

California Water Rights Compliance Checklist for 2015

This checklist provides a summary of state water right reporting requirements and applicable deadlines for users of surface or groundwater in California for calendar year 2015.¹ If you have questions about the information contained in this checklist, or otherwise wish to discuss the maintenance and protection of your water rights, please contact Brownstein Hyatt Farber Schreck, LLP.

CALENDAR OF KEY ANNUAL STATE FILING DEADLINES

Deadline	Water Right(s)	Water Source	Form/Information to Submit
March 1	Overlying, Appropriative	Groundwater	Annual Notice of Extraction and Diversion of Water
June 30	License	Surface water	Annual License Report
June 30	Permit	Surface water	Permittee Progress Report
June 30	Riparian, Pre-1914	Surface water	Supplemental Statement of Diversion and Use & Water Diversion Measurement
December 31	Overlying, Appropriative, Riparian	Groundwater or underflow of surface water	Notice of Cessation and Use

Abbreviations:

- CDFW – Department of Fish and Wildlife
- DWR – Department of Water Resources
- SWRCB – State Water Resources Control Board

¹ Additional reporting requirements may also apply to the use of water generally. For example, agricultural water suppliers and urban retail suppliers are required to report on their implementation of water efficiency measures. (Water Code § 10608 *et seq.*) As of January 1, 2014, an agency delivering recycled water to a condominium project must file a report with, and receive approval of the report from, the State Department of Public Health. (Water Code § 13553(d).) Additionally, approved California Statewide Groundwater Elevation Monitoring (CASGEM) entities must measure groundwater elevation data in the spring and fall, and report the data to DWR. Please note that this checklist includes only state reporting requirements applicable to water rights; local and federal reporting requirements may also apply.

SUMMARY OF STATE FILING REQUIREMENTS

Surface Water

One-Time Filings

- **Initial Statement of Diversion and Use.** Non-exempt persons (including riparians and pre-1914 appropriators) must file a Statement of Diversion and Use with the SWRCB. (Water Code § 5100 *et seq.*) Failure to file may subject the diverter to civil liability. The Statement of Diversion and Use form requests information such as the source of the water, the point of diversion, place of use, purpose of use, and the quantity of water diverted. The initial form should be filed for the year in which water is first diverted (or for ongoing diversions when no prior filing has been made) and should be submitted to the SWRCB by June 30 of the following year. The form is available at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/docs/intl_stmnt_form.pdf.
- **Streambed Alteration Notification.** Any person who plans to undertake any activity that will substantially divert or obstruct the natural flow of, or substantially change the bed, channel, or bank of, any river, stream, or lake must first notify the CDFW. (Fish & Game Code § 1602.) The CDFW may require the diverter to enter into a streambed alteration agreement (SAA), which may place conditions on the diversion. The initial term of an SAA is typically five years, but may be renewed. The notification form and instructions are available at: <https://www.wildlife.ca.gov/Conservation/LSA>.
- **Small Domestic, Small Irrigation and Livestock Stockpond Use Registration.** Individuals diverting water for small domestic, small irrigation or livestock stockpond uses must register with the SWRCB and pay a \$250 filing fee. (Water Code § 1228 *et seq.*) Depending on the type of use, registration authorizes users to divert a maximum amount of water for specific purposes. (Water Code § 1228.1.) Registrants for small domestic uses and livestock stockpond uses are allowed to divert up to 4,500 gallons per day or 10 acre-feet per year to storage for aesthetic, recreational, fish and wildlife, and other purposes. Registrants for small irrigation uses are allowed to divert up to 42,000 gallons per day (a maximum of 20 acre-feet per year) for irrigation, heat control, or frost protection. Registrants submitting forms for small irrigation uses must also submit a copy of the completed form and supporting documentation to the Water Rights Coordinator of the appropriate regional office of the CDFW.

The Small Domestic Use Appropriation registration form is available online at:
http://www.swrcb.ca.gov/waterrights/publications_forms/forms/docs/sdu_registration.pdf.

The Small Irrigation Use Appropriation registration form is available online at:
http://www.swrcb.ca.gov/waterrights/publications_forms/forms/docs/siu_registration.pdf.

The Livestock Stockpond Use Appropriation registration form is available online at:
http://www.swrcb.ca.gov/waterrights/publications_forms/forms/docs/lisu_registration.pdf.

Annual Filings

- **Annual License Report.** SWRCB license holders must report their diversions annually. License reports are due by June 30. These forms must be submitted electronically using the SWRCB's electronic Water Right Information Management System (eWRIMS) at: http://ciwqs.waterboards.ca.gov/ciwqs/ewrims_online_reporting/login.jsp. A sample license report is available at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/ewrims/docs/license.pdf.
- **Permittee Progress Report.** Permit holders must submit annual permittee progress reports describing the status of any permitted projects. Timely submission of these reports demonstrates the user's diligence in putting to beneficial use the maximum amount of water authorized under the permit. In the event the user requests an extension of time within which to put water to beneficial use, timely filing of the progress reports demonstrates due diligence. Consistent filing of the permittee progress reports also provides a record of the user's constantly increasing use of water under its permitted right, which can be useful for extensions and/or licensing. Permittee progress reports are due annually by June 30. These forms must be submitted electronically using eWRIMS at: http://ciwqs.waterboards.ca.gov/ciwqs/ewrims_online_reporting/login.jsp. A sample of the permittee progress report is available at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/ewrims/docs/permit.pdf.

