
State Water Resources Control Board

August 18, 2022

Shasta River Water Association, Inc.



NOTICE OF VIOLATION - FAILURE TO COMPLY WITH CURTAILMENT ORDER

Due to the extreme drought conditions, the State Water Resources Control Board (State Water Board) adopted emergency regulations titled Establishment of Minimum Instream Flow Requirements, Curtailment Authority, and Information Order Authority in the Klamath River Watershed (hereinafter "Regulation") on August 17, 2021, which provides curtailment authority throughout the Klamath River watershed, and establishes minimum instream flow requirements and information order authority in the Scott River and Shasta River watersheds. The Regulation went into effect on August 30, 2021. On June 21, 2022, the State Water Board readopted the Regulation, which went into effect on July 29, 2022. The updated regulation contains a provision that extends previously issued curtailment orders under the amended regulation. (Section 875, subd. (d)(3).)

On September 10, 2021, the State Water Board issued a curtailment order (Order WR 2021-0082-DWR) to the most junior water right holders in the Shasta River, including post-Adjudication appropriative surface water and groundwater rights, as well as surface water rights in the Shasta Adjudication with priority dates later than November 1912. Based on forecasted precipitation and other factors, the State Water Board issued various addenda partially suspending curtailment of water rights in order of priority contingent on the required minimum flow being met and sustained at the Yreka USGS gage. On March 15, 2022, the State Water Board reinstated water right curtailments for the most junior water rights in the Shasta River watershed (Addendum 9). Based on ongoing dry conditions, flows being consistently below the minimum flow requirement, and uncertainties associated with demands from overlying groundwater and riparian claims, the State Water Board issued Order WR 2022-0162-DWR, subjecting more senior water rights to curtailment (to a priority date of April 1, 1885) because the minimum emergency flow requirement cannot be met by the more junior water rights curtailed in Order WR 2021-0082-DWR.

The Shasta River Water Association's (SRWA) water right, defined in paragraph of 341 of the Shasta Adjudication to divert 42.00 cubic feet per second (cfs) from Point of Diversion (POD) 419 from April 1 to October 1 has a priority date of November 25,

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

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1912. This water right is the most senior water right to be curtailed under Order WR 2021-0082-DWR. Until recently, SRWA, in coordination with Watermaster, has been able to manage its diversions in real time and make adjustments as necessary to support the minimum flow requirement at the Yreka gage.

On August 17, 2022, flows began precipitously dropping by over 20 cfs and by August 18, 2022, have dropped over 28 cfs. Flows at Yreka gage have gone from 46.8 cfs on Aug 17, to 18.1 cfs on Aug 18, and are now about 32 cfs below the minimum requirement of 50 cfs. Water Board staff have confirmed with SRWA that they are diverting approximately 30 cfs, notwithstanding the curtailment order. As explained above, the State Water Board recently issued Order WR 2022-0162-DWR, curtailing more senior water rights to a priority date of April 1, 1885 because the minimum emergency flow requirement cannot be met by the more junior water rights curtailed in Order WR 2021-0082-DWR. Accordingly, water is currently not available under SRWA's right. No exemptions or petitions have been approved for SRWA to continue diverting.

Water is not available for SRWA diversion at this time and SRWA must cease diversions immediately.

The Division may issue an Administrative Civil Liability Complaint (ACL Complaint) at its discretion with a potential fine for up to \$500 per day per water right for each day a violation occurs. Further, the Division may consider additional enforcement actions, including issuing a draft cease and desist order, which if adopted could result in additional penalties (see Wat. Code section 1845, subd. (b)(1) [if violation occurs in drought emergency, ten thousand dollars (\$10,000) for each day a violation occurs]), and subject to a petition in superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction.

If you have questions or concerns, please leave a message on the Water Rights Enforcement phone line at (916) 341-5342 or by email at DWR-SiskiyouEnforcement@waterboards.ca.gov.

Sincerely,



Robert P. Cervantes, PE
Program Manager - Enforcement
Division of Water Rights