

California farmers may defy notice to stop irrigating

By SCOTT SMITH Associated Press

Farmers in at least two California irrigation districts are considering whether to ignore a letter from the state calling for historic cuts in water use during the drought, a lawyer said Thursday.

Attorney Steven Herum, who represents two Central Valley irrigation districts serving farmers, said the option is under consideration because the state is backing off the notices issued this month demanding deep cuts.

FILE - In this Aug. 29, 2013, file photo, Micha Berry, with the city of Fresno's water division, unscrews the motor that sits on top of a groundwater well in order to repair the well's pump, in Fresno, Calif. A majority of farmers and others holding some of California's strongest claims to water have missed a deadline to confirm they stopped pumping from rivers and streams, state officials said Monday, June 22, 2015. | Gosia Wozniacka, File AP Photo



He said the confusion has caused the farmers to consider defying the state to keep their orchards alive.

"We're reaching the point of reckoning," Herum said. "I think the farmers and irrigation districts are going to have to take a hard look at the totality and legal consequences of the situation."

State water board attorney David Rose said the state hasn't wavered on the cuts and farmers face significant fines if they are found illegally using water.

Rose said the state letter to rights holders carries the message: "You hold this right. Under our analysis, this right doesn't have water available to it. Be aware."

Herum, however, said attorneys for the state called the curtailment notice "advisory" and a "courtesy notice" in court. He said that amounts to backing off the strongly worded letter that uses coercive language.

Irrigation districts in Oakdale, Manteca, Patterson and Tracy have filed lawsuits seeking to suspend the curtailment notices.

In each case, a judge ruled the disputes need to be heard by a court outside the counties where the farmers work and live as a way to avoid prejudice.

Herum said farmers in the districts he represents have trees that produce more than \$1 billion in almonds and walnuts. They say the cuts would threaten their livelihoods.

The state Water Resources Control Board issued the curtailment notice on June 12 to 114 water users who hold rights dating back to 1903 and have nearly ironclad rights to take water from rivers and streams. At least a third of those with water rights have told the state they stopped pumping.

It is the first time since a drought in the 1970s that senior water rights holders have been told to stop irrigating from rivers.

The notice says violators could be fined \$1,000 a day or \$2,500 for each acre-foot, enough to cover an acre of land a foot deep.