
State Water Resources Control Board

July 11, 2023

Big Springs Irrigation District

Darrin Mercier - Attorney, BSID

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. The Big Springs Irrigation District (BSID) was assigned two water right IDs: SG005918 with priority date 1/1/1974 and SG005920 with priority date 1/1/1958.

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 June 29, 2023, the State Water Board reinstated water right curtailments for the most junior water rights in the Shasta River watershed (Addendum 14). In the event flows at the Yreka USGS gage are greater than the minimum flow requirement these diverters may resume diversions in order of priority. According to Addendum 14, prior to

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

resuming diversions in order of priority, diverters of fully curtailed water rights must work with the Watermaster and State Water Board, as appropriate.

On June 29, 2023, Zack Zwahlen (Senior Environmental Scientist, Division of Water Rights), informed BSID that they were fully curtailed as two more senior rights were planning on turning on diversions. On June 30, 2023, staff from the California Department of Fish and Wildlife (CDFW) observed water flowing in both BSID canals at the crossing on Juniper Road. On July 5, 2023, Mr. Zwahlen contacted BSID via email and telephone notifying BSID to cease all diversions. On July 7, 2023, staff from CDFW observed water flowing in the lower BSID canal. On July 10, 2023, BSID reported that they are not pumping at this time and have no plans to pump in the near future.

Flows dropped as low as 32.3 cfs on July 8, 2023 and as of July 11, 2023 have not reached the required minimum instream flow of 50 cfs. Accordingly, water is currently not available under BSID's right. No exemptions or petitions have been approved for BSID to continue diverting.

Water is not available for BSID diversion at this time and BSID must cease diversions immediately. While Addendum 14 is in effect, BSID must receive approval from State Water Board staff before resuming pumping.

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 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

Attachments:

Big Springs Irrigation District (BSID) Irrigation Canal Site Assessment – 6.30.2023

Big Springs Irrigation District (BSID) Irrigation Canal Site Assessment – 7.07.2023

ec:

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