

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER RIGHTS
SEPTEMBER 23, 2014**

ITEM 10

SUBJECT

CONSIDERATION OF A PROPOSED ORDER DENYING RECONSIDERATION OF ORDER WR 2014-0022-DWR - CURTAILMENT ORDER - IN THE MATTER OF DIVERSION OF WATER FROM DEER CREEK TRIBUTARY TO THE SACRAMENTO RIVER IN TEHAMA COUNTY

DISCUSSION

In light of the drought emergency, on May 21, 2014, the State Water Board adopted emergency regulations for Curtailment of Diversions due to Insufficient Flow for Specific Fisheries (California Code of Regulations, title 23, sections 877 through 879.2) (Emergency Regulations). The Emergency Regulations went into effect on June 2, 2014, and established drought emergency minimum flow requirements for the protection of specific runs of federal- and state-listed anadromous fish in Mill Creek, Deer Creek and Antelope Creek. The Emergency Regulations are available at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/mill_deer_antelope_creeks/2014_0523_05e.pdf

On June 5, 2014, the Deputy Director for the Division of Water Rights issued Water Rights Order WR 2014-0022-DWR (Curtailment Order) to all water right holders in Deer Creek under the Emergency Regulations. The Curtailment Order curtailed all diversions from Deer Creek as necessary to obtain and maintain a minimum base flow of 50 cubic feet per second (cfs) or full flow without diversion in Deer Creek as required under section 877, subdivision (c)(2)(A). The Curtailment Order is available at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/mill_deer_antelope_creeks/wr_2014_0022.pdf

On June 12, 2014, the Assistant Deputy Director for the Division of Water Rights issued a notice advising Stanford Vina Ranch Irrigation Company that an enforcement action was likely, and enclosed a draft cease and desist order (CDO). The notice and draft CDO are available at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/enforcement/compliance/cease_desist_actions/2014/draft_cdo_svrlic.pdf

On July 2, 2014, Stanford Vina Ranch Irrigation Company petitioned for reconsideration of the adoption of the Emergency Regulations, issuance of the Curtailment Order, and issuance of the draft CDO and enforcement notice. The petition requests that the actions should be revoked for alleged lack of substantial evidence, procedural inadequacy and error in law. The petition also requests compensation for damages.

The proposed order denies the petition for reconsideration.

POLICY ISSUE

Should the State Water Board adopt the proposed order?

FISCAL IMPACT

This activity is budgeted within existing resources, and no additional fiscal demands will occur as a result of approving this item.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

Staff recommends that the State Water Board adopt the proposed order denying the petition for reconsideration of Water Rights Order WR 2014-0022-DWR.

State Water Board action on this item will assist the Water Boards in reaching the following goals of the Strategic Plan Update: 2008-2012:

- Goal 6 - to enhance consistency across the Water Boards, on an ongoing basis, to ensure our processes are effective, efficient, and predictable, and to promote fair and equitable application of laws, regulations, policies and procedures; and
- Goal 3 - to increase sustainable local water supplies available for meeting existing and future beneficial uses by 1,725,000 acre-feet per year, in excess of 2002 levels, by 2015, and ensure adequate flows for fish and wildlife habitat. In particular, approval of this item will assist in fulfilling Objective 3.3 to ensure that adequate stream flows are available for the protection of fish and wildlife habitat while meeting the need for diversions of water for other uses.