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## State Water Resources Control Board

AUG 2, 2021

Water Right ID Login: «APPLICATION\_NUMBER»  
Password: «REPORTING\_IDENTIFIER»

«MAIL\_RECEIVER\_NAME»

«MAIL\_RECEIVER\_ADDRESS»

«MAIL\_RECEIVER\_CITY», «MAIL\_RECEIVER\_STATE» «MAIL\_RECEIVER\_ZIP»

### **ORDER TO CEASE DIVERSIONS PURSUANT TO «WATER\_RIGHT\_TYPE» «WaterRight»**

Enclosed with this letter is an Order directing «PRIMARY\_OWNER» to cease diversions under «Water\_Right\_Type» «WaterRight». The Order is being issued pursuant to an emergency regulation adopted by the State Water Resources Control Board (State Water Board) on June 15, 2021, to address water supply shortages in the Russian River watershed. You or your agent are responsible for immediately providing notice of this Order to everyone diverting under «Water\_Right\_Type» «WaterRight». The rest of this letter describes where you can find information about the enclosed curtailment order and what the order requires you to do.

#### **Emergency Regulation**

On June 15, 2021, the State Water Board adopted an emergency regulation for the Curtailment of Diversions to Protect Water Supplies and Threatened and Endangered Fish in the Russian River Watershed (California Code of Regulations, title 23, sections 877 through 879.2) (Regulation). The Regulation was reviewed and approved by the Office of Administrative Law and went into effect on July 12, 2021. The Regulation is available at: [https://www.waterboards.ca.gov/drought/russian\\_river/](https://www.waterboards.ca.gov/drought/russian_river/).

#### **Curtailment of Water Rights in the Russian River Watershed**

The State Water Board is requiring water right holders in the Russian River Watershed to stop diverting under their water rights until water supply conditions improve in the watershed and there is no longer a risk to water supplies for minimum human health and safety needs or for injury to senior diverters. Rescission or modification of the enclosed curtailment order will be posted on the State Water Board website and can be accessed from [https://www.waterboards.ca.gov/drought/russian\\_river/](https://www.waterboards.ca.gov/drought/russian_river/). Updated information will also be issued through an email distribution list. You should visit the following website and subscribe to "Russian River Drought" at: [https://www.waterboards.ca.gov/resources/email\\_subscriptions/swrcb\\_subscribe.html](https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html)

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E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

### **Exceptions to Curtailment**

If your diversion is your only source for human health and safety purposes or the diversion is non-consumptive, then it may be authorized pursuant to section 878 (if use is non-consumptive) or section 878.1 (if the use is for a minimum human health and safety need) of the Regulation. If you are seeking an exception to continue these diversions, you must submit additional information to the Board using the forms available at <https://public.waterboards.ca.gov/WRInfo>.

### **Required Response - Curtailment Certification Form**

Within seven calendar days of issuance of this curtailment order, **all water right holders or their agents receiving this order are required to submit, under penalty of perjury, an Online Curtailment Certification Form (Form)**. The Form confirms cessation of diversion under your water right and whether you are pursuing an exception to the curtailment order. Timely and accurate completion of the Form can avoid unnecessary enforcement proceedings. Your login and password are given at the top of this letter. Complete the Form at <https://public.waterboards.ca.gov/WRInfo>.

### **Potential Enforcement:**

Those who are found to be diverting water beyond what is legally available to them, or violating the enclosed order or the Regulation, may be subject to administrative fines, a cease and desist order, or prosecution in court. The State Water Board may levy fines of up to \$1,000 per day of violation and up to \$2,500 for each acre-foot diverted or used in excess of a valid water right. (See Water Code §§ 1052, 1055, 1846.) Additionally, if the State Water Board issues a cease and desist order, violation of any such order can result in a fine of \$10,000 per day. (See Water Code, §§ 1831, 1845.) Additional penalties may apply based on the specific circumstances of the violation.

### **Request for Reconsideration:**

You may submit a petition within 30 days to request that the State Water Board reconsider the enclosed order. The process and grounds for reconsideration are provided by California Code of Regulations, title 23, sections 769 through 771. If you have any questions, please review the fact sheets and FAQs available at the websites listed above, or contact us at [RussianRiverDrought@waterboards.ca.gov](mailto:RussianRiverDrought@waterboards.ca.gov) or (916) 341-5318.

Sincerely,

Erik Ekdahl, Deputy Director  
Division of Water Rights

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

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**IN THE MATTER OF «WATER\_RIGHT\_TYPE» «WaterRight» OF  
«PRIMARY\_OWNER»**

