State of California
Department of Fish and Wildlife

Memorandum

Date: April 16, 2015

To: Ms. Barbara Evoy, Deputy Director
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-2000

From: **NEIL MANJI**, Regional Manager
Region 1 – Northern

Subject: **Memoranda of Understanding (MOUs) with Los Molinos Mutual Water Company, The Nature Conservancy, Nobmann Cattle, and Orange Cove Irrigation District.**

Please accept the attached California Endangered Species Act MOUs with the 2081(a), and the direction found within the Governor's April 25, 2014, Proclamation of a Continued State of Emergency as a local cooperative solution on Mill Creek, Tehama County, to protect specific fisheries resources during the drought.

The California Department of Fish and Wildlife (Department) is submitting these for consideration and support of any request by the Los Molinos Mutual Water Company, The Nature Conservancy, Nobmann Cattle, and Orange Cove Irrigation District to implement the agreements in place of State Board-issued curtailment orders on Mill Creek, Tehama County. Based upon the evidence that the Department has at this time, we have determined the terms identified within the MOUs offer a level of watershed-wide protection comparable to or greater than what is provided in the Water Boards proposed curtailment regulations (California Code of Regulations, Title 23, Section 877 et seq.).

Thank you for consideration. If you have any questions please contact Northern Region Fisheries Program Manager Curtis Milliron at (530) 225-2280.

Attachments

ec: Ms. Barbara Evoy
Mr. Daniel Schultz
Division of Water Rights, State Water Resources Control Board
barbara.evoy@waterboards.ca.gov, daniel.schultz@waterboards.ca.gov

Mr. Howard Brown
National Oceanic and Atmospheric Administration
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Mss. Sandra Morey and Nancee Murray
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MEMORANDUM OF UNDERSTANDING

by and between

LOS MOLINOS MUTUAL WATER COMPANY

and

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

MILL CREEK

This California Endangered Species Act Memorandum of Understanding ("CESA MOU") is made and entered into by and between Los Molinos Mutual Water Company (hereinafter called LMMWC), acting through its Board of Directors, and the California Department of Fish and Wildlife (hereinafter called the "CDFW").

The purpose of this CESA MOU is to provide a framework for cooperative activities and monitoring that involve or address issues of importance to salmonids, particularly Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha),* hereinafter referred to as spring run, in Mill Creek, Tehama County. This CESA MOU provides for take associated with actions taken by the CDFW and actions taken by LMMWC to rescue and relocate spring run or assist with increasing flows in the creek for the benefit of spring run as management activities under the authority of Section 2081(a) of the California Fish and Game Code.

RECITALS

WHEREAS, the CDFW has jurisdiction over the conservation and protection of fish, wildlife, and native plants and their habitats necessary for biologically sustainable populations of those species and holds those resources in trust for the people of California (California Fish and Game Code Section 1802).

WHEREAS, spring run are classified as a threatened species by the State of California Fish and Game Commission pursuant to the California Endangered Species Act (CESA, Code section 2050 et seq.).

WHEREAS, Fish and Game Code section 2080 prohibits the import, export, take, possession, purchase or sale of any species, in whole or in part, that has been listed as threatened or endangered by the California Fish and Game Commission. Take is defined in Fish and Game Code section 86 as 'hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill." However, Fish and Game Code section 2081(a) allows CDFW to authorize take and other acts prohibited by Fish and Game

Code section 2080 for scientific, educational, or management purposes. This CESA MOU authorizes a limited level of take of spring run for management purposes.

WHEREAS, salmonid presence shall be defined by reviewing historical records and utilizing current fisheries monitoring on Deer, Mill, and Antelope creeks and the Sacramento River between the Red Bluff Diversion Dam and the confluence of Clear Creek.

WHEREAS, on January 17, 2014 Governor Brown issued a proclamation, declaring the state to be in an emergency due to the drought conditions.

WHEREAS, on April 25, 2014, Governor Brown issued an Executive Order directing state agencies to, in part, work with other state and federal agencies and with landowners in priority watersheds to protect threatened and endangered species and species of special concern and maximize the beneficial uses of scarce water supplies, including employment of voluntary agreements to secure instream flows, relocate members of those species or take other measures.

WHEREAS, on December 22, 2014, Governor Brown issued another Executive Order declaring a continued state of emergency due to drought conditions, extending many of the terms of the April 25, 2014 Executive Order until May 31, 2016.

WHEREAS, Mill Creek provides many important surface water beneficial uses, including agriculture, recreation, wildlife habitat, freshwater habitat, and anadromous fish habitat, particularly for spring run listed as threatened under the Federal and State Endangered Species Acts and Central Valley steelhead (*Oncorhynchus mykiss*) hereinafter referred to as steelhead listed as threatened under the federal Endangered Species Act. Due in part to naturally occurring low flows, agricultural diversions, channel morphology and excessive temperatures, the upstream migration of adults or downstream migration of juvenile spring run and steelhead may be impeded or blocked in some years. Conditions may further deteriorate such that spring run and steelhead will need the restoration of suitable instream flow conditions to provide passage and/or be rescued and relocated.

WHEREAS, the flow prescriptions identified in this CESA MOU are considered by CDFW to be the minimum flows, in the current Drought Emergency, necessary to allow for adult and juvenile salmonid migration in Mill Creek below Ward Dam, and they are considered by CDFW to be the minimum flows needed to minimize the effects of drought while balancing salmonid and agricultural interests.

WHEREAS, LMMWC does not agree that the flow prescriptions identified in this CESA MOU are the minimums necessary, or that they are the result of balancing fishery and agricultural interests, but, in the spirit of cooperation, LMMWC will agree to these demands for the duration of this CESA MOU.

WHEREAS, LMMWC serves as the Watermaster for Mill Creek and operates two low

diversions for agricultural water from the north and south banks. As per the August 16, 1920 adjudication decree, Superior Court of Tehama County Decree # 3811 (the "Decree"), LMMWC is also tasked with allocating water supplies, maintaining records of diversion and use, and with maintaining the structures necessary for diversion, conveyance, and delivery of water to all those entitled under the Decree to the water of Mill Creek, including LMMWC for the benefit of its shareholders.

WHEREAS, LMMWC has adjudicated rights to divert Mill Creek surface water for irrigation and services approximately 7,000 acres of land within Tehama County.

