

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER WR 2024-0046-DWR

**IN THE MATTER OF WATER USE ON THE PROPERTIES OF
DOUGLAS J. HALE**

Water Right IDs: SG007257

**INFORMATION ORDER FOR WATER USE IN THE SCOTT RIVER WATERSHED
ISSUED NOVEMBER 14, 2024**

FINDINGS:

1. On December 19, 2023, the State Water Board adopted the Scott River and Shasta River Watersheds Drought Emergency Requirements (hereinafter “Regulation” or “Emergency Regulation”) which went into effect February 1, 2024. The Emergency Regulation provides curtailment authority in the Scott and Shasta watersheds, establishes minimum instream flow requirements, and provides information order authority in the Scott River and Shasta River watersheds. The minimum instream flow requirements were established to protect fall-run Chinook salmon, threatened Southern Oregon/Northern California Coast coho salmon, and culturally significant steelhead. Resolution No. 2023-0047 adopted the Emergency Regulation and describes the need for the Emergency Regulation and its intent.
2. Section 875 of the Emergency Regulation grants the Deputy Director for the Division of Water Rights (Division) the authority to issue Curtailment Orders requiring diverters to cease or limit their diversions.
3. On July 23, 2024, the Deputy Director issued Order Imposing Water Right Curtailments and Requiring Reporting for Surface Water Rights in the Scott River Watershed (Order WR 2024-0024-DWR). This imposed curtailments on all surface water rights in the Scott River Watershed.
4. On July 24, 2024, the Deputy Director issued Order Imposing Water Right Curtailment and Requiring Reporting for Adjudicated Groundwater Rights and Known Groundwater Diversions Associated with Parcels Listed in Attachment A in the Scott River Watershed (Order WR 2024 0025-DWR). This imposed curtailments on adjudicated groundwater rights and groundwater rights associated with parcels in the Scott River watershed outside of municipal service areas.

5. Both Order WR 2024-0024-DWR and Order WR 2024-0025-DWR required submission of an online Curtailment Certification Form in accordance with section 875.6 subdivision (a) and allowed for curtailment exceptions applicable to non-consumptive instream uses, human health and safety needs, and livestock watering, as described in sections 875.1, 875.2, and 875.3 of the Emergency Regulation. If an exception was claimed, the Respondent must also self-certify or submit a petition online at <https://public.waterboards.ca.gov/WRInfo>.
6. Douglas J. Hale (Respondent) was identified as the property owner to the parcels in Attachment 1 of this Order and subject to Order WR 2024-0025-DWR. United States Postal Service (USPS) tracking indicates that Order WR 2024-0025-DWR was received on July 30, 2024.
7. On August 9, 2024, the Deputy Director issued "Addendum To Attachment A: Groundwater Rights In The Scott River Watershed Associated With Order WR 2024-0025-DWR: Water Right Curtailment And Requiring Reporting For Groundwater Rights In The Scott River Watershed" (Parcel Addendum). This Addendum updated Attachment A of the Order and clarified the parcels subject to curtailment. No additional diverters were included in the Parcel Addendum.
8. On August 9, 2024, the Respondent submitted a curtailment certification form, health and human safety petition form, non-consumptive use petition form, and minimum livestock diversion petition form. However, no boxes were checked on the non-consumptive use and health and human safety petitions. The curtailment certification form and minimum livestock diversion petition contained insufficient information to establish an allowable exception to the curtailment orders.
9. Division Enforcement staff observed multiple days of active irrigation on the Respondent's property on August 2, August 21, and August 29, 2024. A corn field on Respondent's APN [REDACTED] appeared to have been irrigated with an end gun.
10. The Respondent was issued a Notice of Violation (NOV) on August 21, 2024.
11. General Logistics Systems (GLS) tracking indicates that the NOV was received on August 26, 2024.
12. On August 23, 2024, "Addendum 1 – Temporary and Conditional Suspension to Scott River Curtailments Orders" (Addendum 1) to Order WR 2024-0024-DWR and Order WR 2024-0025-DWR was sent ahead of an expected storm event suspending curtailments upon flows reaching, and maintaining, a rate of 35 cfs. Should flows have met this condition, diverters were directed to notify the State Water Board of their diversions and update the diversion amounts daily. However, the storm event did not result in increased flows above 35 cfs, and therefore diversions remained curtailed.

