



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
650 Capitol Mall, Suite 5-100
Sacramento, California 95814-4700

October 27, 2022

Ms. Eileen Sobeck
Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-0100

Re: NOAA's National Marine Fisheries Service notice to State Water Resources Control Board regarding 2022 Merced River Conditions

Dear Ms. Sobeck:

The purpose of this letter is to alert the State Water Resources Control Board (SWRCB), Division of Water Rights, to recent observations of dewatered conditions in the lower Merced River. On August 23, 2022, staff from NOAA's National Marine Fisheries Service (NMFS) observed that the lower Merced River was dry. The dry river conditions are a significant concern to NMFS. NMFS is responsible for the administration of the Endangered Species Act (ESA) of 1973, as amended [16 U.S.C. 1531 *et seq.*] with regard to listed salmonids and green sturgeon. Within the San Joaquin River watershed and specifically the Merced River, NMFS has management authority over the threatened California Central Valley (CCV) steelhead (*Oncorhynchus mykiss*) and their designated critical habitat. In addition, NMFS has the responsibility of administering the Magnuson-Stevens Conservation and Management Act (MSA) for essential fish habitat (EFH) for Pacific Salmon. The San Joaquin River Basin is designated EFH for Pacific Coast Salmon, which includes the Central Valley (CV) spring-run Chinook salmon (*O. tshawytscha*), and the Evolutionarily Significant Unit (ESU) of fall/late-run Chinook salmon (*O. tshawytscha*). The Merced River is important to the viability and recovery of ESA-listed CCV steelhead within the Central Valley, as well as the viability of CV Chinook salmon in commercial and recreational fisheries under the MSA.

On August 23, 2022, NMFS staff observed bank-to-bank dry river conditions near the confluence of the Merced and San Joaquin Rivers. NMFS had been informed by California Department of Fish and Wildlife staff that the Merced River became dry near the confluence as early July 2022, and that dry river conditions extended several river miles upstream. The Merced River near Stevinson (MST) flow gage is operated by the Department of Water Resources and is located approximately five river miles upstream from the confluence with the San Joaquin River. According to the California Data Exchange Center (CDEC 2022), the MST flow gage showed a sharp decline in river flow to near zero cubic-feet-per-second (cfs) as early as June 2022, and continued to show flows of near zero cfs until October 6, 2022. In contrast, the Merced River Below Crocker-Huffman Dam (MBH) flow gage never dropped to near zero cfs during the same timeframe (CDEC 2022).

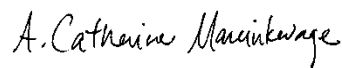


Flowing water is undisputedly necessary for the survival and recovery of salmonids listed under the ESA and those managed under the MSA. CCV steelhead are present year-round in the Merced River and the lack of sufficient flow is a known stressor for the current population of CCV steelhead. Dry river conditions in a large navigable waterway such as the Merced River, creates a major fish passage barrier for all native fish, including anadromous species managed by NMFS. The Water Quality Control Plan for the Sacramento River and San Joaquin River Basins lists the designated beneficial uses of water for the Merced River, from McSwain Reservoir to the San Joaquin River, to include: freshwater habitat, migration, spawning, and wildlife habitat, in addition to recreation, and agricultural and industrial uses (CRWQCB 2019). Water management within the Merced River that results in an approximately 5-mile stretch of the river to dewater from bank to bank does not support beneficial uses of water, especially those related to aquatic habitat for wildlife and fish.

We recommend to the SWRCB 40 percent of unimpaired flow year-round, specifically during the summertime period, as an emergency regulation. We also recommend the SWRCB investigate and address factors contributing to these unsuitable conditions in the lower Merced River for ESA and MSA managed fish species. NMFS is willing to collaborate with the SWRCB, Division of Water Rights, to find solutions and opportunities to avoid similar conditions in the Merced River in the future.

NMFS looks forward to continuing to work with SWRCB in the Merced River and San Joaquin River Basin. Please direct questions regarding this letter to Monica Gutierrez at (916) 930-3657 or via e-mail at Monica.Gutierrez@noaa.gov.

Sincerely,



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References Cited:

California Data Exchange Center. 2022. California Department of Water Resources.
<https://cdec.water.ca.gov/>

California Regional Water Quality Control Board. 2019. Water Quality Control Plan for the California Regional Water Quality Control Board Central Valley Region. Revised February 2019. https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/#basinplans