

2015 DELTA LANDS VOLUNTARY CONSERVATION PROGRAM

1. California is facing extraordinary emergency drought conditions in 2015. Governor Brown has called for a 25% reduction in urban water use state-wide, and surface water deliveries to agriculture have been severely restricted;
2. The State Board has already curtailed post-1914 appropriative water rights throughout the Delta watershed and anticipates additional curtailment of pre-1914 appropriative water rights and at least partial curtailment of riparian water rights due to lack of available water;
3. The anticipated additional correlative curtailments of riparian water rights would occur during the crop growing season, causing significant uncertainty and disruption for farmers and likely reducing the effectiveness of the correlative curtailment effort;
4. Given the uncertainty associated with the projected additional riparian curtailments and their timing, there is a desire to achieve, where possible, a more organized effort to conserve water in the Delta during the summer months. Therefore, a number of Delta farmers/landowners propose to cooperate to make agricultural water-use reductions and to show solidarity and support for their fellow farmers south of the Delta who are facing severe water shortages;
5. Interested Delta farmers have expressed a willingness to participate in a voluntary fallowing and conservation program that would aim to reduce their acres planted or water diversions by 25% for June, July, August and September (compared to the 2013 baseline use) in exchange for assurance that no greater curtailments will be enforced against them during the current growing season;
6. A voluntary fallowing and conservation program represents an opportunity for all stakeholders—including in-Delta users, regulators, environmental scientists and Project operators—to learn more about how diversion and water management and crop patterns in the Delta impact consumptive use during drought periods;
7. It is recognized that achieving a 25% reduction in ag water use may be infeasible, particularly for smaller landowners, but all good faith efforts to conserve should be encouraged; and
8. The State Board has encouraged water users and staff to work on voluntary agreements to address the current drought emergency conditions.

Given the extraordinary circumstances and the potential benefits to be obtained from a voluntary conservation program, the State Water Board will forego enforcement actions related to possible correlative curtailment of riparian water rights against in-Delta riparians who participate in a voluntary fallowing and conservation program with the following elements:

1. The riparian diverter must either (1) put forth and implement a plan to reduce surface water diversion by 25% during June through September of 2015 compared to the same period in 2013, or (2) fallow 25% of the land they would otherwise have farmed in 2015 for the same period. Participating landowners agree to disc the fallowed fields or otherwise undertake reasonable efforts to suppress vegetative growth which would otherwise consumptively use a portion of the water conservation. If a diverter makes a good faith effort at conservation, but achieves a smaller-than-targeted reduction in water use, the State Water Board will consider such effort in deciding whether riparian curtailment enforcement actions are warranted.
2. Reduction in water use can be achieved through fallowing, crop selection, irrigation method, or any other method or combination of methods approved by the State Water Board's Executive Director.
3. Reduction in water diversion to for non-fallowed riparian land must be documented using best available methods and reflected in the monthly reporting required by the drought reporting order or by an alternate method approved by the Executive Director. Also, each participating riparian must submit a plan to the State Water Board by June 1 detailing its conservation plan and a report of actual plan implementation following the end of the conservation program.
4. The riparian, or multiple riparians, may aggregate various properties in the Delta for purposes of achieving the 25% reduction, however, consistent with law, water diverted under riparian water rights may not be put to beneficial use on non-riparian land.
5. This program is not evidence of or admission as to the validity of any claimed water right and does not protect the riparian diverter from challenges to that water right from the State Board or any other party. Similarly, this program is not a waiver or admission by the participating riparians of the validity of any other claimed water right or its priority or of the merit of curtailments in the Delta. Rather, this program is a voluntary effort to achieve water conservation, participate in drought mitigation, avoid the potential for enforcement of deeper curtailment and gather useful information in an emergency situation.