
State Water Resources Control Board

September 10, 2021

PRIMARY OWNER
ADDRESS LINE 2
ADDRESS LINE 3

ORDER IMPOSING WATER RIGHT CURTAILMENT AND REPORTING REQUIREMENTS FOR ADJUDICATED GROUNDWATER RIGHTS IN THE SCOTT RIVER WATERSHED (ORDER WR 2021-0083-DWR)

This letter and the enclosed Order contain information regarding the immediate curtailment of diversion under the water right(s) listed in Attachment A to the Order (at the end of the Order), that are owned by PRIMARY OWNER or their successor in interest. This letter also describes a certification that is required to be submitted by **September 20, 2021**. The Login(s) and Password(s) in Attachment A will be needed to complete the required forms.

The water rights in Attachment A are adjudicated groundwater diversions identified in Schedule C of the Scott Adjudication Decree entered on January 30, 1980 in Siskiyou County Superior Court Case No. 30662, In the Matter of Determination of the Rights of the Various Claimants to the Waters of Scott River Stream System, Except Rights to Water of Shackleford Creek, French Creek, and all Streams Tributary to Scott River Downstream from the U.S. Geological Survey Gaging Station, in Siskiyou County, California]. **If you already received an Order curtailing the adjudicated groundwater right in Attachment A**, you do not need to take any additional actions at this time, and you may stop reading this letter and Order as long as you comply with the terms of the previously received Order. Thank you for keeping your water right records current with the State Water Board.

Due to the drought and extremely dry conditions, water supply in many parts of California, including the Scott River watershed, is insufficient to meet a significant portion of water demands. The enclosed Order curtails water diversions, describes exceptions to curtailments (including for firefighting needs), and imposes reporting requirements. This Order is issued under an emergency regulation adopted by the State Water Board that became effective on August 30, 2021. The enclosed Order describes the steps that you, or your agent of record, must follow to curtail water diversions and to comply with reporting requirements. You or your agent of record are responsible for immediately notifying all parties that divert water under the water right(s) identified in Attachment A of the enclosed Order and its requirements.

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

Many people throughout the state and the watershed have taken steps to reduce water use. You may already be curtailing water use and/or be unable to divert water due to dry conditions. Even if you are currently not diverting water, you must respond to this Order if it applies to your water right and you have not otherwise responded through a separate Order.

The State Water Board is issuing several additional curtailment orders, including orders for adjudicated surface water diversions and for unreported water rights 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 [Scott River and Shasta River Watersheds Drought Response webpage](#)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 Watershed

The State Water Board is requiring water right holders in the Scott River watershed 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 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, and Shackleford Creek 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 otherwise retain and exercise jurisdiction over the

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

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.**

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:

- ***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 Form

Within 10 calendar days of issuance of this curtailment order, all water right holders or their agents receiving this Order are required to submit, under penalty of perjury, a Scott-Shasta Water Right Online Curtailment Certification Form. 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 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

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

response in light of wildfires, please contact us at the information below once it is safe for you to do so.

The Scott-Shasta Online Curtailment Certification Form confirms cessation of diversion under your water right(s) and whether you are pursuing an exception(s) to continue limited diversions under the curtailment order. Timely and accurate completion of the form can help you avoid unnecessary enforcement proceedings. Your Login(s) and Password(s) are provided in Attachment A of the Order. You can access and complete the form at: <https://public.waterboards.ca.gov/WRInfo>.

Staff are available to answer questions or otherwise assist with completing the form 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 in 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 resources on the [Scott River and Shasta River Watersheds Drought Response webpage](#)

(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 leave 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”.⁴ **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 for Adjudicated Groundwater in the Scott River Watersheds, including Attachment A thereto

⁴ 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 2021-0083-DWR

IN THE MATTER OF WATER RIGHT(S) FOR PROPERTIES OF PRIMARY OWNER¹

AND LISTED IN ATTACHMENT A

**ORDER IMPOSING WATER RIGHT CURTAILMENT AND REPORTING
REQUIREMENTS FOR ADJUDICATED GROUNDWATER IN THE SCOTT RIVER
WATERSHED**

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 water right(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.
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 surface water and groundwater diversions will help raise the water table and re-wet

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

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 for 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 for the Division of Water Rights 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.

IT IS HEREBY ORDERED:

1. This curtailment order shall be effective on September 11, 2021.
2. Diversion of water in the Scott River watershed under the water right(s) 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, water right holder or agent of record who receives this Order is responsible for immediately providing notice of this Order to all diverters exercising water right(s) associated with this Order.

PRIMARY OWNER

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4. Unless you or your agent has received and complied with a separate curtailment order for all of the water rights listed in Attachment A, PRIMARY OWNER or their agent or successor is required, by September 20, 2021, to submit under penalty of perjury an Online Curtailment Certification Form (Curtailment Certification) in accordance with section 875.6 subdivision (a) for each water right listed in Attachment A. The Curtailment Certification shall be accessed 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 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. 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 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.
6. 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 as posted 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, 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.
7. 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.
8. 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.

PRIMARY OWNER

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9. 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

A handwritten signature in black ink, appearing to read "Erik Ekdahl". The signature is written in a cursive, flowing style.

Erik Ekdahl, Deputy Director
Division of Water Rights

Dated: September 10, 2021

PRIMARY OWNER

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