



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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**State Water Resources Control Board**  
Division of Drinking Water

September 15, 2015

System No. 3200509

Certified Mail Receipt  
No. 7012 3460 0003 1113 1953

Clio Public Utility District  
PO Box 6  
Clio, CA 96106

Attn: Neil Beck, Chairman

**TRANSMITTAL OF COMPLIANCE ORDER NO. 01-02-15R-006-FOR**

Dear Mr. Beck,

Enclosed is Compliance Order number 01-02-15R-006-FOR issued to the Clio Public Utility District (Clio PUC) for failure to comply with the California Health and Safety Code, Section 116555(a)(3).

The Clio PUD was sent a curtailment notice from the State Water Resources Control Board (State Board), dated June 12, 2015, which stated, in part, that "the State Water Board is notifying pre-1914 appropriative claims of right with a priority date of 1903 and later within the Sacramento-San Joaquin watersheds and Delta of the need to immediately stop diverting water with the exceptions discussed below." The State Board issued a second notice on July 15, 2015 which stated, in part: "The purpose of this notice is to rescind the "curtailment" portions of the unavailability notices you received." However, the July 15, 2015 notice also stated, "Please note that information available to the State Water Board continues to indicate that there is insufficient water available for the categories of junior water users identified in the State Water Board's prior correspondence." The July 15, 2015 notice further stated: "Diversion when there is no available water under the priority of your right is an unauthorized diversion and use and is subject to enforcement by the State Water Board."

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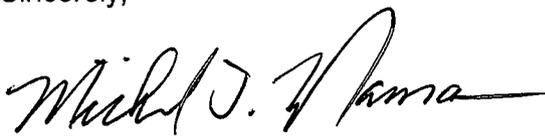
FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

364 Knollcrest Drive, Suite 101, Redding, CA 96002 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

The State Board's Division of Water Rights has informed the Division of Drinking Water that it will exercise its enforcement discretion in the case of Clio PUD and take no enforcement action against it for continuing to take water from its source to supply the basic human health and safety needs of its customers so long as it complies with all the directives in compliance order 01-02-15R-006-FOR. A letter addressed to the Clio PUD, dated August 7, 2015, from the State Board, stated "These uses would include household water for drinking, cooking and sanitation as well as outdoor water to maintain healthy trees. It would not include water to maintain yards."

If you have any questions, please contact me by phone at (530) 224-4800 or email at Mike.McNamara@waterboards.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Michael J. McNamara". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael J. McNamara, P.E.  
Lassen District Engineer  
State Water Resources Control Board  
Division of Drinking Water  
364 Knollcrest Drive, Suite 101  
Redding, CA 96002

cc: Bruce Burton, P.E., Chief  
Northern California Field Operations Branch

Richard Hinrichs, P.E., Chief  
Northern California Section

Jerry Sipe, Director  
Plumas County Environmental Health Department

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**STATE OF CALIFORNIA**  
**WATER RESOURCES CONTROL BOARD**  
**DIVISION OF DRINKING WATER**

**TO:** Clio Public Utility District  
Attn: Neil Beck – Chairman  
P.O. Box 6  
Clio, CA 96106

**COMPLIANCE ORDER NO. 01-02-15R-006 FOR**  
**VIOLATION OF CALIFORNIA HEALTH AND SAFETY CODE SECTION**  
**116555(a)(3)**  
**CLIO PUBLIC UTILITY DISTRICT**  
**PWS# 3200509**  
**Issued on September 15, 2015**

Section 116655 of the California Health and Safety Code (hereinafter "CHSC") authorizes the issuance of a compliance order to a public water system for violation or threatened violation of the California Safe Drinking Water Act (CHSC, Division 104, Part 12, Chapter 4, (commencing with Section 116270)) (hereinafter "California SDWA"), or any permit, regulation, or standard issued or adopted thereunder.

The State Water Resources Control Board (hereinafter "State Board"), acting by and through its Division of Drinking Water (hereinafter "Division") and the Deputy Director for the Division (hereinafter "Deputy Director"), hereby issues a compliance order (hereinafter "Order") to Clio Public Utility District (hereinafter "Clio PUD"), for failure to comply with CHSC Section 116555 (a)(3).

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**APPLICABLE AUTHORITIES**

A copy of the applicable statutes and regulations is included in Appendix 1, which is attached hereto and incorporated herein by this reference.

