

California farmers in line for more drought cutbacks

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California's water regulators spent last week hammering cities and suburbs, implementing first-ever cutbacks in urban water use in response to the state's prolonged drought.

Now they're turning their attention back to agriculture.

State Water Resources Control Board officials said Monday that they expect to issue "curtailment orders" soon to the state's most senior water rights holders, effectively shutting off the flow of river water to some of the major agricultural districts in California.

The senior holders are mostly agricultural districts that enjoy rights that are off-limits to regulators except for the most dire circumstances. It's a measure of the severity of California's drought, now in its fourth year, that those senior rights are about to get cut off. The last time that happened was during another punishing drought in the late 1970s.

"We're talking weeks, not months," before a decision is made, said water board Chairwoman Felicia Marcus in a meeting with reporters and editors of The Sacramento Bee. The board first signaled [more than a month ago](#) that senior rights would be curtailed.

Agency officials said the timing of the decision will depend on up-to-the-minute changes in supply and demand for water. Last week's rains, mild as they were, "pushed things back a bit," said Caren Trgovcich, the agency's chief deputy director.

"We want to make sure we don't cut it off sooner than we need to," Trgovcich said. "We're really watching the weather, is what we're doing. We're watching the (river) flows."

The orders will mark the next chapter in what's shaping up as another grim summer for California's \$40 billion-a-year farm economy. Farmers get their supplies from a variety of sources, including groundwater and surface water piped in by the state and federal governments via a statewide network of canals and reservoirs. The curtailment orders would affect surface water only.

The practical impact of the curtailment orders, however, remains to be seen. In one of the many wrinkles found in California's complex system of water rights, the state can't touch water that farmers have tucked into storage behind dams at Shasta Lake or other reservoirs. That's happened already at some agricultural districts.

"Many water rights holders knew this was coming," water board spokesman George Kostyrko said.

The South San Joaquin Irrigation District is among those senior rights holders that have stored water in advance of the state's orders. "It won't have an impact on us," said Jeff Shields, general manager of South San Joaquin.

That doesn't mean all farm districts will simply accept the state's decision. Shields and Andy Christensen, general manager of the Woodbridge Irrigation District near Lodi, said they expect multiple agencies to sue the water board to challenge its ability to curtail their rights.

"This is a constitutional issue," Christensen said. "I think it is going to be tested in court."

Already, many agricultural districts have seen dramatic cutbacks in deliveries from the two main man-made delivery systems, the State Water Project and the federal government's Central Valley Project. On May 1, the state water board issued [curtailment notices to thousands of junior](#) rights holders, ordering them to stop diverting water from the

rivers.

“From a hydrology standpoint, that ... no water is available is pretty remarkable,” said Kevin O’Brien of the Downey Brand law firm in Sacramento, who represents multiple agricultural water districts bracing for a cutoff.

All told, industry representatives say agriculture has lost about one-third of its surface water this year. Groundwater helps mitigate the pain, enabling many farmers to stitch together irrigation for their crops, but a new groundwater-regulation law will curb farmers’ ability to pump without limits in the coming years. Even with groundwater available, farmers statewide expect to fallow several hundred thousand acres of land this year, depressing crop production in rice, tomatoes and other commodities.

That follows a pattern similar to last year, when [420,000 acres were idled](#). That was 5 percent of the total.

“Agriculture has borne the brunt of this drought for well over a year,” Marcus said.

California water is apportioned through a complicated legal system that effectively grants senior rights to the users that began drawing water out of the rivers the earliest. Generally speaking, senior rights holders are those who established a claim before the state’s rights system was formally established in 1914.

Junior rights holders must be cut off before the state can begin curtailing those with senior rights. The result is a polyglot in which some agricultural districts fare pretty well while others are cut off from their surface water supplies altogether. “The pain is felt unevenly,” Marcus said.

Even with the curtailment orders coming, many agricultural districts will maintain the bulk of their water supplies. For instance, many agricultural agencies in the Sacramento Valley are “settlement contractors” whose ability to access river water was obliterated by construction of Shasta Dam in 1945. In return for giving up the claim to that water, they made deals with the U.S. Bureau of Reclamation so their water deliveries are guaranteed at a minimum 75 percent.

One of those districts, the Glenn-Colusa Irrigation District, expects to take more than 33,000 acres of land out of production this year. That’s about one-half of the district’s total acreage, said general manager Thad Bettner.

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By the numbers

100: The number of years since California established its water rights permit process.

More than 4,000: The approximate number of people, businesses and governments that hold pre-1914 or riparian water rights.