
State Water Resources Control Board

April 6, 2022

Blair and Susan Hart
Hart Ranch



APPROVAL OF LOCAL COOPERATIVE SOLUTION FOR HART RANCH

Dear Mr. and Ms. Hart:

On August 17, 2021, the State Water Resources Control Board (State Water Board) adopted a regulation establishing drought emergency minimum flows in the Scott River and Shasta River watersheds (Cal. Code Regs., tit. 23, §§ 875-875.9) (Regulation). Under the Regulation, local cooperative solutions may be submitted by individuals or groups as an alternative means of reducing water use. The Division of Water Rights has reviewed the proposed local cooperative solution and finds that it meets the requirements of Regulation section 875, subdivision (f)(4)(C)(ii). This type of local cooperative solution is possible when the California Department of Fish and Wildlife (CDFW) makes a recommendation for an exemption to curtailment based on an assessment that the benefits of the actions to anadromous fish in a specific time are equal to or greater than the protections provided by their contribution to flow under curtailment. Additional details regarding the contents of the proposal are provided below.

The State Water Board received a proposal, dated February 18, 2022, from Hart Ranch (petitioner) requesting approval of a local cooperative solution for specific instream flow dedications in the Little Shasta River, as follows:

- (1) A 1.5 cubic feet per second (cfs) dedication of the petitioner's 3rd priority Little Shasta River right regardless of permissive Safe Harbor Agreement (SHA) contingencies;
- (2) Once a full 1.5 cfs dedication has been achieved, the petitioner may divert up to 5.5 cfs to meet management and/or conservation purposes; and
- (3) Any water available to the petitioner above the aggregate volume of 7 cfs stipulated in nos. 1 and 2 above, up to the petitioner's 19.5 cfs water rights¹ (see

¹ The petitioner's water rights on the Little Shasta River and Evans Spring are listed in the Judgement and Decree entered on December 29, 1932 in Siskiyou County Superior

Table 1 in Attachment 1), will be left instream in coordination with the Scott Valley and Shasta Valley Watermaster District (Watermaster) and in accordance with the Adjudication.

The proposal builds on other commitments made by the petitioner that are incorporated into the local cooperative solution, including: a federal SHA for coho salmon, a State Consistency Determination for the SHA, an existing Lake and Streambed Alteration Agreement, a Ranch Management Plan developed in consultation with CDFW, and a Water Code section 1707 order issued on January 6, 2022 (see also Supplemental Decree, March 4, 2022). All monitoring and agency coordination elements are incorporated herein by reference.

The proposal allows for year-round dedication of flows from high priority rights above the levels established under the SHA, resulting in increased flow contributions above what would likely be required from curtailment in order of priority. These actions allow for improved certainty with respect to water availability and equal or improved benefits to fisheries. The water rights at issue have priority dates from 1858 to 1860, which are likely to be senior to the depth of curtailment anticipated to meet the required minimum flows, based on current estimates. While the instream flow dedication of 1.5 cfs is unlikely to reach the confluence with the Shasta River and contribute to the minimum flow requirement at the United States Geological Survey Yreka gage as direct surface flow during most times of the year, it will provide local instream benefits and represents a first step for additional instream contributions in the future.

On March 24, 2022, the State Water Board received a letter from CDFW that includes a document entitled Conservation Actions, Binding Agreement, and Recommendation for Local Cooperative Solution (Agreement and Recommendation) executed between the petitioner and CDFW. Per the Agreement and Recommendation, "CDFW has determined that this [local cooperative solution] provides equal to or greater actions for the benefit of anadromous salmonids compared to the protection provided by the Landowner's [Hart Ranch] contribution to flow described" in the Regulation. CDFW makes its recommendation for approval based on the cumulative instream contributions defined in items nos. 1 through 3 above in consideration of petitioner's full portfolio of water rights; the relatively low possibility that the petitioner's water rights will be curtailed to meet the flow requirements described in section 875, subdivision (c)(2); and the additional benefits of the petitioner's conservation agreements and cooperation (data sharing). The Agreement and Recommendation is sufficient to provide for verification of the actions described in the local cooperative solution.

