

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2022-0038**

**TO ADOPT REGULATIONS
MODIFYING WATER RIGHT OWNERSHIP NOTICE REQUIREMENTS AND
REPORTING DATES**

WHEREAS:

1. State Water Board regulations currently require notification of changes, in name, address, and ownership, but many individuals and entities acquire water rights/claims when they buy real estate or inherit property with water rights attached. Some new owners may be unaware of or confused by their responsibilities as expressed in existing regulations. As a result, changes occur without the required notification to the State Water Board and the electronic Water Rights Information Management System (eWRIMS) is not updated with the new information. Without the notification of such changes, the State Water Board may be unable to notify the water right holder/claimant of important information associated with the right or claim. Similarly, without the required change notification, the water right holder/claimant may not be able to file required reports necessary to efficient administration of the water rights system.
2. A significant subset of delinquent annual water use reports can be traced to failure to file the required notification of a change of name, address, or ownership. While the existing regulations require notification, they are ambiguous regarding the party responsible for filing the required notifications and the consequences for failure to file them. Both water users and State Water Board staff expend resources caused by these ambiguities.
3. State Water Board regulations set the reporting deadlines and reporting periods for licensees, permittees, and registration and certificate holders. The reporting period is the calendar year (January 1 through December 31) and reports are due by the ensuing April 1. The existing regulations also describe the reporting periods and due dates for supplemental statements of water diversion and use and notices of extraction and diversion. In 2021, a budget trailer bill (Senate Bill 155) changed the reporting periods for statements of water diversion and use, supplemental statements of water diversion and use, and notices of extraction and diversion to the water year (October 1 through September 30 of the following year) and the respective reporting due dates to before February 1.
4. The existing regulations establish different reporting periods and deadlines for different types of diversions. The existing regulatory reporting periods and reporting deadlines for supplemental statements of water diversion and notices of extraction also conflict with the recent legislative changes, and, thus, need to be updated.

5. Water Code section 1058 states that the State Water Board may make such reasonable rules and regulations as it may from time to time deem advisable in carrying out its duties under the Water Code.
6. The proposed regulations are expected to provide the following benefits:
 - (1) clarifying the parties responsible for timely notification of changes affecting water rights and claims;
 - (2) clarifying the State Water Board's authority to impose administrative civil liability for failure to file the required notifications; and
 - (3) consolidating reporting periods and aligning report due dates.
7. Aligning reporting deadlines and timely notification of changes affecting water rights and claims by responsible parties will contribute to the welfare of California residents by improving the State Water Board's ability to more effectively (1) administer the use of the State's water; (2) provide for the reasonable protection of the beneficial uses of waters of the State; and (3) prevent the waste and unreasonable use of water pursuant to Article X, section 2 of the California Constitution.
8. On July 15, 2022, a notice of proposed rulemaking describing the proposed regulations (Notice) was published in the California Regulatory Notice Register in accordance with applicable State laws and regulations. The Notice states that the proposed regulations would be considered for adoption at the State Water Board's September 20, 2022 regularly-scheduled meeting. Associated rulemaking documents, including an initial statement of reasons and proposed regulatory text were also posted on the State Water Board's website.
9. On August 23, 2022, staff from the Office of the Delta Watermaster (ODWM) and the Division of Water Rights (Division) conducted a facilitated workshop, via Zoom, to introduce and the proposed regulations and to solicit public input.
10. On August 31, 2022, pursuant to the Notice and direction provided at the staff workshop, the written public comment period concerning the proposed regulations closed. Staff reviewed the public comments received and will complete a response to comments document and a summary and response of comments received in the Final Statement of Reasons that will be posted on the State Water Board's website and submitted to the Office of Administrative Law as part of the file of rulemaking proceeding. No changes were made to the proposed regulations as a result of public comments.
11. Adoption of these regulations is not a "project" within the meaning of the California Environmental Quality Act (CEQA) and is therefore not subject to CEQA because this action does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. (Cal. Code Regs, tit. 14, §15378, subd. (a).)

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts revisions to California Code of Regulations, title 23, sections 831, 907, 915, 920, 924, 925, 929 and 930
2. State Water Board staff shall submit the final rulemaking file, including the adopted regulatory text, to the Office of Administrative Law (OAL) for approval.
3. If, during the approval process, State Water Board staff, the State Water Board, or OAL determines that minor corrections to the language of the regulation or supporting documentation are needed for clarity or consistency, the State Water Board Executive Director or designee may make such changes.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 20, 2022.