WHEREAS, LMMWC owns or has access to certain real property associated with the LMMWC Diversion Dam on Mill Creek, Tehama County (Real Property). LMMWC is willing to participate with the CDFW in fish rescue and relocation activities by allowing, to the extent permitted by its ownership and/or easement rights, access to the Real Property for the purposes of monitoring, and/or capturing and removing, and/or relocating salmonids on or to Mill Creek adjacent to the Real Property or to the Sacramento River.

WHEREAS, it is acknowledged that LMMWC has over 20 years of history working cooperatively with the Mill Creek Conservancy, CDFW, and the Department of Water Resources to protect Chinook salmon and steelhead in Mill Creek including flow exchange agreements executed in 1990 and 2007.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. **Purpose**

The elements of this CESA MOU, including flows, monitoring and evaluation, if implemented in the manner described below, will provide fishery protections necessary to avoid significant drought-related harm to salmonids, particularly spring run. The flows in this CESA MOU are based on CDFW's best available information for protecting salmonids, while maintaining water use in Mill Creek and are comparable to, and achieve, a similar biological outcome for salmonid protection as those required in the emergency regulations proposed and passed by the State Water Resources Control Board in 2014 (Title 23 CCR 877-879.2).

2. **CDFW Monitoring and Fish Rescue Commitments**

A. Monitoring: CDFW or its agent will carry out all monitoring activities. Monitoring and evaluation plans shall be in place to inform the effectiveness of the flow events and/or rescue efforts. Monitoring activities will assist CDFW is determining the presence of adult and juvenile salmonids in or near Mill Creek. CDFW shall inform LMMWC of its monitoring results and inform LMMWC if adult or juvenile salmonids are not present. CDFW shall notify LMMWC if water temperatures exceed the thresholds identified in section 3.C below. CDFW, or its agent, will notify LMMWC at the telephone number listed in Section 11, of all planned monitoring it will carry out on the Real Property. Monitoring activities may include:

i. Use of video monitoring to determine if adult salmonids are moving through lower Mill Creek in response to minimum base flows and pulse flow events, and to determine population abundance.

ii. Snorkel surveys may be conducted upstream and downstream of diversion structures and critical riffle areas to determine if minimum base flows are passing salmonids through these areas. It is the intent of the CDFW to detect any salmonid stranding issues before mortalities are observed, so that sufficient time is provided to inform diverters and to take proactive flow restoration or other fish rescue actions.

iii. Monitoring of habitat conditions in Mill Creek or the Sacramento River prior to relocation of salmonids at risk, including spring run.

B. Fish Capture and Relocation: CDFW or its agent will carry out all fish capture and relocation activities. CDFW, or its agent, will notify LMMWC at the telephone number listed in Section 11, of all planned fish rescue/relocation activities it will carry out on the Real Property.

i. CDFW or its agent may relocate salmonids, including spring run, captured from elsewhere in the lower Mill Creek watershed (e.g. diversion canals), to Mill Creek adjacent to Real Property if suitable instream conditions exist, or to a suitable location on the Sacramento River.

ii. CDFW or its agent may monitor stream depth and temperature at relocation site(s) post-relocation to determine if conditions remain adequate to keep salmonids alive and provide for salmonid passage.

3. LMMWC Commitments

A. LMMWC agrees to provide reasonable access to CDFW and its agents, including equipment access, to the Real Property to carry out any of the management activities listed in Section 2.0 of this CESA MOU for the purposes of:

i. Monitoring habitat conditions and salmonid abundance, size, and condition prior to any management activities;

ii. Capturing and removing salmonids from and/or relocating salmonids to suitable habitat, and for monitoring conditions post-relocation; or

iii. Monitoring stream flow conditions during flow events and/or during post-rescue/relocation to determine if conditions remain adequate to keep salmonids alive and provide for passage.

B. All water diversion facilities that LMMWC owns, operates, or controls associated with the Real Property shall be operated and maintained in accordance with current laws and regulations.

C. LMMWC agrees to perform the following Required Management Elements (RME's) as outlined below as a condition of this MOU, according to the type of diversion activities conducted at a particular site:

i. Minimum Base Flow: These flows are required to support juvenile and adult salmonids that may already be 1) holding in the Sacramento River waiting to enter Mill Creek; 2) in Mill Creek but may not have passed to upper elevations; or (3) in Mill Creek, but which may not have moved out to the Sacramento River. Unless otherwise noted, the flow requirements identified below, OR full natural flows (whichever is less) will be provided by 8:00 a.m. on the dates identified below.

a. March 15 through June 15:

50 cubic feet per second (cfs) for salmonid passage through the 2.8 miles of stream between Ward Dam and the confluence with the Sacramento River, as measured at the Department of Water Resources (DWR) flow gage below Highway 99 (CDEC Station ID: MCH).

If stream temperatures measured at MCH meet or exceed a daily minimum of 75 °F (when the base flow requirement of 50 cfs is being met) for a seven day consecutive period in the month of June, adult base flows can be reduced to juvenile base-flow requirements until the end of the juvenile base-flow period is reached, or June 30, whichever comes earlier, as provided below.

b. June 16 through June 30:

20 cfs for juvenile salmonid passage through the 2.8 miles of stream between Ward Dam and the confluence with the Sacramento River, as measured at MCH.

If monitoring and/or evaluations conducted by CDFW determine that juvenile salmonids are not present in lower Mill Creek during juvenile base-flow requirement periods June 16 through June 30, juvenile base flow requirements may be relaxed.

c. October 15 through December 31:

50 cfs for salmonid passage through the 2.8 miles of stream between Ward Dam and the confluence with the Sacramento River, as measured at MCH.

ii. Pulse Flows: Pulse flows mimic the sudden increases in stream discharge following rain or snowmelt events which may be absent in drought years. Adult salmonids have evolved to take advantage of such conditions when returning to natal tributaries. Previous pulse flows on Mill and Deer creeks lasting 24 hours or more have helped to create an attraction flow at the confluence of the tributary creek with the Sacramento River, encouraging salmonids to enter the stream, and providing the greatest instantaneous improvement to salmonid passage conditions through critical riffles and diversion structures. Pulse flows also encourage juvenile salmonids to migrate downstream before summer water temperatures become too warm.

a. Magnitude and duration of pulse flows:

Pulse flows will be carried out for a maximum of 60 hours. Pulse flows will begin at 5:00pm. 100 cfs as measured at MCH will be required for the first 36 hours of the pulse flow. If pre-diversion stream flow measured above Upper Dam (USGS gage #11381500) is below 100 cfs, full natural flow achieved through closure of all agricultural diversion structures will be maintained in Mill Creek during the first 36 hours of the pulse flow.

