

## STAFF SUMMARY FOR OCTOBER 17, 2018

**14. MARINE AND WILDLIFE/INLAND FISHERIES PETITIONS FOR REGULATION CHANGE****Today's Item****Information** ☐**Action** ☒

This is a standing agenda item for FGC to act on regulation petitions from the public that are related to marine and wildlife/inland fisheries issues. For this meeting:

- (A) Action on the petition for regulation change received at the Aug 2018 meeting
- (B) Pending regulation petitions referred to FGC staff and DFW for review

**Summary of Previous/Future Actions**

(A)

- Receipt of new petitions Aug 22-23, 2018; Fortuna
- **Today's action on petitions** **Oct 17, 2018; Fresno**

(B)

- FGC granted petition #2015-014 Apr 13-14, 2016; Santa Rosa
- WRC discussion and recommendation May 24, 2017; WRC, Sacramento
- FGC referred petitions to DFW Jun 21-22, 2017; Smith River
- WRC discussion Jan 11, 2018; WRC, Santa Rosa
- WRC discussion and recommendation Sep 20, 2018; WRC, Sacramento
- **Today's discussion and possible action** **Oct 17, 2018; Fresno**

**Background**

As of Oct 1, 2015, any request for FGC to adopt, amend, or repeal a regulation must be submitted on form FGC 1, "Petition to the California Fish and Game Commission for Regulation Change" (Section 662, Title 14). Petitions received at an FGC meeting are scheduled for consideration at the next business meeting, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b). A petition may be (1) denied, (2) granted, or (3) referred to committee, staff or DFW for further evaluation or information-gathering.

- (A) ***Petition for regulation change.*** One marine regulation petition from Aug 2018 is scheduled for action today:

- I. *Petition #2018-010 AM 1: Convert non-transferable commercial nearshore permits to transferable permits*

A staff recommendations and rationale are provided below.

- (B) ***Pending regulation petitions.*** This item is an opportunity for staff to provide a recommendation on petitions previously referred by FGC to staff, DFW, or committee for review. DFW and WRC have completed their reviews and prepared recommendations for two petitions:

- I. *Petition #2015-014: Mendocino, Sonoma and Marin counties' coastal streams (exhibits B1-B2).*

## STAFF SUMMARY FOR OCTOBER 17, 2018

II. *Petition #2015-015: Russian River fishing regulations and minimum flow requirements* (exhibits B3-B4).

For a detailed overview of the process used to consider the petitions, see Exhibit B5. Staff recommendations are provided below.

**Significant Public Comments (N/A)****Recommendation**

- (A) **FGC staff:** Adopt DFW recommendation to deny the petition.

**DFW:** Deny petition #2018-010 AM-1. Price per pound was used as a basis to determine qualification for transferable versus non-transferable permits. Any review or changes to the nearshore restricted access program should include all aspects of the program and be informed by FGC's review of its Restricted Access Policy.

- (B) **FGC staff:** Adopt DFW recommendation to deny the petitions.

**WRC:** Deny petitions, as recommended by DFW and FGC staff.

**DFW:** Deny petitions #2015-014 and #2018-15. The proposed regulation changes conflict with state and federal fisheries management objectives and would undo recovery actions listed in National Marine Fisheries Service species recovery plans, as reflected in exhibits B2 and B4.

**Exhibits**

- A1. [Petition #2018-010 AM 1: Convert non-transferable commercial nearshore permits to transferable permits, received Jul 25, 2018](#)
- B1. [Petition #2015-014: Mendocino, Sonoma and Marin counties' coastal streams, received Dec 15, 2015](#)
- B2. [DFW memo with attachments regarding Petition #2015-014, received Sep 7, 2018](#)
- B3. [Petition #2015-015: Russian River fishing regulations and minimum flow requirements, received Dec 16, 2015](#)
- B4. [DFW memo with attachments regarding Petition #2015-015, received Sep 7, 2018](#)
- B5. [Staff summary from Sep 20, 2018 WRC meeting \(for background purposes only\)](#)

**Motion/Direction**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the staff recommendation to deny petitions for regulation change #2018-010, #2015-014, and #2015-015.

**OR**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the following actions for petitions for regulation change:

#2018-010: \_\_\_\_\_, #2015-014: \_\_\_\_\_, and #2015-015 \_\_\_\_\_.



Tracking Number: (2018-010)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

### SECTION I: Required Information.

*Please be succinct. Responses for Section I should not exceed five pages.*

1. **Person or organization requesting the change (Required)**  
Name of primary contact person: *RONNY BALISTRERI*  
Address:  
Telephone number:  
Email-address: *NO EMAIL*
2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: *713, 1050, 7071 AND 8587.1*
3. **Overview (Required)** - Summarize the proposed changes to regulations: *PLEASE SEE ATTACHED.*
4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: *PLEASE SEE ATTACHED.*

### SECTION II: Optional Information

5. **Date of Petition:**
6. **Category of Proposed Change**
  - ☐ Sport Fishing
  - ☒ Commercial Fishing
  - ☐ Hunting
  - ☐ Other, please specify:





7. **The proposal is to:** (To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)  
☒ Amend Title 14 Section(s): 150, 150.02  
☐ Add New Title 14 Section(s):  
☐ Repeal Title 14 Section(s):
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition**  
Or ☒ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.  
If the proposed change requires immediate implementation, explain the nature of the emergency:
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents:
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing:
12. **Forms:** If applicable, list any forms to be created, amended or repealed:

**SECTION 3: FGC Staff Only**

Date received:

FGC staff action:

- ☒ Accept - complete  
☐ Reject - incomplete  
☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: August 22-23, 2018

Meeting date for FGC consideration: October 17-18, 2018

FGC action:

- ☐ Denied by FGC  
☐ Denied - same as petition \_\_\_\_\_  
Tracking Number  
☐ Granted for consideration of regulation change

ORIGINAL  
DATE STAMP  
RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION

2018 JUL -5 PM 1:30

TODAY'S  
DATE STAMP

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION

2018 JUL 25 PM 1:30



# Instructions for Submitting a Petition for Regulation Change

Beginning October 1, 2015, every person or agency recommending that a regulation be added, amended, or repealed must submit a petition to the commission using the authorized petition form: [FGC 1 Petition to the California Fish and Game Commission for Regulation Change \(docx\)](#).

Please complete the form and submit it to the Commission

- in person at [Commission Meetings](#)
- via [e-mail to fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)
- via mail to California Fish and Game Commission, 1416 Ninth Street, Room 1320, Sacramento, CA 95814

A petition will be rejected by Commission staff if it is not submitted on form FGC 1, if it fails to contain necessary information in each of the required categories listed on FGC 1, or if it does not pertain to regulations under the Commission's authority. A rejected petition will be returned to the petitioner by the Commission staff within 10 working days of receipt.

**Commission Action on Petition:** An accepted petition will be scheduled for consideration at the next available Commission meeting. The Commission will consider the petition, the Commission staff's recommendation, Department of Fish and Wildlife's initial evaluation, if any, and any oral or written public comments received, and take one of the following actions:

- If the Commission finds that the petition does not provide sufficient information to indicate that the petitioned change may be warranted, the Commission may deny the petition.
- If any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted, the Commission may deny the petition.
- If the Commission finds that the petition provides sufficient information to indicate that the petitioned change may be warranted, the Commission may grant the petition for further consideration and add the petitioned change to its rulemaking schedule.

Questions regarding the use of the form should be directed to [fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov) or (916) 653-4899.

[Home Table of Contents](#)**§ 150. Nearshore Fishery Restricted Access Program.**

14 CA ADC § 150

**BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS**Barclays Official California Code of Regulations [Currentness](#)

Title 14. Natural Resources

Division 1. Fish and Game Commission-Department of Fish and Game

Subdivision 1. Fish, Amphibians and Reptiles

Chapter 6. Fish, Commercial (Refs &amp; Annos)

14 CCR § 150

**§ 150. Nearshore Fishery Restricted Access Program.***Regulation  
Section  
you'd like  
to  
change*

(a) Nearshore Fishery Permits issued pursuant to Fish and Game Code Section 8587, are valid only in the regional management area specified in the permit.

(b) The department shall issue a Nearshore Fishery Permit for a regional management area described in Section 52.04 to each nearshore fishery permittee who meets the regional qualifying criteria below. A person will receive only one Nearshore Fishery Permit for use in only one regional management area and cannot hold a valid permit for more than one regional management area. A person meeting the qualifications for more than one regional management area must make a permanent, irrevocable decision prior to obtaining a Nearshore Fishery Permit for the 2003-2004 permit year to fish in one regional management area. The permit shall not be changed to another regional management area under any circumstances.

(c) Nearshore Fish Stocks Used for Landings Qualification. The following names or market categories and their associated codes as recorded on department fish landing receipts pursuant to Fish and Game Code Section 8043 will be used to determine eligibility: black-and-yellow rockfish (251), cabezon (261), California scorpionfish (260), California sheephead (145), China rockfish (258), gopher rockfish (263), grass rockfish (652), greenlings of the genus Hexagrammos (290), kelp rockfish (659), group nearshore rockfish (973) and group gopher rockfish (962).

(d) Initial Permit Issuance.

(1) North Coast Region. The person has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked, and has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and satisfies the landings and participation requirements below:

(A) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, between January 1, 1994 and December 31, 1999, and

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, Title 14, CCR.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(1) are designated North Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North Coast Region only.

(2) North-Central Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.



(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04, Title 14, CCR.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(2) are designated North-Central Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North-Central Coast Region only.

(3) South-Central Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and has a valid 2002-03 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive, and which sold for a minimum average ex-vessel price per pound of \$2.00 for landings of nearshore fish stocks landed during the most current three calendar years with landings of nearshore fish stocks during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the South-Central Coast Region.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(3) are designated South-Central Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South-Central Coast Region only.

(4) South Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive, and which sold for a minimum average ex-vessel price per pound of \$2.00 for landings of nearshore fish stocks landed during the most current three calendar years with landings of nearshore fish stocks during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the South Coast Region as defined in Section 52.04, Title 14, CCR.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(4) are designated South Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South Coast Region only.

(e) Initial Qualification for 20-year California Commercial Fishermen. During the initial year of the nearshore restricted access program, any person who has been licensed as a California commercial fisherman for at least 20 years at the time of application, and who does not qualify for a permit in (d)(1), (2), (3), or (4) above, and who has participated in the commercial nearshore fishery for at least one of those years as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, upon application shall be issued a Non-Transferable Nearshore Fishery Permit for one regional management area, based on the following minimum landing requirements in subsection (e)(1), (2), (3), or (4) below:

(1) landed at least 200 pounds of nearshore fish stocks as described in Section 150.01 in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(1) are designated Non-Transferable North Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01 in the North Coast Region only.

(2) landed at least 650 pounds of nearshore fish stocks as described in Section 150.01 in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04.



(B) Nearshore Fishery Permits issued pursuant to subsection (e)(2) are designated Non-Transferable North-Central Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01 in the North-Central Coast Region only.

(3) landed at least 1,050 pounds of nearshore fish stocks as described in Section 150.01 in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the South-Central Coast Region as defined in Section 52.04.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(3) are designated Non-Transferable South-Central Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01 in the South-Central Coast Region only.

(4) landed at least 800 pounds of nearshore fish stocks as described in Section 150.01 in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the South Coast Region as defined in Section 52.04.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(4) are designated Non-Transferable South Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01 in the South Coast Region only.

(f) **Capacity Goal.** The capacity goal for each nearshore regional management area is as follows: 14 North Coast Region Nearshore Fishery Permits, 9 North-Central Coast Region Nearshore Fishery Permits, 20 South-Central Coast Region Nearshore Fishery Permits, and 18 South Coast Region Nearshore Fishery Permits. The capacity goal for Non-Transferable Nearshore Fishery Permits is zero.

(g) **Permit Transfers, Procedures and Timelines.**

(1) Pursuant to Fish and Game Code Section 8587.1(b), Fish and Game Code Section 7857(j) is made inoperative as applied to the commercial nearshore fishery.

(2) A person with a valid transferable nearshore fishery permit that has not been suspended or revoked may transfer his/her permit to a licensed California commercial fisherman. The permit shall be transferred for use in the same regional management area listed on the permit.

(3) Upon the death of a person with a valid transferable nearshore fishery permit, that person's estate shall immediately, temporarily relinquish the permit to the department's License and Revenue Branch. The estate may renew the permit as provided for in this section if needed to keep the permit valid. The estate of the decedent may transfer the permit pursuant to this section no later than two (2) years from the date of death of the permit holder as listed on the death certificate.

(4) The permit holder or the estate of the deceased permit holder shall submit the notarized transfer application and the nonrefundable permit transfer fee specified in Section 705 for each permit transfer. The transfer shall take effect on the date on the written notice of approval of the application given to the transferee by the department. The nearshore fishery permit shall be valid for the remainder of the permit year and may be renewed in subsequent years pursuant to this section.

(5) An application for a transfer of a nearshore fishery permit shall be deferred when the current permit holder is awaiting final resolution of any pending criminal, civil and/or administrative action that could affect the status of the permit.

(6) If a transferable nearshore fishery permit is transferred to a person with a valid non-transferable nearshore fishery permit, the non-transferable nearshore fishery permit shall become null and void and the permit shall be immediately surrendered to the department's License and Revenue Branch.

(7) Upon the death of a person with a valid non-transferable nearshore fishery permit, the permit shall become null and void and the estate shall immediately surrender the permit to the department's License and Revenue Branch.

(h) **Application Deadline for Initial Issuance of Nearshore Fishery Permit.** All applications (FG 1326(1/03), incorporated herein by reference) and permit fees for initial issuance of Nearshore Fishery Permits under the restricted access program must be received by the department, or, if mailed, be postmarked on or before June 30, 2003. Applications and permit fees for initial issuance of Nearshore Fishery Permits under the restricted access program received by the department, or, if mailed, postmarked from July 1 through July 31, 2003 will be assessed a \$50 late fee. Applications and permit fees for the initial issuance of Nearshore Fishery Permits under the restricted access program postmarked or received after July 31, 2003 shall be returned to the applicant unissued.

(i) **Nearshore Fishery Permit Renewal Requirements.** Notwithstanding Fish and Game Code Section 8587, after April 1, 2004, Nearshore Fishery Permits for a regional management area will be issued annually by the department only to those persons who have held a valid Nearshore Fishery Permit for that regional management area in the immediately preceding permit year.

(j) **Application Deadline for Nearshore Fishery Permit Renewal.** All applications as specified in Section 705 and permit fees for renewal of Nearshore Fishery Permits must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.



X  
Attn:

6-28-18

Ca. Fish & Game Commission  
Regarding Near Shore Permit

My husband has a near  
shore permit since 2002.  
My husband would like  
to transfer his permit.  
But Fish & Game won't  
allow my husband to  
transfer the permit  
because when my husband  
sold his rock cod to  
the market, he sold  
the Rock Cod for \$1.85 LB.  
The other fishermen sold  
their rock cod for  
\$2.00 a LB. They can  
transfer their permit,  
but my husband can't.  
My husband found out  
the near shore permits  
are transferable. On  
my husband's permit  
it says non transferable.

Thank You  
Hoping to hear from You soon!

-2-

We are hoping the Fish &  
Game Commission will  
change my husband's  
non transferable to  
a transferable permit.  
Regulations went into  
effect April 1st 2018

Thank You Again  
Edie Balistreri  
for

Benny Balistreri





Tracking Number: 2015-014

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov).

### **SECTION I: Required Information.**

*Please be succinct. Responses for Section I should not exceed five pages*

**1. Person or organization requesting the change (Required)**

Name of primary contact person: Patrick Kallerman

Address:

Telephone number:

Email address:

**2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested:**

Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code

**3. Overview (Required) - Summarize the proposed changes to regulations:**

This proposal would amend subsections of Chapter 3, Article 3, Section 7.50(b) – Alphabetical List of Waters with Special Fishing Regulations – and subsections of Chapter 3, Article 4, Section 8.00(b) – Low-Flow Restrictions Mendocino, Sonoma, and Marin County coastal streams: Stream Closures: Special Low Flow Conditions – Title 14, California Code of Regulations.

Proposed **amendments to subsections of 7.50(b)** would apply to the following streams (north to south): Usal Creek, Cottaneva Creek, Ten Mile River, Noyo River, Big River, Albion River, Navarro River, Greenwood Creek, Elk Creek, Alder Creek, Brush Creek, Garcia River, Gualala River, Russian Gulch, Salmon Creek, Walker Creek, and Sonoma Creek.

For Sonoma Creek (Sonoma County), and all streams tributary to the Pacific Ocean (and its bays) in Mendocino, Sonoma, and Marin counties, except for the Russian River:

- Amend Section 7.50(b) to permit only artificial lures with barbless hooks to be used year-round.
- Amend Section 7.50(b) to close streams to all angling from April 1<sup>st</sup> through October 31<sup>st</sup>.



Proposed **amendments to subsections of 8.00(b)** are:

- Amend Section 8.00(b) to leave the Navarro River open to angling on the main stem below the confluence of the North Fork Navarro when the applicable designated gauging station is less than the minimum flows set forth.
- Amend Section 8.00(b) to leave the Garcia River open to angling on the main stem below the Highway 1 bridge when the applicable designated gauging station is less than the minimum flows set forth.
- Amend Section 8.00(b) to leave the Gualala River open to angling on the main stem below the confluence of the North Fork Gualala when the applicable designated gauging station is less than the minimum flows set forth.

**4. Rationale (Required) - Describe the problem and the reason for the proposed change:**

The problem – Many of the Central Coast streams described in the Overview section are considered ‘focus populations’ for the recovery of ESA-listed salmonids and merit improved protection as habitat and from angling practices and equipment that are statistically more harmful to fish. These rivers are managed as steelhead and coho streams. There are no hatchery fish added to these streams to support a put-and-take fishery.

However, several of these streams – the Gualala, the Garcia, and the Navarro in particular -- are legendary steelhead fisheries that have played a prominent role in the evolution of the culture and techniques of modern steelhead angling. Because these three streams are so important to anglers, the angling regulations for them deserve more consideration in terms of alternative strategies and language that will better protect salmon and steelhead through all of their freshwater life history phases while enhancing angling opportunity.

Currently, these streams remain open to angling from mid-Spring to mid-Fall. The result is that current angling regulations allow catch of salmonid smolts, juveniles, and kelts when they are at their most vulnerable. In addition, the lack of a provision regarding use of barbless hooks on these streams probably elevates catch rates and likely increases stress on salmonid populations throughout the year. Lastly, the current flow triggers for angling closures on these streams, while well-intentioned, lack scientific justification, are needlessly over-restrictive, and dramatically reduce many of the lowest-impact angling opportunities. A simple adjustment in the stream reaches that are open to angling when streamflows drop below the current flow trigger would provide strong protection for fish, preserve a greater variety of angling opportunity, and help reduce poaching and other illegal activities all along these rivers.

The solution – (1) Transition to allowing only artificial lures with barbless hooks for all angling on these waters. This is a simple and pragmatic step to reduce angling impacts regardless of preferred tackle type and spread the use of a limited resource across a greater number of anglers.

(2) Limit angling only to periods when fully mature adult fish are in these streams. A strategically limited angling season will reduce angling pressure when salmon and steelhead are most vulnerable while preserving more angling opportunity in the traditional winter run steelhead season.

(3) Adjust the current regulations to allow angling for steelhead throughout the tidally influenced reaches of the Gualala, Garcia, and Navarro rivers when streamflows drop below the current trigger for



the designated gauging stations. The reaches proposed here to remain open are predominately tidally affected and therefore have adequate volume and flow for fish passage throughout the season. They are also well below the well documented spawning habitat in these rivers.

## SECTION II: Optional Information

5. **Date of Petition:** Click here to enter text.
6. **Category of Proposed Change**  
☐ Sport Fishing  
☐ Commercial Fishing  
☐ Hunting  
☐ Other, please specify: Click here to enter text.
7. **The proposal is to:** (To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)  
☐ Amend Title 14 Section(s): Click here to enter text.  
☐ Add New Title 14 Section(s): Click here to enter text.  
☐ Repeal Title 14 Section(s): Click here to enter text.
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.  
Or ☐ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.  
If the proposed change requires immediate implementation, explain the nature of the emergency: Click here to enter text.
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Click here to enter text.
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Click here to enter text.
12. **Forms:** If applicable, list any forms to be created, amended or repealed:  
Click here to enter text.

## SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:

- ☒ Accept - complete  
☐ Reject - incomplete  
☐ Reject - outside scope of FGC authority

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION  
2015 DEC 15 AM 8:10





Tracking Number

Date petitioner was notified of receipt of petition and pending action: 12/15/15

Meeting date for FGC consideration: Feb 10-11, 2016

FGC action:

☐ Denied by FGC

☐ Denied - same as petition \_\_\_\_\_

Tracking Number

☐ Granted for consideration of regulation change

## Memorandum

Date: September 6, 2018

To: Stafford Lehr, Deputy Director  
Wildlife and Fisheries Division

From: Kevin Shaffer, Chief  
Fisheries Branch



Subject: Fish and Game Commission Regulation Change Petition No. 2015-014

### Overview

On December 15, 2015, the Fish and Game Commission (Commission) received a Regulation Change Petition (Tracking Number 2015-014) concerning sport fishing regulations on Mendocino, Sonoma, and Marine County coastal streams (California Code of Regulations, Title 14, sections 7.50(b) and 8.00(b)). The Commission forwarded the petition to the Department of Fish and Wildlife (Department) for review and requested the Department to meet with the petitioner to discuss their requests and concerns. The proposed changes outlined in petition include the following:

- 1) Amend Section 7.50(b) to permit only artificial lures with barbless hooks to be used year-round;
- 2) Close streams to all angling from April 1 through October 31;
- 3) Amend Section 8.00(b) to leave the Navarro River open to angling on the main stem below the confluence of the North Fork Navarro when the applicable designated gauging station is less than the minimum flows set forth;
- 4) Amend Section 8.00(b) to leave the Garcia River open to angling on the main stem below the Highway 1 bridge when the applicable designated gauging station is less than the minimum flows set forth; and
- 5) Amend Section 8.00(b) to leave the Gualala River open to angling on the main stem below the confluence of the North Fork Gualala when the applicable designated gauging station is less than the minimum flows set forth.

Fisheries management staff met with the petitioner on two separate occasions to discuss their proposed regulation changes. For the reasons stated herein, the Department does not support the proposed regulation changes in this petition, and recommends that the Commission deny this petition. Attached are formal responses to this petition from the Department, memo dated April 24, 2018, and from the National Marine Fisheries Service (NMFS), letter dated April 4, 2018. Please refer to the attached documents for additional information including detailed summaries, figures, data and photos that support the Department's recommendation to deny this petition.

### Background

In 2014, the Department proposed regulatory changes to Title 14, Chapter 3, Article 4, Section 8.00, subsection (b) to add low-flow fishing restrictions to the Russian River and base the closure of North Central-Coast streams on one or more stream gauges on rivers that are more representative of these North Central-Coast streams than the current regulated flows of the Russian River. The proposed regulatory changes were the result of a collaborative effort among NMFS, the Department, local stakeholders and watershed councils, to address fishery impact concerns that had arisen during the prior three years of drought, with the goal of protecting ESA-listed fish while still providing sport fishing opportunities.

On December 3, 2014, following two stakeholder meetings and three public Commission meetings, the Commission adopted a low flow closure threshold for all Mendocino, Sonoma, and Marine County coastal streams open to sport fishing as currently designated in Title 14, Chapter 3, subsections 7.50(b) and 8.00(b)(1). These newly implemented low flow fishing regulations, which include the Navarro, Garcia, and Gualala rivers, are in alignment with the Department and NMFS' fisheries management objectives and mission to protect and recover ESA-listed salmonids under the federal and state ESAs.

Approximately nine months after the regulations went into effect, the Commission received a petition (Tracking Number 2015-014) to amend the newly adopted low flow closure regulations on Mendocino, Sonoma, and Marine County coastal streams. The Commission forwarded the Petition to the Department for review and directed the Department to meet with the petitioner to discuss the petitioner's concerns and requests.

### Coordination with Petitioner

- Meeting in Santa Rosa on November 8, 2017 – Fisheries management staff from Region 1, Region 3, and Fisheries Branch met with the petitioner to answer questions and discuss their concerns. The purpose of this meeting was not for the Department to give definitive answers to the petitioner's regulation change requests but rather to have open dialogue.
- Wildlife Resources Committee (WRC) Meeting on January 18, 2018 – The Chief of Fisheries Branch presented the Department's recommendation to the WRC that it not move forward with the proposed regulation changes in Regulation Change Petition Tracking Number 2015-014. After hearing comments from the public, the WRC did not make a ruling on the petition and asked the Department to meet with the stakeholders again.
- Meeting in Santa Rosa on July 11, 2018 – Department held a second meeting with the petitioner to discuss their proposed regulation changes and answer questions.



In attendance were six Department staff, three NMFS staff, the petitioner and one stakeholder. The Department asked NMFS to attend the meeting because the agency had been involved in the development of the low flow regulations in 2014, including providing its own proposal for low flow fishing restrictions on north central coast rivers.

#### Responses to Proposed Regulation Changes

- 1) The Department does not support a year-round restriction on the use of bait on the subject waters at this time. Current regulation allows the use of bait, artificial lures, and only barbless hooks from November 1 to March 31, in the subject waters. Bait fishing for steelhead can be effective during river conditions that are higher flow and cloudier water conditions that are not effective for artificial lures, and bait fishing is a gear type frequently used for steelhead angling. Amending the regulation or the removal of bait gear would significantly reduce a popular angling opportunity. Bait and gear restrictions on anadromous waters will be addressed by the Department during the development of pending statewide anadromous regulations.
- 2) The Department does not support amending the regulations to close all streams to fishing from April 1 to October 31. Fishing is currently closed from April 1 to the day before the fourth Saturday in May in the subject waters for the protection of post spawn adult steelhead that are migrating downstream to the ocean and for downstream migrating salmonid juveniles. From the fourth Saturday in May to October 31 these waters are open to catch and release of resident trout and fishing for non-native fish species present in some streams. Anecdotal CDFW observation of fishing pressure that occurs from the fourth Saturday in May to October 31 indicates very little fishing and impact to native fish occurs during this time period. Amending the regulation to close fishing from April 1 to October 31 does not provide significant additional protection to the fisheries resource and reduces fishing opportunity. Fishing seasons on anadromous waters will be addressed by the Department during the development of pending statewide anadromous regulations.
- 3) The Department does not support the proposal to open angling in the lower portions of the Gualala, Navarro, and Garcia rivers during low flow conditions. During low flow events, steelhead can be concentrated in shallow clear water, easily visible to anglers, and less able to migrate upstream. These conditions can create an increased state of stress for the fish and make them more prone to repeat hooking, which may lead to mortality.

Since the implementation of these regulations, the majority of the closures occur prior to the onset of winters rains, coinciding with migration periods of federally ESA-listed threatened California Coastal (CC) Chinook Salmon; and federally and state ESA-listed endangered Central California Coast (CCC) Coho Salmon.

The attached responses to this petition prepared by the Department and NMFS include information to demonstrate that since the implementation of the 2015 low flow regulations, ample fishing opportunity through the winter and spring periods which coincide with the migration of steelhead, was available to anglers. It should be noted that the most of the low flow closures occur between September and December, which are prior to the primary run timing for steelhead.

### Conclusion

The Department does not support Regulation Change Petition (Tracking No. 2015-014). The proposed regulation changes conflict with state and federal fisheries management objectives and would undo recovery actions listed in NMFS species recovery plans. The Department and NMFS believe that the current low flow restrictions are working to improve the protection for ESA-listed salmonids during their upstream migrations to subsequent spawning destinations, and provide adequate fishing opportunity. The Department will continue to monitor flows on the Mendocino, Sonoma, and Marine County coastal streams and evaluate the effectiveness of the low flow closures. In addition, the Department will address gear and seasons on all coastal streams during development of pending statewide anadromous regulations. The Department strives to keep all waters of the state open to fishing as much as possible, for all angling types, will petition the Commission to change the current regulations if, in the future, data shows that the regulations are no longer effective.



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
West Coast Region  
777 Sonoma Avenue, Room 325  
Santa Rosa, California 95404-4731

June 29, 2018

Jonathan Nelson  
Anadromous Conservation and Management Program  
Fisheries Branch  
California Department of Fish and Wildlife  
830 S Street  
Sacramento, California 95811

Dear Mr. Nelson:

This letter is in regard to the Petition (Petition) for regulation change authored by Mr. Patrick Kallerman (petition tracking number 2015-014) to the California Fish and Game Commission (CFGF) recommending changes to freshwater fishing regulations within Mendocino County coastal stream indicated in Chapter 3, Article 3 subsections 7.50(b): Alphabetical List of Waters with Special Fishing Regulations; and subsections Chapter 3 Article 4, 8.00(b): Low-Flow Restrictions Mendocino, Sonoma, and Marin County coastal streams: Stream Closures: Special Low Flow Conditions: Title 14, California Code of Regulations. We understand Mr. Kallerman requests the following changes:

1. Amend Section 7.50(b) to permit only artificial lures with barbless hooks to be used year-round.
2. Amend Section 7.50(b) to close streams to all angling from April 1<sup>st</sup> through October 31<sup>st</sup>.
3. Amend Section 8.00(b) to leave the Navarro River open to angling on the main stem below the confluence of the North Fork Navarro when the applicable designated gauging station is less than the minimum flows set forth.
4. Amend Section 8.00(b) to leave the Garcia River open to angling on the main stem below the Highway 1 Bridge when the applicable designated gauging station is less than the minimum flows set forth.
5. Amend Section 8.00(b) to leave the Gualala River open to angling on the main stem below the confluence of the North Fork Gualala when the applicable designated gauging station is less than the minimum flows set forth.

Regarding Petition changes 1 and 2: We understand that gear and seasonal restrictions in anadromous trout waters will be addressed during the development of pending statewide anadromous regulations by California Department of Fish and Wildlife (CDFW). NOAA's National Marine Fisheries Service (NMFS) supports the current regulations at this time, but requests to discuss and evaluate any future proposed changes to the current sport fishing regulations together with CDFW prior to implementation.

Regarding Petition changes 3-5: Salmonids in many coastal watersheds in California can be subject to increased angling pressure during periods of extended or prolonged low-flow conditions. When low-flow conditions occur, adult salmonids are subjected to increased potential for mortality due to



the physiological stress, predation, and elevated angling pressure associated with decreased passage or migration opportunity caused by delayed or muted environmental cues such as flow and temperature changes. CDFW currently has low-flow closure regulations for most anadromous salmonid watersheds throughout California for the purpose of protecting adult salmonids during critical spawning and migration periods.

In 2013, NMFS, in close coordination with CDFW Regions 1 and 3, authored a proposed low-flow fishing closure regulation for Mendocino, Sonoma, and Marin County coastal streams to enhance the protection of federally Endangered Species Act (ESA) listed adult salmonids during prolonged low-flow periods (Enclosure 1). Following agency and public review where NMFS provided further data and information (Enclosure 2), in 2015 the CFGC supported a low-flow closure threshold for all Mendocino County Coastal Streams open to sport fishing, as currently designated in Title 14 Chapter 3, Articles 3 subsections 7.50(B) and 8.00(b)(1). These newly implemented low-flow fishing regulations, which include the Navarro, Garcia and Gualala Rivers, are in alignment with NMFS' mission to protect and recover ESA-listed salmonids under the federal ESA of 1973, as amended.

Since the implementation of these regulations, the enhanced protections have resulted in fishing restrictions prior to the onset of winter rains, coinciding with the migration periods of federally ESA-listed threatened California Coastal (CC) Chinook salmon; ESA-listed threatened Central California Coast (CCC) steelhead; ESA-listed threatened Northern California (NC) steelhead, and federally and state ESA-listed endangered Central California Coast (CCC) coho salmon. Enclosed, we provide information (Enclosure 3) to demonstrate that following river flow increases which coincide with the migration of steelhead, the remaining fishing season allowed for ample quality fishing opportunity through the winter and spring periods since implementation of the current low-flow fishing closures since 2015. We are available to discuss this information further with CDFW, Mr. Kallerman and members of the interested fishing community.

In summary, NMFS believes federally ESA-listed salmonids inhabiting Mendocino, Sonoma, and Marin County coastal streams should receive the necessary protection from anglers during critical low-flow periods to ensure species recruitment and conservation goals. NMFS supports appropriate low-flow closure thresholds for Mendocino, Sonoma, and Marin County coastal streams and the current protections which the regulations in subsections 7.50(b) and 8.00(b) provide. Further, we are committed to working with CDFW in the ongoing evaluation, development and improvement of California's sport fishing regulations.

If you have any questions or would like additional information regarding our letter or enclosed information, please contact Joshua Fuller at (707) 575-6096 or by email at [Joshua.Fuller@noaa.gov](mailto:Joshua.Fuller@noaa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'R M A' followed by a large flourish and the letters 'F O R'.

Alecia Van Atta  
Assistant Regional Administrator  
California Coastal Office

Enclosures



cc: Charlton Bonham, Director, CDFW, Sacramento, CA  
Stafford Lehr, Fisheries Branch Chief, CDFW, Sacramento, CA  
Gregg Erickson, Regional Manager, CDFW, Yountville, CA  
Eric Larson, Biological Programs Manager, CDFW, Yountville, CA  
Neil Manji, Regional Manager, CDFW, Redding, CA  
Tony LaBanca, Coastal Fisheries Environmental Program Manager, CDFW, Eureka, CA  
Allan Renger, Southern Humboldt and Mendocino Counties Fisheries Management  
Supervisor, CDFW, Fortuna, CA

# North Central District Fishing Regulation Proposal: Central Coast Streams

---

*NMFS*

*August 7, 2013*

## **I. Fishing Regulation Change Proposal**

**Central Coast Streams** – Stream closures: Special low-flow conditions pertaining to this proposal would apply to the following streams (north to south): Usal Creek, Cottaneva Creek, Ten Mile River, Noyo River, Big River, Albion River, Navarro River, Greenwood Creek, Elk Creek, Alder Creek, Brush Creek, Garcia River, Gualala River, Russian Gulch, Salmon Creek, Walker Creek, and Sonoma Creek.

