

## CALIFORNIA WATER RIGHTS COMPLIANCE CHECKLIST FOR 2019

This checklist provides a summary of state water right reporting requirements and applicable deadlines for water users in California for calendar year 2019.\* 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 [Stephanie Hastings](#) or [Mack Carlson](#) at Brownstein Hyatt Farber Schreck, LLP.

### CALENDAR OF KEY ANNUAL STATE FILING DEADLINES

Water Source	Filing Deadline	Reporting Period	Form/Information to Submit
Surface Water	April 1	Preceding Calendar Year	Annual License Report
			Permittee Progress Report
	Report of Registration and Certificate Holders		
	July 1	Preceding Calendar Year	Supplemental Statement of Diversion and Use & Water Diversion Measurement
Groundwater	July 1	Preceding Calendar Year	Notice of Extraction and Diversion of Water (Groundwater users in the counties of Riverside, San Bernardino, Los Angeles and Ventura extracting $\geq 25$ acre-feet/year)
	December 15	Preceding Water Year	Extraction Reporting for Probationary Basins and Basins without a Groundwater Sustainability Agency
	December 31	Preceding Water Year	Notice of Cessation and Use

**Abbreviations:**

CDFW – California Department of Fish and Wildlife  
DWR – Department of Water Resources  
GSA – Groundwater Sustainability Agency  
GSP – Groundwater Sustainability Plan  
SWRCB – State Water Resources Control Board  
SGMA – Sustainable Groundwater Management Act

\* This checklist includes only reporting requirements applicable to California water rights. Additional reporting requirements may apply pursuant to the terms and conditions of an approval, agreement or judgment, or local regulation. Separately, other reporting requirements may also apply to the use of water.

## SUMMARY OF STATE REPORTING REQUIREMENTS

### SURFACE WATER

#### One-Time Filings

- Initial Statement of Diversion and Use.** Non-exempt persons who divert surface water must file a Statement of Diversion and Use (SDU) with the SWRCB.<sup>1</sup> Failure to file may subject the diverter to civil liability. The SDU 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 July 1 of the following year. The form is available [here](#).
- 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 CDFW.<sup>2</sup> 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 Lake or Streambed Alteration Notification Form (LSA) and instructions are available [here](#).
- 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.<sup>3</sup> Depending on the type of use, registration authorizes users to divert a maximum amount of water for specific purposes.<sup>4</sup> 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, fire protection 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 forms for each type of registration are available here:
  - [Small Domestic Use](#)
  - [Small Irrigation Use](#)
  - [Livestock Stockpond Use](#)
- NEW Cannabis Small Irrigation Use Registration.** Individuals diverting water to irrigate cannabis must obtain a cannabis small irrigation uses registration (Cannabis SIUR) from the SWRCB.<sup>5</sup> A Cannabis SIUR is a streamlined option to obtain a small appropriative water right to divert and store water to irrigate commercial cannabis crops. To obtain a Cannabis SIUR, registrants must meet the requirements for a small irrigation use registration and the additional cannabis specific [requirements](#) imposed by the SWRCB. General conditions imposed on Cannabis SIUR limit diversions to less than 6.6 acre-foot per year and prohibit diversions of surface water (except from storage) between April 1 through October 31 of each calendar year. Registrants are also required to install and maintain measuring devices in accordance with the Water Diversion and Storage Measurement Requirements discussed below. More information on Cannabis SIURs is available [here](#).

#### Annual Filings

- Licensee Report.** SWRCB license holders must submit their Report of Licensee providing their actual water diversions and use annually. The license reporting deadline for the preceding calendar year is April 1.<sup>6</sup> If final data is unavailable by the deadline, a licensee may submit provisional data, with final data due within one month of the time that “final streamflow data” is available.<sup>7</sup> Reports must also include information on the device or method used to calculate the amount of water diverted.<sup>8</sup> These forms must be submitted using the SWRCB’s [electronic Water Right Information Management System \(eWRIMS\)](#). A sample license report is available [here](#).