The remaining period of the pulse flow shall include a declining ramping flow schedule, such that each adjustment in flow reduction will not exceed 10 cfs, with a minimum 3-hour period between adjustments until a return to base flow level. The ramping schedule for each pulse flow will be determined by LMMWC, in compliance with these standards.

b. Time period of pulse flows:

April 1 through June 15, up to once every two weeks. CDFW shall notify LMMWC at least 72 hours in advance when said pulse flow will be required. When feasible, these pulse flows will be scheduled to coincide with low pressure systems and/or natural rainfall or snowmelt events.

CDFW will make its best effort to provide preliminary fish counts for pulse flow event periods to LMMWC prior to the scheduling of subsequent pulse flow event. In addition, if monitoring and evaluations conducted by CDFW determine that salmonids are not present or water temperatures are not

conducive to salmonid survival during June, and it is mutually agreed to by CDFW and LMMWC, pulse flows may cease prior to June 15.

D. LMMWC shall notify the CDFW's Fisheries Program at the telephone number listed in Section 11, at least three (3) days prior to any significant planned changes in operation of the diversion and associated screen and bypass and other structures.

E. All water diversion facilities shall be maintained so they do not prevent, impede, or tend to prevent or impede the passing of salmonids upstream or downstream.

F. LMMWC shall notify CDFW, at the telephone number listed in Section 11, at least three days, or as soon as practicable, prior to closing a headgate or valve when salmonid stranding may occur in the diversion conduit as a result of that activity.

G. In cooperation with CDFW staff, LMMWC shall regularly inspect all fish screens and bypass pipes or channels to verify that they are effectively protecting salmonids and other fish species in accordance with CDFW and National Marine Fisheries Service (NMFS) fish screening criteria. Sufficient flow will also be supplied in the fish ladder, located on Ward Dam to provide upstream and downstream migration of salmonids.

4. CDFW Commitments Regarding Fish Management Activities on the Real Property

A. CDFW agrees that CDFW and its agents will conduct all rescue/relocation activities only after CDFW has provided the advance notice to LMMWC as provided in Section 2 above.

B. CDFW will maintain the fish screens it has already agreed to maintain previously in writing.

C. Upon request, CDFW will provide all data after it has passed quality assurance review.

5. Authorized Take Level

Fish mortality related to diversions from Mill Creek made in compliance with the base flow and pulse flow requirements stated in this MOU is authorized under CESA and pursuant to this CESA MOU .The number of spring run which may die in the course of fish capture and relocation activities conducted by CDFW is typically small (less than 10%) and is much-reduced from levels of mortality that will potentially occur in absence of carrying out this activity. As such, fish mortalities related to, or occurring in the course of, fish rescue activities is authorized.

6. Federal Endangered Species Act

Spring run are listed as a threatened species under the federal Endangered Species Act (ESA) of 1973. In its regulations, NMFS has limited the general prohibition of taking threatened spring run under the ESA to allow, CDFW, it employees, and its designees to perform the rescue activities listed in section 2, above. Steelhead are also listed as threatened by the ESA; the flow prescription identified in Section 3 has been shown to NMFS staff and appears to be consistent with flow prescriptions identified in volunteer agreements developed by NMFS during the 2014 drought period. However, nothing in this CESA MOU authorizes any action pursuant to the Federal ESA.

LMMWC is not expected or authorized to assist in the handling of spring run as a part of the fish rescue effort.

7. Effective Date and Termination

Unless terminated sooner by either party of the CESA MOU by giving thirty (30) days prior written notice of earlier termination, this CESA MOU shall commence on the date of execution and will terminate on **December 31, 2015,** both days inclusive.

8. Dispute Resolution

The Parties shall make reasonable efforts to resolve any disputes that may arise from this MOU in a prompt and timely manner. In the event of a dispute, the Party claiming a dispute shall give verbal and written notice of the dispute to the other Parties within 5 business days. If resolution of the dispute cannot be resolved within 5 business days of the notice either party may terminate the MOU through written notice. Termination of the MOU will result in a loss of take coverage for future actions.

9. Amendments

Amendments to this CESA MOU may be proposed by either party and shall become effective when both parties sign a written modification to this document.

10. Applicable Law

This CESA MOU shall be construed under and governed by the laws of the State of California and of the United States, without giving effect to any principles of conflicts of law if such principles would operate to construe the CESA MOU, as amended herein, under the laws of any other jurisdiction.

11. Notice and Contact Persons

Any written notice , and the telephone notice specified in Section 4 required to be given by the CESA MOU, shall be deemed to have been given by the notifying party when mailed, postage prepaid or delivered to the following representatives, who will also serve as main contact people for their respective Party:

For LMMWC:
Mr. Darrell Mullins
25162 Josephine Street
Los Molinos, CA 96055
lmmutual@att.net
(530) 384-2737

For CDFW:
Mr. Matt Johnson
Northern Region
California Department of Fish and Wildlife
1530 Schwab Street
Red Bluff, CA 96080
Matt.Johnson@wildlife.ca.gov
(530) 527-9490

12. Signatories' Authority

The signatories to the CESA MOU on behalf of all the Parties hereto warrant and represent that they have authority to execute the CESA MOU and to bind the Parties on whose behalf they execute the CESA MOU.

13. Disclaimer

The CDFW shall incur no fiscal obligation under this CESA MOU.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS CESA MOU TO BE IN EFFECT AS OF THE DATE LAST WRITTEN BELOW.

Darrell Mullins

DARRELL MULLINS
Manager,
Los Molinos Mutual Water Company

Date: 3/17/2015

25162 Josephine Road
Los Molinos, CA 96055
(530) 384-2737

NEIL MANJI
Regional Manager,
Region 1

Date: 3/16/15

California Department of
Fish and Wildlife, Region 1
601 Locust Street
Redding CA 96001
(530) 225-2300

MEMORANDUM OF UNDERSTANDING

by and between

THE NATURE CONSERVANCY

and

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

MILL CREEK

This California Endangered Species Act Memorandum of Understanding ("CESA MOU") is made and entered into by and between The Nature Conservancy (hereinafter called TNC) and the California Department of Fish and Wildlife (hereinafter called the "CDFW").

The purpose of this CESA MOU is to provide a framework for cooperative activities and monitoring that involve or address issues of importance to spring-run Chinook salmon (*Oncorhynchus tshawytscha)* in Mill Creek, eastern Tehama County. This CESA MOU provides for take associated with actions taken by the CDFW or TNC to rescue and relocate Chinook salmon or assist with increasing flows in the creek for the benefit of spring–run Chinook salmon as management activities under authority of Section 2081(a) of the California Fish and Game Code.

