

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF WATER RIGHTS  
DECEMBER 6, 2023**

**ITEM 9**

**SUBJECT**

CONSIDERATION OF A PROPOSED RESOLUTION TO ADOPT EMERGENCY INFORMATION ORDER REGULATIONS FOR THE CLEAR LAKE WATERSHED.

**DISCUSSION**

Overview

The State Water Resources Control Board (Board) is considering adopting Emergency Information Order Regulations for the Clear Lake Watershed (emergency regulations). The emergency regulations are designed to allow the Board to collect information from some or all water users, including groundwater pumpers, in the Clear Lake Watershed. The information collected would inform the Board's evaluation of how groundwater pumping and other water uses in the Clear Lake Watershed may influence creek flows that are critical for Clear Lake hitch spawning and migration and will assist the Board's efforts to protect the hitch.

About the Clear Lake Hitch

The Clear Lake hitch (hitch) is a large minnow found only in Clear Lake and its tributaries. Each spring, adult hitch spawn in Clear Lake creeks before returning to the lake. Juvenile hitch need at least two to three weeks to hatch and migrate to the lake, but they can remain in creeks for several months if there is enough water, which increases their likelihood of survival. The hitch are an important species in the Clear Lake watershed and hold cultural and ecological significance.

Clear Lake Hitch Decline and Emergency

The hitch population has been in decline for some time, and recent droughts have exacerbated the decline. There are many factors potentially impacting the hitch population including reduced and degraded habitat, passage barriers in the creeks, predation, competition with invasive species, and pollution, but a primary threat to hitch survival is water availability in creeks where hitch spawn and migrate.

While historical accounts and oral histories describe large spawning runs that crowded the creeks, more recent observations and scientific studies indicate drastically less hitch in Clear Lake and its tributaries. In 2014, California designated the hitch as a threatened species. That year, the state Department of Fish and Wildlife began [visual spawning surveys](#) throughout the watershed. Three years later, the US Geological Survey started

[gill net surveys](#) in the lake. The results of these surveys indicated that (1) the hitch population has declined from historical levels, (2) lack of flow through creeks reduced the habitat available for hitch spawning in 2021 and 2022, and (3) there was near complete failure of juvenile hitch after 2017.

Native American Tribes and other community members have been working on protecting the hitch for many years. In December 2022, a coalition of Tribes including the Big Valley Band of Pomo Indians, Robinson Rancheria of Pomo Indians, Habematolel Pomo of Upper Lake, and Scotts Valley Band of Pomo Indians requested that state and federal agencies, including the Board, help address the extinction risk faced by the hitch. Shortly thereafter, the Lake County Board of Supervisors [asked the Board](#) to increase activities to stop illegal water diversions affecting Clear Lake and its tributaries and consider regulations to assure the continued viability of the Clear Lake hitch and other aquatic species.

### Emergency Drought Proclamation

In April 2021, Governor Newsom proclaimed a [drought state of emergency](#) in the Russian River watershed. The next month, he expanded the [drought emergency to Lake County](#) and 40 other counties. That October, the Governor extended the [drought emergency to all of California](#). In March 2022, he acknowledged [continued drought conditions](#) and called for increased conservation.

In March 2023, The Governor issued [Executive Order N-5-23](#), which directed the Board and Department of Fish and Wildlife to evaluate minimum instream flows and other actions needed to protect the hitch; work with water users, tribes, and others on voluntary actions; and consider emergency regulations to establish minimum instream flows to mitigate the effects of drought. Executive Order N-5-23 also suspended the environmental review by state agencies required by the California Environmental Quality Act in Public Resources Code, Division 13 (commencing with Section 21000) and regulations adopted pursuant to that Division to address the impacts of drought in the Clear Lake watershed.

Where the Governor has declared a state of emergency due to drought conditions, Water Code section 1058.5 grants the Board authority to adopt emergency regulations to “prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter’s priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports.”

### Board Emergency Activities

In early 2023, Board staff began engaging with representatives from the coalition of Tribes, Lake County, state and federal agencies, the agricultural community, and other interested parties to better understand the problems facing the hitch, identify solutions, and encourage voluntary actions to protect the hitch in the near and long terms.

Specifically, staff [asked water users](#) to share data, participate in monitoring programs, and reduce water use in February through June. Staff also began collecting and evaluating existing data to identify how surface water diversions and groundwater extractions in the Clear Lake watershed are impacting creek flows. Board staff's preliminary analysis indicates that groundwater pumping may be impacting creek flows, but additional data is needed to understand the magnitude and timing of potential impacts. The emergency regulations would authorize the Board to collect that data through information orders.

## **POLICY ISSUE**

Should the State Water Board adopt the proposed resolution to adopt the Emergency Information Order Regulations for the Clear Lake Watershed?

## **FISCAL IMPACT**

The activity is budgeted within existing resources and no additional fiscal demands will result from approving the proposed resolution.

## **REGIONAL BOARD IMPACT**

None.

## **STAFF RECOMMENDATION**

Staff recommends the State Water Board adopt the proposed Resolution to adopt the Emergency Information Order Regulations for the Clear Lake Watershed.