

State Water Resources Control Board

LIVESTOCK DIVERSIONS IN SCOTT RIVER AND SHASTA RIVER WATERSHEDS UNDER THE DROUGHT EMERGENCY REGULATION

A drought emergency regulation for the Scott River and Shasta River watersheds went into effect on August 30, 2021, that, among other things, provides the State Water Resources Control Board (State Water Board) with curtailment authority to protect minimum instream flows, establishes minimum human health and safety and livestock watering provisions, and limits diversions for livestock during the September 1 through March 31 timeframe. On July 29, 2022, the [drought emergency regulation](#) was extended with amendments through August 1, 2023. **The emergency regulation has two main requirements about livestock watering that are summarized below: (1) livestock watering during the prohibition period; and (2) livestock watering during curtailment.**

(1) Livestock Watering Limits During September 1 through March 31:

This requirement applies to everyone who diverts surface water for livestock during September 1 through March 31. (Cal. Code Regs., tit. 23, § 875.7.) **This requirement applies whether or not your water right is curtailed.** Under this requirement:

- You cannot divert more than 10 times the estimated amount that livestock drink. The diversion limit can be calculated using the following formula and the Estimated Livestock Needs listed in Table 1 below:

$$\textit{Diversion Limit} = \# \textit{ of livestock} * \textit{Estimated Livestock Need} * 10$$

Table 1. Estimated Livestock Needs (Cal. Code Regs., tit. 23 § 697)

| Type of Stock | Quantity |
|-------------------------|-------------------------------|
| Range cattle and horses | 15 gallons per day per head |
| Hogs and goats | 2.5 gallons per day per head |
| Sheep | 1.5 gallons per day per head |
| Poultry, rabbits | 0.25 gallons per day per head |
| Milch cows | 30 gallons per day per head |
| Hosing out dairy barn | 35 gallons per day per head |

- Example Calculation (*during September 1 through March 31 when not curtailed*): For a ranch with 300 cattle, the calculation is as follows:

$$\text{Diversion Limit} = 300 \text{ head of cattle} * 15 \frac{\text{gallons}}{\text{per day per head}} * 10$$

$$\text{Diversion Limit} = 45,000 \frac{\text{gallons}}{\text{day}} = 0.07 \text{ cubic foot per second (cfs)}$$

$$\text{Conversion Factor: } \frac{646,317 \text{ gallons}}{\text{day}} = 1 \text{ cfs}$$

- Bottom Line:
 - For this example, you may not divert more than 0.07 cfs to water 300 range cattle.
 - The quantity of water is measured at the point of diversion.

Even if you are not curtailed, if your livestock diversions exceed the allowed amounts (which are described under number (1) above), as of September 1, 2022, it is necessary to immediately reduce your diversions to the allowed amounts, and/or find an alternative water supply that complies with the drought emergency regulation.

For example, if you normally divert water in a long ditch with a lot of seepage, or if you rely on ditch or pipe flow to prevent freezing, you may need to take steps like: switching to groundwater (your own or a neighbor's); purchasing a trough; purchasing a warming element for a trough; or trucking in water during this timeframe.

The only exception to the requirement is if your tributary or mainstem reach has a local cooperative solution with different standards approved by the Deputy Director of the Division of Water Rights. (Cal. Code Regs., tit. 23, § 875(f)(4)(B)(iii).) See Local Cooperative Solution section below for more details.

(2) Livestock Watering for Curtailed Water Rights:

This requirement for livestock watering applies only to people who have received a curtailment order. Under this requirement, if your water right is curtailed you may continue to divert a **minimum** amount of surface water or groundwater for livestock. **This curtailment exception for minimum livestock watering does NOT allow for the diversion of 10 times the amounts listed in Table 1. Rather, it requires a reduction to the amounts listed in Table 1 (or double those amounts when daily high temperatures meet or exceed 90 degrees Fahrenheit), or to divert another minimum amount approved by the Deputy Director for the Division of Water Rights.** Under this requirement:

- If you received a curtailment order for a **surface water diversion or groundwater diversion**, but need to continue to divert for livestock, you must immediately reduce diversions to the estimated amounts necessary to sustain livestock, shown in Table 1 above. For example, if you have 100 range cattle, you must immediately reduce your diversions to 1,500 gallons per day (3,000

gallons/day if temperatures meet or exceed 90°F).

