Comments Received (con't)

- Ten letters were generally in support of the regulation. Of those, seven raised additional comments beyond support:
 - Four letters support extending the emergency regulation to other coastal watersheds where salmon/steelhead populations are listed
 - Three letters state that the regulation falls short by targeting urban water users but not commercial agriculture users (i.e., vintners)

46

Comments Received (con't.)

- Four letters were opposed to the regulation or significant portions of the regulation
 - Two letters were concerned that riparian users would take the brunt of the regulation
 - One letter requested removal of subdivisions the informational order provisions and stated groundwater information would be difficult and expensive for private well owners to provide in 30 days
 - One letter opposed the State Water Boards use of the unreasonable use doctrine

47

Change Sheet #2

- Removed definitions of Diverters, and Diversions
- Corrected typographical errors
- Removed prohibition on new diversions
- Added requirement to submit Information Order data for new diversions, prior to commencing diversion
- Added clarifying language
- Updated numbering of sections

48

Next Steps

- Regulation digest may be submitted to Office of Administrative Law (OAL) for approval five days after State Water Board issues notice of proposed rulemaking – June 23, 2015
- Public may submit comments to OAL for five calendar days after the regulation digest is submitted
- OAL has up to ten calendar days from State Water Board submittal to review the regulation
- Anticipate regulation would go into effect **July 3, 2015**

49

Next Steps (con't.)

- As summer continues, the State Water Board will work with CDFW and NMFS to determine if connectivity between pools is being maintained
- If connectivity continues to decrease, it may be necessary for the State Water Board to issue curtailments or take other measures

50

Planned Outreach

- **Monday, July 6, 6 - 9 pm** – Salmon Creek School, 1935 Bohemian Highway, Occidental
- **Tuesday, July 7, 6 - 9 pm** – Healdsburg City Council Chambers, 401 Grove Street, Healdsburg
- **Wednesday, July 8, 6 - 9pm** – Forestville Fire Department, 6554 Mirabel Road, Forestville
- **Thursday, July 9, 1 - 4 pm & 6 - 9 pm** – North Coast Regional Water Board, 5550 Skylane Blvd, Suite A, Santa Rosa

51

Drought Year Resources

- Emergency Regulation for Russian River Tributaries Webpage:
http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/water_action_russianriver.shtml
- To receive email subscriptions:
http://www.waterboards.ca.gov/resources/email_subscriptions/
 - Select “State Water Resources Control Board”
 - Enter email address and full name
 - Under Categories, select “Water Rights Topics”
 - Select “Russian River Tributaries Emergency Regulation”
 - Click “Subscribe” button at top

52

State Water Board Contact Information

- Russian River Tributaries Emergency Regulation
Phone Number: **(916) 322-8422**
- Russian River Tributaries Emergency Regulation
Email:
rr_tribs_emergency_reg@waterboards.ca.gov

53

