
State Water Resources Control Board

September 6, 2022

Montague Water Conservation District
c/o Ms. Lisa Faris
P.O. Box 247
Montague, CA 96064
Sent via Email: mwcd@att.net

Dear Montague Water Conservation District:

PARTIAL APPROVAL OF PETITIONS FOR HUMAN HEALTH AND SAFETY NEEDS AND LOCAL COOPERATIVE SOLUTION

This letter is in response to Montague Water Conservation District's (MCWD's) petitions for human health and safety needs and a local cooperative solution under the drought emergency regulation for the Scott River and Shasta River watersheds (Regulation). (Cal. Code Regs., tit. 23, §§ 875-875.9.) Specifically, MCWD's petitions request approval for:

- Diversion in excess of the minimum human health and safety amounts for the City of Montague (including recent and current firefighting efforts); and
- A local cooperative solution proposal under 875(f)(4)(E) to exchange water (i.e., make use of the Flying L wells in lieu of stored water for water quality).

The Division of Water Rights (Division) has reviewed MWCD's petitions for minimum human health and safety and a proposed local cooperative solution for MWCD's operations in 2022 to ensure compliance with the Regulation. Based on this review, MWCD's request is partially approved with the conditions outlined below. Any changes to the approved local cooperative solution or petitions shall be submitted to the Deputy Director for review and approval prior to implementation. This letter also confirms MWCD's certification for non-consumptive use for the Flying L wells as a water quality control measure to mix with releases from Dwinnell Reservoir. Additional information on the Regulation and support for this approval is provided in the enclosure.

Human Health and Safety. The Division has reviewed MWCD's petitions to deliver water for human health and safety over the minimum amount established in the Regulation to the City of Montague. The petitions for the Flying L wells (SG005439, SG005440, and SG005441) and the Little Shasta River (A004909, which is associated with Permit 2581) are approved with the conditions identified in this letter and as outlined in the Notification, Monitoring, and Reporting Conditions section below. If water

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

becomes available in the Little Shasta River under Permit 2581, MWCD shall notify the Deputy Director of the Division of Water Rights and submit a revised accounting for its municipal deliveries. So long as this approval and the terms of these petitions remain in effect, the curtailments associated with water rights SG005439, SG005440, SG005441, and A004909 are suspended.

The health and safety petition for water right Permit 2452 (A003544) diversion from the Shasta River to storage in Dwinnell Reservoir is denied. Depending on fall and winter conditions, the State Water Board may reconsider this proposal in late 2022 and 2023 to ensure that sufficient storage is available to serve human health and safety needs of the City of Montague next year.

Local Cooperative Solution. The Division also reviewed the proposed local cooperative solution to exchange water stored in Dwinnell Reservoir and provided for release with Flying L well water to fulfill MWCD's commitments under the Prior Rights Agreement and finds that it meets the requirements of Regulation section 875, subdivision (f)(4)(E). This approval for continued use of the Flying L wells while under curtailment only applies to water that is pumped and delivered through the Shasta River for re-diversion downstream for beneficial uses. This approval does not provide for the Flying L pumps to operate while under curtailment for delivery to prior rights through canal conveyance where it does not first flow down the Shasta River.

Notification, Monitoring, and Reporting Conditions

To verify compliance with its petitions for human health and safety and the local cooperative solution, MWCD shall maintain its diversion facility and real-time¹ gages below Dwinnell Reservoir. In addition, real-time flow data for water released from the Flying L wells shall be made available to the Scott Valley and Shasta Valley Watermaster District (Watermaster) and State Water Board. Flow data associated with the gage located at the point of re-diversion for the City of Montague shall be made available to Watermaster and State Water Board.