RECITALS

WHEREAS, the CDFW has jurisdiction over the conservation and protection of fish, wildlife, and native plants and their habitats necessary for biologically sustainable populations of those species and holds those resources in trust for the people of California (California Fish and Game Code Section 1802).

WHEREAS, spring-run Chinook salmon are classified as a threatened species by the State of California Fish and Game Commission pursuant to the California Endangered Species Act (CESA, Code section 2050 et seq.).

WHEREAS, Fish and Game Code section 2080 prohibits the import, export, take, possession, purchase or sale of any species, in whole or in part, that has been listed as threatened or endangered by the California Fish and Game Commission. Take is defined in Fish and Game Code section 86 as 'hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill." However, Fish and Game Code section 2081(a) allows CDFW to authorize take and other acts prohibited by Fish and Game Code section 2080 for scientific, educational, or management purposes. This CESA MOU authorizes a limited level of take of spring-run Chinook salmon for management

purposes.

WHEREAS, Fish and Game Code section 5937 states, "The owner of any dam shall allow sufficient water at all times to pass through a fishway, or in absences of a fishway, allow sufficient water to pass over, around or through the dam to keep in good condition any fish that may be planted or exist below the dam..."

WHEREAS, salmonid presence shall be defined by reviewing historical records and utilizing current fisheries monitoring on Deer, Mill, and Antelope creeks and the Sacramento River between the Red Bluff Diversion Dam and the confluence of Clear Creek.

WHEREAS, on January 17, 2014, Governor Brown issued a proclamation, declaring the state to be in an emergency due to the drought conditions.

WHEREAS, on April 25, 2014, Governor Brown issued an Executive Order directing state agencies to, in part, work with other state and federal agencies and with landowners in priority watersheds to protect threatened and endangered species and species of special concern and maximize the beneficial uses of scarce water supplies, including employment of voluntary agreements to secure instream flows, relocate members of those species or take other measures.

WHEREAS, on December 22, 2014, Governor Brown issued another Executive Order declaring a continued state of emergency due to drought conditions, extending many of the terms of the April 25, 2014 Executive Order until May 31, 2016.

WHEREAS Mill Creek provides many important surface water beneficial uses, including agriculture, recreation, wildlife habitat, freshwater habitat, and anadromous fish habitat, particularly for spring-run Chinook salmon (*Oncorhynchus tshawytscha*) listed as threatened under the Federal and State Endangered Species Acts and Central Valley steelhead trout (*Oncorhynchus mykiss*) listed as threatened under the Federal Endangered Species Act. Due in part to naturally occurring low flows, agricultural diversions, channel morphology and excessive temperatures, the upstream migration of adults or downstream migration of juvenile spring-run Chinook salmon and steelhead may be impeded or blocked in some years. In 2014, conditions in Mill Creek are poorer than is typical for this time of year. Conditions may further deteriorate such that listed juvenile and adult spring-run Chinook salmon will need the restoration of suitable instream flow conditions to provide passage and/or be rescued and relocated.

WHEREAS, the flow prescriptions identified in this CESA MOU are considered by CDFW to be the minimum flows, in the current Drought Emergency, necessary to allow for adult and juvenile salmonid migration in Mill Creek below Ward Dam, and they are considered the minimum flows needed to minimize the effects of drought while balancing salmonid and agricultural interests.

WHEREAS, TNC is a private, non-profit conservation organization whose mission is to conserve the lands and waters on which all life depends.

WHEREAS, TNC owns two decreed water rights, which total 17.4 cubic feet per second, to divert Mill Creek surface water for irrigation and other purposes. TNC currently permits the Los Molinos Mutual Water Company (LMMWC) to divert its water rights for irrigation use in return for LMMWC providing an offsetting amount of water for instream flows for salmonids when requested by CDFW.

WHEREAS, TNC leases Dye Creek Ranch which abuts Mill Creek near the Upper Diversion Dam (Lease Property). TNC is willing to participate with the CDFW in fish rescue and relocation activities by allowing access through the Lease Property for the purposes of monitoring, and/or capturing and removing, and/or relocating spring-run Chinook salmon on or to Mill Creek adjacent to the Lease Property or to the Sacramento River.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. **Purpose**

Elements of this MOU include eligibility, fish rescue efforts, designated fish passage flows, changes in the timing of diversions to provide improved instream flow and water temperature conditions which would minimize the need to rescue fish, monitoring, and evaluations of management actions. The specific elements of the program are tailored by stream and by an eligible diverting entity and as described in this MOU.

2. **Methods**

A. Monitoring: CDFW or its agent will carry out all monitoring activities. Monitoring and evaluation plans shall be in place to inform the effectiveness of the flow events and/or rescue efforts. Those activities may include:

i. Use of video monitoring to determine if adult salmonids are moving through lower Mill Creek in response to minimum base flows and pulse flow events, and to determine population abundance.

ii. Snorkel surveys may be conducted upstream and downstream of diversion structures and critical riffle areas to determine if minimum base flows are passing salmonids through these areas. It is the intent of the CDFW to detect any salmonid stranding issues before mortalities are observed, so that sufficient time is provided to inform diverters and to take proactive flow restoration or other fish rescue actions.

iii. Monitoring of habitat conditions in Mill Creek or the Sacramento River prior to relocation of salmonids at risk, including spring run.

B. Fish Capture and Relocation: CDFW or its agent will carry out all fish capture and relocation activities. CDFW, or its agent, will notify TNC at the telephone number listed in Section 11, of all planned fish rescue/relocation activities it will carry out on

the Real Property.

i. CDFW or its agent may relocate salmonids, including spring run, captured from elsewhere in the lower Mill Creek watershed (e.g. diversion canals), to Mill Creek adjacent to Real Property if suitable instream conditions exist, or to a suitable location on the Sacramento River.

ii. CDFW or its agent may monitor stream depth and temperature at relocation site(s) post-relocation to determine if conditions remain adequate to keep salmonids alive and provide for salmonid passage.

3. TNC Commitments

A. TNC agrees to provide reasonable access to CDFW and its agents, including equipment access, to the Lease Property to carry out any of the management activities listed in Section 2 of this CESA MOU for the purposes of:

i. Monitoring habitat conditions and salmonid abundance, size, and condition prior to any management activities;

ii. Capturing and removing salmonids from and/or relocating salmonids to suitable habitat, and for monitoring conditions post-relocation; or

iii. Monitoring stream flow conditions during flow events and/or during post-rescue/relocation to determine if conditions remain adequate to keep salmonids alive and provide for passage.

