

Assembly Bill No. 1413

CHAPTER 183

An act to amend Section 5093.547 of, to add Section 5093.70 to, and to repeal Section 5093.548 of, the Public Resources Code, relating to wild and scenic rivers.

[Approved by Governor July 22, 1995. Filed with Secretary of State July 24, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1413, Sher. Wild and scenic rivers: Mill Creek and Deer Creek.

Under existing law, the California Wild and Scenic Rivers Act, specified rivers and segments thereof are included within the California Wild and Scenic Rivers System and are subject to specified protections. Existing law designates specified segments of Mill Creek and Deer Creek for potential addition to the system, requires the suitability studies and reports on the specified segments to be completed by January 1, 1995, and includes the segments within the protections afforded to wild and scenic rivers until January 1, 1996.

This bill would make legislative findings and declarations concerning the resources of Mill Creek and Deer Creek and would prohibit the construction of any dam, reservoir, diversion, or other water impoundment facility on those creeks, as described. The bill would delete requirements to include specified information in studies and reports on additions to the system. The bill would impose specified duties on state agencies in this connection would delete obsolete provisions, and would specify related matters.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Mill and Deer Creeks Protection Act of 1995.

SEC. 2. Section 5093.547 of the Public Resources Code is amended to read:

5093.547. (a) The secretary shall study and submit to the Governor and the Legislature reports on the suitability or nonsuitability for addition to the system of rivers or segments thereof which are designated by the Legislature as potential additions to the system. The secretary shall report to the Legislature his or her recommendations and proposals with respect to the designation of a river or segment.

(b) Each report, including maps and illustrations, shall show, among other things, the area included within the report, the



characteristics which do or do not make the area a worthy addition to the system, the current status of land ownership and use in the immediate environment, and the reasonably foreseeable potential uses of the land and water which will be enhanced, foreclosed, or curtailed if the river or river segment were included in the system.

SEC. 3. Section 5093.548 of the Public Resources Code is repealed.

SEC. 4. Section 5093.70 is added to the Public Resources Code, to read:

5093.70. (a) The Legislature hereby finds and declares all of the following:

(1) Mill Creek and Deer Creek possess extraordinary resources in that they support one of the few remaining viable populations of wild spring-run chinook salmon in the Sacramento-San Joaquin River system. One essential component of the resources provided by these creeks is their exceptional water quality.

(2) Based on a review of comprehensive technical data, the Legislature has determined that potential beneficial uses must be balanced to achieve protection of the unique fishery resources and existing water rights of Mill Creek and Deer Creek in the manner specified in this section. In lieu of including Mill Creek and Deer Creek in the system, the continued management of stream resources in their existing natural condition consistent with the terms of this section represents the best way to protect the unique fishery of Mill Creek and Deer Creek. Maintaining the existing free flowing conditions of Mill Creek and Deer Creek to protect their fisheries is the highest and most beneficial use of the unappropriated waters of Mill Creek and Deer Creek within the segments designated in subdivisions (b) and (c), and is a reasonable use of water within the meaning of Section 2 of Article X of the California Constitution.

(b) No new dam, reservoir, diversion, or other water impoundment facility shall be constructed on Mill Creek from the headwaters of East Sulphur Creek within Section 15 T30N R4E to the United States Geological Survey gauging station in the northeast quarter of the northwest quarter of Section 6 T25N, R1W.

(c) No new dam, reservoir, diversion, or other water impoundment facility shall be constructed on Deer Creek from the headwaters in Section 11 T27N R5E to the United States Geological Survey gauging station in the northwest quarter of the northeast quarter of Section 23 T25N, R1W.

(d) Except for the maintenance of existing flood control facilities and projects by public agencies or private landowners or emergency flood control activities or repairs required due to acts of God, provided that those activities or projects do not interfere with the passage of migrating anadromous fish, no state agency shall assist or cooperate with, whether by loan, grant, license, or otherwise, any agency of the federal, state, or local government in the planning or construction of any dam, reservoir, diversion, or other water



impoundment facility that could have an adverse effect on the free-flowing conditions of Mill Creek and Deer Creek, or on their wild runs of spring-run chinook salmon.

(e) All state agencies exercising powers under any other provision of law with respect to the protection and restoration of fishery resources shall continue to exercise those powers in a manner that protects and enhances the fishery of the segments designated in subdivisions (b) and (c). In carrying out this subdivision, any exercise of powers shall be consistent with Section 5093.58.

(f) Nothing in this section shall prejudice, alter, affect in any way, delay, or interfere with the implementation or construction of any fishery restoration or improvement project that is authorized, required, or recommended pursuant to the Central Valley Improvement Act (Public Law 102-575) or the Upper Sacramento River Fisheries and Riparian Habitat Management Plan developed pursuant to Chapter 885 of the Statutes of 1986, or of any other fishery restoration or improvement project.

(g) Nothing in this chapter shall prejudice, alter, affect in any way, delay, or interfere with existing water rights; implementation of those rights; historic water use practices; and replacement, maintenance, repair, or operation of diversions and diversion facilities; or changes in the purposes of use, places of use, points of diversion, or ownership of existing water rights, except that no change shall operate to increase the adverse effect, if any, of the preexisting diversion facility or place or purpose of use upon the free flowing and natural character of the stream.

