
State Water Resources Control Board

TO: Order WR 2015-0002-DWR Mailing List

FROM: Erik Ekdahl
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DIVISION OF WATER RIGHTS

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DATE: February 15, 2018

SUBJECT: SUMMARY OF PRELIMINARY REVIEW OF RESPONSES TO ORDER
WR 2015-0002-DWR

On February 4, 2015 – in the midst of a serious long-term drought – the State Water Board, Division of Water Rights (Division) issued Order WR 2015-0002-DWR (Informational Order) to obtain better information on diversions during drought.¹ The Informational Order applied to 445 parties representing 1,061 Statements of Water Diversion and Use that claim pre-1914 appropriative and/or riparian water rights (Statements) within the Delta Watershed.²

The Informational Order required recipients to report: (1) the basis of right to divert, point of diversion, and place of use for each claim; (2) the forecast volume of diversions, by month, in 2015; and (3) actual monthly diversion volumes for 2015, to be submitted by the 5th of each ensuing month. The Statements subject to the Informational Order represent the top 90 percent of riparian and pre-1914 claims of right, by reported volume, in the Delta and the top 90 percent of riparian and pre-1914 claims of right, by reported volume, in the Sacramento and San Joaquin River watersheds.

In light of the drought emergency conditions prevailing at the time, diverters subject to the Informational Order were given 30 days to submit “all documentation supporting the type of

¹ State Water Board Order WR 2015-0002-DWR, available at:
http://www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/orders/2015/wro2015_0002.pdf.

² *Id.* at p. 2.

water right claimed.”³ For riparian rights, the Informational Order called for information related to the “property patent date and patent map.”⁴ For pre-1914 appropriative rights, the Informational Order sought “a copy of [the] notice [of appropriation] filed with the county, copy of property deed and all other information...pertaining to initial diversion and continued beneficial use of water.”⁵

Responses to the Informational Order provide a wealth of information about water right claims in the Delta Watershed. With the respite from the immediate shortages provided by an average 2016 and a wet 2017, Division staff have conducted a review of the Informational Order responses. Prior to the onset of the inevitable next drought, the Division hopes to improve its data regarding the nature of and support for senior water rights claims. The Division will also use the available information to assist water users to support their claims.

In addition to issuing the Informational Order and reviewing responses, the Division has undertaken efforts to improve the quality of its water rights database so as to improve the transparency and predictability of its water right administration in periods of shortage.⁶ These efforts include implementing amendments to the Water Code and Code of Regulations that change the frequency of reporting (all reports are now annual),⁷ require measurement of diversions,⁸ and require all diverters (including unauthorized diverters) to report their diversions.⁹

To facilitate public understanding of the Division’s water supply/demand modeling, the Division posted its water right demand database to the web in 2015.¹⁰ The Division is currently proposing modifications to improve the quality of this database, partially relying on information provided in response to the Informational Order.

One of the immediate uses of the responses to the Informational Order was to assist the Division in developing more refined demand estimates through monthly reporting of diversion amounts during the remainder of the drought.¹¹ The monthly reporting allowed the Division to notify diverters with senior water right claims of the availability of water on an expedited basis as

³ *Id.* at p. 3.

⁴ *Id.*

⁵ *Id.*

⁶ The database quality control checks that have been used in the Division’s water supply/demand modeling analyses are described in State Water Board, Division of Water Rights, *Report on Recommendations for Improving the Administration of the Water Rights Priority System in Dry Years* at p. 10, available at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/dryyear_report/docs/2015dypr.pdf

⁷ Cal. Code Regs., tit. 23, § 920(a).

⁸ Cal. Code Regs., tit. 23, §§ 931-938.

⁹ *Ibid.*

¹⁰ State Water Board, Division of Water Rights, *Demand Database*, available at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/analysis/docs/Demand_Database_2015-02-20.xlsx.

¹¹ State Water Board Order WR 2015-0002-DWR at p. 2.

conditions changed during the drought. In the longer-term, however, information supporting pre-1914 and riparian water rights should assist water managers to plan for future water shortages by creating a more reliable summary of actual demands on the water system and their hierarchy.

The Division has prepared an Excel spreadsheet accompanying this cover memo to summarize the staff's initial review of the responses to the Informational Order. The spreadsheet and the analysis summarized therein do not amount to an adjudication of water right claims by the State Water Board. Rather, the spreadsheet categorizes information submitted to support each water right claim, partially to guide the Division and the Office of the Delta Watermaster (Watermaster) in the allocation of their administrative resources. The Division has compiled the Informational Order responses and other resources gathered and created in the course of the review and placed those materials on the State Water Board website at:

<https://ftp.waterboards.ca.gov>, Username: IORR-FTP, Password: AccessIORR

Based primarily (but not solely) on responses to the Informational Order, water right claims are categorized in the spreadsheet as follows:

- Category 1: Responses that do not provide information supporting critical elements of a claimed water right.
- Category 2: Responses that provide information supporting many but not all of the elements of a claimed water right.
- Category 3: Responses that provide information supporting each of the elements of the claimed water right(s).
- Category 4: Responses that indicate an alternative basis of right to divert water (usually a water supply contract) in addition to the underlying water right claim.

This preliminary categorization is not a decision by the Division or the Watermaster to decline or pursue any specific enforcement or investigative action.

We encourage Informational Order respondents to review staff's preliminary summary of the information included in their respective responses and bring to the Division's and/or the Watermaster's attention any discrepancies, errors, or omissions in this summary. Further, and particularly in light of the short (30-day) window for responding to the Informational Order in 2015, the Division and the Watermaster welcome additional information that may enlighten, support, contradict, or clarify the preliminary analysis summarized in the spreadsheet.

For comments or inquiries related to water right claims outside the Delta, please contact Brian Coats, Senior Water Resources Control Engineer in the Division of Water Rights, at brian.coats@waterboards.ca.gov. For comments or inquiries related to water right claims in the Delta, please contact Kristi Matal, Communications & Outreach Specialist in the Office of the Delta Watermaster, at kristi.matal@waterboards.ca.gov. If the supporting documents are larger

than 25 megabytes in size, please secure an online cloud-based storage platform and provide a link to one of the email addresses listed above, or mail hard copies of the documents to:

State Water Resources Control Board
Division of Water Rights
Attention: Brian Coats
1001 I Street, 14th Floor
Sacramento, CA 95814

OR

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Office of the Delta Watermaster
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