B. TNC agrees to permit its water rights to be utilized for Required Management Elements (RME's) by Los Molinos Mutual Water Company (LMMWC) as outlined in a separate Memorandum of Understanding between CDFW and LMMWC, which is attached (Attachment 1)

4. CDFW Commitments Regarding Fish Management Activities on the Lease Property

A. CDFW agrees that CDFW and its agents will conduct all rescue/relocation activities only after CDFW has provided the advance notice to TNC as provided in Section 2 above.

5. Authorized Take Level

Fish mortality related to diversions from Mill Creek made in compliance with the base flow and pulse flow requirements stated in this MOU is authorized under CESA. The number of spring run which may die in the course of fish capture and relocation activities conducted by CDFW is typically small (less than 10%) and is much-reduced from levels of mortality that will potentially occur in absence of carrying out this activity. As such, fish mortalities related to, or

occurring in the course of, fish rescue activities is authorized.

6. Federal Endangered Species Act

Central Valley spring -run Chinook salmon are listed as a threatened species under the federal Endangered Species Act (ESA) of 1973. In its regulations, NMFS has limited the general prohibition of taking threatened spring-run Chinook salmon under the federal ESA to allow, CDFW, it employees, and its designees to perform the rescue activities listed in Section 1 above.

TNC is not expected or authorized to assist in the handling of Central Valley spring-run Chinook salmon as a part of the fish rescue effort. Nothing in this CESA MOU authorizes any action pursuant to the federal ESA.

7. Effective Date and Termination

Unless terminated sooner by either party of the CESA MOU by giving thirty (30) days prior written notice of earlier termination, this CESA MOU shall commence on the date of execution and will terminate on **December 31, 2015**, both days inclusive.

8. Dispute Resolution

The Parties shall make reasonable efforts to resolve any disputes that may arise from this CESA MOU in a prompt and timely manner. In the event of a dispute, the Party claiming a dispute shall give verbal and written notice of the dispute to the other Parties within 5 business days. If resolution of the dispute cannot be resolved within 5 business days of the notice either party may terminate the CESA MOU through written notice. Termination of the CESA MOU will result in a loss of take coverage for future actions.

9. Amendments

Amendments to this CESA MOU may be proposed by either party and shall become effective when both parties sign a written modification to this document.

10. Applicable Law

This CESA MOU shall be construed under and governed by the laws of the State of California and of the United States, without giving effect to any principles of conflicts of law if such principles would operate to construe the CESA MOU, as amended herein, under the laws of any other jurisdiction.

11. Notice and Contact Persons

Any written notice or telephone notice required to be given by the CESA MOU, shall be deemed to have been given by the notifying party when mailed, postage prepaid or delivered to the following representatives, who will also serve as main contact people for their respective Party:

For TNC:
Gregg Werner, Senior Project Director
The Nature Conservancy
190 Cohasset Road, Suite 177
Chico, CA 95926
gwerner@tnc.org
(530) 941-4877

For CDFW:
Mr. Matt Johnson
Northern Region
California Department of Fish and Wildlife
1530 Schwab Street
Red Bluff, CA 96080
Matt.Johnson@wildlife.ca.gov
(530) 527-9490

13. Signatories' Authority

The signatories to the CESA MOU on behalf of all the Parties hereto warrant and represent that they have authority to execute the CESA MOU and to bind the Parties on whose behalf they execute the CESA MOU. This CESA MOU may be executed in counterparts.

14. Disclaimer

The CDFW shall incur no fiscal obligation under this CESA MOU.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS CESA MOU TO BE IN EFFECT AS OF THE DATE LAST WRITTEN BELOW.

Brian Stranko by Gregg Werner

Brian Stranko
Director, California Water Program,
The Nature Conservancy

Date: _____

The Nature Conservancy
190 Cohasset Road, Suite 177
Chico, CA 95926
(530) 897-6370

NEIL MANJI
Regional Manager,
Region 1

Date: _____

California Department of
Fish and Wildlife, Region 1
601 Locust Street
Redding CA 96001

(530) 225-2300

Attachment 1: Memorandum of Understanding between Los Molinos Mutual Water Company and the California Department of Fish and Wildlife, dated March 16, 2015.

NOTE: THE FOLLOWING PAGES OF THE TNC MOU ARE COMPRISED OF THE LOS MOLINOS MUTUAL WATER COMPANY CESA MOU.

MEMORANDUM OF UNDERSTANDING

by and between

NOBMANN CATTLE LLC

and

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

MILL CREEK WATERSHED

This California Endangered Species Act Memorandum of Understanding ("CESA MOU") is made and entered into by and between NOBMANN CATTLE, LLC (hereinafter called NOBMANN) and the California Department of Fish and Wildlife (hereinafter called the "CDFW").

The purpose of this CESA MOU is to provide a framework for cooperative activities and monitoring that involve or address issues of importance to spring-run Chinook salmon (*Oncorhynchus tshawytscha)* in Mill Creek, eastern Tehama County. This CESA MOU provides for take associated with actions taken by the CDFW or NOBMANN to rescue and relocate Chinook salmon or assist with increasing flows in the creek for the benefit of spring–run Chinook salmon as management activities under authority of Section 2081(a) of the California Fish and Game Code.

RECITALS

WHEREAS, the CDFW has jurisdiction over the conservation and protection of fish, wildlife, and native plants and their habitats necessary for biologically sustainable populations of those species and holds those resources in trust for the people of California (California Fish and Game Code Section 1802).

WHEREAS, spring-run Chinook salmon are classified as a threatened species by the State of California Fish and Game Commission pursuant to the California Endangered Species Act (CESA, Code section 2050 et seq.).

WHEREAS, Fish and Game Code section 2080 prohibits the import, export, take, possession, purchase or sale of any species, in whole or in part, that has been listed as threatened or endangered by the California Fish and Game Commission. Take is defined in Fish and Game Code section 86 as 'hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill." However, Fish and Game Code section 2081(a) allows CDFW to authorize take and other acts prohibited by Fish and Game Code section 2080 for scientific, educational, or management purposes. This CESA

MOU authorizes a limited level of take of spring-run Chinook salmon for management purposes.

WHEREAS, Fish and Game Code section 5937 states, "The owner of any dam shall allow sufficient water at all times to pass through a fishway, or in absences of a fishway, allow sufficient water to pass over, around or through the dam to keep in good condition any fish that may be planted or exist below the dam..."

