

To: Case File

From: Roy Torres, Special Agent

Subject: Investigation Report,
Searsville Dam - Stanford University Board
of Trustees

Covered period: From December 7, 2012 to May 28, 2013

Date of report: May 28, 2013

SYNOPSIS:

On November 13, 2008 I was contacted by California Department of Fish and Game (CDF&G) Fishery Biologist [REDACTED] regarding her work on water diversion and fish passage issues associated with the operation of a dam located on Corte Madera Creek, near the city of Portola, California. The dam is know as the Searsville Dam and is reported to be owned and operated by a Non-Profit "Trust" more commonly known as the "The Board of Trustees of the Leland Stanford Junior University" or STANFORD UNIVERSITY. According to Ms. [REDACTED] the existence and operation of the dam is suspected of harming Central California Coast (CCC) steelhead trout, a Threatened Species listed under the Endangered Species Act (ESA). Ms. [REDACTED] requested I contact National Marine Fisheries Service Fisheries (NMFS) management personnel to confirm these suspicions and open an

investigation into the possibility the existence and continued operation of Searsville Dam is harming CCC steelhead trout by its detrimental effects on water quality and water quantity of San Francisquito Creek and its tributary known as Corte Madera Creek. In addition, the dam is suspected of preventing migration of CCC steelhead trout to areas of Corte Madera Creek upstream from its location, thus denying access to a significant amount of potential spawning and rearing habitat as well as causing the artificial incidence of "Superimposition." Superimposition occurs when steelhead spawning habitat is artificially restricted, when compared to the number of spawning adults returning to their native streams to spawn and reproduce. I have also received varying accounts of other instances of CCC steelhead trout observations and possible harm to them by the continued operation of the Searsville Dam and STANFORD UNIVERSITY's water diversion operations On Corte Madera and San Francisquito Creeks, from Mr. [REDACTED], an employee of Stoecker Ecological, a watershed biological assessment company. Based on these suspicions and previous incidents of complaints concerning the Searsville Dam's impacts on CCC steelhead trout, I opened a National Oceanic and Atmospheric Administration (NOAA) Office of Law Enforcement (OLE) investigation for suspected violations of the ESA.

BACKGROUND:

Searsville Dam is located near the intersection of Sandhill Road and Whiskey Hill Road just north of Portola Valley, California. The dam restricts the flow of Corte Madera Creek and results in the creation of Searsville Reservoir, which is surrounded by STANFORD UNIVERSITY's, Jasper Ridge Biological Preserve (JRBP). The JRBP is a biological research field station owned by STANFORD UNIVERSITY and covers approximately 1200 acres and serves as a research field area for students attending STANFORD UNIVERSITY. The dam was built in 1892 and at this time serves STANFORD UNIVERSITY's water diversion needs. The reservoir created by the dam is mostly filled in with sediment, which has accumulated behind the dam over the years the dam has been in place. CCC steelhead trout inhabit San Francisquito creek as well as its tributaries Corte Madera and Bear Creeks. In October 2012, a dam removal project on Bear Creek, just upstream from its junction with Corte Madera Creek opened up approximately six miles of CCC steelhead habitat which had been restricted for approximately half a century. While completing this dam removal project numerous age classes of CCC steelhead were observed in Bear Creek.

NARRATIVE:

On December 8, 2012, [REDACTED] provided me information related to areas of interest to observe from an aerial survey I had planned for the next day. [REDACTED] was able to provide specific points of interest related to my need to collect water quality, water flow and water quantity measurements.

On December 9, 2012, I conducted an aerial survey of the Corte Madera creek watershed and Searsville Dam. I took numerous photographs for case reference and I have included them with this report (See Attachment No. 1, Aerial photographs of Searsville Dam and surrounding watershed taken on 12/9/2012).

On December 20, 2012, I met with the following STANFORD UNIVERSITY staff at the JRBP:

- [REDACTED]. Executive Director, JRBP
- [REDACTED], Associate Director of Water Services & Civil Infrastructure for STANFORD UNIVERSITY
- [REDACTED] Conservation Program Manager for STANFORD UNIVERSITY
- [REDACTED] - Ellison, Schneider & Harris

I provided the STANFORD UNIVERSITY representatives a brief on my investigative needs and the process, which I hoped to follow in completing the investigation. [REDACTED] provided a background on the JRBP and the surrounding topography of the Corte Madera Creek tributary. In addition he provided information related to the San Francisquito Creek watershed and the water flow processes that he has observed and recorded over his years working at the JRBP. [REDACTED] highlighted the sedimentary nature of the surrounding topography at the headwaters of Corte Madera Creek, and the benefits the Searsville Dam provides in respect to flood control downstream of the dam particularly in the areas associated with the cities of Menlo Park, Palo Alto and East Palo Alto. In addition, he provided an overview of the JRBP and the many STANFORD UNIVERSITY research projects currently underway at the site. [REDACTED] expressed concern regarding the negative impacts, removal of the Searsville Dam might have on the JRBP, and the ongoing research projects associated with the JRBP. [REDACTED] provided information related to his work at STANFORD UNIVERSITY and their efforts to promote conservation on their properties and their work with various agencies in the management of fish and wildlife.

