

Common Interest/Confidential/Privileged/Work Product



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
601 Locust Street
Redding, CA 96001
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 19, 2024

Blair and Susan Hart
Landowner and Manager
Hart Ranch

[REDACTED]
[REDACTED]
[REDACTED]

SUBJECT: CONSERVATION ACTIONS AND BINDING AGREEMENT FOR LOCAL COOPERATIVE SOLUTION

Dear Blair and Susan Hart:

On December 19, 2023, the State Water Resources Control Board (SWRCB) adopted a Drought Emergency Regulation for the Scott River and Shasta River Watershed for 2024 (Cal. Code Regs., tit. 23, §§ 875–875.9) (2024 Drought Emergency Regulation). Pursuant to the 2024 Drought Emergency Regulation, local cooperative solutions (LCSs) by individuals or groups may be proposed by petition to the SWRCB Deputy Director for the Division of Water Rights (SWRCB Deputy Director) as an alternative means of reducing water use to meet or preserve drought emergency minimum flows, or to provide other fishery benefits in lieu of curtailment. For individual cooperative solutions, the SWRCB Deputy Director may approve a petition where a water user agrees to voluntarily cease diversions or where the California Department of Fish and Wildlife (CDFW) makes a recommendation for an exemption to curtailment based on an assessment that the benefits of the proposed LCS actions to anadromous fish in a specific time are equal to or greater than the protections provided by their contribution to flow under curtailment.

On May 29, 2024, you proposed a LCS that includes commitments under a Federal Safe Harbor Agreement for Coho Salmon, a State Consistency Determination for the Safe Harbor Agreement, an existing Lake and Streambed Alteration Agreement, a Ranch Management Plan developed in consultation with CDFW, and an instream dedication of flow pursuant to a section 1707 order issued on January 6, 2022, by the SWRCB. All include monitoring and agency coordination elements, which are incorporated by reference in the enclosed binding agreement.

Conserving California's Wildlife Since 1870

Blair and Susan Hart, Landowner and Manager
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CDFW has determined this LCS provides specific conservation actions and offers concise and appropriate monitoring elements enabling CDFW to recommend approval to the SWRCB Deputy Director pursuant to section 875.5(f)(4)(C)(ii) of the 2024 Drought Emergency Regulation and assume the role of a coordinating entity to implement a binding agreement.

Attached to this cover letter is a binding agreement with a summary of conservation actions, and CDFW's recommendation of support for your LCS. You have worked closely with CDFW and SWRCB staff to develop this binding agreement that will enable CDFW to be your coordinating entity. I have already signed it. If you agree with its content and terms, please sign and retain one copy, include one copy with your petition to the SWRCB, and send one copy to: klamathwatershed@wildlife.ca.gov.

CDFW is grateful for your commitment to pursue the conservation actions anticipated in the enclosed and enter into a binding agreement for an LCS. This will be one of several tools available to address the challenges of this ongoing drought to protect native salmon, protect tribal cultural resources, and support local and commercial economies. If you have any questions regarding this letter, please contact Senior Environmental Scientist Supervisor, Crystal Robinson at klamathwatershed@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Tina Bartlett, Regional Manager
Northern Region

ec: Page 3

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ec: Erik Ekdahl
State Water Resources Control Board, Division of Water Rights
erik.ekdahl@waterboards.ca.gov

Craig Altare
California Department of Water Resources
craig.altare@water.ca.gov

Alecia Van Atta
National Marine Fisheries Service
alecia.vanatta@noaa.gov

Tina Bartlett, Michael Harris, Crystal Robinson
California Department of Fish and Wildlife



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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601 Locust Street
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



CONSERVATION ACTIONS, BINDING AGREEMENT, AND RECOMMENDATION FOR LOCAL COOPERATIVE SOLUTION

The following binding agreement regarding a local cooperative solution (LCS) is entered into between the California Department of Fish and Wildlife (CDFW) as Coordinating Entity, and the Hart Ranch (Landowner) (together, the Parties) pursuant to Section 875(f)(4)(C)(ii) of the 2024 Drought Emergency Regulation for the Scott River and Shasta River Watershed (2024 Drought Emergency Regulation).¹ Landowner and CDFW hereby agree to the following:

