


## State Water Resources Control Board

**TO:** Members of the Board

**FROM:**   
Thomas Howard  
Executive Director  
**EXECUTIVE OFFICE**

**DATE:** June 4, 2014

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

The National Marine Fisheries Service (NMFS) and California Department of Fish and Wildlife (CDFW) have entered into Voluntary Drought Agreements (Agreements) with Edward's Ranch and the 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 and CDFW have determined the flows identified in the Agreements 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 Agreements:

**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, California Code of Regulations, title 23, article 24, section 877 et seq., were approved by the Office of Administrative Law and filed with the Secretary of the State on June 2, 2014. CDFW and NMFS, on behalf of the diverters, have requested an opinion as to whether the voluntary

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

agreements on Antelope Creek satisfy the voluntary agreement provisions in sections 877, subdivision (c) and section 878.2.

In 2010, Los Molinos MWC and Edward's Ranch reported use of 7144.2 and 12237.0 acre-feet, respectively, diverted from Antelope Creek, representing approximately 95% 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 Agreements. Staff therefore advises that the Agreements cover substantially all of the water diverted in the watershed. Reduced diversions by Edward's Ranch and Los Molinos MWC would not affect the ability of the 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 Agreements on Antelope Creek with Edward's Ranch and Los Molinos MWC cover substantially all of the water diverted in the watershed. Therefore, California Code of Regulations, title 23, section 877, subdivision (c) shall not go into effect on Antelope Creek as long as the Agreements remain in effect and the conditions of the Agreements are fully met. Additionally, it also appears that the Agreements would satisfy the curtailment exception provisions of proposed section 878.2.