**STATEMENT OF FACTS**

The Clio PUD is a community public water system serving a population of approximately 79 through 47 service connections.

On June 12, 2015, the State Board issued, "NOTICE OF UNAVAILABILITY OF WATER AND NEED FOR IMMEDIATE CURTAILMENT FOR THOSE DIVERTING WATER IN THE SACRAMENTO-SAN JOAQUIN WATERSHEDS AND DELTA WITH A PRE-1914 APPROPRIATIVE CLAIM COMMENCING DURING OR AFTER 1903" to the Clio PUD, a copy of which is attached hereto as Appendix 2. On July 15, 2015, the Board issued, "PARTIAL RESCISSION OF APRIL, MAY AND JUNE 2015 CURTAILMENT NOTICES AND CLARIFICATION OF STATE WATER BOARD POSITION RE: NOTICES OF UNAVAILABILITY OF WATER FOR THOSE DIVERTING WATER IN THE SACRAMENTO RIVER WATERSHED, SAN JOAQUIN RIVER WATERSHED AND DELTA, AND SCOTT RIVER" to the Clio PUD, a copy of which is attached hereto as Appendix 3.

The June 12, 2015 notice stated, "Based upon the most recent reservoir storage and inflow projections, along with forecasts for future precipitation events, the existing water supply in the Sacramento-San Joaquin River watersheds, inclusive of the Delta watersheds is insufficient to meet the needs of some pre-1914 claims of right. With this notice, the State Water Board is notifying pre-1914 appropriative claims of right



1 with a priority date of 1903 and later within the Sacramento-San Joaquin watersheds  
 2 and Delta of the need to immediately stop diverting water with the exceptions  
 3 discussed below.” The Notice dated July 15, 2015 stated: “The purpose of this notice  
 4 is to rescind the “curtailment” portions of the unavailability notices you received. To  
 5 the extent that any of the notices described above contain language that may be  
 6 construed as an order requiring you to stop diversions under your affected water right,  
 7 that language is hereby rescinded. Similarly, any language that may be construed as  
 8 requiring affected water right holders to submit curtailment certification forms is  
 9 hereby rescinded.

10  
 11 Please note that information available to the State Water Board continues to indicate  
 12 that there is insufficient water available for the categories of junior water users  
 13 identified in the State Water Board’s prior correspondence.” It also states, “Diversion  
 14 when there is no available water under the priority of your right is an unauthorized  
 15 diversion and use and is subject to enforcement by the State Water Board.”

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 17 **DETERMINATION**

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 19 The Division has determined that the Clio PUD does not provide a reliable and  
 20 adequate supply of pure, wholesome, healthful, and potable water, in that the Clio  
 21 PUD does not have legal access to sufficient water to support its customers’ basic  
 22 human health and safety needs. The Clio PUD therefore has violated, and continues  
 23 to violate, CHSC Section 116555 (a)(3).

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DIRECTIVES

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**The Clio PUD is hereby directed to take the following actions:**

- 1. Effective immediately upon its receipt of this Order, the Clio PUD shall not make any additional service connections to its water system, including any such service connections for which a “will serve” letter was issued at any time by the Clio PUD, but for which a building permit was not issued prior to the date of this Order. As used in this Order, “will serve” letter means any form of notice, representation or agreement that the Clio PUD will supply water to a property, parcel or structure.
- 2. By **October 16, 2015** the Clio PUD shall identify any and all properties for which a “will serve” letter has been issued, and no service connection made.
- 3. By **October 23, 2015**, the Clio PUD shall notify each owner(s) of each property identified pursuant to Directive # 2, hereinabove, and all appropriate local planning agencies that the “will serve” letter issued for such property is null and void and may not be relied upon for any purpose.
- 4. By **October 30, 2015**, the Clio PUD shall provide to the Division the following documents:
  - a) copies of all “will serve” letters it has issued at any time for which a service connection has not been made, including the address or parcel number of the respective property;
  - b) a list of the property owners and applicable planning agencies it notified pursuant to Directive # 3, hereinabove, and a certification that the notification



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required pursuant to Directive # 3 was completed; and

c) a current list of all service connections, including the address of each.

5. By **October 30, 2015**, the Clio PUD shall provide to the Division, for its review and approval, a plan for complying with the State Board's emergency drought regulations (herein "Conservation Regulations") in particular, the Mandatory Actions for Water Suppliers specified in Title 23, CCR, Section 865 – including a schedule for implementation of said plan. The Clio PUD shall implement the plan in accordance with the schedule set forth in the plan as approved by the Division. A copy of the applicable regulation section is included in Appendix 1, attached hereto and incorporated herein by this reference.