RECITALS

- A. Under the 2024 Drought Emergency Regulation establishing drought emergency minimum flows in the Scott River and Shasta River watersheds and associated curtailment of water diversions, local cooperative solutions (LCSs) by individuals or groups may be proposed by petition to the SWRCB Deputy Director for the Division of Water Rights (SWRCB Deputy Director) as an alternative means of reducing water use to meet or preserve drought emergency minimum flows, or to provide other fishery benefits (such as cold-water refugia, localized fish passage, or redd protection), in lieu of curtailment.
- B. Section 875(f)(4)(C)(ii) provides for an individual LCS where CDFW makes a recommendation for an exemption to curtailment based on an assessment that the benefits of the actions to anadromous fish in a specific time are equal to or greater than the protections provided by their contribution to flow under curtailment.
- C. Section 875(f)(4)(C)(ii) requires that the diverter(s) enter into a binding agreement with a coordinating entity to perform actions for the benefit of anadromous salmonids.
- D. Landowner has requested that CDFW serve as the coordinating entity.

¹ California Code of Regulations, title 23, sections 875–875.9.

SECTION 1 PROPOSED LOCAL COOPERATIVE SOLUTION AND CONSERVATION ACTIONS

On May 29, 2024, the Hart Ranch proposed an LCS that includes and further supplements actions for the benefit of anadromous salmonids pursuant to a federal Safe Harbor Agreement (SHA) for Coho Salmon (Enhancement of Survival Permit No. 21088) issued on February 21, 2018, a State Consistency Determination for that SHA on July 1, 2019 (No. 2089-2019-001-01) (State CD), an existing Lake and Streambed Alteration Agreement (No. 1600-2016-0314-R1) executed on June 3, 2019 (LSAA), a Ranch Management Plan developed in consultation with CDFW (RMP), and a Water Code section 1707 Order issued on January 6, 2022 (1707 Order). The SHA, State CD, LSAA and 1707 Order are incorporated herein by reference, including the monitoring and agency coordination elements of each.

The proposed LCS provides additional voluntary conservation actions that include instream dedications of surface water rights including (proposed conservation actions):

1. A 1.5 cfs dedication of Landowner's third priority Little Shasta River right regardless of any permissive contingencies contained in the SHA and supported by their 1707 Order;
2. Once a full 1.5 cfs dedication has been achieved, Landowner may divert up to 5.5 cfs to meet management and/or conservation purposes; and
3. Any water available to Landowner above the aggregate volume of 7 cfs stipulated in #2 above will be left instream in coordination with the Shasta Scott Watermaster District (SSWD) and other water diverters to the degree permitted under the Shasta River decree.

As part of this binding agreement, Landowner is required to adhere to the proposed conservation actions, as submitted to CDFW and approved by the SWRCB.

SECTION 2 CDFW DETERMINATION OF EQUAL OR GREATER ACTION FOR THE BENEFIT OF ANADROMOUS SALMONIDS

CDFW has determined that this LCS provides equal to or greater actions for the benefit of anadromous salmonids compared to the protection provided by Landowner's contribution to flow described in section 875, subdivision (c)(2) of the 2024 Drought Emergency Regulations. The instream flow dedication of 1.5 cfs is unlikely to reach the confluence with the Shasta River and contribute to the minimum flow requirement at the Yreka gage as direct surface flow during most times of the year. However, the cumulative Landowner conservation actions represent obligations above prior commitments, and provide instream benefits appropriate to this drought emergency, and for other diverters to build

on for additional benefits not achievable through the actions of a single diverter in this reach during this drought emergency. In addition, Landowner conservation actions include significant Little Shasta River habitat improvements including riparian planting and fencing, and channel restoration for fish passage. The Landowner is active in community conversations and contributes to surface and groundwater conservation for beneficial users and shares important data to inform future watershed improvement efforts. CDFW is recommending an exemption to curtailment for the Hart Ranch based on the following:

1. The cumulative instream contributions defined in items 1-3 above in consideration of Landowner's full portfolio of water rights;
2. The relatively low possibility that Landowner's water rights will be curtailed to meet the flow described in section 875, subdivision (c)(2);
3. The cumulative additional benefits of Landowner's conservation agreements and orders described above; and
4. A commitment in this LCS to coordinate with NOAA Fisheries, the SSWD, and CDFW to develop cooperative mitigation to balance ranch management and obligations to the SHA, LSAA, RMP, and 1707 Order.