### **Alternative 1: Extended low-flow restrictions based on the Navarro River stream gauge.**

1. Sonoma Creek (Sonoma County), and all streams tributary to the Pacific Ocean (and its bays) in Mendocino, Sonoma, and Marin counties, except for the Russian River.
  - a. **Minimum Flow:** From October 1 through April 1, **200 cfs** at the gauging station on the Navarro River along Hwy 128 (USGS 11468000; Mendocino County).
  - b. **Open Season and Special Regulations (general):**
    - i. Only artificial lures with barbless hooks may be used from the forth Saturday in May through October 31 (current).
    - ii. Only barbless hooks may be used from November 1 through March 31 (current).

### **Alternative 2: Extended low-flow restrictions based on the SF Gualala River stream gauge.**

1. Sonoma Creek (Sonoma County), and all streams tributary to the Pacific Ocean (and its bays) in Mendocino, Sonoma, and Marin counties, except for the Russian River.
  - a. **Minimum Flow:** From October 1 through April 1, **150 cfs** at the gauging station on the SF Gualala River near Sea Ranch (USGS 11467510; Sonoma County).
  - b. **Open Season and Special Regulations (general):**
    - i. Only artificial lures with barbless hooks may be used from the forth Saturday in May through October 31 (current).
    - ii. Only barbless hooks may be used from November 1 through March 31 (current).

# North Central District Fishing Regulation Proposal: Central Coast Streams

---

## **II. Current Regulation, Problem ESA Impacted Species, and Justification**

- a) **Regulation in question:** Chapter 3. Article 4. Supplemental Regulations. 8.00. Low-Flow Restrictions (b) (1): The Sonoma Creek (Sonoma County), and all streams tributary to the Pacific Ocean (and its bays) in Mendocino, Sonoma, and Marin counties, except for the Russian River. Minimum Flow: 500 cfs at the gauging station on the main stem Russian River near Guerneville (Sonoma County). **Page 69.**
- b) **Problem:**
- Central Coast Stream low-flow conditions are poorly represented by the Russian River gauge near Guerneville due to the differences in geography, rainfall, hydrology, and the functional differences between natural and regulated flows
  - Central Coast low flow closures intended by the regulation, are not triggered, when low flow conditions exist, due to elevated and regulated flows in the Russian River
  - Lack of closure results in extensive angling pressure on Central Coast streams when salmonids are most vulnerable and stressed
  - Many Central Coast Streams are considered 'focus populations' for the recovery of ESA-listed salmonids and require improved protection during the annual steelhead season.
- c) **Identification of listed species being impacted that will benefit from change:** (T) CCC & NC steelhead, (T) CC Chinook, and (E) CCC coho salmon
- d) **Description of impact from regulation and rationale/justification for recommended change:** Currently, low-flow closures of Central Coast Streams are triggered by a 500 cfs threshold measured at the Russian River Hacienda/Guerneville gauge. Unlike adjacent Central Coast Streams, the Russian River contains two large reservoirs resulting in highly regulated stream flows. These regulated flows create altered hydrologic conditions that often contribute to prolonged stream flows of 500 cfs or greater at the Hacienda/Guerneville gauge during the wet season. Using the Russian River Hacienda/Guerneville gauge has resulted in other Central Coast Streams remaining open to fishing during extensive low-flow periods. This situation exposes adult salmon and steelhead to extremely high fishing pressure when they are most vulnerable and stressed. The Russian River was selected as the flow standard for Central Coast Streams due to a previous lack of secure funding for individual stream flow gauges in this area. At present, there are stream flow gauges on the Navarro (USGS 11468000), SF Gualala (USGS 11467510), and Garcia (stage, CDEC GRC) rivers. NMFS prefers the use of the Navarro River gauge because it has the longest and most consistent hydrologic recorded among unregulated Central Coast Streams and has secured funding. Alternatively, the SF Gualala stream gauge also provides adequate hydrologic information and potentially could suffice as representative flow conditions for Central Coast Streams. Therefore, for the purpose of regulating special low-flow fishing conditions across various Central Coast Streams, either the Navarro or SF Gualala river gauges would be more appropriate than the Russian River. A low-flow trigger of 200 cfs on the Navarro gauge or 150 cfs on the SF Gualala gauge is proposed. NMFS believes a low-flow trigger of 200 cfs on the Navarro or 150 cfs on the SF Gualala is substantiated by the data and will: (1) significantly improve the protection for ESA-listed salmonids during their upstream migrations to subsequent spawning destinations; and (2) provide adequate fishing opportunity. These recommendations are based on: 1) the experience of NMFS fisheries biologists, 2) their extensive local angling experience, 3) North Fork Gualala adult steelhead passage studies, and 4) collaboration with local angling groups.
- e) **Remaining issues:**
- Agreement on stream gauge station to use for low-flow trigger – SF Gualala vs. Navarro.
  - Angling boundaries. Anglers propose no low-flow closures on estuaries.
  - Low-flow trigger 100 vs. 150 cfs SF Gualala.
  - Outline steps/process for implementation.



# North Central District Fishing Regulation Proposal: Central Coast Streams

---

## *III. Results*

- Navarro River gauge encompasses 303 mi<sup>2</sup> of watershed.
- South Fork Gualala gauge encompasses 161 mi<sup>2</sup> of watershed.
- NF Gualala gauge encompasses 47.1 mi<sup>2</sup> of watershed.
- North Gualala Water Company Site-Specific Studies Report prepared by Stillwater Sciences (Dec 2012) indicates at 60 cfs the lower reaches of NF Gualala become passable based on the Thompson (1972) criteria (p. 18).
- 150 cfs on the SF gauge ensures at least the same level of protection as current with the Hacienda gauge (RR) and additional protection during prolonged low-flow conditions (Table 1; Figures 1-3).
- 200 cfs on the Navarro gauge provides the most protection of low-flow triggers considered (Table 1; Figures 1-3).
- 100 cfs on the SF Gualala gauge and 500 cfs on the Hacienda gauge (RR) seem most similar when evaluating the number-of-fishing-days across years and potential low-flow triggers (Table 1).
- 150 cfs on the SF Gualala gauge and 200 cfs on the Navarro gauge seem most similar when evaluating the number-of-fishing-days across years and potential low-flow triggers (Table 1).
- All low-flow triggers provide very good protection during the fall months (Oct – Nov), but the Navarro provides the most across years (Table 1).
- 2012/13 Hacienda low-flow trigger for Central Coast Streams was the least protective of all years analyzed (Table 2, 3, 4, Figure 3).
- Stage height doesn't represent stream hydrology of the Garcia River or smaller streams well (Figure 4).
- 150 cfs on SF Gualala is roughly 200 cfs on the Navarro (Figure 5 a and b).
- Navarro vs. SF Gualala linear regression equation at 150 cfs on SF Gualala equals 209.9 cfs on the Navarro.
- SF vs. NF Gualala linear regression equation estimates at 150 cfs on SF Gualala equals 60.1 cfs on the NF Gualala gauge (Figure 6a). NF vs. SF Gualala estimates at 60 cfs NF equals 157.3 SF (Figure 6b).
- 6 fishing regulated Central Coast Streams are located north of the Navarro River; 7 to the south (Figure 7).
- 12 fishing regulated Central Coast Streams are located north of the Gualala River; 4 to the south (Figure 7).

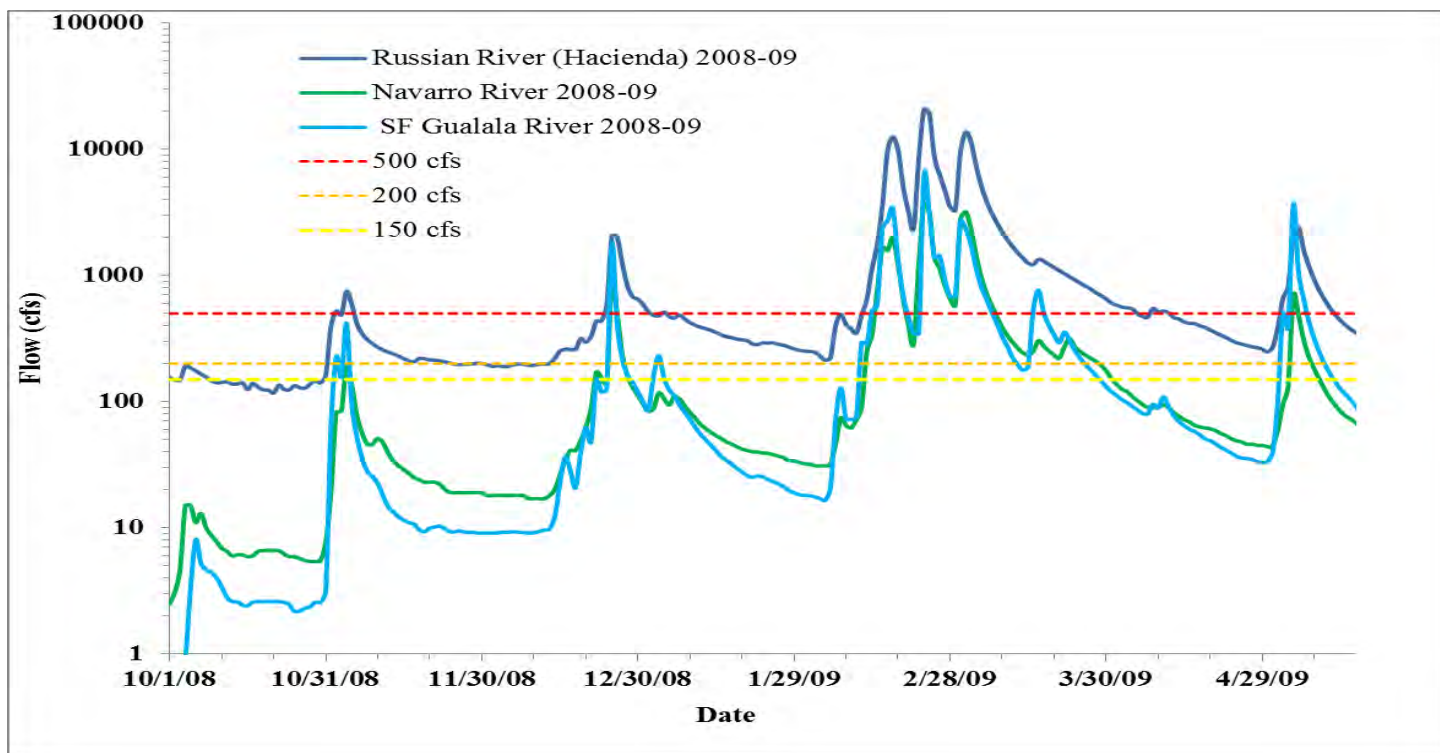
# North Central District Fishing Regulation Proposal: Central Coast Streams

**Table 1.** Comparison of number-of-fishing-days analysis for selected low-flow triggers using SF Gualala River, Navarro River, and Russian River at Hacienda gauges. Information includes the percentage and number-of-days estimated under potential low-flow triggers from each gauge. Highlighted green indicates years that experienced severe low-flow conditions. *Stream flow source: USGS daily average.*

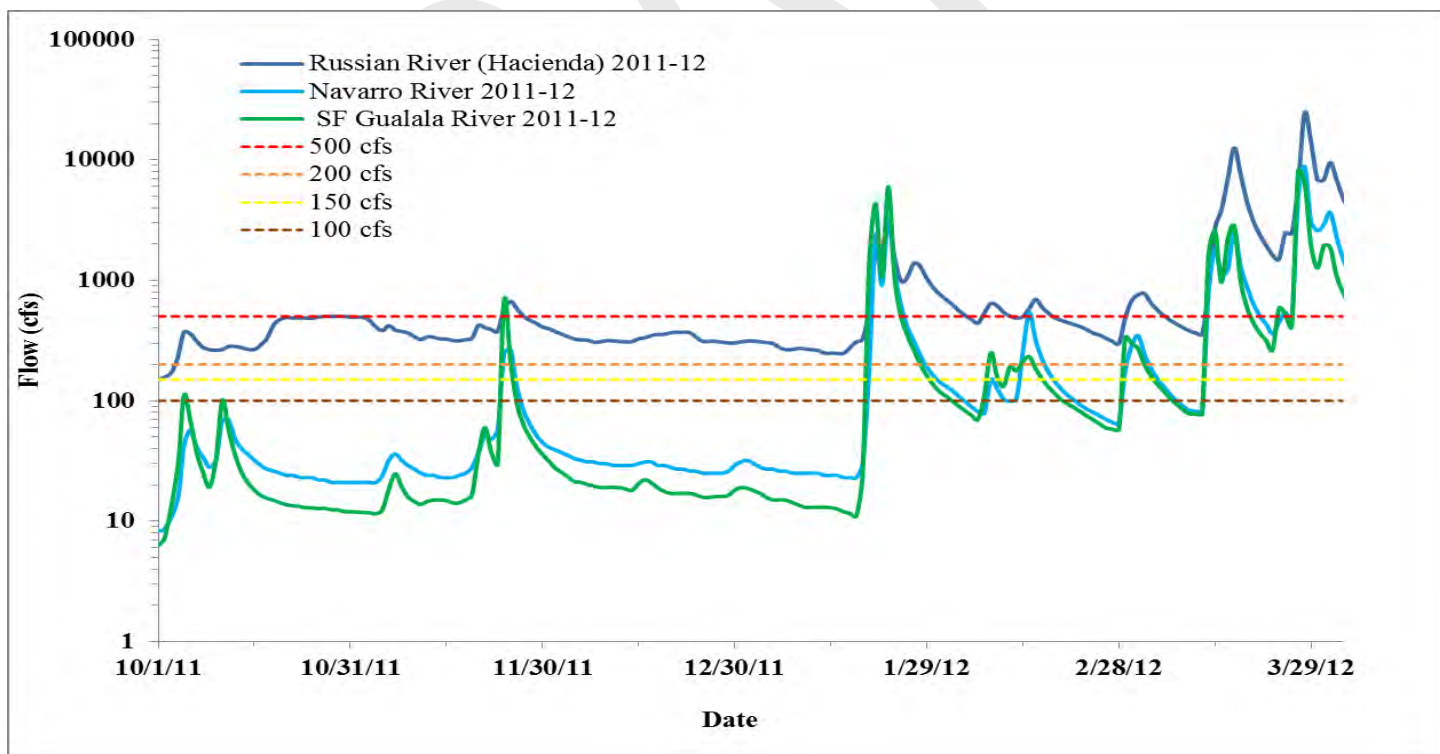
Flow (cfs)	Stream Gauge	2007-08*	2008-09	2009-10	2010-11	2011-12	2012 - 13
<b><u>September/October – November (61/91 d)</u></b>							
<100 [% (d)]	SF Gualala	100 (36*)	95 (58)	98 (60)	51 (31)	92 (56)	87 (53)
<150 [% (d)]	SF Gualala	100 (36*)	95 (58)	98 (60)	59 (36)	95 (58)	89 (54)
<200 [% (d)]	Navarro R.	100 (91)	100 (91)	100 (91)	76 (69)	98 (89)	96 (87)
<500 [% (d)]	Russian R.	100 (91)	97 (88)	100 (91)	56 (51)	92 (84)	89 (81)
<b><u>December (31 d)</u></b>							
< 100 [% (d)]	SF Gualala	35 (11)	71 (22)	68 (21)	0 (0)	100 (31)	0 (0)
<150 [% (d)]	SF Gualala	45 (14)	87 (27)	77 (24)	0 (0)	100 (31)	0 (0)
<200 [% (d)]	Navarro R.	71 (22)	90 (28)	94 (29)	0 (0)	100 (31)	0 (0)
<500 [% (d)]	Russian R	52 (16)	74 (23)	68 (21)	0 (0)	100 (31)	0 (0)
<b><u>January (31 d)</u></b>							
< 100 [% (d)]	SF Gualala	0 (0)	87 (27)	16 (5)	0 (0)	61 (19)	10 (3)
< 150 [% (d)]	SF Gualala	3 (1)	94 (29)	23 (7)	13 (4)	67 (21)	42 (13)
<200 [% (d)]	Navarro R.	16 (5)	100 (31)	29 (9)	13 (4)	74 (23)	42 (13)
<500 [% (d)]	Russian R	0 (0)	94 (29)	23 (7)	0 (0)	61 (19)	0 (0)
<b><u>February – March (59/60 d)</u></b>							
< 100 [% (d)]	SF Gualala	18 (11)	15 (9)	0 (0)	5 (3)	33 (20)	93 (55)
< 150 [% (d)]	SF Gualala	32 (19)	23 (14)	0 (0)	20 (12)	48 (29)	97 (57)
<200 [% (d)]	Navarro R.	32 (19)	24 (14)	0 (0)	22 (13)	57 (34)	95 (56)
<500 [% (d)]	Russian R	0 (0)	19 (11)	0 (0)	0 (0)	37 (22)	10 (6)

\*Flow data started 26 October 2007

## North Central District Fishing Regulation Proposal: Central Coast Streams



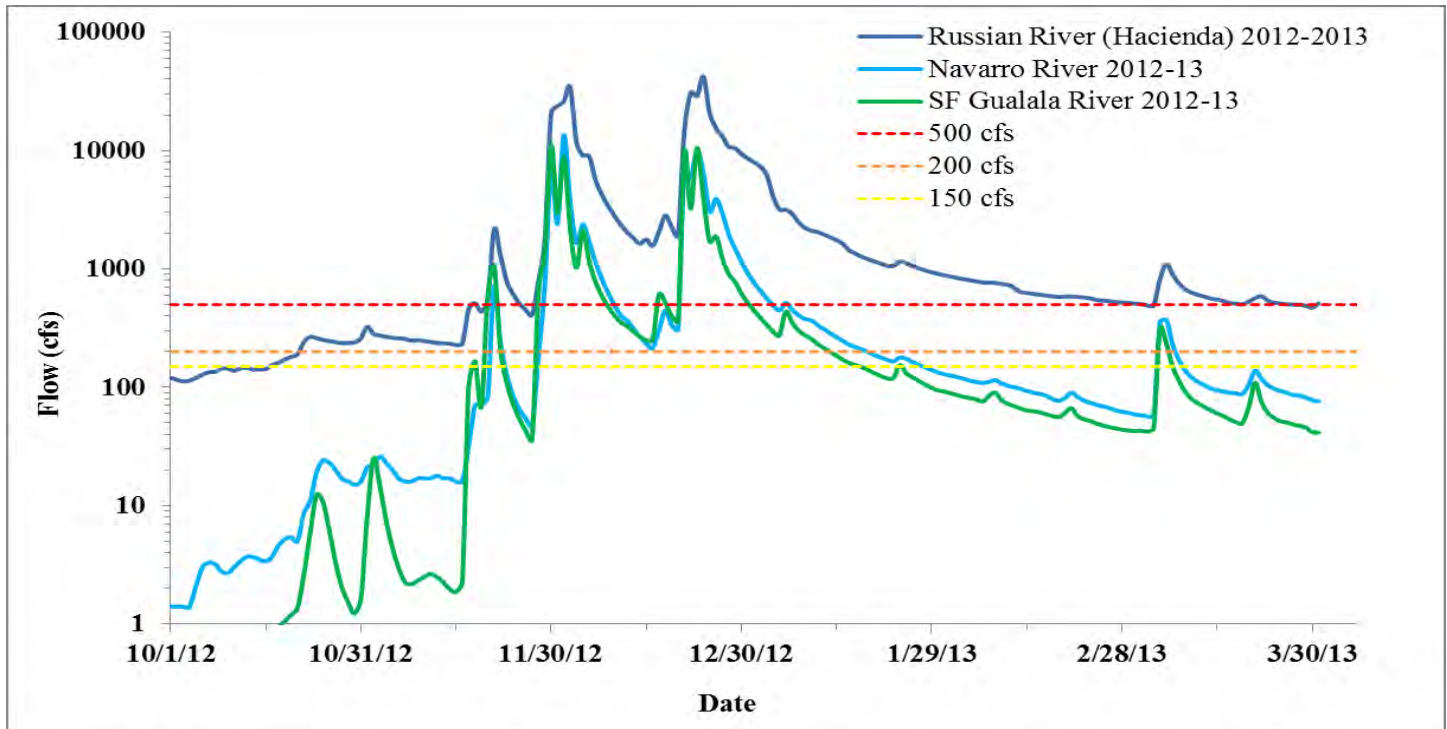
**Figure 1.** Hydrograph comparison of Russian (Hacienda), SF Gualala, and Navarro rivers 2008/09.



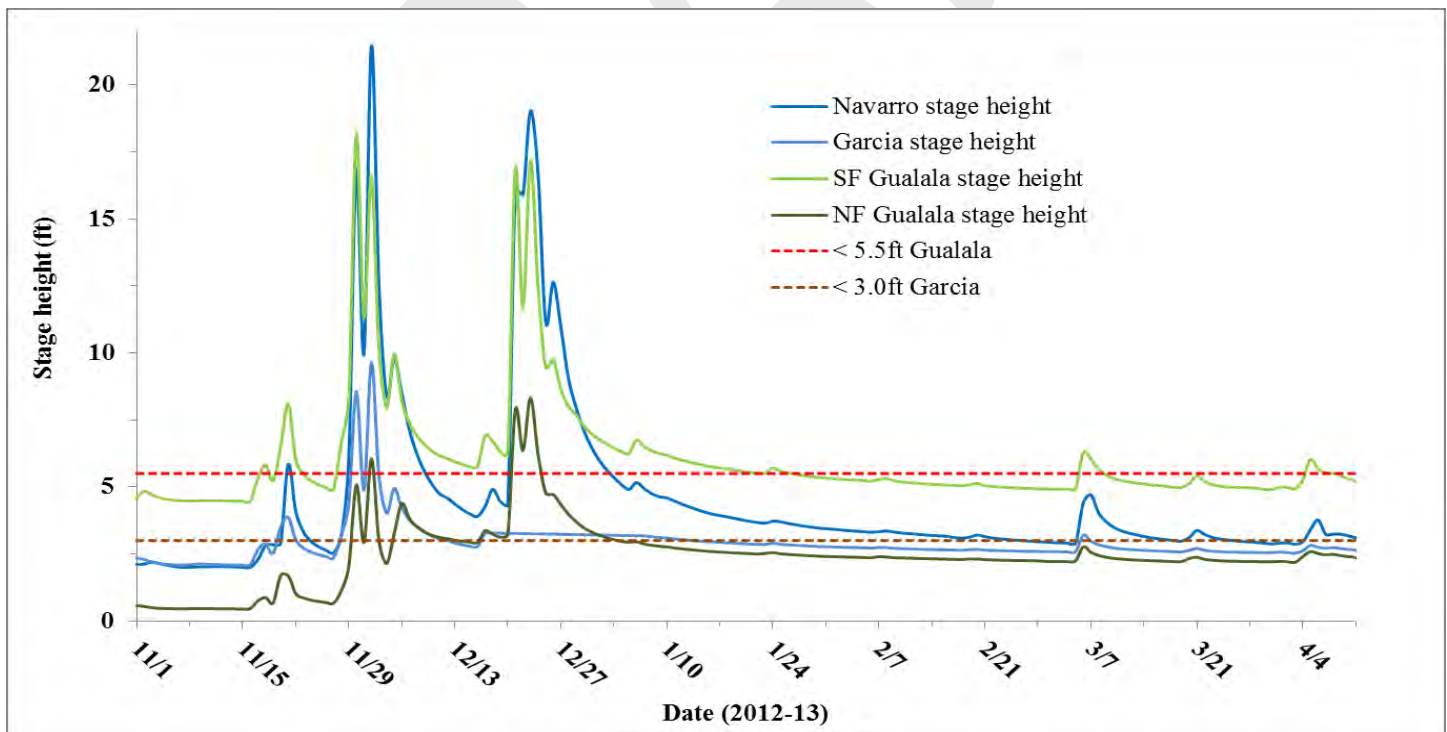
**Figure 2.** Hydrograph comparison of Russian (Hacienda), SF Gualala, and Navarro rivers 2011/12.



## North Central District Fishing Regulation Proposal: Central Coast Streams

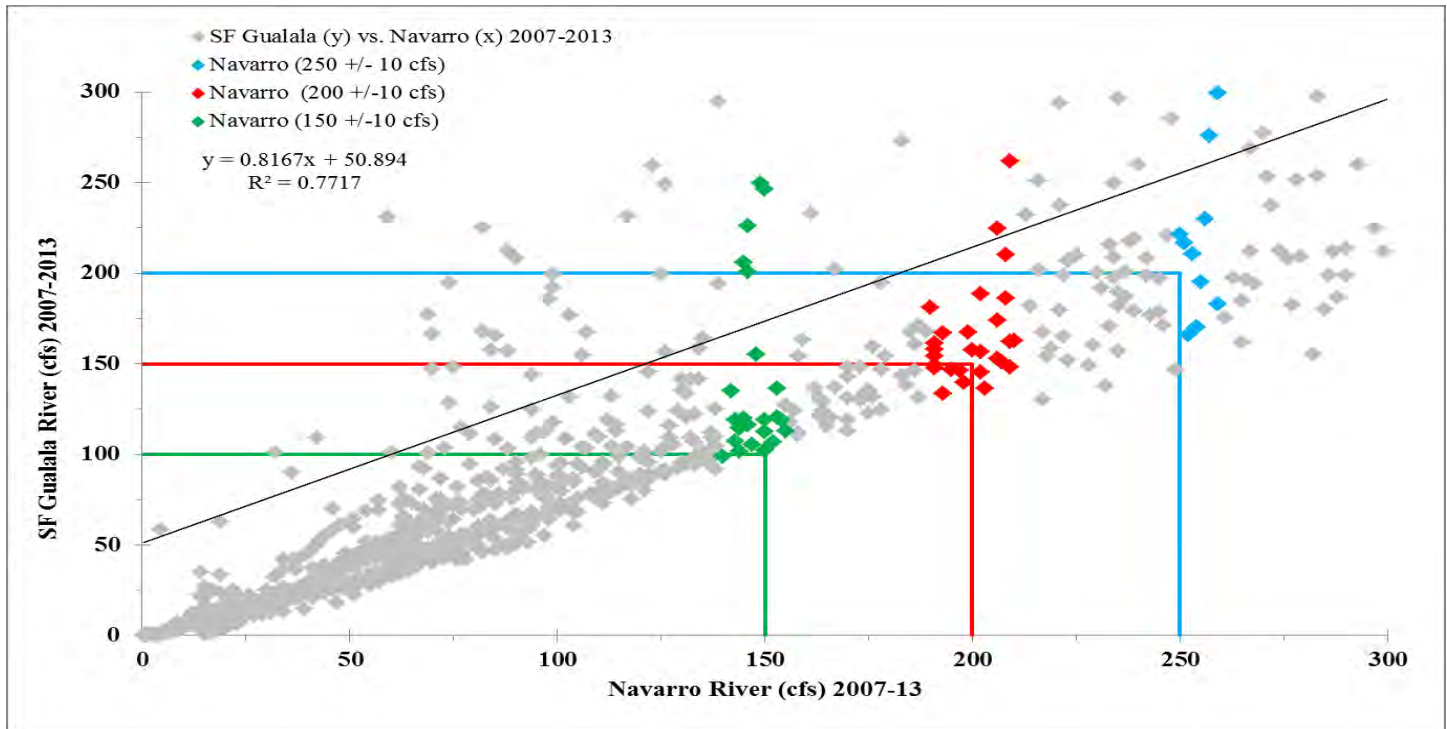


**Figure 3.** Hydrograph comparison of Russian near Guerneville (Hacienda), SF Gualala, and Navarro rivers 2012/13.

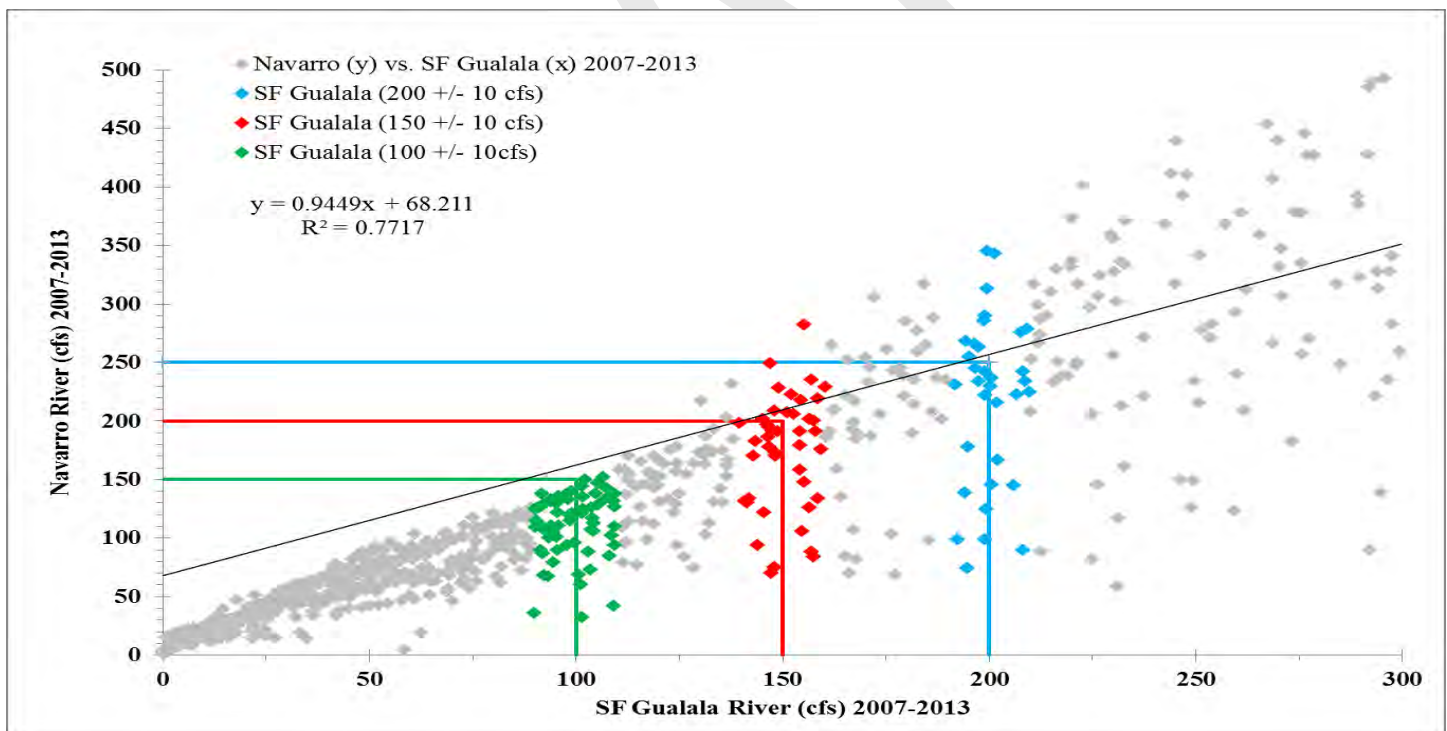


**Figure 4.** Comparison of stage height gauges on various Mendocino streams 2012-13. Stage elevations of 5.5 and 3.0 feet are considered severely low-flow fishing conditions on the Gualala and Garcia rivers, respectively.