6. By **April 1, 2016**, the Clio PUD shall provide to the Division, for its review and approval, a Source Capacity Planning Study (hereinafter "Study") pursuant to Title 22, CCR, Section 64558. The Study shall be prepared by a Civil Engineer, registered in the State of California, or another qualified person approved by the Division. The Study shall include a plan for meeting the current and projected system demand, as identified in the Study, without the use of any source affected by, or subject to, the notices set forth in Appendix 2 or 3, hereto and shall also include a schedule for implementation of said plan. The Clio PUD shall comply with the plan and schedule after it has been approved by the Division.

7. By the last day of March, June, September, and December of each calendar year following the Division's approval of the plan for meeting the projected system demand, the Clio PUD shall provide progress reports to the Division regarding its

1 implementation of said plan. The Clio PUD shall continue submitting these reports  
2 until the plan for meeting the projected system demand is fully implemented, and  
3 the Division issues written notice to Clio PUD that it may cease submitting the  
4 progress reports.  
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6 8. By **October 16, 2015**, the Clio PUD shall provide to the Division the number of  
7 residents it currently serves.  
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9 9. Until otherwise directed by the Division, the Clio PUD shall submit to the State  
10 Board's Division of Drinking Water and the Division of Water Rights, by the 10<sup>th</sup> of  
11 each month, an accurate total of the amount of water produced from each of its  
12 sources in the previous calendar month. The first month this report is due is  
13 October 2015 for the water produced in September 2015.  
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15 The Division reserves the right to make such modifications to this Order as it may  
16 deem necessary to protect public health and safety. Such modifications may be  
17 issued as amendments to this Order and shall be deemed effective upon issuance.  
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19 Nothing in this Order relieves the Clio PUD of its obligation to meet the requirements  
20 of the California SDWA, or any regulation, permit, standard or order issued or adopted  
21 thereunder.  
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23 All submittals required by this Order shall be submitted to the Division at the following  
24 address:

25 Michael J. McNamara, P.E.  
26 Lassen District Engineer  
27 State Water Resources Control Board  
28 Division of Drinking Water  
29 364 Knollcrest Dr., Suite 101  
30 Redding, CA, 96002



1 In addition, the reports required by Directive No. 9 shall also be submitted to:

2 Robert Rinker  
3 Division of Water Rights  
4 State Water Resources Control Board  
5 1001 I Street  
6 Sacramento, CA 95814

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8 **PARTIES BOUND**

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10 This Order shall apply to and be binding upon the Clio PUD, its owners, shareholders,  
11 officers, directors, agents, employees, contractors, successors, and assignees.

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13 **SEVERABILITY**

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15 The Directives of this Order are severable, and the Clio PUD shall comply with each  
16 and every provision thereof, notwithstanding the effectiveness of any provision.

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18 **FURTHER ENFORCEMENT ACTION**

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20 The California SDWA authorizes the Board to: issue a citation with assessment of  
21 administrative penalties to a public water system for violation or continued violation of  
22 the requirements of the California SDWA or any regulation, permit, standard, citation,  
23 or order issued or adopted thereunder including, but not limited to, failure to correct a  
24 violation identified in a citation or compliance order. The California SDWA also  
25 authorizes the Board to take action to suspend or revoke a permit that has been  
26 issued to a public water system if the public water system has violated applicable law  
27 or regulations or has failed to comply with an order of the Board; and to petition the  
28 superior court to take various enforcement measures against a public water system

1 that has failed to comply with an order of the Board. The Board does not waive any  
2 further enforcement action by issuance of this compliance order.

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*Richard L. Hinrichs*

*9/15/2015*

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Richard L. Hinrichs, P.E., Chief  
Northern California Section  
State Water Resources Control Board  
Division of Drinking Water

Date

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Appendix 1: Applicable Authorities

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Appendix 2: "Notice of Unavailability of Water and Need for Immediate Curtailment  
for Those Diverting Water in the Sacramento-San Joaquin Watersheds  
and Delta with a Pre-1914 Appropriative Claim commencing during or  
after 1903" dated June 12, 2015.