As explained above, MWCD shall notify the Watermaster and State Water Board at least 48 hours prior to its release of flows for municipal use and 48 hours prior to when MWCD turns off releases. MWCD shall contact the State Water Board if water becomes available for use under Permit 2581 (Little Shasta River) and provide a modified schedule for delivery to the City of Montague that notes what amount of water will be provided from Permit 2581 and what amount will be delivered from Dwinnell Reservoir or the Flying L wells. MWCD shall continue to work closely with the Watermaster and State Water Board as necessary to respond to changed conditions, track and manage diversions to storage made under prior rights to the extent possible, and manage conditional curtailments adaptively to maximize storage while bypassing curtailed water to meet flow requirements.

¹ Real-time total flow data downstream of Dwinnell Reservoir on the Shasta River is available at CDEC/DWR SHASTA RIVER BELOW DWINNELL (SRD) gage in 15-minute time intervals.

Water temperatures released from Dwinnell Reservoir to the Shasta River shall be monitored in the Shasta River on MWCD property downstream of the connected cold water wetland habitat feature in coordination with the California Department of Fish and Wildlife, National Marine Fisheries Service, North Coast Regional Water Quality Control Board, and State Water Board. As part of this approval, additional water quality monitoring may be required in 2022 to help inform long-term changes in operations.

MWCD has collaboratively worked with State Water Board staff in its implementation of the Regulation. Staff appreciates MWCD's efforts to improve conditions in the Shasta River watershed for water users and the environment.

If you have questions regarding this letter, please reach out to staff by email at: ScottShastaDrought@waterboards.ca.gov or leave a message on our phone line at: (916) 327-3113.

Sincerely,



Erik Ekdahl
Deputy Director
Division of Water Rights

Enclosure: Supporting Information for Partial Approval of Montague Water Conservation District's Petitions for Human Health and Safety and Local Cooperative Solution, and Background on MWCD's Non-Consumptive Use Certification

ec: Scott Valley and Shasta Valley Watermaster District

Email: director@sswatermaster.org

Email: deputy@sswatermaster.org

Mr. Gary Black, MWCD

Email: [REDACTED]@sisqtel.net

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This enclosure contains information in support of the partial approval of Montague Water Conservation District's (MWCD's) petitions for human health and safety and a local cooperative solution, as well as certification of non-consumptive uses. This document summarizes information contained in the petitions as well as background information considered in approving the petitions. This document is broken into the following sections:

- Background on Drought Emergency Regulation
- Background on Water Rights Associated with Petitions and Certification
- Curtailment
- Certification Compliance and Petitions
- Local Cooperative Solution

Background on Drought Emergency Regulation

On August 17, 2021, the State Water Resources Control Board (State Water Board) adopted an emergency regulation (Regulation) establishing drought emergency minimum flows in the Scott River and Shasta River watersheds. The Regulation was amended and readopted by the State Water Board June 21, 2022, and the Office of Administrative Law approved the amended Regulation on July 29, 2022, which extends the Regulation one additional year. The State Water Board is curtailing junior water right holders in the Shasta River watershed to ensure the drought emergency minimum flows established in the Regulation are met. The Regulation includes provisions that allow for certain other uses of water even after curtailment, including non-consumptive use and minimum human health and safety needs. Water users may also petition to implement local cooperative solutions in lieu of curtailment. Such local cooperative solutions must serve as an alternative means of reducing water use to meet or preserve drought emergency flows, or provide other fishery benefits (such as cold-water refugia, localized fish passage, or redd protection).

Background on Water Rights Associated with Petitions and Certification

As discussed in detail below, MWCD is an irrigation district that owns and operates Dwinnell Reservoir (also known as Lake Shastina) on the Shasta River. MWCD delivers water for irrigation, municipal, and environmental use. MWCD's water rights in the Shasta River watershed are subject to curtailment pursuant to Order WR 2021-0082-DWR and Order WR 2022-0142-DWR, including water right permits for diversion of water to storage in Dwinnell Reservoir, a water right permit for direct diversion in the Little Shasta River, and appropriate groundwater rights.

MWCD's Water Rights and Operations.

