

Proposed Update and Readoption of Emergency Regulation Requiring Additional Water Use Information for the Protection of Specific Fisheries in Tributaries to the Russian River



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Presentation Outline

- Finding and Evidence of Emergency
- 2015 Russian River Tributaries Emergency Regulation: Background and Timeline
- Proposed 2016 Russian River Tributaries Emergency Regulation
- Fiscal Impact
- Comments Received
- Next Steps: Short-term and Long-term



Evidence and Finding of Emergency

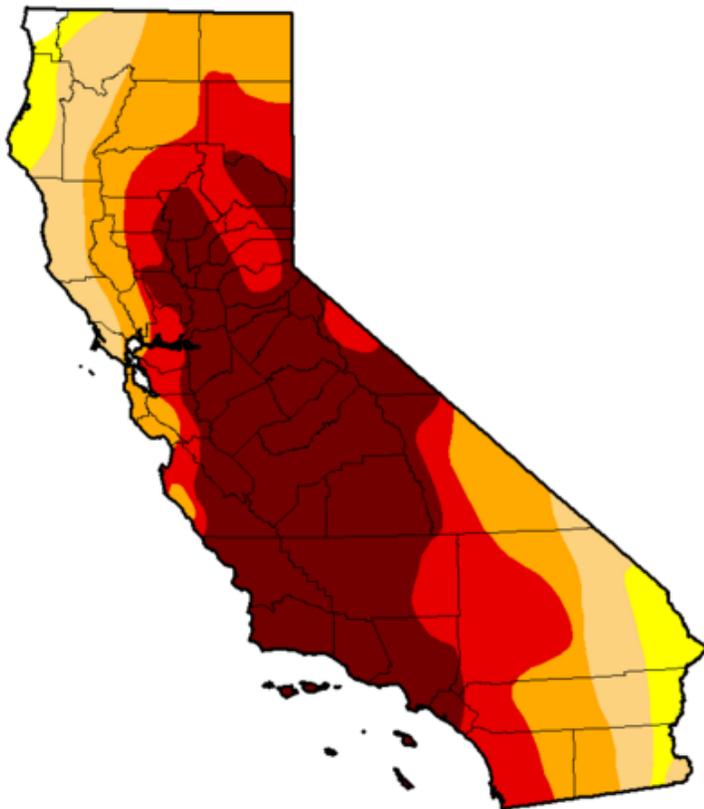


Evidence of Emergency

- California is currently in its fifth consecutive 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, continued drought
 - Water Year 2016: Storage in largest reservoirs across California remain far below historical averages

Drought Emergency - Water Year 2016

U.S. Drought Monitor California



February 23, 2016
(Released Thursday February 25, 2016)
Valid 7 a.m. EST

Intensity:



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



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

Drought Background

Water Year 2016 – 5th Consecutive Year of Drought

- January 17, 2014: Governor Brown declares a drought state of emergency (January Drought Emergency Proclamation)
- March 1, 2014: Governor Brown signs drought relief package (Senate Bill 104)
- April 25, 2014: Governor Brown issues Proclamation of Continued State of Emergency related to the drought
- December 22, 2014: Governor Brown issues Executive Order B-28-14
- April 1, 2015: Governor Brown issues Executive Order B-29-15
- November 13, 2015: Governor Brown issues Executive Order B-36-15, which extends the terms of previous drought declarations in light of continuing drought



