

**BOARD OF SUPERVISORS OF THE COUNTY OF LAKE, STATE OF CALIFORNIA**  
**PROCLAMATION OF THE EXISTENCE OF A LOCAL EMERGENCY DUE TO PERSISTENT**  
**DROUGHT, HABITAT LOSS AND POTENTIAL EXTINCTION OF CLEAR LAKE HITCH**

**RESOLUTION NO. 2023 – \_\_\_\_\_**

**WHEREAS**, on May 6, 2021, the Lake County sheriff, in his capacity as the Director of Emergency Services for the County of Lake, proclaimed a local emergency due to drought conditions, with said proclamation being renewed most recently on Nov. 15, 2022; and

**WHEREAS**, on March 28, 2022, Gov. Newsom issued Executive Order No. 7-77, to provide guidance on emergency drought relief. The executive order (EO) states that “the ongoing drought will have significant, immediate impacts on communities with vulnerable water supplies, farms that rely on irrigation to grow food and fiber, and fish and wildlife that rely on stream flows and cool water”; and

**WHEREAS**, the Clear Lake hitch (*Lavinia exilicauda chi*), a fish species endemic to Clear Lake, has been a primary food and cultural resource for indigenous Pomo peoples for thousands of years in the lands and watersheds now encompassed by Lake County and nearby counties, and remains central to the health, food security and well-being of Lake County’s sovereign tribal nations; and

**WHEREAS**, in August 2014, the California Fish and Game Commission determined the Clear Lake hitch to be “threatened” under the California Endangered Species Act (“CESA”) and subsequently adopted regulations to improve hitch habitat and water quality in 2016; and

**WHEREAS**, in 2017 the Blue Ribbon Committee for the Rehabilitation of Clear Lake was established under the California Natural Resources Agency (pursuant to Assembly Bill 707) to develop strategies to help restore Clear Lake and revitalize local economies dependent on the health of the lake; and

**WHEREAS**, on Dec. 3, 2020, the U.S. Fish and Wildlife Service (“USFWS”) published in the Federal Register its findings that the proposed listing of the Clear Lake hitch under the federal Endangered Species Act (“ESA”) was “not warranted at this time”; and

**WHEREAS**, on Aug. 17, 2021, the Center for Biological Diversity (“Center”), an environmental advocacy organization, filed suit in the Northern District of California against USFWS and the U.S. Department of the Interior, claiming the agency’s “not warranted” decision was unlawful; and

**WHEREAS**, on April 14, 2022, the USFWS agreed, in a stipulated settlement agreement and order signed by the Hon. Richard Seeborg, Chief U.S. District Court Judge, to conduct additional analysis and submit, on or before Jan. 12, 2025, a new “12-month finding” as to whether the listing of the Clear Lake hitch as “threatened” or “endangered” is now warranted under the federal ESA; and

**WHEREAS**, on Oct. 12, 2022, the California Fish and Game Commission directed President Samantha Murray to send a letter to USFWS Director Martha Williams seeking emergency listing for the hitch. Murray’s letter, dated Nov. 3, 2022, requests Williams to implement “immediate, emergency protections to Clear Lake hitch to secure an adequate level of 2023 spring spawning for the species”; and

**WHEREAS**, on Dec. 5, 2022, the Center for Biological Diversity and four tribal governments located within Lake County – Big Valley Band of Pomo Indians, Habematolel Pomo of Upper Lake, Scotts

Valley Band of Pomo Indians and Robinson Rancheria Citizens Business Council – announced they also have requested emergency listing of the Clear Lake hitch by USFWS; and

**WHEREAS**, on Dec. 8, 2022, an emergency summit was held at Big Valley Rancheria to help facilitate intergovernmental communications between tribal governments and state, local and federal agencies; and

**WHEREAS**, a proposed “Conservation Strategy for the Clear Lake Hitch” and implementation agreement has been drafted by an intergovernmental committee, but the draft strategy has not been presented to potential signatories, including Lake County, for review, public input or adoption; and

**WHEREAS**, notwithstanding the important and ongoing efforts of tribal environmental protection agencies, the Blue Ribbon Commission for the Rehabilitation of Clear Lake and California Resources Agency, California Department of Fish and Wildlife, State Water Resources Control Board, U.S. Fish and Wildlife Service, and Lake County Water Resources and Public Works, many County residents and interested parties, including agricultural and sport fishing interests, are not fully informed of the critical importance of the 2023 hitch spawning season, nor of potentially significant state, local and/or federal actions that may result from emergency ESA listing; and

**WHEREAS**, California Government Code § 8630 empowers the Board of Supervisors to proclaim the existence of a local emergency when the County is threatened or likely to be threatened by conditions of extreme peril to the safety of persons and property that are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this County; and

**WHEREAS**, the Board of Supervisors hereby finds that conditions of extreme peril to the safety of persons and property presently exist in Lake County, caused by rapidly decreasing populations of Clear Lake hitch that could potentially result in extinction for the species; possible permanent loss of food security and cultural resources for Lake County’s indigenous Pomo people and sovereign nations; potentially significant impacts upon agricultural, mining, recreational and tourism activities to the extent they impact hitch habitat in Clear Lake and its tributaries; and potentially serious economic impacts should the U.S. Fish and Wildlife Service grant the pending requests for emergency ESA listing; and

**WHEREAS**, the Board of Supervisors does find that the aforesaid conditions and the breadth of the peril the County and its residents face as a result require the Proclamation of Local Emergency and that local resources are unable to cope with the effects of the significant danger.

