

CALIFORNIA CATTLEMEN'S ASSOCIATION

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June 30, 2014

Mrs. Felicia Marcus
Chair, State Water Resources Control Board
1001 I Street
Sacramento, CA 95814



Dear Chair Marcus,

The California Cattlemen's Association (CCA) appreciates the opportunity to comment on the proposed resolution and emergency regulation authorizing the State Water Resources Control Board (SWRCB) to issue curtailment notices for all diversions, regardless of right. Regrettably, CCA is strongly opposed to the adoption of the resolution and emergency regulation and would urge you to reject the staff proposal outright.

Although CCA recognizes the ongoing impacts of the drought are severe, the proposed regulation is unnecessary and will further complicate the efforts of the SWRCB to protect senior water rights. Statute and California law provide a clear framework for the SWRCB's role in administering post-1914 appropriative rights however the SWRCB's authority to curtail pre-1914 appropriative or riparian rights is much more complex.

Issuing curtailment notices for these senior rights under an emergency regulation without a proper hearing or further methods of due process is unfitting and inappropriate. California ranchers depend on the use of water granted to them by right to raise and care for their livestock. Without the use of this water, ranchers will be forced to liquidate cattle which will severely threaten their ability to economically survive in the future. Such an extraordinary action taken by the SWRCB will unnecessarily cause further controversy and should absolutely be avoided.

Should curtailment notices be necessary for pre-1914 appropriative or riparian rights, individual evidentiary hearings should be held for each case to ensure senior water rights are given the protection they deserve. Avoiding the "one size fits all" approach that has been proposed by staff will also help ensure curtailment notices for senior water rights are administered in accordance with the California Water Code and California Constitution.

It also appears that under the emergency regulation the SWRCB seeks to utilize the compulsory compliance reporting provision to rank water rights based on the priority declared by the right holder. Delineating and accurately identifying the priority of water rights is a much more complex process than simply compiling those statements returned under the reporting provision. For example, a process for curtailing junior water rights already exists for adjudicated water rights under an adjudication. An appropriate level of due process is absolutely necessary to ensure that mistakes are not made and simply stated the proposed emergency regulation does not adequately afford this protection.

CCA is also strongly opposed to the compulsory reporting provisions that would authorize the SWRCB to levy a fine against those who do not report compliance with a curtailment order within seven days. Farmers and ranchers throughout California have not been given the time to fully digest the proposed emergency regulation given its release on June 20, 2014. Levying a fine against those who do not report but may not be in violation of a curtailment order is simply inappropriate and should be removed. CCA also questions the authority granted to the SWRCB to establish such a fine without the distinct authorization of the legislature.

For these reasons, CCA would respectfully request you reject the staff proposal.

Sincerely,

Justin Oldfield
Vice President, Government Relations

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PRESIDENT
SUNOL

JACK HANSON
TREASURER
SUSANVILLE

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