Finding of Emergency

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



Background: 2015 Russian River Tributaries Emergency Regulation



2015 Emergency Regulation

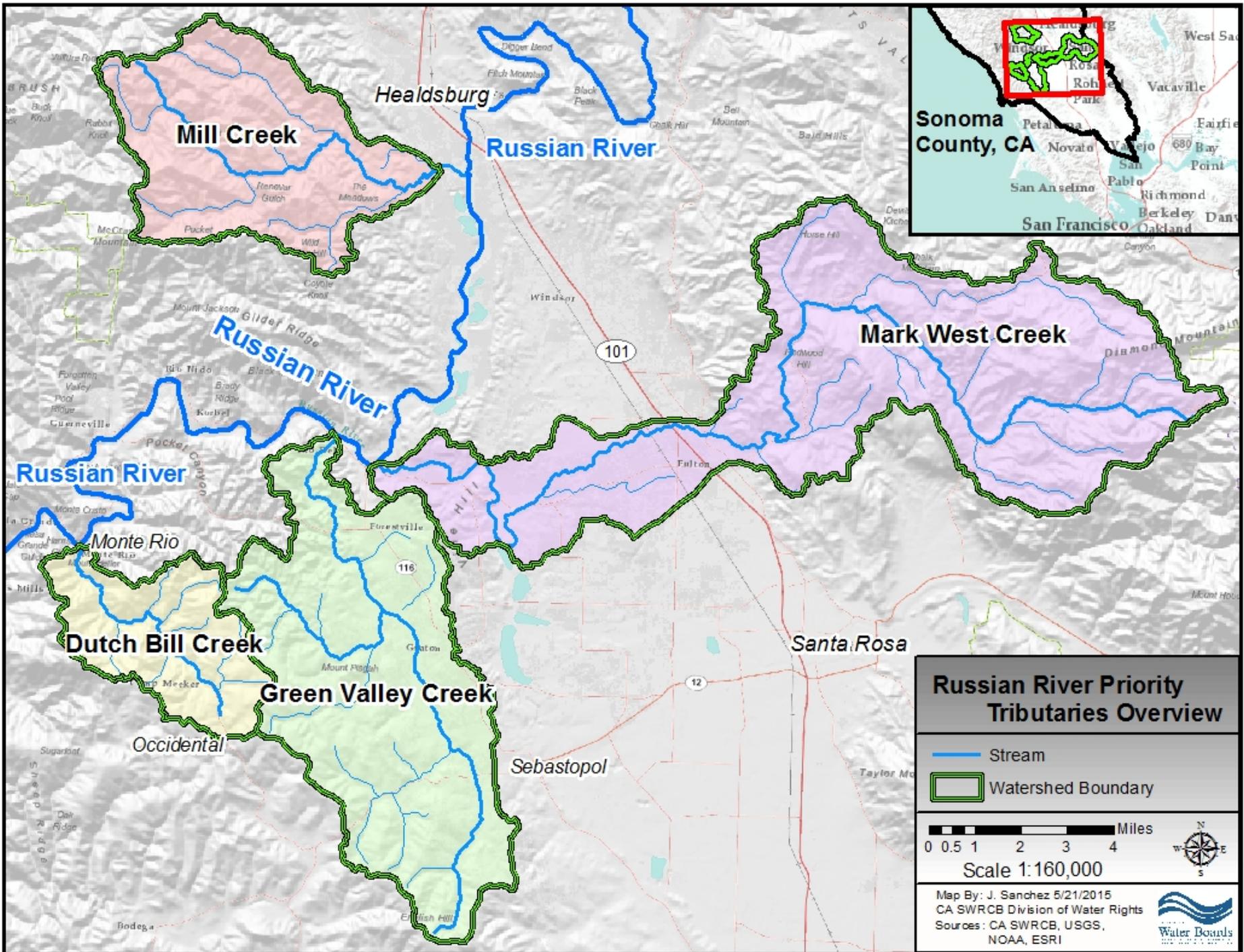
- Purpose of the Emergency Regulation is to help protect Coho salmon and steelhead rearing conditions by maintaining a minimal amount of water in streams.
- The 2015 Emergency Regulation requires:
 1. Enhanced water conservation in critical areas of the four watersheds (Dutch Bill Creek, Green Valley Creek, portions of Mark West Creek, and Mill Creek)
 2. Information on water diversions (surface water and sub-surface water) and use if requested by the State Water Board
- California Code of Regulations, title 23, section 876



2015 Emergency Regulation Timeline

(Regulation Development & Expiration)

- June 17, 2015: State Water Board adopted Resolution No. 2015-0045
- July 6, 2015: Office of Administrative Law (OAL) approved emergency regulation, and it went into effect
- April 1, 2016: Emergency Regulation expires (270 days after effective date) unless renewed





State Water Board Staff Activities Related to 2015 Emergency Regulation



Public Outreach related to Emergency Regulation

- July 6-9, 2015: State Water Board and CDFW staff held five meetings
 - Meetings held in Occidental, Healdsburg, Forestville, and Santa Rosa
 - Estimate 700-900 attendees total
- November 2, 2015: State Water Board and CDFW staff held a follow-up meeting
 - Estimate 60 attendees



Assistance Related to Emergency Regulation (cont.)

