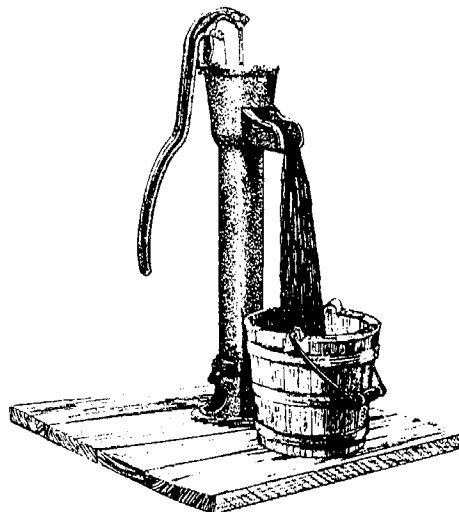




1 1 1



Information Relating to

Recordation of Water Extractions and Diversions

In Riverside, San Bernardino, Los Angeles
and Ventura Counties

91-3 WR
June 1991

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD



STATE OF CALIFORNIA
Pete Wilson, Governor

**STATE WATER RESOURCES
CONTROL BOARD**
*P.O. Box 2000
Sacramento, CA 95812-2000
(916) 322-4503*

*W. Don Maughan, Chairman
Edwin H. Finster, Vice Chairman
Eliseo Samaniego, Member
John Caffrey, Member
Walt Pettit, Executive Director*

Cover:
*Flow of water from a pump
into a bucket indicates
ground water extraction
being recorded.*

Source:
Division of Water Rights

To reorder this publication refer to publication:
91-3 WR Recordation of Water Extractions and Diversions

Recordation of Water Extractions and Diversions

Table of Contents

	Page
General Information	1
Chapter I Description of Program.....	2
Filing Requirements	2
Filing Forms and Procedure	2
First Notice	3
Annual Notice.....	3
Public Access to Records.....	3
Request for Verification	3
Chapter II Water Right Regulations	4
Article 1. Notices of Water Extractions and Diversions	
Section: 1000. Use of Forms	
1001. Separate Notices	
1002. Contents of Notices	
Article 2. Fees	
Section: 1010. Filing Fees	
1011. Effect of Failure to Pay Filing Fees	
1012. Investigation Charges	
Article 3. Investigation and Determination of Facts	
Section: 1020. Notice of Investigation	
1021. Service of Proposed Findings	
1022. Hearing	
1023. Further Procedure	
1024. Shortening of Time	
Chapter III Water Right Statutes	6

General Information

Extensive development of the ground water resources of the State, especially in Southern California, has resulted in an increasing overdraft of these resources. Under these conditions the necessity of accumulating information which will enable protection of the water rights of users, and minimize the expense and delay in event of a comprehensive adjudication is urgent.

Generally no administrative procedure exists for the determination of rights to ground water. Such determination can only be attained by adjudication through the courts, although the State Water Resources Control Board may assist the courts by acting as referee. Recordation of water extractions and diversions, pursuant to Part 5, Division 2 of the Water Code, provides a means for public notice of water use. This information will materially assist in establishing the rights of users to water in the event a judicial determination of rights is invoked to assure orderly and efficient use of water from a common ground water source.

The purpose of the Legislature in adopting Part 5, Division 2 of the Water Code and restricting its territorial operation is expressed in Section 4999, as follows:

"The Legislature finds and declares that by reason of the combination of light rainfall, concentrated population, the transition of considerable areas of land from agricultural use to urban use, and a similar dependence on ground water supplies, which prevails in the Counties of Riverside, San Bernardino, Los Angeles, and Ventura, together with the fact that most such underground water supplies are overdrawn, it is necessary that the provisions of this part apply to said counties only."

This publication is provided to assist those persons in the four affected counties to understand and comply with the Recordation of Water Extractions and Diversions program established for their use.

Chapter one is a description of the Program regarding who needs to file and the procedures to file the first and annual notices.

Chapter two contains the Water Right Regulations relating to the program.

Chapter three contains the Water Right Statutes pertaining to the program.

Please preserve this brochure as the letters of this office will contain frequent reference thereto and unnecessary correspondence may thus be avoided.