## North Central District Fishing Regulation Proposal: Central Coast Streams



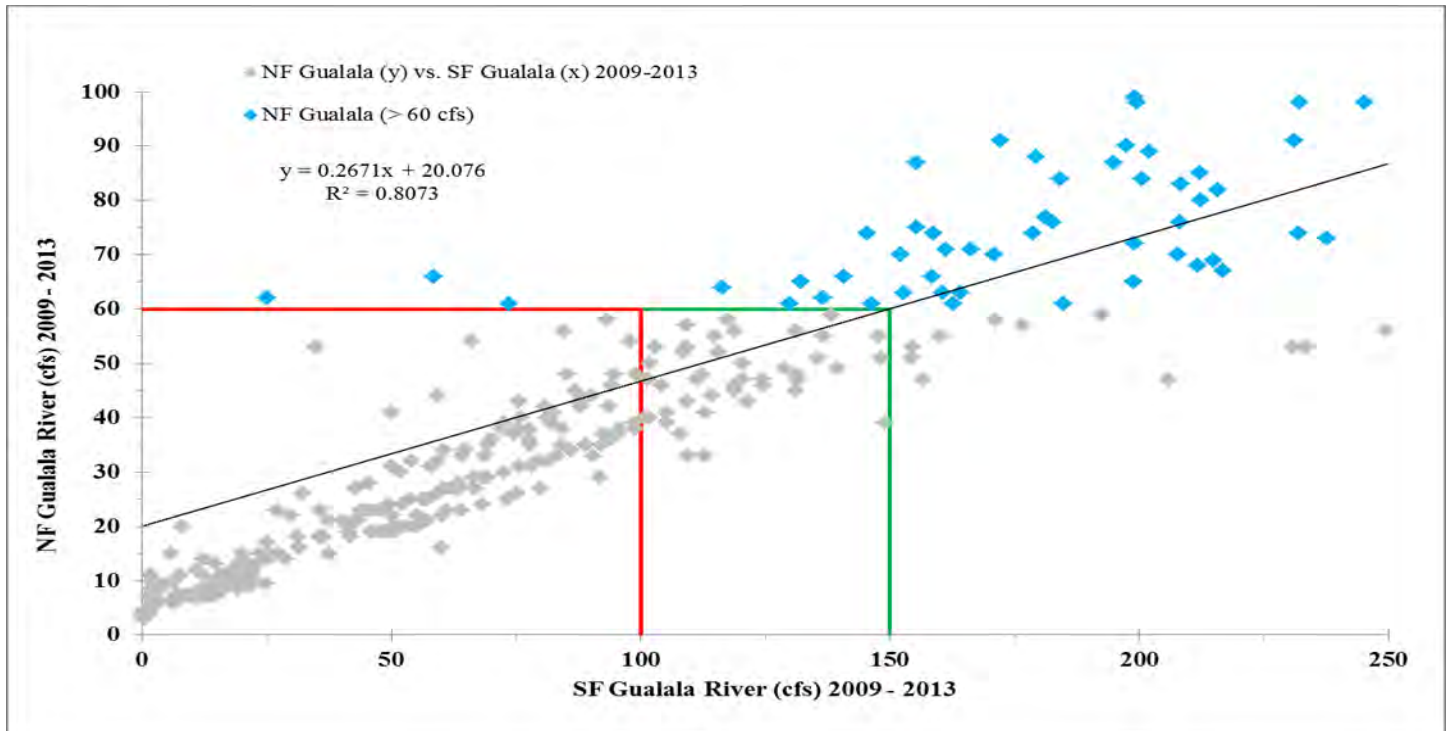
(a)



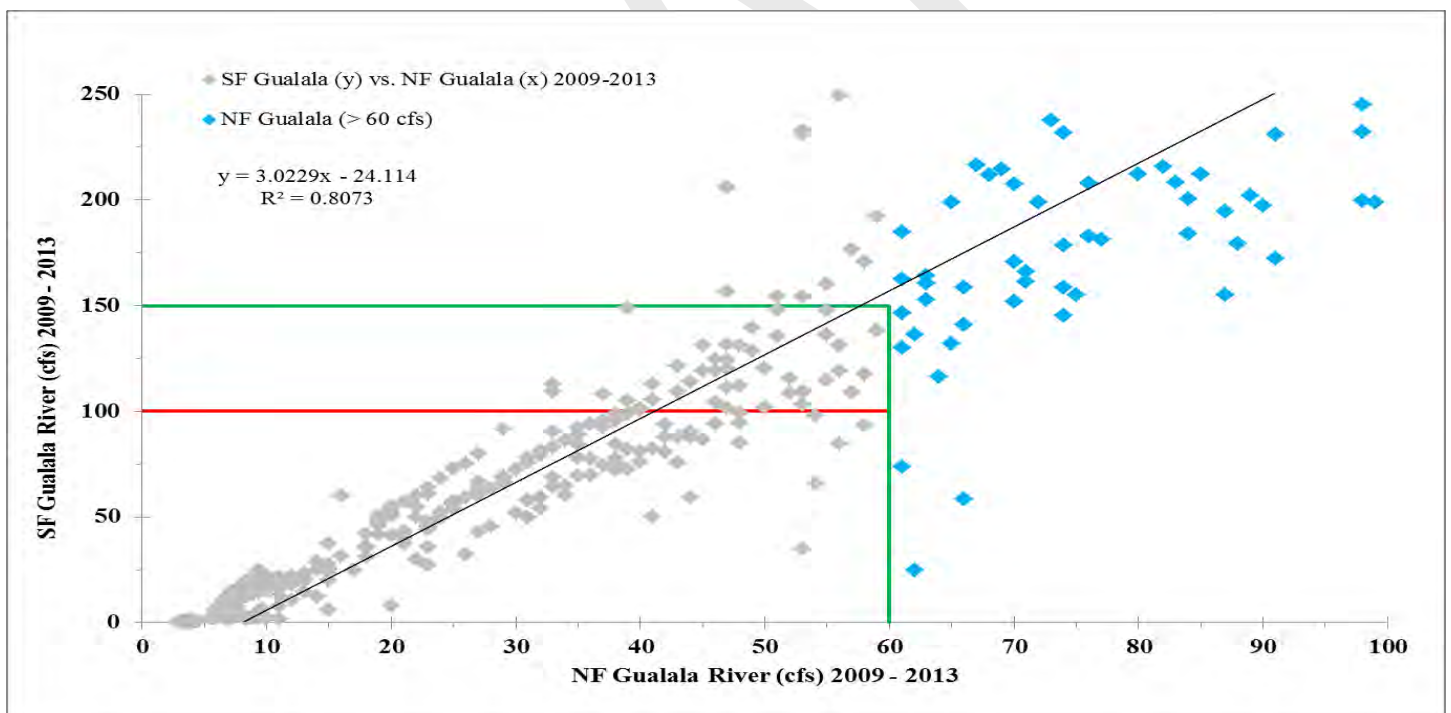
(b)

**Figure 5.** Linear regression comparisons (a,b) of SF Gualala River vs. Navarro River stream gauges using daily average flows during the same period of record (October 2007 through May 2013).

## North Central District Fishing Regulation Proposal: Central Coast Streams



(a)



(b)

**Figure 6.** Liner regression comparisons (a,b) of the NF and SF Gualala River stream gauges using daily average flows during the same period of record (October 2009 through March 2013).



## North Central District Fishing Regulation Proposal: Central Coast Streams

**Table 2.** *SF Gualala River gauge 2007/08 – 2012/13.* Information includes the percentage and number of days estimated under potential low-flow triggers using the SF Gualala gauge. SF Gualala stream flow information was only available from 26 October 2007 to current. Highlighted green indicates years that experienced severe low-flow conditions. Highlighted blue indicates a proposed low-flow trigger based on the SF Gualala gauge. *Stream flow source: USGS daily average.* \*Flow data started 26 October 2007.

Flow (cfs)	Year						% Total (d)
	2007-08*	2008-09	2009-10	2010-11	2011-12	2012 - 13	
<u>October – November (61 d)</u>							
< 100 [% (d)]	100 (36*)	95 (58)	98 (60)	51 (31)	92 (56)	87 (53)	86 (294)
<150 [% (d)]	100 (36*)	95 (58)	98 (60)	59 (36)	95 (58)	89 (54)	89 (302)
< 200 [% (d)]	100 (36*)	97 (59)	100 (61)	64 (39)	95 (58)	90 (55)	90 (308)
<250 [% (d)]	100 (36*)	98 (60)	100 (61)	70 (43)	97 (59)	92 (56)	92 (315)
<u>December (31 d)</u>							
< 100 [% (d)]	35 (11)	71 (22)	68 (21)	0 (0)	100 (31)	0 (0)	46 (85)
<150 [% (d)]	45 (14)	87 (27)	77 (24)	0 (0)	100 (31)	0 (0)	52 (96)
< 200 [% (d)]	63 (19)	90 (28)	81 (25)	6 (2)	100 (31)	0 (0)	56 (105)
< 250 [% (d)]	71 (22)	94 (29)	87 (27)	6 (2)	100 (31)	3 (1)	60 (112)
<u>January (31 d)</u>							
< 100 [% (d)]	0 (0)	87 (27)	16 (5)	0 (0)	61 (19)	10 (3)	29 (54)
< 150 [% (d)]	3 (1)	94 (29)	23 (7)	13 (4)	67 (21)	42 (13)	40 (75)
< 200 [% (d)]	23 (7)	97 (30)	26 (8)	29 (9)	74 (23)	61 (19)	52 (96)
< 250 [% (d)]	26 (8)	100 (31)	26 (8)	48 (15)	74 (23)	68 (21)	57 (106)
<u>February – March (59/60 d)</u>							
< 100 [% (d)]	18 (11)	15 (9)	0 (0)	5 (3)	33 (20)	93 (55)	27 (98)
< 150 [% (d)]	32 (19)	23 (14)	0 (0)	20 (12)	48 (29)	97 (57)	36 (131)
< 200 [% (d)]	40 (24)	33 (20)	5 (3)	22 (13)	58 (35)	97 (57)	42 (152)
< 250 [% (d)]	52 (31)	37 (22)	17 (10)	22 (13)	63 (38)	98 (58)	48 (172)
< 100 % Total (d)	37 (58)	63 (116)	47 (86)	19 (34)	69 (126)	61 (111)	20 (531)
< 150 % Total (d)	44 (70)	70 (128)	50 (91)	28 (52)	76 (139)	68 (124)	22 (604)
< 200 % Total (d)	54 (86)	75 (137)	54 (97)	34 (63)	80 (147)	72 (131)	24 (661)
< 250 % Total (d)	61 (97)	78 (142)	58 (106)	40 (73)	83 (151)	74 (136)	26 (705)

## North Central District Fishing Regulation Proposal: Central Coast Streams

**Table 3.** *Navarro River gauge 2003/04 – 2012/13.* Information includes the percentage and number of days estimated under potential low-flow triggers using the Navarro River stream gauge. Highlighted green indicates years that experienced severe low-flow conditions. Highlighted blue indicates a proposed low-flow trigger based on the Navarro River gauge. *Stream flow source: USGS daily average.*

Flow (cfs)	Year										% Total (d)
	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012/13	
<b><i>September – November (91 d)</i></b>											
< 100 [% (d)]	100 (91)	98 (89)	96 (87)	100 (91)	100 (91)	98 (89)	100 (91)	69 (63)	97 (88)	93 (85)	95 (865)
<150 [% (d)]	100 (91)	100 (91)	97 (88)	100 (91)	100 (91)	99 (90)	100 (91)	75 (68)	98 (89)	95 (86)	96 (876)
< 200 [% (d)]	100 (91)	100 (91)	97 (88)	100 (91)	100 (91)	100 (91)	100 (91)	76 (69)	98 (89)	96 (87)	97 (879)
<250 [% (d)]	100 (91)	100 (91)	99 (90)	100 (91)	100 (91)	100 (91)	100 (91)	79 (72)	99 (90)	97 (88)	97 (886)
<b><i>December (31 d)</i></b>											
< 100 [% (d)]	7 (2)	45 (14)	7 (2)	36 (11)	61 (19)	71 (22)	77 (24)	0 (0)	100 (31)	0 (0)	40 (125)
<150 [% (d)]	10 (3)	55 (17)	29 (9)	45 (14)	68 (21)	81 (25)	90 (28)	0 (0)	100 (31)	0 (0)	48 (148)
< 200 [% (d)]	13 (4)	58 (18)	39 (12)	52 (16)	71 (22)	90 (28)	94 (29)	0 (0)	100 (31)	0 (0)	52 (160)
< 250 [% (d)]	16 (5)	65 (20)	42 (13)	52 (16)	77 (24)	94 (29)	94 (29)	3 (1)	100 (31)	7(2)	55 (170)
<b><i>January (31 d)</i></b>											
< 100 [% (d)]	0 (0)	0 (0)	0 (0)	57 (17)	7 (2)	87 (27)	16 (5)	0 (0)	61 (19)	0 (0)	23 (70)
< 150 [% (d)]	0 (0)	0 (0)	0 (0)	68 (21)	7 (2)	100 (31)	26 (8)	0 (0)	65 (20)	13 (4)	28 (86)
< 200 [% (d)]	0 (0)	0 (0)	0 (0)	84 (26)	16 (5)	100 (31)	29 (9)	13 (4)	74 (23)	42 (13)	34 (106)
< 250 [% (d)]	0 (0)	10 (3)	0 (0)	97 (30)	29 (9)	100 (31)	32 (10)	29 (9)	77 (24)	55 (17)	43 (133)
<b><i>February – March (59/60 d)</i></b>											
< 100 [% (d)]	0 (0)	0 (0)	0 (0)	15 (9)	0 (0)	19 (11)	0 (0)	0 (0)	27 (16)	61 (36)	12 (72)
< 150 [% (d)]	0 (0)	0 (0)	0 (0)	32 (19)	18 (11)	19 (11)	0 (0)	14 (8)	50 (30)	93 (55)	23 (134)
< 200 [% (d)]	8 (5)	9 (5)	0 (0)	39 (23)	32 (19)	24 (14)	0 (0)	22 (13)	57 (34)	95 (56)	29 (169)
< 250 [% (d)]	18 (11)	22 (13)	0 (0)	44 (26)	48 (29)	37 (22)	2 (1)	24 (14)	60 (36)	97 (57)	33 (209)
< 100 % Total (d)	44 (93)	49 (103)	42 (89)	60 (128)	53 (112)	70 (149)	57 (120)	30 (63)	72 (154)	57 (121)	54 (1132)
< 150 % Total (d)	44 (94)	51 (108)	46 (97)	68 (145)	59 (125)	74 (157)	60 (127)	36 (76)	80 (170)	68 (145)	59 (1244)
< 200 % Total (d)	47 (100)	54 (114)	47 (100)	74 (156)	64 (137)	77 (164)	61 (129)	41 (86)	83 (177)	74 (156)	62 (1319)
< 250 % Total (d)	50 (107)	60 (127)	49 (103)	77 (163)	72 (153)	82 (173)	62 (131)	45 (96)	85 (181)	77 (164)	66 (1398)

## North Central District Fishing Regulation Proposal: Central Coast Streams

**Table 4.** *Russian River at Hacienda/Guerneville gauge 2004/05 – 2012/13.* Information includes the percentage and number of days estimated under potential low-flow triggers using Hacienda stream gauge. Highlighted green indicates years that experienced severe low-flow conditions. Highlighted blue indicates the current low-flow trigger for coastal streams based on the Hacienda stream gauge. *Stream flow source: USGS daily average.*

Flow (cfs)	Year									% Total (d)
	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	
<u>September – November (91 d)</u>										
< 250 [% (d)]	52 (47)	60 (55)	71 (65)	86 (78)	88 (80)	85 (77)	46 (42)	37 (34)	73 (66)	66 (544)
< 300 [% (d)]	57 (52)	82 (75)	78 (71)	100 (91)	91 (83)	95 (86)	47 (43)	53 (48)	85 (77)	78 (628)
< 350 [% (d)]	78 (71)	91 (83)	88 (80)	100 (91)	93 (85)	96 (87)	47 (43)	62 (56)	85 (77)	83 (679)
< 500 [% (d)]	97 (88)	92 (84)	100 (91)	100 (91)	97 (88)	100 (91)	56 (51)	92 (84)	89 (81)	91 (749)
<u>December (31 d)</u>										
< 250 [% (d)]	0 (0)	0 (0)	0 (0)	0 (0)	45 (14)	16 (5)	0 (0)	0 (0)	0 (0)	7 (19)
< 300 [% (d)]	0 (0)	0 (0)	0 (0)	16 (5)	61 (19)	35 (11)	0 (0)	0 (0)	0 (0)	13 (35)
< 350 [% (d)]	13 (4)	0 (0)	16 (5)	23 (7)	68 (21)	39 (12)	0 (0)	74 (23)	0 (0)	24 (68)
< 500 [% (d)]	19 (6)	19 (6)	32 (10)	52 (16)	74 (23)	68 (21)	0 (0)	100 (31)	0 (0)	41 (113)
<u>January (31 d)</u>										
< 250 [% (d)]	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	13 (4)	0 (0)	1 (4)
< 300 [% (d)]	0 (0)	0 (0)	0 (0)	0 (0)	35 (11)	0 (0)	0 (0)	42 (13)	0 (0)	9 (24)
< 350 [% (d)]	0 (0)	0 (0)	3 (1)	0 (0)	55 (17)	0 (0)	0 (0)	61 (19)	0 (0)	13 (37)
< 500 [% (d)]	0 (0)	0 (0)	42 (13)	0 (0)	94 (29)	23 (7)	0 (0)	61 (19)	0 (0)	24 (68)
<u>February – March (59/60 d)</u>										
< 250 [% (d)]	0 (0)	0 (0)	0(0)	0 (0)	8 (5)	0 (0)	0 (0)	0 (0)	0 (0)	1 (5)
< 300 [% (d)]	0 (0)	0 (0)	0(0)	0 (0)	8 (5)	0 (0)	0 (0)	2 (1)	0 (0)	1 (6)
< 350 [% (d)]	0 (0)	0 (0)	8 (5)	0 (0)	10 (6)	0 (0)	0 (0)	5 (3)	0 (0)	3 (14)
< 500 [% (d)]	0 (0)	0 (0)	14 (8)	0 (0)	19 (11)	0 (0)	0 (0)	37 (22)	10 (6)	9 (47)
< 500 [% (d)]	44 (94)	42 (90)	58 (122)	50 (107)	71 (151)	56 (119)	24 (51)	74 (156)	41 (87)	51 (977)
< 350 % Total (d)	35 (75)	39 (83)	43 (91)	46 (98)	61 (129)	47 (99)	20 (43)	47 (101)	36 (77)	42 (798)
< 300 % Total (d)	24 (52)	35 (75)	33 (71)	45 (96)	55 (118)	46 (97)	20 (43)	29 (62)	36 (77)	37 (703)
< 250 % Total (d)	22 (47)	26 (55)	31 (65)	37 (78)	47 (99)	39 (82)	20 (42)	24 (50)	31 (66)	30 (572)



# North Central District Fishing Regulation Proposal: Central Coast Streams



Figure 7. Streams and stream reaches included in this proposal.



# North Central District: Central Coast Streams



# North Central District: Central Coast Streams

## Current low-flow fishing regulation:

Chapter 3. Article 4. Supplemental Regulations. 8.00. Low-Flow Restrictions (b) (1): *From October 1 through April 1....*The Sonoma Creek (Sonoma County), and all streams tributary to the Pacific Ocean (and its bays) in Mendocino, Sonoma, and Marin counties, except for the Russian River. *Minimum Flow: 500 cfs* at the gauging station on the *main stem Russian River* near Guerneville (Sonoma County). Page 69.



# Need for fishing regulation change:

1. Minimize impacts to listed salmonids associated with angling
2. Central Coast Stream low-flow conditions (unregulated) are poorly represented by the Russian River gauge near Guerneville (regulated)
3. Aid law enforcement when poaching is most likely to occur – severe low-flow conditions
4. Stakeholder proposal – public concern
5. Many Central Coast Streams are ‘focus populations’ for ESA recovery plans

## Gualala stakeholders: Proposed fishing regulation change – Gualala River

April 4, 2013

**A coalition of stakeholders urges the California Fish & Game Commission to enact an emergency regulation change to amend the CA Central Coast Streams' Low-Flow Closure trigger**

### **The Coalition:**

We have formed a diverse coalition of support for the proposed solution below – including local bait, gear, and fly fishermen, local businesses and river groups, and regional nonprofits. Representatives from each of these stakeholder groups are prepared to give comments either in person or in writing at the upcoming June 26-27, 2013 Commission meeting in Sacramento, if necessary.

### **The Problem:**

Currently, the low flow closure for central coast streams is predicated on the Russian River gauge near Guerneville falling below 500cfs (CCR, T14, Ch 3, Art 4, Sect 8, part (b) 1). The problem is that the Russian's flow is artificially inflated by dam releases from Lake Mendocino and Lake Sonoma. We have had two winters in a row with more than a month long drought in the middle of winter steelhead season. In both years the coastal streams have dropped down to mere trickles, yet have remained open to fishing because dam releases keep the Russian up above the 500cfs trigger. The ESA-listed fish are forced to congregate into a handful of shrinking holes below restricted passage areas, and then subject to increased angling pressure.

Basing the central coast low-flow closure trigger on the Russian River does not make much sense, particularly when there are reliable gauges on more representative central coast streams that lack dams or diversions. The problem is clearly illustrated by comparing the historical flow data for the Russian and Gualala Rivers during the last two winter steelhead seasons, as seen in Graphs 1 and 2.

### **Proposed Solution:**

We recommend amending the central coast streams' low flow closure to be based on the South Fork Gualala River gauge at 100cfs. When this gauge falls below 100, fish migration is impeded on the Gualala River as well as the other central coast streams. Unlike the Russian River, the South Fork Gualala River is a consistently reliable and representative indicator for the central coast streams.

There has also been a recent surge of conservation momentum in the Gualala watershed. Just last month, conservation groups purchased 20,000 acres of land covering prime spawning habitat on the Gualala River. It's the largest conservation purchase by acreage in the county and one of the largest along the north coast in years. Establishing an effective and appropriate low flow trigger for the river will bolster the fish conservation efforts of these groups and others.

### **Stakeholders**

The following stakeholders agree with the problem, proposed solution, and supporting facts as described in the previous pages:

**Dan Reno**  
California Fish & Game Warden,  
Mendocino County, Retired  
Longtime Gualala Area Resident

**Doug DeRoy**  
Central Coast Fly Fisherman  
Longtime Bay Area Resident

**Greg Warner**  
South Coast Fire Chief, Gualala, CA  
President, Gualala Fish Project (7 yrs)  
Bait & Gear Fisherman  
Lifetime Gualala resident

**Native Fish Society**  
Nonprofit advocate for the recovery  
of wild, native fish and stewardship  
of the habitats that sustain them.  
221 Molalla Ave., Suite 109  
Oregon City, OR 97045

**Yvette White**  
Owner, Gualala Sport & Tackle,  
Gualala, CA  
Longtime Gualala area resident

**Mark Sherwood**  
River Steward Program Director,  
Native Fish Society

**Mark Clark**  
VP, Gualala Fish Project (7 yrs)  
Bait & Gear Fisherman  
Lifetime Gualala resident

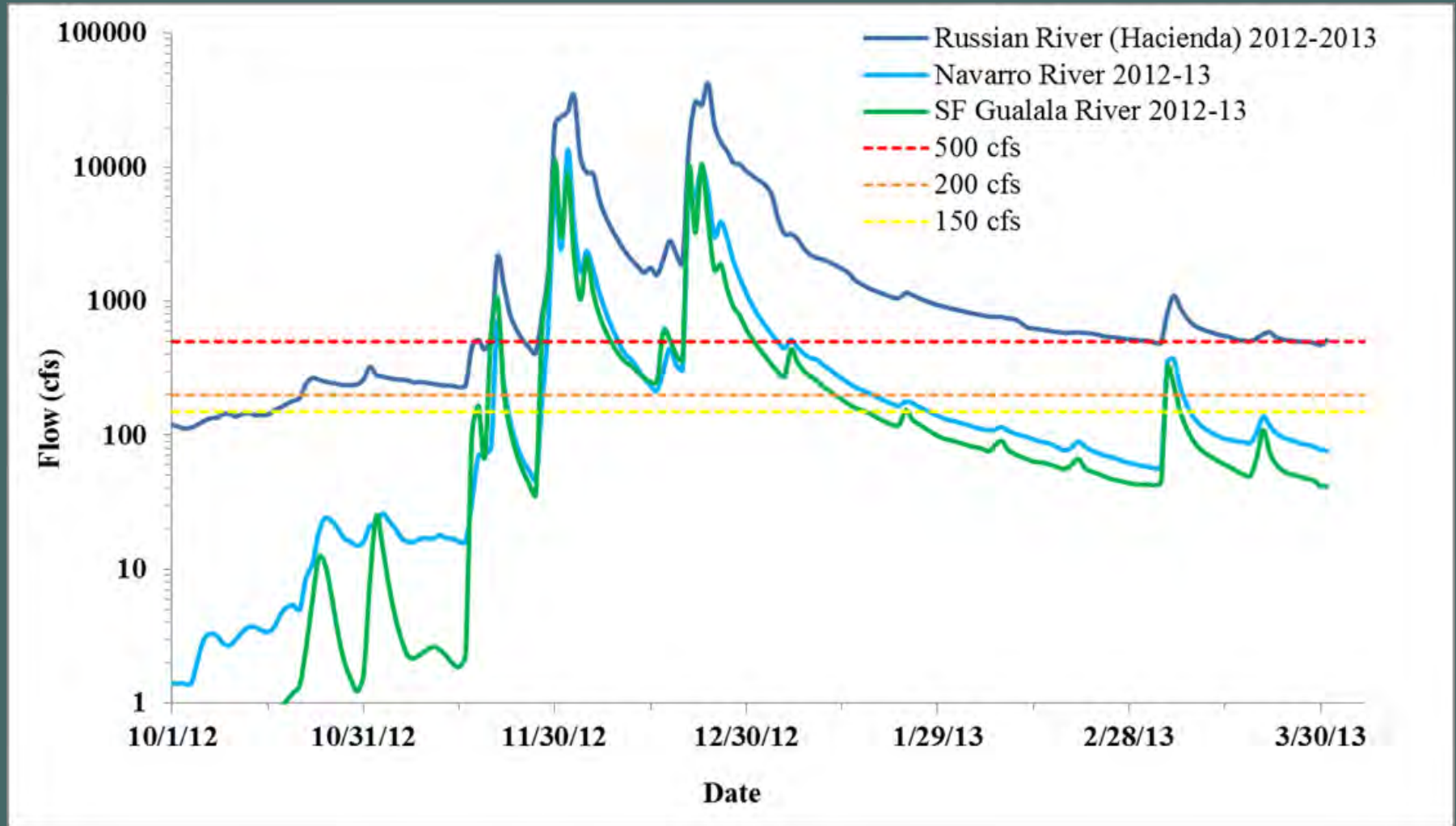
**Mike Simila**  
Bait & Gear Fisherman  
Volunteer, Gualala Fish Project  
Lifetime Gualala resident

**John Bennett**  
Registered Professional Forester  
Bait & Gear Fisherman  
Longtime Gualala area resident

**Jason Spangler**  
Bait & Gear Fisherman  
Lifetime Gualala resident

**Walter Jorgensen**  
Central Coast Fly Fisherman  
Lifetime Bay Area Resident

## Example: Hacienda gauge vs. Mendo gauged streams



Hydrograph comparison of Russian near Guerneville (Hacienda), SF Gualala, and Navarro rivers 2012/13.

# North Central District: Central Coast Streams



Sonoma Creek  
not shown



# Goals of fishing regulation change:

1. Enhance protection of listed salmonids during low-flow conditions - when they are most stressed and vulnerable
2. Utilize unregulated stream flow gauges that best represent Central Coast Streams
3. Simplify and attempt to make fishing regulations consistent
4. Provide and maintain quality angling opportunities – recognize windows of fishing opportunity to keep people interested in fishing
5. Use existing data to support a fishing regulation change





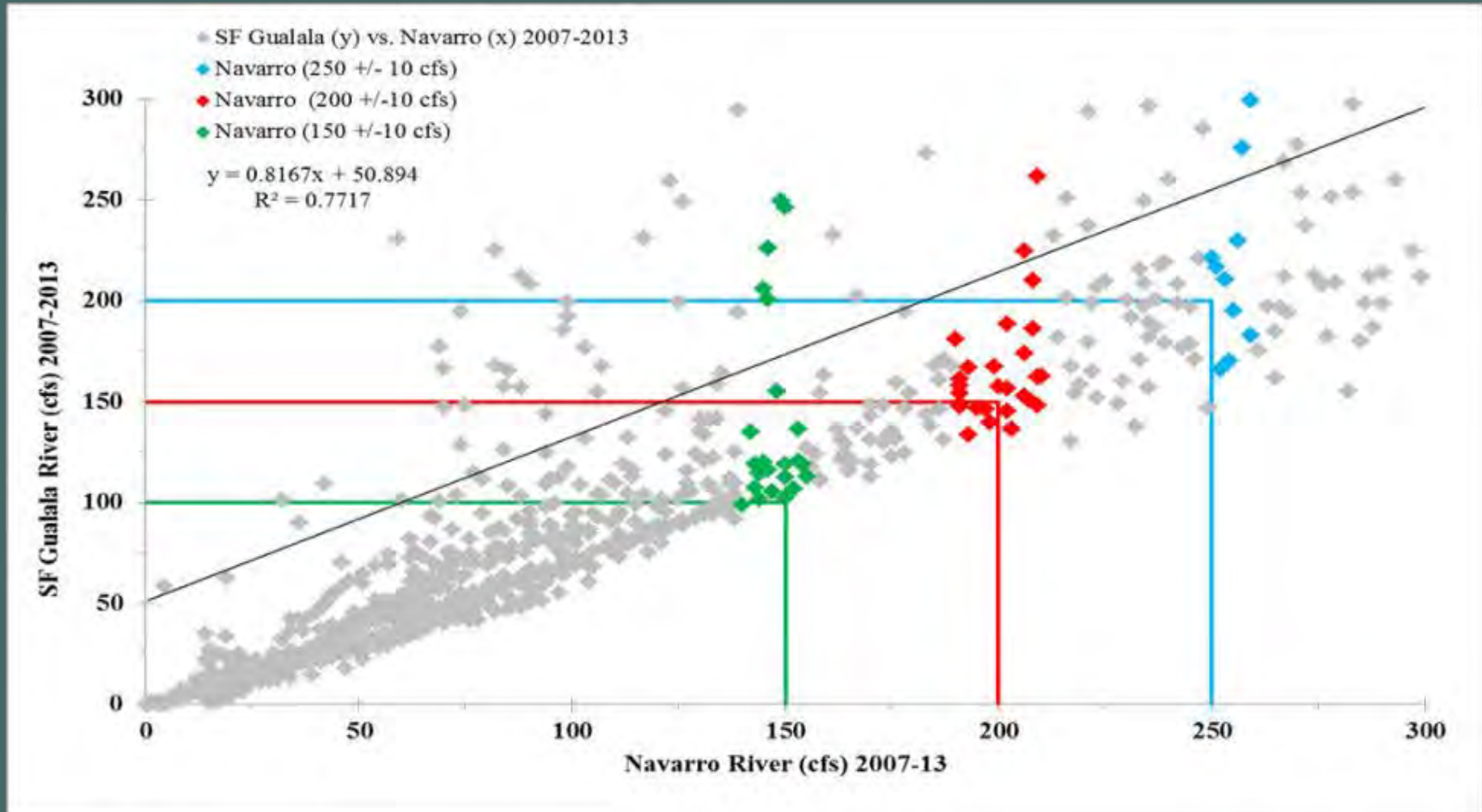
# Evaluation of existing low-flow regulation = fishing regulation change proposal

## Information used:

1. Hydrology data
2. Site specific passage report
3. Steelhead report card data
4. Field observations
5. Local angler knowledge and expertise (outreach)



## Example: SF Gualala River vs. Navarro River



Liner regression comparisons of SF Gualala River vs. Navarro River stream gauges using daily average flows during the same period of record (October 2007 through May 2013).

# Example: Site specific information

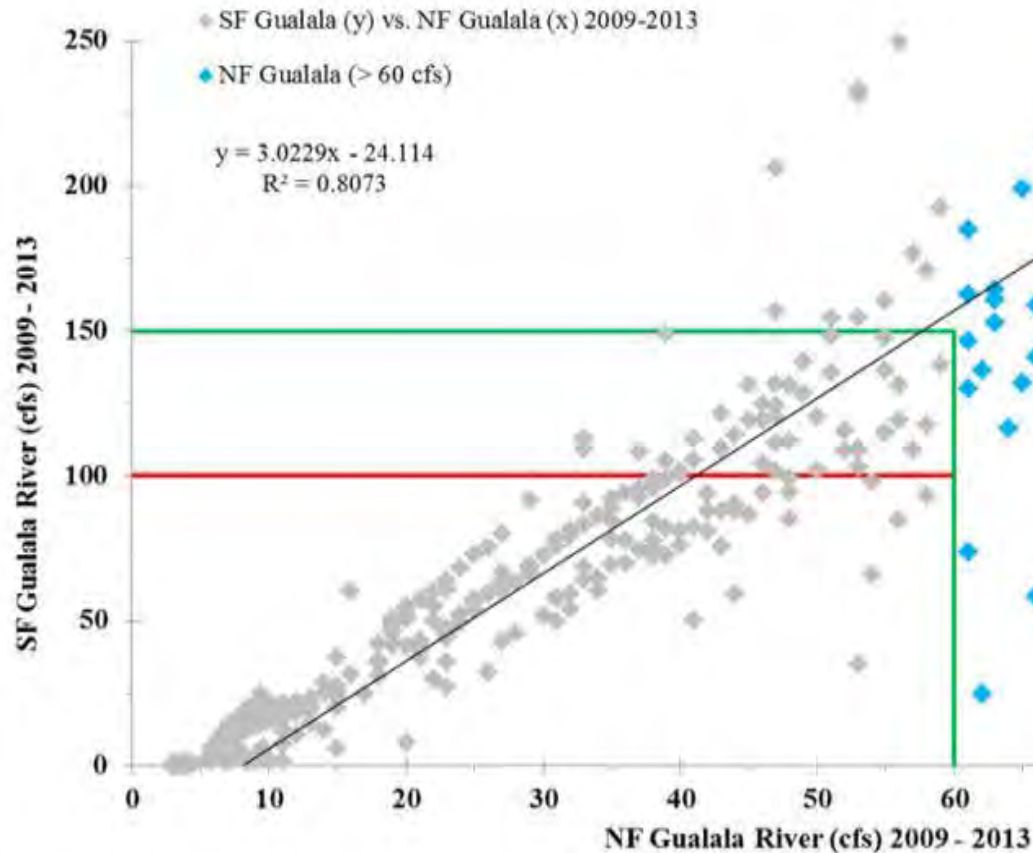


Table 3-13. Results of adult fish passage evaluation based on adult passage criteria in Thompson (1972).

Cross-section	Adult passage during discharge as measured at USGS gage			
	60 cfs	40 cfs	20 cfs	10 cfs
U1a	Passable	Not passable <sup>1</sup>	Not passable <sup>1</sup>	Passable
U1 <sup>2</sup>	Passable	nd	nd	nd
U1b <sup>3</sup>	nd	Not passable <sup>1</sup>	Not passable	Not passable
U2	Passable	Passable	Not passable	Not passable
D1	Passable	Not passable <sup>1</sup>	Not passable	Not passable
D1b <sup>3</sup>	nd	Not passable	Not passable	Not passable
D2	Not passable <sup>1</sup>	Not passable	Not passable	Not passable

<sup>1</sup> Criteria achieved for percentage of continuous width, but not for percentage of total width.

<sup>2</sup> This cross-section was dropped from the analysis due to lack of riffle development at the 40 cfs flow level.

<sup>3</sup> No 60 cfs data since this cross-section was added to the analysis due to formation of a riffle at 40 cfs.

nd = no data

Liner regression comparisons of the NF and SF Gualala River stream gauges using daily average flows during the same period of record (October 2009 through March 2013).

