Helpful Definitions

Water Rights: A water right is a granted permission to withdraw water from a river, stream, or groundwater source for a "reasonable" and "beneficial" use. Water rights vary from very small domestic use water rights to very large state and federal projects to provide water for irrigation districts, hydropower, and cities. Generally speaking, the diversion of surface water, including diversion of water from subterranean streams flowing in known and definite channels, requires a valid basis of right. California recognizes many types of water rights, including riparian (streamside) and appropriative water rights.

Riparian Rights: Land that touches a stream—or a parcel that kept water rights when it was split from a larger parcel that touches a stream—has the right to divert and use the natural flow of surface water for domestic, agricultural, and other beneficial uses as long as other riparian diverters and public trust resources like fisheries are not impaired. A riparian right can only be used to divert the natural flow of surface water. Water may not be diverted during wetter years or months and stored for use during drier years or months.

Appropriative Rights: Someone who takes water for use on non-riparian land or who uses water that would not be there under natural conditions on riparian land appropriates water. Water right certificates, permits and licenses issued by the State Water Board and its predecessors are examples of appropriative water rights.

Beneficial Uses: The beneficial uses of water, pertaining to water rights, are defined in the California Code of Regulations (CCR), title 23, §659-672 and include, but are not necessarily limited to: domestic; irrigation; power; municipal; mining; industrial; fish and wildlife preservation and enhancement; aquaculture; recreational; stockwatering; water quality; frost protection; and heat control.

Public Trust Resources: The State Water Board is responsible for the protection of resources, such as fisheries, wildlife, aesthetics, and navigation, which are held in trust for the public. The State Water Board must consider these responsibilities when planning and allocating water resources, and protect public trust uses whenever feasible. The State Water Board must consider these public trust values in the balancing of all beneficial uses of water in accordance with the Water Rights Mission Statement and Water Code §1253.

Water Rights Resources

For more information about water rights and other requirements related to the diversion and use of water, the following public agencies and organizations can help:

For information on **Water Rights**:

- Mark Matranga, State Water Resources Control Board, Division of Water Rights, (916) 327-3112, *mark.matranga@waterboards.ca.gov*
- Matt McCarthy, State Water Resources Control Board, Division of Water Rights, (916) 341-5310; *Matthew.McCarthy@waterboards.ca.gov*
- Visit: *www.waterboards.ca.gov/waterrights*

For information on **Water Quality**:

- Bryan McFadin, North Coast Regional Water Quality Control Board, (707) 576-2751, *bryan.mcfadin@waterboards.ca.gov*

For questions about permits to install diversion facilities or other structures in the stream:

California Department of Fish & Wildlife

- Jane Arnold, Staff Environmental Scientist (Eureka), (707) 441-5671; *jane.arnold@wildlife.ca.gov*
- For information about filing a Lake or Streambed Alteration Agreement with the Department of Fish & Wildlife, visit: *www.dfg.ca.gov/habcon/1600*

To view a map of all claimed or authorized water diversions in California, go to the **New California Water Atlas:** www.*ca.statewater.org*

State Water Board Electronic Water Rights Information Management System (eWRIMS) Database: *www.waterboards.ca.gov/ewrims*

Water Rights and Storage Frequently Asked Questions: *www.waterboards.ca.gov/waterrights/board_info/faqs.shtml#toc178761088*

This brochure was prepared by:

- Salmonid Restoration Federation: (707) 923-7501; *srf@calsalmon.org; www.calsalmon.org*
- Friends of the Eel River: (707) 822-3342; *foer@eelriver.org; www.eelriver.org*

Know Your Water Rights

Water is a Shared Resource and Public Trust Value

If you're diverting water from a spring or stream, you need to be informed about your water rights and responsibilities.

The State Water Resources Control Board, Division of Water Rights has notified landowners that diverting water without complying with State water rights law could lead to enforcement action and fines of up to $1,000 plus $500 a day.

Compliance with State water law requires filing forms and acquiring permits when needed. The benefits are ensuring your homestead's water security and your land's value, while protecting our region's vital fisheries and wildlife.

Step 1: File a Statement of Diversion & Use

State water rights law requires all people diverting surface waters (springs, streams, and rivers), including diversion of water from subterranean streams flowing in known and definite channels, to file a basic statement that includes the following information related to the diversion: amount, location, method, and basis of water right.

