



Fact Sheet

Curtailment Orders in the Russian River Watershed

This document is divided into sections providing: 1) an overview of curtailments; 2) the process involved when receiving a curtailment order; 3) information related to getting an exception to curtailment, and 4) enforcement of curtailments. Please also read your curtailment order closely; this fact sheet does not replace or supersede information in the curtailment order, or the underlying emergency regulation. If you cannot find an answer to your question, please contact RussianRiverDrought@waterboards.ca.gov or call (916) 341-5318. This document will be updated as new frequent questions arise.

1. Overview of Curtailments

What is a curtailment order?

A curtailment order is a legal document from the State Water Resources Control Board (State Water Board, or Board) directing a water right holder to stop (curtail) their diversions. In the case of the Russian River, the order is based on authority from an emergency regulation the State Water Board adopted on June 15, 2021. The order describes the facts necessary to support the order (the “findings” section) and the requirements that result from the order (the “it is hereby ordered” section). The order is enforceable under the Water Code; more information on enforcement is available in Section 4.

Why is the State Water Board issuing curtailment orders in the Russian River watershed?

The Board is issuing notices of water unavailability to address the dire drought conditions in the watershed. As discussed at the June 15, 2021 Board meeting and in the related resolution the Board adopted, drought conditions have led to a risk of Lake Mendocino emptying completely by the end of the year. This action follows the [Governor’s April 21, 2021 proclamation](#) that the Russian River watershed is experiencing a drought emergency. There is not enough water for many water right holders due to extremely low flows and dry conditions this year.

Water stored in Lake Mendocino is released downstream to maintain flows in the Upper Russian River, which extends from roughly 20 miles north of Ukiah down to the confluence with Dry Creek near the City of Healdsburg. During dry periods, these storage releases can account for all water in the river. The released water protects



multiple species, including endangered coho salmon and threatened steelhead and Chinook salmon, and supports municipal and agricultural uses.

After an unseasonably dry winter and spring, Lake Mendocino is well below historic storage levels. Diversions require additional releases from the lake to maintain river flow; preserving water in storage ensures the lake can continue to support minimum health and safety needs and threatened and endangered fisheries if dry conditions persist into 2022.

How can people help?

Everyone in the watershed needs to conserve water during this dire drought. This includes individuals who rely on water supplied by others, those that use groundwater, and those that may be using previously stored water. It is unknown how long this drought will continue, and all supplies need to be preserved for as long as possible. If you believe someone is violating a curtailment order and diverting water illegally, please file a complaint and our enforcement staff will investigate the issue. More information on filing complaints is available here: [Water Rights Complaints Website](#). Information on illegal diversions will be critical in prioritizing our enforcement activities. If you believe someone is wasting water, visit savewater.ca.gov to report water waste, such as leaks and overwatering, to your local water agency.

What should diverters expect in the coming months?

Conditions will be closely monitored, and curtailed water right holders will be updated if flows improve and water becomes available. The State Water Board is encouraging diverters to collaborate and help local communities adapt to water shortages, conserve water, prevent impacts to other legal water right users, and benefit fish and wildlife. We will provide updated information on the availability of water on our [Russian River Drought website](#) and through our email subscription list. You can sign up to receive email updates by subscribing to the Water Rights “Russian River Drought” at: http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml.

2. The Curtailment Process

What are the main steps involved in the curtailment process?

- 1) Receive a curtailment order by mail.
- 2) Stop diversions at all points of diversion associated with the water right.
- 3) Respond to the order by completing an online form certifying that you have ceased diversions or will be filing for an exception.
- 4) If seeking an exception to divert for human health and safety needs or because your diversion does not reduce surface flows, complete the applicable online form, described further below.

- 5) Sign up for the Board's email distribution list and monitor the State Water Board's website. This will be the only means for receiving updates on the status of curtailments and when they have ended.
- 6) If continuing to divert under an exception to curtailment, submit additional information based on reporting requirements.
- 7) See Section 4 below for a summary of the steps involved in the enforcement process.

What must water right holders do if they receive a curtailment order?

Right holders who receive a curtailment order must cease diversions. The order becomes effective the day after being issued. As a practical matter, it may take a few days for the order to be mailed to you; you must cease diversions as soon as possible following receipt of the curtailment order, as each day of violation can contribute to fines in an enforcement proceeding.

Right holders must also respond through an online form that is called an [Online Curtailment Certification Form](#). The form will request information about whether you will cease diversions and if you need an exception to the curtailment due to a need to divert water for human health and safety needs. This form must be submitted within seven days of the date the order was issued. If you cannot complete the form within seven days, please submit as soon as possible as each day late is a violation of the regulation and could be the basis for additional investigation of compliance.

What is the due process available to someone that receives an order?

All water right holders subject to a curtailment order will receive a mailed copy of the order. If you believe you received a curtailment order in error, you may submit a petition for reconsideration to the State Water Board. The Board must receive your petition within 30 days of the date of the curtailment order, and the Board's reconsideration will follow the procedure in Water Code sections 1122 to 1124. *You are responsible for complying with a curtailment order, even while a challenge is pending.* Penalties for violating the regulation will continue to accrue unless the Board or a court rescinds the curtailment order.

