

State Water Resources Control Board

September 10, 2021

PRIMARY_OWNER_NAME
ATTN_C/O_LINE
BOTTOM_ADDRESS_LINE
CITY, STATE ZIP

ORDER IMPOSING WATER RIGHT CURTAILMENT AND REPORTING REQUIREMENTS IN THE SCOTT RIVER WATERSHED FOR WATER RIGHT(S) ASSOCIATED WITH THE PARCEL(S) LISTED IN ATTACHMENT A AND NOT OTHERWISE CURTAILED (ORDER WR 2021-0084-DWR)

Due to drought, it is necessary to stop surface water and groundwater diversions in the Scott River watershed for most water uses. Exceptions are made for health and safety (including firefighting and wildfire recovery) and livestock needs, as described further below. **You are receiving this letter as the owner of record for the land parcel(s) listed in Attachment A to the Curtailment Order (at the very end of this mailing).** The State Water Resources Control Board (State Water Board or Board) has sent separate curtailment orders to all surface water and groundwater diverters with information on file with the Board. This additional Order is being sent because the State Water Board does not have current contact information for all surface and groundwater diversions in the Scott River watershed. This order requires that most diversion stop in the Scott River watershed, and requires landowners whose water rights information is not up-to-date to submit basic information about their diversion and use. **PLEASE READ THE NEXT THREE (3) PARAGRAPHS CAREFULLY, AS SOME OR ALL OF THIS ORDER MAY NOT APPLY TO YOU.**

If you have already received an Order curtailing all of your water diversions from or for use on the parcel(s) in Attachment A, you do not need to take any additional actions under this Order at this time. You may stop reading now, if desired. Thank you for keeping your records with the State Water Board current.

If there has not been surface or groundwater diversion or use on the parcel(s) listed in Attachment A in the past year, and you do not plan such use in the coming 12 months, you do not need to take any additional actions at this time. You may stop reading now, if desired.

For all other landowners: The enclosed Order is issued under a drought emergency regulation that became effective on August 30, 2021. This Order:

- Curtails water diversions on or for the parcels in Attachment A,

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

- Describes exceptions to curtailments, and
- Imposes reporting requirements for most diversions (but not for groundwater wells that pump less than 2 acre-feet of water every year – enough for about 2-3 households). **Attachment A provides a Login and Password for reporting. Reports are due by Friday, September 24, 2021**, unless you or the parcel(s) in Attachment A are under a wildfire evacuation order.

You or your agent of record are responsible for immediately notifying all parties that divert or use water on the parcel(s) identified in Attachment A of the enclosed Order and its requirements.

Many people throughout the state and the watershed have taken steps to reduce water use. You may already be curtailing water use and/or are unable to divert water due to dry conditions. Even if you have stopped diverting water this year, if you diverted any or think you will use water on your property next year, you must comply with the Order's reporting provisions.

The State Water Board is issuing several additional curtailment orders, including orders for known surface water rights and adjudicated groundwater diversions in the Scott River watershed, as well as curtailment orders in the Shasta River watershed. Those orders also require submission of information. You do not have to double report for the same water use if you receive multiple orders. But, you may have to report additional information if you have multiple water rights or groundwater wells.

It is highly recommended all water users in the watershed sign up to receive notifications on the State Water Board's "Scott-Shasta Drought" email distribution list. You may also visit the State Water Board's ¹ frequently for updates. All future updates on curtailments will be provided through electronic communications.

Emergency Regulation

On August 17, 2021, the State Water Board adopted an emergency regulation establishing drought emergency minimum flows in the Scott River and Shasta River watersheds. (Cal. Code Regs., tit. 23, §§ 875–875.9.) The regulation was reviewed and approved by the Office of Administrative Law and went into effect upon filing with the Secretary of State on August 30, 2021. The regulation will remain in effect for one year, but may be repealed earlier if water supply conditions improve. The State Water Board may readopt the regulation if drought conditions continue into next year. The **regulation** is available online.²

Curtailment of Water Rights in Scott River and Shasta River Watersheds

The State Water Board is requiring water right holders in the Scott River and Shasta River watersheds to stop diverting under their water rights until water supply conditions improve in the watershed and there is no longer a risk to minimum flow requirements, to

¹ https://www.waterboards.ca.gov/drought/scott_shasta_rivers/

² https://www.waterboards.ca.gov/drought/scott_shasta_rivers/docs/klamath_reg_searchable.pdf

water supplies for minimum human health and safety needs (including firefighting), to minimum livestock needs, or for injury to senior diverters.