How to File:

Download the Statement of Water Diversion and Use form, available here: *www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/docs/intl_stmnt_form_2013.pdf*

The form is an initial filing. You will be notified every three years to file a supplemental Statement. There is **no fee** to file.

Helpful Tips:

If you can't determine the latitude and longitude, you may indicate on a topographic map the location of your diversion and include this as an attachment. When indicating the rate of your diversion, a rough calculation will suffice, but don't be afraid to get to know your water meter!

What if I Don't File a Statement?

If you received a legal notice and you fail to respond after 30 days, you may be subject to fines of up to $1,000, plus $500 for every additional day of diversion where a Statement of Diversion has not been filed. If you do not have a valid basis of water right, your diversion could be subject to removal, particularly if your diversion is likely to contribute to significant and/or cumulative harms to public trust resources like fisheries.

Who is Exempt From Filing a Statement of Diversion & Use?

A Statement is not necessary if your diversion (1) has a valid basis of ***appropriative*** right, such as a certificate, permit, or license, (2) if a Watermaster files a report that includes the diversion, or (3) if you are diverting from a spring that does not otherwise flow off your property and your combined diversions do not exceed 25 acre-feet per year.

Step 2: Determine If You Need an Appropriative Right

If you cannot divert water under a riparian right, you will need to establish an appropriative water right through the State Water Resources Control Board's Registrations Program.

Register Your Water Storage

Riparian water users have the right to divert water for beneficial use (i.e. domestic or agricultural) on their parcel as long as it doesn't impair other riparian users and other beneficial uses of water including fish and wildlife. If you store winter water for use in the summer, you will need to establish a storage right.

How to Register

To learn more about appropriative rights &/or to download the appropriate form go to: *www.waterboards.ca.gov/waterrights/water_issues/programs/registrations/index.shtml*

Domestic Water Storage Rights

A relatively simple way to secure an appropriative right is to file a Registration of Small Domestic Use, which allows storage of three million gallons. Whether or not you need an appropriative right, it is important for all of us to do our part to protect fish and wildlife. Developing water storage minimizes taking water out of our creeks in the summer. Winter water storage ensures both landowners and fish have enough water in the dry season. The cost is $250 for a five year registration. The Department of Fish and Wildlife may conduct a site visit to provide protective terms for fish and wildlife resources based on site conditions. Here is the link to the small domestic use registration form and instructions. *www.waterboards.ca.gov/waterrights/publications_forms/forms/docs/sdu_registration.pdf*

What if I Don't Register My Water Storage?

You may be asked to remove your water storage system and subsequently draw unwanted attention from state agencies to your neighborhood.

A lake or streambed alteration agreement may also be required by CDFW, this is determined by on the environmental conditions and the project itself. The information and form are here: *www.dfg.ca.gov/habcon/1600/*

Step 3: Fish and Wildlife Protection

Your diversion of water or other alteration of streams (construction or modification of culverts, etc.) may require special notification to the California Department of Fish and Wildlife, which has the job of managing California's fish and wildlife resources and their habitats for their ecological value and enjoyment by the public. DFW issues Lake and Streambed Alteration permits ('1600 agreements') that may put limits on your diversion to ensure that public trust resources, including fish, are protected. From the DFW website:

Notification is required by any person, business, state, or local government agency, or public utility that proposes an activity that will:

- substantially divert or obstruct the natural flow of any river, stream or lake;
- substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake; or
- deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

If your diversion matches any of these criteria, you may need a 1600 agreement. Contact DFW for information on fees (which vary depending on the project) and how to get started:

CA Dept. of Fish & Wildlife
Eureka Office, 619 Second Street, Eureka, CA 95501,
(707) 445-6493

Additional information about filing for a 1600 permit can be found here: *www.dfg.ca.gov/habcon/1600/Forms.html*

What if I Don't File for a 1600 Agreement?

If you don't file for a 1600 agreement and your diversion or other alteration is found to substantially modify a river, stream or lake, you may be subject to a financial penalty and/or the removal of any diversion facilities that are not covered. Additionally, you run the risk of substantial liability for harms to public trust resources, especially fish listed under the state and federal Endangered Species Act.