

**MINASIAN, MEITH,
SOARES, SEXTON &
COOPER, LLP**

ATTORNEYS AT LAW
A Partnership Including Professional Corporations

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WILLIAM H. SPRUANCE,
Retired

MICHAEL V. SEXTON,
Retired

September 15, 2021

California Central Valley Office
NOAA Fisheries | U.S. Department of Commerce
Cathy Marcinkevage, Ph.D.
Assistant Regional Administrator
Cathy.Marcinkevage@noaa.gov

Brailey M. Simplican
Freedom of Information Act Coordinator
Brailey.Simplican@noaa.gov

Howard Brown
Senior Policy Advisor
Howard.Brown@noaa.gov

Stephanie Coleman
Division Manager
West Coast Regional Office
Stephanie.Coleman@noaa.gov

Re: Stanford Vina Ranch Irrigation Company and Los Molinos Mutual Water Company
Freedom of Information Act Request

Ladies and Gentlemen,

We write you on behalf of Los Molinos Mutual Water Company and Stanford Vina Ranch Irrigation Company regarding our Freedom of Information Act Request ("Request") dated July 9, 2021. NMFS is obstructing our right to responsive records and in doing so NMFS is obstructing the ability of water users to comment on proposed Emergency Regulations before the California State Water Resources Control Board ("SWRCB") which were noticed in the late afternoon of September 1, 2021 and which will be considered by the SWRCB on September 22, 2021. Obtaining the records that are the subject of the Request is necessary for our client's to be able to submit complete comments on proposed Emergency Regulations. NMFS failure to

To: Cathy Marcinkevage, Ph.D., Brailey M. Simplican, Howard Brown, Stephanie Coleman
Re: *Stanford Vina Ranch Irrigation Company and Los Molinos Mutual Water Company - FOIA*
Date: September 15, 2021
Page 2

respond to our Request has effectively deprived our clients of the ability to effectively comment on the Emergency Regulations.

We filed our Request on July 9, 2021. We received no response from NMFS for nearly two months. On September 3, 2021, shortly after the SWRCB noticed the Emergency Regulations, we received the first acknowledgment that NMFS did receive the July 9, 2021 Request through an email from NMFS Assistant Regional Administrator Cathy Marcinkevage. (Exhibits 1 and 1.A.) Ms. Marcinkevage stated, "We are in contact with our FOIA office concerning processing of the request." (Exhibit 1.) Notably, Ms. Marcinkevage authored the July 30, 2021 letter of NMFS to the SWRCB requesting adoption of the proposed Emergency Regulations.

I received a voicemail and email from a NMFS FOIA officer on September 7, 2021 stating that Howard Brown of NMFS believed he knew of the "three letters" we seek through the Request and that if I would confirm this was the scope of the Request then NMFS would produce the records. The NMFS FOIA officer also sent an email stating that "the record custodian", apparently Howard Brown, had identified three specific letters that are responsive to the request. (Exhibit 1.B) The NMFS FOIA officer also stated, on behalf of Howard Brown, that the response was very broad due to the fact that there was a Biological Opinion for Deer Creek. (Exhibit 1.B)

I attempted to call the NMFS FOIA officer numerous times following his voicemail, however in each instance the phone number he provided was busy.

On Thursday September 9, 2021, I emailed the NMFS FOIA officer stating that I was unable to reach him by telephone using the number he had provided and that "the three letters Mr. Brown is referring to will not satisfy our request. Our request seeks all records in the specified categories and from January 1, 2021 through the present." (Exhibit 2.) I also stated that I was not familiar with any biological opinion for Deer Creek that was compiled during the time frame of the Request. (Exhibit 2.) *We did not receive a response from NMFS.*

I also emailed the NMFS FOIA officer on September 7, 2021. (Exhibit 3.) I stated that I had received his voicemail, that Mr. Brown was incorrect in his assertion that we only seek three specific letters, and that we seek "all records relating to the subjects and categories set forth in the FOIA request, including without limitation Deer Creek, Mill Creek, Stanford Vina Ranch Irrigation Company, Los Molinos Mutual Water Company, and emergency regulations." (Exhibit 3.) I also forwarded the NMFS FOIA officer a copy of our Request which details the subjects and categories of records we seek. *We did not receive a response from NMFS.*

