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## State Water Resources Control Board

### **NOTICE OF PRELIMINARY DRAFT EMERGENCY REGULATION FOR KLAMATH WATERSHED, VIRTUAL PUBLIC MEETING, AND OPPORTUNITY TO COMMENT**

California has experienced two multi-year drought periods in the last decade with some of the driest conditions the state has experienced, and a drought proclamation is still in effect for the Klamath watershed. The state faces an uncertain hydrologic future that is driven by climate change and extreme weather conditions. In light of this, the State Water Resources Control Board (State Water Board) Division of Water Rights (Division) is proposing an emergency regulation to, among other things, re-establish minimum instream flows in the Scott River and Shasta River watersheds and provide authority to curtail water rights. **A preliminary draft emergency regulation<sup>1</sup> is available for review and comment. Below are details on how to provide comments by the deadline of November 16, 2023 and attend the virtual meeting related to the preliminary draft emergency regulation.**

#### **MEETING DETAILS**

State Water Board staff will hold a virtual meeting to provide information, answer questions, and solicit input related to preliminary potential changes to an emergency regulation to reestablish minimum flows for the Scott River and Shasta River watersheds. Details of the meeting are as follows:

**Tuesday, November 14, 2023**

**3:00 – 5:00 p.m.**

**Zoom Link: <https://waterboards.zoom.us/j/98414287633>**

You may also join the Zoom meeting by phone at:

(669) 900-9128

Meeting ID: 984 1428 7633

This meeting will be offered in English and Hmong (white). Interpretation services will be available through Zoom for online attendees. Those wishing to participate in the meeting by phone, rather than Zoom, in Hmong (white) can call (888) 273-3658 and enter the code 300828.

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<sup>1</sup> URL: [https://www.waterboards.ca.gov/drought/scott\\_shasta\\_rivers/docs/2023/scott-shasta-preliminary-draft-emergency-regulation-20231107.pdf](https://www.waterboards.ca.gov/drought/scott_shasta_rivers/docs/2023/scott-shasta-preliminary-draft-emergency-regulation-20231107.pdf)

Requests for interpretation in another language or sign language services can be made by using [this form<sup>2</sup>](#), by email to [scottshastadrought@waterboards.ca.gov](mailto:scottshastadrought@waterboards.ca.gov), or by phone call to (916) 327-3113. We will do our best to fulfill requests on short notice.

It is possible that one or more members of the State Water Board may attend the meeting. While a quorum of the State Water Board may be present at the meeting, no State Water Board action will be taken.

## **PRELIMINARY DRAFT EMERGENCY REGULATION**

Staff are releasing this preliminary draft emergency regulation with consideration of feedback received over the past year, including: the hearing on the petition discussed below; an October 6, 2023, staff workshop regarding emergency regulation efforts in the Scott River and Shasta River watersheds; October 30, 2023, listening sessions on the regulation of flows in Scott River and Shasta River watersheds; and additional engagement with tribes, community members, agencies, nongovernmental organizations, and other parties. Preliminary changes to the emergency regulation include updates to the following provisions: (1) clarification to Scott River flow requirements noting the need to maintain natural flows when the minimum flow requirements are not otherwise satisfied; (2) modifications to the human health and safety exception that provide an alternate means of submitting/requesting the exception; (3) changes to the groundwater local cooperative solutions, including potential additional options; and (4) changes to the prohibition on inefficient livestock watering.

Staff received meaningful critiques of the previous emergency regulations' groundwater local cooperative solutions, as well as several alternative proposals for the groundwater local cooperative solution provisions of the emergency regulation as well as a request to maintain the existing 30 percent option in the Scott River watershed. To provide for broad input on the previous 30 percent option and alternative groundwater local cooperative solution proposals, staff have included a range of potential options and changes in Section 875, subdivision (f), of the preliminary draft regulation. **Staff strongly encourage comments and feedback on these proposals. Inclusion of such proposals in this preliminary draft regulation does not indicate that such options will be part of any final regulation.** The final regulation provided for Board consideration may not include the 30 percent or other groundwater local cooperative solution proposals.

