

SWRCB Issues Curtailment Notice for Senior Water Rights

In reaction to the continuing drought, on June 12, 2015, the State Water Resources Control Board (State Board) issued curtailment notices to pre-1914 appropriative water right claims within the Sacramento-San Joaquin River watershed and Delta. The State Board has been monitoring diversion records and flow conditions within these watersheds and, due to limited precipitation and snowpack runoff, has determined that current flows are insufficient to satisfy all diversion demands.

The curtailment affects pre-1914 appropriative claims with a priority date of 1903 and later, requiring them to immediately stop diverting water. The list of entities that have been ordered to curtail diversions can be found [here](#)¹. Even if there is water physically available at the point of diversion, it must continue instream to meet more senior water right holders' needs. This curtailment will continue until water conditions improve.

Curtailed water right owners are required to document receipt of the curtailment notice for each water right claimed by completing an online Curtailment Certification Form by June 19th. Violators of the curtailment notice are subject to administrative penalties, cease and desist orders, or prosecution in court, including penalties of \$1,000 per day of violation and \$2,500 for each acre-foot diverted or used in excess of a valid water right. Violation of a cease and desist order can result in a fine of \$10,000 per day.

The curtailment does not apply to: 1) riparian water right owners, 2) pre-1903 water right holders, 3) diversion for hydroelectric generation where water is returned to the same stream system, and 4) diversion of previously stored water.

In April and May of 2015, the State Board issued curtailment notices to all post-1914 appropriative water rights holders. However, the newly issued curtailment for senior pre-1914 water rights holders is significant and has not happened since the 1976-77 drought. These rights were established prior to the Water Commission Act of 1914 and are not subject to the State Board's permitting system. Under California's priority system, where in times of shortage the most recent ("junior") water right holder must be the first to discontinue use, pre-1914 water rights are generally considered protected. However, the drought has changed the conventional rules. The senior water rights affected

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by the curtailment notice add to the growing number of water rights restricted by the state's ongoing drought. The State Board will evaluate the need for additional curtailments of more senior water rights every two weeks through September.

¹ This list includes Hanson Bridgett clients.

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