**NOW THEREFORE, IT IS HEREBY PROCLAIMED** that the Board of Supervisors of the County of Lake hereby declares the existence of a local emergency and said emergency shall be deemed to continue until its termination is declared by the Board of Supervisors.

**BE IT FURTHER PROCLAIMED** that this Proclamation is issued pursuant to the California Emergency Services Act, Government Code §§ 8550, et seq. and proclaimed and ordered that during the existence of said local emergency, the powers, function, and duties of the emergency organization of Lake County shall be those prescribed by state and local law and County resolutions, as approved by the Board of Supervisors.

**THE BOARD OF SUPERVISORS HEREBY MAKES THE FOLLOWING REQUESTS:**

1. That the Governor proclaim a State of Emergency in Lake County due to persistent drought and habitat loss such that the potential extinction of the Clear Lake hitch appears to be imminent unless immediate and direct action is taken, and local resources are inadequate to cope with the emergency;
2. That the Director of the U.S. Fish and Wildlife Service (“USFWS”) provide emergency funding and resources adequate to protect the Clear Lake hitch, without granting the emergency ESA listing request, and to promptly disclose any legal or financial constraints which would limit such emergency actions;
3. That USFWS issue notification letters to Lake County governments, organizations and interested parties explaining the process by which the ESA status of the Clear Lake hitch is being re-evaluated, and further explaining when public input will be solicited prior to adoption of a new 12-month finding;
4. That USFWS, among its other emergency actions, update the draft Clear Lake Hitch Strategy to better address drought and climate change and timely circulate the strategy agreement for signatures;
5. That the Chair of the Blue Ribbon Committee for the Rehabilitation of Clear Lake convene a meeting as soon as practical to consider the status of the Clear Lake hitch and threats to its 2023 spawning run, accept public testimony, and make recommendations to prioritize hitch-related projects and funding;
6. That the State Water Resources Control Board immediately order and direct enhanced compliance and enforcement activities to stop illegal water diversions affecting Clear Lake and its tributaries; and to enforce the adopted orders of the Irrigated Lands Regulatory Program and Cannabis Cultivation Waste Discharge Regulatory Program to ensure they are protective of Clear Lake hitch habitats as applied;
7. That the State Water Resources Control Board develop and adopt emergency regulatory actions to establish minimum drought instream flow levels and/or curtailment of diversions from Lake County watercourses in order to assure the continued viability of the Clear Lake hitch and other aquatic species, pursuant to Water Code §§ 1058.5 and 1259.4(a)(2) and Public Resources Code § 10000, et seq.;
8. That the California Fish and Game Commission take immediate steps to review and recommend whether emergency regulations, or amendments to existing sport fishing regulations, are needed to reduce predation of Clear Lake hitch by carp and other non-native predatory fish; to consider whether establishment of a *chi* fish hatchery within the County of Lake is warranted; and to hold at least one meeting within the County of Lake to accept public testimony prior to taking any formal action;
9. That the Lake County Watershed Protection District initiate a review of operations at Adobe Creek and Highland Springs reservoirs to determine and apply the minimum flow regimen needed to maintain the downstream fish habitats in good condition, pursuant to California Fish and Game Code § 5937;
10. That the Community Development Director initiate a review of administrative gravel permits and abandoned gravel mines, including those in over-extracted, downcut and environmentally sensitive creeks, to ensure in-channel gravel extraction activities do not negatively impact hitch spawning runs. The review shall consider whether amendments of Chapter 24 of the Lake County Code are needed;

11. That the Lake County Water Resources Department submit a mid-year budget request authorizing reimbursement of up to \$100,000 of unanticipated costs for chi-related projects and programs through June 30, 2023, such funding being contingent upon review and approval by the Board of Supervisors.

**THE BOARD OF SUPERVISORS HEREBY ORDERS** that a copy of this proclamation be forwarded to the Office of the California Governor; the state director of the Office of Emergency Services; the president of the State Water Resources Control Board; the president of the California Fish and Game Commission; the chair of the Blue Ribbon Committee for the Rehabilitation of Clear Lake, via the secretary of the California Natural Resources Agency; the director of the U.S. Fish and Wildlife Service; the secretary of the U.S. Department of the Interior; the chair of the Lake County Watershed Protection District; and the chair of each sovereign tribal nation within the County of Lake.

**This proclamation was duly passed by the Board of Supervisors of the County of Lake at a regular meeting held on January 10, 2023, by the following roll call vote:**

**AYES:**

**NOES:**

**ABSENT OF NOT VOTING:**

**COUNTY OF LAKE**

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**CHAIR, Board of Supervisors**

**ATTEST:**

**SUSAN PARKER**

**Clerk of the Board of Supervisors**

**By: \_\_\_\_\_**

**APPROVED AS TO FORM:**

**ANITA L. GRANT**

**County Counsel**

**By: \_\_\_\_\_**