On Friday September 10, 2021, I emailed the NMFS FOIA officer twice. (Exhibit 4, Exhibit 5.) In each email I requested that the NMFS FOIA officer confirm receipt of my prior emails dated September 9, 2021 and September 7, 2021 in which I rejected Mr. Brown's assertion that "the three letters" would satisfy our request. (Exhibit 4.) *We did not receive a response from NMFS.*

On September 13, 2021, NMFS sent the letter attached as Exhibit 5 stating, "We cannot progress on this FOIA request without further scope clarification" while providing a July 30,

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Re: *Stanford Vina Ranch Irrigation Company and Los Molinos Mutual Water Company - FOIA*
Date: September 15, 2021
Page 3

2021 letter from NMFS to the SWRCB that request adoption of the Emergency Regulations, and two June 11, 2021 letters to Stanford Vina Ranch Irrigation Company and Los Molinos Mutual Water Company who are our clients and on whose behalf we made the Request. (Exhibit 5.)

NMFS clearly does not intend to comply with the Freedom of Information Act and is preventing the production of responsive records which are necessary to effectively comment on the proposed Emergency Regulations which will be considered by the SWRCB on September 22, 2021. NMFS has failed to respond to our communications, has ignored our refusal to narrow the Request, and its production of letters to our own clients, and a NMFS letter to the SWRCB which is now posted on the SWRCB's website, is wholly inadequate. NMFS is continuing to prevent water users from being able to effectively petition and comment on the proposed Emergency Regulations.

Very truly yours,

MINASIAN, MEITH,
SOARES, SEXTON & COOPER, LLP

By: 

JACKSON A. MINASIAN

JAM:lmj
Enc.

Exhibit "1"

Exhibit "1"

Leah Janowski

From: Dustin Cooper
Sent: Friday, September 3, 2021 3:38 PM
To: Jackson Minasian
Subject: Fwd: Preliminary Draft Drought Emergency Regulation for Mill Creek and Deer Creek Watersheds

Sent from my iPhone

Begin forwarded message:

From: Cathy Marcinkevage - NOAA Federal <cathy.marcinkevage@noaa.gov>
Date: September 3, 2021 at 3:35:33 PM PDT
To: Deborah <Dbeth@minasianlaw.com>, Dustin Cooper <dcooper@minasianlaw.com>
Cc: howardbrown@noaa.gov, Kathryn Kempton - NOAA Federal <Kathryn.Kempton@noaa.gov>
Subject: Re: Preliminary Draft Drought Emergency Regulation for Mill Creek and Deer Creek Watersheds

Mr. Cooper --

I am writing to acknowledge receipt of your email and attached letter, including a copy of your July 9, 2021, FOIA request. We are in contact with our FOIA office concerning processing of the request. Please look for correspondence from our FOIA office early next week when East coast business hours resume.

Thanks -
Cathy

Cathy Marcinkevage, Ph.D.

(she/her/hers)

Assistant Regional Administrator, California Central Valley Office

NOAA Fisheries | U.S. Department of Commerce

Office: (916) 930-5648

Mobile: (562) 537-8734

www.fisheries.noaa.gov



***During the COVID-19 pandemic I am under mandatory telework. I may be working flexible hours to balance family and personal needs. I appreciate your patience if my response time is delayed. If you have a request, please specify important timeframes or deadlines. I will do my best to respond accordingly. Because I have limited ability to retrieve mail, please send any formal correspondence that*

would normally be sent through the physical mail to ccvo.consultationrequests@noaa.gov. Thank you.**

On Thu, Sep 2, 2021 at 1:59 PM Deborah <Dbeth@minasianlaw.com> wrote:

Attached please find correspondence from Mr. Cooper with attachment. Thank you.