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Appendix 3: "Partial Rescission of April, May, and June 2015 Curtailment Notices  
and Clarification of State Water Board Position Re: Notices of  
Unavailability of Water for Those Diverting Water in the Sacramento  
River Watershed, San Joaquin River Watershed and Delta, and Scott  
River" dated July 15, 2015.

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Certified Mail No. 7012 3460 0003 1113 1953

## **APPENDIX 1. APPLICABLE STATUTES AND REGULATIONS FOR COMPLIANCE ORDER NO. 01-02-14R-004**

*NOTE: The following language is provided for the convenience of the recipient, and cannot be relied upon as the State of California's representation of the law. The published codes are the only official representation of the law. Regulations related to drinking water are in Titles 22 and 17 of the California Code of Regulations. Statutes related to drinking water are in the Health & Safety Code, the Water Code, and other codes.*

### **Section 116275(s) of the Health and Safety Code states in relevant part:**

(s) "Service connection" means the point of connection between the customer's piping or constructed conveyance, and the water system's meter, service pipe, or constructed conveyance.

### **Section 116555 of the Health and Safety Code states in relevant part:**

(a) Any person who owns a public water system shall ensure that the system does all of the following:

- (1) Complies with primary and secondary drinking water standards.
- (2) Will not be subject to backflow under normal operating conditions.
- (3) Provides a reliable and adequate supply of pure, wholesome, healthful, and potable water.

### **Section 116655 of the Health and Safety Code states in relevant part:**

(a) Whenever the department determines that any person has violated or is violating this chapter, or any permit, regulation, or standard issued or adopted pursuant to this chapter, the director may issue an order doing any of the following:

- (1) Directing compliance forthwith.
- (2) Directing compliance in accordance with a time schedule set by the department.
- (3) Directing that appropriate preventive action be taken in the case of a threatened violation.

(b) An order issued pursuant to this section may include, but shall not be limited to, any or all of the following requirements:

- (1) That the existing plant, works, or system be repaired, altered, or added to.
- (2) That purification or treatment works be installed.

- (3) That the source of the water supply be changed.
- (4) That no additional service connection be made to the system.
- (5) That the water supply, the plant, or the system be monitored.
- (6) That a report on the condition and operation of the plant, works, system, or water supply be submitted to the department.

**Title 22, CCR, Section 64558 states in relevant part:**

(a) If directed by the State Board to do so based on its determination that there is an existing or potential problem with the system's source capacity or a proposed expansion pursuant to section 64556(a)(5), a water system shall submit a Source Capacity Planning Study (Study) containing the following information:

(1) The anticipated growth of the water system over a projected period of at least ten years in terms of the population and number and type of residential, commercial, and industrial service connections to be served by the water system.

(2) Estimates of the amount of water needed to meet the total annual demand and the MDD over the projected ten-year growth period (projected system demand). Methods, assumptions, and calculations used to estimate the projected system demand shall be included.

(3) A map and description of the entire existing and proposed service area, showing:

(A) The location of each water source, including wells that are abandoned, out-of-service, destroyed, standby, or inactive;

1. Any valid water rights owned by the system for surface water sources, including information on any limitations or restrictions of those rights;

2. For a groundwater aquifer, the groundwater levels and drawdown patterns;

3. Permits or approvals for groundwater extraction if pumping from an adjudicated groundwater basin;

4. Existing and planned source pumping capability and distribution storage capacity for the system as a whole and for each pressure zone;

5. The calculated sustained well yields of existing wells if groundwater sources are used;

6. Permits, if required, for any waters proposed for use to offset potable water demand; and

7. A Source Water Assessment for each potable water source.

(B) Distribution system piping, pressure zones, hydropneumatic tanks, and reservoirs;

(C) Valves, sample taps, flow meters, unmetered service connections, and other system appurtenances;

(D) Conveyance facilities;

(E) Any flood plains in the projected service area; and

(F) The 100 year flood or highest recorded flood level, whichever is higher.

(b) If directed by the State Board to do so based on its determination that a study is out of date, a water system shall update and submit the Study to the Department.

(c) Water systems that have submitted an Urban Water Management Plan to the Department of Water Resources pursuant to Water Code Part 2.6 commencing with section 10610, may submit a copy of that report in lieu of some or all of the requirements of subsection (a) to the extent such information is included in the plan.

**Title 23, CCR, Section 865 states in relevant part:**

**Mandatory Actions by Water Suppliers.**

(a) The term "urban water supplier," when used in this section, refers to a supplier that meets the definition set forth in Water Code section 10617, except it does not refer to suppliers when they are functioning solely in a wholesale capacity, but does apply to suppliers when they are functioning in a retail capacity.