# Number of days comparison potential gauge sites:

Flow (cfs)	Stream Gauge	Year						
		2007-08*	2008-09	2009-10	2010-11	2011-12	2012 - 13	
		<u>September/October – November (61/91 d)</u>						
	<100 [% (d)]	SF Gualala	100 (36*)	95 (58)	98 (60)	51 (31)	92 (56)	87 (53)
	<150 [% (d)]	SF Gualala	100 (36*)	95 (58)	98 (60)	59 (36)	95 (58)	89 (54)
	<200 [% (d)]	Navarro R.	100 (91)	100 (91)	100 (91)	76 (69)	98 (89)	96 (87)
	<500 [% (d)]	Russian R.	100 (91)	97 (88)	100 (91)	56 (51)	92 (84)	89 (81)
		<u>December (31 d)</u>						
	< 100 [% (d)]	SF Gualala	35 (11)	71 (22)	68 (21)	0 (0)	100 (31)	0 (0)
	<150 [% (d)]	SF Gualala	45 (14)	87 (27)	77 (24)	0 (0)	100 (31)	0 (0)
	<200 [% (d)]	Navarro R.	71 (22)	90 (28)	94 (29)	0 (0)	100 (31)	0 (0)
	<500 [% (d)]	Russian R	52 (16)	74 (23)	68 (21)	0 (0)	100 (31)	0 (0)
		<u>January (31 d)</u>						
	< 100 [% (d)]	SF Gualala	0 (0)	87 (27)	16 (5)	0 (0)	61 (19)	10 (3)
	< 150 [% (d)]	SF Gualala	3 (1)	94 (29)	23 (7)	13 (4)	67 (21)	42 (13)
	<200 [% (d)]	Navarro R.	16 (5)	100 (31)	29 (9)	13 (4)	74 (23)	42 (13)
	<500 [% (d)]	Russian R	0 (0)	94 (29)	23 (7)	0 (0)	61 (19)	0 (0)
		<u>February – March (59/60 d)</u>						
	< 100 [% (d)]	SF Gualala	18 (11)	15 (9)	0 (0)	5 (3)	33 (20)	93 (55)
< 150 [% (d)]	SF Gualala	32 (19)	23 (14)	0 (0)	20 (12)	48 (29)	97 (57)	
<200 [% (d)]	Navarro R.	32 (19)	24 (14)	0 (0)	22 (13)	57 (34)	95 (56)	
<500 [% (d)]	Russian R	0 (0)	19 (11)	0 (0)	0 (0)	37 (22)	10 (6)	

\*Flow data started 26 October 2007



# Preliminary Results:

1. All low-flow triggers provide very good protection during the fall months (Oct – Nov), but the Navarro provides the most across years.
2. 200 cfs on the Navarro gauge provides the most protection of low-flow triggers considered
3. 150 cfs on the SF Gualala gauge and 200 cfs on the Navarro gauge seem most similar when evaluating the number-of-fishing-days across years and potential low-flow triggers.
4. 100 cfs on the SF Gualala gauge and 500 cfs on the Hacienda gauge (RR) seem most similar when evaluating the number-of-fishing-days across years and potential low-flow triggers.
5. Navarro vs. SF Gualala linear regression equation at 150 cfs on SF Gualala equals 209.9 cfs on the Navarro.
6. SF vs. NF Gualala linear regression equation estimates at 150 cfs on SF Gualala equals 60.1 cfs on the NF Gualala gauge. NF vs. SF Gualala estimates at 60 cfs NF equals 157.3 SF.

\* Questions regarding the protection of smaller Central Coast Streams (Garcia etc.)

\*\* Need further evaluation of steelhead report card catch data

# Proposed alternatives:

**Alternative (1):** Extended low-flow restrictions based on the Navarro River stream gauge.

Sonoma Creek (Sonoma County), and all streams tributary to the Pacific Ocean (and its bays) in Mendocino, Sonoma, and Marin counties, except for the Russian River.

- **Minimum Flow:** From October 1 through April 1, 200 cfs at the gauging station on the Navarro River along Hwy 128 (USGS 11468000; Mendocino County).
- 

**Alternative (2):** Extended low-flow restrictions based on the SF Gualala River stream gauge.

Sonoma Creek (Sonoma County), and all streams tributary to the Pacific Ocean (and its bays) in Mendocino, Sonoma, and Marin counties, except for the Russian River.

- **Minimum Flow:** From October 1 through April 1, 150 cfs at the gauging station on the SF Gualala River near Sea Ranch (USGS 11467510; Sonoma County).
- 

**Alternative (3):** Use two gauges (SF Gualala & Navarro) to represent north and south streams pertaining to this proposal.

## Other efforts:



*Officials: Poaching along Garcia River threatens fish recovery*



Overlooking the Garcia River in Mendocino County, Department of Fish and Game Warden Don Powers, right and a federal agent, left, who declined to be identified, watch for poachers Wednesday, Feb. 27, 2013. \$20 million in government and private donations for restoration of the Garcia fishery are endangered due to the poaching of the migrating fish. ((Kent Porter / Press Democrat))

## *Stornetta Case*



Like

Mendocino County District Attorney · 174 like this

June 18 at 6:00pm ·

SUPERIOR COURT: Ukiah: No contest pleas by Kyle Edward Stornetta, age 32 of Manchester, were entered on the record in court this morning to charges that Stornetta had violated marijuana laws and had unlawfully taken/possessed wild steelhead. Placed on two years probation, Stornetta was ordered to serve 45 days in the county jail, and he must also perform 200 hours community service within the next year. Other sentencing highlights included an order that Stornetta pay fines and fees of over \$5,000 calculated for the Fish and Wildlife violation, as well as restitution to the Sheriff's Office for marijuana eradication. Stornetta's sport fishing license was revoked for a year, and he was required to waive his 4th Amendment right regarding searches of his person, his vehicle, and any property under his control during the next two years. Seized equipment used to facilitate the cultivation of marijuana was ordered forfeited and destroyed.

## *Manchester-Point Arena Band of Pomo Indians*

**DRAFT**  
**RESOLUTION**  
**OF THE BUSINESS COMMITTEE**  
**OF THE MANCHESTER BAND OF POMO INDIANS**  
**FOR PROTECTION OF GARCIA RIVER**

ENDANGERED SPECIES

# I. Russian River: Sport fishing low-flow survey 2/16/2016

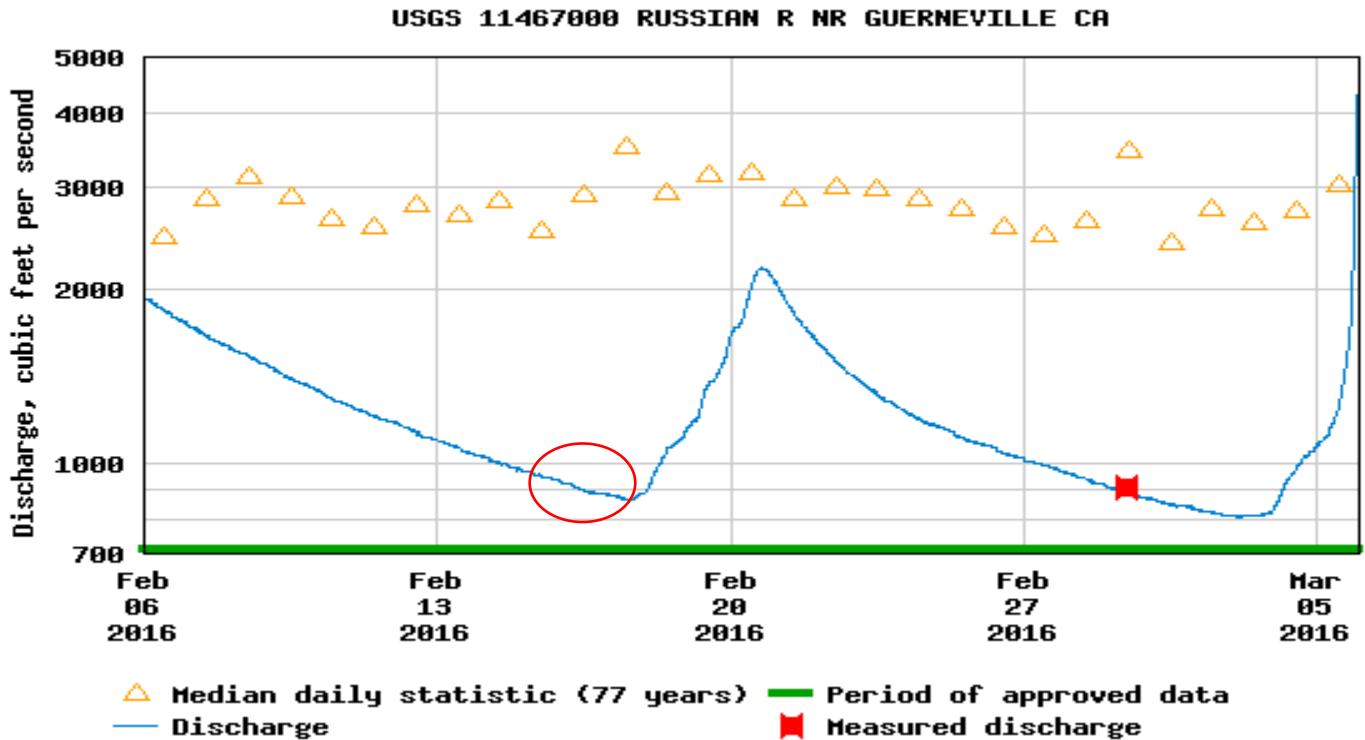


Figure 1. Russian River hydrology at Guerneville (USGS), February 6, 2016 to March 6, 2016. Sport fishing low-flow survey conducted on February 16, 2016 (red circle).

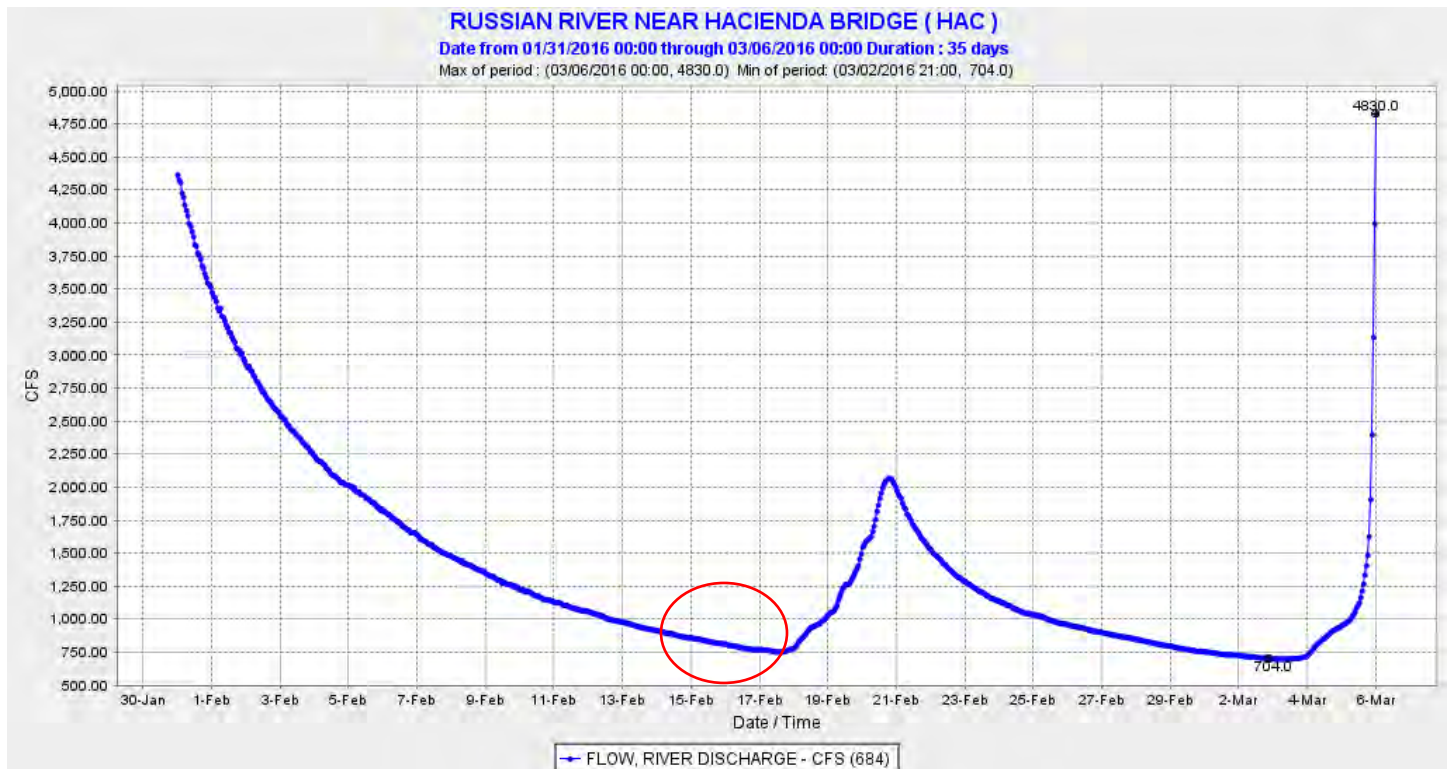


Figure 2. Russian River hydrology at Guerneville (CDEC), January 31, 2016 to March 6, 2016. Sport fishing low-flow survey conducted on February 16, 2016 (red circle).



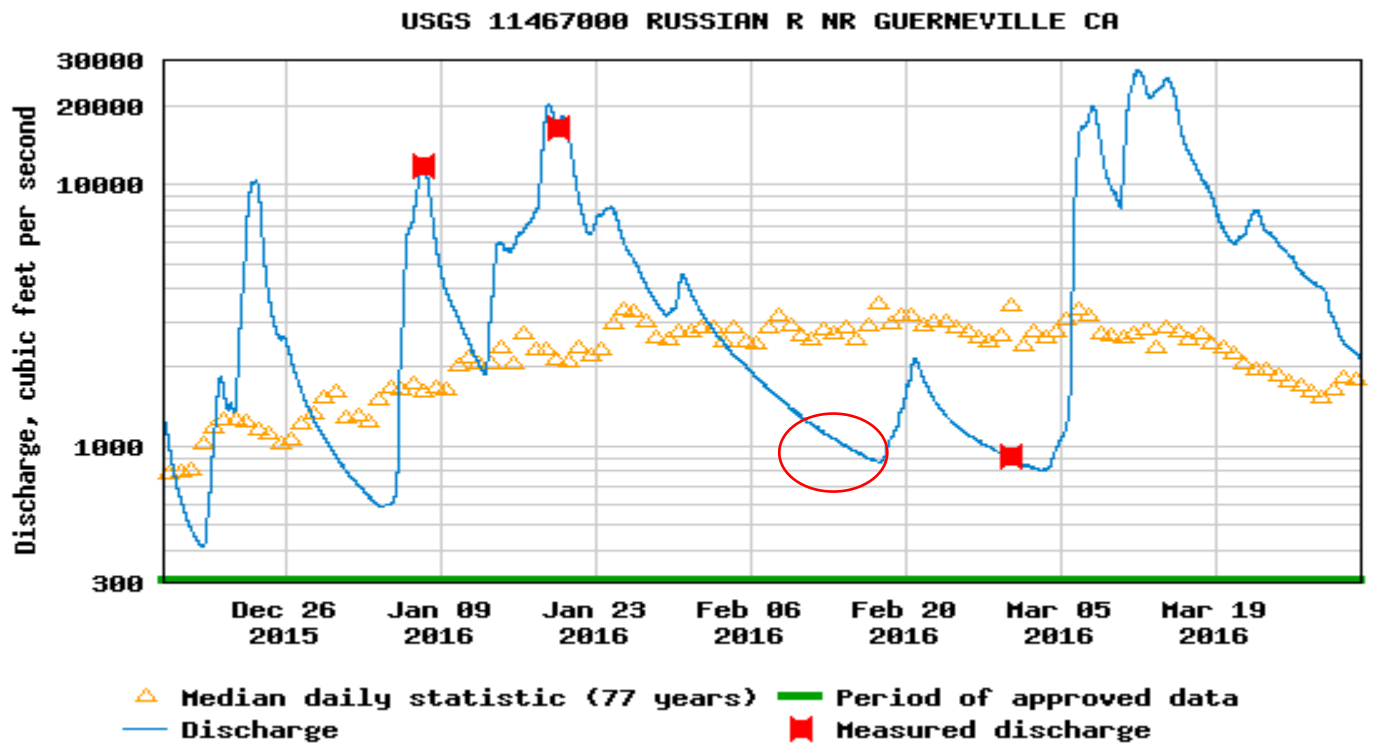


Figure 3. Russian River hydrology at Guerneville (CDEC), January 31, 2016 to March 6, 2016. Sport fishing low-flow survey conducted on February 16, 2016 (red circle).



Photo 1. Steelhead Beach, Russian River, CA. Fishing conditions excellent for conventional gear and fly fishing. Flows at Hacienda approximately 900 cfs (USGS), February 16, 2016.





Photo 2. Steelhead Beach, Russian River, CA. Water color for fishing considered excellent for both conventional and fly fishing. Flows at Hacienda gauge approximately 900 cfs (USGS), February 16, 2016.

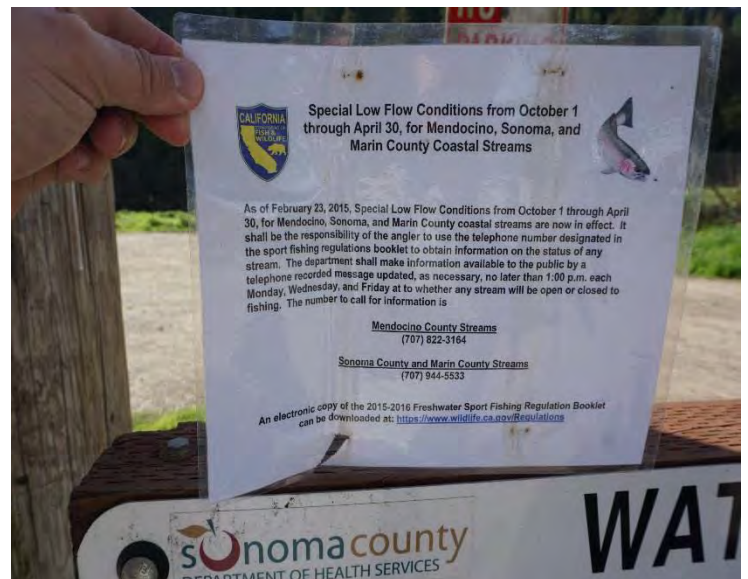


Photo 3. Johnson's Beach, Guerneville (Russian River), CA. Water color for fishing considered excellent for both conventional and fly fishing. Flows at Hacienda gauge approximately 900 cfs (USGS), February 16, 2016.





Figure 4. Johnson's Beach, Guerneville (Russian River), CA. Water color for fishing considered excellent for both conventional and fly fishing. Flows at Hacienda gauge approximately 900 cfs (USGS), February 16, 2016.



Photos 5 & 6. Signage and low-flow condition notice at Johnson's Beach, Guerneville (Russian River), CA. February 16, 2016.





Photo 7. Lower Russian River just above the Monte Rio boat ramp at Monte Rio, CA. Fishing conditions excellent. Approximately 900 cfs (USGS), February 16, 2016.



Photo 8. Dutch Bill Creek, Russian River, CA. February 16, 2016.





Photo 9. Dutch Bill Creek, Russian River, CA. Upstream of Bridge at Monte Rio, February 16, 2016.



Photo 10. Dutch Bill Creek, Russian River, CA. Downstream of Bridge at Monte Rio, February 16, 2016.





Photo 11. Dutch Bill Creek, Russian River, CA. Downstream of Bridge at Monte Rio, February 16, 2016.



Photo 12. Mouth of Dutch Bill Creek at the confluence with the Russian River, CA. February 16, 2016.



## II. Gualala River: Sport fishing low-flow survey 2/16/2016

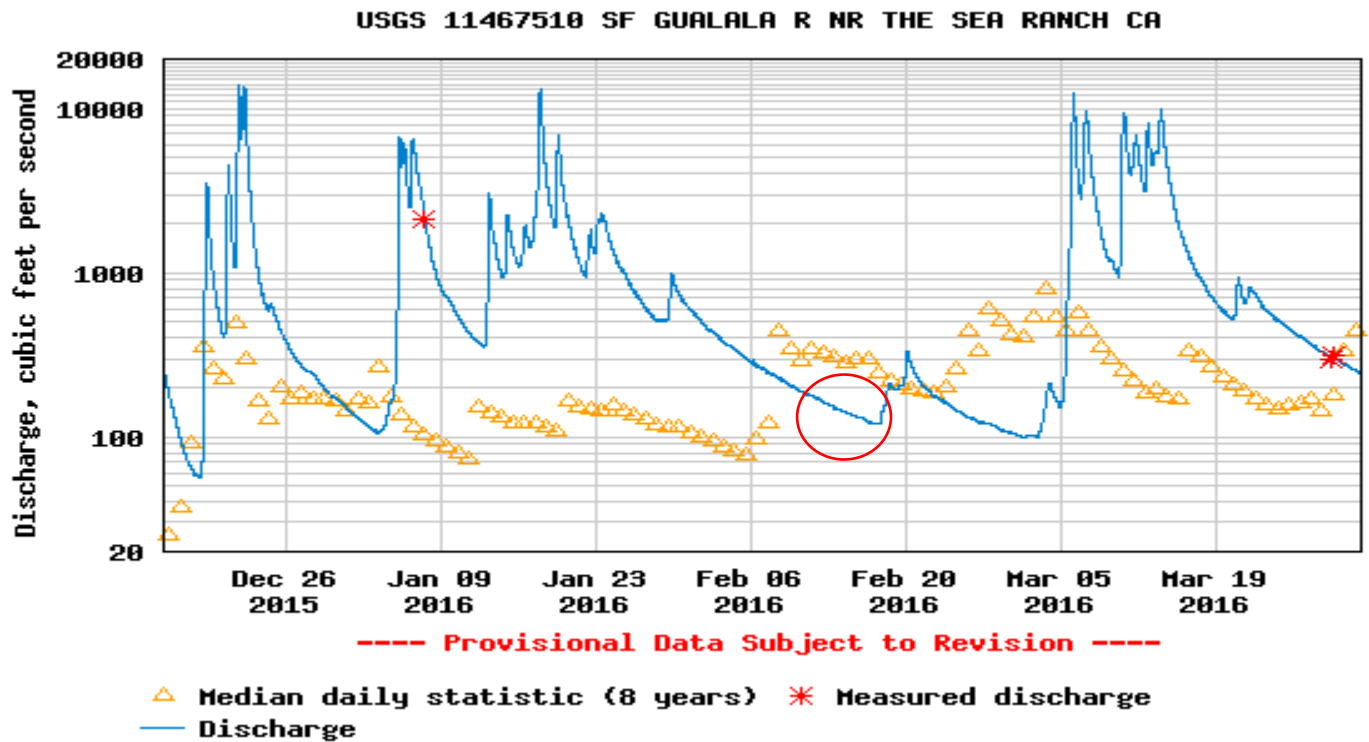


Figure 1. South Fork Gualala hydrology December 15, 2016 through March 31, 2016. Survey conducted February 16, 2016 (red circle). SF Gualala streamflow approximately 125 cfs (USGS), February 16, 2016.

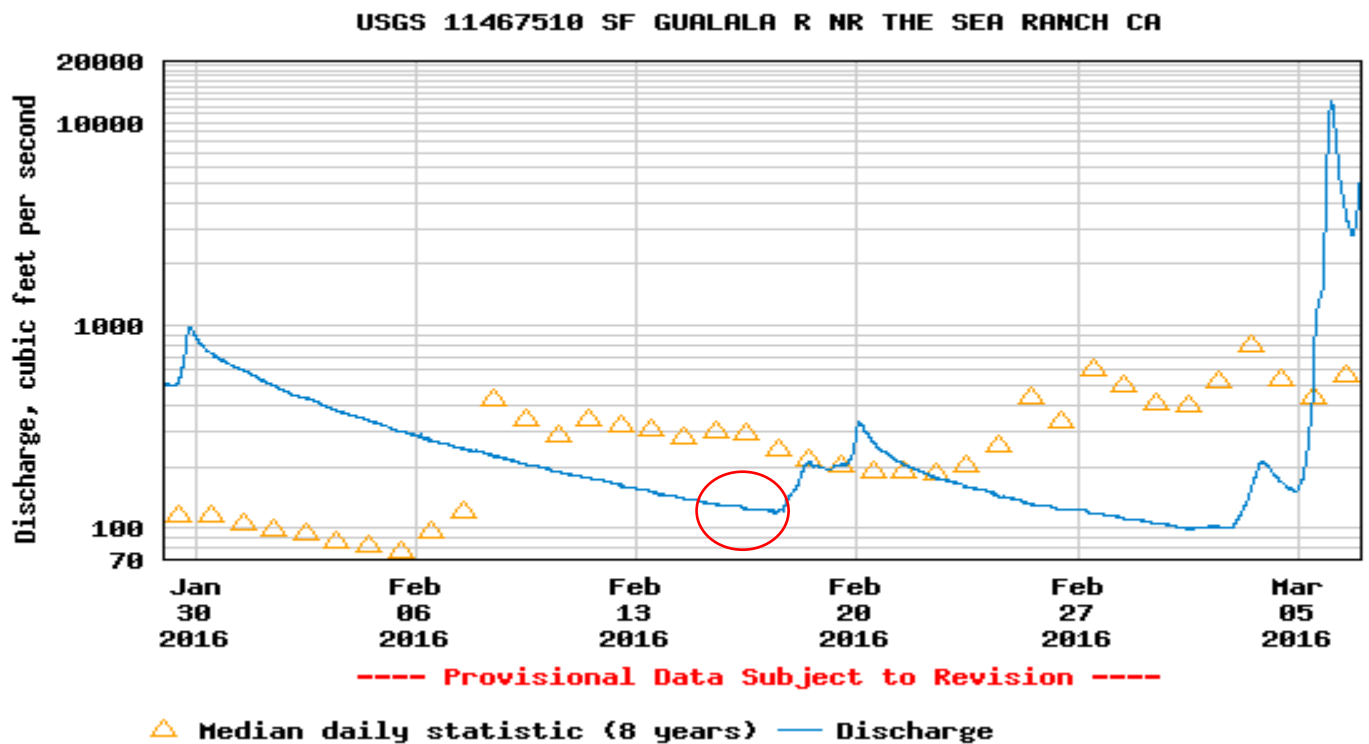


Figure 2. South Fork Gualala hydrology January 29, 2016 through March 6, 2016. Survey conducted February 16, 2016 (red circle). SF Gualala streamflow approximately 125 cfs (USGS), February 16, 2016.



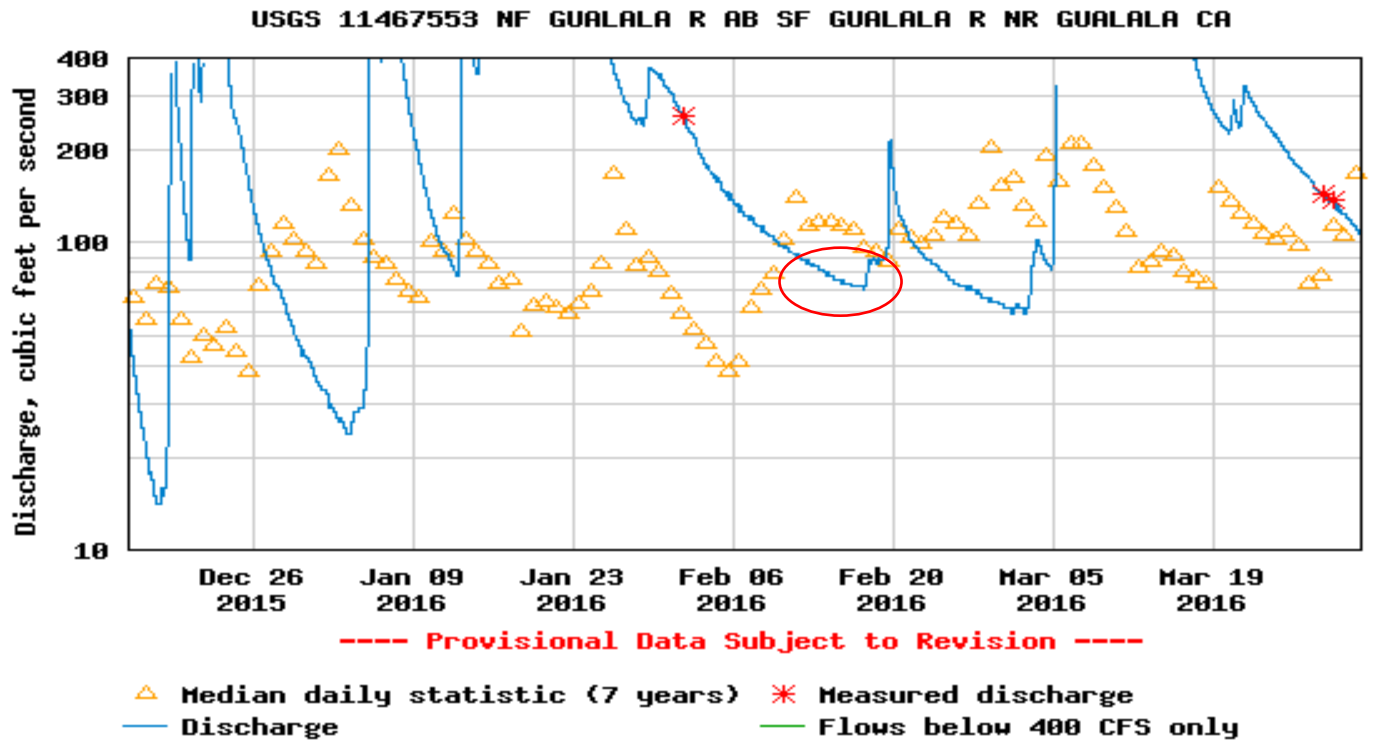


Figure 3. North Fork Gualala hydrology December 15, 2016 through March 31, 2016. Survey conducted February 16, 2016 (red circle). NF Gualala streamflow approximately 72 cfs (USGS), February 16, 2016.



Photo 1. Downstream of the Highway 101 Bridge near Gualala, CA. Water color crystal clear. Fishing conditions considered very low, shallow, and clear. SF Gualala streamflow approximately 125 cfs (USGS) and open to fishing (CDFW), February 16, 2016 (low-flow closure occurred 2/17/2016).





Photo 2. Upstream of the Highway 101 Bridge near Gualala, CA. Water color crystal clear. Fishing conditions considered very low, shallow and clear. SF Gualala streamflow approximately 125 cfs (USGS) and open to fishing (CDFW), February 16, 2016 (low-flow closure occurred 2/17/2016).



Photo 3. Pool at SF/NF confluence, Gualala River, CA. Approximately 72 cfs (USGS) at NF Gualala and 125 cfs (USGS) at SF Gualala, February 16, 2016.



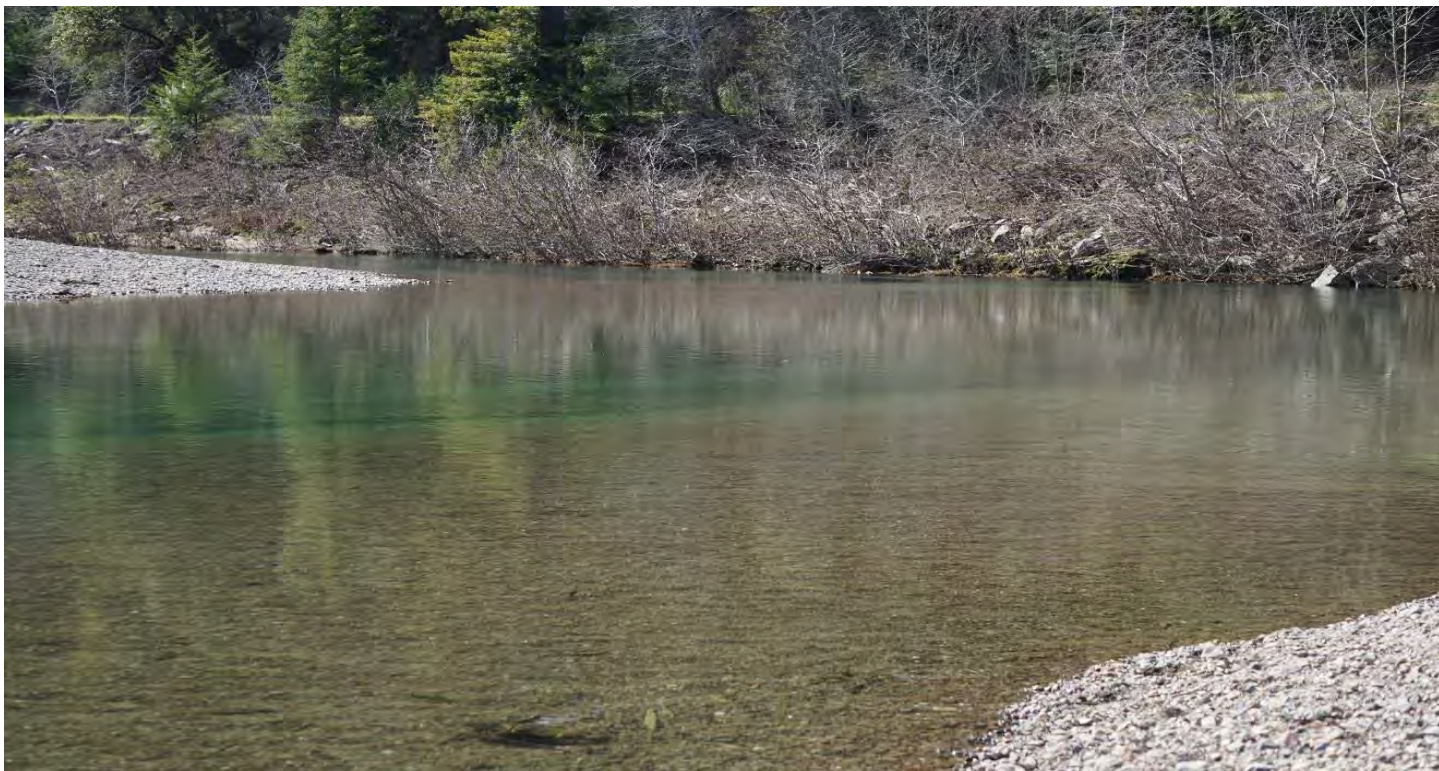


Photo 4. Pool at SF/NF confluence, Gualala River, CA. Approximately 72 cfs (USGS) at NF Gualala and 125 cfs (USGS) at SF Gualala, February 16, 2016.