Deborah K. Beth, Legal Assistant to
Andrew J. McClure and Dustin C. Cooper, Esqs.
Minasian, Meith, Soares, Sexton & Cooper, LLP
P O Box 1679 / 1681 Bird Street, Oroville, California 95965
(530) 533-2885 / facsimile (530) 533-0197

The information contained in this electronic mail transmission is confidential and intended to be sent only to the stated recipient of the transmission. It may therefore be protected from unauthorized use or dissemination by the attorney-client and/or attorney work product privileges. If you are not the intended recipient or the intended recipient's agent, you are hereby notified that any review, use, dissemination, distribution or copying of this communication is strictly prohibited. You are also asked to notify us immediately by telephone and to return the document to us immediately via e-mail at the address shown above. Thank you.

Exhibit "1.A"

Exhibit "1.A"

Leah Janowski

From: no-reply@foiaonline.gov
Sent: Tuesday, September 7, 2021 1:54 PM
To: Jackson Minasian
Cc: brailey.simplican@noaa.gov
Subject: Acknowledgement Letter Request 2021-002049

UNITED STATES DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE

VIA FOIAonline

September 7, 2021

Jackson Minasian

MINASIAN, MEITH, SOARES, SEXTON & COOPER, LLP

1681 Bird Street Post Office Box 1679

Oroville, CA 95965

Re: FOIA Request DOC-NOAA-2021-002049

Dear Mr. Minasian,

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request assigned to our office July 19, 2021. Your request tracking number is DOC-NOAA-2021-002049. You requested:

“Preliminary Draft Drought Emergency Regulation for Mill Creek and Deer Creek

Watersheds - I request the following federal government records within the control, custody, or possession of your Agency:

1. All records or documents, electronic, written, or otherwise, related or referring to Deer Creek from January 1, 2021 through the present.
2. All records or documents, electronic, written, or otherwise, related or referring to Mill Creek from January 1, 2021 through the present.
3. All records or documents, electronic, written, or otherwise, related or referring to Stanford Vina from January 1, 2021 through the present.
4. All records or documents, electronic, written, or otherwise, related or referring to Stanford Vina Ranch Irrigation Company from January 1, 2021 through the present.
5. All records or documents, electronic, written, or otherwise, related or referring to SVRIC from January 1, 2021 through the present.
6. AH records or documents, electronic, written, or otherwise, related or referring to Los Molinas Mutual Water Company from January 1, 2021 through the present.
7. All records or documents, electronic, written, or otherwise, related or referring to LMMWC from January 1, 2021 through the present.
8. All records or documents, electronic, written, or otherwise, related or referring to emergency regulations from January 1, 2021 through the present..”

Pursuant to the FOIA fee schedule cited at 15 CFR §4.11, the fee category for this request is Other. This request currently has a pending fee waiver.

15 C.F.R. 4.6(d) (2) allows an agency to extend the FOIA response deadline by ten business days for unusual circumstances. Due to the need to search for and collect the requested agency records from field facilities or other establishments that are separate from the office processing the request, we are choosing to invoke this 10 day extension.

If you have questions regarding your request, please contact me directly via email at brailey.simplican@noaa.gov or by phone at (562) 676-2069

Sincerely

Brailey Simpican

Information Technology Specialist/

West Coast Region FOIA Team Lead

NOAA Fisheries West Coast Region

Exhibit "1.B"

Exhibit "1.B"

Leah Janowski

From: no-reply@foiaonline.gov
Sent: Tuesday, September 7, 2021 6:11 PM
To: Jackson Minasian
Cc: brailey.simplican@noaa.gov
Subject: Scope of Request 2021-002049

Mr. Minasian,

I attempted to call you today to discuss the scope of your request.

One of our record custodians thinks he knows exactly what you are looking for, and has identified three specific letters ("The first to mr. cooper, the second to water users and the third to the water board") and the associated correspondence as responsive to your request.

Will these records satisfy your request? This request's wording is very broad and could be interpreted to include many, many other documents. One example a record custodian brought up is that, if there was a Biological Opinion on Steelhead Salmon in Deer Creek, then any and all studies supporting that opinion, drafts of that opinion, and any emails/correspondence associated with that opinion would all be "records...referring to Deer Creek" .