MWCD holds several water rights in the Shasta River watershed (see Table 1). Permit 2452 (A003544) authorizes the diversion of up to 35,000 acre-feet (AF) per year from the Shasta River to storage, with a priority date of July 23, 1923. Permit 2453 (A003555) authorizes the diversion of up to 14,000 AF per year from Parks Creek to storage, with a priority date of July 30, 1923. The season of diversion under Permits 2452 and 2453 is October 1 of each year to June 15 of the succeeding year. In normal years, MWCD releases water from Dwinnell Dam to either the Cross Canal for conveyance to the Shasta River or to the Main Irrigation Canal for irrigation delivery.

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MWCD Deliveries to City of Montague. Permit 2581 (A004909) authorizes direct diversion of 2.3 cubic feet per second (cfs) from the Little Shasta River, with a priority date of February 4, 1926. The season of diversion is January 1 to December 31 of each year, and the purpose of use is domestic and industrial for the City of Montague. This source is typically only available between December 15 and April 15 due to the low priority of that water right. The City of Montague currently uses an average of 1,200-1,400 AF annually for municipal and industrial use.

Historically, delivery of municipal water to the City of Montague used MWCD's Main Canal as the conduit to deliver municipal water. When MWCD is not delivering irrigation water, delivery of municipal water to the City of Montague is very inefficient. In 2014, MWCD received emergency drought assistance to enable water delivery to the City of Montague via the Shasta River by developing a cold water well to mix with dam releases and a new point of re-diversion downstream. The State Water Board issued a Temporary Urgency Change Petition authorizing these changes. In 2020 and 2021, MWCD again petitioned and received approval from the Division for a temporary water transfer to deliver water to the City of Montague under Permit 2452 via the Shasta River. MWCD has submitted a long-term change petition to the State Water Board to formally modify water right Permit 2452 in part to accommodate municipal deliveries to the City of Montague and to add the fish and wildlife beneficial use to MWCD's purpose and place of use. MWCD's petition is part of a larger group of Safe Harbor Agreements (SHAs) being pursued by water rights holders in the Shasta River watershed, which is discussed further below in the Environmental Commitments section.

Prior Rights Agreement. Most Shasta River surface water rights have been adjudicated and are described in the Shasta Adjudication,¹ and most but not all adjudicated diversions are managed by the Scott Valley and Shasta Valley Watermaster District (Watermaster). MWCD entered into a Prior Right Agreement with water right holders who lost access and diversion infrastructure when Dwinnell Reservoir was constructed (referred to as prior rights or prior right holders). MWCD agreed to provide water from Dwinnell Reservoir for the prior rights up to a cumulative total of 3,382 AF per year. Upon request, MWCD releases water from Dwinnell Reservoir to satisfy the Prior Right Agreement. Of the 3,382 AF allotted to prior rights, 1,398 AF are delivered via MWCD's Main Canal while 1,984 AF are released to the Shasta River for downstream re-diversion by prior rights holders.²

¹ Judgement and Decree entered on December 29, 1932 in Siskiyou County Superior 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.

² The prior right holders who receive water from MWCD via the Shasta River have water rights with priority dates ranging from 1868 to 1904. (See Report on Determination of the Amounts of Water to be Delivered from the Montague Water Conservation District Storage Reservoir to the McKee Company, J.L. Jones, Wm. P. and Albert Dunlap, John Soule, J.W. and Mary L. Dennis and E.D. Terwilliger, In Lieu of the Amounts of Water Naturally Available to the Said Parties from Shasta River Under Their Riparian and Appropriative Rights, May 28, 1928.)