The regulation follows the water right priorities in the Scott River, French Creek, Shackelford Creek, and Shasta River adjudications, and adds in rights that are not addressed under those adjudications (e.g., post-adjudication rights, some groundwater rights). The regulation does not change the adjudications, or affect the authority of the Scott Valley and Shasta Valley Watermaster District to implement the adjudications, or of the Siskiyou County Superior Court to administer or retain jurisdiction over the adjudications. Section 875.5 of the regulation describes the order of priority for curtailments.

Hard copy notices will not be sent out when curtailments are suspended, reinstated, or rescinded. As flows improve or worsen over the coming year, changes to curtailment orders will be posted on the State Water Board website (see footnote 1 of this letter) and sent out to individuals that have signed up for the **“Scott-Shasta Drought” Email Subscription List under “Water Rights”**.³ **Signing up for this email list is the best way to stay informed about implementation of the regulation, including changes to curtailments.**

Groundwater and Surface Water Diversions

The regulation follows the water rights priority system for both surface water and groundwater diverters. Groundwater diversions are included in the regulation because of the high degree of interconnection between surface water and groundwater in these watersheds. Section 875.5 of the regulation specifies the order in which curtailments shall be issued, grouping rights in the order from lowest to highest water right priority. All water diversions in the Scott River watershed, including groundwater, are subject to curtailment at this time.

Accurate and up-to-date information regarding diversions is important to being able to lift curtailments in a timely manner in accordance with the order of priority. The State Water Board’s information on diversions in the Scott River watershed are incomplete: many groundwater diverters do not or are not required to report diversions, and the number of surface water reports and statements of diversion and use in our files appears to be significantly lower than the number of surface diversions in the area. Your accurate reporting about your surface water and groundwater diversions will help the State Water Board be able to lift curtailment orders in a manner that follows the rule of priority.

Exceptions to Curtailment (*allowances to continue limited diversions*)

The regulation has exceptions for certain types of diversions that may continue even after you receive a curtailment order if the appropriate form(s) is submitted to the State Water Board (see more on this below). These are:

³ https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html

- *Non-consumptive Diversions*. This exception applies if your diversion is not consumptive, meaning that it does not use up water or change the time the water is available to others (i.e., does not decrease stream flows).
- *Minimum Human Health and Safety Diversions*. This exception applies if your diversion is your only water source for human health and safety purposes, like drinking, cooking, washing, or meeting the state's critical infrastructure needs. **Please note that diversions for firefighting may continue under this exception.**
- *Minimum Livestock Watering Diversions*. This exception applies if your diversion is your only source for minimum livestock watering needs.

If you want to use one of these exceptions to continue diverting, you must submit additional information to the State Water Board using the applicable forms available at: <https://public.waterboards.ca.gov/WRInfo>.

Required Response – Curtailment Certification and Diversion Information

You **do not** need to respond to this Order if:

- There is no water used or diverted on the parcels listed in Attachment A (at the end of the enclosed Order);
- You divert two acre-feet⁴ or less of water per year from your groundwater well(s); or
- You have received and complied with a separate curtailment order(s) for all of the surface water and groundwater diversions and use associated with the parcel(s) listed in Attachment A.