Such a broad interpretation would result in a high volume of records, a slower response time, and a higher processing fee. If it really is just these three letters and associated correspondence, then we could process this response very quickly, and could have the release ready in a few days.

Please respond and help me to understand what you are asking for so we can complete this response in a timely manner. You can respond to brailey.simplican@noaa.gov or call at 562- 676 2069.

Thanks,

-Brailey Simplican

Exhibit "2"

Exhibit "2"

Leah Janowski

From: Jackson Minasian
Sent: Thursday, September 9, 2021 10:01 AM
To: no-reply@foiaonline.gov
Cc: brailey.simplican@noaa.gov
Subject: RE: Scope of Request 2021-002049
Attachments: NOAA. FOIA ltr. 7.9.21.pdf

Mr. Simplican,

The phone number provided by you in your email and your voicemails is busy. I have tried calling it multiple times. Our request seeks the records in the specified categories and defined time periods. The time periods for each category of records is January 1, 2021 through the present. I am not familiar with any biological opinion for Deer Creek that was compiled during this time frame, however Mr. Brown may disagree. As I stated in my prior email, the three letters Mr. Brown is referring to will not satisfy our request. Our request seeks all records in the specified categories and from January 1, 2021 through the present. Thanks, Jackson

From: no-reply@foiaonline.gov <no-reply@foiaonline.gov>
Sent: Tuesday, September 7, 2021 6:11 PM
To: Jackson Minasian <jminasian@minasianlaw.com>
Cc: brailey.simplican@noaa.gov
Subject: Scope of Request 2021-002049

Mr. Minasian,

I attempted to call you today to discuss the scope of your request.

One of our record custodians thinks he knows exactly what you are looking for, and has identified three specific letters ("The first to mr. cooper, the second to water users and the third to the water board") and the associated correspondence as responsive to your request.

Will these records satisfy your request? This request's wording is very broad and could be interpreted to include many, many other documents. One example a record custodian brought up is that, if there was a Biological Opinion on Steelhead Salmon in Deer Creek, then any and all studies supporting that opinion, drafts of that opinion, and any emails/correspondence associated with that opinion would all be "records...referring to Deer Creek".

Such a broad interpretation would result in a high volume of records, a slower response time, and a higher processing fee. If it really is just these three letters and associated correspondence, then we could process this response very quickly, and could have the release ready in a few days.

Please respond and help me to understand what you are asking for so we can complete this response in a timely manner. You can respond to brailey.simplican@noaa.gov or call at 562- 676 2069.

Thanks,

-Brailey Simplican

**MINASIAN, MEITH,
SOARES, SEXTON &
COOPER, LLP**

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Writer's E-MAIL: jminasian@minasianlaw.com

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WILLIAM H. SPRUANCE,
Retired

MICHAEL V. SEXTON,
Retired

TELEPHONE:
(530) 533-2885

FACSIMILE:
(530) 533-0197

July 9, 2021
Via Email

National Oceanic and Atmospheric Administration
Public Reference Facility (SOU1000)
1315 East-West Highway (SSMC3)
Room 9719
Silver Spring, Maryland 20910
FOIA@noaa.gov

650 Capitol Mall
Suite 5-100
Sacramento, CA 95814
916-930-3600
Fax 916-930-3629
shawn.martin@noaa.gov

Re: Freedom of Information Request

Dear FOIA Officer:

This office represents Stanford Vina Ranch Irrigation Company ("SVRIC") and Los Molinos Mutual Water Company ("LMMWC"), two non-profit organizations that serve irrigation water to the residents of Tehama County, California. On behalf of these entities and pursuant to the Freedom of Information Act (FOIA) 5 U.S.C. 552, I request the following federal government records within the control, custody, or possession of your Agency:

1. All records or documents, electronic, written, or otherwise, related or referring to Deer Creek from January 1, 2021 through the present.
2. All records or documents, electronic, written, or otherwise, related or referring to Mill Creek from January 1, 2021 through the present.
3. All records or documents, electronic, written, or otherwise, related or referring to Stanford Vina from January 1, 2021 through the present.