- You must also submit a **Scott-Shasta Minimum Livestock Diversion Certification form** to the Division of Water Rights that certifies the diversion is necessary, is conveyed without seepage, and does not exceed the reasonable livestock watering quantities in Table 1. (Note: You do not need to submit this certification form again if you submitted it previously in response to your original curtailment order.) Diversions that do not result in seepage losses may include pipes, groundwater wells, or lined ditches.
- If you are unable to reduce diversions to the minimum amounts in Table 1, or if your conveyance includes seepage, you must submit a petition to the Division of Water Rights¹. **It is possible to petition for additional amounts greater than those permitted in Table 1, but you will need approval from the Deputy Director for the Division of Water Rights to do so.** The petition must:
 - (1) Describe the specific circumstances that make the requested diversion amount necessary to meet minimum livestock watering needs.
 - (2) Estimate the total amount of water needed.
 - (3) Certify that the water supply will be used only for the stated need.
 - (4) Describe any other additional steps taken to reduce diversions and consumption.
 - (5) Provide the timeframe in which the petitioner expects to reduce usage to no more than the reasonable livestock watering quantities specified in Table 1 (Article 5, section 697), or why minimum livestock needs will continue to require more water.

Potential Enforcement

A water right holder or claimant who diverts water in violation of this regulation may be subject to administrative fines, a cease and desist order, or prosecution in court. The State Water Board has enforcement discretion and decisions related to enforcement and associated penalties are based on the specific circumstances of the violation. (Wat. Code, §§ 1052, 1055, 1846.)

Drought Funding Assistance

Information on possible funding assistance for drought-related or water conservation projects remains available on the State Water Board's [Scott- River and Shasta River Watersheds Drought Response website](#)². Information is available under the dropdown menu titled: *Funding Opportunities*. Of particular interest for immediate actions, the *Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program* (ELAP) can provide reimbursement for increased drought costs for livestock watering.

¹ Petitions may be submitted through the [Water Right Form and Survey Submittal Portal](#) (<https://public.waterboards.ca.gov/>). If you previously submitted a petition for livestock watering needs in response to a curtailment order for a specific water right, you do not need to resubmit a new one. If you have questions, please contact staff using the email address or phone number referenced in the Questions section of this letter.

² https://www.waterboards.ca.gov/drought/scott_shasta_rivers/

The State Water Board encourages consideration of the above-referenced funding opportunities to find long-term alternatives that reduce livestock diversions. This can benefit fish and help protect your operations against future fluctuations in water availability.

Local Cooperative Solution

The updated regulation provides for tributary-wide (or mainstem reach) local cooperative solutions for livestock diversions that would otherwise be curtailed under the prohibition. Such local cooperative solutions must include: (1) California Department of Fish and Wildlife (CDFW) finding the proposal will adequately protect fishery resources; (2) the Deputy Director of the Division of Water Rights finding there is sufficient water available for competing uses; and (3) the local cooperative solution includes appropriate monitoring of fishery resources and flow verification. (Cal. Code Regs., title 23, §875(f)(4)(B)(iii).) Parties interested in pursuing a tributary-wide local cooperative solution for livestock watering diversions during the prohibition period should contact the State Water Board and CDFW early to discuss potential proposals.

Questions

Questions can be directed by e-mail to: ScottShastaDrought@waterboards.ca.gov, or you can call the dedicated message line at: (916) 327-3113. Staff make every effort to respond to all inquiries within one business day.

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