Photo 5. Discharge from NF Gualala River immediately above confluence with the SF Gualala River. Approximately 72 cfs (USGS) at NF Gualala River, February 16, 2016.





Photo 6. NF Gualala River below NF Gualala Bridge. Approximately 72 cfs at NF Gualala River, February 16, 2016.



Photo 7. NF Gualala River below NF Gualala Bridge. Approximately 72 cfs at NF Gualala River (USGS), February 16, 2016.





Photo 8. NF Gualala River below NF Gualala Bridge. Approximately 72 cfs (USGS) at NF Gualala River, February 16, 2016.



Photo 9. Anglers crossing SF Gualala River immediately above the NF Gualala confluence. When asked about fishing anglers said “too low and clear, probably time to close”. SF Gualala flow approximately 125 cfs, February 16, 2016 (note: fishing still open via CDFW stream status, closed 2/17/2016).





Photo 10. Angler fishing just below NF Gualala confluence, February 16, 2016.



Photo 11. Gualala River just below angler fishing in Figure 24 (above). Riffle shallow and easily wadable, February 16, 2016.





Photo 12. Confluence of SF Gualala and Wheatfield and Twin Bridge (upper extent of fishing limit). February 16, 2016.



Photo 13. Confluence of SF Gualala and Wheatfield and Twin Bridge (upper extent of fishing limit). February 16, 2016.



### III. Garcia River: Sport fishing low-flow survey 2/16/2016

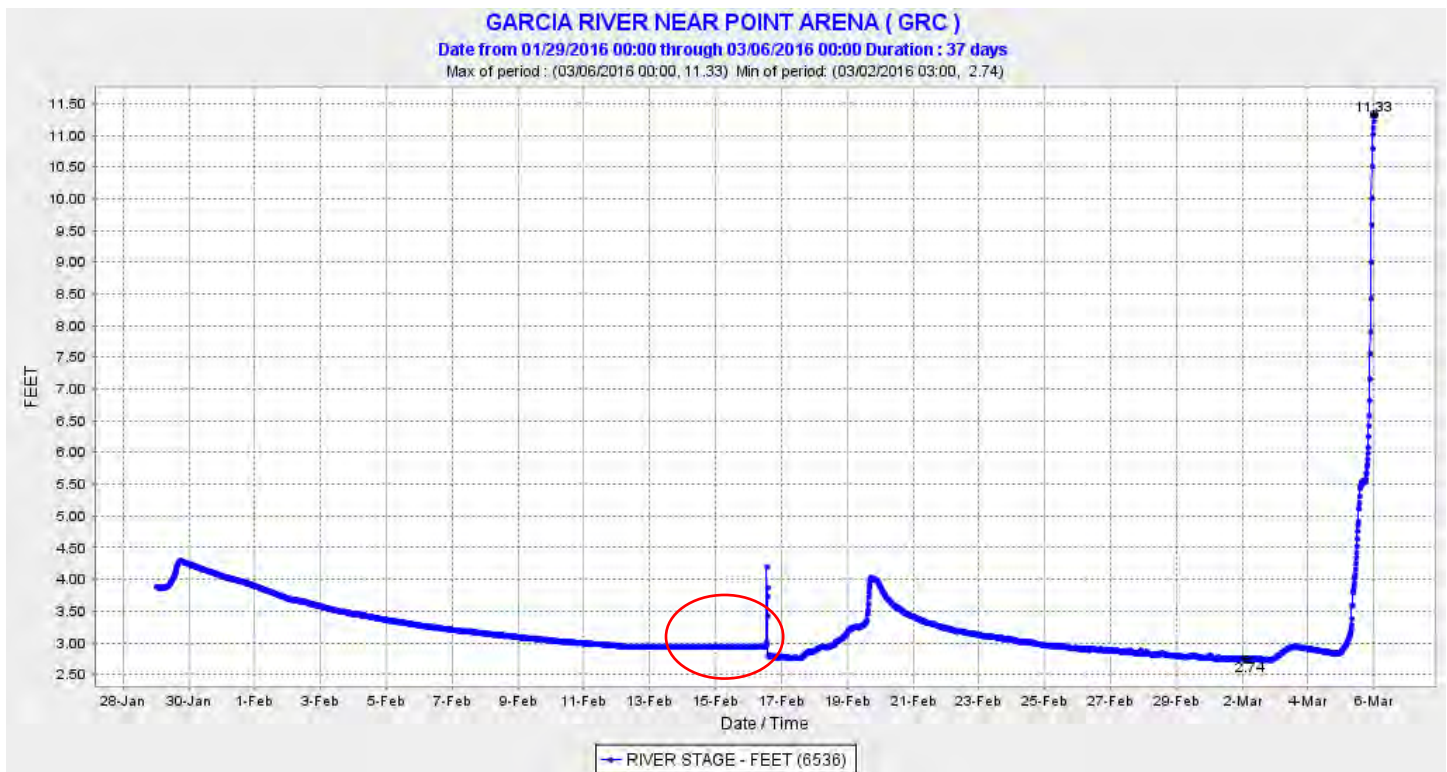


Figure 1. Garcia River stage at Eureka Hill Road Bridge January 29, 2016 through March 6, 2016. Approximately 2.90ft stage height on February 16, 2016 (red circle).



Photo 1. Garcia River directly below Eureka Hill Road Bridge (legal upstream legal fishing limit). Approximately 2.90ft stage height (CDEC) on February 16, 2016.





Photo 2. Garcia River directly upstream Eureka Hill Road Bridge (legal upstream legal fishing limit). Approximately 2.90ft stage height on February 16, 2016.



Photo 3. Signage at boat launch below Eureka Hill Road Bridge. Approximately 2.90ft stage height (USGS) on February 16, 2016.





Photo 4. Signage at boat launch below Eureka Hill Road Bridge. Approximately 2.90ft stage height (CDEC) on February 16, 2016.



Photo 5. Garcia River across from signage at boat launch below Eureka Hill Road Bridge. Approximately 2.90ft stage height on February 16, 2016.





Photo 6. Garcia River shortly downstream of Eureka Hill Road Bridge. Approximately 2.90ft stage height (CDEC) on February 16, 2016.

#### IV. Navarro River: Sport fishing low-flow survey 2/16/2016

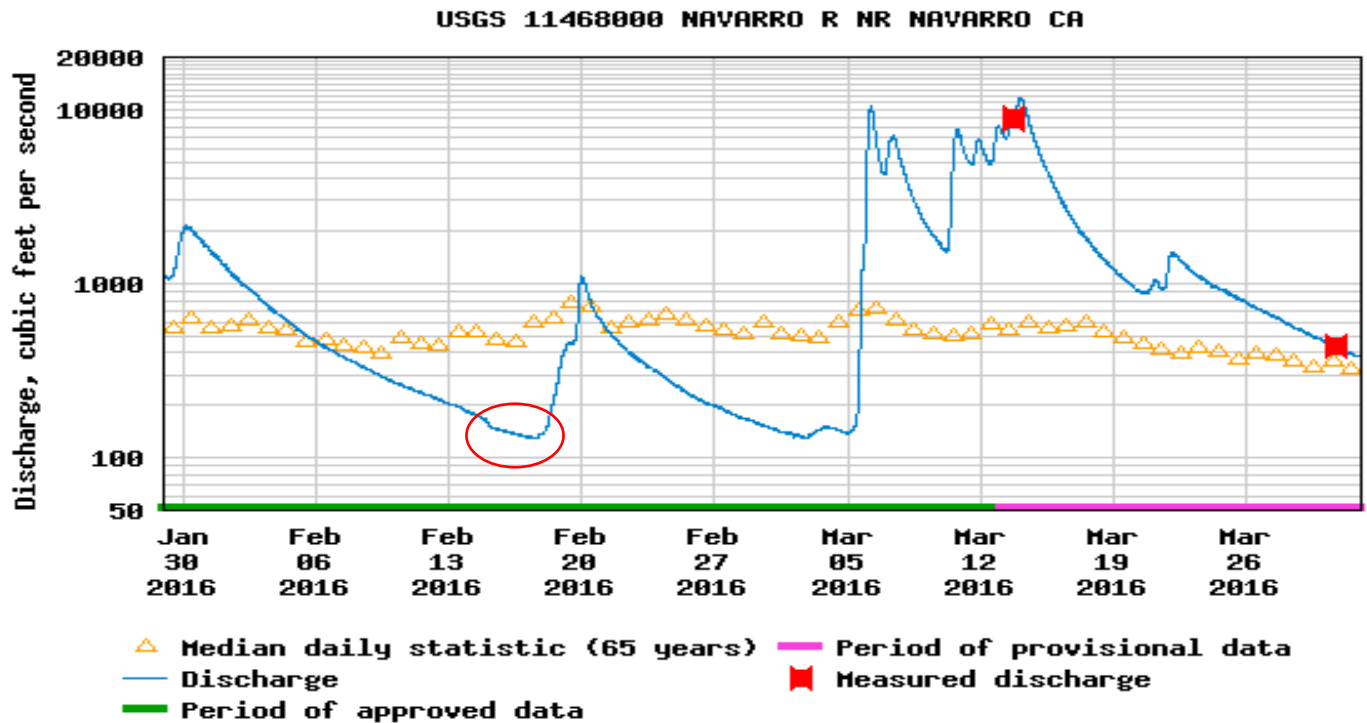


Figure 1. Navarro River hydrology January through March 2016. Navarro River fishing condition survey conducted February 16, 2016 (red circle). Flow approximately 135 cfs (USGS) on February 16, 2016 (fishing closed).

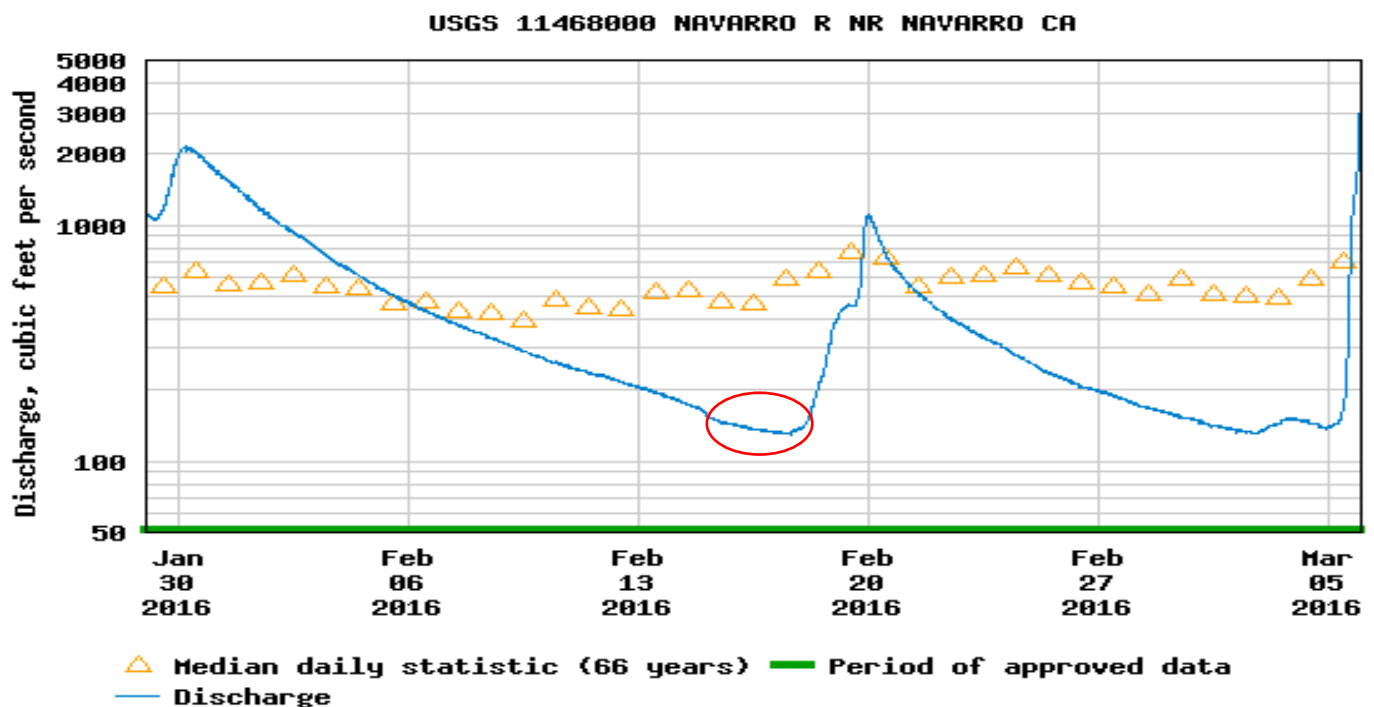


Figure 2. Navarro River hydrology January 30, 2016 through March 6, 2016. Navarro River fishing conditions survey conducted February 16, 2016. Flow approximately 135 cfs (USGS) on February 16, 2016 (fishing closed).





Photo 1. Navarro River mouth (open), February 16, 2016.



Photo 2. Navarro River between Paul Dimmick Campground and the town of Navarro. Flow approximately 135 cfs (USGS) on February 16, 2016 (fishing closed).





Photo 3. Navarro River between Paul Dimmick Campground and the town of Navarro. Flow approximately 135 cfs (USGS) on February 16, 2016 (fishing closed).

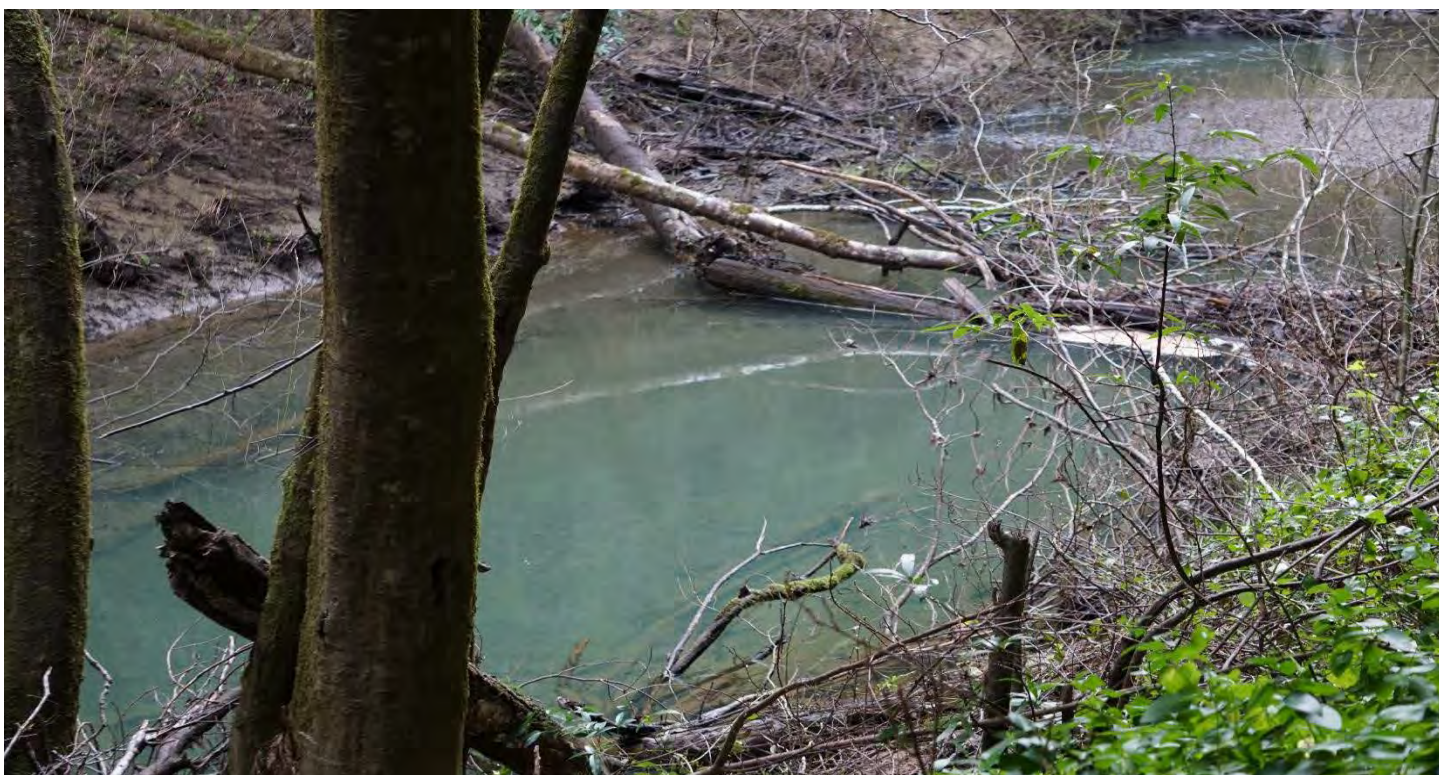


Photo 4. Navarro River between Paul Dimmick Campground and the town of Navarro. Flow approximately 135 cfs (USGS) on February 16, 2016 (fishing closed).





Photo 5. Navarro River between the town of Navarro and Hendy Woods State Park. Flow approximately 135 cfs (USGS) on February 16, 2016 (fishing closed).



Photo 6. Navarro River between the town of Navarro and Hendy Woods State Park. Flow approximately 135 cfs (USGS) on February 16, 2016 (fishing closed).





Photo 7. Looking downstream from Philo – Greenwood Road Bridge (end of legal fishing). Flow approximately 135 cfs (USGS) on February 16, 2016 (fishing closed).



Photo 8. Looking upstream from Philo – Greenwood Road Bridge (end of legal fishing). Flow approximately 135 cfs (USGS) on February 16, 2016 (fishing closed).



State of California  
Department of Fish and Wildlife

## Memorandum

Date: October 13, 2016

To: Kevin Shaffer  
Acting Branch Chief, Inland and Anadromous Fisheries  
California Department of Fish and Wildlife

Valerie Termini  
Executive Director  
California Fish and Game Commission

From: Neil Manji  
Regional Manager, Northern Region  
California Department of Fish and Wildlife



Scott Wilson  
Regional Manager, Bay Delta Region  
California Department of Fish and Wildlife



Subject: Northern Region and Bay Delta Region Response Regarding Fishing Regulation Change (Petition Number 2015-014)

On December 15, 2015, the California Fish and Game Commission (FGC) received a petition for regulation change authored by Patrick Kallerman (petition tracking number 2015-014) recommending changes to freshwater fishing regulations at locations in California Department of Fish and Wildlife (CDFW) Northern (R1) and Bay Delta (R3) regions. R1 and R3 fisheries management staff met to consider the proposed regulation change recommendations and this memo is a coordinated R1 and R3 response to CDFW Fisheries Branch and FGC regarding the petition.

### Petition Summary:

The petitioner recommends change to Title 14, California Code of Regulations:

Chapter 3, Article 3, Section 7.50(b) – Alphabetical List of Waters with Special Fishing Regulations subsections relevant to the following streams (north to south): Usal Creek, Cottaneva Creek, Ten Mile River, Noyo River, Big River, Albion River, Navarro River, Greenwood Creek, Elk Creek, Alder Creek, Brush Creek, Garcia River, Gualala River, Russian Gulch, Salmon Creek, Walker Creek, and Sonoma Creek.

Chapter 3, Article 4, Section 8.00(b) – Low-Flow Restrictions Mendocino, Sonoma, and Marin County coastal streams, subsections relevant to the following streams: Navarro River, Garcia River, and Gualala River.

Proposed amendments to subsections of 7.50(b):

- Amend Section 7.50(b) to permit only artificial lures with barbless hooks to be used year-round; and
- Amend Section 7.50(b) to close streams to all angling from April 1 through October 31.

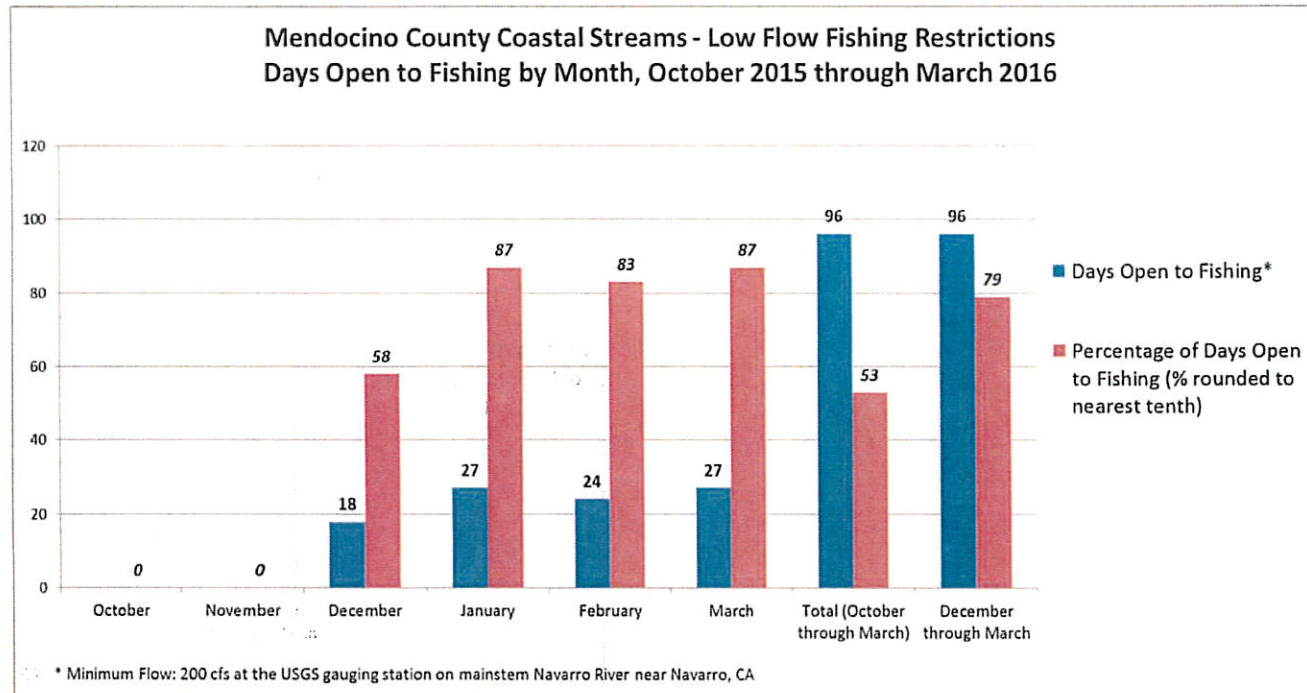
Proposed amendments to subsections of 8.00(b):

- Amend Section 8.00(b) to leave the Navarro River open to angling on the main stem below the confluence of the North Fork Navarro when the applicable designated gauging station is less than the minimum flows set forth;
- Amend Section 8.00(b) to leave the Garcia River open to angling on the main stem below the Highway 1 Bridge when the applicable designated gauging station is less than the minimum flows set forth; and
- Amend Section 8.00(b) to leave the Gualala River open to angling on the main stem below the confluence of the North Fork Gualala when the applicable designated gauging station is less than the minimum flows set forth.

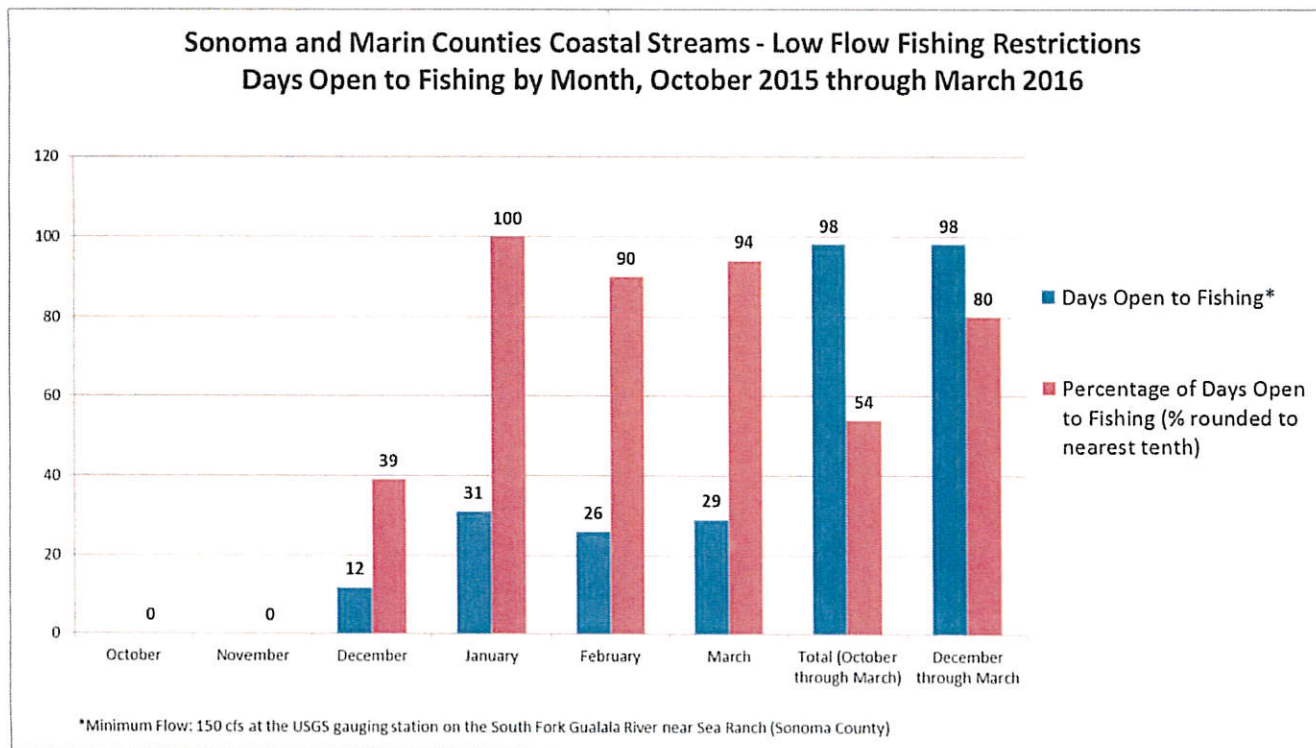
**Background:** On December 3, 2014, the FGC adopted changes to Chapter 3, Article 3, Section 7.50(b). The petitioner now proposes changes to the same section of the regulations related to low flow angler restrictions, gear type, and seasons in the coastal waters of Mendocino, Sonoma, and Marin counties. The petitions supporting rationale identifies the newly adopted low flow angler closure flows as lacking scientific justification, overly restrictive to artificial lure gear users, and the result is a dramatic loss in fishing opportunity. Data from October 2015 to April 2016 operation of the newly adopted low flow regulation indicates the current regulation appropriately balances the opportunity for steelhead angling under favorable flow conditions with protection for steelhead and closed fishing during periods of low stream flow.

Current regulation controls the opening and closing of creeks and rivers in Mendocino, Sonoma, and Marin counties to angling based upon data from the best available regional USGS flow gauges with Mendocino rivers controlled by the Navarro River gauge and Sonoma/Marin rivers controlled by the South Fork Gualala River gauge. The gauge flow thresholds to open and close angling within the regulation were established based upon local steelhead migration data, migration flow criteria, and the observation and input of CDFW personnel, NOAA personnel, and anglers. During development of the current regulation, and as presented at public meetings, an analysis of the prior ten years of flow gauge data indicated the Navarro gauge threshold would annually have Mendocino rivers open to angling 48% of days during the low flow season and Sonoma/Marin rivers open 51% of days during the low flow season. The current, newly adopted low flow regulation operated for the first year from October 1, 2015, through March 2016, and during this period of time, steelhead fishing was open 53% of days for Mendocino County coastal streams and 54% for Sonoma/Marin rivers and creeks (Figures 1 and 2). However, the majority of steelhead angling in Mendocino, Sonoma, and Marin counties occurs annually from December through March, and accordingly from December 1, 2015, through March 31, 2016, flow controlled rivers were open to fishing 79% and 80%, respectively, of days during the prime fishing season.





**Figure 1.** Number of days open to fishing by month and the corresponding percentage, as well as the overall season (October 2015 through March 2016) in Mendocino County coastal streams (except for the Russian and Gualala rivers).



**Figure 2.** Number of days open to fishing by month and the corresponding percentage, as well as the overall season (October 2015 through March 2016) in Sonoma and Marin Counties coastal streams (except for the Russian River).

The figures also include the number of days open to steelhead angling by month and overall season totals. A total of 96 days of steelhead angling were open on Mendocino County coastal streams, and 98 days, respectively, on Sonoma and Marin rivers from October 2015 through March, 2016. When Mendocino, Sonoma, and Marin fishing was open during the 2015/2016 season, the range of flows and water clarity provided conditions suitable for all types of steelhead angling gear. A survey of fishing conditions conducted while streams were still open, but dropping in flow, found relatively clear water and wading conditions suitable for fly anglers that prefer the lower end of open flows (Photo 1). The fishing opportunity available during the past 2015/2016 season was equivalent to the opportunity estimated during development of the regulation and presented at public meetings.



***Photo 1. The Gualala River when open to fishing under current regulation February 16, 2016, and an example of flow and water clarity conditions suitable for fly anglers provided under current regulations.***



**R1 and R3 Petition Response:** R1 and R3 do not support regulation changes proposed in the petition based upon the following responses.

**Proposed:** Amend Section 7.50(b) to permit only artificial lures with barbless hooks to be used year-round. Proposal would apply to the following creeks and rivers: Usal Creek, Cottaneva Creek, Ten Mile River, Noyo River, Big River, Albion River, Navarro River, Greenwood Creek, Elk Creek, Alder Creek, Brush Creek, Garcia River, Gualala River, Russian Gulch, Salmon Creek, Walker Creek, and Sonoma Creek.

**Response:** Current regulation allows use of bait, artificial lures, and only barbless hooks from November 1 to March 31, in the subject waters. Bait fishing for steelhead can be effective during river conditions that are higher flow and cloudier water than conditions that are effective for artificial lures, and bait fishing is a gear type frequently used for steelhead angling. Amending the regulation for the removal of bait gear would significantly reduce a popular angling opportunity. R1 and R3 do not support this section of the regulation change proposal.

**Proposed:** Amend Section 7.50(b) to close streams to all angling from April 1 through October 31. Proposal would apply to the following creeks and rivers: Usal Creek, Cottaneva Creek, Ten Mile River, Noyo River, Big River, Albion River, Navarro River, Greenwood Creek, Elk Creek, Alder Creek, Brush Creek, Garcia River, Gualala River, Russian Gulch, Salmon Creek, Walker Creek, and Sonoma Creek.

**Response:** Fishing is currently closed from April 1 to the day before the fourth Saturday in May in the subject waters for the protection of post spawn adult steelhead that are migrating downstream to the ocean and for downstream migrating salmonid juveniles. From the fourth Saturday in May to October 31 these waters are open to catch and release of resident trout and fishing for non-native fish species present in some streams. Anecdotal CDFW observation of fishing pressure that occurs from the fourth Saturday in May to October 31 indicates very little fishing and impact to native fish occurs during this time period. Amending the regulation to close fishing from April 1 through October 31 does not provide significant additional protection to an impacted fisheries resource and reduces fishing opportunity. R1 and R3 do not support this section of the regulation change proposal.

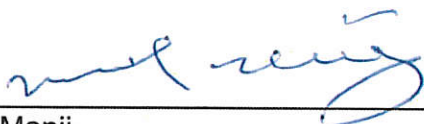
**Proposed:** Amend Section 8.00(b) to leave the Navarro River open to angling on the main stem below the confluence of the North Fork Navarro when the applicable designated gauging station is less than the minimum flows set forth. Amend Section 8.00(b) to leave the Garcia River open to angling on the main stem below the Highway 1 Bridge when the applicable designated gauging station is less than the minimum flows set forth. Amend Section 8.00(b) to leave the Gualala River open to angling on the main stem below the confluence of the North Fork Gualala when the applicable designated gauging station is less than the minimum flows set forth.

**Response:** The amendments propose to open to angling in the lower portion of the subject rivers during low flow conditions. Steelhead will be concentrated in shallow clear water, easily visible to anglers, less able to move, and more prone to repeat hooking. The current low flow regulation opens the subject area of these rivers when flows are above a flow gauge threshold and under conditions suitable for a lower impact catch and release fishery. A good fishing

opportunity that also provides protection to steelhead is being provided in the subject area of these rivers under current regulation. The proposed change would add complexity to regulations by dividing open sections of the subject rivers into two sections with different regulations. CDFW seeks to reduce complexity in fishing regulation. R1 and R3 do not support this section of the regulation change proposal.

Please contact Allan Renger at 707-725-7194, [allan.renger@wildlife.ca.gov](mailto:allan.renger@wildlife.ca.gov), or George Neillands at 707-576-2812, [george.neillands@wildlife.ca.gov](mailto:george.neillands@wildlife.ca.gov), if you have further questions or concerns.