4. All records or documents, electronic, written, or otherwise, related or referring to Stanford Vina Ranch Irrigation Company from January 1, 2021 through the present.
5. All records or documents, electronic, written, or otherwise, related or referring to SVRIC from January 1, 2021 through the present.
6. All records or documents, electronic, written, or otherwise, related or referring to Los Molinos Mutual Water Company from January 1, 2021 through the present.
7. All records or documents, electronic, written, or otherwise, related or referring to LMMWC from January 1, 2021 through the present.
8. All records or documents, electronic, written, or otherwise, related or referring to emergency regulations from January 1, 2021 through the present.

A request for records or documents "referring", "relating" or that "relate" to a subject request all records that in any way mention the subject and are in any way relevant to the subject.

If you believe that any records within the scope of this request are exempt from disclosure, I request that, pursuant to you notify me immediately, in writing, explaining the reasons for withholding the records. I further request that, pursuant that you identify the names and positions of each person responsible for any denial.

While LMMWC and SVRIC are willing to pay direct copying costs, they concurrently request that all labor costs incurred in processing and complying with this request be waived. FOIA requires that fees be waived or reduced if "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." (5 U.S.C. § 522 (a)(4)(A)(iii).) NMFS regulations 15 CFR Part § 4.11 (l) *et seq.* also require the waiver of FOIA fees when disclosure is likely to contribute significant to public understanding of the operations or activities of the Government and disclosure is not primarily in the commercial interest of the requester.

LMMWC and SVRIC are mutual water companies formed under the laws of California to operate on a non-profit basis to administer the water supply and water delivery system that serves irrigation water to rural Tehama County, California. The shares of each company are held by the respective water users of LMMWC and SVRIC who are rural Tehama County landowners that utilize water delivered by LMMWC and SVRIC to sustain their crops and livestock.

In recent years, both SVRIC and LMMWC have undertaken measures to enhance fishery conditions in Deer and Mill Creeks and have worked closely with NMFS personnel to evaluate the feasibility of different fishery projects and measures. It has become known that NMFS has

To: National Oceanic and Atmospheric Administration
Re: *Freedom of Information Request*
Date: July 9, 2021
Page 3

been actively evaluating fishery conditions and potential measures to enhance conditions on Mill and Deer Creek in 2021, and that NMFS has been working with third parties, the State Water Resources Control Board ("SWRCB") and the California Department of Fish and Wildlife ("CDFW") on this issue. LMMWC and SVRIC therefore seek all records described in its FOIA request to better understand the facts of fishery conditions in Mill and Deer Creeks and the activities of NMFS, CDFW, and SWRCB so that potential measures to enhance fishery conditions can be evaluated.

Waiver of fees is appropriate here. LMMWC and SVRIC are non-profit, mutual water companies, that with NMFS, CFDW and SWRCB personnel to ensure that the water supply of Tehama County is preserved, protected, and defended and that appropriate fishery conditions are maintained. Disclosure of the information sought is in the public interest because it is likely to contribute significantly to public understanding of fishery conditions and fishery needs on Mill and Deer Creeks.

The request is not primarily in the commercial interest of SVRIC or LMMWC. As discussed, LMMWC and SVRIC are small mutual water companies that operate on a non-profit basis to serve water to rural Tehama County landowners. SVRIC and LMMWC do not profit from their supply and delivery of water. SVRIC and LMMWC efforts to work with NMFS, CDFW and SWRCB personnel to create favorable fishery conditions on Mill and Deer Creeks is consistent with the public interest, and such efforts are not "primarily in the commercial interest."

I look forward to receiving the requested documents within twenty (20) working days as required by statute.

