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Senior water rights curtailed in Delta

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Local Guides

- Second time in history for such cuts
- Insufficient water available for some senior water right holders



For the just the second time in history, those holding certain “senior” water rights are being ordered to curtail use of surface water by the State Water Resources Control Board.

The Board says there is insufficient water available for senior water right holders with a priority date **of 1903 or later** in the San Joaquin and Sacramento watersheds and the Delta. The need for further curtailment of more senior rights and curtailments in other watersheds is being assessed weekly, it says.

Notices are being sent to water right holders that direct recipients to stop diversions of water to protect more senior water rights and releases of previously stored water, as required by state law. Diversion of water when water is not available under the right holder’s date of priority is unauthorized and unlawful.

Violations are subject to fines up to \$1,000 per day and \$2,500 per acre-foot of water unlawfully diverted, cease and desist orders, or prosecution in court, warns the board.

Senior water right holders with priority dates earlier than 1903 in the affected watersheds can continue to divert water in accordance with their water right. In addition, those who have previously stored water under a valid right may continue to hold that water or release it for beneficial use.

While this is the first time during the current drought that senior water right holders have been given notice that

water is not available to serve their water right priority, it is not unprecedented. Some senior water right holders were curtailed during the drought of the late 1970s.

Water Rights Affected by This Notice

Friday's curtailment notices affect 276 pre-1914 appropriative water rights held by 114 right holders. *They do not affect any riparian right holders.* The water rights affected include:

- On the Sacramento River, 127 water rights with a priority date of 1903 or later are curtailed, affecting water rights held by 86 right holders.
- On the San Joaquin River, 24 water rights with a priority date of 1903 or later are curtailed, affecting water rights held by 14 right holders.
- In the Delta, 125 water rights with a priority date of 1903 or later are curtailed, affecting water rights held by 14 right holders.

Uses To be Curtailed

The following uses are listed for the pre-1914 water rights affected by today's notices:

- 135 water rights held by 53 right holders for irrigation, stockwatering, and/or livestock as the sole water use; and
- 208 water rights held by 80 right holders for irrigation, stockwatering, or livestock as at least one of the claimed water uses.

The water board says its decision is based on reported diversion demands, estimates of natural flows and actual stream flows. Conditions in these and other watersheds continue to be monitored, and curtailment notices for other watersheds and for more senior water right holders in these watersheds may be imminent.

Some water right holders may have other, more senior rights to fall back on, or have water stored in reservoirs that they can still access. If that's not available they will have to find other sources of water, such as groundwater or purchased water, if available. Water right holders are cautioned that groundwater resources are significantly depleted in some areas.

Background

California water rights law is based on seniority. In dry years, when there isn't enough water in the system to serve all water right holders, those with more junior rights are required to stop diverting water from rivers and streams before restrictions are imposed on more senior right holders.

The Water Commission Act of 1913, which took effect in

1914, created California's system of water rights and the distinction between junior and senior appropriative water rights.

Senior water right holders are those claiming appropriative water rights established prior to the Water Commission Act, and riparian water rights. Riparian water rights are rights granted to owners of land abutting a stream or river. In most instances, riparian rights share equal priority to the available natural flow and have seniority over appropriative water rights (both pre-1914 and post-1914). For appropriative rights, the priority system is based on the concept of "first in time, first in right."

The State Water Board administers California's system of water rights and is authorized to prevent illegal diversions of water. Illegal diversions include taking water at times when there is insufficient water available under the priority of right held by the diverter.