AYE: Chair E. Joaquin Esquivel
Vice Chair Dorene D'Adamo
Board Member Sean Maguire
Board Member Laurel Firestone
Board Member Nichole Morgan
NAY: None
ABSENT: None
ABSTAIN: None

 for

Jeanine Townsend
Clerk to the Board

ADOPTED REGULATION TEXT

Title 23. Waters

Division 3. State Water Resources Control Board and Regional Water Quality Control Boards

Chapter 2. Appropriation of Water

Article 19. Changes of Ownership and of Address-Notices

Amend Section 831 to read as follows:

§ 831. Notice to Board of Changes in Ownership

~~(a) Within 30 days following the transfer of When rights under an application, permit, or license license, or registration are transferred, a statement to that effect, signed by the previous owner, either the transferor (previous owner), or the transferee (new owner) shall be filed immediately with the board, referring to the number of the application notify the Board by completing and electronically submitting the change of ownership form available on the board's website, and stating the name and address of the new owner. Thereafter, Following electronic submission of the change of ownership form, the board will send notices and correspondence concerning the application, permit, or license license, or registration to the transferee (new owner). ~~will be sent to the new owner designated in such statement.~~~~

~~(b) Following those 30 days, and for each day thereafter until the change of ownership form is submitted to the board, the transferee (new owner) may be subject to civil liability up to the maximum allowed pursuant to Water Code section 1846.~~

Note: Authority cited: Section 1058, Water Code. Reference: Sections 1250 and, 1252, and 1846 Water Code.

Title 23. Waters

Division 3. State Water Resources Control Board and Regional Water Quality Control Boards

Chapter 2.7. Water Diversion and Use Reports

Article 1. Definitions

Amend section 915 to read as follows:

§ 907. Definitions

The following definitions apply to the terms as they are used in this chapter.

- (a) "Board" means the State Water Resources Control Board.
- (b) "Board's website" means www.waterboards.ca.gov.
- (c) "Diverter" means:
 - (1) Any person authorized to divert water under a permit or license; or
 - (2) Any person required under Water Code, Division 2, Part 5.1 to file a Statement of Water Diversions and Use; or
 - (3) Any person authorized to divert under a registration or certificate; or

(4) To the extent authorized by federal law, the federal government for rights claimed under permits, licenses, registrations, certificates, statements of water diversion and use, and non-reserved and reserved rights on file with the board.

(d) "Reports" refers to the following documents:

(1) Supplemental Statement of Water Diversion and Use Forms, pursuant to Water Code section 5104.

(2) Reports of Permittee and Licensee, pursuant to sections 925 and 929 of this title.

(3) Reports of Registration and Certificate Holders pursuant to section 924 of this title.

(4) Notices of Extraction and Diversion of Water, pursuant to Part 5 of Division 2 of the Water Code. Each person in the counties of Riverside, San Bernardino, Los Angeles and Ventura who, after 1959, extracts ground water in excess of 25 acre-feet in any year shall file with the board, before February 1 of the year after the twelve month reporting period ~~within six months of the succeeding calendar year~~, a "Notice of Extraction and Diversion of Water" on a form provided by the board.

(5) Forms indicating a change of name, address or ownership.

(e) "Twelve month reporting period" means a calendar water year beginning January 1 October 1 and ending the succeeding December 31 September 30.

Note: Authority cited: Sections 348(a), 1058, 1840 and 1841, Water Code. Reference: Sections ~~1003.5~~, 1395, 1396, 1397, 4999, 5001, and 5105 ~~and 12264~~, Water Code.

Title 23. Waters
Division 3. State Water Resources Control Board and Regional Water Quality Control Boards
Chapter 2.7. Water Diversion and Use Reports
Article 2. Declaration of Policy

Amend section 915 to read as follows:

§ 915. Changes in Name, Address or Ownership Contact Information of Owners, Claimants or Agents.

~~Pursuant to sections 691, 830, 831, and 1074 of this title, changes in name, address or ownership shall be immediately reported to the board electronically using a change of name, address or ownership form or the supplemental statement of change form available on the board's website.~~

(a) The owner of or applicant for a water right permit, license, or registration shall notify the board within 30 days of changes in contact information of the owner, or agent by completing and electronically submitting the Contact Information Update Form available on the board's website.

(b) Any party required to submit a Statement of Water Diversion and Use shall notify the board within 30 days of changes in contact information by completing and electronically submitting a Supplemental Statement for Change Form available on the board's website.