Landowner has prepared a petition to the SWRCB in consideration of this agreement (Petition) (Exhibit A). CDFW, as Coordinating Entity, has reviewed the Petition and agrees that the Petition accurately reflects, and is not in conflict with, any provisions in this LCS.

SECTION 3 TERM

This binding agreement is valid while the 2024 Drought Emergency Regulation remains in place. By signature, both parties agree and memorialize CDFW as the Coordinating Entity for this binding agreement.

SECTION 4 MONITORING AND REPORTING

4.1: CDFW representatives will exercise CDFW's monitoring obligations defined in the SHA, RMP, LSAA, and this LCS.

4.2: Written irrigation logs for water dedication and any photos, checklists, and other documentation for the conservation actions incorporated by reference will be transmitted by the Landowner via email to the Klamath Watershed Program at klamathwatershed@wildlife.ca.gov. This information for each month shall be transmitted within the first seven (7) calendar days of each calendar month.

4.3: CDFW will submit the information regarding the verification materials and actions described in this agreement and the conservation plan incorporated by

reference herein, to the SWRCB upon request, for the purposes of verifying compliance with the LCS.

SECTION 5 ACCESS

5.1: For the duration of this binding agreement, Landowner shall give CDFW and CDFW agents the right to reasonably access the included parcels for the limited purpose of verifying execution of the conservation actions. Any individual not directly employed or contracted by CDFW shall provide a minimum of 24 hours advance notice to the Landowner and shall obtain approval from the Landowner prior to entering the Hart Ranch.

5.2: CDFW will strive to notify Landowner a day in advance of visiting the Hart Ranch and shall provide Landowner or a designee the ability to participate in the monitoring inspection.

SECTION 6 AMENDMENT

It is recognized that as the irrigation season unfolds, there may be reason to change the terms of the conservation plan or this agreement regarding its implementation and verification. Any such changes to the conservation plan or binding agreement will need to offer continued compliance with the 2024 Drought Emergency Regulations and shall be agreed upon by both parties as well as the SWRCB.

SECTION 7 TERMINATION

This binding agreement may be terminated by either party with 30 days notice. CDFW will only terminate the agreement if Landowner is not cooperating with the terms of this binding agreement (e.g., is not providing access, is not reporting, etc.). Both parties agree to take reasonable measures to resolve any concerns related to performance of the conservation plan, negative human interaction, or any other unforeseen circumstance prior to invoking termination.

SECTION 8 ADDITIONAL FUNDING

This binding agreement is not intended to preclude, harm, or otherwise interfere with Landowner's ability to secure any funding to mitigate the financial impacts imposed by the emergency regulation or proposed conservation practices. CDFW supports use of funding programs to ameliorate the costs of implementing the conservation practices described in the proposed conservation plan. Planning and cooperation under a voluntary LCS should not undermine the ability to receive such funding.

SECTION 9 REPRESENTATIVES

All inquiries may be directed to the following representatives:

California Department of Fish and Wildlife
Michael Harris
klamathwatershed@wildlife.ca.gov
(530) 410-5334

Hart Ranch
Susan Hart



Landowner and CDFW shall inform each other in writing of any changes to representatives.

SECTION 10 TRANSMITTAL OF COPIES

The Landowner shall include one signed copy with its Petition to the SWRCB, return one signed copy to CDFW, and retain a signed copy of this binding agreement and the conservation plan readily handy at its residence in the event any questions arise for either party during implementation or monitoring.

EXHIBITS

Exhibit A – Petition to the SWRCB

Authorized Landowner Signature

_____ Date signed: _____

Authorized Cooperating Entity Signature

DocuSigned by:
Sina Bartlett
ID: 82ADE7303A474...