- Staff continue to respond to phone call and email inquiries from members of the public
- Staff have responded to:
 - More than 3,500 phone calls
 - More than 900 emails
 - Most phone calls and emails have related to the Informational Order
- More than 130 appointments to provide one-on-one in person assistance in completing Online Informational Order Form



Public Outreach & Assistance Related to Emergency Regulation (cont.)

- December 17, 2015 & January 26, 2016: Staff available to answer questions related to emergency regulation at California Water Action Plan – Russian River watershed outreach meetings
- January 28, 2016: State Water Board staff presented an update on water rights and fisheries management actions in the Russian River watershed at the January 28, 2016 North Coast Regional Water Quality Control Board meeting
- Spring 2015 – Ongoing: State Water Board staff provide updates on emergency regulation at bi-monthly Sonoma County Farm Bureau Water Committee meetings



Informational Order Component 2015 & 2016



Informational Order Background



Informational Order Authority

- CCR § 876(e): Informational Orders
 - Requires landowners and suppliers of water within the watershed to provide information on diversion and use of surface and sub-surface water (groundwater)
 - Any party receiving an order under this subdivision shall provide the requested information within 30 days



Need for Information

- Groundwater pumping accounts for large portion of total diversion
- Withdrawals of hydraulically-connected groundwater can lower stream levels
- Without adequate information, State Water Board must take broad actions (e.g., enhanced conservation measures required of all water users in entire watershed, rather than a subset of water users)
- Better information allows for more focused actions that can impact fewer water users and be more effective



2015 Informational Order Overview



2015 Informational Order Timeline

- August 24, 2015: Order WR 2015-0026-DWR issued, requiring landowners in and suppliers of water from the four watersheds to provide information on their water use and sources
 - Beta testing performed by landowners prior to release
- August 26 - September 18, 2015: Informational Orders mailed to all landowners in and suppliers of water from four tributary watersheds (10,100 parties/12,281 parcels/44 water suppliers)
- October 23, 2015: Last response due date
 - Failure to comply with Informational Order could result in enforcement with penalties of up to \$500 for each day information is not submitted after it is due
- October 28-30, 2015: Reminder letters sent to non-responders

2015 Informational Order Timeline (cont.)

- December 15, 2015: Administrative Civil Liability (ACL) Complaints issued to landowners and water suppliers who did not respond as of December 13, 2015
- ACL Complaints sent via Certified Mail
 - 1,881 ACL Complaints issued
 - ~923 ACL Complaint recipients completed the Informational Order
 - ~300 ACL Complaints were returned
 - ~268 ACL Complaint recipients require additional follow up
 - ~242 ACL Complaint recipients have not yet responded
 - ~12 ACL Complaints were refused
 - ~100 ACL Complaints have been withdrawn (e.g., ownership changes, etc.)



Informational Order: Feedback

- Online Informational Order Form is complicated
- Overall usability/understandability of Online Informational Order Form
 - Technical problems/questions with Online Informational Order Form
 - Confirmation page problems (information entered may not be shown until the page is refreshed)

State Water Board staff appreciates the constructive feedback. This feedback and our experiences will be used to improve similar efforts in the future.



2016 Proposed Updates to Emergency Regulation



California Department of Fish and Wildlife Memorandum

- Dated February 19, 2016
- Recommends State Water Board readopt informational order component of emergency regulation
- Does not recommend enhanced water conservation measures be readopted at this time
 - CDFW may reevaluate this request if hydrologic conditions change



Proposed 2016 Emergency Regulation

- State Water Board staff propose to readopt the Informational Order component of the emergency regulation
 - CCR § 876 (e)
 - Will allow State Water Board to continue to follow up and collect more complete water source and use information to prepare for ongoing drought, or for future dry conditions
 - Information is necessary to inform possible future management actions that may be necessary in dry or drought conditions to protect CCC coho salmon and CCC steelhead

Proposed 2016 Emergency Regulation (cont.)