If you **do not** meet the criteria in the three bullets above, you, your agent, or the water diverter or user on the parcel(s) listed in Attachment A are required to submit, under penalty of perjury, an online Scott Parcel Curtailment Certification and Diversion Information form (Curtailment Certification). The Curtailment Certification confirms cessation of diversion for any water right(s) associated with the parcels listed in Attachment A of the Order and whether you are pursuing an exception(s) to continue limited diversions under the curtailment order. It also requires basic information regarding the location and type of water diversion and use on your parcel(s). You must submit this form by **September 24, 2021**. Timely and accurate completion of the Curtailment Certification can help you avoid unnecessary enforcement proceedings. Your Login and Password are provided in Attachment A. You can access and complete the Curtailment Certification at: <https://public.waterboards.ca.gov/WRInfo>.

In light of the active fire season, please note that this timeframe is extended until ten (10) days after lifting of any evacuation order affecting the place of use of water for the rights in Attachment A or affecting your access to necessary information or the ability to log on for reporting. The Deputy Director may further extend the deadline for good cause, and the State Water Board recognizes that protection of life and property in

⁴ An acre-foot of water is approximately 325,000 gallons and is roughly the amount of water that 2-3 households in California use in a year.

these active fire areas may prevent a response within the timelines described in the State Water Board's curtailment orders. If you need further extension of the timeframe for curtailment response in light of wildfires, please contact us at the information below once it is safe for you to do so.

Staff are available to answer questions or otherwise assist with completing the Curtailment Certification by email to: ScottShastaDrought@waterboards.ca.gov and via our phone message line at: (916) 327-3113.

Local Cooperative Solutions

Water users may also petition to implement local cooperative solutions that would achieve the purposes of the curtailment order. Local cooperative solutions are described at Regulation section 875, subdivisions (f)(1) through (f)(4). Proposed local cooperative solutions may be submitted to the Deputy Director at any time, but they may not be implemented instead of complying with a curtailment order unless they have been approved by the Deputy Director. Additional information regarding local cooperative solutions will be provided on the State Water Board website (see footnote 1 of this letter).

Local cooperative solutions should be submitted to the Deputy Director by e-mail to: ScottShastaDrought@waterboards.ca.gov. The Deputy Director will review timely submitted proposals as soon as practicable and inform the affected water right holder or claimant of the determination or decision.

Potential Enforcement

The enclosed Order includes enforceable requirements regarding a water right or claim of right that require your immediate attention. Diverting water in violation of the enclosed Order or the regulation risks administrative fines, a cease and desist order, or prosecution in court. The State Water Board has enforcement discretion and decisions related to enforcement and associated penalties are based on the specific circumstances of the violation. Fines may be up to \$1,000 per day of violation. (Wat. Code, §§ 1052, 1055, 1846.)

Please note that the State Water Board's Division of Water Rights (Division) evaluates the location of each diverter relative to ongoing fires before proceeding with any enforcement or investigation, and carefully considers what type of follow-up is appropriate. The Division will exercise discretion when considering enforcement, and generally will not pursue enforcement where violations are the result of emergency circumstances such as evacuation orders and loss of property due to wildfires. If you are severely impacted by wildfire and receive an enforcement-related notice or order, please contact us when conditions are safe and you are able to do so. Please also note that intentional misstatements, or intentionally claiming fire risk or impacts when none are present, is subject to legal actions and fines.

Request for Reconsideration

You may submit a petition within 30 days to request that the State Water Board reconsider the enclosed Order. The process and grounds for reconsideration are provided by California Code of Regulations, title 23, sections 768 through 771. Any

petition requesting reconsideration must be filed with the State Water Board no later than **October 11 2021**. To ensure timely consideration, any petition for reconsideration should be emailed to: ScottShastaDrought@waterboards.ca.gov.

Questions, Resources, and How to Stay Informed

Please review the [Scott River and Shasta River Watersheds Drought Response webpage](https://www.waterboards.ca.gov/drought/scott_shasta_rivers/) (https://www.waterboards.ca.gov/drought/scott_shasta_rivers/), if you have questions. You may also contact staff by email at:

ScottShastaDrought@waterboards.ca.gov or leaving a message at our dedicated Scott River and Shasta River Drought phone line at: (916) 327-3113. Please be aware that calls and emails will be answered as soon as possible in the order received. Staff will try to return calls within 24 hours, but responses may take a longer depending on call volume.