_____ Date signed: 7/17/2024
CDFW Regional Manager, Northern Region 1

EXHIBIT A

Hart Ranch | Little Shasta | California | [REDACTED]

May 29, 2024

Via Email

Mr. Erik Ekdahl
Deputy Director, Division of Water Rights
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
Erik.ekdahl@waterboards.ca.gov

Re: Hart Ranch Continuing Petition for Relief from Klamath River Watershed
Drought Emergency Requirements

Dear Mr. Ekdahl:

We are a sixth generation family cattle ranch operating as Hart Ranch, and water right owner in the Little Shasta Valley of Siskiyou County. We respectfully submit this petition for relief from the Klamath River Watershed Drought Emergency Requirements, California Code of Regulations Title 23, Division 3, Chapter 2, Article 23.5, Sections 875, 875.1, 875.2, 875.3, 875.4, 875.5, 875.6, 875.7, 875.8 and 875.9, pursuant to Article 23.5, section 875, subsection (f)(4)(C)(ii) – cooperative solution as an individual diverter, “Where an individual diverter has entered into a binding agreement with the California Fish and Wildlife or the National Marine Fisheries Service to perform actions for the benefit of anadromous salmonids....” (Petition.)

Harts have committed to a broad range of voluntary conservation measures on our ranch properties located in the Shasta River watershed, including permanent in stream flow dedications in support of coho salmon, the only ones to date in the watershed by individual water rights holders. While Harts believe our existing commitments justify relief from the Drought Emergency Requirements, we are proposing additional flow commitments in support of this Petition for relief from Article 23.5 for all of the Hart Ranch’s decreed pre-1914 water rights on the Little Shasta River, identified in Exhibit A, which are held by Forrest Blair Hart, Susan S. Hart, individually and as Co-Trustees of The Hart Family 2003 Trust, Rabbit Hill, LLC, a California limited liability company, and Soda Springs LLC, a California limited liability company (collectively “the Hart Ranch”).

BACKGROUND

The Hart family has been actively engaged in ranching on our property since 1852. Our primary management objective is to build a sustainable, holistic property stewardship program that allows for equal economically viable ranching operations and wildlife habitat enrichment. More information about our numerous conservation activities can be viewed at <https://www.sustainabilityfromthehart.com/environment-hartranch>. Hart Ranch was awarded Region 6 ESAP- Environmental Stewardship Award Program for 2023. Ranching and wildlife habitat enhancement depend on our pre-1914 water rights. As part of a long-

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term conservation strategy to improve conditions for anadromous fish species in the Little Shasta River, in 2018 the Hart Ranch entered into a Safe Harbor Agreement (SHA) with the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, and National Marine Fisheries Service (NMFS) in accordance with section 10(a)(1)(A) of the federal Endangered Species Act (ESA) for the survival and recovery of the threatened Southern Oregon/Northern California Coast (SONCC) Coho salmon. (Exhibit B.) As a companion to the SHA, Hart Ranch has developed a Ranch Management Plan (RMP) under the lead of the California Department of Fish and Wildlife (CDFW), and in partnership with CDFW, the California North Coast Regional Water Quality Control Board (RWQCB), and State Water Board (SWB). (Exhibit C.) The RMP was developed to promote informed routine management practices designed to ensure guided enhancement of all resources inclusive of critical wetlands and protected species. Complementing the SHA, Hart Ranch was awarded California Endangered Species Act (CESA) Consistency Determination by CDFW.¹ (Exhibit D.) In support of these voluntary agreements, Hart Ranch in January 2019 filed four petitions under California Water Code section 1707 (Section 1707) to add fish and wildlife enhancement as a beneficial use to all of its Little Shasta River water rights (collectively, "1707 Petitions"). (Exhibit E.) The 1707 Petitions were granted approval by the SWB and Siskiyou County Superior Court in the late winter of 2022.

In these voluntary cooperative agreements with CDFW and NMFS, Hart Ranch has committed to beneficial actions supportive of salmonid species, and in particular the SONCC Coho salmon, while balancing these actions with existing measures which benefit and protect ESA, CESA, and California Fully Protected species present on the ranch. In order to achieve overall success in our continued conservation efforts, we rely on regenerative agricultural management practices in maintaining the delicate balance of supporting all public trust resources.