Chapter I: Description of Program

Filing Requirements

Each person¹ who extracts ground water in excess of 25 acre-feet during a calendar year in the Counties of Riverside, San Bernardino, Los Angeles, and Ventura, is required to file with the State Water Resources Control Board within the first six months of the succeeding year a notice of such extraction. (See Water Code Section 5004.) If, in addition, surface water is diverted, a notice of such diversion must be filed. However, no notice is required of an extraction or diversion of less than 10 acre-feet per year from a single source², nor is a notice required when surface water is taken or diverted for the purpose of generating electrical energy and other nonconsumptive uses, and for incidental uses in connection therewith. **If only surface water is diverted, a notice is not required irrespective of the amount diverted.**

To assist in determining whether you are required to file a notice of water extractions and diversions reference may be made to the following approximations:

Twenty-five acre-feet is equal to about 8,146,000 gallons and is an amount usually considered sufficient for the annual irrigation of about 10 acres of land or to provide the annual domestic needs for about 100 persons.

Penalties are provided for failure to file notices when required to do so (see Sections 5003 through 5005 of the Water Code on pages 8, and 9 of this pamphlet). The making of any wilful misstatement in any notice is a misdemeanor (Water Code Section 5008 on page 9 of this pamphlet).

Filing Forms and Procedure

Notices must be on forms provided by the State Water Resources Control Board. Instruction for completing notices and a schedule of fees are contained in the forms and in this pamphlet.

Different first notice forms are required for reporting ground water extractions and for reporting surface water diversions. Separate first notice forms are required for each source from which water is extracted or diverted. Annual notices filed for years subsequent to filing of the first notice must be on annual notice forms, which will be supplied by the State Water Resources Control Board to each person who has filed a first notice.

¹ "Person" means all persons whether natural or artificial, including the United State of America, the State of California, and all political subdivisions, districts, municipalities, and public agencies of or in either the State or the United States (Water Code Section 5000 (d)).

² "Source" means any point of diversion or extraction of water including among other things wells, tunnels and headworks (Water Code Section 5000 (e)).

First Notice

Each first notice for surface or ground water must contain the name of the person filing the notice, location of the source, and the amount of water extracted or diverted from the source in the calendar year immediately preceding the year of filing, along with the method of measurement or estimation of such amounts.

Where combined water extractions from several sources are measured by a single device determining the total flow, the total measured amount should be reported together with the percentage factor which has been applied to the total to compute the amount shown in the notice for each source.

A filing fee must be submitted with each first notice filed. (See Regulations Article 2, Section 1010 (a) on page 4).

Annual Notice

Each annual notice must be filled out on the form which will be supplied for that purpose by the State Water Resources Control Board, pursuant to instructions contained thereon. The annual notice must indicate the amount extracted during the calendar year for which filed and should contain information concerning other items noted on the form which have changed since filing of the previous notice. Location of the well, tunnel or diversion point shall be by the recordation number assigned to it, therefore no detailed description to this item is necessary except in instances where changes have occurred since filing of the first notice.

A filing fee must be submitted for each source reported upon in annual notices. (See Regulations Article 2 Section 1010 (a) on page 4).

Public Access to Records

Notices filed under this act and the data submitted will be on file in the office of the State Water Resources Control Board and will be considered public records subject to inspection upon request by any person.

Request for Verification

Facts stated in any notice will be investigated and determined by the State Water Resources Control Board upon application by any person to the board, at the expense of such person. (See Regulations Article 2, Section 1012, also Water Code Section 5007.) Although the notices are not evidence in any court action, the Board's determination is prima facie evidence of the material facts so verified.

**Chapter II:
Water Right Regulations**

**Subchapter 4 of Chapter 3,
Title 23 of the California Code of Regulations**

ARTICLE 1. Notices of Water Extractions and Diversions

1000. Use of Forms

Notices filed with the board pursuant to Part 5, Division 2, of the Water Code shall be submitted upon forms furnished by the board.

1001. Separate Notices

A separate First Notice and Annual Notice shall be filed for each well or surface diversion.

1002. Contents of Notices

The notices shall contain the available information required by the forms provided by the board.

ARTICLE 2. Fees

1010. Filing Fees

(a) Notices of ground water extractions or surface water diversion shall be accompanied by the filing fee required by Water Code Section 5006.

1011. Effect of Failure to Pay Filing Fees

Notices not accompanied by the required fees will not be accepted for filing.

1012. Investigation Charges

Requests for investigations and determinations under Section 5007 of the Water Code shall be accompanied by a payment of twenty-five dollars (\$25). The board will then estimate the total cost of the investigation and determination, and will send a statement thereof to the applicant. Any part of such estimate in excess of twenty-five dollars (\$25) must be paid before the investigation is commenced. The estimated total cost of the investigation and determination shall not be exceeded by more than 20 percent without prior notice to the applicant and until this written consent to proceed is obtained and such further payment as the board requires is received.