- In addition to CCR §876(e), State Water Board staff propose to readopt CCR § 876 (f) and § 876 (g)
 - CCR § 876 (f): New surface water and groundwater diversions are subject to the Informational Order component of the emergency regulation
 - CCR § 876 (g): State Water Board will continue to provide notices and updates regarding the emergency regulation through its email distribution list
 - Information on how to subscribe will be provided at the end of this presentation

Proposed 2016 Emergency Regulation (cont.)

- At this time, State Water Board staff does not propose readoption of enhanced water conservation component of emergency regulation due to improved hydrologic conditions so far this water year
 - CCR § 876 (d)



Readoption of Regulation without Enhanced Conservation: Justification

- California Data Exchange Center (CDEC) index of precipitation for the Russian River watershed:
 - 108% of historical average (October 1, 2015 – January 31, 2016)
- NOAA California-Nevada River Forecast Center total water year runoff estimate for Dry Creek at Lake Sonoma:
 - 100% of historical average as of January 31, 2016
 - 75% of historical average to date
 - 50% exceedance forecast is 99% of average
 - 99% exceedance forecast is 84% of average
- State Water Board staff will continue to coordinate with CDFW staff to monitor streamflow conditions in the Russian River watershed.



Need to Readopt Emergency Regulation

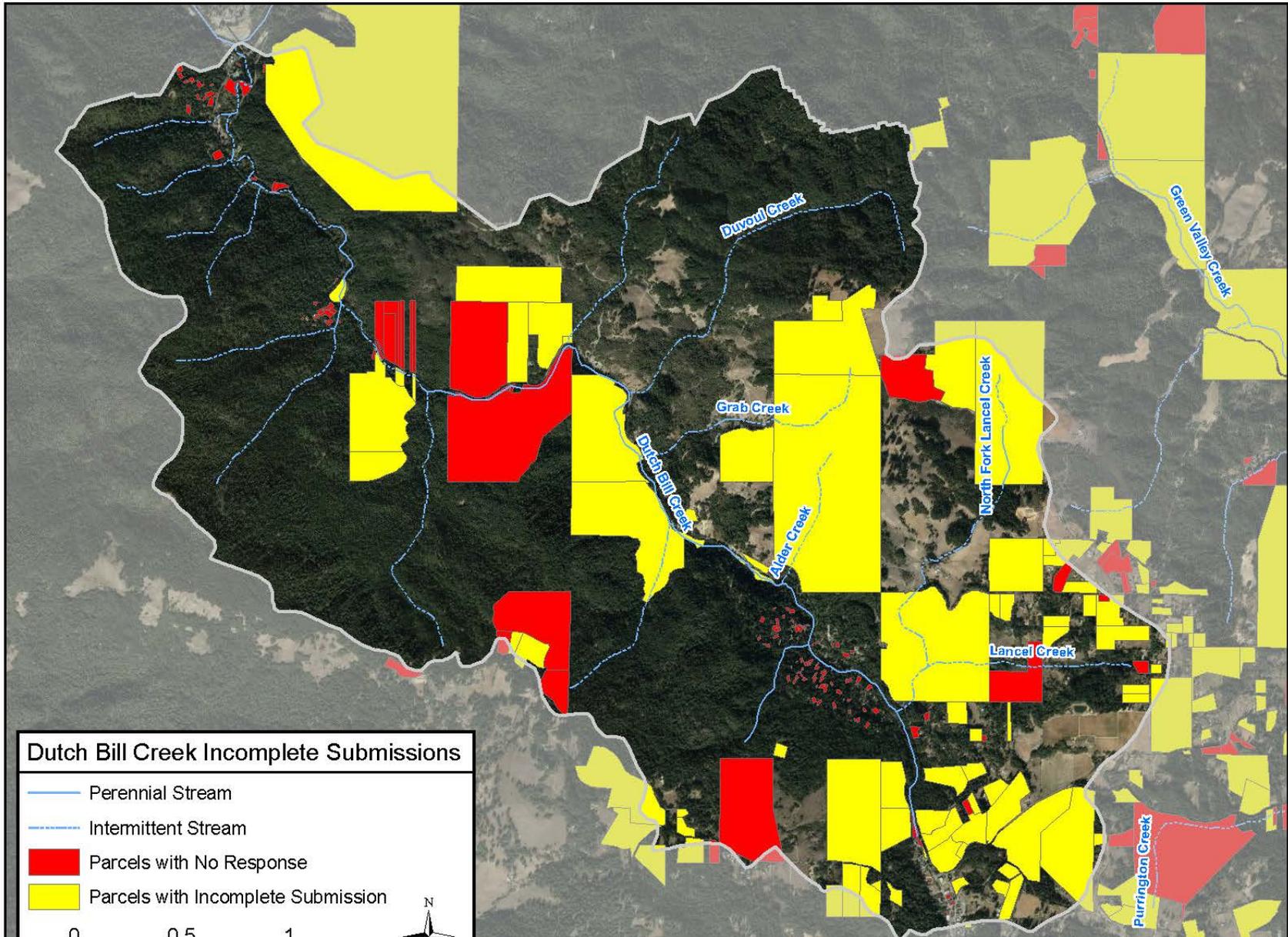
- Potential to need water diversion and water use information to inform curtailment, reasonable use, conservation, or other emergency measures in a focused manner to protect listed salmonid species this year, or in future years
- Approximately 10 percent of the August 2015 Informational Order have yet to respond
- A significant number of Informational Order respondents provided incomplete or inaccurate information