We highly encourage you to sign up for the “Scott-Shasta Drought” Email Subscription List under “Water Rights”.⁵ **This is the best way to stay informed about changes to the curtailments and other important information related to the regulation.**

Sincerely,

Erik Ekdahl, Deputy Director
State Water Resources Control Board

Enclosure: Order Imposing Water Right Curtailment and Reporting Requirements in the Scott River Watershed for Water Right(s) Associated with the Parcel(s) Listed in Attachment A, and Not Otherwise Curtailed, and including Attachment A thereto

⁵ https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER WR 2021-0084-DWR

IN THE MATTER OF PROPERTIES OF **PRIMARY OWNER NAME¹ DESCRIBED IN
ATTACHMENT A**

**ORDER IMPOSING WATER RIGHT CURTAILMENT AND REPORTING
REQUIREMENTS FOR WATER RIGHT(S) ASSOCIATED WITH THE PARCEL(S)
LISTED IN ATTACHMENT A, AND NOT OTHERWISE CURTAILED**

ISSUED SEPTEMBER 10, 2021

FINDINGS:

1. On August 17, 2021, the State Water Resources Control Board (State Water Board, or Board) adopted an emergency regulation, titled Establishment of Minimum Instream Flow Requirements, Curtailment Authority, and Information Order Authority in the Klamath River Watershed (hereinafter "Regulation"). The Regulation provides curtailment authority throughout the Klamath River watershed, and establishes minimum instream flow requirements and information order authority in the Scott River and Shasta River watersheds. State Water Board [Resolution No. 2021-0029](#) adopted the Regulation, and describes the need for the Regulation and its intent. State Water Board Resolution No. 2021-0029 is incorporated by reference into this Order. The Regulation went into effect on August 30, 2021, when it was approved by the Office of Administrative Law and filed with the Secretary of State. The Regulation establishes minimum instream flows, as measured in cubic feet per second (cfs) at United States Geological Survey gage no. 11519500 located downstream of the city of Fort Jones at the northern end of Scott Valley (Scott River Mile 21), as:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
200	200	200	150	150	125	50	30	33	40	60	150

¹ You are receiving this Order as the owner of record for the land parcel(s) listed in Attachment A. This Order applies to you and all agents, successors in interest, grantees, and assigns thereto.

2. The Regulation includes California Code of Regulations, title 23,² sections 875, 875.1, 875.2, 875.3, 875.5, 875.6 and 875.9, which establish the circumstances under which the State Water Board may issue curtailments in the Scott River watershed to maintain minimum flows for fish, as well as exceptions to curtailments and curtailment reporting requirements. The Regulation further includes section 875.8 which authorizes issuance of informational orders in furtherance of the purposes of the Regulation.
3. As of September 3, 2021, at 10:30 am, the flow in the Scott River at United States Geological Survey gage no. 11519500, located near Fort Jones, was approximately 8 cfs, which is 25 cfs below the 33 cfs drought emergency minimum flow for September, as established under section 875, subdivision (c)(1)(A). For the last two weeks of August, measured flows have ranged between 9 cfs and 13 cfs, not reaching even half of the 30 cfs August flow requirement or 33 cfs September flow requirement. The mainstem of the Scott River went dry 10 days earlier in 2021 than in 2020. As described on pages 25-27 of the [Finding of Emergency and Informative Digest](#) issued on August 12, 2021, and incorporated by reference into this Order, absent curtailments, flows in the Scott River are not forecasted to meet the Regulation's drought emergency minimum flows until mid-December, if precipitation patterns track those in Fall of 2020, the most recent dry year analyzed. If precipitation patterns are similar to those of the average of three recent dry water years (2013-2014, 2014-2015, 2020-2021), then without curtailment flows may start to attain periods of compliance with the flow requirements as early as October, but would not consistently remain in compliance until early-December.
4. Scott Valley Integrated Hydrologic Model (SVIHM) scenario results indicate that ceasing all irrigation associated with groundwater wells in July or August during dry years does not immediately translate into flow increases when groundwater levels are low, such that groundwater levels themselves need to increase before stream reaches can reconnect and flows increase. In wetter years, on the other hand, model results show a much more immediate flow effect associated with ceasing irrigation from groundwater wells. The pattern of historic flow conditions in the fall show a need for significant precipitation events to increase flows, indicating that a large influx of water is required to raise groundwater levels sufficiently to reconnect dry stream reaches and increase flows to the Regulation's required minimum flows at the Fort Jones gage. The initiation of curtailments at this time of year after the river has already disconnected means that, at least initially, attainment of minimum flows will require curtailment of sufficient water to raise the water table and re-wet the river channel, in addition to the water required to increase surface flows themselves. This amount of water is unquantifiable with existing information and under the existing emergency timeframe, but is significantly greater than would be needed if disconnection was not a factor. Even if curtailing all diversions will not allow for attainment of emergency minimum flows in September, curtailing both