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Table 1. MWCD Water Rights

Water Right ID (Permit)	Source	Priority Date	Curtailed Status	Certified that diversion has ceased	Type of Petition(s)/ Modified Certification
A003544 (2452)	Shasta River	7/23/1923	Conditionally Curtailed	-Yes-	Human Health and Safety Petition
A003555 (2453)	Parks Creek	7/30/1923	Conditionally Curtailed	Yes	--
A004909 (2581)	Little Shasta River	2/4/1926	Curtailed	--	Human Health and Safety Petition
SG005439 (NA)	Flying L Well 1	1970 to 1981	Curtailed	--	Human Health and Safety Petition and Non-Consumptive Use
SG005440 (NA)	Flying L Well 2	1970 to 1981	Curtailed	--	Human Health and Safety Petition and Non-Consumptive Use
SG005441 (NA)	Flying L Well 3	1977	Curtailed	--	Human Health and Safety Petition and Non-Consumptive Use
SG005911 (NA)	Pacey Well	6/1/1981	Curtailed	Yes	-
SG005910 (NA)	Pacey Well	1/1/1972	Curtailed	Yes	-
SG005438 (NA)	Pacey Well (originally a test well).	12/1/1970	Curtailed	Yes	-

NA = not applicable

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Environmental Commitments. MWCD has been voluntarily working with the National Marine Fisheries Service (NMFS) and California Department of Fish and Wildlife (CDFW) to establish a SHA that includes commitments to change water infrastructure and management practices to help promote the survival and recovery of the Southern Oregon/Northern California Coast Evolutionarily Significant Unit of coho salmon. Under the SHA, MWCD commits to year-round releases of water for instream benefit of approximately 2,662 to 8,153 AF per year, based on water year type. In addition, MWCD targets October 1 minimum storage volumes, ranging from 600 AF in a very dry water year to 8,000 AF or more in a very wet water year. October 1 reservoir storage targets are also used to ensure water is available for instream flow releases for the remainder of the calendar year. As of September 6, 2022, the storage volume in Dwinnell Reservoir is 2,060 AF.

Flying L Wells. MWCD extracts groundwater from three wells (SG005439, SG005440, and SG005441), referred to as the Flying L wells, in the vicinity of Dwinnell Dam that can discharge the pumped groundwater to the Shasta River. In some years water from the Flying L wells is delivered for irrigation use via the Main Canal. The Flying L wells typically produce up to 5.5 cfs of water with release temperatures ranging from 12.8-13.0 degrees Celsius (°C). An important component of the SHA is the incorporation of MWCD's Flying L wells, which provide improved water quality through delivery of cold groundwater to the Shasta River. As maximum daily release temperatures from Dwinnell Reservoir approach a threshold deemed sub-optimal for juvenile coho salmon survival, MWCD incorporates cold water from the Flying L wells to reduce the temperature of water released into the Shasta River from Dwinnell Dam. MWCD provides variable rates (up to a maximum of 5.5 cfs) of water from Flying L wells to maintain the water quality and keep the flow released to the Shasta River within an acceptable temperature range for juvenile coho salmon survival.

Pacey Wells. MWCD owns and operates three irrigation wells known as the Pacey wells (SG005910, SG005911, and SG005438) that are used to augment flows in the MWCD Main Canal. These wells were installed between 1970 and 1981 with the capacity to pump 4,700 gallons per minute (gpm), 5,500 gpm, and 3,500 gpm. The Pacey wells are subject to operational constraints under a 1987 judgement from the Siskiyou County Superior Court that requires the wells be operated in a manner that mitigates their effects on Big Springs Lake. When available, MWCD pumps groundwater to the Main Canal for delivery to MWCD customers for irrigation. MWCD certified curtailment of the Pacey wells and these wells are not currently in use.

Dwinnell Operations 2022. To address limited water supply conditions, MWCD developed a water operations plan that establishes MWCD's internal priorities for allocation of water to beneficial uses, including delivery to prior right holders, municipal water deliveries to the City of Montague, instream environmental use, and irrigation. This year, MWCD is facing extremely low storage volume in Dwinnell Reservoir. This year, the storage volume in Dwinnell Reservoir was 7,502 AF on April 1st. In 2021,

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storage volume in Dwinnell Reservoir on April 1st was 8,438 AF. The average April 1st storage volume for all years is 33,626 AF. As of September 6, 2022, the storage volume in Dwinnell Reservoir was 2,060 AF. The April snowpack survey (latest available survey at time of preparing this letter) in Shasta River at Parks Creek was at 28% of normal.