Court Case No. 7035, In the Matter of the Determination of the Relative Rights, Based Upon Prior Appropriation, of the Various Claimants to the Waters of Shasta River and its Tributaries in Siskiyou County, California (Adjudication).

The Division of Water Rights has reviewed the local cooperative solution proposal and finds that it meets the requirements of Regulation section 875, subdivision (f)(4)(C)(ii).

In light of the above, continued diversions under this local cooperative solution are reasonable and will not result in injury to other legal users of water. Your local cooperative solution proposal, dated February 18, 2022, together with the terms of your executed Recommendation and Agreement, dated March 24, 2022, are hereby approved. CDFW will provide local cooperative solution status updates to the State Water Board on a regular basis or as needed. The State Water Board will coordinate with CDFW and the Watermaster as necessary to effectuate the instream flow dedications in the local cooperative solution.

As described in section 875, subdivision (f)(2) of the Regulation, any violations of this approval are subject to enforcement as a violation of the Regulation. Any changes to the approved local cooperative solution or Recommendation and Agreement shall be submitted to the Deputy Director for the Division of Water Rights for review and approval prior to implementation.

So long as this approval and the terms of the proposal, including the commitments described above, and the Recommendation and Agreement remain in effect, the petitioner's water rights listed in Table 1 (see Attachment 1) shall not be subject to curtailment under the Regulation.

Thank you for your efforts to help support both farming and fisheries in the Shasta River watershed during this drought emergency.

Sincerely,



Erik Ekdahl
Deputy Director
Division of Water Rights

Enclosure: Attachment A, Table 1: List of Petitioner's Water Rights

ec: CDFW

Email: klamathwatershed@wildlife.ca.gov

Mr. Jim Simondet
National Marine Fisheries Service
Email: jim.simondet@noaa.gov

Ms. Leah Grassman, Deputy Watermaster
Scott Valley and Shasta Valley Watermaster District
Email: deputy@sswatermaster.org

Attachment 1**Table 1. List of Petitioner's Water Rights**

DWR Tract	Present Owner	Decreed Owner	Diversion Number	Irrigation Right (cfs)	Winter Right (cfs)	Source	Map No.
P164-2	Hart, FB & SS Trustee	E.C. Hart & K.C. Hart	467	0.393	0.393	Evans Spring	146
P164-3:4	Rabbit Hill LLC	E.C. Hart & K.C. Hart	467	1.967	1.967	Evans Spring	146
P163-1	Rabbit Hill LLC	E.C. Hart	471	0.529	0.144	Little Shasta River	153
P163-2	Hart, Blair	E.C. Hart	471	0.021	0.006	Little Shasta River	153
P152-4:7	Rabbit Hill LLC	E.C. Hart	474	9.659	1.029	Little Shasta River	153
P152-8:9	Soda Springs LLC	E.C. Hart	474	3.981	0.425	Little Shasta River	153
P165-2:4	Rabbit Hill LLC	Kate C. Hart	478	2.983	0.499	Little Shasta River	156

DWR Tract	Present Owner	1st	2nd	3rd	4th	5th	6th	7th	8th	Total Irrigation Water Right (cfs)
P164-2	Hart, FB & SS Trustee	0.393								0.393
P164-3:4	Rabbit Hill LLC	1.967								1.967
P163-1	Rabbit Hill LLC			0.144		0.125	0.260			0.529
P163-2	Hart, Blair			0.006		0.005	0.010			0.021
P152-4:7	Rabbit Hill LLC			1.029		5.410		3.220		9.659
P152-8:9	Soda Springs LLC			0.425		2.229		1.327		3.981
P165-2:4	Rabbit Hill LLC						2.983			2.983
									Total	19.5