(b)(1) To promote water conservation, each urban water supplier shall implement all requirements and actions of the stage of its water shortage contingency plan that imposes mandatory restrictions on outdoor irrigation of ornamental landscapes or turf with potable water.

(2) As an alternative to subdivision (b)(1), an urban water supplier may submit a request to the Executive Director for approval of an alternate plan that includes allocation-based rate structures that satisfies the requirements of chapter 3.4 (commencing with section 370) of division 1 of the Water Code, and the Executive Director may approve such an alternate plan upon determining that the rate structure, in conjunction with other measures, achieves a level of conservation that would be superior to that achieved by implementing limitations on outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week.

(c) To promote water conservation, each urban water supplier that does not have a water shortage contingency plan or has been notified by the Department of Water Resources that its water shortage contingency plan does not meet the requirements of Water Code section 10632 shall, within thirty (30) days, limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week or shall implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

(d) In furtherance of the promotion of water conservation each urban water supplier shall prepare and submit to the State Water Resources Control Board by the 15th of each month a monitoring report on forms provided by the Board. The monitoring report shall include the amount of potable water the urban water supplier produced, including water provided by a wholesaler, in the preceding calendar month and shall compare that amount to the amount produced in the same calendar month in 2013. Beginning October 15, 2014, the monitoring report shall also estimate the gallons of water per person per day used by the residential customers it serves. In its initial monitoring report, each urban water supplier shall state the number of persons it serves.

(e) To promote water conservation, each distributor of a public water supply, as defined in Water Code section 350, that is not an urban water supplier shall, within thirty (30) days, take one or more of the following actions:

(1) Limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week; or

(2) Implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

EDMUND G. BROWN JR.  
GOVERNORMATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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**State Water Resources Control Board**

June 12, 2015

**NOTICE OF UNAVAILABILITY OF WATER AND NEED FOR IMMEDIATE CURTAILMENT FOR THOSE DIVERTING WATER IN THE SACRAMENTO-SAN JOAQUIN WATERSHEDS AND DELTA WITH A PRE-1914 APPROPRIATIVE CLAIM COMMENCING DURING OR AFTER 1903**

On January 23, 2015 and again on April 2, 2015, the State Water Resources Control Board (State Water Board) issued a Notice of Surface Water Shortage and Potential for Curtailment due to dry conditions throughout the State. On April 1, 2015, the Governor issued an executive order, order B-29-15, continuing the state of emergency, initially enacted on January 17, 2014, due to drinking water shortages, diminished water for agriculture production, degraded habitat for fish and wildlife, increased wildfire risk and the threat of saltwater contamination to fresh water supplies in the Sacramento-San Joaquin Delta (Delta).

On April 23, 2015 and May 1, 2015, the State Water Board issued curtailment notices to all post-1914 appropriative water rights in the Sacramento and San Joaquin River watersheds, inclusive of the Delta, due to insufficient projected water supplies. Based on updated water supply projections provided by the Department of Water Resources in early May, the State Water Board is now notifying pre-1914 claims of right, with a priority date of 1903 and later for the Sacramento-San Joaquin watersheds and the Delta, that, due to ongoing drought conditions, there is insufficient water in the system to service their claims of right.

**Curtailment of Certain Pre-1914 Claims of Right Commenced During or After 1903:**

Based upon the most recent reservoir storage and inflow projections, along with forecasts for future precipitation events, the existing water supply in the Sacramento-San Joaquin watersheds and Delta watersheds is insufficient to meet the needs of some pre-1914 claims of right. With this notice, the State Water Board is notifying pre-1914 appropriative claims of right with a priority date of 1903 and later within the Sacramento -San Joaquin watersheds and Delta of the need to immediately stop diverting water with the exceptions discussed below. This condition of curtailment will continue until water conditions improve. Even if there is water physically available at your point of diversion, that water is necessary to meet more senior water right holders' needs or the water may be released previously stored water which must continue instream to serve its intended beneficial use. If precipitation occurs in the following weeks or months, you should not commence diversion before being notified by the State Water Board that water is legally available for diversion under your priority of right. Evaluations for additional curtailments of more senior rights will be made every two weeks through September.