(c) Following those 30 days, and for each day thereafter until the applicable change form is submitted, the owner or claimant may be subject to civil liability up to the maximum allowed pursuant to Water Code section 1846.

Note: Authority cited: Sections 348(a), 1058, 1840 and 1841, Water Code. Reference: Section 348(a) and 1846, Water Code.

Amend section 920 to read as follows:

§ 920. Supplemental Statements of Water Diversion and Use.

(a) Supplemental statements of water diversion and use shall be filed ~~on forms available at online through a reports management system accessible through~~ the board's website. ~~A supplemental statement shall be filed annually by before each February~~ July 1 after the close of the prior twelve month reporting period, ~~or promptly if there is a change in the name or address of the person diverting water,~~ or more frequently as directed under section 917. ~~Notice to the board of changes in name, address or ownership must also be reported electronically on the supplemental statement of change form on the board's website. Filing the supplemental statement of change form does not eliminate the requirement to file a supplemental statement of water diversion and use.~~

(b) After the board has received an initial statement of water diversion and use as required by Water Code section 5101, the board will provide a user name and password to the person required to file supplemental statements of water diversion and use. The electronic supplemental statement form will be pre-populated with current ownership information made available to the board. Failure to receive notice providing a user name and password does not exempt the filer from the requirement to file a supplemental statement of change. Persons required to file a supplemental statement should notify the board prior to the annual reporting date to request a user name and password if the board not already provided such information.

(c) Within 30 days following the transfer of a right or claim which is subject to Water Code Section 5101, either the transferor (previous holder/claimant) or the transferee (new holder/claimant) shall notify the board by completing and electronically submitting the supplemental statement for change form available on the board's website.

(d) Following those thirty days, and for each day thereafter until the supplemental statement for change form is submitted, the transferee (new holder/claimant) may be subject to civil liability up to the maximum allowed pursuant to Water Code section 1846.

(e) Following electronic submission of the supplemental statement for change form, the board will send notices of correspondence to the transferee (new holder/claimant). Filing the supplemental statement of change form does not eliminate the requirement to file a supplemental statement of water diversion and use.

(e)(f) The completed supplemental statement form shall include the following information:

- (1) The name(s), address(es), and other ownership information for the diverter;
- (2) The type of water right being claimed for the water diverted under the statement;

- (3) The maximum rate of diversion achieved at any time during each month, if available;
- (4) The amount of water directly diverted and collected to storage in each month and the total annual amount diverted. Each month must contain an entry. If no diversion occurred, a "0" should be entered;
- (5) A description of the diversion works, including type of diversion and capacity of direct diversion and/or storage facility.
- (6) Information on the device or method used to calculate the amount of water diverted, as required by chapter 2.8 of division 3 this title.
- (7) The amount of water beneficially used in each month and the total annual amount beneficially used. Each month must contain an entry. If no beneficial use occurred in a given month, a "0" should be entered;
- (8) The purpose(s) for which the water was diverted and used. Use information to be provided includes:
- (A) irrigation, including crop type and acreage;
 - (B) frost protection, including acres covered;
 - (C) heat control, including acres covered;
 - (D) industrial, including type of activity;
 - (E) stock watering, including number and type of animals;
 - (F) municipal, including approximate population served, and seven digit public water system number or other identifier;
 - (G) domestic, including number of persons served, lawn or garden area, and seven digit public water system number or other identifier, if applicable;
 - (H) power generation, including installed capacity in kilowatts, megawatts or horsepower;
 - (I) recreational, including boating, fishing or other water sports;
 - (J) any additional uses not named above, including environmental use.
- (9) Any changes in the other information contained in the preceding statement;
- (10) Report of water transfers during the twelve month reporting period including transfer dates and approving agency;
- (11) Report of transferred contract water including contract agency, contract number, source, amount of contract water in acre-feet and projected water use in the upcoming year.
- ~~(d)~~(12) Water diversion measurement, either direct diversion or diversion to storage including the type of device(s) used, additional technology used, who installed the device(s) and any alternative method(s) used in measuring the water diversion.
- ~~(e)~~(g) If a substitute or alternative water supply, such as groundwater, contract water, or recycled water, is being used in lieu of surface water to be reported under a statement, the report should indicate the source and amount of substitute or alternative water used and the amount of surface water offset, on a monthly basis.
- ~~(f)~~(h) If water conservation efforts have resulted in a cessation or reduction in use, the report should include a description of the conservation efforts employed and indicate the extent and monthly amount of the reduction in water use due to these water conservation efforts.