Very truly yours,

MINASIAN, MEITH,
SOARES, SEXTON & COOPER, LLP

By: 
JACKSON A. MINASIAN

JAM:lmj

Exhibit "3"

Exhibit "3"

Leah Janowski

From: Jackson Minasian
Sent: Tuesday, September 7, 2021 2:41 PM
To: brailey.simplican@noaa.gov
Cc: Dustin Cooper
Subject: RE: Acknowledgement Letter Request 2021-002049
Attachments: NOAA. FOIA ltr. 7.9.21.pdf

Mr. Simplican,

I received your voicemail requesting clarification as to the scope of our FOIA request. You stated in your voicemail that Howard Brown is asserting that we are only seeking three letters. Mr. Brown is incorrect. As set forth in the request which is attached, we seek all records relating to the subjects and categories set forth in the FOIA request, including without limitation Deer Creek, Mill Creek, Stanford Vina Ranch Irrigation Company, Los Molinos Mutual Water Company, and emergency regulations. Thanks, Jackson Minasian

From: no-reply@foiaonline.gov <no-reply@foiaonline.gov>
Sent: Tuesday, September 7, 2021 1:54 PM
To: Jackson Minasian <jminasian@minasianlaw.com>
Cc: brailey.simplican@noaa.gov
Subject: Acknowledgement Letter Request 2021-002049

UNITED STATES DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE

VIA FOIAonline

September 7, 2021

Jackson Minasian

MINASIAN, MEITH, SOARES, SEXTON & COOPER, LLP

1681 Bird Street Post Office Box 1679

Oroville, CA 95965

Re: FOIA Request DOC-NOAA-2021-002049

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Watersheds - I request the following federal government records within the control, custody, or possession of your Agency:

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2. All records or documents, electronic, written, or otherwise, related or referring to Mill Creek from January 1, 2021 through the present.
3. All records or documents, electronic, written, or otherwise, related or referring to Stanford Vina from January 1, 2021 through the present.
4. All records or documents, electronic, written, or otherwise, related or referring to Stanford Vina Ranch Irrigation Company from January 1, 2021 through the present.
5. All records or documents, electronic, written, or otherwise, related or referring to SVRIC from January 1, 2021 through the present.
6. AH records or documents, electronic, written, or otherwise, related or referring to Los Molinas Mutual Water Company from January 1, 2021 through the present.
7. All records or documents, electronic, written, or otherwise, related or referring to LMMWC from January 1, 2021 through the present.
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15 C.F.R. 4.6(d) (2) allows an agency to extend the FOIA response deadline by ten business days for unusual circumstances. Due to the need to search for and collect the requested agency records from field facilities or other establishments that are separate from the office processing the request, we are choosing to invoke this 10 day extension.

If you have questions regarding your request, please contact me directly via email at brailey.simplican@noaa.gov or by phone at (562) 676-2069

Sincerely

Brailey Simplican

Information Technology Specialist/

West Coast Region FOIA Team Lead

NOAA Fisheries West Coast Region

**MINASIAN, MEITH,
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(530) 533-2885

FACSIMILE:
(530) 533-0197

July 9, 2021
Via Email

National Oceanic and Atmospheric Administration
Public Reference Facility (SOU1000)
1315 East-West Highway (SSMC3)
Room 9719
Silver Spring, Maryland 20910
FOIA@noaa.gov

650 Capitol Mall
Suite 5-100
Sacramento, CA 95814
916-930-3600
Fax 916-930-3629
shawn.martin@noaa.gov

Re: Freedom of Information Request

Dear FOIA Officer:

This office represents Stanford Vina Ranch Irrigation Company ("SVRIC") and Los Molinos Mutual Water Company ("LMMWC"), two non-profit organizations that serve irrigation water to the residents of Tehama County, California. On behalf of these entities and pursuant to the Freedom of Information Act (FOIA) 5 U.S.C. 552, I request the following federal government records within the control, custody, or possession of your Agency:

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2. All records or documents, electronic, written, or otherwise, related or referring to Mill Creek from January 1, 2021 through the present.
3. All records or documents, electronic, written, or otherwise, related or referring to Stanford Vina from January 1, 2021 through the present.