**Compliance Certification Required:**

Holders of pre-1914 water right claims with priority dates equal to or later than 1903 are required to document receipt of this notice by completing an online Curtailment Certification Form (Form) within seven days. The Form confirms your cessation of diversion under the specific pre-1914 claim of right. Completion of the Form is mandatory to avoid unnecessary potential enforcement proceedings. You are required to complete the Form for each pre-1914 claim of right identified through this notice at:

[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/ewrims/curtailment/2015curt\\_form.php](http://www.waterboards.ca.gov/waterrights/water_issues/programs/ewrims/curtailment/2015curt_form.php)

**Exceptions to Curtailment:**

If your diversion is for hydroelectric generation by direct diversion only and all water diverted is returned to the same stream system, you may continue to divert under your pre-1914 claim of right. If you continue to divert under the above circumstances, you must identify that on the Form and provide the information requested. If you have previously collected water to storage in a reservoir covered by a pre-1914 claim of right prior to this curtailment notice, you still may beneficially use that previously stored water. However, you must bypass all inflow into the reservoir at all times during the period this notice remains in effect.

**No Exception for Health and Safety:**

There is no exception to this notice for health and safety needs. However, we are aware that some water users must comply with directives issued by the Division of Drinking Water (DDW), or local health or drinking water regulation to provide continued water service to meet minimum health and safety standards. Should you continue to divert water under a claim of right subject to this notice to meet human health and safety needs, you must complete the Form identifying your health and safety needs, whether there is an applicable DDW, state or local regulation and your attempts at securing an alternate water supply. The State Water Board will carefully analyze the non-exempted continued diversions for minimum health and safety needs on a case-by-case basis.

**Potential Enforcement:**

Those who are found to be diverting water beyond what is legally available to them may be subject to administrative penalties, cease and desist orders, or prosecution in court. If the State Water Board finds following an adjudicative proceeding that a person or entity has diverted or used water water unlawfully, the State Water Board may assess 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. (See Water Code, §§ 1052, 1055.) Additionally, if the State Water Board issues a Cease and Desist Order against an unauthorized diversion, violation of any such order can result in a fine of \$10,000 per day. (See Water Code, §§ 1831, 1845.)

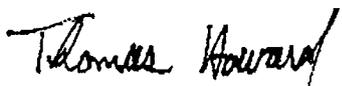
The State Water Board is encouraging diverters to work together to reach local voluntary agreements that not only provide solutions that help local communities with water shortages, but also prevent injury to other legal users of water and do not cause unreasonable effects on fish and wildlife. If you have any questions, please call our Curtailment Hotline at (916) 341-5342, contact us by email at: [SWRCB-Curtailment-Certification@waterboards.ca.gov](mailto:SWRCB-Curtailment-Certification@waterboards.ca.gov), or review our drought year webpage at: [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/drought/index.shtml#notices](http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/index.shtml#notices)

The State Water Board also encourages water right holders to assist in the prevention of unlawful diversion of water and in discouraging any waste or unreasonable use of water. To assist the State Water Board, you may file a complaint at:

[http://www.dtsc.ca.gov/database/CalEPA\\_Complaint/index.cfm](http://www.dtsc.ca.gov/database/CalEPA_Complaint/index.cfm)

We recognize the burden the drought creates, and want to assure that others do not illegally benefit from your curtailments.

Sincerely,



Thomas Howard  
Executive Director

EDMUND G. BROWN JR.  
GOVERNORMATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## State Water Resources Control Board

July 15, 2015

### **PARTIAL RESCISSION OF APRIL, MAY AND JUNE 2015 CURTAILMENT NOTICES AND CLARIFICATION OF STATE WATER BOARD POSITION RE: NOTICES OF UNAVAILABILITY OF WATER FOR THOSE DIVERTING WATER IN THE SACRAMENTO RIVER WATERSHED, SAN JOAQUIN RIVER WATERSHED AND DELTA, AND SCOTT RIVER**

The State Water Resources Control Board (State Water Board) issued two letters earlier this year (January 23, 2015 and April 2, 2015) advising persons of the drought and the resulting lack of surface water availability. These letters were issued to facilitate planning for diversions during critical water supply shortages.

In addition to the planning letters, the State Water Board staff has issued notices to specific water diverters alerting categories of users that information available to the State Water Board staff indicates there is insufficient water available to divert under the priority of their water rights. These notices were issued as follows:

#### **Sacramento River and Delta**

- o May 1, 2015: All post-1914 rights (concurrent with term 91 curtailment); and
- o June 12, 2015: All appropriative water rights with a priority date between 1903 and 1914.

