



State Water Resources Control Board

November 7, 2024

REQUEST FOR TRIBAL CONSULTATION REGARDING A SCIENTIFIC BASIS REPORT AND ACCOMPANYING WORKSHOP FOR MILL, DEER, AND ANTELOPE CREEKS

Dear Tribal Representative,

The State Water Resources Control Board (State Water Board or Board) will develop a Scientific Basis Report regarding instream flows in Mill, Deer, and Antelope Creeks. The Board will also be holding a workshop regarding the development of the Scientific Basis Report on December 9, 2024. During the workshop, staff from the State Water Board and the California Department of Fish and Wildlife (CDFW) will provide a presentation, followed by the opportunity for public comment. The purpose of this workshop is to seek input on the best available science regarding instream flows for salmonids to inform the drafting of the Scientific Basis Report. Consistent with the State Water Board's Tribal Consultation Policy and Executive Order B-10-11, this letter provides notification of an opportunity for consultation on the Scientific Basis Report.

BACKGROUND

Mill, Deer, and Antelope Creeks provide critical habitat for Central Valley spring-run Chinook salmon and Central Valley steelhead. Both species are listed as threatened under the federal Endangered Species Act (ESA) and spring-run is also listed as threatened under the State ESA, with both species experiencing significant declines in recent years. Mill and Deer Creeks support some of the last self-sustaining populations of Central Valley spring-run Chinook salmon and have been identified as high-priority tributaries for the protection and recovery of that species, as well as Central Valley steelhead. Extinction risk of spring-run populations on Mill and Deer Creeks has increased from low or moderate to high in recent years. Very few spring-run Chinook salmon returned in 2023, indicating a cohort failure. Antelope Creek also supports Central Valley steelhead. Recent fires are also expected to exacerbate concerns for salmon and steelhead in these watersheds.

Emergency curtailment regulations were implemented in these creeks during the drought in 2014/2015 and in Mill and Deer Creeks in 2021/2022. Emergency regulations were not implemented in Antelope Creek during this most recent drought due to a Lake and Streambed Alteration Agreement being in place that includes instream flow provisions. However, Lake and Streambed Alteration Agreements only have a five-year term and have no guarantee of renewal.

Mill, Deer, and Antelope Creeks all contain diversion dams downstream of high-quality spawning habitat in their upper watersheds. Salmonids (including spring-run Chinook

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and steelhead) must pass these diversion dams and shallow stream reaches to access these critical habitats. Adequate flows are needed in the lower reaches of these streams to allow for fish passage, especially during the drier months of fish migration, June and October. Flows are also needed to provide adequate temperatures for salmonids and to support maintenance of a healthy riparian corridor that can support the recovery of native fish and other aquatic species.