4. All records or documents, electronic, written, or otherwise, related or referring to Stanford Vina Ranch Irrigation Company from January 1, 2021 through the present.
5. All records or documents, electronic, written, or otherwise, related or referring to SVRIC from January 1, 2021 through the present.
6. All records or documents, electronic, written, or otherwise, related or referring to Los Molinos Mutual Water Company from January 1, 2021 through the present.
7. All records or documents, electronic, written, or otherwise, related or referring to LMMWC from January 1, 2021 through the present.
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In recent years, both SVRIC and LMMWC have undertaken measures to enhance fishery conditions in Deer and Mill Creeks and have worked closely with NMFS personnel to evaluate the feasibility of different fishery projects and measures. It has become known that NMFS has

To: National Oceanic and Atmospheric Administration
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Date: July 9, 2021
Page 3

been actively evaluating fishery conditions and potential measures to enhance conditions on Mill and Deer Creek in 2021, and that NMFS has been working with third parties, the State Water Resources Control Board ("SWRCB") and the California Department of Fish and Wildlife ("CDFW") on this issue. LMMWC and SVRIC therefore seek all records described in its FOIA request to better understand the facts of fishery conditions in Mill and Deer Creeks and the activities of NMFS, CDFW, and SWRCB so that potential measures to enhance fishery conditions can be evaluated.

Waiver of fees is appropriate here. LMMWC and SVRIC are non-profit, mutual water companies, that with NMFS, CFDW and SWRCB personnel to ensure that the water supply of Tehama County is preserved, protected, and defended and that appropriate fishery conditions are maintained. Disclosure of the information sought is in the public interest because it is likely to contribute significantly to public understanding of fishery conditions and fishery needs on Mill and Deer Creeks.

The request is not primarily in the commercial interest of SVRIC or LMMWC. As discussed, LMMWC and SVRIC are small mutual water companies that operate on a non-profit basis to serve water to rural Tehama County landowners. SVRIC and LMMWC do not profit from their supply and delivery of water. SVRIC and LMMWC efforts to work with NMFS, CDFW and SWRCB personnel to create favorable fishery conditions on Mill and Deer Creeks is consistent with the public interest, and such efforts are not "primarily in the commercial interest."

I look forward to receiving the requested documents within twenty (20) working days as required by statute.

Very truly yours,

MINASIAN, MEITH,
SOARES, SEXTON & COOPER, LLP

By: 
JACKSON A. MINASIAN

JAM:lmj

Exhibit “4”

Exhibit “4”

Leah Janowski

From: Jackson Minasian
Sent: Friday, September 10, 2021 10:05 AM
To: brailey.simplican@noaa.gov
Subject: FW: Acknowledgement Letter Request 2021-002049
Attachments: NOAA. FOIA ltr. 7.9.21.pdf

Please confirm receipt of this email as well.

From: Jackson Minasian
Sent: Tuesday, September 7, 2021 2:41 PM
To: brailey.simplican@noaa.gov
Cc: Dustin Cooper <dcooper@minasianlaw.com>
Subject: RE: Acknowledgement Letter Request 2021-002049

Mr. Simplican,

I received your voicemail requesting clarification as to the scope of our FOIA request. You stated in your voicemail that Howard Brown is asserting that we are only seeking three letters. Mr. Brown is incorrect. As set forth in the request which is attached, we seek all records relating to the subjects and categories set forth in the FOIA request, including without limitation Deer Creek, Mill Creek, Stanford Vina Ranch Irrigation Company, Los Molinos Mutual Water Company, and emergency regulations. Thanks, Jackson Minasian

From: no-reply@foiaonline.gov <no-reply@foiaonline.gov>
Sent: Tuesday, September 7, 2021 1:54 PM
To: Jackson Minasian <jminasian@minasianlaw.com>
Cc: brailey.simplican@noaa.gov
Subject: Acknowledgement Letter Request 2021-002049

UNITED STATES DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE

September 7, 2021

Jackson Minasian

MINASIAN, MEITH, SOARES, SEXTON & COOPER, LLP

1681 Bird Street Post Office Box 1679

Oroville, CA 95965

Re: FOIA Request DOC-NOAA-2021-002049

Dear Mr. Minasian,

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request assigned to our office July 19, 2021. Your request tracking number is DOC-NOAA-2021-002049. You requested:

“Preliminary Draft Drought Emergency Regulation for Mill Creek and Deer Creek

Watersheds - I request the following federal government records within the control, custody, or possession of your Agency:

