



June 19, 2015

Mr. Edwin Pattison, General Manager  
Mountain House Community Services District  
230 Sterling Drive  
Mountain House, CA 95391

Dear Ed:

RUSSELL KAGEHIRO  
President  
Division V

TIM MAGGIORE  
Vice President  
Division III

LARRY ENOS, JR.  
Director  
Division I

MARK MAGGIORE  
Director  
Division II

FELIX MUSCO  
Director  
Division IV

CHARLES TUSO  
Director  
Division VI

JEFF BROWN  
Director  
Division VII

RICK GILMORE  
General Manager  
Secretary

7995 Bruns Road  
Byron, CA 94514-1625  
Phone: 209-835-0375  
Facsimile: 209-835-2869

As you are aware, the State Water Resources Control Board (SWRCB) has issued a notice to the Byron-Bethany Irrigation District (BBID) informing BBID that there is no water available for diversion under BBID's pre-1914 appropriative water right (Notice). The Notice directs BBID to cease all diversions and expressly states that there is *no exception* for public health and safety. The Notice also threatens significant financial penalties for failure to comply with the purported curtailment. The Notice required certification of compliance within seven (7) days. BBID received the Notice via First Class mail on Monday, June 15, 2015 and therefore must comply by the end of the day Monday, June 22, 2015.

So, and in order to attempt to avoid threatened enforcement and the threatened significant financial penalties associated with failure to comply with the Notice, BBID intends to cease diverting water under its pre-1914 appropriative water rights and will shut down its diversion facility at 12:01am Tuesday, June 23, 2015. The result of BBID shutting down its pumping facility is that BBID will be unable to provide any water to Mountain House.

I encourage Mountain House to request written confirmation from the SWRCB that BBID will not be subject to the enforcement threatened in the Notice in the event BBID continues to divert water to provide to Mountain House. If we do not get that written confirmation by 12:01 am Tuesday, June 23, 2015, we will move forward with the planned shut down of our diversion facilities.

If you have any questions, or require additional information, please do not hesitate to contact me.

Very truly yours,

BYRON BETHANY IRRIGATION DISTRICT

A handwritten signature in blue ink, appearing to read "Rick Gilmore", is written over the typed name.

Rick Gilmore  
General Manager

CC:

Tom Howard, Executive Director, SWRCB

Felicia Marcus, Chair, SWRCB

Frances Spivy-Weber, Vice Chair, SWRCB

Dorene D'Adamo, SWRCB Board Member

Steven Moore, SWRCB Board Member

Tam M. Doduc, SWRCB Board Member

San Joaquin County Office of Emergency Services

Senator Cathleen Galgiani, Senate District 05

Assemblywoman Dr. Susan Talamantes Eggman, District 13



State Water Resources Control Board

June 12, 2015

Byron-Bethany  
Irrigation District

BYRON-BETHANY IRRIGATION DISTRICT  
C/O RICK GILMORE, GENERAL MANAGER  
7995 BRUNS ROAD  
BYRON, CA 94514

In Regards to Claim of Right(s) [ID (password)]: S021256 (407769)

**NOTICE OF UNAVAILABILITY OF WATER AND NEED FOR IMMEDIATE CURTAILMENT FOR THOSE DIVERTING WATER IN THE SACRAMENTO-SAN JOAQUIN WATERSHEDS AND DELTA WITH A PRE-1914 APPROPRIATIVE CLAIM COMMENCING DURING OR AFTER 1903**

On January 23, 2015 and again on April 2, 2015, the State Water Resources Control Board (State Water Board) issued a Notice of Surface Water Shortage and Potential for Curtailment due to dry conditions throughout the State. On April 1, 2015, the Governor issued an executive order, order B-29-15, continuing the state of emergency, initially enacted on January 17, 2014, due to drinking water shortages, diminished water for agriculture production, degraded habitat for fish and wildlife, increased wildfire risk and the threat of saltwater contamination to fresh water supplies in the Sacramento-San Joaquin Delta (Delta).

On April 23, 2015 and May 1, 2015, the State Water Board issued curtailment notices to all post-1914 appropriative water rights in the Sacramento and San Joaquin River watersheds, inclusive of the Delta, due to insufficient projected water supplies. Based on updated water supply projections provided by the Department of Water Resources in early May, the State Water Board is now notifying pre-1914 claims of right, with a priority date of 1903 and later for the Sacramento-San Joaquin watersheds and the Delta, that, due to ongoing drought conditions, there is insufficient water in the system to service their claims of right.