Sincerely,



Neil Manji  
Regional Manager, Northern Region (R1)



Scott Wilson  
Regional Manager, Bay Delta Region (R3)

cc: Tony LaBanca, Eric Larson, Allan Renger, George Neillands, Ryan Watanabe, Scott Monday, Scott Harris  
Department of Fish and Wildlife  
[tony.labanca@wildlife.ca.gov](mailto:tony.labanca@wildlife.ca.gov), [eric.larson@wildlife.ca.gov](mailto:eric.larson@wildlife.ca.gov), [allan.renger@wildlife.ca.gov](mailto:allan.renger@wildlife.ca.gov),  
[george.neillands@wildlife.ca.gov](mailto:george.neillands@wildlife.ca.gov), [ryan.watanabe@wildlife.ca.gov](mailto:ryan.watanabe@wildlife.ca.gov),  
[scott.Monday@wildlife.ca.gov](mailto:scott.Monday@wildlife.ca.gov), [scott.harris@wildlife.ca.gov](mailto:scott.harris@wildlife.ca.gov)





Tracking Number: 2015-015

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

### SECTION I: Required Information.

*Please be succinct. Responses for Section I should not exceed five pages*

**1. Person or organization requesting the change (Required)**

Name of primary contact person: Fred Boniello

Address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_

**2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested:** Section 200, 202, 205, 215, 220, 240, 315, 316.5 of Fish & Game Code.

**3. Overview (Required) - Summarize the proposed changes to regulations:** 7.50b 155A Title 14 8.00b3 Title 14 North Coast Central District, Russian River to be open to sport fishing all year with a no minimum flow requirement. A no take "Catch and Release" of all migratory species including hatchery fish (if the C.D.F.W. would like). A year round restriction for the use of bait (artificial only permitted). The year round closure from the point of the C.D.F.W.'s Coho reestablishment monitoring project (near the confluence of Austin Creek) to the Pacific Ocean, as not to interfere with their efforts. All proposed changes to include current hook requirements, such as barbless and single.

**4. Rationale (Required) - Describe the problem and the reason for the proposed change:** 8.00b3 Myself and other sport fishing anglers are not allowed to sport fish for any species from Oct. 1 to April 30th unless the river flow is at 3000 C.F.S or more, leaving us with no sport fishing for long periods on what we feel are our home waters (many of us being native to the area). With the vast majority of migrating species being hatchery fish coupled with changes proposed above (overview) and also the rights of others being able to use and enjoy the Russian River year round (kayaks, canoes, swimmers, dogs, special events, etc) adding all due respect to them, we feel somewhat left out of things we are interested in doing year round. It is important that the C.D.F.W. realize many of us have other interests (family, work, hobbies, to mention a few) and that many of us would not be able to sport fish at the same times. Adding (that with all due respect) the C.D.F.W. should not make that assumption.



**SECTION II: Optional Information**

5. **Date of Petition:** Dec. 16, 2015
6. **Category of Proposed Change**  
☒ Sport Fishing  
☐ Commercial Fishing  
☐ Hunting  
☐ Other, please specify: \_\_\_\_\_
7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*  
☒ Amend Title 14 Section(s): 7.50, 8.00  
☐ Add New Title 14 Section(s): \_\_\_\_\_  
☐ Repeal Title 14 Section(s): \_\_\_\_\_
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** \_\_\_\_\_  
Or ☒ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.  
If the proposed change requires immediate implementation, explain the nature of the emergency: March 1, 2017, preferably earlier if possible. Perhaps through some sort of Public Notice (Local newspaper the Press Democrat) and/or revised issue of Regulations between current effective dates.
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Knowledge of the area (having lived in Santa Rosa, Ca. for over 50 years and sport fished the Russian River for over 35 years) respectively, in addition to signed proposal enclosed. Also see attached closing statement for regulation changes.
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: May have had and/or continue to have negative revenue impact on the above due to less travel and spending of visiting and local sport anglers during low flow closure period (listed in current regulations). Our proposal could only help to provide a more positive revenue impact listed in number 11 (economic or fiscal impacts:)
12. **Forms:** If applicable, list any forms to be created, amended or repealed: \_\_\_\_\_





**SECTION 3: FGC Staff Only**

Date received: 12/16/15

FGC staff action:

- ☒ Accept - complete
- ☐ Reject - incomplete
- ☐ Reject - outside scope of FGC authority

Date petitioner was notified of receipt of petition and pending action: 12/18/15

Meeting date for FGC consideration: February 10-11, 2016

FGC action:

- ☐ Denied by FGC
- ☐ Denied - same as petition: \_\_\_\_\_  
Tracking Number
- ☐ Granted for consideration of regulation change

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION  
2015 DEC 16 AM 8:44

## Memorandum

Date: September 6, 2018

To: Stafford Lehr, Deputy Director  
Wildlife Fisheries Division

From: Kevin Shaffer, Chief  
Fisheries Branch



Subject: **Fish and Game Commission Regulation Change Petition No. 2015-015**

### Overview

On December 16, 2015, the Fish and Game Commission (Commission) received a Regulation Change Petition (Tracking Number 2015-015) concerning sport fishing regulations on the Russian River (California Code of Regulations, Title 14, sections 7.50(b) and 8.00(b)). The Commission forwarded the petition to the Department of Fish and Wildlife (Department) for review and requested the Department to meet with the petitioner to discuss their requests and concerns. The proposed changes outlined in petition include the following:

- 1) Open the Russian River to sport fishing all year with no minimum flow requirement;
- 2) A no-take "Catch and Release" of all migratory species including hatchery fish;
- 3) Year-round closure from the point of the Coho Salmon reestablishment monitoring project (near the confluence of Austin Creek) downstream to the Pacific Ocean; and
- 4) Year-round restriction on the use of bait and all proposed changes to include hook requirements, such as barbless and single hook.

Fisheries management staff met with the petitioner on two separate occasions to discuss their proposed regulation changes. For the reasons stated herein, the Department does not support the proposed regulation changes in this petition, and recommends that the Commission deny this petition. Attached are formal responses to this petition from the Department, memo dated April 24, 2018, and from the National Marine Fisheries Service (NMFS), letter dated April 4, 2018. Please refer to the attached documents for additional information including figures, data, photos, etc. supporting the Department's recommendation to deny this petition.

### Background

In 2014, the Department proposed regulatory changes to Title 14, Chapter 3, Article 4, Section 8.00, subsection (b) to add low-flow fishing restrictions to the Russian River and base the closure of North Central-Coast streams on one or more stream gauges on rivers that are more representative of these North Central-Coast streams than the current regulated flows of the Russian River.



The proposed regulatory changes were the result of a collaborative effort among NMFS, the Department, local stakeholders and watershed councils, to address fishery impact concerns that had arisen during the prior three years of drought, with the goal of protecting ESA-listed fish while still providing sport fishing opportunities.

Prior to 2015, a low flow closure regulation on the Russian River had not been promulgated. The Russian River is a regulated stream with flows under the control by two dams. Due to water diverted to Lake Mendocino through the Potter Valley Project, stream flows in the Russian River had been artificially high, year round. In the mid-2000s, a regulatory/recovery program was implemented under a Federal Biological Opinion to reduce flows in the river. At which time, the Department began to see fall pre-rain flows near 150 cfs, rather than 400 cfs. It was at that point a low flow regulation need became apparent.

On December 3, 2014, following two stakeholder meetings and three public Commission meetings, the Commission adopted the Department's proposed regulatory changes to the low flow closure regulations on the North Central-Coast streams. Specifically, the Commission voted to change the location where streamflow is measured to trigger low-flow closures on 17 streams in Mendocino, Sonoma, and Marin counties from the Russian River to the Gualala and Navarro rivers, and established minimum flow requirements of 150 cfs and 200 cfs, respectively. In addition, the Commission adopted a low-flow closure for the Russian River in Sonoma County with a minimum flow requirement of 300 cfs at the gauging station located on the main stem Russian River near Guerneville.

Approximately nine months after the regulations went into effect, the Commission received a petition (Tracking Number 2015-015) to amend the newly adopted low flow closure regulations on the Russian River. The Commission forwarded the Petition to the Department for review and directed the Department to meet with the petitioner to discuss the petitioner's concerns and requests.

#### Coordination with Petitioner

- Meeting in Santa Rosa on November 8, 2017 – Department staff from Region 1, Region 3, and Fisheries Branch met with the petitioner to answer questions and discuss their concerns. The purpose of this meeting was not for the Department to give definitive answers to the petitioner's regulation change requests but rather to have open dialogue.
- Wildlife Resources Committee (WRC) Meeting on January 18, 2018 – The Department presented its recommendation to the WRC that it not move forward with the proposed regulation changes in Regulation Change Petition Tracking Number 2015-015. After hearing comments from the public, the WRC did not make a ruling on the petition and asked the Department to meet with the stakeholders again.

- Meeting in Santa Rosa on May 2, 2018 – Department held a second meeting with the petitioner to discuss their proposed regulation changes and answer questions. In attendance were six Department staff, three NMFS staff, and the petitioner. The Department asked NMFS to attend the meeting because the agency had been involved in the development of the low flow regulations in 2014, including providing its own proposal for low flow fishing restrictions on the Russian River.

#### Responses to Proposed Regulation Changes

- 1) The Department does not support the removal of the minimum flow level for the Russian River. It would remove protections for listed salmonids from recreational fisheries during stream conditions that are adverse for the fish. The use of low-flow closures is a well-established fishery management tool used on other coastal streams in California. Reversing the implementation of low-flow closure regulations would undo recovery actions listed in NMFS species recovery plans. Title 14 Section 8.00(b)(3) established a low-flow closure season from October 1-April 30, and would only affect fishing under low-flow conditions during that period. (Note: In December 2017, the Commission voted to amend Section 8.00(b)(3) and shorten the low flow season by one month, which now ends on March 31).

Sport fishing outside this period would be unaffected by this regulation. The Department recognizes that some fishing opportunity may be lost during the low-flow season, but due to the low population levels of Chinook Salmon and Coho Salmon in the Russian River these protections are necessary measures to maintain a steelhead fishery with reduced impacts to other listed salmonids. In respect to the steelhead fishery, the Department believes ample fishing opportunity was achieved and lost opportunity occurred mainly in the early season before the peak in the steelhead run.

- 2) The Department does not support the petitioner's request to allow targeted catch and release fisheries for CC Chinook Salmon and CCC Coho Salmon. Allowing such fisheries to occur would counteract objectives and recovery actions identified in State's Coho Salmon Recovery Strategy and NMFS recovery plans for both species. The Department supports the take of hatchery steelhead in the Russian River to reduce potential impacts to wild steelhead within the watershed.
- 3) The Department does not support a year-round fishing closure from the point of the Coho Salmon reestablishment monitoring project (near the confluence of Austin Creek) downstream to the Pacific Ocean. The Russian River Coho Salmon Captive Broodstock Program is a collaborative conservation hatchery partnership including the US Army Corps of Engineers, NMFS, CDFW, Sonoma County Water Agency, and the University of California Cooperative Extension/California Sea Grant Extension Program, to recover Coho Salmon within the watershed. Lower Russian River Priority Areas for Coho Salmon are identified in (Figure 7 in the attached memo) which encompasses an area much larger than the proposed closed area.



The Department cannot evaluate a year-round closure of the area from the confluence of Austin Creek downstream to the Pacific Ocean when an objective and rationale has not been provided. The low-flow management tool offers better protection to listed species than a spatial closure because the adverse conditions are temporal (hydrologically driven) rather than spatial. Closures are temporary as needed, and as conditions improve, fishing opportunity returns. Spatial closures close fishing opportunity and shift effort to other areas and do not provide the needed protection for migratory species.

- 4) At this time the Department does not support a year-round restriction on the use of bait. Current regulation allows the use of bait and barbless hooks only from November 1 to March 31, and only artificial lures with barbless hooks may be used from April 1 through October 31 in the subject waters. Bait fishing for steelhead is a frequently used angling method and can be effective during river conditions when there are higher flow and cloudier water. Artificial lures are more effective during lower river flow and clearer water conditions. Amending the regulation for the removal of bait gear would significantly reduce a popular angling opportunity. The Department does not support this section of the regulation change proposal at this time. Future discussion of gear restrictions will be addressed in the development of new anadromous regulations.

### Conclusion

The Department does not support Regulation Change Petition (Tracking No. 2015-015). The proposed regulation changes conflict with state and federal fisheries management objectives and would undo recovery actions listed in NMFS species recovery plans. The Department and NMFS believe that the current low flow restrictions are working to improve the protection for ESA-listed salmonids during their upstream migrations to subsequent spawning destinations, and provide adequate fishing opportunity. The Department will continue to monitor flows on the Russian River and evaluate the effectiveness of the low flow closures. In addition, the Department will address gear restriction changes on all coastal streams during development of pending statewide anadromous regulations. The Department strives to keep the Russian River, and all state waters, open to fishing as much as possible, for all angling types.



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
West Coast Region  
777 Sonoma Avenue, Room 325  
Santa Rosa, California 95404-4731

April 4, 2018

Jonathan Nelson  
Anadromous Conservation and Management Program  
Fisheries Branch  
California Department of Fish and Wildlife  
830 S Street  
Sacramento, California 95811

Dear Mr. Nelson:

This letter is in regard to the Petition (Petition) for regulation change authored by Mr. Fred Boniello (petition tracking number 2015-15) to the California Fish and Game Commission (CFGC) recommending changes to freshwater fishing regulations on the Russian River in Title 14, Chapter 3, Article 3 subsections 7.50(b) and 8.00(b). We understand Mr. Boniello requests the following changes:

- 1) Open the Russian River to sport fishing all year with no minimum flow requirement.
- 2) A no-take "Catch and Release" of all migratory species including hatchery fish.
- 3) Year round closure from the confluence of Austin Creek downstream to the Pacific Ocean.
- 4) All proposed changes to include hook requirements, such as barbless and single hook.

In 2013, NOAA's National Marine Fisheries Service's (NMFS), in close coordination with CDFW Region 3 (R3), authored a proposed low-flow closure regulation change for the Russian River for the primary purpose to enhance the protection of federally Endangered Species Act (ESA) listed adult salmonids during prolonged low-flow periods (Enclosure 1). Subsequently, CDFW R3 and CFGC supported a low-flow closure threshold for the Russian River, which was implemented in 2015. Currently, the Russian River main stem below the confluence of the East Branch Russian River is open to fishing all year under Title 14 section 7.50(b)(155)(A). Title 14 section 8.00(b)(3) identifies a low-flow closure season from October 1 - April 30 which restricts fishing opportunity when flows recede below 300 cfs at the USGS Guerneville gauging station (1146700) during the low-flow closure season. This new and current Russian River fishing regulation, which is the subject of the current Petition, is in alignment with NMFS' mission to protect and recover salmonids listed under the federal ESA of 1973, as amended.

Salmonids in many coastal watersheds in California are subject to increased angling pressure during periods of extended or prolonged low-flow conditions. CDFW currently has low-flow closures in most watersheds in Marin, Sonoma, and Mendocino counties, with established low-flow thresholds to protect adult salmonids during their spawning migration. When low-flow





conditions occur, adult salmonids are subjected to increased mortality potential due to physiological stress, decreased passage or migration opportunity and quiescence, predation, and elevated angling pressure. Due to the elevated risk associated with these low-flow conditions, we believe it is prudent to retain their current protection during these vulnerable periods, and do not support removing the current low-flow restriction (Petition change #1).

To date, these enhanced protections during the fishing season have resulted in river closure during low flow periods in the fall prior to onset of winter rains, coinciding with federally ESA-listed threatened California Coastal (CC) Chinook salmon and federally and state listed endangered Central California Coast (CCC) coho salmon migration periods. NMFS does not support Petition change #2 as proposed, which would result in 'catch and release' fisheries targeting CC Chinook salmon and CCC coho salmon, and would conflict with the fishery management objectives to harvest hatchery steelhead in the Russian River. Regarding Petition change #3, NMFS would like to discuss and evaluate this proposed change further with CDFW staff during the development of the hatchery management plan for the Russian River steelhead program currently in progress. Finally, we understand that gear restrictions changes (Petition change #4) will be addressed in the development of pending statewide anadromous regulations.

In summary, NMFS believes federally ESA-listed salmonids inhabiting the Russian River should receive the necessary protection from anglers during critically low-flow periods to ensure species recruitment and conservation goals. Following river flow increases, the fishing season has remained open for the remainder of the water-year, coinciding with the migration of CCC steelhead, and allowing ample fishing opportunity through the winter and spring since implementation of the emergency closures and current regulations (Enclosure 2). NMFS supports an appropriate low-flow closure threshold for the Russian River and the current protections which the regulations in subsections 7.50(b) and 8.00(b) provide.

If you have any questions or would like additional information regarding our support for this effort, please contact Joshua Fuller at (707) 575-6096 or by email at [Joshua.Fuller@noaa.gov](mailto:Joshua.Fuller@noaa.gov).

Sincerely,



Alecia Van Atta  
Assistant Regional Administrator  
California Coastal Area Office

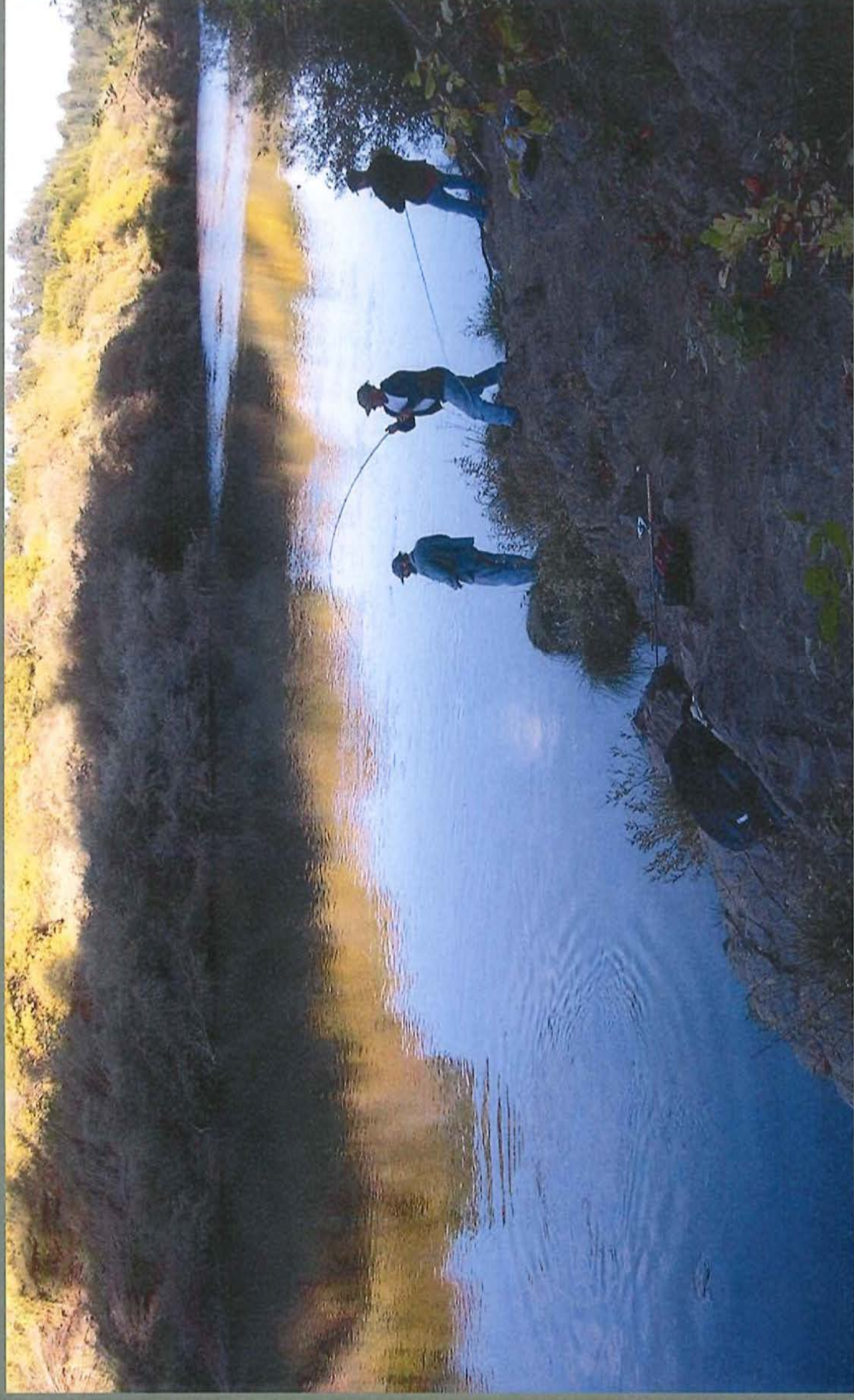
#### Enclosures

cc: Charlton Bonham, Director, CDFW, Sacramento, CA  
Stafford Lehr, Fisheries Branch Chief, CDFW, Sacramento, CA  
Scott Wilson, Regional Manager, CDFW, Yountville, CA  
Eric Larson, Biological Programs Manager, CDFW, Yountville, CA  
Neil Manji, Regional Manager, CDFW, Redding, CA  
Tony LaBanca, Coastal Fisheries Environmental Program Manager, CDFW, Eureka, CA  
Allan Renger, Southern Humboldt and Mendocino counties Fisheries Management  
Acting Supervisor, CDFW, Fortuna, CA



# Russian River

## Approach to the Proposed Fishing Regulation Change



Chinook hook-up, Russian River, CA – 16 October 2006



## Current Russian River Fishing Regulations:

1. Russian River main stem below the confluence of the East Branch Russian River = **Open all year**
2. Russian River main stem above the confluence of the East Branch and all Russian River tributaries = **Closed**
3. Russian River within 250 feet of the Healdsburg Memorial Dam = **Closed**
4. North Central District – Central Coast Streams
  - Chapter 3. Article 4. Supplemental Regulations. 8.00. Low-Flow Restrictions. (b) Central Coast Streams – Stream Closures: Special Low Flow Conditions. **From October 1 through April 1**, any of the stream reaches listed in subsection (1) and (2)... (1) The Sonoma Creek (Sonoma County), and all streams tributary to the Pacific Ocean (and its bays) in Mendocino, Sonoma, and Marin counties, **except for the Russian River.**



# Need for fishing regulation change:

1. Minimize impacts to listed salmonids associated with angling; particularly coho and Chinook salmon during the fall months
2. Overlap in run-timing of salmonids results in incidental catch of sensitive species – magnified during low-flow conditions
3. Increasing trend of coho salmon in the Russian River – higher probability of endangered species and angler interaction in the future
4. Climate change – potentially a higher frequency of severe low-flow conditions during the angling season



Angler caught Chinook salmon, Russian River, CA



# Lack of rain impacts Russian River coho

By **BOB NORBERG**

THE PRESS DEMOCRAT

Published: Wednesday, January 11, 2012 at 6:52 p.m.

**pressdemocrat**.com

*“The lack of rain and resulting low flow of the Russian River pose a threat to endangered coho salmon, which are having difficulty reaching their spawning grounds and could be caught and killed by fishermen.....”*



*“Bill Laurie of Santa Rosa, president of the Russian River Fly Fishers, said most fishermen know the difference, that coho have black mouths and steelhead have a white mouth. But he also acknowledged that the concerns of biologists and regulators are warranted.....”*

January 11, 2012



# Goals of fishing regulation change:

1. Enhance protection of listed salmonids during low-flow conditions - when they are most stressed and vulnerable
2. Simplify and attempt to make fishing regulations consistent
3. Provide and maintain quality angling opportunities – recognize windows of fishing opportunity to keep people interested in fishing the Russian River
4. Use fisheries data to support fishing regulation change – another value of monitoring data!



Hatchery steelhead,  
Russian River, CA



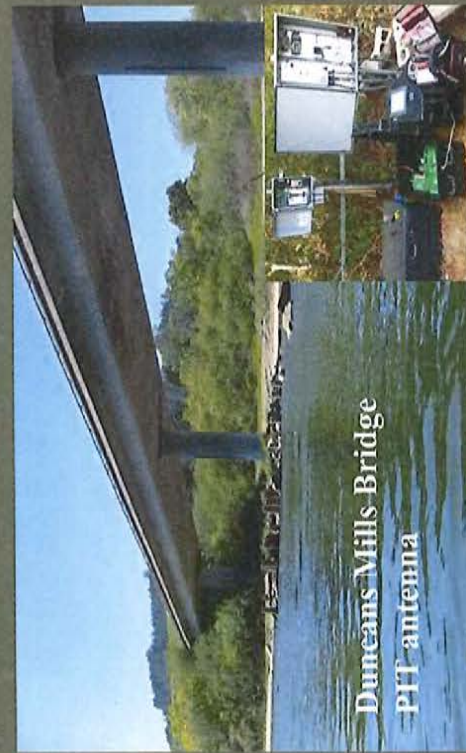
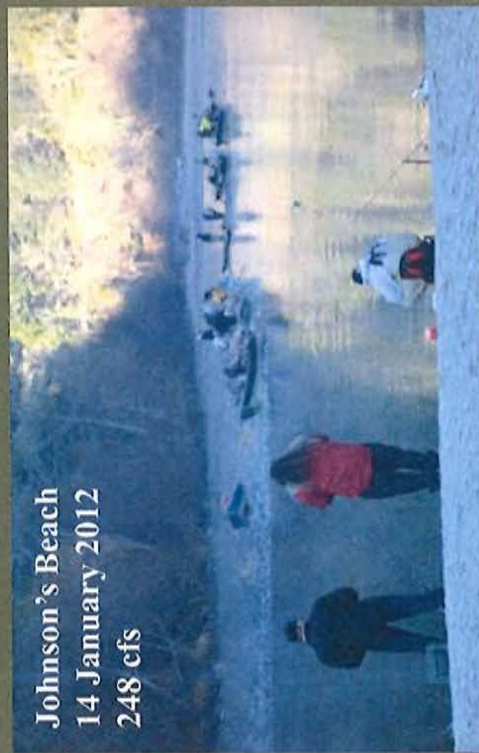
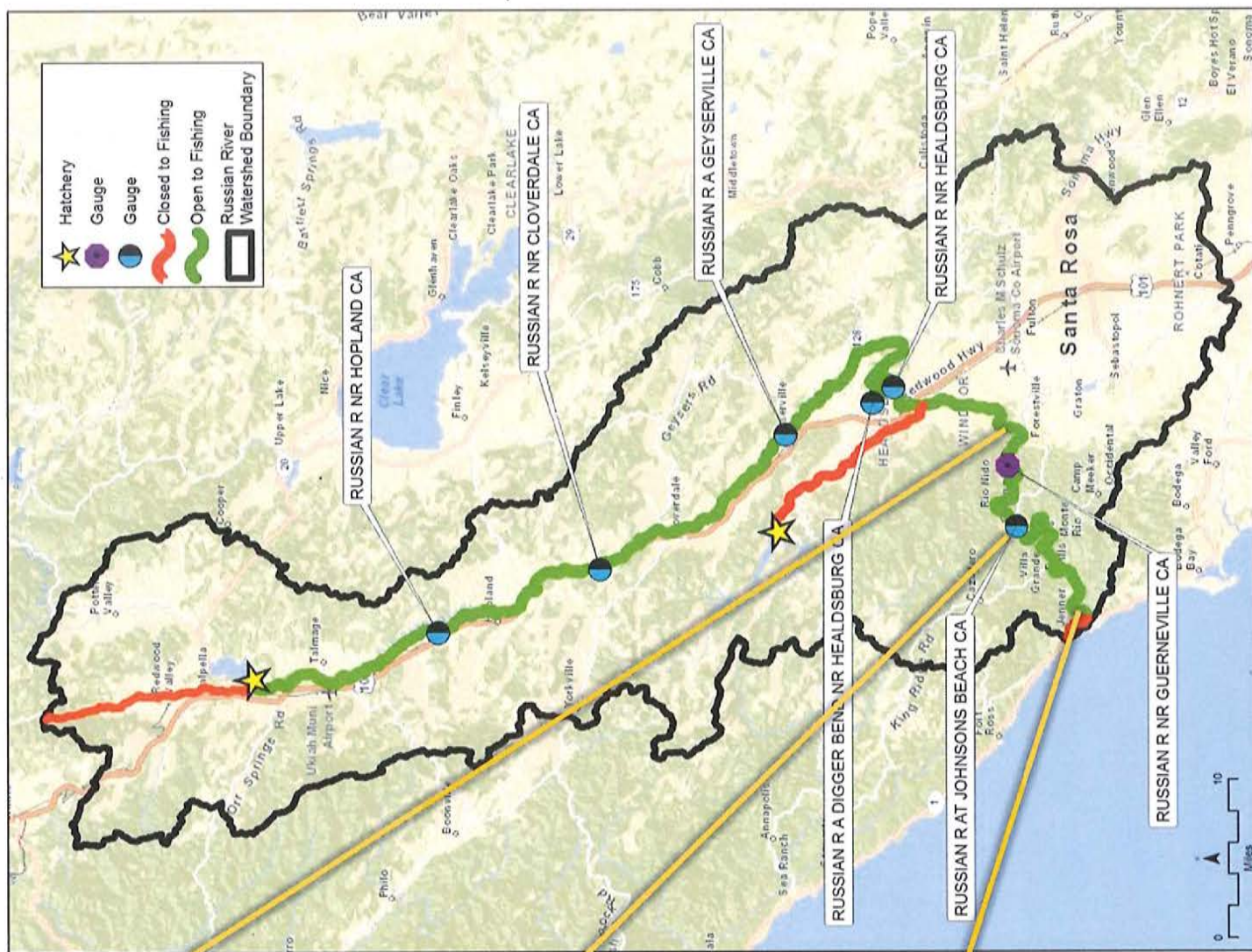
# Evaluation of existing fishing regulations = fishing regulation change proposal

## Information used:

1. Hydrology data
2. Wohler video data
3. Coho monitoring data
4. Steelhead report card data
5. Field observations
6. Local angler knowledge and expertise (outreach)

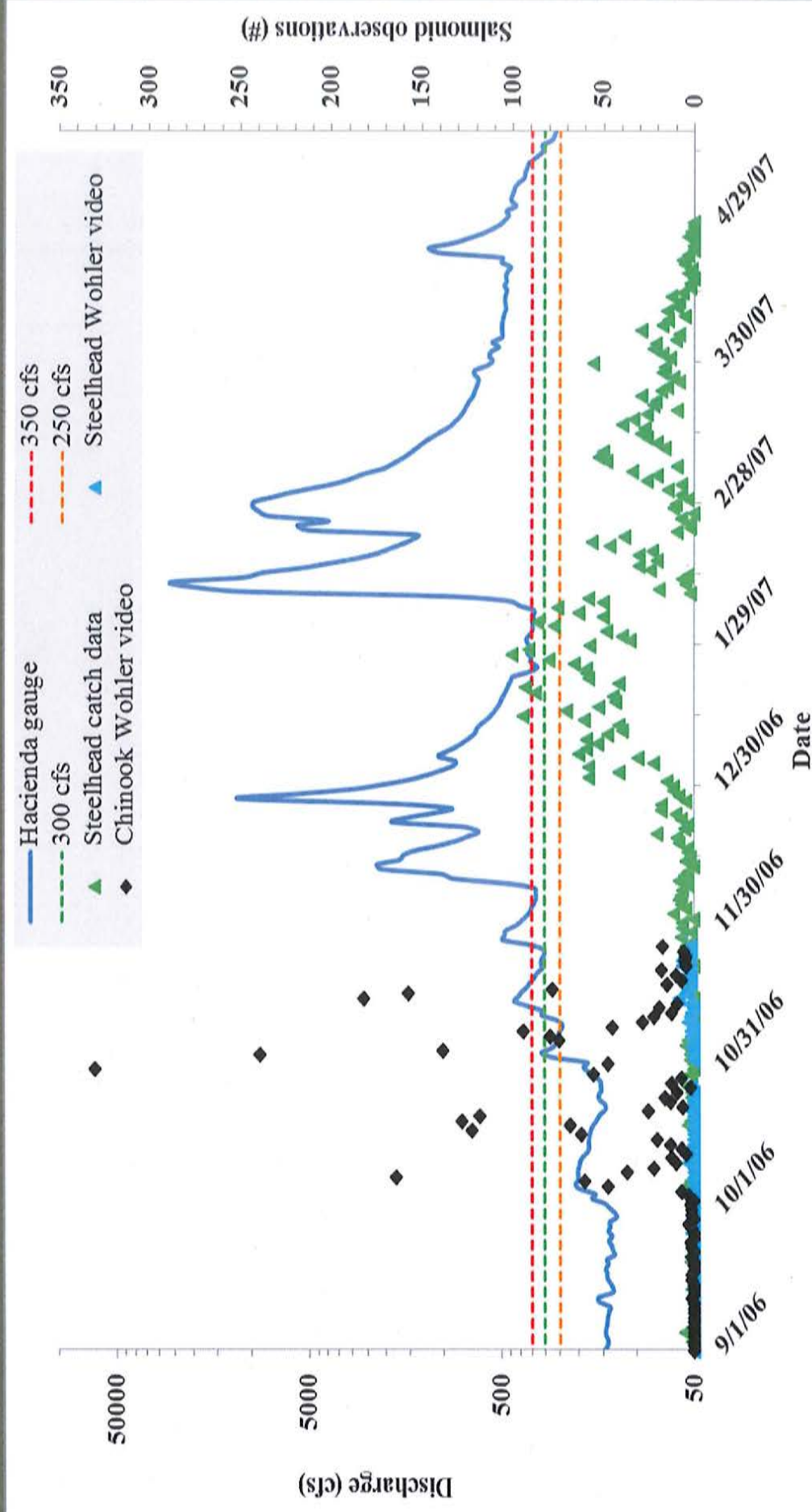






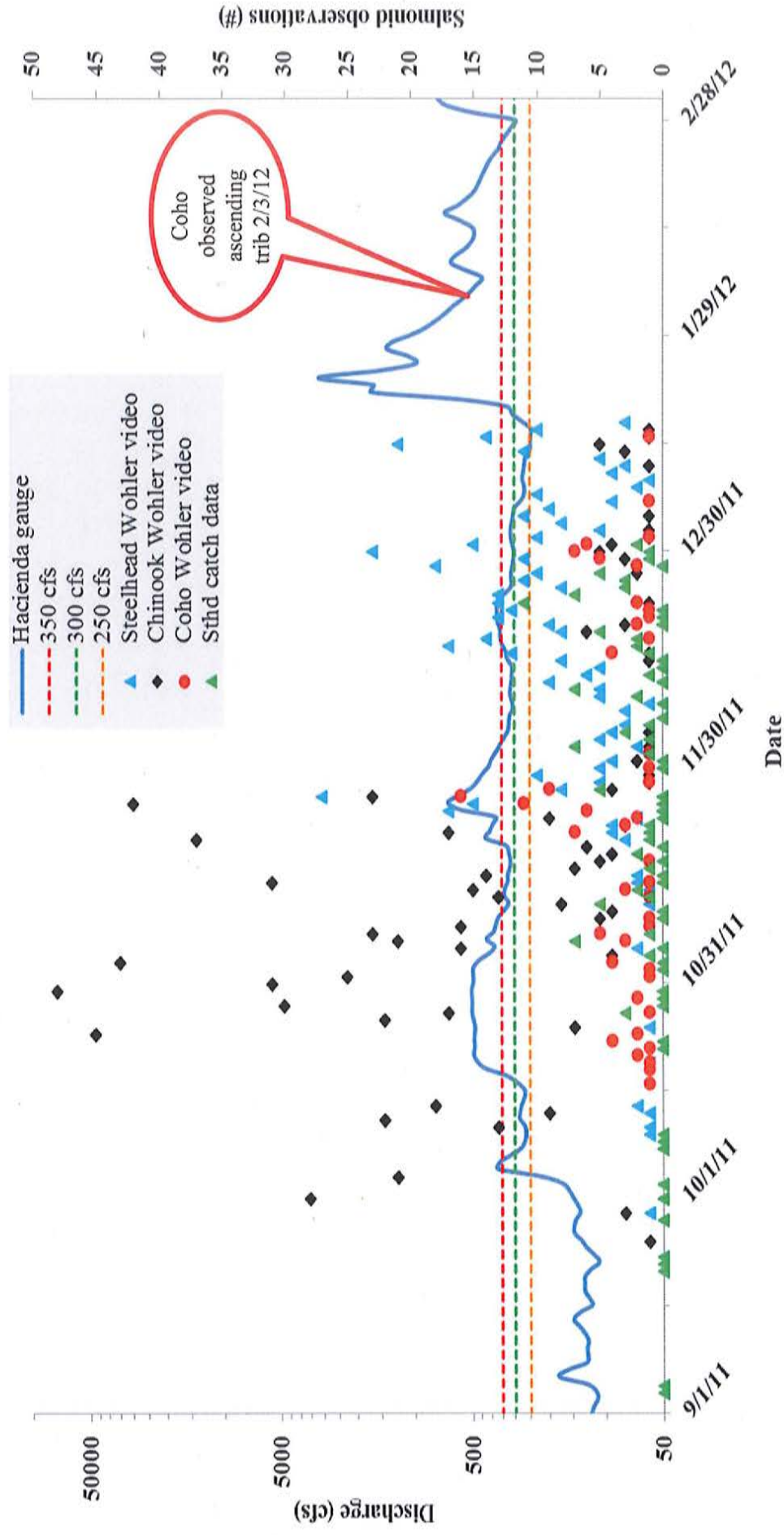


## Example: Steelhead catch data 2006/07



Salmonid observations and potential low-flow triggers superimposed on the 2006/07 Russian River at Hacienda hydrograph (September – April). Salmonid data doesn't include all Chinook observations at the Wohler video station to provide higher resolution of early arriving steelhead (scale).