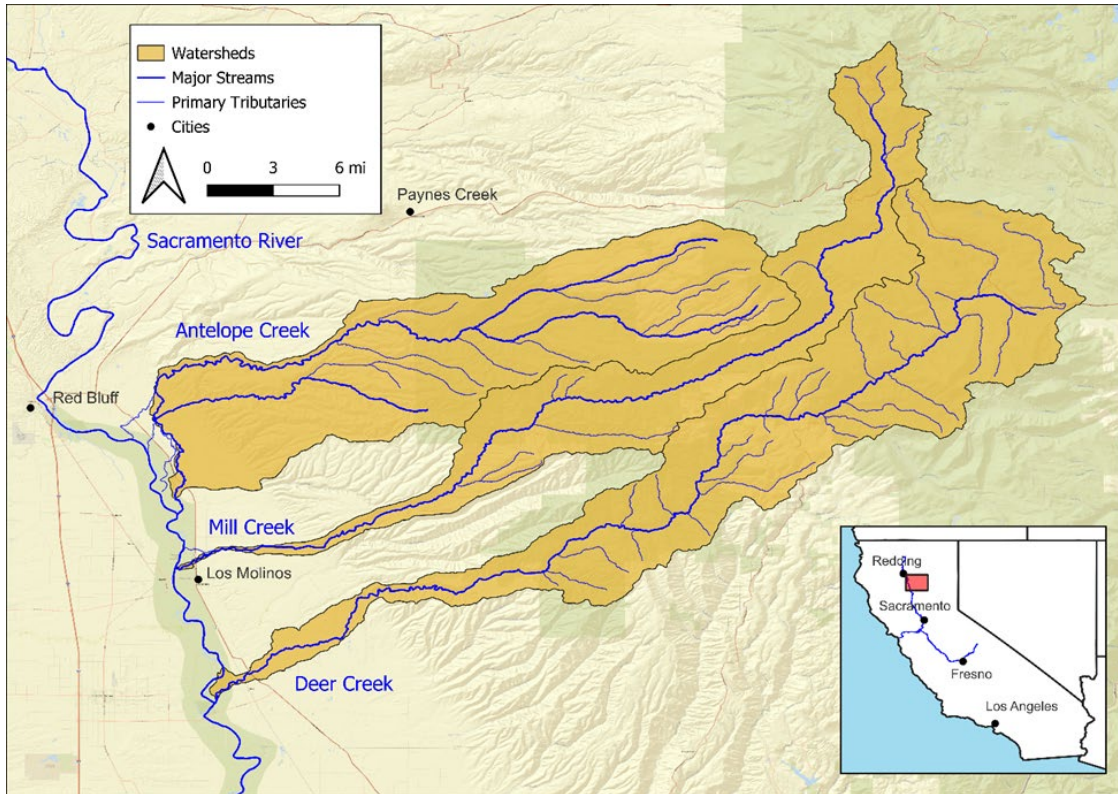


Figure 1 – Map of the Antelope, Mill, and Deer Creek watersheds

SCIENTIFIC BASIS REPORT DEVELOPMENT

On January 30, 2024, the Governor issued the California Salmon Strategy for a Hotter, Drier Future (<https://www.gov.ca.gov/wp-content/uploads/2024/01/Salmon-Strategy-for-a-Hotter-Drier-Future.pdf>). As part of that strategy the Board and CDFW were directed to “begin review of the Mill, Deer, and Antelope creek instream flow recommendations and use the information to inform a long-term flow-setting process; conduct a scientific basis investigation that compiles the best available science and describes how it relates to flow setting; and develop analysis for a range of flows” for Mill, Deer, and Antelope Creeks. (California Salmon Strategy for a Hotter, Drier Future, p. 22.) The strategy aims to adapt California's salmon habitats to the changing climate by ensuring water management meets ecological needs. In addition, the strategy emphasizes the significance of conducting scientific investigations to establish a range of flow conditions conducive to the health and survival of salmon populations.

On February 15, 2024, the State Water Board received a letter from CDFW containing comprehensive instream flow recommendations and other monitoring information

regarding instream flow needs for Mill, Deer, and Antelope Creeks.¹ CDFW expressed concern over the survival of anadromous salmonids in these creeks, notably spring-run Chinook salmon and steelhead, due to insufficient instream flows resulting from water diversions, and exacerbated by climate change and increased drought frequency. The letter outlined the steep declines in salmonid populations in these creeks, with only 9 and 23 spring-run Chinook salmon returning to Mill and Deer Creeks, respectively, in 2023, indicative of a significant cohort failure.

WORKSHOP DETAILS

State Water Board staff will host a virtual public workshop to provide information and solicit input regarding the Scientific Basis Report for Mill, Deer, and Antelope Creeks. The workshop will include a presentation on the CDFW recommendation and include an opportunity for participants to provide oral comments regarding the best available scientific and technical information that should be considered in the development of a draft Scientific Basis Report that will be made available for public review and comment.

Written comments may also be submitted as outlined in the “Written Public Comments” section below.

Details of the workshop are as follows:

Monday, December 9, 2024

1:00 pm PST

Remote Participation Only

VIEWING AND REGISTRATION REQUIREMENTS

If you wish to view the workshop only, a webcast will be available at <https://video.calepa.ca.gov/>. This option does not require registration and should be used for viewing the workshop; however, it does not allow oral comments to be made. If you wish to make oral comments during the workshop, please submit a **Virtual Speaker Card using the online registration form** (forms.office.com/g/78FBVa8DUT). Staff will respond to your Virtual Speaker Card with the information needed to join the workshop via Zoom. Comments should be technical in nature, addressing the topics identified above. Comments will be limited to 5 minutes per speaker unless you request to make a presentation, in which case presentations will be limited to 10 minutes. Comments and presentations may be further limited based on the number of commenters as needed.

If you wish to use a PowerPoint presentation at the workshop, please indicate so on the Virtual Speaker Card. PowerPoint presentations are required to be submitted to MillDeerAnt-Flows@waterboards.ca.gov no later than **noon on December 5, 2024**. Presentations must be in **PowerPoint format and should not include any transitions or external media sources**. Please be aware that State Water Board staff will be projecting and advancing PowerPoint slides during presentations. Speakers are

¹ Minor corrections were made to the letter in a revision dated February 21, 2024 (https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/docs/2024/2024.04.16-revised-cdfw-ltr.pdf).

encouraged to organize themselves as panels and should indicate this, if applicable, on their online form. Only one online form should be submitted for each panel presentation, clearly identifying the number and names of all panelists.

The meeting will be recorded and posted on the State Water Board's Mill, Deer, and Antelope Creeks Flow Recommendations webpage following the meeting at: https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/mill-deer-antelope-creeks.html

ACCESSIBILITY AND INTERPRETATION SERVICES

Individuals requiring special accommodations for the workshop, including interpretation services, should submit a request at least 10 business days before the meeting to LanguageServices@waterboards.ca.gov. Telecommunications Device for the Hearing Impaired (TDD) users may contact the California Relay Service at (800) 735-2929 or voice line at (800) 735-2922.

WRITTEN PUBLIC COMMENTS

Written comments should be submitted by email to MillDeerAnt-Flows@waterboards.ca.gov (if less than 15 megabytes in total size) with the subject "Comment Letter – Mill, Deer, Antelope Scientific Basis Report." In order to be fully considered, comments must be received by noon on January 15, 2025.

NEXT STEPS

After considering the comments received, as well as other relevant information, State Water Board staff will develop and circulate a draft Scientific Basis Report for additional public comment.

QUESTIONS AND ADDITIONAL INFORMATION

Questions concerning this notice may be directed to: MillDeerAnt-Flows@waterboards.ca.gov

CONSULTATION PROCESS

The State Water Board values Native American tribal input and is committed to meaningful involvement and consultation with California Native American Tribes. We request that you respond in writing via email to Tim Scully at Tim.Scully@waterboards.ca.gov within 30 days of receipt of this letter to request consultation. When submitting a request for consultation, please designate a lead contact person for the Tribe. You may also contact Tim Scully if you have any questions regarding this letter.

Respectfully,



Erik Ekdahl
Deputy Director, Division of Water Rights
State Water Resources Control Board