The following completed and ongoing voluntary flow commitments and beneficial management activities are being implemented by (and with the support and permission of) the Hart Ranch:

- Permanent dedication to instream beneficial use (fish and wildlife enhancement) year round of approximately 0.5 cubic feet per second (cfs) of the Hart Ranch's most senior Little Shasta River water right, with an 1857 priority.
- All of Hart Ranch's decreed water rights include instream flow as a beneficial use in the form of a permissive dedication pursuant to Section 1707.

The Hart Ranch water right dedications are significant and impactful as they represent "wet water" that is voluntarily dedicated (permissively and/or permanently) and of a priority such that the water will be available and not just represented on paper. The significance of this

¹ No. 2089-2019-001-01 (July 1, 2019).

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voluntary flow commitment is illustrated during severe drought conditions, when the Hart Ranch will be dedicating *86 percent* of its full Little Shasta River right (0.975 cfs). As recognized by CDFW in its July 1, 2019 CESA consistency determination, the Hart Ranch is “voluntarily providing enhanced stream flows to benefit stream habitat and promote Coho Salmon recovery in the Little Shasta River. Enhancing stream flows will reduce diversions of Hart’s water rights at the Hart-Haight diversion while sustainably managing aquatic and terrestrial species in an agricultural setting.” The SHA voluntary flow commitments commenced following the SWB approval of the 1707 Petitions for instream use. The associated Stock Water Project, has been completed allowing Hart Ranch to initiate its permanent 1707 in-stream dedication in 2023.

Hart Ranch’s voluntary instream flow dedication commitments and the other beneficial management actions described below were made well in advance of current drought conditions and any emergency orders. Importantly, they will endure past drought conditions. The Hart Ranch Section 1707 dedications are all subject to the requisite Compliance Management Plan submitted to the SWB and under the direction and authority of the Scott Valley-Shasta Valley Watermaster District (SSWD).

- Replacement of Hart-Haight Irrigation Diversion (HHID) –to remove fish passage constraints to upper reaches of the Little Shasta River per SHA – completed winter of 2019. The CDFW design contemplated the future potential of consolidating some upstream diversion structures with HHID, by enlarging the completed size of the HHID beyond that required by the 2019 replacement design and the Hart SHA. Parties acknowledge that the CDFW provided engineering designed HHID paddle wheel structure is undergoing refabrication (steel to aluminum) and will require flow assessment upon completion. Full operation of the up-sized structure, until such time as these consolidations are made, and all diverters are participating in bypass flows that will augment the wetting of the HHID stream triangle and or screen operation, may require the issuance of partial regulatory waivers during low flow periods as a cooperative solution to Hart Ranch LSA compliance. Hart Ranch continues to work with CDFW on the operation of this structure.
- Maintenance and enhancement, *per RMP*, of high quality stream and riparian habitat on Little Shasta River both upstream and downstream of HHID. The area upstream of the Hart Ranch diversion has been fully fenced for cattle exclusion and is maintained for aquatic habitat. An additional 0.7 river miles of the Little Shasta River on the ranch downstream of our diversion was fenced allowing for cattle exclusion and initiation of streambed restoration. In aggregate, Hart Ranch will be managing nearly three river miles of the Little Shasta River for fish, dedicating this property for fisheries habitat under the cattle exclusion techniques described in the RMP. Hart Ranch also supports and cooperates in ongoing temperature, flow monitoring, and nutrient studies being conducted by the University of California, Davis, Watershed Sciences Center for the benefit of the entire Little Shasta River.