In April 2022, MWCD sent the State Water Board an operations plan to support its petitions for human health and safety and a local cooperative solution proposal. The submittal includes a spreadsheet detailing MWCD's planned releases from Dwinnell Reservoir. While MWCD's storage is near an all-time low, MWCD is striving to meet its most minimum commitments for the multiple uses it provides. MWCD will not be providing any water to MWCD users for irrigation as a result of the drought and limited storage.

Curtailment

On September 10, 2021, the State Water Board issued a curtailment order ([Order WR 2021-0082-DWR](#)) to the most junior water right holders in the Shasta River, including post-Adjudication appropriative surface water and groundwater rights, as well as surface water rights in the Shasta Adjudication with priority dates later than November 1912. On April 8, 2022, the State Water Board issued [Order WR 2022-0142-DWR](#), which imposes curtailment to additional water rights that should have received notice of curtailment under Order WR 2021-0082-DWR, including curtailment of MWCD's Flying L wells and one additional Pacey well. All of MWCD's water rights described above and listed in Table 1 are subject to curtailment.

Certification Compliance and Petitions

On September 23, 2021, and again on October 11, 2021, MWCD sent emails to the State Water Board regarding its reporting requirements and curtailment compliance pursuant to the Regulation. MWCD completed its certification of compliance with the curtailment order for various water rights and claimed exceptions under 874.1 (non-consumptive use) and 875.2 (minimum human health and safety). MWCD indicated that it was releasing stored water from Dwinnell Reservoir for beneficial uses, including water pursuant to the Prior Rights Agreement and for environmental flows. MWCD sent information on its SHA process, and emphasized that if the Regulation requires the release of stored water to meet flow requirements, that this could impact MWCD's ability to carry out SHA commitments next year.

On November 24, 2021, the State Water Board responded in [Order WR 2021-0098-EXEC](#), denying reconsideration, and confirming that MWCD has complied with the reporting requirements in WR 2021-0082-DWR, including claimed exceptions under section 874.1 of the Regulation for non-consumptive use and section 875.2 of the Regulation for minimum human health and safety. In addition, the State Water Board clarified that curtailments under the Regulation do not require the release of stored water, but instead can at times limit new diversions to storage. Regarding the Prior Rights Agreement for 3,382 AF of stored water, for the purpose of the Regulation,

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diversion to storage can occur pursuant to the season and priority dates of those prior rights, instead of those in MWCD's permits. However, if the prior rights have priority dates that are actively under a curtailment order, then MWCD should not be diverting to storage for those rights. If diversions pursuant to prior rights occurred in 2021 or are occurring in 2022, MWCD should keep records of these separate diversions.

Upon receipt of Order WR 2022-0142-DWR, MWCD filed certification and petition forms for human health and safety and non-consumptive uses. Within these forms, MWCD petitioned for human health and safety needs and use of the Flying L wells. On April 29, 2022, MWCD sent its Proposal for Health and Safety Exemption and Individual Local Cooperative Solution further detailing its health and safety petitions and proposed local cooperative solution. MWCD proposes a local cooperative solution under Regulation section 875(f)(4)(E) to allow operation of the Flying L wells while they are under curtailment to maintain water quality in the Shasta River below Dwinnell Reservoir. The Flying L wells are used to mix with and supplement releases of stored water from Dwinnell Reservoir, which allows MWCD to maintain suitable water quality while adding flow to the Shasta River for environmental purposes, and for deliveries to prior rights and the City of Montague. (The local cooperative solution is discussed further in the Local Cooperative Solution section below.) On August 5, 2022, MWCD filed an amendment to its human health and safety petition to increase between 0.25 cfs and 0.5 cfs delivery to the City of Montague to assist in firefighting efforts in response to the McKinney Fire and other recent wildfire outbreaks in Siskiyou County.