² All subsequent section references in this Order are to California Code of Regulations, title 23 unless otherwise noted.

surface water and groundwater diversions will help raise the water table and re-wet the river channel, helping to reestablish flows earlier in the season. Additional information regarding the anticipated effect of curtailment under dry conditions is available in the Finding of Emergency and Informative Digest, at pages 70, and 79-83, and in the Memorandum to Deputy Director of the Division of Water Rights from the Senior Environmental Scientist of the Instream Flow Unit in the Division of Water Rights, dated September 8, 2021, titled "Scott River Emergency Regulation Curtailment Recommendation for September 2021" and incorporated by reference.

5. Based on current flow conditions, and the information discussed above, the Deputy Director for the Division of Water Rights has determined that without curtailment as described in the Regulation of all water rights in the Scott River watershed, flows are likely to remain reduced below the minimum flows specified in section 875, subdivision(c)(1)(A).
6. Once the base flows are established through precipitation or contributions from the curtailments, ongoing assessment of water supply and demand projections will be more pertinent to the management of curtailments in the order of priority. If the river responds more quickly to curtailment than anticipated, the Deputy Director will lift curtailments in the order of priority.
7. The wildfire season in Northern California is highly active, and communities across the state, including Siskiyou County and some reaches of the Scott Valley, have been periodically at risk. Preparation of homes and properties to best survive imminent wildfire require the upmost attention of residents, and evacuations can present immense logistical challenges. Protection of life and property in these active fire areas may prevent a response within the timelines required in the State Water Board's curtailment order. In order not to interfere with critical preparations or burden evacuees, this Order provides an automatic extension of the reporting requirements under the Order where the affected diversions, properties, or reporters are affected by evacuation orders.
8. The State Water Board does not have comprehensive contact or water right information regarding groundwater or surface water diversion and use in the Scott River watershed. Groundwater reporting to the State Water Board is not comprehensively required in the Scott River watershed, and the number of reported surface water diversions is significantly lower than the number of decreed surface water rights in the area. The ownership and exercise of adjudicated water rights has changed in the decades since the various decrees were entered. To ensure that curtailment orders reach those diverters not in the State Water Board's files, it was determined that sending curtailment orders to all landowners that do not receive municipal water service in the Scott River watershed was the most viable, timely approach. In order to allow the State Water Board to lift curtailments in the appropriate order, this Order also imposes limited information reporting requirements.

IT IS HEREBY ORDERED:

