



Fact Sheet

Water Right Holders Likely to Face Curtailment in 2015

California is experiencing one of the driest periods in the state's recorded history. Governor Brown Jr. proclaimed a drought state of emergency on Jan. 17, directing state officials to take all necessary actions to prepare for water shortfalls and instructed the State Water Board to notify water right holders that they may be directed to cease or reduce water diversions from streams and rivers later this season due to low water conditions.

An informational notice sent out Jan. 23 put water right holders on notice to pay close attention to conditions in their watershed, develop contingency plans for reducing water consumption and to acquire an alternative supply if needed.

If dry conditions continue, specific areas of the state will begin receiving notices in early February to curtail their water use because there isn't enough water in many watersheds to meet the needs of all water right holders.

How Water Rights Work

A water right gives the holder the right to use surface water for beneficial purposes, such as agriculture, municipal water, recreation, and the environment. Water right holders do not own the water, but they have the right to use it.

Water rights are regulated by the State Water Board, and have a pecking order, based on seniority and the type of right, such as riparian rights which are tied to property that is connected to a stream or river. The water right priority system is what determines who gets to use water in times of shortage.

How the Curtailment Process Works

In times of water shortage, if there is enough water for some but not all water right holders, the most junior water right holders are curtailed before restrictions are imposed on more senior water right holders. Again, seniority is determined by the type and age of the water right.

Curtailment of Junior Appropriators

An appropriative water right is for the use of water on non-riparian land (not connected to a river or stream) or for diversion to storage. An appropriative right initiated before 1914 is referred to as a "pre-1914 appropriative right" and is not subject to permit or license requirements. Water right permits and licenses issued after 1914 by the State Water Board are referred to as "post-1914 appropriative rights." In general, holders of appropriative rights are junior to riparian right holders. Among appropriators, shortages are not shared: the rule is

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“first in time, first in right.” The senior appropriator is entitled to divert and use as much water as it has a right to before a junior appropriator is entitled to divert and use any water. If there is insufficient water for senior appropriators and riparians, the junior diverter must stop diverting. For post-1914 appropriative rights priority is based on the date of the application. For pre-1914 appropriative rights, priority is based on when the appropriation was initiated.

Curtailment of Riparian Rights

If supplies are insufficient even with curtailment of all appropriative diversions, riparian diversions must be curtailed. A riparian right allows an owner of land adjoining a watercourse the right to the reasonable and beneficial use of water on the owner's land contiguous to the watercourse. A riparian right cannot be used for storage, and is limited to the natural flow of the watercourse. Among riparians, prior use does not establish a water right priority. If insufficient water is available to meet the needs of all riparians on a watercourse, each must reduce their diversion and use proportionally.

Next Steps

The first step, already taken by the State Water Board, was to send out informational notices to water right holders. The notice, sent out Jan. 17, applies to all water right holders, but is targeted at junior water right holders.

The State Water Board, working with the Department of Water Resources, is assessing conditions and projecting water availability in individual watersheds throughout the state to determine whether, when, and where notices to curtail water diversion and use must be sent.

Water right holders must respond to the notices to confirm that they have stopped water diversions. The State Water Board will monitor watersheds subject to curtailment to assure compliance with the notice.

Failure to comply with the curtailment notice could make the water right holder subject to an Administrative Civil Liability complaint, which could include monetary penalties, or the matter could be referred to the Attorney General's Office for action.

The process is designed to protect the health and safety of California residents, and ensure that water is allocated in an orderly way based on the seniority of the water rights.

Information on the [water rights process](#).

Information on what the State Water Board is doing in response to [drought conditions](#).

(This fact sheet was last updated January 29, 2015)