**CURTAILMENT ORDER FOR DIVERSION OF WATER FROM  
THE UPPER RUSSIAN RIVER WATERSHED**

**ISSUED AUGUST 2, 2021**

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**FINDINGS:**

1. On April 21, 2021, Governor Gavin Newsom issued an executive order declaring a drought State of Emergency in Mendocino and Sonoma counties due to severe drought conditions in the Russian River Watershed. The April 2021 Proclamation finds that it is necessary to act expeditiously to mitigate the effects of drought conditions in the Russian River Watershed, both to ensure the protection of health, safety, and the environment and to prepare for potential sustained drought conditions.
2. On June 15, 2021, the State Water Resources Control Board (State Water Board, or Board) adopted an emergency Regulation for the Curtailment of Diversions to Protect Water Supplies and Threatened and Endangered Fish in the Russian River Watershed (California Code of Regulations, title 23, sections 877 through 879.2) (Regulation). The resolution adopting the Regulation describes the need for the Regulation and its intent; the resolution is incorporated by reference into this Order. The Regulation was approved by the Office of Administrative Law and filed with the Secretary of State on July 12, 2021.
3. The Regulation section 877.1 establishes definitions for the Upper Russian River watershed. Sections 877.3 and 877.4 of the Regulation establish the circumstances under which curtailment orders in the Upper Russian River Watershed will be issued. If storage targets specified in section 877.4 are not met by the specified dates and Supplemental Storage Releases are being made from Lake Mendocino to meet Inbasin Uses, the Deputy Director may issue curtailment orders to water right holders in the Upper Russian River Watershed.
4. As of July 26, 2021, storage levels in Lake Mendocino were 26,097 acre-feet based on data available at the California Data Exchange Center (CDEC) for the Coyote Valley Dam station (Station ID COY). This storage level is below 26,109 acre-feet

before August 1, the storage threshold identified in section 877.4, subdivision (c) of the Regulation. Storage levels have continued to decline since this date. Reservoir releases from Lake Mendocino, as indicated by CDEC for Station ID COY, have been greater than flows measured at the United States Geological Survey stream monitoring site on the East Fork of the Russian River near Calpella (site ID 11461500) since May 7, 2021. The releases from Lake Mendocino since May 7, 2021 have been for the purpose of maintaining flows along the mainstem of the Upper Russian River pursuant to the requirements of Permit 12947A, and as modified by an February 11, 2021 Order from the Division, and subsequently modified by Order WR 2021-0056-Exec, dated June 14, 2021. Taken together, these circumstances indicate that Lake Mendocino storage levels are below the thresholds identified in section 877.4, subdivision (c) of the Regulation, and that Supplemental Storage Releases are occurring to meet Inbasin Uses. Those Supplemental Storage Releases are expected to continue until there is precipitation in the Russian River Watershed.

5. Based on the information provided above, the Deputy Director has determined that the conditions provided in section 877.3, subdivision (c) of the Regulation are occurring. The Regulation's prerequisites for issuance of curtailment orders within the Upper Russian River Watershed have been met.

**IT IS HEREBY ORDERED:**

1. This curtailment order shall be effective on August 3, 2021.
2. Diversion of water pursuant to «Water\_Right\_Type» «WaterRight» shall cease on August 3, 2021, or upon delivery of this Order, whichever is later. Diversions under this right may be permitted to continue only if authorized under an exception to curtailment as described by sections 878 or 878.1 of the Regulation.
3. In accordance with section 877.3, subdivision (d) of the Regulation, water rights holders or agents of record who receive this Order are responsible for immediately providing notice of this Order to all diverters exercising the water right covered by this Order.
4. «PRIMARY\_OWNER» or its agent is required, within seven calendar days of issuance of this Order, to submit under penalty of perjury an Online Curtailment Certification Form (Curtailment Certification) in accordance with section 879. The Curtailment Certification shall be accessed via the following website link:  
<https://public.waterboards.ca.gov/WRInfo>.
5. If an exception to curtailment is needed to continue diverting for minimum human health and safety needs as authorized by Regulation section 878.1, «PRIMARY\_OWNER» or its agent shall submit either a certification or a petition using the forms available at: <https://public.waterboards.ca.gov/WRInfo> in addition to

completing the Curtailment Certification.

6. «PRIMARY\_OWNER» shall receive all subsequent modifications to this Order through electronic notification via information issued through the State Water Board's email distribution list or as posted to the State Water Board's Russian River Drought Response website at [https://www.waterboards.ca.gov/drought/russian\\_river](https://www.waterboards.ca.gov/drought/russian_river).
7. Violation of this Order shall be subject to further enforcement and any applicable penalties pursuant to Water Code sections 1052, 1058.5, 1831, 1845, 1846. To the extent of any conflict between the requirements of this curtailment order and any other applicable orders or conditions of approval, the diverter must comply with the requirements that are most stringent.
8. Nothing in this Order is intended to or shall be construed to limit or preclude the State Water Board from exercising its authority under any statute, regulation, ordinance, or other law, including but not limited to, the authority to bring enforcement against diverters for unauthorized diversion or use in violation of Water Code section 1052.
9. Nothing in this Order shall excuse individual water right holders from meeting any more stringent requirements that may be imposed by applicable legally binding legislation, regulations, or a water right permit requirement. This Order does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A sections 1531 to 1544). If a "take" will result from any act authorized under this Order, the diverter shall obtain authorization for an incidental take prior to construction or operation. Diverter shall be responsible for meeting all requirements of the applicable Endangered Species Act for the long-term changes authorized under this Order.

#### STATE WATER RESOURCES CONTROL BOARD

Erik Ekdahl, Deputy Director  
Division of Water Rights

Dated: August 2, 2021