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ENVIRONMENTAL PROTECTION

## State Water Resources Control Board

JUN 18 2021

June 15, 2021

Water Right ID Login: S021256  
Password: 342056

RICK GILMORE, GENERAL MANAGER  
7995 BRUNS ROAD  
BYRON, CA 94514

In Regard to Water Right: S021256

Primary Owner: BYRON-BETHANY IRRIGATION DISTRICT

### **NOTICE OF WATER UNAVAILABILITY FOR POST-1914 WATER RIGHT HOLDERS AND WARNING OF IMPENDING WATER UNAVAILABILITY FOR PRE-1914 AND RIPARIAN CLAIMANTS IN THE SACRAMENTO-SAN JOAQUIN DELTA WATERSHED<sup>1</sup>**

State Water Resources Control Board (State Water Board or Board) records show you hold a pre-1914 appropriative or riparian claim, or you report under a statement of diversion and use. Please note that you will be receiving a similar notice for each water right or claim for which you are listed as the mail receiver.

**Current information indicates that, as of the date of this letter, water supply in the Sacramento-San Joaquin Delta (Delta) watershed is insufficient to support lawful diversion under any post-1914 appropriative water right.** While water may be physically present at post-1914 appropriative water right holders' points of diversion, that water is expected to either be needed by more senior water right claimants downstream or to consist of storage releases necessary to meet other downstream purposes, such as salinity control in the Delta.

Information also indicates that water will become unavailable this summer for some **pre-1914 appropriative water right claimants and riparian claimants.** The State Water Board is currently in the process of evaluating the seniority at which water may be unavailable for pre-1914 appropriative and riparian claimants, and when, and plans

<sup>1</sup> For the purposes of this notice, all registrations and stockpond certificates in the Delta watershed are considered post-1914 appropriative water rights for which water is currently unavailable.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

to issue further notices of water unavailability (notices) via email and to post water unavailability information on the Board's website as described below.

As a water right holder, it is your responsibility to monitor current conditions and pay attention to the information provided by the State Water Board. **Future notices of water unavailability and updated information regarding your water right will be sent by email through the State Water Board's Delta Drought list.** To stay informed and ensure you receive future communications regarding water unavailability for your water right(s), you are **strongly encouraged to subscribe to the Delta Drought list** on the State Water Board's Email Lists webpage at:

[https://www.waterboards.ca.gov/resources/email\\_subscriptions/swrcb\\_subscribe.html](https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html)

Additionally, the State Water Board urges you to frequently visit the following webpage where updated information will also be posted:

<https://www.waterboards.ca.gov/drought/delta/>

The State Water Board is using its Water Unavailability Methodology for the Delta Watershed (methodology) to identify which water rights in the Delta watershed face insufficient supplies for diversion. For more information about the methodology and for ongoing updates as the methodology is refined, please visit the following webpage:

[https://www.waterboards.ca.gov/waterrights/water\\_issues/programs/drought/drought\\_to\\_ols\\_methods/delta\\_method.html](https://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/drought_to_ols_methods/delta_method.html)

### **Request to Complete a Water Unavailability Certification Form**

**If you have a post-1914 appropriative water right**, please submit the Water Unavailability Certification Form (Form) within **seven days** of the date of this letter. If you have a pre-1914 appropriative or riparian claim, you do not need to complete the Form now, but you may be asked to do so in the near future. Please subscribe to the above referenced Delta Drought email list to receive any such future notices. You should not expect to receive hard copy mail notices of future changes in water unavailability that may affect your water right or claim; hard copy mail may be sent for other related matters, but only as required by law or regulation.

The Form requests information about whether you will cease diversions, if you have alternative sources of water, and if you seek an exception due to a need to divert water for human health and safety. Your timely response helps the State Water Board better identify and protect senior water rights and assists all water users to better manage severely limited water supplies.

Please follow the steps below to submit the Form:

1. Visit: <https://public.waterboards.ca.gov>
2. Login using the unique Water Right ID and Password listed next to your address at the top of this letter
3. Complete the Form

**If you have a pending application and you do not have a unique Water Right ID Login and Password**, please download a Form from the State Water Board's website at: <https://www.waterboards.ca.gov/drought/delta/>. Additional instructions for completing and submitting the Form are provided on the website.

If you receive a notice of water unavailability for your water right, the State Water Board may be able to assist you with identifying alternative sources of water or provide an exception on a case-by-case basis. If you divert under any of the following circumstances, you should identify it on the Form and provide the information requested:

- Your diversion is your only source of water to meet human health and safety uses, you have no other water supply, **and** you already conserve as much as possible;
- Your diversion is for a non-consumptive use (e.g., hydroelectric generation) and you return all water you divert to the originating stream on a time step that does not affect availability for other users; or
- You have a contract or transfer order allowing you to divert stored water released from a reservoir.

### **Potential Emergency Regulations and Future Curtailments**

In accordance with the Governor's May 10, 2021 Proclamation of a State of Emergency, the State Water Board is considering emergency regulations to curtail water diversions when water is not available at water right holders' priority of right or to protect releases of stored water. Therefore, emergency regulations may require water right holders, including those diverting under pre-1914 appropriative or riparian claims, to curtail their diversions. As noted above, all water right holders should subscribe to the Delta Drought email list to receive notice of and to participate in the public process for State Water Board consideration and possible adoption of emergency regulations.

### **Potential Enforcement**

This notice is solely informational. It alerts water users that the State Water Board's best available information indicates that water is not available to post-1914 appropriative water rights, and warns pre-1914 appropriative and riparian claimants that water may be unavailable at their claimed priority of right in the near future. It also reminds water users of their obligations under California's water rights system. This notice is not an order or directive from the State Water Board to stop diverting.

California water law provides that you are not authorized to divert when water is unavailable under your priority of right or according to the nature of your right/claim. Diverting water that is not lawfully available for your water right may subject you to a cease and desist order, prosecution in court, or administrative fines as high as \$1,000 per day of violation and \$2,500 for each acre-foot of water you divert or use that is not lawfully available under your water right. (See Wat. Code, §§ 1052, 1055.)

If you have any questions regarding this notice, you may send an email to [Bay-Delta@waterboards.ca.gov](mailto:Bay-Delta@waterboards.ca.gov), or call the Delta Drought phone line at (916) 319-0960. For additional information, visit the State Water Board's drought webpage at: <http://www.waterboards.ca.gov/drought>

Sincerely,

A handwritten signature in black ink, appearing to read "Erik Ekdahl". The signature is written in a cursive style with a large, stylized initial "E".

Erik Ekdahl  
Deputy Director, Division of Water Rights  
State Water Resources Control Board