

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF WATER RIGHTS  
DECEMBER 19, 2023**

**ITEM 5**

**SUBJECT**

CONSIDERATION OF A PROPOSED RESOLUTION TO ADOPT AN EMERGENCY REGULATION THAT PROVIDES CURTAILMENT AUTHORITY IN THE KAMATH RIVER WATERSHED AND THAT ESTABLISHES MINIMUM INSTREAM FLOW REQUIREMENTS AND INFORMATION ORDER AUTHORITY IN THE SCOTT RIVER AND SHASTA RIVER WATERSHEDS.

**DISCUSSION**

On May 10, 2021, Governor Gavin Newsom issued a [Proclamation of a State of Emergency](#) declaring a drought State of Emergency in Siskiyou County and other counties throughout California citing the critical low river flows in numerous locations, including the Klamath Basin. Where the Governor has declared a state of emergency due to drought conditions, Water Code section 1058.5 grants the State Water Board the authority to adopt emergency regulations to prevent unreasonable use of water, require curtailment of diversions when water is not available under a diverter's priority of right, and require reporting of diversion or use or the preparation of monitoring reports.

The three-year period ending with Water Year 2021-2022 was among the driest three-year period on record in California, which closely followed a previous multi-year record dry period from 2013-2015. In 2021 and 2022, the Board adopted and implemented drought emergency regulations in the Klamath River watershed that established minimum instream flows for the protection of key fisheries (Chinook, coho, and steelhead) in the Scott River and Shasta River watersheds. The drought emergency regulations also provided exceptions for minimum human health and safety needs, minimum livestock watering needs, and non-consumptive uses.

During Water Year 2022-2023, California received significant precipitation throughout most of the state, where some locations received record amounts of precipitation and snowfall. However, the Klamath River watershed did not receive record rain or snow, although the water year was above the long-term average. The Klamath River watershed remains subject to Governor Newsom's drought proclamation and emergency drought provisions. The Scott River and Shasta River, tributaries to the Klamath River, continue to experience lingering drought impacts while recovering from multiple years of drought conditions.

On May 23, 2023, the Karuk Tribe of California, Environmental Law Foundation, Pacific Coast Federation of Fishermen's Associations, and Institute for Fisheries Resources submitted to the State Water Board a Petition for Rulemaking to Set Minimum Flows on the Scott River in Siskiyou County ([Petition](#)). On August 15, 2023, the Board held a hearing to consider the Petition. The Board expanded the scope of the

hearing to include the Shasta River watershed due to rapid and alarming decreases in flow that were observed when the previous flow regulation expired at the end of July. At the hearing the Board directed staff to:

- Move forward with an emergency regulation re-establishing minimum flows in the Scott River and Shasta River watersheds.
- Develop science and options that could support long-term flows in the watersheds, and return to the Board at a future date to discuss potential options and approaches.

To help inform potential updates to the emergency regulation, staff held a workshop on October 6, 2023, to solicit input on the state of the fisheries, the minimum instream flows, groundwater local cooperative solutions, and data needs. Additionally, on October 30, 2023, State Water Board staff met in Siskiyou County with community members and held listening sessions with interested parties regarding the emergency regulation. A preliminary draft of the proposed regulation was noticed on November 7, and a meeting to answer questions and provide for comments on the preliminary draft regulation was held on November 14, 2023. Comments on the preliminary draft of the proposed emergency regulation were accepted through November 16, 2023, and were considered in developing the proposed emergency regulation provided for the Board's consideration as part of this item.

## **POLICY ISSUE**

Should the State Water Board adopt the proposed resolution?

## **FISCAL IMPACT**

This activity is budgeted within existing resources and no additional fiscal demands on the State Water Board will occur as a result of approving this item.

## **REGIONAL BOARD IMPACT**

None.

## **STAFF RECOMMENDATION**

Approve the resolution to adopt the proposed emergency regulation.