1. This curtailment order shall be effective on September 11, 2021.
2. Diversion of water in the Scott River watershed on or for the lands described in Attachment A shall cease on September 11, 2021, or upon delivery of this Order, whichever is later. Diversions under this right may be permitted to continue only if authorized under an exception to curtailment as described by sections 875.1, 875.2, and 875.3 of the Regulation.
3. In accordance with section 875, subdivision (d)(1) of the Regulation, landowners who receive this Order are responsible for immediately providing notice of this Order to all those diverting water from or using water on the lands described in Attachment A.
4. Unless (a) there has been no water used or diverted on the Attachment A parcels, and no water use is anticipated on those lands in the coming 12 months, (b) you divert only 2 acre-feet or less per year of groundwater, or (c) you have received and complied with separate curtailment orders for all of the water diversion and use associated with the parcel(s) in Attachment A, you are required to submit, under penalty of perjury, a Scott Parcel Curtailment Certification and Diversion Information form (Curtailment Certification) in accordance with section 875.6, subdivision (a). The Curtailment Certification is due September 24, 2021. The Curtailment Certification may be accessed and completed via the following website link: <https://public.waterboards.ca.gov/WRInfo>. Where the diversion or place of use for the water right(s) listed in Attachment A is in an area subject to a wildfire evacuation order, or where such an evacuation order inhibits the ability of Primary Owner Name or their agent or successor to access the necessary information to complete the Curtailment Certification or to log on to complete the form, deadline is automatically extended until ten (10) days after the lifting of the evacuation order.
5. Those who are required to provide a Curtailment Certification under ordering paragraph 4, must additionally provide information under section 875.8, subdivision (a)(2) regarding the type of water right under which any surface water is diverted or used on the parcel(s) listed in Attachment A, to the extent known, and regarding further identifying information regarding the rights, such as identifying characteristics of an adjudicated right, parcel location of a spring, identification number of a permitted, licensed or certified right, or a general description of other type of surface water right and must provide information under section 875.8, subdivisions (a)(1), (a)(1)(A) and (a)(1)(D) regarding the parcel of diversion, place of use and purpose of use for any groundwater diverted or used on the parcel(s) listed in Attachment A, and whether such groundwater is sold or distributed. The information may be provided in the same form as the Curtailment Certification, at the website link provided in ordering paragraph 4.
6. If an exception(s) to curtailment is needed to continue diverting for non-consumptive uses, minimum human health and safety needs, or minimum livestock watering

needs, as authorized by Regulation sections 875.1, 875.2, and 875.3, respectively, Primary_Owner Name or an agent thereof shall complete and submit either a self-certification or a petition using the forms available at:

<https://public.waterboards.ca.gov/WRInfo> in addition to completing the Curtailment Certification.

7. All subsequent modifications to this Order, including curtailment suspensions, reinstatements, rescissions, or other modifications to the Order, shall be noticed through electronic means, including through the State Water Board's "Scott-Shasta Drought" email distribution list or through posting to the [State Water Board's Scott River and Shasta River Watersheds Drought Response webpage](https://www.waterboards.ca.gov/drought/scott_shasta_rivers/) (https://www.waterboards.ca.gov/drought/scott_shasta_rivers/). Primary_Owner Name, or an agent thereof, is responsible for **signing up** for the "Scott-Shasta Drought" e-mail subscription list and/or for checking the State Water Board's Scott River and Shasta River Watersheds Drought Response webpage to receive such notice.
8. Violation of this Order shall be subject to enforcement and any applicable penalties pursuant to Water Code sections 1052, 1058.5, 1831, 1845, and 1846. To the extent of any conflict between the requirements of this curtailment order and any other applicable orders or conditions of approval, the diverter must comply with the requirements that are most stringent.
9. Nothing in this Order is intended to or shall be construed to limit or preclude the State Water Board from exercising its authority under any statute, regulation, ordinance, or other law, including but not limited to, the authority to bring enforcement against diverters for unauthorized diversion or use in violation of Water Code section 1052.
10. Nothing in this Order shall excuse individual water right holders from meeting any more stringent requirements that may be imposed by applicable legally binding legislation, regulations, or a water right permit requirement. This Order does not authorize any act which results in the taking of a threatened, endangered, or candidate species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A sections 1531 to 1544).

STATE WATER RESOURCES CONTROL BOARD

Erik Ekdahl, Deputy Director
Division of Water Rights

Dated: September 10, 2021

Attachment A

The Login, Password, and Assessor Parcel Number(s) are provided below. Please use this information to complete the appropriate forms, which are available online at: <https://public.waterboards.ca.gov/WRInfo>

Login:

Password:

APN	APN	APN	APN