

Outline of Key Terms for Drought Year 2021 Actions on Mill Creek

1. **Purposes:**
  - a. Implement short-term actions on Mill Creek for water conservation, fishery conditions, and water supply during the 2021 drought.
  - b. Commit to pursue and implement long-term solutions improving fish passage on Mill Creek and resolving long-standing need for multi-benefit channel restoration for ecological benefits and water supply reliability; the long-term solutions are intended to address and avoid future need for emergency regulations and allegations of take associated with water diversions under Federal or State Endangered Species Acts.
  
2. **Parties:**
  - a. Water User Parties: Los Molinos Mutual Water Company (LMMWC);
  - b. Agencies: State Water Resources Control Board (SWRCB); California Department of Fish and Wildlife (CDFW); NOAA National Marine Fisheries Service (NMFS).
  
3. **Forbearance/Flow Measures, Year 2021:** Water Users will forego diversions to create base and pulse flow regimes as follows:
  - a. Base Flow of not more than 25 cfs measured at the Ward Dam from May 15 to June 15, and not more than 50 CFS from October 15 to November 30
  - b. One Pulse Flow of not more than 50 cfs for a 48-hour period during the May 15 to June 15 period.
  
4. **Cessation of Forbearance Due to Temperature:** A temperature monitoring program will be implemented in Mill Creek. Forbearance measures will cease when water temperatures below Ward Dam are no longer conducive for fish passage including water temperatures that exceed the EPA guideline of 68 degrees Fahrenheit.
  
5. **Multi-benefit Channel Restoration Project:** Agencies, in coordination with Water Users, will commit to pursue regulatory approvals and funding for design and implementation of a multi-benefit channel restoration project between Ward Dam and the confluence of the Sacramento River. Goals of restoration include but are not limited to 1) improved fish passage at lower flows; 2) improved geomorphic stream processes; 3) improved riparian habitat; and 4) improved floodplain habitat.
  
6. **Environmental Permits, Approvals, and Immunities**
  - a. In exchange for the foregoing, SWRCB will not pursue emergency regulations, waste and unreasonable use claims, or other enforcement proceedings (collectively “Enforcement”) against Water Users for diversions in 2021. Provided Water Users are cooperating in good faith to pursue the multi-benefit channel restoration project along with Agencies, SWRCB will not pursue Enforcement against Water Users.

- b. Safe Harbor Agreement with NMFS under federal Endangered Species Act relating to fish passage in Mill Creek.
- c. Safe Harbor Agreement with CDFW under California Endangered Species Act, relating to fish passage in Mill Creek.

7. **Funding from the State of California**

- a. See, e.g., Governor's State of Emergency Proclamation dated April 21, 2021, section 4, and SVRIC and Los Molinos Mutual Water Company's joint letter to CDFW dated May 5, 2021.
- b. Water Users will be compensated in the amount of \$2,100,000 for the purpose of implementing, in Water Users' discretion, water conservation, water efficiency, system improvement, or other water related improvements within their respective service areas.
- c. DWR/LMMWC to expand parties' existing conjunctive use agreement to intended 25 cfs (currently  $\pm 11$  cfs) to make additional flow available.