



State Water Resources Control Board

JUNE 02 2016

CERTIFIED MAIL

NOTICE OF IMMEDIATE CURTAILMENT **TERM 91 WATER RIGHT**

Your Permit/License contains a term (Standard Term 91) that prohibits diversion of water under specified conditions. These conditions occur when Supplemental Project Water¹ from the Central Valley Project operated by the U.S. Bureau of Reclamation or the State Water Project operated by the California Department of Water Resources is being released to meet water quality standards and other in-basin entitlements in the Sacramento-San Joaquin Delta Watershed.

Curtailement of Term 91 Water Rights:

The State Water Board has determined that: (i) Supplemental Project Water is being released in the Sacramento-San Joaquin Delta Watershed, and (ii) the Delta is in Balanced Condition. With this notice, the State Water Board is invoking Term 91 and ordering you to immediately stop diverting water under the above water right. This condition of curtailement will continue until water conditions improve. Even if there is water physically available at your point of diversion, that water is necessary to meet senior water holders' needs or water quality objectives, or is water released from storage, that you are not entitled to divert. You should not commence diversion before being notified by the State Water Board that water is legally available for diversion under your priority of right.

Compliance Certification Required:

Curtailed Term 91 diverters are ordered to document receipt of this Notice by completing the enclosed Curtailement Certification Form (Form). The completed Form should be returned to the Division of Water Rights within seven (7) days of receipt of this Notice. The Form confirms cessation of diversion under the specific water right that includes Term 91, and, if applicable, either (i) identifies the alternative water supply to be used in lieu of the curtailed water right, or (ii) claims there is no hydraulic continuity between the surface water at the authorized point of diversion and the surface water in the Sacramento-San Joaquin Delta. A Form that includes a claim of no hydraulic continuity should be accompanied by photographs and additional information to support the claim. Completion of the Form and identification of alternate rights can avoid unnecessary enforcement proceedings. State Water Board staff may perform a field inspection to determine compliance with this Notice.

Status of Curtailement of Term 91 Water Rights:

To provide more timely information on the status of curtailements under Term 91, the Division will be posting and updating information on our drought web page under "Water Rights with Term 91". The

¹ Supplemental Project Water is defined as water imported by the Projects plus water released from Project storage which is in excess of export diversions, Project carriage water, and Project in-basin deliveries.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE OFFICER

web page will be maintained to provide important information related to the availability of your water supply under a permit or license subject to Term 91. The address for the drought web page is:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/water_availability.shtml

Electronic notification of Term 91 curtailment going into effect or being lifted will be made to subscribers of the Drought Web notifications. To sign up for electronic notices, go to:

http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml#dwr.

Potential Enforcement:

Those who are found to be diverting water beyond what is legally available to them or found to be in violation of a term of a permit or license or other State Water Board order may be subject to administrative fines, Cease and Desist Orders, or prosecution in court. The State Water Board may levy fines of \$1,000 per day and \$2,500 for each acre-foot diverted or used in excess of a valid water right. (See Water Code, §§ 1052, 1055; see also *id.*, § 1846 [fines for violation of a term of a permit or license or other State Water Board order].) Additionally, if the State Water Board issues a Cease and Desist Order against an unauthorized diversion or for violation of a term of a permit or license or other State Water Board order, violation of a Cease and Desist Order can result in a fine of \$10,000 per day. (See Water Code, §§ 1831, 1845.)

The State Water Board encourages water right holders to assist in the prevention of unlawful diversion of water and in discouraging any waste or unreasonable use of water. To assist the State Water Board, you may file a complaint at:

http://www.dtsc.ca.gov/database/CalEPA_Complaint/index.cfm.

We recognize the burden and loss this notice creates for you during the drought, and we want to assure that others do not illegally benefit from your curtailments.

No later than 30 days after issuance of this notice, any interested person may petition the State Water Board for reconsideration in accordance with Water Code section 1122 and State Water Board regulations at title 23, sections 768 through 770 of the California Code of Regulations.

If you have any questions concerning this notice, please contact Tomas Eggers of the Division of Water Rights at (916) 327 8039 or tomas.eggers@waterboards.ca.gov.

Sincerely,



Barbara Evoy, Deputy Director
Division of Water Rights

Please see next page.

ec: Jeffrey Rieker, Deputy Manager
Central Valley Operations Office
j.rieker@usbr.gov

Andy Chu, Chief Export Management Section
SWP Operations Control Office
Andy.Chu@water.ca.gov

Tracy Pettit, Chief Water Management Branch
SWP Operations Control Office
Tracy.Pettit@water.ca.gov

Michael George, Delta Watermaster
Office of Delta Watermaster
Michael.George@Waterboards.ca.gov

TERM 91 CURTAILMENT CERTIFICATION FORM (2016)

Return to:

State Water Resources Control Board or
Division of Water Rights
Attn: Paul Wells
P.O. Box 2000
Sacramento, CA 95812

Email: paul.wells@waterboards.ca.gov
Fax: 916-341-5400
Phone: 916-323-5195

TERM 91 WATER RIGHT SUBJECT TO THE WATER DIVERSION CURTAILMENT:

WATER RIGHT «PL» «PLNo» (APPLICATION NO. «APPID»)

«Owner_First» «Owner_Last»
«Agent_First» «Agent_Last»
«Agent_Attn»
«Address»
«City», «State» «Zip»

CURTAILMENT CERTIFICATION

Pease check the applicable boxes below:

- NO DIVERSION** – I hereby certify that I will not be diverting any water under the specified appropriative water right nor will I be serving its place of use from any other source during the 2016 Term 91 water diversion curtailment period.
- ALTERNATE SOURCE** – I hereby certify that I will not be diverting any water under the specified appropriative water right during the 2016 Term 91 water diversion curtailment period. However, I will be serving all or a portion of its place of use with my alternate source(s) of water, as specified below:
 - Ground (well) water
 - Senior post-1914 appropriative water right (specify Permit/License No(s)): _____
 - Riparian water right(s) and/or pre-1914 appropriative water right(s):
 - Water use is reported under Statement of Water Diversion and Use No(s): _____
 - Water use is excluded from filing a Statement of Water Diversion and Use under California Water Code section 5101 (generally, because the use is included in an annual report submitted by a court-appointed watermaster to the court or the State Water Resources Control Board; the use is reported in an annual hydrological data bulletin by the Department of Water Resources, such as the Delta Lowlands area; or the water is from a spring that does not flow off the property).
 - None of the above.
 - Contract (purchased) water from _____
 - Will serve the place of use by withdrawing water stored under Permit/License No. ____ prior to start of this curtailment period.
 - Other source (specify) _____

- NO HYDRAULIC CONTINUITY** – I hereby certify that I plan to divert under the specified water right because there is no hydraulic continuity between the surface water at my point of diversion and the surface water in the Sacramento-San Joaquin Delta. I anticipate that the hydraulic discontinuity will exist throughout the Term 91 curtailment period. When I am not diverting water under the specified water right, there is a section of streambed below my point of diversion where no surface water flow is visible. This streambed section without visible flow is located:

From: _____ To: _____

Photographs and additional information should be submitted with this form to support your claim. A field inspection by the Division of Water Rights may be made to substantiate the claim of no hydraulic continuity.

I declare under penalty of perjury that the information in this certification is true to the best of my knowledge.

Name: _____
(Permittee/Licensee/Authorized Representative)

Phone No.: _____

Signature: _____

Date: _____