

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER RIGHTS
AUGUST 17, 2021**

ITEM 4

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION TO ADOPT AN EMERGENCY REGULATION THAT PROVIDES CURTAILMENT AUTHORITY IN THE KLAMATH RIVER WATERSHED, AND 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 flows in locations such as the Klamath Basin. The proclamation directs the State Water Resources Control Board (State Water Board) and California Department of Fish and Wildlife (CDFW) to evaluate minimum instream flows and other actions to protect salmon, steelhead, and other native fishes in critical systems in the state and work with water users and other parties on voluntary measures to implement those actions. To the extent voluntary actions are not sufficient, the State Water Board, in coordination with CDFW, is to consider emergency regulations to establish minimum drought instream flows. The directive also suspends Public Resources Code, Division 13 (commencing with section 21000) and regulations adopted pursuant to that Division to the extent necessary to address the impacts of drought in the declared counties and watersheds.

On June 15, 2021, in response to emergency drought conditions persisting throughout the Shasta River and Scott River watersheds (tributaries to the Klamath River), and insufficient water supply to meet the needs of all water uses, CDFW requested that the State Water Board consider adoption of drought emergency regulations to protect coho and Chinook salmon and provided drought minimum instream flows for the two watersheds, and emphasized the importance of providing flows for coho and Chinook salmon during this drought emergency.

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 emergency regulation for the Scott River and Shasta River watersheds would protect drought emergency minimum instream flows as recommended by CDFW. The emergency regulation would declare that certain diversion practices are unreasonable, and that diversions are unreasonable when the drought emergency minimum instream flows are not met. The emergency regulation would allow the Deputy Director of the Division of Water Rights to issue curtailment orders, as well as related information orders.

The emergency regulation would also provide the State Water Board with a more streamlined enforcement process and include provisions for ensuring water supplies for: minimum health and safety needs, minimum livestock watering, and non-consumptive uses.

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 Water Boards will occur as a result of approving this item.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

Approve the resolution adopting the drought emergency regulation.