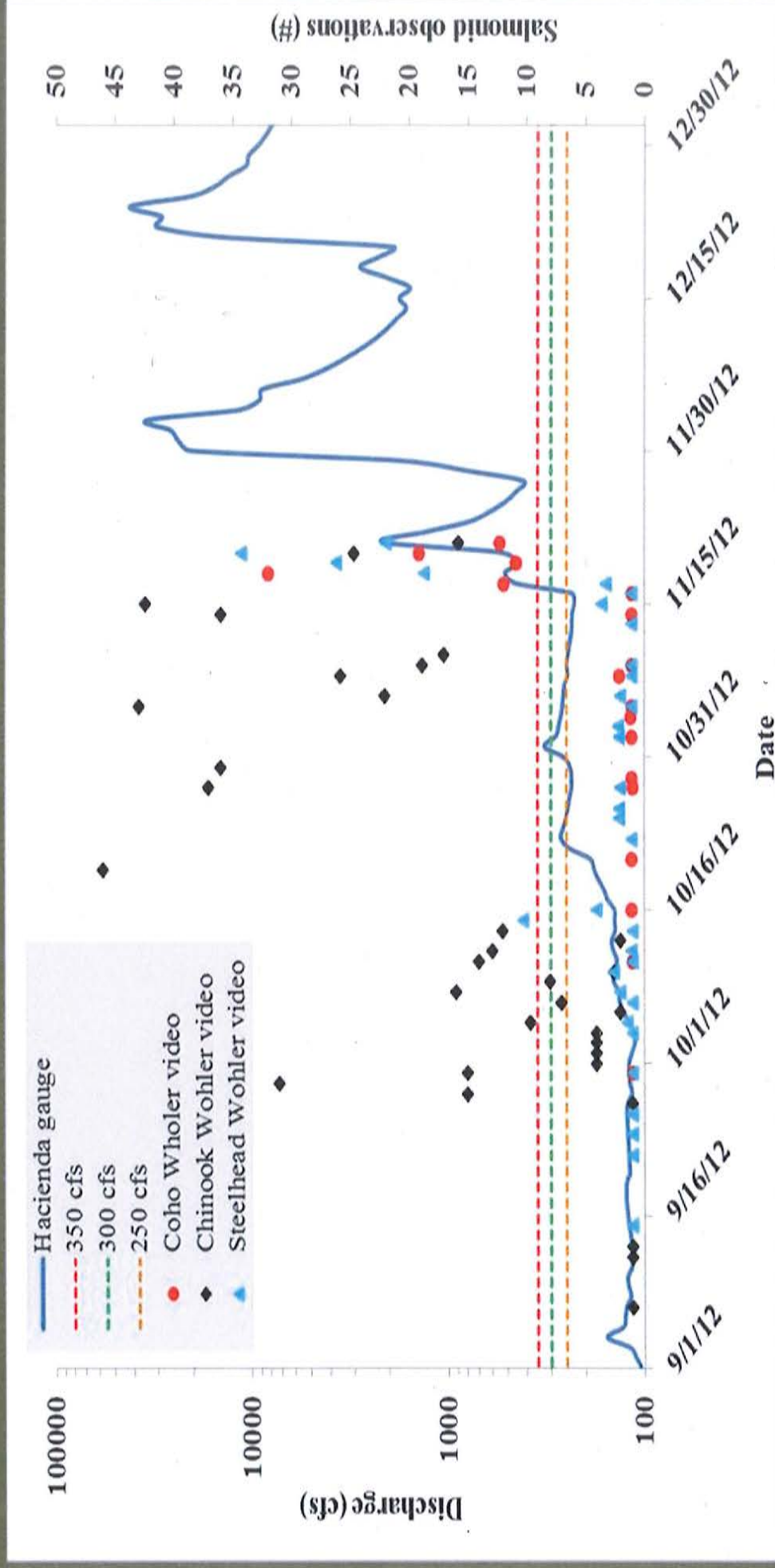
## Example: Severe low-flow conditions 2011/12



Salmonid observations and potential low-flow triggers superimposed on the 2011/12 Russian River Hacienda hydrograph (September – January). Salmonid data doesn't include all Chinook observations at the Wohler video station to provide higher resolution of observed coho salmon and steelhead (scale).

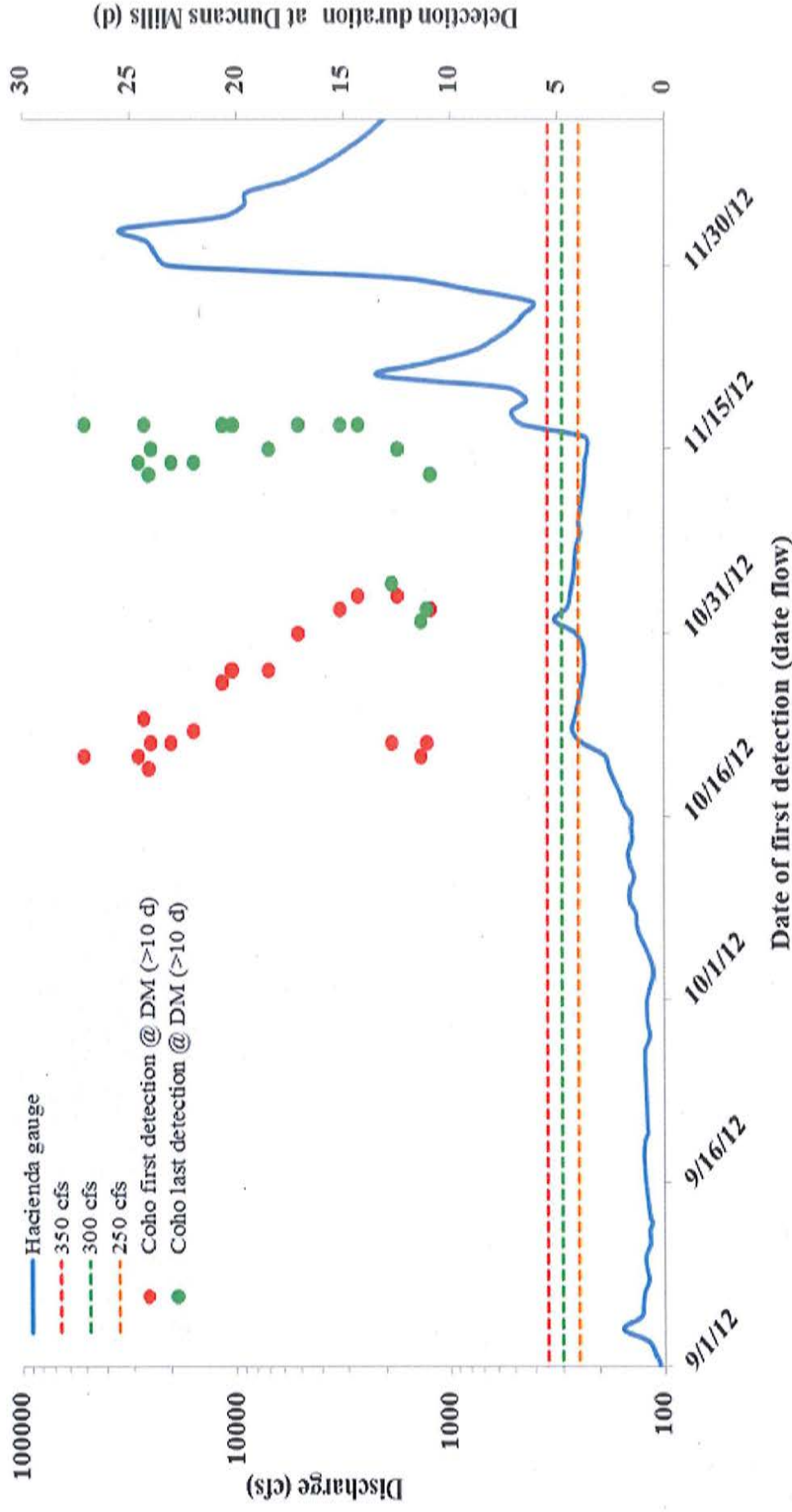


## Example: Fall 2012



Salmonid observations and potential low-flow triggers superimposed on the 2012 Russian River Hacienda hydrograph (September – December). Salmonid data doesn't include all Chinook observations at the Wohler video station to provide higher resolution of observed coho salmon and steelhead (scale).

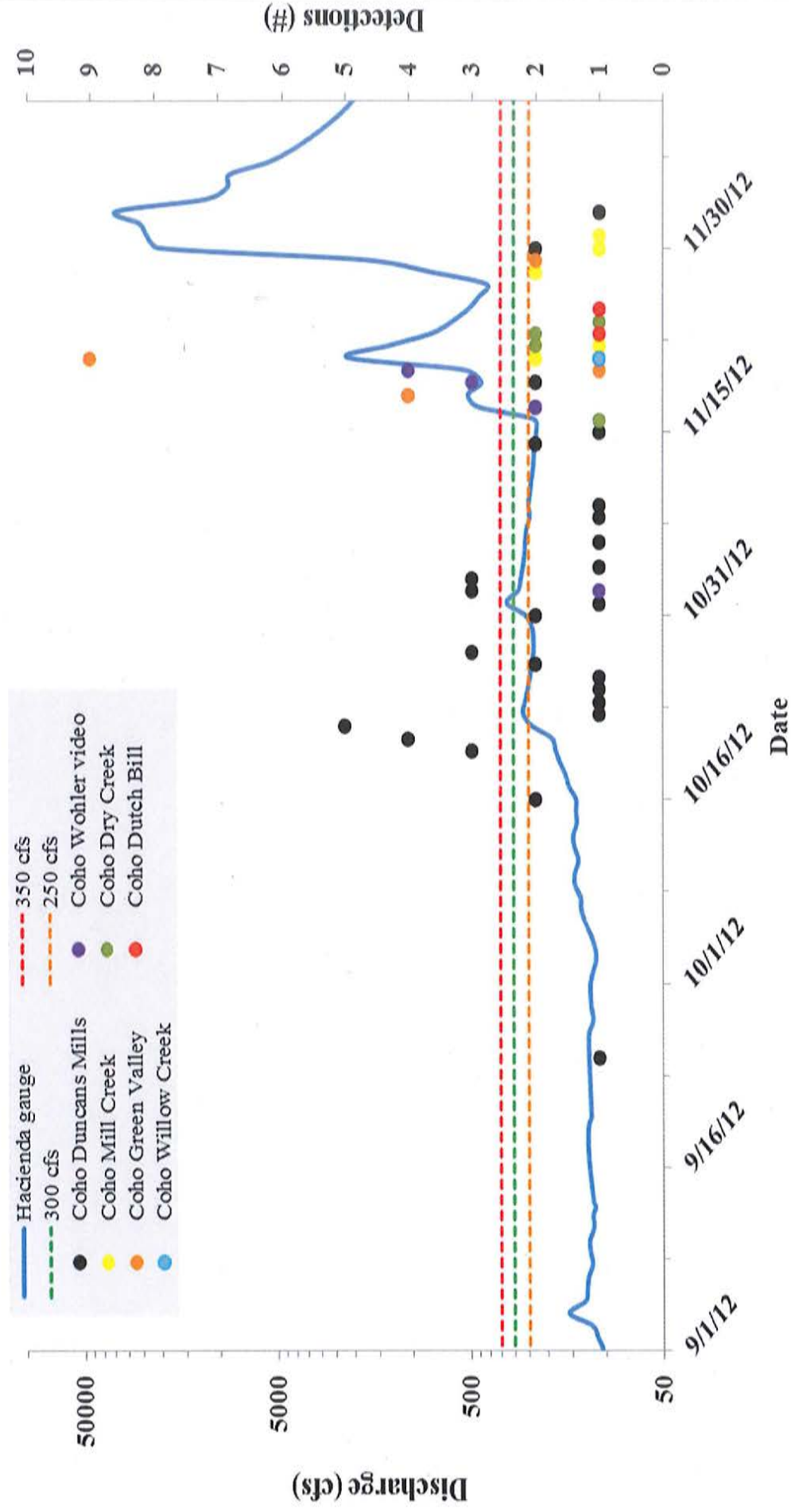
## Coho PIT detections at Duncan Mills: Fall 2012



Detection duration of PIT tagged coho salmon at Duncan Mills. Data indicates that many coho salmon staged at the Duncan Mills site until flows exceeded 350 cfs. Data includes only coho salmon that staged at the Duncan Mills for > 10 d.



# Coho PIT tag detections: Fall 2012



Coho salmon PIT detections at various PIT antenna locations within the Russian River. Data indicates that coho salmon didn't arrive in tributary streams until flows exceeded 350 cfs at the Russian River Hacienda gauge.



# Number of fishing days analysis: 2004 - 2013

Flow (cfs)	Year										% Total (d)
	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13		
September – November (91 d)											
< 250 [% (d)]	52 (47)	60 (55)	71 (65)	86 (78)	88 (80)	85 (77)	46 (42)	37 (34)	73 (66)	66 (544)	
< 300 [% (d)]	57 (52)	82 (75)	78 (71)	100 (91)	91 (83)	95 (86)	47 (43)	53 (48)	85 (77)	78 (628)	
< 350 [% (d)]	78 (71)	91 (83)	88 (80)	100 (91)	93 (85)	96 (87)	47 (43)	62 (56)	85 (77)	83 (679)	
< 500 [% (d)]	97 (88)	92 (84)	100 (91)	100 (91)	97 (88)	100 (91)	56 (51)	92 (84)	89 (81)	91 (749)	
December (31 d)											
< 250 [% (d)]	0 (0)	0 (0)	0 (0)	0 (0)	45 (14)	16 (5)	0 (0)	0 (0)	0 (0)	7 (19)	
< 300 [% (d)]	0 (0)	0 (0)	0 (0)	16 (5)	61 (19)	35 (11)	0 (0)	0 (0)	0 (0)	13 (35)	
< 350 [% (d)]	13 (4)	0 (0)	16 (5)	23 (7)	68 (21)	39 (12)	0 (0)	74 (23)	0 (0)	24 (68)	
< 500 [% (d)]	19 (6)	19 (6)	32 (10)	52 (16)	74 (23)	68 (21)	0 (0)	100 (31)	0 (0)	41 (113)	
January (31 d)											
< 250 [% (d)]	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	13 (4)	0 (0)	1 (4)	
< 300 [% (d)]	0 (0)	0 (0)	0 (0)	0 (0)	35 (11)	0 (0)	0 (0)	42 (13)	0 (0)	9 (24)	
< 350 [% (d)]	0 (0)	0 (0)	3 (1)	0 (0)	55 (17)	0 (0)	0 (0)	61 (19)	0 (0)	13 (37)	
< 500 [% (d)]	0 (0)	0 (0)	42 (13)	0 (0)	94 (29)	23 (7)	0 (0)	61 (19)	0 (0)	24 (68)	
February – March (59/60 d)											
< 250 [% (d)]	0 (0)	0 (0)	(0)	0 (0)	8 (5)	0 (0)	0 (0)	0 (0)	0 (0)	1 (5)	
< 300 [% (d)]	0 (0)	0 (0)	(0)	0 (0)	8 (5)	0 (0)	0 (0)	2 (1)	0 (0)	1 (6)	
< 350 [% (d)]	0 (0)	0 (0)	8 (5)	0 (0)	10 (6)	0 (0)	0 (0)	5 (3)	0 (0)	3 (14)	
< 500 [% (d)]	0 (0)	0 (0)	14 (8)	0 (0)	19 (11)	0 (0)	0 (0)	37 (22)	10 (6)	9 (47)	
< 500 [% (d)]	44 (94)	42 (90)	58 (122)	50 (107)	71 (151)	56 (119)	24 (51)	74 (156)	41 (87)	51 (977)	
< 350 % Total (d)	35 (75)	39 (83)	43 (91)	46 (98)	61 (129)	47 (99)	20 (43)	47 (101)	36 (77)	42 (798)	
< 300 % Total (d)	24 (52)	35 (75)	33 (71)	45 (96)	55 (118)	46 (97)	20 (43)	29 (62)	36 (77)	37 (703)	
< 250 % Total (d)	22 (47)	26 (55)	31 (65)	37 (78)	47 (99)	39 (82)	20 (42)	24 (50)	31 (66)	30 (572)	

Russian River at Hacienda gauge 2004/05 – 2012/13. Information includes the percentage and number of days estimated under potential low-flow triggers using Hacienda stream gauge. Highlighted green indicates years that experienced severe low-flow conditions. Highlighted blue indicates the proposed low-flow trigger for the Russian River using the Hacienda stream gauge. Stream flow source: USGS daily average.



## Preliminary Results:

1. Angling occurs throughout the adult salmonid migration/spawning season in the Russian River (September – April)
2. Coho are present in the lower Russian River later than January 1<sup>st</sup>, especially when low-flow conditions occur – flow driven (tributary flow driven?) – (2011/12)
3. Coho salmon staged for long periods (>25 d) at Duncans Mills when flow were below 350 cfs at Hacienda (Fall 2012)
4. Angling pressure can be intense when salmonids are staging in lower river pools (<350 cfs) – worst situation (2011/12)
5. A low-flow trigger of 350 cfs provides protection for migrating and spawning (upper river) salmonids during low-flow conditions (especially during the fall) while providing adequate angling opportunity for hatchery steelhead



## Russian River fishing regulation in question:

*Chapter 3. Article 4. Supplemental Regulations. 8.00. Low-Flow Restrictions. (b) Central Coast Streams – Stream Closures: Special Low Flow Conditions. From October 1 through April 1, any of the stream reaches listed in subsection (1) and (2) ... (1) The Sonoma Creek (Sonoma County), and all streams tributary to the Pacific Ocean (and its bays) in Mendocino, Sonoma, and Marin counties, **except for the Russian River.** Page 68 – 69.*



# Proposed alternatives:

## Alternative (1):

Low-flow restrictions based on the Russian River stream gauge near Guerneville

Russian River main stem below the confluence of the East Branch Russian River (Mendocino and Sonoma counties) will close when the following low-flow conditions exist:

- **Minimum Flow:** From September 1 through April 1, **350 cfs** at the gauging station located on the main stem Russian River near the town of Guerneville (USGS 11463500 or CDEC HAC; Sonoma County).
- 

## Alternative (2): (See Mad River)

Low-flow restrictions based on the Russian River stream gauge near Guerneville

Russian River main stem below the confluence of the East Branch Russian River (Mendocino and Sonoma counties) will close when the following low-flow conditions exist:

- **Minimum Flow:** From September 1 through January 31, **350 cfs** at the gauging station located on the main stem Russian River near the town of Guerneville (USGS 11463500 or CDEC HAC; Sonoma County).



Release Wild Steelhead with intact adipose fin!

No adipose fin on Hatchery Steelhead!

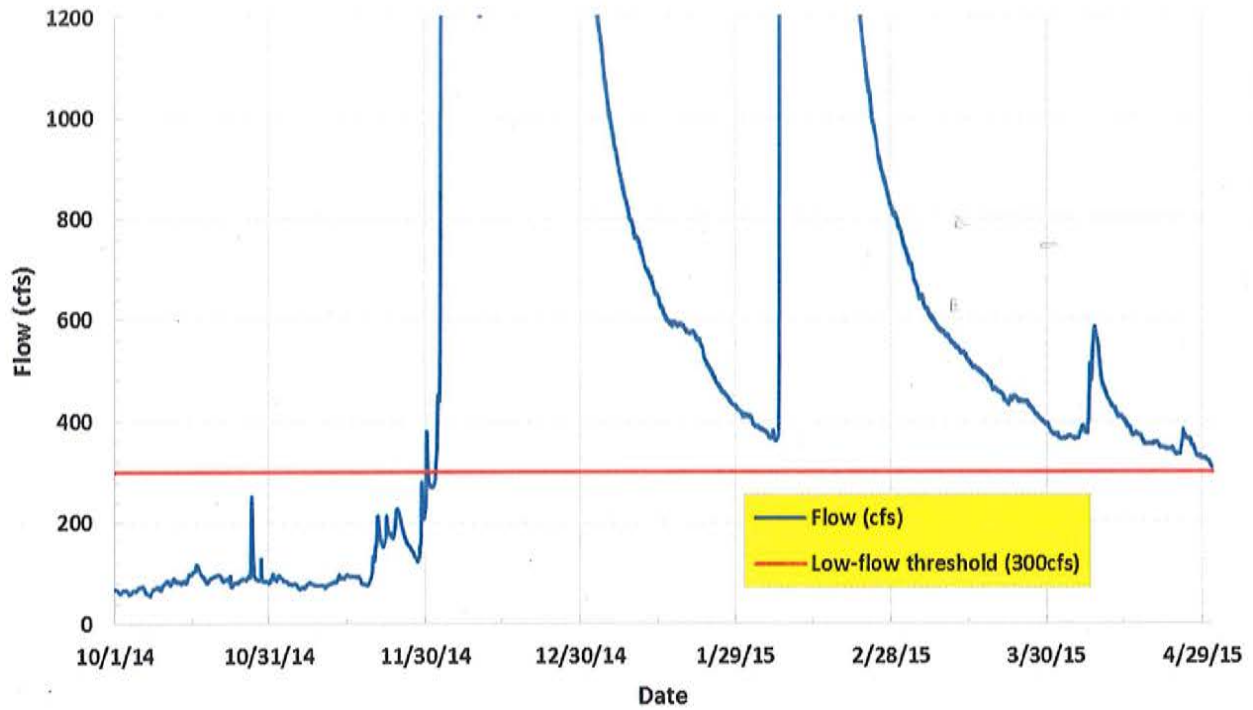
No black color on lower jaw and tongue

Spotting on upper and lower lobes of tail

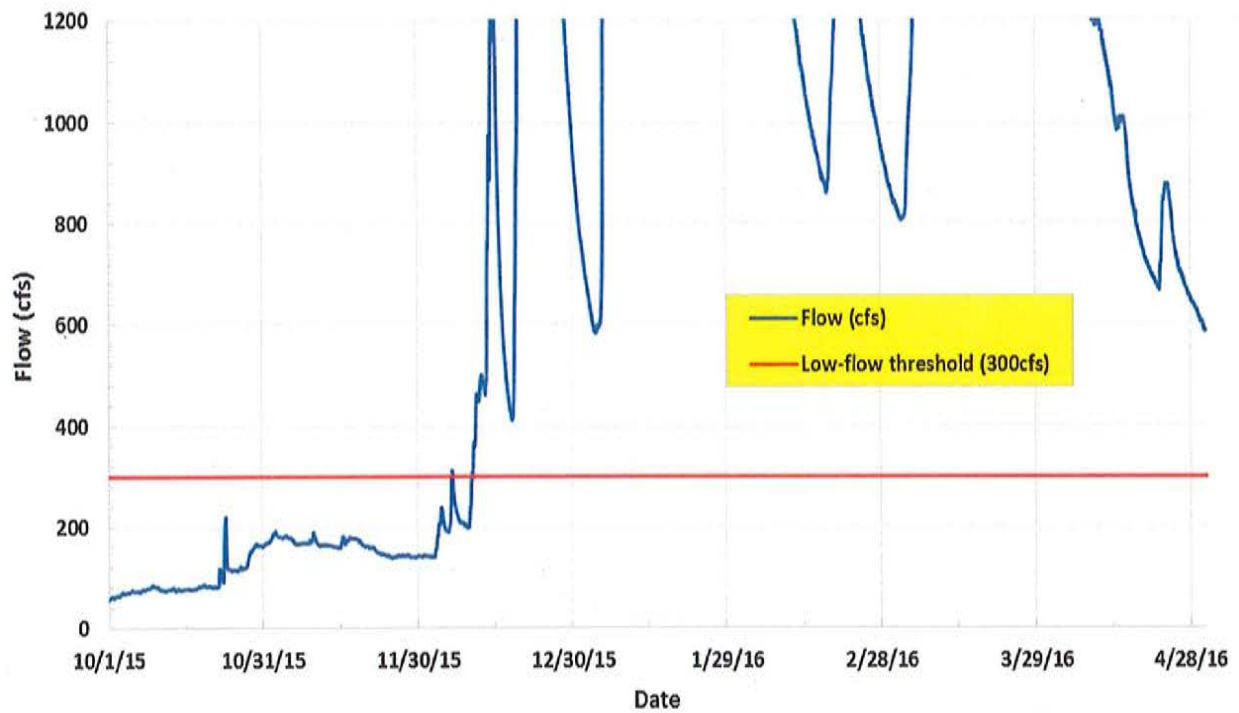
**Steelhead Trout**



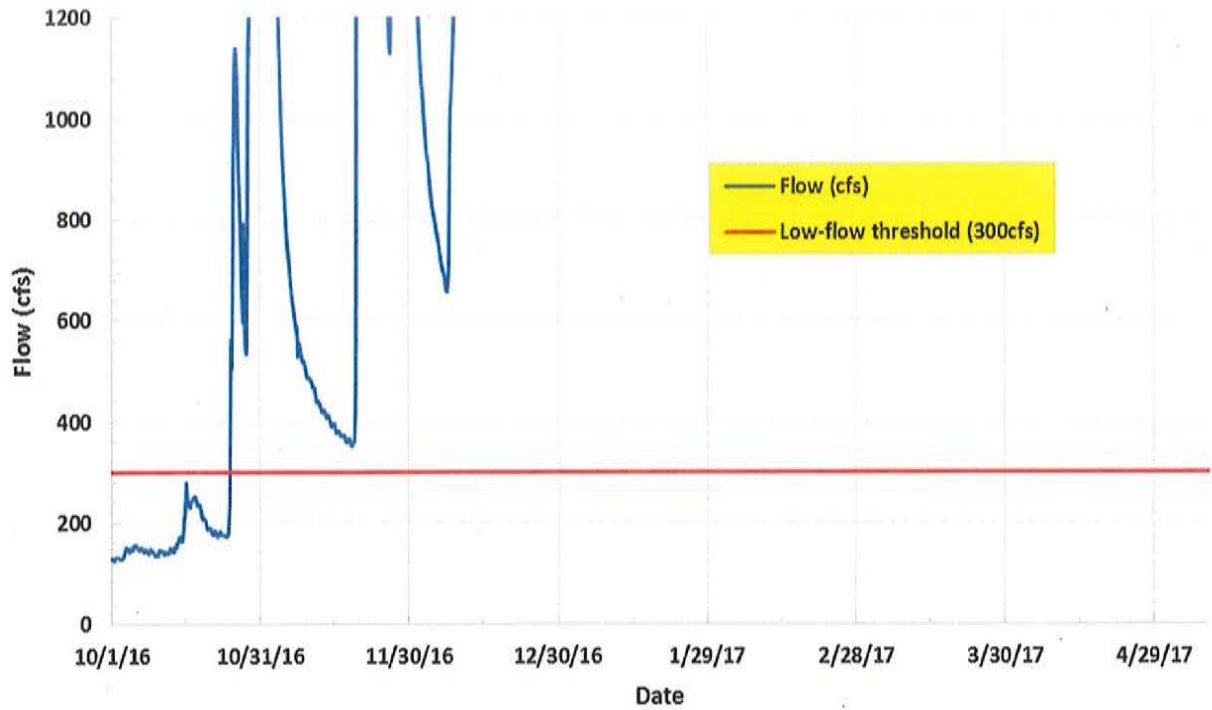
Russian River at Guerneville 2014\_15



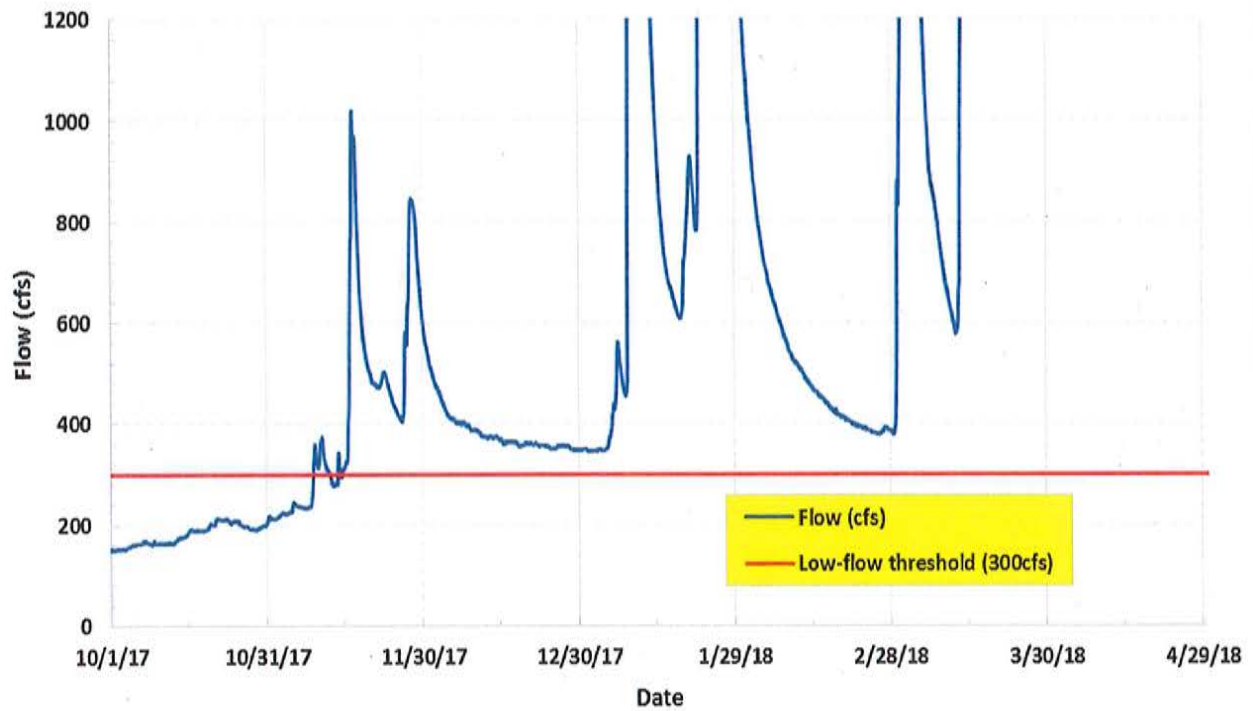
Russian River at Guerneville 2015\_16



Russian River at Guerneville 2016\_17



Russian River at Guerneville 2017\_18






State of California  
Department of Fish and Wildlife

## Memorandum

Date: April 24, 2018

To: Kevin Shaffer  
Branch Chief, Inland and Anadromous Fisheries  
California Department of Fish and Wildlife

From: Neil Manji   
Regional Manager, Northern Region  
California Department of Fish and Wildlife

Gregg Erickson   
Regional Manager, Bay Delta Region  
California Department of Fish and Wildlife

Subject: **Northern Region and Bay Delta Region Response Regarding Fishing Regulation Change (Petition Number 2015-015)**

On December 16, 2015, the California Fish and Game Commission (FGC) received a petition for regulation change authored by Fred Boniello (petition tracking number 2015-015) recommending changes to freshwater fishing regulations at locations in California Department of Fish and Wildlife (CDFW) Northern (R1) and Bay Delta (R3) regions. R1 and R3 fisheries management staff met to consider the proposed regulation change recommendations, and this memo is a coordinated R1 and R3 response to CDFW Fisheries Branch and FGC regarding the petition.