Informational Order Response Summary: Surface Diversions

Watershed	Reported Surface Water Diversions: Informational Order Submittals (through January 11, 2016) <i>*Reported Surface Water Diversions from Springs</i>	Reported Surface Water Diversions: Electronic Water Rights Information Management System (eWRIMS)	Surface Water Diversions not Reported in eWRIMS
Dutch Bill Creek	28 (*8)	27	1
Green Valley Creek	135 (*49)	44	91
Portions of Mark West Creek	98 (*42)	84	14
Mill Creek	82 (*26)	52	30
Total	343 (*125)	207	136

Informational Order Response Summary is based on all responses received through January 11, 2016.

The number of reported surface water diversions from springs is a subset of the total number of reported surface water diversions.



Dutch Bill Creek Incomplete Submissions

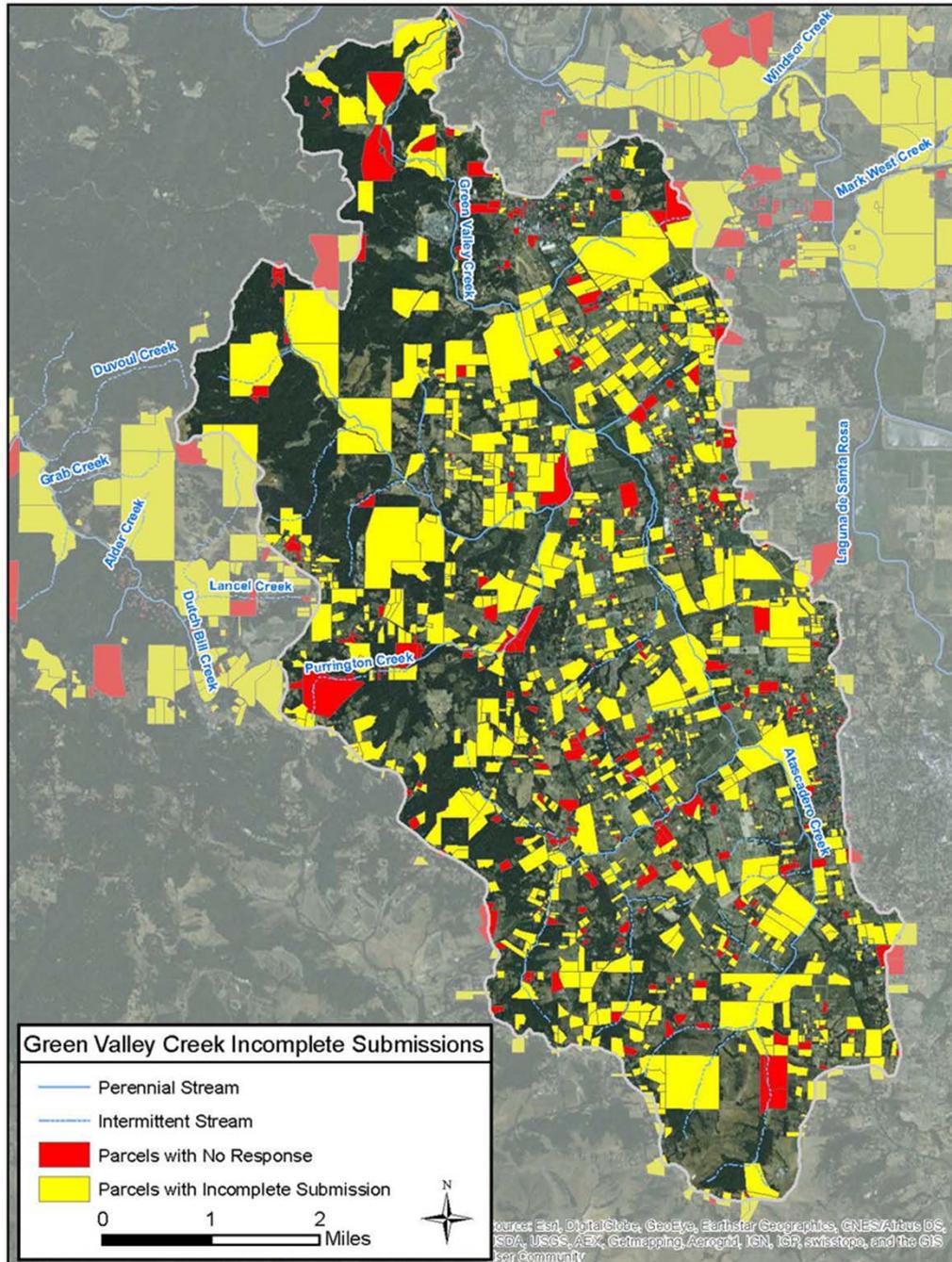
- Perennial Stream
- - - Intermittent Stream
- Parcels with No Response
- Parcels with Incomplete Submission

