

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 – 10

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 Jan. 10, 2023; 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 sovereign tribal nations within Lake County; 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 adopted 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 sovereign 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, intergovernmental summit was held at Big Valley Rancheria to help facilitate communications between sovereign tribal governments and their environmental protection agencies and analogous state, local and federal environmental agencies; and

WHEREAS, a proposed “Conservation Strategy for the Clear Lake Hitch” and implementation agreement has been drafted by an intergovernmental task force, 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 sovereign tribal governments and environmental protection agencies, the Blue Ribbon Commission for the Rehabilitation of Clear Lake and California Natural 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 Lake 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 the potentially significant voluntary and/or regulatory actions that may be proposed or implemented; 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 indigenous Pomo peoples and sovereign nations within Lake County; potentially significant impacts upon agricultural, mining, recreational and tourism activities to the extent they may 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 a 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 California 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 while its court-ordered review process is under way, and to promptly disclose any legal or financial constraints which would limit such emergency support;
3. That USFWS, among its other emergency actions, prioritize and expedite completion of the draft Clear Lake Hitch Strategy in coordination and cooperation with other government agencies and native sovereign nations and timely circulate the strategy for signatures and implementation;
4. 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 review and recommend hitch-related projects, activities and funding to the Office of the Governor, California Legislature and California Natural Resources Agency;
5. 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;
6. That the State Water Resources Control Board work directly with County stakeholders to consider the promulgation of regulations in order to assure the continued viability of the Clear Lake hitch and other aquatic species, upon receipt of watershed-specific emergency flow recommendations from the California Department of Fish and Wildlife, U.S. Fish and Wildlife Service or other fisheries agency;
7. That the California Fish and Game Commission or California Department of Fish and Wildlife, as may be appropriate, take reasonable steps to consider whether emergency regulations or amendments to 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 one or more *chi* fish hatcheries or refuges within the County of Lake is feasible and warranted; to review and recommend short-term habitat improvement strategies and projects; and for the Fish and Game Commission to schedule and conduct at least one meeting within the County of Lake to accept public testimony regarding any *chi*-related actions;
8. That the Ukiah field office manager of the Bureau of Land Management take reasonable and prudent steps to identify and mitigate erosion and sediment transport attributed to fire, flood, off-highway vehicle use, abandoned mine locations, and any other conditions that may adversely affect Clear Lake hitch migration and survival within and downstream of BLM-managed lands and waterways, including Cache Creek Wilderness and North and South Cow Mountain Recreation areas;
9. That the forest supervisor of the Mendocino National Forest take reasonable and prudent steps to identify and mitigate erosion and sediment transport attributed to fire, flood, off-highway vehicle use, abandoned mine locations, and any other conditions that may adversely affect Clear Lake hitch migration and survival within and downstream of U.S. Forest Service-managed lands and waterways;

10. That the Lake County Water Resources Department develop and implement a plan to release water during the spring of 2023 from the Adobe Creek and/or Highland Springs reservoirs to supplement instream flows to the extent feasible during the hitch spawning season, including but not limited to cold-weather events during which groundwater pumping occurs for agricultural crop protection; and submit a mid-year budget request authorizing reimbursement for unanticipated costs for *chi*-related projects and programs, 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 provided to the Office of the California Governor; state director of the Office of Emergency Services; president of the State Water Resources Control Board; president of the California Fish and Game Commission; director of the California Department of Fish and Wildlife; chair of the Blue Ribbon Committee for the Rehabilitation of Clear Lake; secretary of the California Natural Resources Agency; Ukiah field office manager of the Bureau of Land Management; forest supervisor of the Mendocino National Forest; director of the U.S. Fish and Wildlife Service; secretary of the U.S. Department of the Interior; and chair of each native sovereign 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 February 7, 2023, by the following roll call vote:

AYES: Supervisors Simon, Sabatier, Crandell, Green, and Pyska

NOES: None

ABSENT OR NOT VOTING: None

COUNTY OF LAKE

Jessica Pyska

Jessica Pyska (Feb 8, 2023 14:32 PST)

CHAIR, Board of Supervisors



ATTEST:

SUSAN PARKER

Clerk of the Board of Supervisors

Johanna Delong

Johanna Delong (Feb 8, 2023 14:24 PST)

APPROVED AS TO FORM:

ANITA L. GRANT

County Counsel

Anita Grant

anita grant (Feb 8, 2023 16:10 PST)