**Curtailment of Certain Pre-1914 Claims of Right Commenced During or After 1903:**

Based upon the most recent reservoir storage and inflow projections, along with forecasts for future precipitation events, the existing water supply in the Sacramento-San Joaquin watersheds and Delta watersheds is insufficient to meet the needs of some pre-1914 claims of right. With this notice, the State Water Board is notifying pre-1914 appropriative claims of right with a priority date of 1903 and later within the Sacramento -San Joaquin watersheds and Delta of the need to immediately stop diverting water with the exceptions discussed below. This condition of curtailment will continue until water conditions improve. Even if there is water physically available at your point of diversion, that water is necessary to meet more senior water right holders' needs or the water may be released previously stored water which must continue instream to serve its intended beneficial use. If precipitation occurs in the following weeks or months, you should not commence diversion before being notified by the State Water Board that water is legally available for diversion under your priority of right. Evaluations for additional curtailments of more senior rights will be made every two weeks through September.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR



**Compliance Certification Required:**

Holders of pre-1914 water right claims with priority dates equal to or later than 1903 are required to document receipt of this notice by completing an online Curtailment Certification Form (Form) within seven days. The Form confirms your cessation of diversion under the specific pre-1914 claim of right. Completion of the Form is mandatory to avoid unnecessary potential enforcement proceedings. You are required to complete the Form for each pre-1914 claim of right identified through this notice at:  
[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/ewrims/curtailment/2015curt\\_form.php](http://www.waterboards.ca.gov/waterrights/water_issues/programs/ewrims/curtailment/2015curt_form.php)

**Exceptions to Curtailment:**

If your diversion is for hydroelectric generation by direct diversion only and all water diverted is returned to the same stream system, you may continue to divert under your pre-1914 claim of right. If you continue to divert under the above circumstances, you must identify that on the Form and provide the information requested. If you have previously collected water to storage in a reservoir covered by a pre-1914 claim of right prior to this curtailment notice, you still may beneficially use that previously stored water. However, you must bypass all inflow into the reservoir at all times during the period this notice remains in effect.

**No Exception for Health and Safety:**

There is no exception to this notice for health and safety needs. However, we are aware that some water users must comply with directives issued by the Division of Drinking Water (DDW), or local health or drinking water regulation to provide continued water service to meet minimum health and safety standards. Should you continue to divert water under a claim of right subject to this notice to meet human health and safety needs, you must complete the Form identifying your health and safety needs, whether there is an applicable DDW, state or local regulation and your attempts at securing an alternate water supply. The State Water Board will carefully analyze the non-exempted continued diversions for minimum health and safety needs on a case-by-case basis.

**Potential Enforcement:**

Those who are found to be diverting water beyond what is legally available to them may be subject to administrative penalties, cease and desist orders, or prosecution in court. If the State Water Board finds following an adjudicative proceeding that a person or entity has diverted or used water water unlawfully, the State Water Board may assess penalties of \$1,000 per day of violation and \$2,500 for each acre-foot diverted or used in excess of a valid water right. (See Water Code, §§ 1052, 1055.) Additionally, if the State Water Board issues a Cease and Desist Order against an unauthorized diversion, violation of any such order can result in a fine of \$10,000 per day. (See Water Code, §§ 1831, 1845.)

The State Water Board is encouraging diverters to work together to reach local voluntary agreements that not only provide solutions that help local communities with water shortages, but also prevent injury to other legal users of water and do not cause unreasonable effects on fish and wildlife. If you have any questions, please call our Curtailment Hotline at (916) 341-5342, contact us by email at: [SWRCB-Curtailment-Certification@waterboards.ca.gov](mailto:SWRCB-Curtailment-Certification@waterboards.ca.gov), or review our drought year webpage at: [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/drought/index.shtml#notices](http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/index.shtml#notices) The State Water Board also encourages water right holders to assist in the prevention of unlawful diversion of water and in discouraging any waste or unreasonable use of water. To assist the State Water Board, you may file a complaint at:

To Water Right Users in the  
Sacramento-San Joaquin Delta,  
Sacramento & San Joaquin River Watersheds

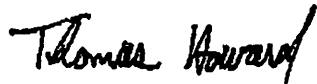
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June 12, 2015

[http://www.dtsc.ca.gov/database/CalEPA\\_Complaint/index.cfm](http://www.dtsc.ca.gov/database/CalEPA_Complaint/index.cfm)

We recognize the burden the drought creates, and want to assure that others do not illegally benefit from your curtailments.

Sincerely,

A handwritten signature in black ink that reads "Thomas Howard". The signature is written in a cursive style with a large, prominent initial "T".

Thomas Howard  
Executive Director