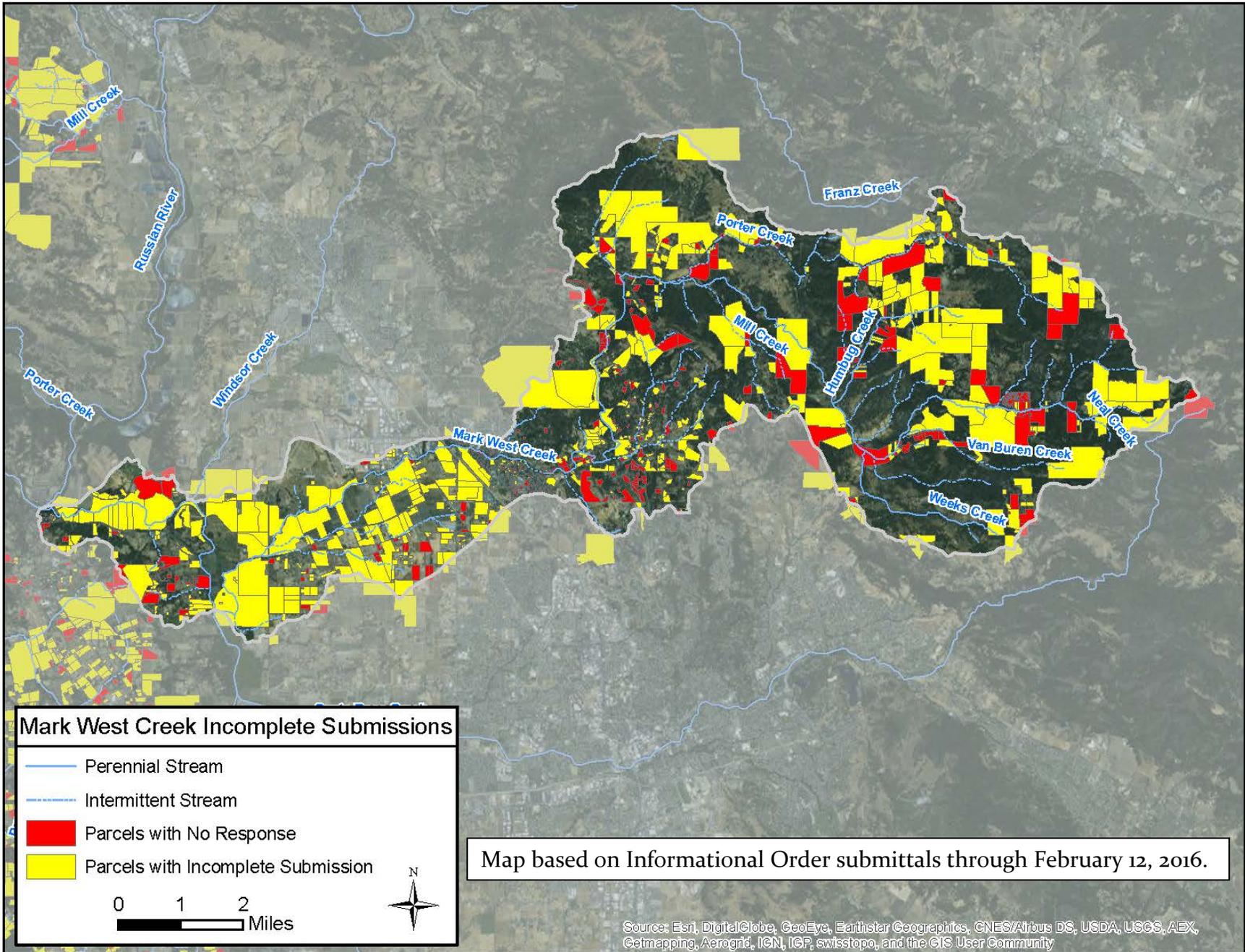
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