WHEREAS, on January 17, 2014, Governor Brown issued a proclamation, declaring the state to be in an emergency due to the drought conditions.

WHEREAS, on April 25, 2014, Governor Brown issued an Executive Order directing state agencies to, in part, work with other state and federal agencies and with landowners in priority watersheds to protect threatened and endangered species and species of special concern and maximize the beneficial uses of scarce water supplies, including employment of voluntary agreements to secure instream flows, relocate members of those species or take other measures.

WHEREAS, on December 22, 2014, Governor Brown issued another Executive Order declaring a continued state of emergency due to drought conditions, extending many of the terms of the April 25, 2014 Executive Order until May 31, 2016.

WHEREAS Mill Creek provides many important surface water beneficial uses, including agriculture, recreation, wildlife habitat, freshwater habitat, and anadromous fish habitat, particularly for spring-run Chinook salmon (*Oncorhynchus tshawytscha*) listed as threatened under the Federal and State Endangered Species Acts and Central Valley steelhead trout (*Oncorhynchus mykiss*) listed as threatened under the Federal Endangered Species Act. Due in part to naturally occurring low flows, agricultural diversions, channel morphology and excessive temperatures, the upstream migration of adults or downstream migration of juvenile spring-run Chinook salmon and steelhead may be impeded or blocked in some years. In 2015, conditions in Mill Creek are poorer than is typical for this time of year. Conditions may further deteriorate such that listed juvenile and adult spring-run Chinook salmon will need the restoration of suitable instream flow conditions to provide passage and/or be rescued and relocated.

WHEREAS, the flow prescriptions identified in this CESA MOU are considered by CDFW to be the minimum flows, in the current Drought Emergency, necessary to allow for adult and juvenile salmonid migration in Mill Creek below Ward Dam, and they are considered the minimum flows needed to minimize the effects of drought while balancing salmonid and agricultural interests.

WHEREAS, NOBMANN owns a privately-owned farm with adjudicated rights to divert Mill Creek surface water for irrigation.

WHEREAS, NOBMANN owns a decreed, priority water right, one of three priority rights on Mill Creek, which totals three cubic feet per second, to divert Mill Creek surface water for irrigation and other purposes deemed beneficial by the State Water Resources Control Board.

WHEREAS, NOBMANN owns real property along Mill Creek, Tehama County. NOBMANN is willing to participate with the CDFW in fish rescue and relocation activities by allowing access through the Real Property for the purposes of monitoring, and/or capturing and removing, and/or relocating spring-run Chinook salmon on or to Mill Creek adjacent to the Real Property or to the Sacramento River.

WHEREAS, Los Molinos Mutual Water Company (LMMWC) serves as the Watermaster for Mill Creek and operates two low diversions for agricultural water from both the north and south banks, one of which includes Ward Dam.

WHEREAS, LMMWC, in its role as Watermaster for Mill Creek, has an obligation to NOBMANN and other water right holders to provide diverted water per its agreements.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. **Purpose**

The general elements of this CESA MOU include eligibility, fish rescue efforts, designated fish passage flows, changes in the timing of diversions to provide improved instream flow and water temperature conditions which would minimize the need to rescue fish, monitoring, and evaluations of management actions. The specific elements of the program are tailored by stream and by an eligible diverting entity and as described in this CESA MOU.

2. **Methods**

A. Monitoring: CDFW or its agent will carry out all monitoring activities. Monitoring and evaluation plans shall be in place to inform the effectiveness of the flow events and/or rescue efforts. Those activities may include:

i. Use of video monitoring to determine if adult salmonids are moving through lower Mill Creek in response to minimum base flows and pulse flow events, and to determine population abundance.

ii. Snorkel surveys may be conducted upstream and downstream of diversion structures and critical riffle areas to determine if minimum base flows are passing salmonids through these areas. It is the intent of the CDFW to detect any salmonid stranding issues before mortalities are observed, so that sufficient time is provided to inform diverters and to take proactive flow restoration or other fish rescue actions.

iii. Monitoring of habitat conditions in Mill Creek or the Sacramento River prior to relocation of salmonids at risk, including spring run.

B. Fish Capture and Relocation: CDFW or its agent will carry out all fish capture and relocation activities. CDFW, or its agent, will notify NOBMAN at the telephone number listed in Section 11, of all planned fish rescue/relocation activities it will

carry out on the Real Property.

i. CDFW or its agent may relocate salmonids, including spring run, captured from elsewhere in the lower Mill Creek watershed (e.g. diversion canals), to Mill Creek adjacent to Real Property if suitable instream conditions exist, or to a suitable location on the Sacramento River.

ii. CDFW or its agent may monitor stream depth and temperature at relocation site(s) post-relocation to determine if conditions remain adequate to keep salmonids alive and provide for salmonid passage.

3. NOBMANN Commitments

A. NOBMANN agrees to provide reasonable access to CDFW and its agents, including equipment access, to the Real Property to carry out any of the management activities listed in Section 1 of this CESA MOU for the purposes of:

i. Monitoring habitat conditions and salmonid abundance, size, and condition prior to any management activities;

ii. Capturing and removing salmonids from and/or relocating salmonids to suitable habitat, and for monitoring conditions post-relocation; or

iii. Monitoring stream flow conditions during flow events and/or during post-rescue/relocation to determine if conditions remain adequate to keep salmonids alive and provide for passage.

B. NOBMANN agrees to request to the LMMWC, as Watermaster, that a portion of its water rights on Mill Creek to be utilized for Required Management Elements (RME's) by LMMWC as outlined in a separate Memorandum of Understanding between CDFW and LMMWC, which is attached (Attachment 1). The amount to be bypassed will be proportional to the streamflow adjudicated to NOBMANN, which is three cfs, as opposed to the streamflow adjudicated to LMMWC or other water right holders on Mill Creek.

4. CDFW Commitments Regarding Fish Management Activities on the Real Property

A. CDFW agrees that CDFW and its agents will conduct all rescue/relocation activities only after CDFW has provided the advance notice to NOBMANN as provided in Section 2 above.

5. Authorized Take Level

Fish mortality related to diversions from Mill Creek made in compliance with the base flow and pulse flow requirements stated in this MOU is authorized under CESA .The number of spring

run which may die in the course of fish capture and relocation activities conducted by CDFW is typically small (less than 10%) and is much-reduced from levels of mortality that will potentially occur in absence of carrying out this activity. As such, fish mortalities related to, or occurring in the course of, fish rescue activities is authorized.