The curtailment order does not apply to the release of stored water, and therefore the petitions apply primarily to continued pumping and diversion from the Flying L wells, and to some extent diversion from Permit 2581 on the Little Shasta River if available. An estimated 1,280 AF will be used from the Flying L wells in 2022 for municipal, industrial, prior rights, and environmental use. An additional 150 AF is requested for firefighting efforts.

Human Health and Safety for City of Montague. Under Section 875.2, subdivision (b) of the Regulation, diversions for minimum human health and safety may be authorized to continue after receipt of a curtailment order. Use over 55 gallons per person per day requires submission of a petition demonstrating compliance with certain requirements and approval by the Deputy Director of the Division of Water Rights (Deputy Director). (California Code of Regulations, title 24, section 878.1, subd. (b).) The Deputy Director may condition approval of the petition on implementation of additional conservation measures and reporting requirements.

MWCD proposes to release up to 430 AF from Flying L wells for municipal and industrial purposes for the City of Montague in 2022. MWCD water is the only source of supply for the City of Montague. MWCD intends to release approximately 1.0 cfs to the Shasta River for re-diversion approximately 24 river miles downstream by the City of Montague to meet minimum human health and safety needs. The City of Montague will divert 0.70 - 0.75 cfs at the existing point of re-diversion. The difference between lower

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re-diversion amount compared to the reservoir release amount helps account for potential delivery losses as requested by the Watermaster. This delivery method provides the added benefit of instream use for the length of river between the release and re-diversion. As described above, MWCD will also blend releases from Dwinnell Reservoir with water from the Flying L wells as a measure of temperature control. Based on MWCD's proposal, the Watermaster and State Water Board will be noticed 48 hours prior to its release of flows for municipal use and 48 hours prior to when MWCD turns off releases. Under this petition, delivery of human health and safety water to the City of Montague will occur from May through December 2022.

The City of Montague has a population of just under 1,500 people and is a disadvantaged community. The minimum human health and safety amount of 55 gallons per person per day for eight months is about 62 AF, which is less than the amount proposed by MWCD of 430 AF. However, the inefficiencies that require 430 AF to meet municipal needs of Montague include 25-30 percent more water released than diverted as required by the Watermaster, and losses in open ditch transmission and earthen storage reservoir(s) at the City of Montague. In addition, the City of Montague has water needs for industrial uses including a grocery store and a school, for which the 55 gallons per day per person standard is not an appropriate measure. The school has ceased lawn watering and is in the process of installing artificial turf. All water deliveries are metered, and records indicate a 25 percent reduction of water use from 2013 to the present. In March 2022, the City of Montague passed a resolution proclaiming a local emergency due to drought conditions, and a subsequent resolution to implement a Faulty Water System Repair Incentive Program (including penalties) for the duration of the water shortage emergency. MWCD and the City of Montague have provided the information required in 878.1(b)(2)(A)-(F).

On August 5, 2022, MWCD requested an additional amount of health and safety water to be delivered to the City of Montague to assist in firefighting efforts in response to the McKinney Fire and other wildfire outbreaks in Siskiyou County. The McKinney Fire started on July 29th and threatened the City of Yreka and Fort Jones. By August 9th, there were over 3,500 personnel working on the fire and more than 60,000 acres have burned. The fire is 55% contained with both California Department of Forestry and Fire Protection (CAL FIRE) and the US Forest Service (USFS) jointly fighting the fire. While the fire is now contained, a large work force is still present in the watershed, and two new fires are active in the watershed. The City of Montague contacted MWCD and requested more water be delivered to the City as a result of the United States Forest Service McKinney Fire camp being moved to the City of Montague. It is not known exactly how much additional water will be needed; however, City of Montague hydrants are being used to fill water trucks, settle dust, and handle a significant increase in temporary population from the fire camp. Water delivered to the City of Montague is also sought to supply aerial firefighting efforts located at Siskiyou County Airport near Montague. Therefore, MWCD requests up to an additional 150 AF, with a range of 0.25 to 0.5 cfs additional deliveries for these purposes. All releases would be from storage at Dwinnell Reservoir or provided from the Flying L pumps in accordance with water

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quality requirements, including temperature and monitoring, established under MWCD's SHA commitments.