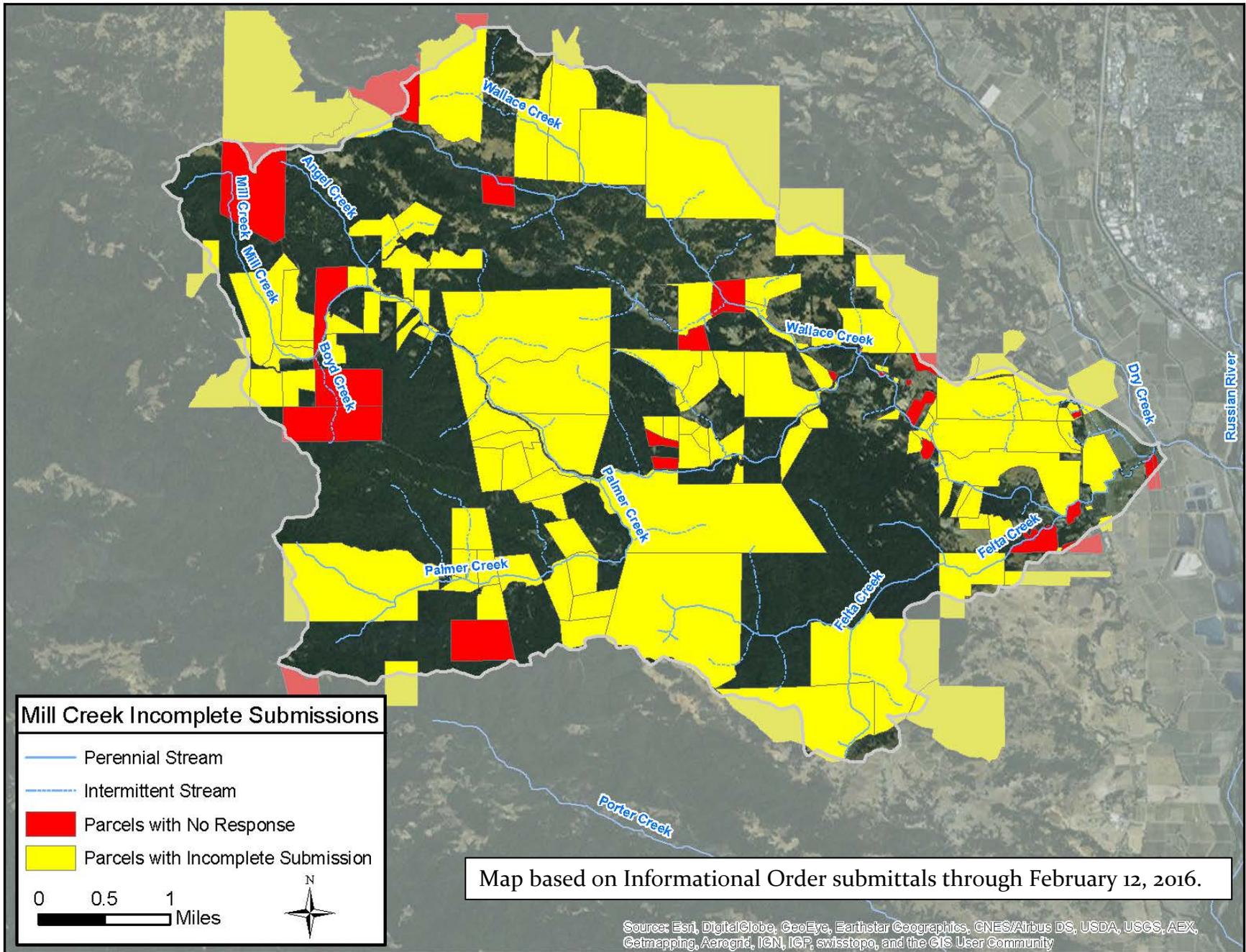