- **Permittee Progress Report.** SWRCB permit holders must submit permittee progress reports describing the status of any permitted appropriations of water annually. Reports are due April 1. Reports must include information on the device or method used to calculate the amount of water diverted.<sup>9</sup> If final data is unavailable by the deadline, a permittee may submit provisional data, with final data due within one month of the time that “final streamflow data” is available.<sup>10</sup> These forms must be submitted using [eWRIMS](#). A sample of the permittee progress report is available [here](#).
- **Reports of Registration and Certificate Holders.** Annually, every holder of a small irrigation, cannabis small irrigation use, small domestic, or livestock stockpond registration or certificate is required to submit a report that includes the quantity of water diverted and the maximum diversion rate by month, if available (or shorter time frame, if SWRCB requires).<sup>11</sup> Reports are due April 1.<sup>12</sup> New annual fees apply to registrations (see below for additional details).
- **Supplemental Statements of Diversion and Use.** After a water user files an initial SDU (see above), the user must file a Supplemental SDU annually by July 1 of the following year.<sup>13</sup> Statement filers must include information on the device or method used to calculate the amount of water diverted.<sup>14</sup> These forms must be submitted to the SWRCB using [eWRIMS](#). A sample of the supplemental SDU is available [here](#).
- **Water Diversion and Storage Measurement Requirements.** The 2016 Drought Emergency Regulation for Measuring and Reporting on the Diversion of Water (Measurement Regulations)<sup>15</sup> imposes measurement requirements for certain surface water users filing Supplemental SDU, Progress Reports by Permittees, Reports of Licensees, and Reports of Registration and Certificate Holders. Right holders diverting more than 10 acre-feet of water per year are required to employ diversion measurement methods capable of measuring the rates of direct diversion, collection to storage and withdrawal or release from storage.<sup>16</sup> Starting in 2019, a diverter will be required to upload the raw data from measuring devices to eWRIMS. The SWRCB will only accept reports that include machine-readable data (e.g., a Microsoft Excel spreadsheet). The SWRCB will no longer accept hand-written measurement reporting. The required accuracy levels and specifications for measurement devices vary according to several criteria, including the size of the claimed water right, whether the device is laboratory-certified and whether the device was installed prior to January 1, 2016.<sup>17</sup> Water users subject to new measurement requirements must file documentation of compliance as part of the first annual report submitted after installation.<sup>18</sup> The SWRCB may consider an alternative compliance plan where strict compliance would be infeasible, “unreasonably expensive” or result in the waste or unreasonable use of water.<sup>19</sup> A more detailed discussion of the Measurement Regulations is available [here](#), or on the SWRCB’s website [here](#).

### Every Five Years

- **Renewal for Registration and Certificate Holders.** Small domestic, small irrigation and livestock stockpond use registration must be renewed every five years after the initial registration.<sup>20</sup> 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 May 2, 2005, the renewal form would be due by May 31, 2010. The change in registration fees (see below) does not alter the five-year renewal deadline.
- **Evidence of Properly Functioning Measurement Equipment.** At five-year intervals or upon SWRCB’s request, right holders required to install water measurement devices (see “Measurement Requirements” above) must submit evidence that such equipment is functioning properly on the form available [here](#).<sup>21</sup> A sample measurement method form is available [here](#).

## GROUNDWATER

### One-Time Filings

- **Local Groundwater Extraction Reporting Requirements.** Many of California’s 58 county governments impose their own groundwater extraction reporting requirements. For more information about reporting requirements in a particular county, consult that county’s website, or call us.
- **Initial 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 of “groundwater”<sup>22</sup> must file an Initial Notice of Extraction and Diversion of Water with the SWRCB (or if applicable, the SWRCB-designated local entity).<sup>23</sup> The form filing deadline for the preceding calendar year is March 1; penalties for not filing (deemed equivalent of non-use) accrue by July 1.<sup>24</sup> The form is available [here](#).
- **Well Permit Applications and Notice Requirements in Critically Overdrafted Basins.** Beginning January 1, 2018, every city and county overlying a critically overdrafted basin must require applicants for wells to be located within a critically overdrafted basin to provide additional information in any well permit application, including the quantity of water produced from existing wells on the property and the estimated cumulative extraction volume before January 1, 2020.<sup>25</sup> When a city or county receives the new well permit application, the city or county must make the information available to both the public and to GSAs located within the basin where the new well is located.<sup>26</sup> These disclosure and notice requirements do not apply to certain permit applications, including applications for de minimis extractors and applications in areas where the city or county ordinance substantially complies with this law.<sup>27</sup>

### Annual Filings

- **Local Groundwater Extraction Reporting Requirements.** Many of California’s 58 county governments impose their own groundwater extraction reporting requirements. For more information about reporting requirements in a particular county, consult that county’s website, or call us.
- **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 July 1.<sup>28</sup> These forms must be submitted using [eWRIMS](#).
- **Notice of Cessation or Reduction of Use.** Users of groundwater may file a Notice of Cessation of Use of groundwater<sup>29</sup> 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 “non-tributary source.”<sup>30</sup> 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 November 1 to October 31, and the deadline for submission is December 31. 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.<sup>31</sup> The Notice of Cessation of Use form is not available online. Please contact our office for a copy.
- **Reporting Requirements for Groundwater Extractions from Unmanaged Basins.** SGMA requires groundwater users to file with the SWRCB reports of their groundwater<sup>32</sup> extractions from: (1) “probationary basins” 90 days after the basin has been designated by the SWRCB as probationary, or (2) an area within a “high- or medium-priority basin” not managed by a GSA.<sup>33</sup> De minimis extractors—users who pump two acre-feet or less per year—are exempt.<sup>34</sup> These groundwater extraction reports are due each year by December 15 for extractions made in the preceding water year. A “water year” is “the period from October 1 through the following September 30.”

