
State Water Resources Control Board

April 23, 2015

NOTICE OF UNAVAILABILITY OF WATER AND NEED FOR IMMEDIATE CURTAILMENT FOR THOSE DIVERTING WATER UNDER A JUNIOR PRIORITY CLASS RIGHT IN THE SCOTT RIVER WATERSHED SUBJECT TO DECREE NO. 30662

Background:

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.

Curtailment of Junior Class Water Rights:

The State Water Resources Control Board (State Water Board) has been monitoring the flow conditions in the Scott River watershed. Due to limited precipitation and snowpack, the current flows are insufficient to satisfy diversion demands under senior rights. Your water right is a junior priority class right identified in the Scott River Adjudication Decree 30662 (Decree) as either: (1) a Priority 2 Class Right in Schedule D-4 of the Decree, (2) a Post-1914 Appropriative Right in Schedule E of the Decree, or (3) a Surplus Class right¹. With this notice, the State Water Board is notifying you of the need to immediately stop diverting under your junior priority class water rights.

This condition of curtailment will continue until water conditions improve and/or senior priority class water rights are satisfied. Even if there is water physically available at your point of diversion, that water is necessary to meet senior priority class water rights holder's needs and you are not entitled to divert. 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. Permission to initiate diversions during or following significant rainfall events, if issued, will be posted at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/index.shtml#notices.

You can get immediate email updates from the State Water Board about these notices by subscribing to the Water Rights "Drought Updates" at:

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

¹ You may also have interest in a senior priority class right of the Decree. If so, this notice applies only to the junior portion of your rights, and not to the senior priority class rights. Please note that the Decree assigns senior rights to most domestic diversions, and assigns all claimants senior rights for stockwatering, firefighting, wildlife, and recreational domestic diversions.

Any curtailment lifting or re-issuance throughout the diversion season will be posted online and issued through the State Water Board's email system; you will not be noticed by mail at your residence. You are highly encouraged to subscribe to the Water Rights email notification system to timely receive updates regarding the status of curtailment.

Compliance Certification Required:

Curtailed diverters are required to document receipt of this notice by completing an online Curtailment Certification Form (Form) within seven days. The Form confirms cessation of diversion under the specific junior priority class water right identified in the decree, and, if applicable, identifies the alternate water supply to be used in lieu of the curtailed water right. You are required to complete the Form for each of your junior priority class water rights identified through this curtailment at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/ewrims/curtailment/2015curt_form.php

Warning of Potential Future Curtailment of Senior Rights:

If you divert water under senior priority class water rights, it is important to conserve water due to declining supplies. If current conditions persist, the State Water Board may curtail additional water rights within the senior priority class.

No Exception for Health and Safety:

There is no exception to the curtailment 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 curtailed water right 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 that are found to be diverting water beyond what is legally available to them may be subject to administrative fines, cease and desist orders, or prosecution in court. The State Water Board may levy fines 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.)

Statement of Diversion and Use Law:

Water Code section 5101 requires, with minor exceptions, that a person who diverts water from a surface stream, spring or subterranean stream must report that diversion by filing an Initial Statement of Water Diversion and Use (Statement) with the State Water Board, followed thereafter by Supplemental Statements, unless the diversion is covered by a permit, license or registration issued by the Division of Water Rights (Division) or the diversion is included in other approved reporting documents submitted to the State Water Board. Because a large portion of the Scott River watershed does not employ watermaster services it is likely your diversion(s) require a Statement(s). Information regarding the Statement program and a link to obtaining the necessary form can be found at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/.

The State Water Board may administratively impose a civil liability in the amount of \$1,000 for the failure to file a Statement for diversions that have occurred since 2009, plus \$500 per day for each additional day on which the violation continues if the person fails to file a Statement within 30 days after the State Water Board has called the violation to the attention of that person (Water Code § 5107, subd. (c) (1)). Therefore, if you are diverting water that must be reported by filing a Statement, you should immediately file this form with the Division.

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 impacts 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, or review our drought year webpage at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/index.shtml

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.

We recognize the burden and loss this notice creates for you during the drought, and want to assure that others do not illegally benefit from your curtailments.

Sincerely,



Thomas Howard
Executive Director

cc: See next page.

Notice of Curtailment
for the Scott River

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cc: Ms. Patricia A. Grantham
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Siskiyou County Board of Supervisors
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Mr. Ric Costales
Natural Resources Specialist
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Mr. Tom Menne, Chair
Scott Valley Groundwater Advisory Committee
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Ms. Carolyn Pimental
District Manager
Siskiyou County Resource Conservation District
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Ms. Betsy Stapleton, Chair
Scott River Watershed Council
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Ms. Lisa Vanatta
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National Marine Fisheries Service
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Ms. Erin Williams
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U.S. Fish and Wildlife Service
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