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<sup>2</sup> URL:

[https://forms.office.com/pages/responsepage.aspx?id=JWoY\\_kI95kGZQQXSKB02weK0qg8yprhDkaNWK3voyE5UM0dPUTEyRk03QIBBTFg1VUo3MjIUUTgwNC4u](https://forms.office.com/pages/responsepage.aspx?id=JWoY_kI95kGZQQXSKB02weK0qg8yprhDkaNWK3voyE5UM0dPUTEyRk03QIBBTFg1VUo3MjIUUTgwNC4u)

## COMMENTS

A copy of the preliminary draft emergency regulation is available on the State Water Board's [Scott River and Shasta River Watersheds Drought Response website](#)<sup>3</sup>.

Comments on the preliminary draft emergency regulation must be submitted by **5:00 p.m. on Thursday, November 16, 2023**. Comments may be submitted via email (preferred) or hard copy as noted below.

**Email to:**

(with subject line of Scott-Shasta Preliminary Draft Emergency Regulation Comments)

[ScottShastaDrought@waterboards.ca.gov](mailto:ScottShastaDrought@waterboards.ca.gov)

or

**Hard copy\* mail to:**

State Water Resources Control Board, Division of Water Rights  
P.O. Box 2000, Sacramento, CA 95812 (mail)  
1001 I Street, 14<sup>th</sup> Floor, Sacramento, CA 95814 (hand-delivery)

\* Hard copies must be received (not postmarked) at the State Water Board office by the close of the comment period.

## BACKGROUND

In 2021 and 2022, the Board adopted and implemented drought emergency regulations in the Klamath watershed that established minimum instream flows for the protection of key fisheries (Chinook, coho, and steelhead) in the Scott River and Shasta River watersheds and provided for exceptions for basic human health and safety, minimum livestock watering needs, and non-consumptive uses. The regulations provided for curtailment of water rights in order of priority to meet the minimum instream flows and senior rights. The regulations also provided for local cooperative solutions at the individual, tributary, and watershed scale that could be implemented in lieu of curtailment, if the solution met flows or provided equal or better protection compared to the regulation. Finally, the regulation included a groundwater local cooperative solution that provided for continued diversion by overlying groundwater users that meet specific conditions. The regulations were in effect from August 30, 2021, through July 31, 2023.

The three-year period ending with Water Year 2021-2022 was among the driest three-year periods on record in California, and it followed another multi-year period of some of the driest periods the state had seen in recorded history, 2014-2016. Then, during Water Year 2022-2023, California received above average precipitation throughout most of the state; although Northern California, and specifically the Klamath River watershed, did not experience the same amount of precipitation. 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. The Klamath River faces an uncertain hydrologic future that may include more drought years.

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<sup>3</sup> URL: [https://www.waterboards.ca.gov/drought/scott\\_shasta\\_rivers/](https://www.waterboards.ca.gov/drought/scott_shasta_rivers/)

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](#)<sup>4</sup>). On August 15, 2023, the Board held a hearing to consider the Petition, and expanded it to include the Shasta River watershed. 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 to return to the Board at a future date with options.

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 Montague with members from the Hmong community in the morning and held two listening sessions with interested parties in the afternoon and evening regarding the emergency regulation.

## **ADDITIONAL INFORMATION**

For additional information regarding the emergency regulation, please visit the State Water Board’s [Scott River and Shasta River Watersheds Drought Response website](#)<sup>2</sup>.

## **HOW TO RECEIVE UPDATES**

If you would like to receive email updates related to emergency regulation, please [sign up](#)<sup>5</sup> under “State Water Resources Control Board” and “Water Rights” for the “Scott-Shasta Drought” email subscription list.

## **QUESTIONS**

Please email questions regarding this notice and related efforts to: [ScottShastaDrought@waterboards.ca.gov](mailto:ScottShastaDrought@waterboards.ca.gov) or leave a message at our dedicated Scott River and Shasta River Drought phone line at: (916) 327-3113.

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November 7, 2023  
Date

  
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Courtney Tyler  
Clerk to the Board

<sup>4</sup> URL: [https://www.waterboards.ca.gov/drought/scott\\_shasta\\_rivers/docs/2023/petition-minimum-flows.pdf](https://www.waterboards.ca.gov/drought/scott_shasta_rivers/docs/2023/petition-minimum-flows.pdf)

<sup>5</sup> URL: [https://www.waterboards.ca.gov/resources/email\\_subscriptions/](https://www.waterboards.ca.gov/resources/email_subscriptions/)