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- Full access to all groundwater wells, with eight years' worth of full monitoring data and current real time monitoring of wells and data access to Sustainable Groundwater Management Act scientists from University of California, Davis.
- Continued and ongoing, full access to fishery managers for monitoring, studying, and information gain, *per SHA* – CalTrout and University of California have full access to the Hart Ranch properties.
- Collaboration with CalTrout, neighboring Little Shasta River diverters, CDFW, SSWID, and the North Coast RWQCB in the analysis and development of joint projects to further enhance the riparian conditions, water quality, and flow volumes on the Little Shasta River, and specifically located in large part on Hart Ranch, *per SHA*.
- Attendance of the University of California Extension Service's Browns Valley Test Center's soil and grassland regenerative management classes have informed best management practices used in RMP implementation, particularly as related to wetland management, soil health, special habitat zone monitoring, and water quality. Seasonal wetlands overlie nearly half of the 2,860 acres of annual grassland cover type downslope of HHIID. Maintenance of these critical wetlands incorporates stubble height management techniques and flood irrigation contributing to year around grassland soil recharge and health.
- North American Wetlands Conservation Act, and in-kind Hart Ranch-supported wildlife friendly field fence installation was completed to promote wetland and meadow nesting and foraging habitat enhancement for native and migrating waterfowl and waterbirds when coupled with rotational grazing, no-till seeding, and wetland recharging management techniques.
- Partnership with American Farmland Trust and California Wildlife Conservation Board in the permanent conservation of properties managed by Hart Ranch inclusive of the protection of the Little Shasta River riparian areas in perpetuity.
- Full implementation of voluntary LCS from Feb 2022 combined with ongoing in stream dedications under Hart Ranch 1707 permissive rights once wetland enhancement goals were met through present date – dedication logs are available.
- Voluntary upland and avian monitoring since February 2022: data available on cBird.com/Cedar Lake, CA

During the development of the Hart Ranch SHA, CDFW, NMFS, and the RWQCB staff acknowledged the importance of the broad array of baseline conservation values supported by our management practices.

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VOLUNTARY COMMITMENTS SUPPORTING PETITION

In addition to the voluntary water right dedications and beneficial management practices described above (and stipulated in their 2018 SHA and CDFW CESA consistency determination), the Hart Ranch proposes the following additional commitments exclusively for the term of relief requested under this ongoing Petition.

1. The Hart Ranch agrees to adhere to all conditions, including monitoring elements within its Lake and Streambed Alteration Agreement [updated June 3, 2024], SHA, RMP, and Section 1707 Compliance Plan issued as part of the order by the SWB approving the Hart Ranch 1707 Petitions.
2. The Hart Ranch will coordinate with the SSWD to implement the individual cooperative solution, consistent with the requirements of the Section 1707 Compliance Plan, including providing SSWD access to all gaging stations and monitoring data.
3. The Hart Ranch will continue its ongoing coordination with NOAA and CDFW to develop cooperative mitigating solution(s), consistent with our past efforts, that provide balance between the management of protected aquatic and terrestrial species create a potential conflict with obligations of the Hart Ranch SHA, RMP or I.S.A.
4. Instream Dedications
 - (a) During the drought emergency, the Hart Ranch will dedicate up to 1.5 cfs of its first 3rd priority Little Shasta River (LSR) rights available at the Hart-Haight irrigation diversion (HHID) to the LSR for fish and wildlife enhancement. This dedication will occur pursuant to the local cooperative solution and regardless of any other permissive contingencies.
 - (b) During the drought emergency, and once a full 1.5 cfs dedication has been achieved to the LSR, the Hart Ranch may divert up to the next 5.5 cfs of their available and permitted LSR rights to meet management and/or conservation purposes, and
 - (c) During the drought emergency, and in the event that there is water above the aggregate volume stipulated in 4(b) (7cfs), Hart Ranch will coordinate with SSWD to exercise a request under its 1707 Order to leave this additional volume instream to the degree legally permitted under the Shasta Decree.

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The effect of these commitments is to guarantee up to 1.5 cfs of instream flow during the entire drought emergency, to the extent such flows would otherwise have been available for diversion, as well as all of Hart Ranch's available flow at HHID over 7 cfs, a substantial increase over the commitments in the Hart Ranch SHA.

Harts commit to make these additional dedications until such time as the Order Imposing Water Right Curtailment and Reporting Requirements in the Shasta River Watershed (Order WR 2021-0082- DWR) is no longer in effect, or until November 1, 2024, whichever comes first. If the emergency regulations remain in effect following November 1, 2024, and in the absence of an active curtailment order, Harts' supplemental flow commitments under this Petition shall revert to the commitments defined in their SHA. Nothing in these supplemental flow commitments shall be interpreted or used as evidence of any intent by the Hart Ranch to forfeit or abandon any portion of their water rights, and all such flows committed to instream use shall be deemed to be beneficially used. (Water Code, § 1241; *Millview County Water Dist. v. State Water Resources Control Bd.*, 229 Cal.App.4th 879 (2014).)

