



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

TO: Members of the Board

FROM: Thomas Howard 
Executive Director
EXECUTIVE OFFICE

DATE: October 13, 2014

SUBJECT: UPDATE ON NATIONAL MARINE FISHERIES SERVICE AND CALIFORNIA DEPARTMENT OF FISH AND GAME VOLUNTARY DROUGHT AGREEMENT ON DEER CREEK

On June 4, 2014, I provided you with a memorandum informing you that the National Marine Fisheries Service (NMFS) and California Department of Fish and Wildlife (CDFW) had entered into a Voluntary Drought Agreement (Agreement) with the Deer Creek Irrigation District (DCID) in the Deer Creek watershed towards the goal of providing minimum flows necessary to allow for adult and juvenile fish migration on lower Deer Creek. DCID's allocated portion of Deer Creek flows, however, is not substantially all of the water diverted in the watershed.

Accordingly, my June 4, 2014 memo found that California Code of Regulations, title 23, section 877 shall remain in effect on Deer Creek and the Deputy Director for Water Rights shall consider whether issuance of curtailment orders is necessary to protect the identified drought emergency minimum flows on Deer Creek.

On June 12, 2014 Mr. Grant Leininger also entered into a Voluntary Drought Agreement (Agreement) with CDFW. DCID's and Mr. Grant Leininger's allocated portions of Deer Creek flows, however, are not substantially all of the water diverted in the watershed.

DCID has an adjudicated right to approximately 33 percent of the flow of Deer Creek for irrigation. Mr. Grant Leininger has an adjudicated right to approximately 1 percent of the flow in Deer Creek. Stanford Vina Ranch Irrigation Company, with points of diversion located downstream of DCID, has an adjudicated right to the remaining 66 percent of the flow from Deer Creek.

Based on the agreements and the State Water Board's available water right information, it appears that the NMFS and CDFW Agreements with DCID and Mr. Grant Leininger do not, by themselves, cover substantially all of the water diverted in the watershed. Accordingly, California Code of Regulations, title 23, section 877 shall remain in effect on Deer Creek and the Deputy Director for Water Rights shall consider whether issuance of curtailment orders is necessary to protect the identified drought emergency minimum flows on Deer Creek.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

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Should additional voluntary agreements be reached, such that NMFS or CDFW determine that the agreements provide watershed-wide protection for the fishery that is comparable to or greater than that provided by the flows in California Code of Regulations, title 23, section 877(c)(2), then the diverters may request approval under California Code of Regulations, title 23, section 878.2 to implement the agreements in place of any curtailment orders that are in effect. The Deputy Director shall approve such a request as long as other users of water are not injured.

cc: Barbara Evoy, Deputy Director for Water Rights