Note: Authority cited: Sections 348(a), 1058, 1840, and 1841, Water Code. Reference: Sections 348(a), 1010, 1011, 1011.5, 1846, 5100, 5101, 5103 and 5104, Water Code.

Amend Section 924 to read as follows:

§ 924. Water Use Reports of Registration and Certificate Holders.

(a) Reports of registration and certificate holders shall be filed annually ~~by April 1~~ before February 1 after the close of the twelve month reporting period. Provisional streamflow data may be used in preparing the water use report if final streamflow data are not available by the reporting deadline. If provisional streamflow data are used in the water use report, an amended report based on final streamflow data shall be filed within one month of the date the final streamflow data are available. The board may rely upon any report, including a report based on provisional data, until and unless a revised report is filed. The report shall be filed electronically on a form available at the board's website. Compliance with the requirement to file a water use report is a condition of every registration or certificate. A failure to file a report under this section is a violation of registration and certificate terms, as applicable.

(b) The annual reports shall include the following information:

(1) A statement of compliance or of non-compliance with the terms and conditions of the registration or certificate;

(2) The purpose(s) for which water is diverted and used;

(3) The quantity of water diverted from each point of diversion by month (or shorter timeframe if otherwise required); and

(4) For direct diversion, the maximum rate of diversion achieved at any time during each month, if available.

(c) The first reports of registration and certificate holders shall be filed for the diversion and use of water made during calendar year 2016. The report for 2016 shall be filed prior to April 1, 2017.

(d) The requirement to file annual reports of registration and certificate holders is in addition to and does not modify the five year renewal period for registrations under section 1228.5 of the Water Code.

Note: Authority cited: Sections 348(a), 1058, 1228.6, 1840 and 1841, Water Code.

Reference: Sections 348(a), 1226.1, 1226.2, 1228.2, 1228.3 and 1846, Water Code.

Amend Section 925 to read as follows:

§ 925. Progress Reports by Permittee.

(a) As specified in section 847 of this title, water right permit holders are required to file annual progress reports. Section 846 of this title provides that permittees may also be required to submit a written statement of the quantities of water beneficially used.

Annual reports required under this section are in addition to any specific reporting requirements in a water right permit.

(b) Annual progress reports by permittees shall be filed ~~by April 1~~ before February 1 after the close of the twelve month reporting period on forms available at the board's website. Provisional data and information may be used in the progress report if final data are not available by the reporting deadline. If provisional streamflow data are used in the water use report, an amended report based on final streamflow data shall be filed

within one month of the date the final streamflow data are available. The board may rely upon any report, including a report based on provisional data, until and unless a revised report is filed. A failure to file a progress report is a violation of permit terms.

(c) The annual reports shall include the following information:

(1) A statement affirming compliance or non-compliance with permit terms and conditions;

(2) The construction status of the permitted project and status of current water use;

(3) The purpose(s) for which water is diverted and used. Use information to be provided includes:

(A) irrigation, including crop type and acreage;

(B) frost protection, including acres covered;

(C) heat control, including acres covered;

(D) industrial, including type of activity;

(E) stock watering, including number and type of animals;

(F) municipal, including approximate population served, and seven digit public water system number or other identifier;

(G) domestic, including number of persons served, lawn or garden area, etc., and seven digit public water system number or other identifier, if applicable;

(H) power generation, including installed capacity in kilowatts, megawatts or horsepower;

(I) recreational, including boating, fishing or other water sports;

(J) additional uses not named above, including environmental use;

(4) Information on the device or method used to calculate the amount of water diverted, as required by chapter 2.8 of division 3 this title.

(5) The amount of water taken from each point of diversion in each month (or shorter period if otherwise required) from the source, including amount directly diverted, the amount collected to storage, and the total amount of water diverted during the twelve month reporting period. Each month must contain an entry. If no diversion occurred in a given month, a "0" should be entered;

(6) The maximum rate of diversion achieved at any time during each month (or shorter period if otherwise required), if available;

(7) For permits, the annual report shall also include the measurement data required to be collected in section 933 of this chapter.

(d) If a substitute or alternative water supply, such as groundwater, contract water, or recycled water, is being used in lieu of surface water that is required to be reported under this section, the report should indicate the source and amount of substitute or alternative water used and the amount of surface water offset on a monthly basis.