Dedications are subject to water right availability by priority as listed in the Judgment and Decree entered on December 29, 1932 in Siskiyou County Superior Court Case No. 7035, In the Matter of the Determination of the Relative Rights, Based Upon Prior Appropriation, of the Various Claimants to the Waters of Shasta River and its Tributaries in Siskiyou County, California (Shasta River Decree) and are inclusive of all regulatory fish screen bypass volumes as required for the HHID. Consistent with our proposed 1707 petitions, these voluntary water right dedications are intended to remain instream and not subject to use by any other junior water right holder.

Harts have consulted with SWB and CDFW staff in preparing this Petition and carefully considered their thoughtful input in the development of these proposed commitments. Our proposed additional voluntary, short-term water dedications take in the responsibility of balancing the needs of the fishery resources with their obligation to ensure the health and safety of our livestock and the Ranch's ESA, CESA and fully protected species while under drought conditions. By careful consideration of these emergency conditions requirements, as well as the objectives of agency staff and the public trust, we believe that what is included in these supplemental dedications, especially when considered in light of our extensive conservation activities, wholesomely support this Petition.

MONITORING AND VERIFICATION OF COMMITMENTS

The SHA and RMP authorize CDFW to have full access to the Hart Ranch for purposes of monitoring and verifying the flow and other beneficial activities encompassed in those agreements. (See SHA at pp. 25, 30; RMP at pp. 54-55.). Harts understand and agree that these access provisions encompass the additional voluntary commitments included in the Petition, and that CDFW may access the Hart Ranch for purposes of monitoring compliance with the Petition commitments. In addition, upon request of the SWB and/or CDFW, Harts will provide HHID

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diversion measurements for the period between November 1 and February 28, and all well monitoring data, for the period the Order Imposing Water Right Curtailment and Reporting Requirements in the Shasta River Watershed (Order WR 2021-0082- DWR) is in effect. HHID diversion measurements for the period between March 1 and October 31 are produced and maintained by the SSWD and provided annually to CDFW in accordance with the SHA. (See SHA at p. 30.).

CONCLUSION

As you know, numerous state and federal agencies, and nongovernmental organizations, have been working diligently for many years to improve conditions for protected fish in the Shasta watershed. These efforts depend on voluntary flow dedications by water rights holders. The Hart family has led the way with the first such private landowner dedication and has expended significant resources in support of the myriad permitting processes associated with the flow enhancement program. This Petition for exemption from the Emergency Drought Regulations is based on our voluntary in-stream dedication of high priority water rights and is supplemental to our prior dedication of water and management of a vital riparian corridor consisting of highly sought salmonid habitat, as reflected in the various binding agreements and water right petitions. We believe these supplemental flow commitments provide the benefits contemplated by the SWB in authorizing the exemptions, and are consistent with the approach being pursued by the California Environmental Protection Agency and California Natural Resources Agency with respect to voluntary agreements to improve conditions for fish and wildlife in the Sacramento-San Joaquin Delta and its major rivers, through commitments to create habitat and increase flows while providing regulatory certainty to water users.

We look forward to your response and to future collaborative opportunities to improve conditions within the Klamath Basin.

Respectfully,



Blair and Susan Hart

Hart Ranch

Little Shasta Exhibits (*via separate Dropbox link*):

- Exhibit A: Hart Ranch Water Rights
- Exhibit B: Hart Ranch Safe Harbor Agreement
- Exhibit C: Hart Ranch Management Plan
- Exhibit D: CDFW CESA Consistency Determination for Hart Ranch
- Exhibit E: Notice of Hart Ranch 1707 Petitions

Mr. Erik Ekdahl, SWRCB

Re: Hart Ranch Petition for Relief from Klamath River Watershed Drought Emergency
Requirements

May 29, 2024

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cc: Dorene D'Adamo, Vice Chair, State Water Resources Control Board
Charlton Bonham, Director, California Department of Fish and Wildlife