Triennial Filings

- **Supplemental Statements of Diversion and Use & Water Diversion Measurement.** After a water user files an initial Statement of Diversion and Use (see Initial Statement of Diversion and Use above), every three years the SWRCB will send a letter directing the user to report its diversions for the preceding three-year period. Supplemental statements must be completed by June 30 of the year in which the reminder letter is received. These forms must be submitted to the SWRCB electronically using eWRIMS at: http://ciwqs.waterboards.ca.gov/ciwqs/ewrims_online_reporting/login.jsp. A sample of the supplemental statement is available at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/ewrims/docs/statement.pdf.

Statement holders (riparians and pre-1914 appropriators) are required to (a) measure diversions using "best available technologies and best professional practices," and (b) report those monthly measurements on the supplemental statement. The SWRCB has released guidance listing the standard or preferred measuring devices, but users are not required to utilize one of these methods if it is "not locally cost effective" to do so. In selecting another method, users may be required to demonstrate why the alternative method constitutes the "best available technology." The guidance is available online at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/docs/msrmnt_guide121511.pdf.

Every Five Years

- **Small Domestic, Small Irrigation and Livestock Stockpond Use Registration Renewal.** Small domestic, small irrigation and livestock stockpond use registration must be renewed every five years after the initial registration (see above). (Water Code § 1228.5.) After initial registration, the SWRCB will send each registrant a renewal form in the year the registration expires. The deadline to submit the renewal form is the last day of the month in which the original registration was filed. For example, if an initial registration was filed on November 2, 2005, the renewal form would be due by November 30, 2010.

Groundwater

One-Time Filings

- **First Notice of Extraction and Diversion of Water.** Groundwater users in the counties of Riverside, San Bernardino, Los Angeles and Ventura who extract more than 25 acre-feet per year must file an Initial Notice of Extraction and Diversion of Water with the SWRCB. (Water Code § 4999 *et seq.*) The form is due by March 1 and must contain the requested information for the preceding calendar year. The form is available at:
http://www.waterboards.ca.gov/waterrights/publications_forms/forms/docs/gw_first_notice.pdf.

Annual Filings

- **Annual Notice of Extraction and Diversion of Water.** After the initial filing (see above), groundwater users in the counties of Riverside, San Bernardino, Los Angeles and Ventura must report their annual production for the prior calendar year by March 1. These forms must be submitted electronically using eWRIMS at:
http://ciwqs.waterboards.ca.gov/ciwqs/ewrims_online_reporting/login.jsp.
- **Notice of Cessation of Use.** Annually, users of groundwater (whether or not flowing through known and definite channels) may file a Notice of Cessation of Use of groundwater to preserve a claim of right to groundwater not produced in the prior year as a result of the use of an alternative supply of water from a nontributary source. (Water Code § 1005.1.) A nontributary source includes water imported from another watershed, or water conserved and saved in the watershed by a water conservation plan, without which the water would not have reached the groundwater supply. Filing a Notice of Cessation of Use is voluntary; however, the failure to file prohibits a groundwater user from claiming the benefit of Water Code section 1005.1 for any year in which the form is not filed. The reporting period for each filing is typically November 1 to October 31, and the deadline for submission is December 31. Please note that special provisions and reporting periods apply to groundwater users in San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Imperial, Riverside, and San Bernardino counties. (See Water Code §§ 1005.2, 1005.4.) Before filing a Notice of Cessation of Use, groundwater users should consult legal counsel to formulate a strategy for claiming any cessation of use of groundwater. The Notice of Cessation of Use form is not available online. Please contact our office for a copy.
- **Local Groundwater Extraction Reporting Requirements.** Your county may impose additional groundwater extraction reporting requirements. For example, well owners and operators in some areas of Monterey County are required to keep records showing their total monthly and annual water use, and those records must be submitted to the SWRCB by February 15 for the previous water year (November 1 through October 31). Please contact us for more information on local requirements that may apply to you.
- **NEW Annual Extraction Reporting Requirements Beginning in 2017.** Beginning no sooner than July 2017, the Sustainable Groundwater Management Act of 2014 will require some groundwater users to file extraction reports with the SWRCB where extractions come from: (1) "probationary basins" designated after June 30, 2017, or (2) areas within a basin not managed by a groundwater sustainability agency (GSA) and where the county does not assume the responsibility to be the GSA. These groundwater extraction reports will be due each year by December 15 for extractions made in the preceding water year. (Water Code § 5202.) For more

information on how the Sustainable Groundwater Management Act of 2014 may affect you, please contact us.

Request for Notice

- **NEW Request to be Added to Interested Persons List(s).** Beginning January 1, 2015, we strongly recommend that all groundwater users make a written request to be added to the “interested persons” list of any local agency that has given notice of their intent to become a groundwater sustainability agency pursuant to the Sustainable Groundwater Management Act of 2014. (See Water Code section 10723.4.) This request will ensure that the groundwater user receives notice of any actions taken by the local agency potentially affecting the user’s local groundwater resources or water rights.

This document is intended to provide a summary of water right filing requirements and deadlines for California water users. The contents of this document are not intended to provide specific legal advice. If you have any questions about the contents of this document or if you need legal advice, please contact us. This communication may be considered advertising in some jurisdictions.

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