██████████ provided background information related to STANFORD UNIVERSITY's water diversion and conservation efforts as well as historical information related to STANFORD UNIVERSITY's involvement in the Habitat Conservation Plan (HCP) process. All of the STANFORD UNIVERSTIY representatives expressed a willingness to cooperate and assist in my investigation. Later that day I learned from Special Agent (SA) ██████████ that he received a report of at least two dead adult CCC steelhead, found in San Francisquito Creek, which had been reported in February of 2012. I contacted SA ██████████ and learned he had attempted to follow up on the report, but was later reprioritized with other investigations. I told SA ██████████ I would include the information concerning this stranding occurrence in my report.

On December 28, 2012, I met with Assistant United States Attorney (AUSA) ██████████ Deputy Chief in the U.S. Department of Justice Civil Division in San Francisco, California. I briefed AUSA ██████████ of my investigation and told her I would possibly be in contact with her in the future as the investigation progressed and more information was acquired regarding the Searsville Dam's impacts on CCC steelhead in San Francisquito creek watershed.

On January 8, 2013, Acting Assistant Special in Charge (AASAC), [REDACTED], contacted me concerning recent media reports on my investigation into Searsville dam and its impacts on CCC steelhead. I briefed AASAC [REDACTED] and updated him on my investigative efforts and requested further assistance for future investigative efforts.

On January 9, 2013, Mr. [REDACTED] contacted me concerning my investigation and recent media reports and interest in my investigation. Mr. [REDACTED] requested I provide him an update on my investigative efforts. I advised Mr. [REDACTED] my investigation was continuing and I would contact him as the investigation progressed.

On January 18, 2013, I contacted Mr. [REDACTED] NMFS Protected Resource Division (PRD) San Francisco Bay Region Supervisor and requested assistance from him and his staff on conducting my investigation. Mr. [REDACTED] told me he and his staff had other priorities and he had no staff available to assist me with my investigation.

On February 7, 2013, I contacted Mr. [REDACTED] in order to get assistance regarding my need to gather biological and watershed information related to the San Francisquito Creek watershed. I requested documentation concerning the following:

1. Historical evidence of Salmonid presence in the San Francisquito Creek watershed
2. Information concerning water-flows in the San Francisquito Creek watershed.
3. Geological information for the San Francisquito Creek watershed
4. Information concerning water quality for the San Francisquito Creek watershed
5. Information concerning water diversions from Corte Madera Creek above the confluence of Corte Madera and San Francisquito creek.

Mr. [REDACTED] acknowledged my request and told me he would cooperate fully with my investigation.

On February 25, 2013, I was provided information by Mr. [REDACTED] related to the observation of steelhead spawning activity in San Francisquito Creek near 1275 Woodland Avenue in Menlo Park, California.

According to Mr. [REDACTED] a local resident named [REDACTED] had videotaped adult steelhead spawning in San Francisquito Creek and posted the video on the internet website YouTube. I later located the video posted on the YouTube website and confirmed the observations of the adult steelhead activity. I confirmed the person who posted the video of the video as Mr. [REDACTED], a Menlo Park resident living on Woodland Avenue. I contacted Mr. [REDACTED] and learned where he found the spawning pair of steelhead. After speaking with Mr. [REDACTED] I was able to download photographs and the video he had taken of the spawning steelhead from his Internet posting. Copies of these photographs and video are included with this report (See Attachment No. 2, Photographs and video taken by [REDACTED] of adult steelhead in San Francisquito Creek).

On February 26, 2013, I contacted CDF&W fishery biologist [REDACTED] and requested she conduct a site visit to the Woodland Avenue area where the adult steelhead were sited in order to document the presence of a steelhead nest more commonly known as a "redd." Ms. [REDACTED] told me she would do her best to travel to the area. I later checked with Ms. [REDACTED] and learned she was unable to visit the area as requested.

On February 28, 2013, I contacted Mr. [REDACTED] and requested assistance from him and his staffs on conducting a site visit to the Woodland Avenue area to locate the possible redd and monitor any observations of steelhead presence. Mr. [REDACTED] told me he had other priorities and had no staff available to assist me with my investigation.