13. On September 6, 2024, "Addendum 2 – Scott River Groundwater Curtailment Suspension and Required Information for Potential Future Surface Water Diversions" (Addendum 2) was sent to Scott River water right holders. Curtailments were conditionally suspended for groundwater diverters upon the diverter contacting State Water Board staff indicating they are diverting and upon the Drought Emergency Minimum Flows being met at the USGS Fort Jones gage.
14. On September 17, 2024, "Addendum 3: Update to Scott River Surface Water Curtailments for Farmer's Ditch Company" (Addendum 3) was sent to Scott River water right holders. The addendum applies only to Farmer's Ditch Company, as that was the only surface water diverter that submitted a request to the State Water Board under the provisions of Addendum 2. Addendum 3 allowed only Farmer's Ditch Company to divert under certain conditions set to expire at 11:59 pm on September 30, 2024.
15. On September 27, 2024, "Addendum 4: Update to Scott River Surface Water Curtailments for Farmer's Ditch Company and Scott Valley Irrigation District" (Addendum 4) was sent to Scott River water right holders. Addendum 4 applied only to Farmer's Ditch Company and Scott Valley Irrigation District, as they were the only surface water diverters that submitted a request to the State Water Board under the provisions of the previous addenda. Addendum 4 further states, "If you did not submit a request under the addendum (issued September 6, 2024 and September 17, 2024), your surface water right(s) remains curtailed (unless you have a local cooperative solution or meet an exception to curtailment like human health and safety or minimum livestock watering)." Addendum 4 expired on September 30, 2024 at 11:59pm. On October 15, 2024, "Addendum 5: Update to Scott River Surface Water Curtailments for Farmer's Ditch Company and Scott Valley Irrigation District" (Addendum 5) was sent to Scott River water right holders. Addendum 5 applies only to Farmer's Ditch Company and Scott Valley Irrigation District, as they were the only surface water diverters that submitted a request to the State Water Board under the provisions of the previous addenda. Addendum 5 further states, "Surface water diverters that have not submitted the requested information identified in Addendums 2 and 3 (issued September 6, 2024, and September 17, 2024, respectively) and received approval from the Board to divert under this addendum remain curtailed." Addendum 5 expired on October 31, 2024, at 11:59pm.
16. On October 15, 2024, "Addendum 5: Update to Scott River Surface Water Curtailments for Farmer's Ditch Company and Scott Valley Irrigation District" (Addendum 5) was sent to Scott River water right holders. Addendum 5 applies only to Farmer's Ditch Company and Scott Valley Irrigation District, as they were the only surface water diverters that submitted a request to the State Water Board under the provisions of the previous addenda. Addendum 5 further states, "Surface water diverters that have not submitted the requested information identified in Addendums 2 and 3 (issued September 6, 2024, and September 17, 2024,

respectively) and received approval from the Board to divert under this addendum remain curtailed.” Addendum 5 expired on October 31, 2024, at 11:59pm.

17. Under the Emergency Regulation, the Deputy Director for the Division of Water Rights may issue an information order to some or all landowners in the Scott River and Shasta River watersheds, requiring them to provide information related to diversion and use of water relevant to implementing the regulation. (Cal. Code Regs., tit. 23, sec. 875.8.)
18. Despite the information submitted to the Division from the Respondent’s curtailment certification forms, additional information regarding water use is needed to assess compliance with the emergency regulations established in the Scott River watershed. The critical information being requested in this Order, such as method of diversion, metering, and watering schedule, is otherwise not readily obtainable because it depends on knowledge of water use on various land parcels.
19. The Division of Water Rights has created the Scott River Watershed Water Use Information Form which is attached to this Order. You must complete and return the form by email or US Postal Service to the address below:

State Water Resources Control Board, Division of Water Rights
ATTN: Ritha Nhorn - Enforcement Section
P.O. Box 2000
Sacramento, CA 95812-2000
Ritha.Nhorn@waterboards.ca.gov

20. Submittal of the Form is required within fourteen (14) days from the effective date of this Order. Timely reporting will allow the State Water Board to process the information efficiently during this drought emergency. The Deputy Director may grant additional time for the submission of information regarding water use upon a showing of good cause. Each recipient of this Order is responsible for immediately providing notice of any information order(s) to any or all agents, successors in interest, grantees, and assigns thereto required to provide complete information.

IT IS HEREBY ORDERED:

1. This Information Order shall be effective on November 14, 2024
2. By November 28, 2024 you must submit, under penalty of perjury, the information described in this paragraph. Provide the following information on each water source serving their parcel(s) or used to provide water supply from July 24, 2024 through the date of receiving this Information Order:
 - 2.1 Information on all Surface Water Points of Diversion (if applicable)
 - 2.1.1 Coordinates identifying the location of each surface water point of diversion for which you have not already filed an Initial Statement of Diversion and Use

2.1.2 For each surface water point of diversion, describe the following:

- (a) Diversion maximum flow rate;
- (b) Date(s) water was diverted;
- (c) Quantity of water diverted;

2.1.3 Quantity of water used for (1) irrigation, (2) livestock watering, (3) human health and safety, (4) diversion to storage;

2.1.4 Describe the purpose if water used is for other purposes not listed

2.2 Information on all Groundwater Points of Diversion

2.2.1 Coordinates identifying the location of each well for which you have not already filed an Initial Statement of Diversion and Use;

2.2.2 The current maximum flow rate of each well;

2.2.3 For each date the wells operated:

- (a) Quantity of water diverted;
- (b) Quantity of water used for (1) irrigation, (2) livestock watering, (3) human health and safety, (4) diverted to storage; and
- (c) Diversion maximum flow rate.

2.3 From July 24, 2024 through date of receiving this Information Order indicate:

- (a) The parcel(s) where irrigation has occurred;
- (b) Date(s) of irrigation on each field;
- (c) Source(s) of water for irrigation;
- (d) Number of irrigated acres per crop type; and,
- (e) Amount of water used for irrigation on each field.

3. The Division may follow up with additional information requests pursuant to this Order if necessary to clarify or complete the initial information request and response as necessary.

4. Violation of this Order is subject to enforcement and applicable penalties pursuant to Water Code section 1846.

5. 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.

6. 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

ORIGINAL SIGNED BY:

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated: November 14, 2024