### Petition Summary

The petitioner recommends change to Title 14, California Code of Regulations:

Chapter 3, Article 3, Section 7.50(b) (155) (A) - Alphabetical List of Waters with Special Fishing Regulations subsections relevant to the Russian River: Russian River main stem below the confluence of the East Branch Russian River.

Chapter 3, Article 4, Section 8.00(b) (3) - Low-Flow Restrictions Mendocino, Sonoma, and Marin County coastal streams, subsections relevant to the Russian River: River main stem below the confluence of the East Branch Russian River (Mendocino and Sonoma counties).

Proposed amendments to subsections of 7.50(b):

- Amend Section 7.50(b) to permit a no take "Catch and Release" of all migratory species including hatchery fish.
- Amend Section 7.50(b) to permit a year-round restriction for the use of bait (artificial bait only permitted) and include current hook requirements such as barbless and single.
- Amend Section 7.50(b) to permit a year-round closure from the point of the CDFW Coho Salmon reestablishment monitoring project (near the confluence of Austin Creek) to the Pacific Ocean.

Proposed amendments to subsections of 8.00(b):

- Amend Section 8.00(b) to open the Russian River to sport fishing all year with no minimum flow requirement.

**Background:** On December 3, 2014, the FGC adopted changes to Chapter 3, Article 3, Section 7.50(b). The petitioner now proposes changes to the same section of the regulations related to low flow angler restrictions, gear type, and seasons in the Russian River (Mendocino and Sonoma counties). The petitioner's supporting rationale identifies the newly adopted low flow angler closure flows as preventing fishing opportunity for long periods of time. R1 and R3 believe the flow data during the low-flow season (October to April) from 2015- 2018 (Figures 1-6), indicated the current regulation appropriately balances the opportunity for steelhead angling under favorable flow conditions with protection for Chinook Salmon, Coho Salmon, and steelhead by closing fishing during periods of low stream flow.

Unlike other coastal streams in the area, the Russian River does not follow a natural stream flow regime as it is a regulated system controlled by water releases from the Warm Springs Dam and the Coyote Valley Dam. Additionally, the estuary must be periodically breached by the Sonoma County Water Agency to prevent flooding which allows adult salmonids to enter the Russian River under less optimal migration conditions. The Russian River supports two federally threatened species—California Coastal (CC) Chinook Salmon and Central California Coast (CCC) steelhead—as well as the federally and State endangered CCC Coho Salmon. To continue to provide steelhead fishing opportunities a minimum low-flow level was established to protect these listed species under adverse stream conditions and reduce take and fishing-related mortalities. The current regulation controls the opening and closing of the Russian River main stem below the confluence of the East Branch Russian River (Mendocino and Sonoma counties) to angling based upon data from the best available regional USGS flow gauge (USGS 1146700 Russian River near Guerneville, CA). The gauge flow threshold to open and close angling within the regulation was established based upon hydrological data, salmonid monitoring data, steelhead report card data, migration flow criteria, and the observation and input of CDFW personnel, NOAA personnel, and anglers. R1 and R3 anticipated that fishing opportunities would be reduced in the early season when flows are lower. However, this lower flow period coincides with the time period when protection of listed species is the most needed. Opportunities during the peak steelhead season are largely unaffected.



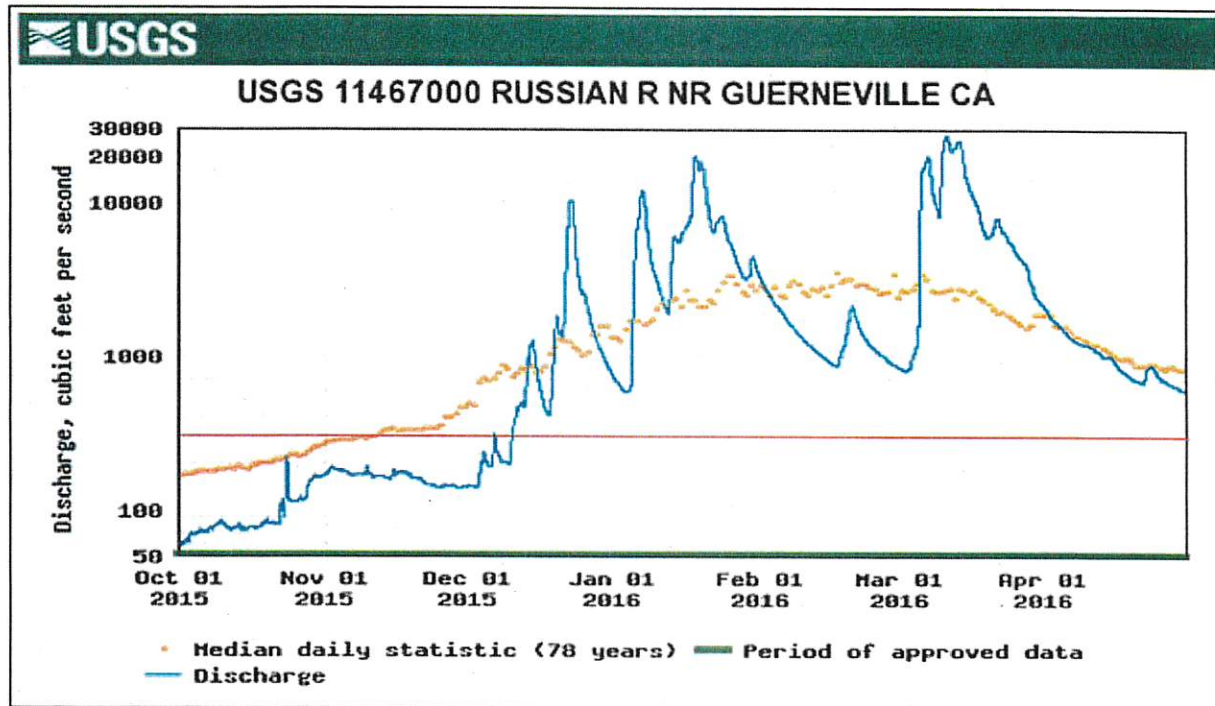


Figure 1. Stream flow measured at the Russian River gauging station near Guerneville from October 2015 through April 2016. Red line indicates the minimum flow level of 300 cfs.

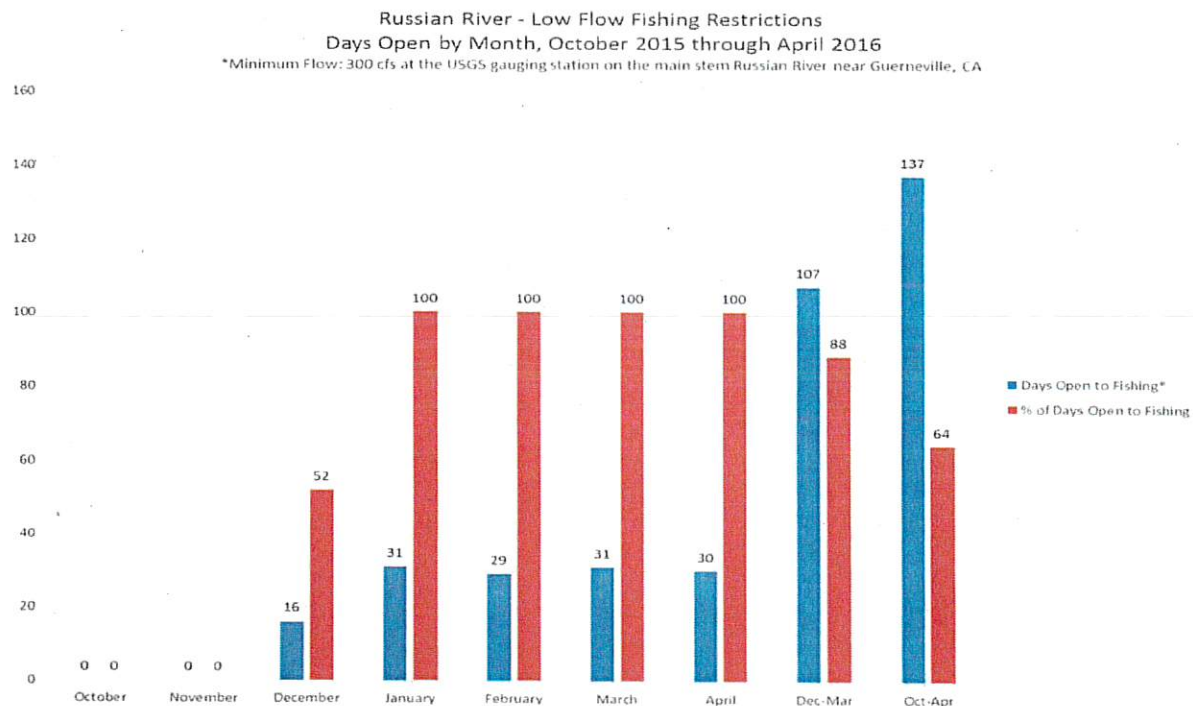


Figure 2. Number of days open to fishing by month and the corresponding percentage, as well as the overall season (October 2015 through April 2016) in Russian River.

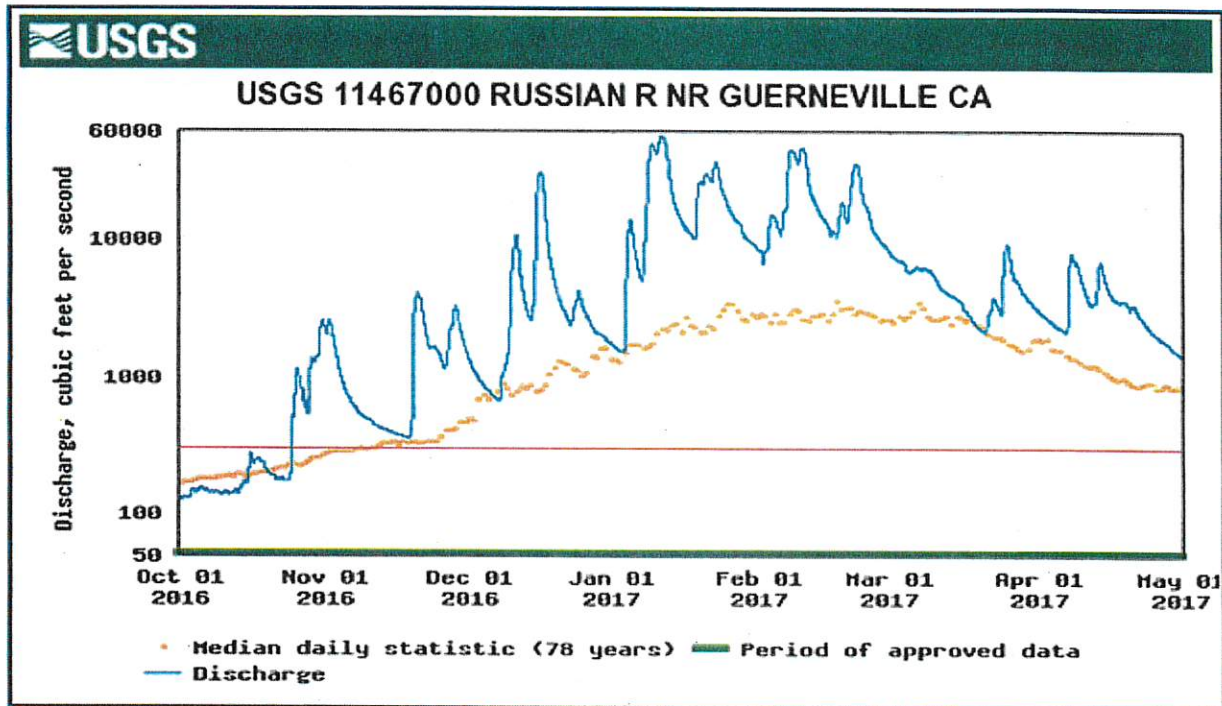


Figure 3. Stream flow measured at the Russian River gauging station near Guerneville from October 2016 through April 2017. Red line indicates the minimum flow level of 300 cfs.

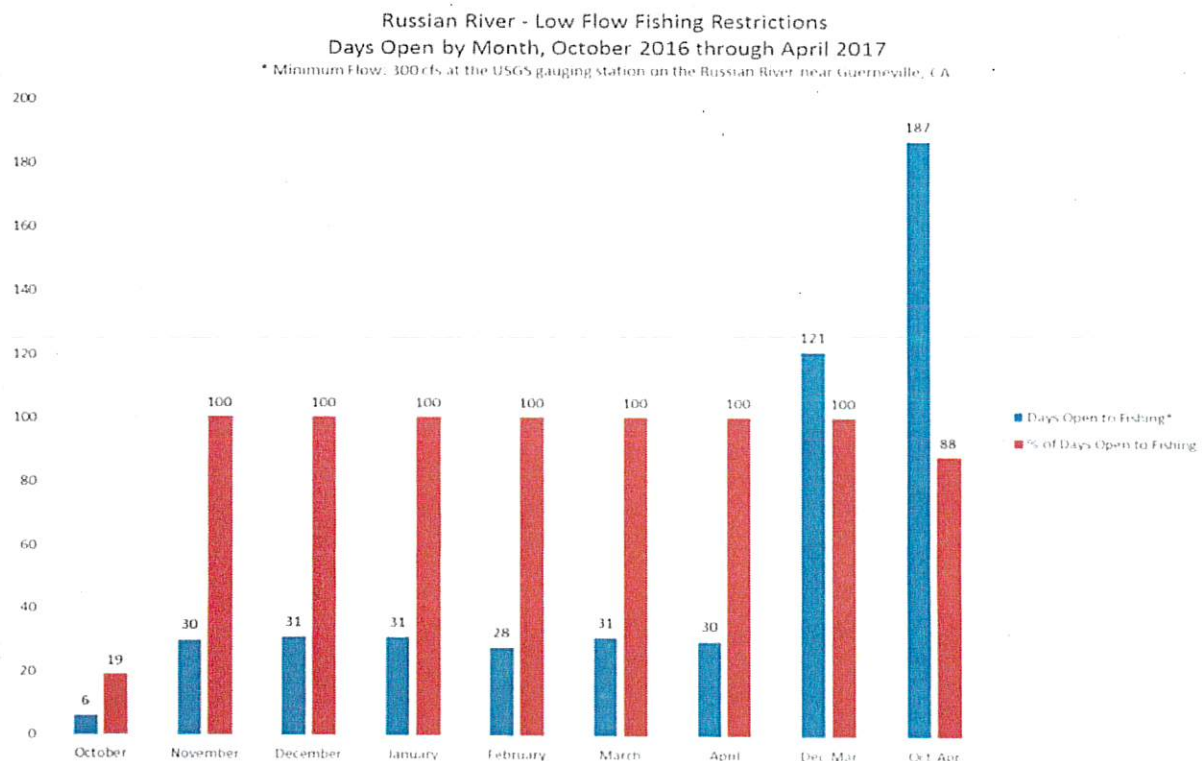


Figure 4. Number of days open to fishing by month and the corresponding percentage, as well as the overall season (October 2016 through April 2017) in Russian River.



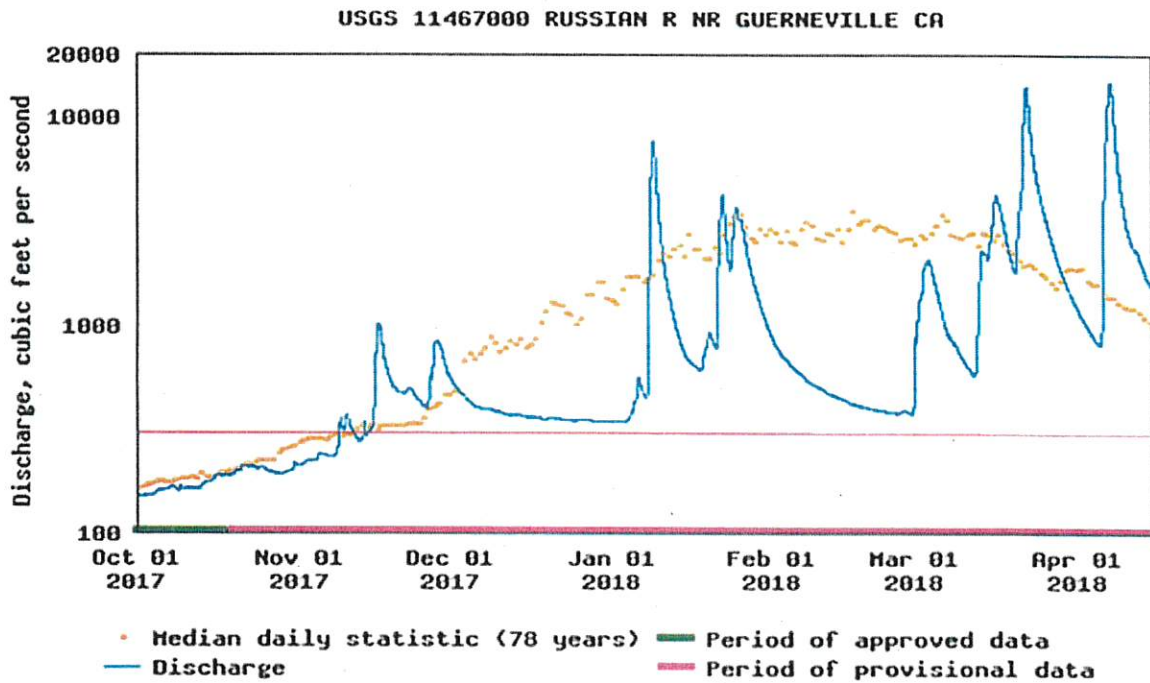


Figure 5. Stream flow measured at the Russian River gauging station near Guerneville from October 2017 through April 2018. Red line indicates the minimum flow level of 300 cfs.

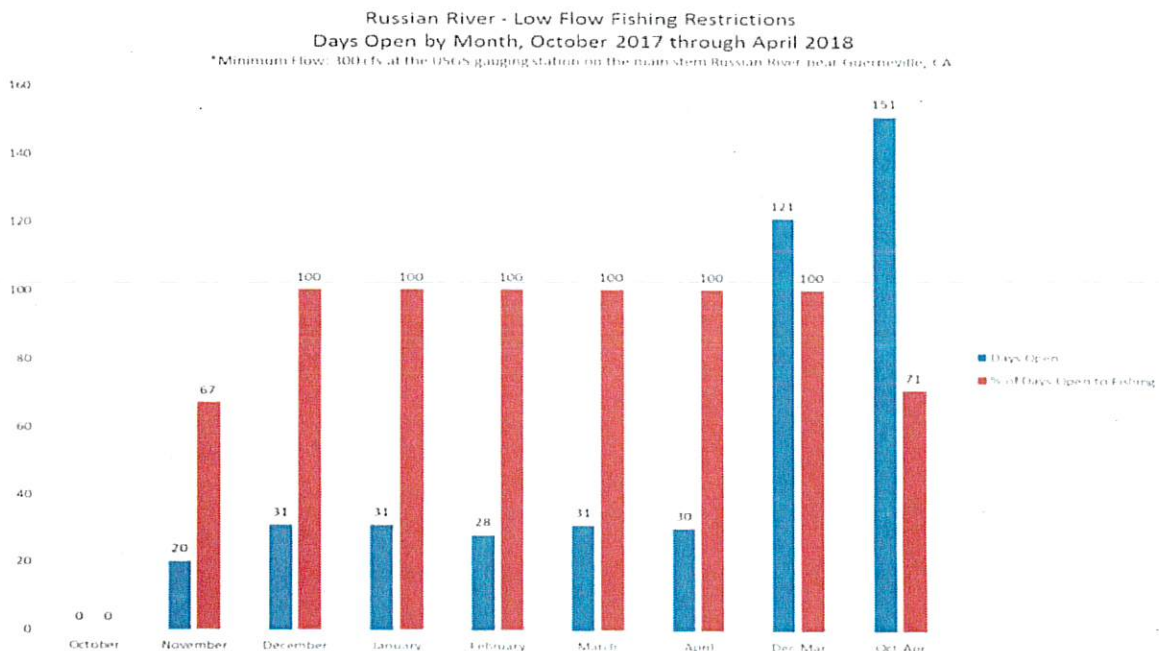


Figure 6. Number of days open to fishing by month and the corresponding percentage, as well as the overall season (October 2017 through April 2018) in Russian River.

**R1 and R3 Petition Response:** R1 and R3 do not support regulation changes proposed in the petition based upon the following responses.

**Proposed:** Amend Section 7.50(b) to permit a no take "Catch and Release" of all migratory species including hatchery fish.

**Response:** R1 and R3 do not support the proposed amendment as it would allow targeted catch and release fisheries for CC Chinook Salmon and CCC Coho Salmon. Allowing such fisheries to occur would counteract objectives and recovery actions identified in NOAA recovery plans for both species. R1 and R3 support the take of hatchery steelhead in the Russian River to reduce potential impacts to wild steelhead within the watershed.

**Proposed:** Amend Section 7.50(b) to permit a year-round restriction for the use of bait (artificial bait only permitted) and include current hook requirements such as barbless and single.

**Response:** Current regulation allows use of bait and barbless hooks only from November 1 to March 31, and only artificial lures with barbless hooks may be used from April 1 through October 31 in the subject waters. Bait fishing for steelhead is a frequently used angling method and can be effective during river conditions when there are higher flow and cloudier water. Artificial lures are more effective during lower river flow and clearer water conditions. Amending the regulation for the removal of bait gear would significantly reduce a popular angling opportunity. R1 and R3 do not support this section of the regulation change proposal at this time. Future discussion of gear restrictions should be addressed in the development of new anadromous regulations.

**Proposed:** Amend Section 7.50(b) to permit a year-round closure from the point of the CDFW Coho Salmon reestablishment monitoring project (near the confluence of Austin Creek) to the Pacific Ocean.

**Response:** The Russian River Coho Salmon Captive Broodstock Program is a collaborative partnership including the US Army Corps of Engineers, NOAA, CDFW, Sonoma County Water Agency, and the University of California Cooperative Extension/California Sea Grant Extension Program, to recover Coho Salmon within the watershed. Lower Russian River Priority Areas for Coho Salmon are identified in Figure 7 which encompasses an area much larger than the proposed closed area. R1 and R3 cannot evaluate a year-round closure of an area when an objective and rationale has not been provided. The low-flow management tool offers better protection to listed species than a spatial closure because the adverse conditions are temporal (hydrologically driven) rather than spatial. Closures are temporary as needed, and as conditions improve, fishing opportunity returns. Spatial closures close fishing opportunity and shift effort to other areas and do not provide the needed protection for migratory species.



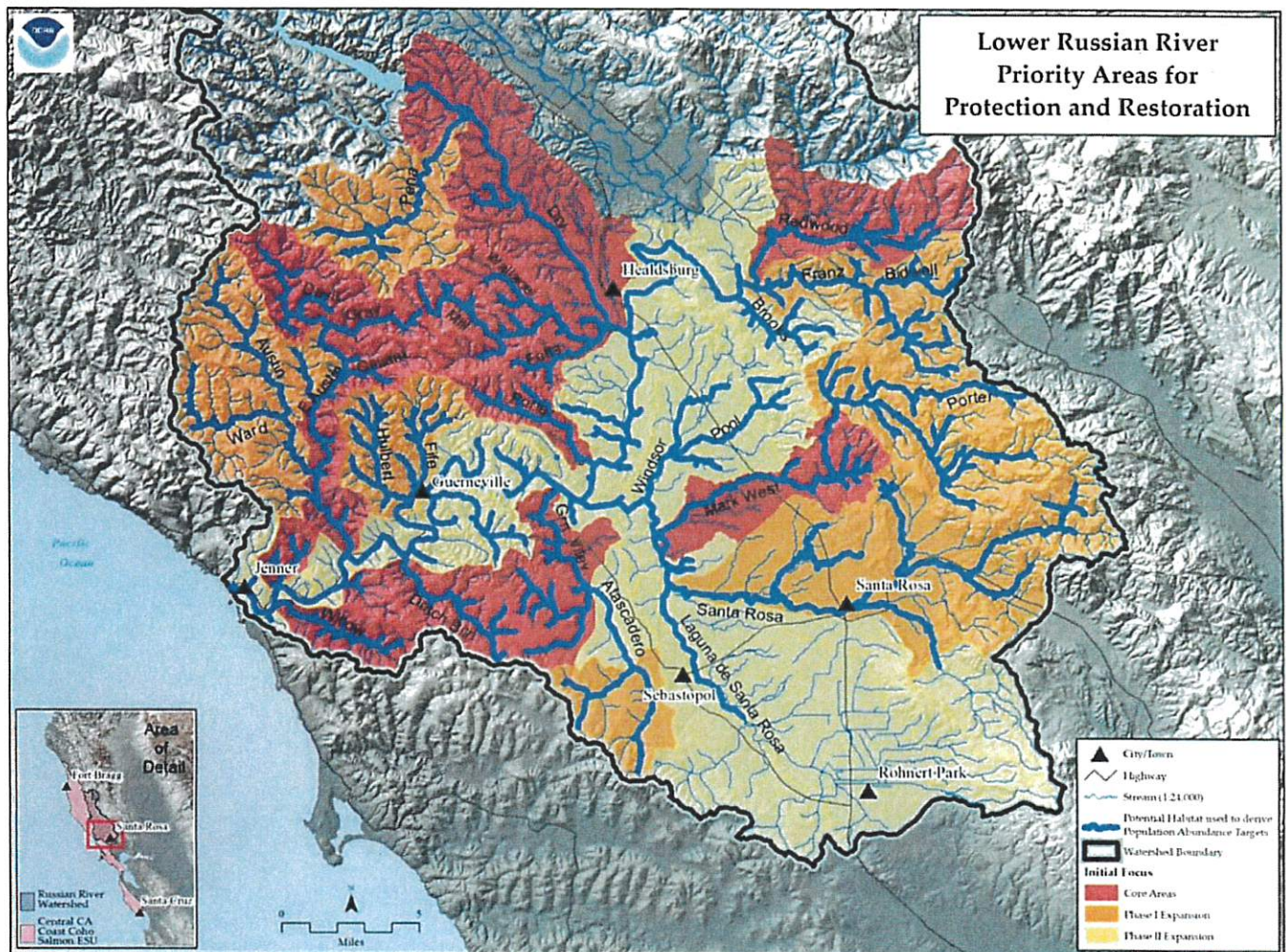


Figure 7. Lower Russian River Coho Salmon priority areas identified in the Final Recovery Plan for Central California Coast Coho Salmon (*Oncorhynchus kisutch*) Evolutionary Significant Unit.

**Proposed:** Amend Section 8.00(b) to remove the minimum flow level set forth for the Russian River main stem below the confluence of the East Branch Russian River.

**Response:** R1 and R3 do not support the removal of the minimum flow level for the Russian River. It would remove protections for listed salmonids from recreational fisheries during stream conditions that are adverse for the fish. The use of low-flow closures is a well-established fishery management tool used on other coastal streams in California. Reversing the implementation of low-flow closure regulations would undo recovery actions listed in NOAA species recovery plans. Title 14 Section 8.00(b)(3) established a low-flow closure season from October 1-April 30, and would only affect fishing under low-flow conditions during that period. Sport fishing outside this period would be unaffected by this regulation. R1 and R3 recognize that some fishing opportunity may be lost during the low-flow season, but due to the low population levels of Chinook Salmon and Coho Salmon in the Russian River these protections are necessary measures to maintain a steelhead fishery with reduced impacts to other



listed salmonids. In respect to the steelhead fishery, R1 and R3 believe ample fishing opportunity was achieved and lost opportunity occurred mainly in the early season before the peak in the steelhead run.

Please contact Allan Renger, 707-725-7194, [allan.renger@wildlife.ca.gov](mailto:allan.renger@wildlife.ca.gov); or George Neillands, 707-576-2812, [george.neillands@wildlife.ca.gov](mailto:george.neillands@wildlife.ca.gov), if you have questions or concerns regarding this response.

cc: Tony LaBanca, Eric Larson, Allan Renger, George Neillands, Ryan Watanabe,  
Scott Harris  
California Department of Fish and Wildlife  
[tony.labanca@wildlife.ca.gov](mailto:tony.labanca@wildlife.ca.gov), [eric.larson@wildlife.ca.gov](mailto:eric.larson@wildlife.ca.gov),  
[allan.renger@wildlife.ca.gov](mailto:allan.renger@wildlife.ca.gov), [george.neillands@wildlife.ca.gov](mailto:george.neillands@wildlife.ca.gov),  
[ryan.watanabe@wildlife.ca.gov](mailto:ryan.watanabe@wildlife.ca.gov), [scott.harris@wildlife.ca.gov](mailto:scott.harris@wildlife.ca.gov)



COMMITTEE STAFF SUMMARY FOR **SEPTEMBER 20, 2018****6. LOW-FLOW REGULATIONS ON COASTAL STREAMS****Today's Item****Information** ☐**Direction** ☒

Discuss potential changes to low-flow regulations on coastal streams as requested in two regulation change petitions:

- (A) Petition #2015-014: Mendocino, Sonoma and Marin counties' coastal streams
- (B) Petition #2015-015: Russian River

**Summary of Previous/Future Actions**

- |   |                                      |
|---|--------------------------------------|
| • FGC granted petition #2015-014                        | Apr 13-14, 2016; Santa Rosa          |
| • WRC discussion and recommendation                     | May 24, 2017; WRC, Sacramento        |
| • FGC referred petitions to DFW                         | Jun 21-22, 2017; Smith River         |
| • WRC discussion  | Jan 11, 2018; WRC, Santa Rosa        |
| • <b>Today's discussion and possible recommendation</b> | <b>Sep 20, 2018; WRC, Sacramento</b> |

**Background**

Regulations adopted by FGC in Dec 2014 governing recreational fishing during low-flow conditions were developed by DFW in consultation with the National Marine Fisheries Service (NMFS), stakeholders and watershed councils. The goal of the regulations was to preserve fishing opportunities while protecting fish listed under the federal and California endangered species acts.

In late 2015, FGC received two petitions to change portions of the low flow regulations:

- (A) Petition #2015-014 proposed changes to only allow artificial lures with barbless hooks to be used year-round on selected coastal streams; close all angling on selected coastal streams from Apr 1 to Oct 31; and allow angling for steelhead in the tidally influenced portions of the Gualala, Garcia and Navarro rivers when stream flows are below the current trigger for the designated gauging stations (Exhibit A1).

In Apr 2016, FGC granted the petition for consideration in the 2018-19 sport fishing rulemaking. At the May 2017 WRC meeting, DFW presented its proposed changes to sport fishing regulations, and recommended that the changes proposed in the petition be identified as alternatives considered but rejected. After further discussion, WRC recommended removing the petitioned changes from the sport fishing rulemaking to allow for further vetting with the affected stakeholder community; at its Jun 2017 meeting, FGC approved the WRC recommendation.

- (B) Petition #2015-015 proposed changes to only allow artificial lures with barbless hooks to be used year-round and remove the minimum flow requirement on the main stem of the Russian River. The petition also requested continuing the year-round closure in the Coho re-establishment monitoring project area (Exhibit B1).

## COMMITTEE STAFF SUMMARY FOR SEPTEMBER 20, 2018

In Apr 2016, FGC referred the petition to DFW for further evaluation. In Dec 2016, FGC adopted a DFW recommendation to refer the petition to WRC for additional vetting with potentially affected stakeholders. At its May 2017 meeting, WRC recommended combining discussion of the petition with Petition #2015-014; FGC adopted the WRC recommendation in Jun 2017.

There was further discussion on both petitions at the WRC meeting in Jan 2018. Today, DFW staff will update WRC on the results of stakeholder engagement efforts and provide recommendations for WRC consideration.

### Significant Public Comments (N/A)

### Recommendation

**FGC Staff:** Approve DFW recommendation to deny petition #2015-14 and petition #2015-15.

**DFW:** Deny Petition #2015-14 and Petition #2015-15 for the reasons identified in exhibits A2 and B2.

### Exhibits

- A1. Petition #2015-014, received Dec 15, 2015
- A2. DFW memo regarding Petition #2015-014, received Sep 7, 2018
- A3. Attachment to Exhibit A2: Letter from NMFS to DFW regarding Petition #2015-014, dated Jun 29, 2018, received Sep 7, 2018
- A4. Attachment to Exhibit A2: Memo from DFW Northern Region and DFW Bay Delta Region regarding Petition #2015-014, dated Oct 13, 2016, received Sep 7, 2018
- B1. Petition #2015-015, received Dec 16, 2015
- B2. DFW memo regarding Petition #2015-015, received Sep 7, 2018
- B3. Attachment to Exhibit B2: Letter from NMFS to DFW regarding Petition #2015-015, dated Apr 4, 2018, received Sep 7, 2018
- B4. Attachment to Exhibit B2: Memo from DFW Northern Region and DFW Bay Delta Region regarding Petition #2015-015, dated April 24, 2018, received Sep 7, 2018

### Committee Direction/Recommendation

The Wildlife Resources Committee recommends that the Commission deny Petition #2015-014 and Petition #2015-15.

**OR**

The Wildlife Resources Committee recommends that the Commission Petition #2015-014 and Petition #2015-15.