#### **San Joaquin River**

- o April 23, 2015: All post-1914 appropriative rights; and
- o June 12, 2015: All appropriative water rights with a priority date between 1903 and 1914.

#### **Additional San Joaquin River Sub-watersheds**

- o June 26, 2015: Appropriative rights in the Upper San Joaquin watershed with a priority date senior to 1903;
- o June 26, 2015: Appropriative rights in the Merced watershed with a priority date between 1858 and 1902; and
- o June 26, 2015: Four appropriative rights in the Tuolumne River watershed.

#### **Scott River**

- o April 23, 2015: All Decreed Surplus Class Rights, Post-1914 rights, and Priority class 2 water rights in Schedule D4.

You received one of the above notices because information available to the State Water Board, of which you may not be aware, indicates there is insufficient water to divert under the priority of your right. The notice was provided to ensure that diverters: (a) are aware of the severity of the situation; (b) have reliable information regarding the amount of water available for their diversion; and (c) have information on whether water that may appear to be available instead is only available to serve senior rights (expressed in the notices as priority of rights).

The purpose of this notice is to rescind the "curtailment" portions of the unavailability notices you received. To the extent that any of the notices described above contain language that may be construed as an order requiring you to stop diversions under your affected water right, that language is hereby rescinded. Similarly, any language that may be construed as requiring affected water right holders to submit curtailment certification forms is hereby rescinded.

Please note that information available to the State Water Board continues to indicate that there is insufficient water available for the categories of junior water users identified in the State Water Board's prior correspondence, identified above. If you believe you received this notice in error, or have

information that you want to provide in response to this notice, or have information you believe the State Water Board staff should otherwise consider, you may submit that information via email to:  
[SWRCB-Drought-Availability@waterboards.ca.gov](mailto:SWRCB-Drought-Availability@waterboards.ca.gov)

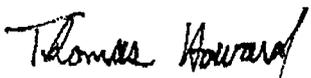
Diversion is always subject to water availability limitations, and diversions under your affected water right may be subject to enforcement should the State Water Board find such diversions are or were unauthorized. The State Water Board is continuing its drought-year inspections to determine whether diverters are using water to which they are not entitled.

**Diversion when there is no available water under the priority of your right is an unauthorized diversion and use and is subject to enforcement by the State Water Board.** Those who are found to be diverting water beyond what is legally available to them may be subject to administrative penalties, cease and desist orders, or prosecution in court. If the State Water Board finds following an adjudicative proceeding that a person or entity has diverted or used water unlawfully, the State Water Board may assess penalties of up to \$1,000 per day of violation and \$2,500 for each acre-foot diverted or used in excess of a valid water right. (See Water Code, §§ 1052, 1055.) Additionally, if the State Water Board issues a Cease and Desist Order against an unauthorized diversion, violation of any such order can result in penalties of up to \$10,000 per day. (See Water Code, §§ 1831, 1845.) Any State Water Board enforcement action will be based upon the availability of water and be consistent with the reasonable and beneficial use requirement contained in article X, section 2 of the California Constitution. This notice does not establish or impose any new compliance responsibilities. Non-compliance with this notice shall not constitute a basis for the State Water Board's initiation of any enforcement action.

Consistent with the partial rescission of the prior notices, you are not required to complete and file the Curtailment Certification Form (Form) attached to the prior notices. The prior notices stated that there are no exceptions to curtailment, but provided opportunity for persons to inform the State Water Board, through the Form, whether they were under directives issued by the Division of Drinking Water or local health or drinking water regulation to provide continued water service to meet minimum health and safety standards. Although you are not required to complete the Form, you can voluntarily advise the State Water Board of directives regarding your domestic water system operation to facilitate the State Water Board's response to the drought conditions.

The State Water Board also encourages water right holders to assist in the prevention of unlawful diversion of water and in discouraging any waste or unreasonable use of water. To assist the State Water Board, you may file a complaint at: [http://www.dtsc.ca.gov/database/CalEPA\\_Complaint/index.cfm](http://www.dtsc.ca.gov/database/CalEPA_Complaint/index.cfm)  
We recognize the burden and loss that California's historic drought is causing, and want to assure that others do not illegally benefit from your compliance with the Water Code.

Sincerely,



Thomas Howard  
Executive Director