



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404-4731

August 24, 2022

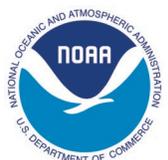
Jim Scala
Shasta River Water Association
P.O. Box 467
Grenada, California 96038

Dear Mr. Scala:

NOAA's National Marine Fisheries Service (NMFS) is writing to express our concern with the Shasta River Water Association's (Association) violation of the State Water Resources Control Board's (SWRCB) Shasta River curtailment order WR 2022-0162-DWR (Order) dated August 2, 2022. On August 17, 2022, the Association diverted 30 cubic feet per second (cfs) of river flow from the Shasta River and continues to divert a similar flow rate, in direct violation of the Order. The Association's unlawful diversion caused instream flow volume to drop well below the 50 cfs minimum flow recommended by NMFS and the California Department of Fish and Wildlife (CDFW) to minimize drought-related impacts to imperiled anadromous salmonids native to the Shasta River watershed.

We are the federal agency responsible for managing, conserving, and protecting living marine resources in inland, coastal, and offshore waters of the United States, and derive our mandates from numerous statutes, including the federal Endangered Species Act, 16 U.S.C. §§ 1531 *et seq.* (ESA) and the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801 *et seq.* (MSA). The purpose of the ESA is to conserve threatened and endangered species and their ecosystems, whereas the MSA fosters the long-term biological and economic sustainability of marine fisheries. We are concerned the Association's continued diversion of Shasta River flow in defiance of the Order may harm threatened coho salmon (*Oncorhynchus kisutch*) in violation of the ESA, and fall-run Chinook salmon (*O. tshawytscha*), a commercially and culturally important species managed under the MSA. Furthermore, fall-run Chinook salmon are a primary prey resource of Southern Resident Killer Whales, listed as endangered under the ESA. The Association's actions are degrading important tribal trust and culturally significant aquatic resources reliant on the instream habitat of the Shasta River, which also include steelhead trout (*O. mykiss*).

In coordination with our state resource agency partners, we are carefully monitoring instream habitat conditions and fish health in the Shasta River. Accordingly, we take this opportunity to: (1) inform you that unauthorized take of an ESA-listed species is a violation of Section 9 of the ESA and can result in civil and criminal penalties; and (2) accept your offer to work with "agencies in [an] effort to protect the health of the river" (*see* Association's August 17, 2022



letter to SWRCB). We urge the Association to fully comply with the Order by ceasing the unlawful diversion of Shasta River water. Please contact Jim Simondet, Klamath Branch Chief (jim.simondet@noaa.gov) to initiate actions to protect the health of the Shasta River and the trust resources found therein.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alecia Van Atta".

Alecia Van Atta
Assistant Regional Administrator
California Coastal Office

cc: Alex Sweat, SWRCB
Samantha Olson, SWRCB
Joe Croteau, CDFW
E-file FRN 151416WCR2022AR00162