## Other Important Items for Water Users

- **NEW Water Rights Enforcement Policy.** In March 2019, the SWRCB will begin development of a Water Rights Enforcement Policy. The policy is expected to set priorities for the SWRCB's enforcement of water rights. Right holders should stay informed about how the Enforcement Policy may affect their rights. More information on the Enforcement Policy is available [here](#). The SWRCB is accepting comments on the policy until April 15, 2019.
- **NEW Water Right Fees for 2018–2019.** New fees for SWRCB-issued water rights took effect on November 1, 2018.<sup>35</sup> In addition to increases in water right application fees, and annual permit and license fees, the SWRCB changed fees for registrants from a fee every five years to an annual fee. Fees for small irrigation use registrations are set at \$100 for 2018–2019. Holders of small domestic or livestock stockpond registration will be required to pay an annual fee of \$50 for each registration in 2018–2019. This annual fee increases to \$100 in 2020–2021 with special exceptions for low-income residents and holders of more than five registrations.<sup>36</sup> Registrants must pay the annual fee this year; however, refunds will be issued to any registration holder that paid \$100 renewal fees between July 1, 2018, and December 31, 2018. A complete summary of the 2018–2019 fee schedule is available [here](#).
- **RECOMMENDED Request to Be Added to Interested Persons List(s).** If you have not already, we strongly recommend that all groundwater users make a written request to be added to the “interested persons” list of any GSA.<sup>37</sup> A list of current GSAs is available [here](#). This request will ensure that the groundwater user receives notice of any actions taken by the GSA potentially affecting the user's local groundwater resources or water rights. Receiving notice of GSA actions is even more important as the deadlines to adopt a GSP in critically overdrafted, and high- and medium-priority basins approach in 2020, and 2022, respectively.

This document is intended to provide a summary of water right reporting 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 or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions.

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- <sup>1</sup> Water Code § 5100 *et seq.* All citations are to the California Codes and the California Code of Regulations, unless otherwise stated.
- <sup>2</sup> Fish & Game Code § 1602.
- <sup>3</sup> Water Code § 1228 *et seq.*
- <sup>4</sup> Water Code § 1228.1.
- <sup>5</sup> SWRCB, *Cannabis Cultivation Policy, Principles and Guidelines for Cannabis Cultivation* (Oct. 17, 2017). A copy of the policy is available [here](#).
- <sup>6</sup> See C.C.R., tit. 23, §§ 907(e), 929(b).
- <sup>7</sup> C.C.R. tit. 23, § 929(b).
- <sup>8</sup> C.C.R. tit. 23, §§ 929(c)(4), 931 *et seq.*
- <sup>9</sup> C.C.R. tit. 23, §§ 907(e), 925(b), (c)(4), 931 *et seq.*
- <sup>10</sup> C.C.R. tit. 23, § 925(b).
- <sup>11</sup> C.C.R., tit. 23, §924(a).
- <sup>12</sup> C.C.R. tit. 23, §§ 907(e), 924(a), (c).
- <sup>13</sup> Water Code § 5104; C.C.R. tit. 23, §§ 907(e), 920(a).
- <sup>14</sup> C.C.R. tit. 23, § 920(c)(6).
- <sup>15</sup> Senate Bill 88 (2016) (adding Sections 1840 *et seq.* to the Water Code).
- <sup>16</sup> Water Code § 1840(a)(1); see also C.C.R. tit. 23, § 932(a).
- <sup>17</sup> Water Code § 1840(b)(1)(A); C.C.R. tit. 23, § 933. Device installations and measurements should be performed by a “qualified individual” who has: (1) completed a University of California Cooperative Extension course on the devices or measurement method; and (2) passed a proficiency test before completion of the course. (Water Code § 1841.5; C.C.R. tit. 23 §§ 933, 934, 934, 1042.)
- <sup>18</sup> C.C.R. tit. 23, § 937(a)(2).
- <sup>19</sup> Water Code § 1840(b)(2); C.C.R. tit. 23, § 935(a).
- <sup>20</sup> Water Code § 1228.5.
- <sup>21</sup> Water Code § 1840(a)(1)(A); C.C.R. tit. 23, § 937(a)(3).
- <sup>22</sup> For the purposes of this filing, “groundwater” means “water beneath the surface of the ground whether or not flowing through known and definite channels.” (Water Code § 5000.)
- <sup>23</sup> Water Code § 4999 *et seq.*
- <sup>24</sup> Water Code § 5001; C.C.R. tit. 23, §§ 907(d)(4).
- <sup>25</sup> Water Code § 13808.
- <sup>26</sup> Water Code § 13808.2.
- <sup>27</sup> Water Code § 1308.4.
- <sup>28</sup> C.C.R. tit. 23, §§ 907(d)(4).
- <sup>29</sup> For the purposes of this filing, “groundwater” means: “water beneath the surface of the ground, whether or not flowing through known and definite channels.” (Water Code § 1005.1.)
- <sup>30</sup> A “non-tributary 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. (Water Code, § 1005.1.)
- <sup>31</sup> Water Code §§ 1005.2, 1005.4.
- <sup>32</sup> SGMA defines “groundwater” as “water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels[.]” (Water Code § 10721(g).)
- <sup>33</sup> Water Code § 5202.
- <sup>34</sup> Water Code § 10721(e).
- <sup>35</sup> C.C.R. tit. 23, §§ 1062, 1063, 1064, 1066, 1068.
- <sup>36</sup> C.C.R. tit. 23, § 1068(b).
- <sup>37</sup> Water Code § 10723.4.