1. All records or documents, electronic, written, or otherwise, related or referring to Deer Creek from January 1, 2021 through the present.
2. All records or documents, electronic, written, or otherwise, related or referring to Mill Creek from January 1, 2021 through the present.
3. All records or documents, electronic, written, or otherwise, related or referring to Stanford Vina from January 1, 2021 through the present.
4. All records or documents, electronic, written, or otherwise, related or referring to Stanford Vina Ranch Irrigation Company from January 1, 2021 through the present.
5. All records or documents, electronic, written, or otherwise, related or referring to SVRIC from January 1, 2021 through the present.
6. AH records or documents, electronic, written, or otherwise, related or referring to Los Molinas Mutual Water Company from January 1, 2021 through the present.
7. All records or documents, electronic, written, or otherwise, related or referring to LMMWC from January 1, 2021 through the present.
8. All records or documents, electronic, written, or otherwise, related or referring to emergency regulations from January 1, 2021 through the present..”

Pursuant to the FOIA fee schedule cited at 15 CFR §4.11, the fee category for this request is Other. This request currently has a pending fee waiver.

15 C.F.R. 4.6(d) (2) allows an agency to extend the FOIA response deadline by ten business days for unusual circumstances. Due to the need to search for and collect the requested agency records from field facilities or other establishments that are separate from the office processing the request, we are choosing to invoke this 10 day extension.

If you have questions regarding your request, please contact me directly via email at brailey.simplican@noaa.gov or by phone at (562) 676-2069

Sincerely

Brailey Simplican

Information Technology Specialist/

West Coast Region FOIA Team Lead

NOAA Fisheries West Coast Region

Exhibit "5"

Exhibit "5"

Leah Janowski

From: Jackson Minasian
Sent: Friday, September 10, 2021 10:05 AM
To: brailey.simplican@noaa.gov
Subject: FW: Scope of Request 2021-002049
Attachments: NOAA. FOIA ltr. 7.9.21.pdf

Mr. Simplican please confirm receipt of my email below.

From: Jackson Minasian
Sent: Thursday, September 9, 2021 10:01 AM
To: no-reply@foiaonline.gov
Cc: brailey.simplican@noaa.gov
Subject: RE: Scope of Request 2021-002049

Mr. Simplican,

The phone number provided by you in your email and your voicemails is busy. I have tried calling it multiple times. Our request seeks the records in the specified categories and defined time periods. The time periods for each category of records is January 1, 2021 through the present. I am not familiar with any biological opinion for Deer Creek that was compiled during this time frame, however Mr. Brown may disagree. As I stated in my prior email, the three letters Mr. Brown is referring to will not satisfy our request. Our request seeks all records in the specified categories and from January 1, 2021 through the present. Thanks, Jackson

From: no-reply@foiaonline.gov <no-reply@foiaonline.gov>
Sent: Tuesday, September 7, 2021 6:11 PM
To: Jackson Minasian <jminasian@minasianlaw.com>
Cc: brailey.simplican@noaa.gov
Subject: Scope of Request 2021-002049

Mr. Minasian,

I attempted to call you today to discuss the scope of your request.

One of our record custodians thinks he knows exactly what you are looking for, and has identified three specific letters ("The first to mr. cooper, the second to water users and the third to the water board") and the associated correspondence as responsive to your request.

Will these records satisfy your request? This request's wording is very broad and could be interpreted to include many, many other documents. One example a record custodian brought up is that, if there was a Biological Opinion on Steelhead Salmon in Deer Creek, then any and all studies supporting that opinion, drafts of that opinion, and any emails/correspondence associated with that opinion would all be "records...referring to Deer Creek" .

Such a broad interpretation would result in a high volume of records, a slower response time, and a higher processing fee. If it really is just these three letters and associated correspondence, then we could process this response very quickly, and could have the release ready in a few days.

Please respond and help me to understand what you are asking for so we can complete this response in a timely manner. You can respond to brailey.simplican@noaa.gov or call at 562- 676 2069.

Thanks,

-Brailey Simplican