Violating a curtailment order may result in administrative enforcement. The State Water Board's Office of Enforcement may issue an administrative civil liability (ACL) complaint assessing monetary penalties, a draft cease and desist order (CDO), or both. You would be able to contest the ACL complaint or draft CDO by requesting a hearing before the State Water Board's Administrative Hearings Office (AHO). Following the hearing, the AHO would issue a draft order for public review and comment, then send

the proposed order for approval by the State Water Board. You would have 30 days from the State Water Board's final decision to appeal that decision in court.

How will curtailment orders end?

Under the emergency regulation, water right holders are responsible for signing up for the State Water Board's email distribution list to receive drought notices, water supply forecasts, and updates regarding curtailments—including notice that a curtailment order has been rescinded. Notice that a curtailment has been lifted will not be mailed. You can sign up to receive email updates by subscribing to the Water Rights "Russian River Drought" at:

http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml.

Throughout the drought emergency, the Division of Water Rights will continually monitoring the best available information regarding hydrologic conditions within the Russian River watershed, including the impacts of precipitation events, differences between sub-basins, and fluctuations in water demand during the year. When the best available information indicates that water is now available under one or more water rights that have been curtailed, the Deputy Director will notify water users that the curtailment order has been rescinded using the email distribution list and the State Water Board's drought announcements webpage.

What analysis was used to determine who gets a curtailment order?

For water users in the Upper Russian River watershed, the regulation aims to prevent Lake Mendocino from falling below 20,000 acre-feet by October 1. When Lake Mendocino storage levels fall below the targets specified in section 877.4 and Sonoma Water is releasing water from Lake Mendocino to meet inbasin needs, all diversions from the Upper Russian River watershed must cease except for authorized exceptions, described in further detail below. On August 1, 2021, Lake Mendocino levels were below the 26,109 acre-feet storage target for that date.

For water users in the Lower Russian River watershed, the regulation authorizes the Deputy Director to rely on the best available information to measure available water supply against water demand and evaluate the extent to which junior water right holders must be curtailed to ensure water supplies are adequate to satisfy senior water rights. Consistent with the regulation, the Deputy Director is relying on the Drought Water Rights Allocation Tool (DWRAT) to perform this analysis. For additional information regarding the water availability methodology for the Lower Russian River watershed, please see https://www.waterboards.ca.gov/drought/russian_river/.

Like in the Upper Russian River watershed, curtailed water right holders in the Lower Russian River watershed may seek authorization to continue diversions pursuant to certain authorized exceptions.

3. Exceptions to Curtailment

What exceptions are available?

The regulation provides a pathway for certain diversions to continue even though a curtailment order is in effect. Section 877.1(g) of the regulation describes the water uses that qualify as “minimum human health and safety needs,” such as human consumption and sanitation. Authorization for minimum human health and safety diversions fall into one of three categories:

- Diversions under 55 gallons per person per day (gpcd), which do not require prior approval from the Deputy Director
- Diversions over 55 gpcd, which require a petition and approval by the Deputy Director
- Diversions that cannot be quantified on a gpcd basis, which require a petition and approval by the Deputy Director

Additionally, certain non-consumptive uses that do not decrease downstream flows may continue even though a curtailment order is in effect. Non-consumptive uses and the requirements for continued diversion are detailed in section 878 of the regulation.

Please note that each of these exceptions may come with reporting requirements specified in section 879.1 of the regulation.

How can someone apply for an exception?

The State Water Board has made online forms available for curtailed water users that wish to continue diversions under one of the authorized exceptions. Those forms are available at <https://public.waterboards.ca.gov/WRInfo>. Please note that there are different forms depending on which exception you are seeking. If you are unsure about the appropriate form, please contact Division of Water Rights staff at RussianRiverDrought@waterboards.ca.gov or (916) 341-5318.

What is a non-consumptive use?

In general, a non-consumptive use describes diversion and use that do not decrease downstream flow. Some examples include direct diversion for hydropower that discharges to the same watercourse, or an instream flow dedication pursuant to Water Code section 1707. Section 878 specifies other circumstances that may qualify, as well as requirements for continuing to divert under an authorized non-consumptive use exception.

4. Enforcement of Curtailment Orders

What is the enforcement process?

Those who illegally divert when there is insufficient water under their priority of right are subject to potential enforcement actions, including fines of up to \$1,000 per day and \$2,500 per acre-foot of unauthorized water. Before the board takes enforcement action, diverters are notified and afforded an opportunity for a hearing. Generally, enforcement involves the following steps:

1. Enforcement staff select a site for investigation, possibly based on complaints received, evidence of a violation, or violations of other water rights requirements (such as lack of annual water use reporting).
2. Staff investigate, either through a site visit or a desktop analysis.
3. If the curtailment order has been violated, staff will prepare a draft administrative civil liability (ACL) draft cease and desist order (CDO) and issue it to the water right holder.
4. The water right holder will have 20 days to request a hearing or accept the ACL.
5. Requesting a hearing could result in a proceeding before the State Water Board's Administrative Hearings Office (AHO). More information on the AHO and its processes are available at:
https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/.

Will State Water Board staff be conducting field inspections?

Yes. Locations will be selected based on the availability of staff resources, complaints received, number of water rights violations that appear to be occurring at the site, and magnitude of the continued diversion, among other factors.

(This fact sheet was last updated August 2, 2021)