Map based on Informational Order submittals through February 12, 2016.

Map based on Informational Order
submittals through February 12, 2016.









Fiscal Impacts to Local Agencies and Governments

- Estimated cost to state and local agencies and governments: **\$54,275**
 - \$2,275 for the State of California (14 parcels)
 - \$3,412.50 for local schools and school districts (21 parcels)
 - \$48,587.50 for other local government entities (299 parcels)
- Costs are for providing additional information requested by State Water Board under prior informational orders and responses to any new informational orders



Comments Received

- Four comment letters received:
 - Ad Hoc Committee for Clean Water
 - Ad Hoc Committee for Clean Water Occidental
 - Pauline and John Loades
 - Trout Unlimited



Next Steps:

If Regulation is Readopted

- Formal Notice of Proposed Rulemaking sent to lyrics list of people who have requested notice five days prior to State Water submitting rulemaking packet to OAL
- Public may submit comments to OAL for five calendar days after rulemaking packet is submitted to OAL
- OAL has up to ten calendar days from State Water Board submittal to review emergency regulation
- Rulemaking packet will be submitted to OAL with sufficient time for OAL's review to be complete, and new emergency regulation to take effect, prior to April 1, 2016 expiration date



Next Steps: Short-term Efforts (cont.)

- Continue to monitor stream flow conditions
 - Informational Order may inform focused actions if curtailments or other actions are necessary in this year or in future years
 - 2014 coho salmon juveniles will return as adults in 2017
- State Water Board staff to contact diverters with unreported surface water diversions, to bring them in to compliance
- After data collection is more complete, State Water Board staff to hold follow-up meeting in Sonoma County to share results of Informational Order effort



Next Steps: Short-term Efforts (cont.)

- Support CDFW and National Marine Fisheries Service voluntary drought initiative agreement efforts
- Provide information to Sonoma County to help guide land-use and well permitting decisions
- Collaborate with CDFW to identify surface and groundwater diverters to target for off-stream storage projects



Next Step: Long-term Actions

- California Water Action Plan
 - Enhance water flows in stream systems statewide (Action 4)
- Sustainable Groundwater Management Act (SGMA)
 - Mark West Creek is located in a medium priority ground water basin

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



State Water Board Contact Information

- Russian River Tributaries Emergency Regulation
Phone Number: **(916) 322-8422**
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