On March 4, 2013, I contacted Ms. [REDACTED], a Fisheries Biologist, with the NMFS PRD in Santa Rosa, California. I requested assistance from Ms. [REDACTED] with my investigation of STANFORD UNIVERSITY and the Searsville Dam's impacts on CCC steelhead inhabiting San Francisquito Creek. Ms. [REDACTED] told me she could not assist me as her supervisor, [REDACTED], had directed her to not assist with my investigation. She apologized for not being able to respond to my request.

On April 26, 2013, I traveled to the JRBP and met with Mr. [REDACTED] and Mr. [REDACTED] as well as State Water Resources Control Board (SWRCB) staff [REDACTED] and [REDACTED] and CDF&W fishery biologist [REDACTED]. After meeting with Mr. [REDACTED] and Mr. [REDACTED] Mr. [REDACTED] provided us a quick tour of the dam and the area just downstream on Corte Madera Creek.

After a brief time Mr. [REDACTED], Mr. [REDACTED], Ms. [REDACTED] and I, began a survey of Corte Madera Creek down to its confluence with Bear Creek, where San Francisquito Creek begins. Mr. [REDACTED] and Mr. [REDACTED] conducted flow analysis work while Ms. [REDACTED] and I conducted fish survey work on Corte Madera, Bear and San Francisquito Creek's. After completing our site survey at Searsville Dam we traveled to the lower portion of San Francisquito Creek located in the community of Menlo Park. We completed the same type of work in this area and noted the presence of smolts and juvenile trout. I obtained video footage and photographs of our fish surveys and water quality observations and I have included these in this report (See Attachment No. 3, Photographs and video taken of Corte Madera, Bear and San Francisquito Creeks site surveys on 4/23/2013).

On April 29, 2013, Mr. [REDACTED] contacted me regarding information he received from a Menlo Park resident who reported finding dead adult steelhead in San Francisquito Creek. Mr. [REDACTED] put me in contact with Mr. [REDACTED] who had originally reported the incident. I contacted Mr. [REDACTED] who provided me photographs of the dead CCC steelhead. Mr. [REDACTED] reported he had taken the pictures of the steelhead but had not collected them.

I asked Mr. [REDACTED] to return to the site where he had found the steelhead and collect and freeze the carcasses for me until I could arrange to pick them up from him. Mr. [REDACTED] agreed and later reported having returned to the scene, collected the carcasses as directed and had them stored in his secure freezer.

On April 30, 2013 I contacted Mr. [REDACTED] regarding his earlier report concerning the construction of a "booster station" by STANFORD UNIVERSITY on San Francisquito Creek. Mr. [REDACTED] provided information related to the alleged booster pump and his belief the construction of the booster station might have been unpermitted. He told me the booster pump station was built in 2004 and that HCP documents he obtained described ongoing daily discharge of Searsville Reservoir (Corte Madera Creek) sediment and degraded reservoir water onto the banks of and into San Francisquito Creek downstream of the dam. He also reported occasional flushing of two miles of pipeline between the dam and the booster pump station was documented. He said that degraded water and sediments were possibly deposited into San Francisquito Creek from this booster station.

I told Mr. [REDACTED] I would attempt to verify the information and schedule site visit to the booster station in an effort to discover if the allegations were true and there relevance to the impacts of Searsville Dam on CCC steelhead.

On May 2, 2014, I met with Mr. [REDACTED] at his home in [REDACTED], California. Mr. [REDACTED] gave me the two adult steelhead carcasses I requested he store and freeze. I confirmed the approximate location in San Francisquito creek where he found and recovered the two steelhead at geographic position 37.26.50N Latitude / 122.10.12W Longitude. I subsequently took evidentiary photographs of the CCC steelhead and I have included copies of these with this report (See Attachment No. 4, Photographs of two CCC steelhead recovered from San Francisquito creek by Mr. [REDACTED] [REDACTED].

On May 28, 2013, I consulted with Mr. [REDACTED] with the NMFS PRD in Santa Rosa, California concerning my investigative needs for water flow and water quality monitoring equipment. Mr. [REDACTED] provided me with the types of devices I would need to complete my investigation and I subsequently identified those items for purchase.

STATUS

This case requires further investigation but will be closed at this time due to a lack of investigative funds and resources.

ATTACHMENTS:

Attachment No. 1 - Aerial photographs of Searsville Dam and surrounding watershed taken on 12/9/2012.

Attachment No. 2 - Photographs and video taken by [REDACTED] of adult steelhead in San Francisquito Creek.

Attachment No. 3 - Photographs and video taken of Corte Madera, Bear, and San Francisquito Creeks site surveys on 4/26/2013.

Attachment No. 4 - Photographs of two CCC steelhead recovered from San Francisquito creek by Mr. [REDACTED].

Attachment No. 5 - [REDACTED] letter addressing historical presence of steelhead in San Francisquito Creek.