ARTICLE 3. Investigation and Determination of Facts

1020. Notice of Investigation

After a request for an investigation and determination of facts pursuant to Section 5007 of the Water Code has been received and the estimated cost has been paid, all persons known to have a direct interest in the matter will be notified of the pendency of the investigation and that they are allowed 30 days within which to submit relevant information concerning the facts to be determined.

1021. Service of Proposed Findings

After the board's investigation has been completed, a copy of the proposed findings will be mailed to the person who filed the notice, the person who requested the investigation, and any other person who has submitted information. The proposed findings will be accompanied by a notice that objections to them may be filed within 60 days. The board will specify the persons on whom a copy of any objections shall be served.

1022. Hearing

If deemed advisable by the board, a hearing will be held to determine any facts which are in dispute. The provisions of Subchapter 2, Article 11, insofar as they are applicable, shall govern hearings held pursuant to this subchapter.

1023. Further Procedure

After the time for filing objections has expired, and after any necessary hearing has been held, a draft of the board's finding and determinations will be prepared and mailed to interested persons together with a notice of the time when final action will be taken, which time will not be less than 30 days from the date of mailing the notice. Exceptions to the draft may be filed and served on opposing parties prior to the time stated in the notice and will be considered by the board in making its final determination. The board may cause such further investigation to be made as it deems necessary and for such purpose may defer making its final determination.

1024. Shortening of Time

The board may for cause and consistent with Section 5007 of the Water Code shorten any of the times stated in this article.

Chapter III: Water Right Statutes

Part 5 of Division 2, California Water Code

Note: Stats. 1955, Ch. 1869, also contains the following provision: Sec. 3. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act; and the Legislature would have enacted each section, subsection and sentence hereof independent of each other section, subsection and sentence; and would have enacted such remaining portions and each of them irrespective of such holding of unconstitutionality as any portion which may be held unconstitutional.

4999.

The Legislature finds and declares that by reason of the combination of light rainfall, concentrated population, the transition of considerable areas of land from agricultural use to urban use, and a similar dependence on ground water supplies which prevails in the Counties of Riverside, San Bernardino, Los Angeles, and Ventura, together with the fact that most such underground water supplies are overdrawn, it is necessary that the provisions of this part apply to said counties only.

5000.

As used in this Part 5, the following terms shall have the respective meanings stated below, viz:

- (a) "Ground water" means water beneath the surface of the ground whether or not flowing through known and definite channels.
- (b) "Surface water" means water on the surface of the ground.
- (c) "Four counties" means the Counties of Riverside, San Bernardino, Los Angeles and Ventura.
- (d) "Person" means all persons whether natural or artificial, including the United States of America, the State of California, and all political subdivisions, districts, municipalities and public agencies of or in either the State or the United States.
- (e) "Sources" means any point of diversion or extraction of water and includes among other things wells, tunnels, and headworks.

5001.

Each person who, after 1955, extracts ground water in excess of 25 acre-feet in any year shall file with the board on or before March 1st of the succeeding year a "Notice of Extraction and Diversion of Water" (hereinafter called "notice") in the form provided in Section 5002; provided, however, that no notice need be filed with respect to, and there shall not be required to be included in any such

notice, (a) information concerning the extraction or diversion of water from a source from which less than 10 acre-feet has been taken during such year, (b) information concerning a taking or diversion of surface water for the purpose of generating electrical energy and other nonconsumptive uses, and for incidental uses in connection therewith, or (c) information concerning extractions or diversions of water which are included in annual reports filed with a court or the board by a watermaster appointed by a court or pursuant to statute to administer a final judgment determining rights to water, which reports identify the persons who have extracted or diverted water and give the general place of use and the quantity of water which has been extracted or diverted from each source.

5002.

Each notice shall be on a form provided by the board. The first notice filed by any person shall state:

- (a) The name of the person extracting ground water or diverting surface water.
- (b) The quantity of water taken and the method of measurement used by such person or his predecessor in interest in each preceding year from each surface or ground water source; provided, that if the period of such taking exceeds 10 years, such person is not required to state such quantities for any period greater than the preceding 10 calendar years.
- (c) The location (sufficient for identification) of each surface or ground water source through or by means of which water has been taken, and if any person or persons other than the person filing said notice claims any interest in such source or the right to extract water therefrom, the name or names, so far as known, of such other person or persons.
- (d) A general description of the area in which such water has been used.
- (e) Any other facts which the board may require by general regulation and which tend to prove the facts required by this section to be stated, the origin of water supplying any ground water source mentioned in the notice, water levels in any such source, or the extent of any ground water basin from which such water is withdrawn.
- (f) Any person diverting only surface water and not more than 25 acre-feet of ground water in any year need not file such notice for such year.

