

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER RIGHTS
JANUARY 7, 2025**

ITEM 4

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION TO AMEND AND READOPT AN EMERGENCY REGULATION THAT ESTABLISHES MINIMUM INSTREAM FLOW REQUIREMENTS AND PROVIDES CURTAILMENT AUTHORITY 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. On March 24, 2023, Governor Newsom issued [Executive Order N-5-23](#) that repealed many provisions of the above-noted drought proclamation in light of significant precipitation, particularly in the Sierra Nevada range¹. However, the executive order specifically found that continued action is needed to abate drought harm to native fish in the Klamath watershed. Where the Governor has declared a state of emergency due to drought conditions, Water Code section 1058.5 grants the State Water Resources Control Board (State Water Board or 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.

Most parts of the Scott River and Shasta River watersheds and the Upper Klamath Basin experienced abnormally dry conditions for extended timeframes during Water Years 2013-2015, and 2020-2022. Portions of the Scott River and Shasta River watersheds remained abnormally dry during part of Water Year 2023-2024. In 2021, 2022, and 2023 the Board adopted a drought emergency regulation 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

¹ During Water Year 2022-2023, California received significant precipitation throughout most of the state, with some locations receiving 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.

human health and safety needs, minimum livestock watering needs, and non-consumptive uses. The Klamath River watershed remains subject to Governor Newsom’s drought proclamation and emergency drought provisions. The Klamath River basin (specifically including the Scott River and Shasta River watersheds) and its anadromous fisheries continue to experience lingering drought impacts while recovering from multiple recent periods of drought and dry conditions. The current drought emergency regulation, which was adopted by the Board in December 2023, will expire on January 31, 2025 unless it is readopted.

On October 16, 2024, the State Water Board adopted [Resolution No. 2024-0036](#) regarding flow efforts in the Scott River and Shasta River watersheds. The resolution gives specific direction to Board staff regarding immediate-term actions and longer-term actions related to flows in these watersheds. Immediate actions included direction for staff to solicit input on whether to readopt the emergency regulation, and, if so, with what changes, as well as to solicit potential alternatives to emergency regulation. Staff held a virtual public meeting on November 12, 2024, to receive verbal comments and accepted written public comments through November 20, 2024, on these immediate actions. No proposals for alternatives to an emergency regulation that met the standards set forth in Resolution No. 2024-0036 were received. Comments were considered in developing the proposed emergency regulation provided for the Board’s consideration as part of this item.

In the absence of an emergency regulation (or viable alternative), there would be no mechanism to protect the bare minimum fishery flows in these key salmonid watersheds that are impacted from multiple drought cycles.

POLICY ISSUE

Should the State Water Board adopt the proposed resolution?

FISCAL IMPACT

To be funded within existing resources.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

Staff recommends that the Board adopt the proposed Resolution.