(e) If water conservation efforts have resulted in a cessation or reduction in use, the report should include a description of the conservation efforts employed and indicate the extent and monthly amount of the reduction in water use due to these water conservation efforts.

Note: Authority cited: Sections 348(a), 1058, 1840 and 1841, Water Code. Reference: Sections 348(a), 1010, 1011, 1011.5 and 1846, Water Code.

Amend Section 929 to read as follows:

§ 929. Reports of Licensee.

(a) As specified in section 847 of this title, water rights license holders are required to file reports when requested by the board. Annual reports required under this section are in addition to any specific reporting requirements in a water right license.

(b) Reports of licensee shall be filed annually ~~by April 4~~ before February 1 after the close of the twelve month reporting period on forms available at the board's website. Provisional data and information may be used in the report of licensee if final data are not available by the reporting deadline. If provisional streamflow data are used in the water use report, an amended report based on final streamflow data shall be filed within one month of the date the final streamflow data are available. The board may rely upon any report, including a report based on provisional data, until and unless a revised report is filed. A failure to file a licensee report is a violation of license terms.

(c) The annual reports shall include the following information:

(1) A statement affirming compliance or non-compliance with license terms and conditions;

(2) The amount of water diverted;

(3) The purpose(s) for which water is diverted and used. Use information to be provided includes:

(A) irrigation, including crop type and acreage;

(B) frost protection, including acres covered;

(C) heat control, including acres covered;

(D) industrial, including type of activity;

(E) stock watering, including number and type(s) of animals;

(F) municipal, including approximate population served, and seven digit public water system number or other identifier;

(G) domestic, including number of persons served, lawn or garden area, etc., and seven digit public water system number or other identifier, if applicable;

(H) power generation, including installed capacity in kilowatts, megawatts or horsepower;

(I) recreational, including boating, fishing or other water sports;

(J) additional uses not named above, including environmental use.

(4) Information on the device or method used to calculate the amount of water diverted, as required by chapter 2.8 of division 3 this title.

(5) The amount of water taken from the source from each point of diversion in each month (or shorter period if otherwise required), including direct diversion amount, amount collected to storage, and the total amount of water diverted during the twelve month reporting period. Each month must contain an entry. If no diversion occurred in a given month, a "0" should be entered.

(6) The maximum rate of diversion achieved at any time during each month (or shorter period if otherwise required), if available;

(7) For licenses, the annual report shall also include the measurement data required to be collected pursuant to section 933 of this chapter.

(d) If a substitute or alternative water supply, such as groundwater, contract water, or recycled water, is being used in lieu of surface water that is required to be reported

under this report, the report should indicate the source and amount of substitute or alternative water used and the amount of surface water offset on a monthly basis.
(e) If water conservation efforts have resulted in a cessation or reduction in use of surface water, the report should include a description of the conservation efforts employed and indicate the extent and monthly amount of the reduction in water use due to these water conservation efforts.

Note: Authority cited: Sections 348(a), 1011, 1058, 1840 and 1841, Water Code.
Reference: Sections 348(a), 1010, 1011, 1011.5 and 1846, Water Code.

Amend Section 930 to read as follows:

§ 930. Notices of Extraction and Diversion.

(a) Annual notices of groundwater extraction and diversion required pursuant to Part 5 of Division 2 of the Water Code shall be submitted to the board electronically, ~~within six months after the close of the succeeding calendar year~~ before February 1 of the year after the twelve-month reporting period, on the forms available at the board's website. A failure to file an annual notice of groundwater extraction and diversion is considered non-use of water.

(b) The report shall include the following information:

- (1) Type of diversion;
- (2) Amount of groundwater extracted during the calendar year;
- (3) Amount of surface water diverted and used, if applicable;
- (4) Method of measurement;
- (5) Supplemental information, if applicable.

(c) Electronic reporting of groundwater extraction and diversion does not apply to those persons reporting to local oversight agencies pursuant to section 5009 of the Water Code.

(d) As specified in Section 1070 of this title, a filing fee is required. The fee must be submitted separately from the electronic report. Filing is not complete until the board receives the filing fee.

(e) If the use of an alternative supply of water or any water conservation efforts have resulted in a cessation or reduction in use, the report should indicate the extent and amount of the reduction in water use due to water conservation efforts.

Note: Authority cited: Sections 348(a), 1058 and 1529, Water Code. Reference: Sections 1005.1, 1005.2, 1005.3, 1005.4, 1011, 1011.5, 1530, 4999, 5000, 5001, 5002, 5003 and 5004, Water Code.