

Attachment to Notice of Exemption for Cardoza Ranch Shasta River Instream Flow Dedication Petitions

Background

Cardoza Ranch owns two adjudicated pre-1914 water rights in the Shasta River watershed. The petitioner has filed petitions with the State Water Resources Control Board to change the purpose of use and place of use of their adjudicated water rights in order to add the ability to reduce diversions and leave water instream to support instream beneficial uses. The petitions also request changes to the water rights to reflect current operations, including moving the authorized point of diversion for the rights to a point downstream on the Shasta River.

Elevated water temperatures and low dissolved oxygen levels in the Shasta River watershed have resulted in the impairment of designated beneficial uses of water and the non-attainment of water quality objectives, primarily associated with cold water fish. This includes the migration, spawning, and early development of cold water fish such as coho salmon (*Oncorhynchus kisutch*), Chinook salmon (*O. tshawytscha*), and steelhead trout (*O. mykiss*). The coho salmon population in the Shasta River watershed is listed as threatened under the federal Endangered Species Act and the California Endangered Species Act. The petitioner's proposed changes are to facilitate a conservation strategy pursuant to a Safe Harbor Agreement with the National Marine Fisheries Service (NMFS) and determination of consistency with the California Endangered Species Act, pursuant to Fish and Game Code section 2081, by the California Department of Fish and Wildlife (CDFW).

Exemptions

The project is exempt from the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA) under categorical exemptions for minor alterations to land, agency actions for protection of natural resources or the environment, and small habitat restoration projects (Cal. Code Regs., tit. 14, §§ 15304, 15307, 15308, 15333). The project meets the exemption for minor alterations to land (Cal. Code Regs., tit. 14, § 15304), which consists of "minor public or private alterations in the condition of land, *water*, and/or vegetation." (*Id.*, italics added.) While the area is not an "officially designated wildlife management area" or "fish production facility" under the example listed in subdivision (d) of the regulation, it will "result in improvement of habitat for fish and wildlife resources or greater fish production." (*Id.*) The project also meets the exemptions for actions by regulatory agencies for the protection of natural resources and the environment (Cal. Code Regs., tit. 14, §§ 15307 & 15308). These exemptions apply to actions authorized under state law to assure the "maintenance, restoration, enhancement, or protection" natural resources and the environment. The very purpose of Water Code section 1707 is for "preserving or enhancing wetlands habitat, fish and wildlife resources" in the water. (Wat. Code, § 1707.) Finally, this project is exempt from CEQA because it can be seen with certainty that there is no possibility that the project will have a significant effect on the environment. (Cal. Code Regs., tit. 14, § 15061, subd. (b)(3).)