6. Federal Endangered Species Act

Central Valley spring -run Chinook salmon are listed as a threatened species under the federal Endangered Species Act (ESA) of 1973. In its regulations, NMFS has limited the general prohibition of taking threatened spring-run Chinook salmon under the federal ESA to allow, CDFW, it employees, and its designees to perform the rescue activities listed in Section 1 above.

NOBMANN is not expected or authorized to assist in the handling of Central Valley spring-run Chinook salmon as a part of the fish rescue effort. Nothing in this CESA MOU authorizes any action pursuant to the federal ESA.

7. Effective Date and Termination

Unless terminated sooner by either party of the CESA MOU by giving thirty (30) days prior written notice of earlier termination, this CESA MOU shall commence on the date of execution and will terminate on **December 31, 2015**, both days inclusive.

8. Dispute Resolution

The Parties shall make reasonable efforts to resolve any disputes that may arise from this CESA MOU in a prompt and timely manner. In the event of a dispute, the Party claiming a dispute shall give verbal and written notice of the dispute to the other Parties within 5 business days. If resolution of the dispute cannot be resolved within 5 business days of the notice either party may terminate the CESA MOU through written notice. Termination of the CESA MOU will result in a loss of take coverage for future actions.

9. Amendments

Amendments to this CESA MOU may be proposed by either party and shall become effective when both parties sign a written modification to this document.

10. Applicable Law

This CESA MOU shall be construed under and governed by the laws of the State of California and of the United States, without giving effect to any principles of conflicts of law if such principles would operate to construe the CESA MOU, as amended herein, under the laws of any other jurisdiction.

11. Notice and Contact Persons

Any written notice or telephone notice required to be given by the CESA MOU, shall be deemed to have been given by the notifying party when mailed, postage prepaid or delivered to the

following representatives, who will also serve as main contact people for their respective Party:

For NOBMANN:
Mr. Lee P. Nobmann
Nobmann Cattle, LLC
855 Lakeville Street, Suite 200
Petaluma, CA 94952
(707) 206-4115
lpn@goldenstatelunber.com

For CDFW:
Mr. Matt Johnson
Northern Region
California Department of Fish and Wildlife
1530 Schwab Street
Red Bluff, CA 96080
Matt.Johnson@wildlife.ca.gov
(530) 527-9490

12. Signatories' Authority and Counterparts

The signatories to the CESA MOU on behalf of all the Parties hereto warrant and represent that they have authority to execute the CESA MOU and to bind the Parties on whose behalf they execute the CESA MOU. This CESA MOU may be signed in counterparts.

13. Disclaimer

The CDFW shall incur no fiscal obligation under this CESA MOU.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS CESA MOU TO BE IN EFFECT AS OF THE DATE LAST WRITTEN BELOW.

LEE P. NOBMANN
Managing Member
Nobmann Cattle, LLC

Date: 4/7/15

Nobmann Cattle, LLC
855 Lakeville Street
Petaluma, CA 94952
(707) 206-4115

NEIL MANJI
Regional Manager,
Region 1

Date: 4/13/15

California Department of
Fish and Wildlife, Region 1
601 Locust Street
Redding CA 96001

(530) 225-2300

Attachment 1: Memorandum of Understanding between Los Molinos Mutual Water Company and the California Department of Fish and Wildlife, dated March 16, 2015.

NOTE: THE FOLLOWING PAGES OF THE NOBMANN MOU ARE COMPRISED OF THE LOS MOLINOS MUTUAL WATER COMPANY CESA MOU.

MEMORANDUM OF UNDERSTANDING

by and between

ORANGE COVE IRRIGATION DISTRICT

and

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

MILL CREEK

This California Endangered Species Act Memorandum of Understanding ("CESA MOU") is made and entered into by and between Orange Cove Irrigation District (hereinafter called OCID) and the California Department of Fish and Wildlife (hereinafter called the "CDFW").

The purpose of this CESA MOU is to provide a framework for cooperative activities and monitoring that involve or address issues of importance to spring-run Chinook salmon (*Oncorhynchus tshawytscha)* in Mill Creek, eastern Tehama County. This CESA MOU provides for take associated with actions taken by the CDFW or OCID to rescue and relocate Chinook salmon or assist with increasing flows in the creek for the benefit of spring–run Chinook salmon as management activities under authority of Section 2081(a) of the California Fish and Game Code.

RECITALS

WHEREAS, the CDFW has jurisdiction over the conservation and protection of fish, wildlife, and native plants and their habitats necessary for biologically sustainable populations of those species and holds those resources in trust for the people of California (California Fish and Game Code Section 1802).

WHEREAS, spring-run Chinook salmon are classified as a threatened species by the State of California Fish and Game Commission pursuant to the California Endangered Species Act (CESA, Code section 2050 et seq.).

WHEREAS, Fish and Game Code section 2080 prohibits the import, export, take, possession, purchase or sale of any species, in whole or in part, that has been listed as threatened or endangered by the California Fish and Game Commission. Take is defined in Fish and Game Code section 86 as 'hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill." However, Fish and Game Code section 2081(a) allows CDFW to authorize take and other acts prohibited by Fish and Game Code section 2080 for scientific, educational, or management purposes. This CESA MOU authorizes a limited level of take of spring-run Chinook salmon for management

purposes.

WHEREAS, Fish and Game Code section 5937 states, "The owner of any dam shall allow sufficient water at all times to pass through a fishway, or in absences of a fishway, allow sufficient water to pass over, around or through the dam to keep in good condition any fish that may be planted or exist below the dam..."

WHEREAS, salmonid presence shall be defined by reviewing historical records and utilizing current fisheries monitoring on Deer, Mill, and Antelope creeks and the Sacramento River between the Red Bluff Diversion Dam and the confluence of Clear Creek.

WHEREAS, on January 17, 2014, Governor Brown issued a proclamation, declaring the state to be in an emergency due to the drought conditions.

WHEREAS, on April 25, 2014, Governor Brown issued an Executive Order directing state agencies to, in part, work with other state and federal agencies and with landowners in priority watersheds to protect threatened and endangered species and species of special concern and maximize the beneficial uses of scarce water supplies, including employment of voluntary agreements to secure instream flows, relocate members of those species or take other measures.

WHEREAS, on December 22, 2014, Governor Brown issued another Executive Order declaring a continued state of emergency due to drought conditions, extending many of the terms of the April 25, 2014 Executive Order until May 31, 2016.