MWCD's petition to deliver human health and safety water from Flying L wells (SG005439, SG005440, and SG005441) over the minimum amount established in the Regulation is approved. The petition to deliver human health and safety water over the minimum amount established in the Regulation from the Little Shasta River (A004909) is conditionally approved. If water becomes available in the Little Shasta River under A004909, MWCD shall notify the State Water Board and submit a revised accounting for its municipal deliveries.

The petition for water right Permit 2452 (A003544) diversion from the Shasta River to storage in Dwinnell Reservoir is denied. As explained above, release of stored water is not subject to curtailment and MWCD may deliver stored water as it chooses. To the extent that the petition seeks relief from curtailment of its diversion to storage between October 1-June 15, it appears that inflow under Permit 2452 is not available at this time. The State Water Board will continue working with MWCD and the Watermaster to manage conditional curtailments to maximize storage to the extent possible. This includes tracking and allowing diversion to storage pursuant to prior rights to the extent possible. Depending on fall and winter conditions, the State Water Board may reconsider this proposal in late 2022 and 2023 to ensure that sufficient storage is available to serve minimum human health and safety needs within the City of Montague next year.

Non-Consumptive Use. Under Section 875.1 of the Regulation, diversions for non-consumptive use may not be required to curtail in response to a curtailment order if their diversion and use of water does not decrease downstream flows. Any diverter wishing to continue diversion under this subdivision must submit to the Deputy Director a certification, under penalty of perjury, which describes the non-consumptive use and explains, with supporting evidence, how the diversion and use do not decrease downstream flows in the applicable watershed.

MWCD uses the Flying L wells as a water quality measure to keep flows released from Dwinnell Reservoir to the Shasta River under 18°C at MWCD's verification point below Dwinnell Reservoir on the Shasta River. Release of the cold groundwater is necessary to support beneficial uses relating to cold fresh water habitat (COLD); rare, threatened, or endangered species (RARE); and spawning, reproduction, and/or early development (SPWN). The volume of water provided to the Shasta River from Flying L wells for temperature control will also be used to meet municipal, industrial, environmental, or prior rights needs, or some combination thereof. The purpose of use will vary dependent on storage in Dwinnell Reservoir, time of year, and water quality. An estimated 1,280 AF will be provided to the Shasta River from Flying L wells, of which up to 430 AF will be used for municipal and industrial and the remainder used for temperature control while delivering for environmental commitments or to prior right holders. An additional amount up to 150 AF will be used for firefighting efforts by the

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City of Montague. Flying L well water used solely to ensure water quality of releases from Dwinnell Reservoir is non-consumptive and does not decrease downstream flows in the Shasta River watershed. MWCD has filled out the proper certification and provided supporting evidence. No additional action is required for MWCD to use the Flying L wells for non-consumptive use.

Local Cooperative Solution

Under Section 875, subdivision (f)(4)(E), where a diverter receives a curtailment order for fewer water rights than are used on his or her property, the Deputy Director may approve a petition for a comparable reduction in use of a more senior right in favor of continuing diversion under the more junior right otherwise subject to curtailment under the following circumstances: (i) The change does not injure other legal users of water, including by reducing the contribution to flows described in subdivision (c) that other users would rely on; (ii) The change does not result in an increased consumptive use of water; and (iii) The change does not result in elevation of water temperatures above that which would occur from curtailing the original source. The petition must provide reliable evidence sufficient to support these findings.