Water Right Statutes Continued

Notices, other than the first notice filed, shall state, in addition to the name of the person extracting or diverting such water:

First: The quantity of water taken from each surface and ground water source from which such person received any water in the preceding calendar year.

Second: Location of each such surface and ground water source through or by means of which water has been taken in such preceding year. This may be stated, so far as applicable, by reference to the water sources described in the original notice.

Third: If such person diverts surface water in excess of three miner's inches, such person shall further state in said notice the period or periods of such diversion, and the maximum and minimum flows so diverted in each period.

Fourth: Any other facts which the board may require by general regulation, and which tend to prove facts required by this subdivision to be stated, the origin of water supplying any surface or ground water source mentioned in the notice, water levels or flow in any such source, or the extent or origin of the water source supplying the ground water supply from which such water is extracted.

5003.

No prescriptive right which might otherwise accrue to extract ground water shall arise or accrue to, nor shall any statute of limitations operate in regard to such ground water in the four counties or any of them after the year 1956 in favor of any person required to file such notice of extraction and diversion of water, until such person shall file with the board the first "Notice of Extraction and Diversion of Water" substantially in the form mentioned in Section 5002: and as to each person who fails to file such notice by the end of the year 1957, it shall be deemed for the period from that time until the first notice of such person is filed, that no claim of right to the extraction of ground water from any such source in the four counties has been made by such person, and that water so extracted by such person from such ground water source during such period has not been devoted to or used for any beneficial use. The beneficial use of water from any ground water source within the four counties in any year by such person shall be deemed not to exceed the quantity reported in the notice filed for such year.

5004.

After the year 1959, failure to file with the board a notice for any calendar year within six months after the close of such calendar year shall be deemed equivalent for all purposes to nonuse for such year of any ground water within the four counties by each person

Water Right Statutes Continued

failing to so file a notice within said period; provided, that this section and Section 5003 shall not apply to any person whose aggregate extractions of ground water in any year does not exceed 25 acre-feet nor to any extractions of ground water with respect to which no notice is required to be filed under this part.

5005.

Except as specified in Section 5004, failure to file the notice or delay in filing the same shall not cause the loss of rights to ground water which existed on January 1, 1956.

(Added by Stats. 1955, Ch. 1989.)

5006.

Each notice shall be sworn to and shall be accompanied by a filing fee which shall be fixed by the board. Such filing fees shall be fixed so as to be sufficient on the average to pay the administrative expenses of the board in listing and processing notices of the character presented, and may be graduated in accordance with the number of water sources from which extractions or diversions are shown.

5007.

Any person may apply to the board to investigate the facts stated in any specified notice so filed and to state in writing its determination of the facts found by it upon such investigation. The cost of such investigation and determination shall be paid by such applicant by such deposits or in such payments as may be fixed by the board. In the event the board makes a determination which differs in any material respect from the facts contained in the notice, then, prior to making its final determination, the board shall notify both the person filing said notice and the person requesting a determination of facts of its proposed findings, and shall invite either party to submit further information prior to making its final determination, and no such final determination shall be made until sixty (60) days after the parties have been so notified of the board's proposed determination.

In any action or proceeding hereafter pending in which the facts, or any of them, contained in the notices so filed are material, such notices shall not be evidence of any fact stated therein, but such determination by the board shall be prima facie evidence of said facts.

5008.

The making of any wilful misstatement in any notice shall be a misdemeanor, punishable by a fine of not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail for not to exceed six months, or both.

For Information, Call:
the State of California, Division of Water Rights,
at (916) 322-4503

Related Publications:

- 91-4 WR Water Rights for Stockponds*
- 91-5 WR Cessation or Reduction in Ground Water Extractions*
- 91-10 WR Statements of Water Diversion and Use (1977)*

**DO NOT REMOVE FROM LIBRARY. This is an
Inspection copy only. For a copy to take home,
Please see library staff. An electronic copy is
Available by visiting the CalEPA-ARB library card
Catalog on the web where you will find a link to the
Full text. <http://www.calepa.ca.gov/library/> and click on
ARB collection**