

# Mandatory usage cuts loom even for those with senior water rights

In the 1976-77 drought, the state ordered growers with some of the oldest water rights in California to stop pumping from many rivers and streams. Now, in a sign of the spreading pain of another punishing drought, regulators are preparing to do the same thing.

The State Water Resources Control Board halted diversions last summer by many so-called junior rights holders — those whose claims date back only as far as 1914. In the last month, the board ordered some 9,000 junior rights holders in the Sacramento and San Joaquin river basins to stop diversions this summer.

Now the board is expected soon to move further up the rights pecking order and require that some with pre-1914 claims shut off their pumps.

[Protesters demand Nestle halt water bottling amid drought](#)

Caption Protesters demand Nestle halt water bottling amid drought

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Exactly how many rights will be curtailed and where is still under evaluation, Kathy Mrowka, the state board's program manager for water rights enforcement, said Thursday.

"We're still doing the math," Mrowka said. "It's really difficult."

The board has been closely monitoring stream flow and supply and demand in the San Joaquin River watershed to decide when to issue the order.

It will mark the first time in nearly four decades that regulators have reached so far back in a water-rights hierarchy that is as old as California. If conditions worsen over the summer, their reach could spread to other watersheds and go back even further.

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Under California's system, the cuts are based on seniority. Those who have younger claims have to stop taking water from rivers and streams so there is enough flow left to satisfy the demand of those with older claims.

The most senior rights holders in California are a mix of farmers, irrigation districts, utilities with hydropower stations, and cities, including San Francisco.

It is unclear if or when San Francisco would be affected. Moreover, growers and cities that have to stop diverting can

continue to use water they have in storage or pump from wells. Hydropower plants that return water to rivers are exempted from curtailments. And those with land abutting rivers and streams — so-called riparian rights holders — would be the last cut.

In yet another twist in the state's convoluted water system, some large irrigation districts with senior rights have long-standing agreements with the big government projects and would not be subject to the curtailments.

Those with pre-1914 rights have largely been spared the draconian cuts that have hit most of the Central Valley's growers. For the second year in a row those farmers are getting no federal irrigation deliveries, forcing them to fallow hundreds of thousands of acres of cropland and ramp up their groundwater pumping.

But as the drought dragged into its fourth year and the snowpack hit record lows, cutbacks have spread. Gov. Jerry Brown last month ordered towns and cities to reduce overall water use by 25%, the first such mandatory restrictions in California history, and the board started sending signals that senior rights were next.

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Farmers in the Sacramento-San Joaquin Delta with prized riparian rights are trying to head off curtailments by striking a deal with the state. They have offered to either reduce their diversions by 25% or idle a quarter of their cropland. The water board, which has said it is open to voluntary cutbacks, could decide as early as Friday whether to approve the arrangement.

It would be up to individual delta growers to join the program. If they didn't they would be subject to any future curtailment orders.

"Most of the people I talked to are going to do it," said George Hartmann, a Stockton-based attorney who is involved in the negotiations. It was standing room only at a Thursday meeting of about 500 growers who gathered to discuss the deal, he said.

John Herrick, general manager of the South Delta Water Agency, said a voluntary program could be expanded beyond the delta, to anyone holding riparian rights.

"We're talking about the delta, but I think they would apply it in other areas," he said. "So, without using a pejorative term, it's a get out of jail free card."

Delta farmers have long been at war with the San Joaquin Valley growers supplied by the federal Central Valley Project, which exports water from the delta, along with the State Water Project that sends water to Southern California.

The exporters have claimed some of their water, released from upstream dams in the Sacramento and San Joaquin basins, is being taken by delta growers who have no right to it. And delta residents complain the export operations are lowering the quality of their irrigation waters by sucking vast amounts of fresh water out of the delta.

"The water board was encouraging us to engage in voluntary actions rather than them having to wield a sledgehammer," Hartmann said. "A lot of the impetus for doing this is a desire by the water board and many other people to change the water dialogue in California, to see if we can move toward a new dialogue with a lot less fighting and litigating and a lot more cooperating.

"If the state curtails riparians it's going to get litigated," he said. "But we won't know the outcome for five, 10 years."

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