WHEREAS Mill Creek provides many important surface water beneficial uses, including agriculture, recreation, wildlife habitat, freshwater habitat, and anadromous fish habitat, particularly for spring-run Chinook salmon (*Oncorhynchus tshawytscha*) listed as threatened under the Federal and State Endangered Species Acts and Central Valley steelhead trout (*Oncorhynchus mykiss*) listed as threatened under the Federal Endangered Species Act. Due in part to naturally occurring low flows, agricultural diversions, channel morphology and excessive temperatures, the upstream migration of adults or downstream migration of juvenile spring-run Chinook salmon and steelhead may be impeded or blocked in some years. In 2014, conditions in Mill Creek are poorer than is typical for this time of year. Conditions may further deteriorate such that listed juvenile and adult spring-run Chinook salmon will need the restoration of suitable instream flow conditions to provide passage and/or be rescued and relocated.

WHEREAS, the flow prescriptions identified in this CESA MOU are considered by CDFW to be the minimum flows, in the current Drought Emergency, necessary to allow for adult and juvenile salmonid migration in Mill Creek below Ward Dam, and they are considered the minimum flows needed to minimize the effects of drought while balancing salmonid and agricultural interests.

WHEREAS, OCID has an adjudicated water right to 10.53 cubic feet per second (5.57% at 203 cfs) to divert Mill Creek surface water for irrigation and other purposes.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. Purpose

Elements of this MOU include eligibility, designated fish passage flows, changes in the timing of diversions to provide improved instream flow and water temperature conditions which would minimize the need to rescue fish, monitoring, and evaluations of management actions. The specific elements of the program are tailored by stream and by an eligible diverting entity and as described in this MOU.

2. Methods

A. Monitoring: CDFW or its agent will carry out all monitoring activities. Monitoring and evaluation plans shall be in place to inform the effectiveness of the flow events and/or rescue efforts. Those activities may include:

i. Use of video monitoring to determine if adult salmonids are moving through lower Mill Creek in response to minimum base flows and pulse flow events, and to determine population abundance.

ii. Snorkel surveys may be conducted upstream and downstream of diversion structures and critical riffle areas to determine if minimum base flows are passing salmonids through these areas. It is the intent of the CDFW to detect any salmonid stranding issues before mortalities are observed, so that sufficient time is provided to inform diverters and to take proactive flow restoration or other fish rescue actions.

iii. Monitoring of habitat conditions in Mill Creek or the Sacramento River prior to relocation of salmonids at risk, including spring run.

3. OCID Commitments

A. OCID agrees to permit its water rights to be utilized for Required Management Elements (RME's) by Los Molinos Mutual Water Company (LMMWC) as outlined in a separate Memorandum of Understanding between CDFW and LMMWC, which is attached (Attachment 1) and incorporated herein.

4. Authorized Take Level

Fish mortality related to diversions from Mill Creek made in compliance with the base flow and pulse flow requirements stated in this MOU is authorized under CESA. The number of spring run which may die in the course of fish capture and relocation activities conducted by CDFW is typically small (less than 10%) and is much-reduced from levels of mortality that will potentially occur in absence of carrying out this activity. As such, fish mortalities related to, or occurring in the course of, fish rescue activities is authorized.

5. Federal Endangered Species Act

Central Valley spring-run Chinook salmon are listed as a threatened species under the federal Endangered Species Act (ESA) of 1973. In its regulations, NMFS has limited the general prohibition of taking threatened spring-run Chinook salmon under the federal ESA to allow, CDFW, it employees, and its designees to perform the rescue activities listed in Section 1 above.

OCID is not expected or authorized to assist in the handling of Central Valley spring-run Chinook salmon as a part of the fish rescue effort. Nothing in this CESA MOU authorizes any action pursuant to the federal ESA.

6. Effective Date and Termination

Unless terminated sooner by either party of the CESA MOU by giving thirty (30) days prior written notice of earlier termination, this CESA MOU shall commence on the date of execution and will terminate on **December 31, 2015**, both days inclusive.

7. Dispute Resolution

The Parties shall make reasonable efforts to resolve any disputes that may arise from this CESA MOU in a prompt and timely manner. In the event of a dispute, the Party claiming a dispute shall give verbal and written notice of the dispute to the other Parties within 5 business days. If resolution of the dispute cannot be resolved within 5 business days of the notice either party may terminate the CESA MOU through written notice. Termination of the CESA MOU will result in a loss of take coverage for future actions.

8. Amendments

Amendments to this CESA MOU may be proposed by either party and shall become effective when both parties sign a written modification to this document.

9. Applicable Law

This CESA MOU shall be construed under and governed by the laws of the State of California and of the United States, without giving effect to any principles of conflicts of law if such principles would operate to construe the CESA MOU, as amended herein, under the laws of any other jurisdiction.

10. Notice and Contact Persons

Any written notice or telephone notice required to be given by the CESA MOU, shall be deemed to have been given by the notifying party when mailed, postage prepaid or delivered to the following representatives, who will also serve as main contact people for their respective Party:

For OCID:
Mr. Bill Paris
O'Laughlin & Paris LLP
117 Meyers Street, Suite 110
Chico, CA 95928
bparis@olaughlinparis.com
(530) 899-9755

For CDFW:
Mr. Matt Johnson
Northern Region
California Department of Fish and Wildlife
1530 Schwab Street
Red Bluff, CA 96080
Matt.Johnson@wildlife.ca.gov
(530) 527-9490

11. Signatories' Authority

The signatories to the CESA MOU on behalf of all the Parties hereto warrant and represent that they have authority to execute the CESA MOU and to bind the Parties on whose behalf they execute the CESA MOU. This CESA MOU may be executed in counterparts.

12. Disclaimer

The CDFW shall incur no fiscal obligation under this CESA MOU.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS CESA MOU TO BE IN EFFECT AS OF THE DATE LAST WRITTEN BELOW.

FERGUS MORRISSEY
Engineer/Manager,

Date: 4-8-2015

Orange Cove Irrigation District
1130 Park Blvd
Orange Cove, CA 93646
(559) 626-4461

NEIL MANJI
Regional Manager,
Region 1

Date: 4/16/15

California Department of
Fish and Wildlife, Region 1
601 Locust Street
Redding CA 96001
(530) 225-2300

Attachment 1: Memorandum of Understanding between Los Molinos Mutual Water Company and the California Department of Fish and Wildlife, dated March 16, 2015.

NOTE: THE FOLLOWING PAGES OF THE OCID MOU ARE COMPRISED OF THE LOS MOLINOS MUTUAL WATER COMPANY CESA MOU.