Under MWCD's SHA, the volume of water provided for instream benefit under a very dry year is 2,662 AF. A daily schedule was developed with CDFW and NMFS that will provide 3,182 AF in 2022 for instream benefit to the upper Shasta River (20% increase in provided flow over MWCD's SHA commitments) and is designed to be protective of coho salmon based on life stage needs throughout the year. This 3,182 AF is 40 percent of MWCD's maximum storage volume in 2022 (approximately 7,950 AF) and is a substantial instream contribution. MWCD proposes to operate the Flying L wells to supply up to 4.5 to 5.0 cfs of cold groundwater to the Shasta River for temperature control. Under the LCS proposal, MWCD's Flying L wells will be used to provide water for municipal (and fire safety), environmental (including as a water quality measure), and prior rights. MWCD commits that flow released to the Shasta River from the combined sources of Dwinnell Reservoir and the Flying L wells will be 18°C or colder as measured at MWCD's verification point below Dwinnell Dam on the Shasta River. Depending on the remaining storage volume in Dwinnell Reservoir in September of 2022, MWCD may have water remaining in storage that could be made available for fall flow transactions to enhance flows for migrating adult salmon.

For the portion of Flying L well water used to satisfy prior rights, MWCD proposes a local cooperative solution on the Shasta River under the exchange provisions of section 875, subdivision (f)(4)(E). MWCD has an active conservation plan with NMFS and CDFW that contributes to the protection and enhancement of coho salmon, other salmonids, and cold-water dependent species. MWCD proposes to continue to use the Flying L wells during the remainder of calendar year 2022, rather than releasing additional stored water from Dwinnell Reservoir, in order to provide instream benefits associated with use of the Flying L wells for improved water temperature. More specifically, the volume of water MWCD will provide from Flying L wells for instream benefit in 2022 (3,182 AF) is more than double the maximum value of 850 AF that may

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be delivered to the Shasta River via the Flying L wells for consumptive use by prior right holders. Water stored in Dwinnell Reservoir and subsequently released is equivalent to a senior water right not subject to curtailment and is therefore eligible to exchange. This reduction in reservoir releases in favor of increased pumping from the Flying L wells does not injure other legal users of water, and in fact is necessary for MWCD to meet its contractual commitments to prior right holders. Prior right holders receiving water deliveries, including some portion of the Flying L well water, are senior with water right priorities ranging from 1868 through 1904. The exchange to make use of Flying L well water in lieu of storage releases from Dwinnell Reservoir does not result in an increase in consumptive use and would not result in an injury to junior water rights. In the absence of the exchange, MWCD would need to release stored water for prior rights, which would be of unsuitable temperature. Curtailment of releases of Flying L well water would result in an unacceptable increase in water temperatures in the Shasta River below Dwinnell Reservoir. The exchange is needed to improve water temperature and is in furtherance of the Regulation's overall purpose to provide minimal fish protections in the Scott River and Shasta River watersheds while providing for minimum uses (i.e., human health and safety, livestock watering) and protection of senior water rights.

In addition, MWCD adhered to its voluntary commitment to bypass 20 cfs prior to diverting from MWCD's Parks Creek diversion in the fall/winter of 2021 and commits to do the same in 2022 from October through December. MWCD's current requirement under its SHA agreement is to bypass 6.0 cfs during this period until MWCD's proposed infrastructure improvement project is implemented on its Parks Creek point of diversion.

MWCD's SHA contributions of stored water are not subject to curtailment and may therefore be exchanged for the ability to operate the Flying L wells this summer for multiple beneficial uses and water quality. This solution is sensible and necessary for MWCD to meet its environmental commitments and the Prior Rights Agreement in light of the unprecedented low storage volume in Dwinnell Reservoir. The petition for a local cooperative solution to exchange released stored water with Flying L well water for prior rights is approved.