
State Water Resources Control Board

TO: Members of the Board

FROM: 
Thomas Howard
Executive Director
EXECUTIVE OFFICE

DATE: May 30, 2014

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

The National Marine Fisheries Service (NMFS) and Department of Fish and Wildlife (CDFW) have entered into a Voluntary Drought Agreement (Agreement) with Jim Edwards of Edward's Ranch (Edward's Ranch) and Darrell Mullins General Manager for Los Molinos Mutual Water Company (Los Molinos MWC) in the Antelope Creek watershed to provide minimum flows necessary to allow for adult and juvenile fish migration on lower Antelope Creek. NMFS has determined the flows identified in the Agreement provide watershed-wide protection for the fishery that is comparable to or greater than that provided in proposed California Code of Regulations, title 23, section 877.

Below is a summary of the minimum flows identified in the Agreement:

Spring Pulse Flows:

To meet the needs of out-migrating juvenile spring-run Chinook salmon and for the upstream migration of spring-run Chinook salmon for 2014, a pulse flow was conducted using water volunteered by Los Molinos Mutual Water Company and Mr. Jim Edwards, equal to full natural flow in Antelope Creek. The pulse flow was conducted on May 14-16, 2014 for a 48 hr. period. This pulse flow was conducted with video monitoring in place, at the Edward's diversion dam, to detect any adult migrating fish passing over the dam to the upper Antelope habitat. Results of this video monitoring will be available within two weeks of the pulse flows.

Fall Base flows:

Once there is a freshet that doubles the full natural flow (measured at USGS gage above Edward's Dam) after October 15, but prior to November 1, then a base flow of 35 cfs, or full natural flows (measured at Cone Grove Park), whichever is less, will be maintained through December 31, 2014. If there not a freshet that doubles the full natural flow, then a base flow of 35 cfs or the full natural flow, whichever is less, will be maintained from November 1-December 31, 2014.

Emergency regulations addressing curtailments to meet fishery flows, proposed California Code of Regulations, title 23, article 24, section 875 et seq., are still pending approval at the Office of

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Administrative Law. However, the diverters on the affected watersheds have requested an opinion as to whether to expect issuance of curtailment orders if the regulations take effect, or whether the voluntary agreements on Mill and Antelope Creeks would satisfy the voluntary agreement provisions in proposed sections 877, subdivision (c) and 878.2.

In 2010, Los Molinos Mutual Water Co. and Edward's Ranch reported use of 7144.2 and 12237.0 acre-feet, respectively, diverted from Antelope Creek, representing approximately 95 percent of the total riparian and pre-1914 water use within the Antelope Creek watershed. As the diverters of approximately 95% of the water entering the lower watershed, and based on current and historic gage data, water available to Edward's Ranch and Los Molinos MWC can meet the flows identified in the Agreement. Staff therefore advises that the Agreement covers substantially all of the water diverted in the watershed. Reduced diversions by Edward's Ranch and Los Molinos MWC would affect the ability of few, small downstream diverters in the watershed to satisfy their water needs and would therefore cause no injury.

I have considered staff's recommendation and have determined that implementation of the NMFS and CDFW Agreement on Antelope Creek with Edward's Ranch and Los Molinos MWC will cover substantially all of the water diverted in the watershed. Therefore, proposed California Code of Regulations, title 23, section 877, subdivision (c) shall not go into effect on Antelope Creek as long as the Agreement remains in effect and the conditions of the Agreement are fully met. Additionally, it also appears that the Agreement would satisfy the curtailment exception provisions of proposed section 878.2.