

Tauriainen, Andrew@Waterboards

From: Trgovcich, Caren@Waterboards </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=TRGOVCICH, CAREN@WAD13D986A-FCE1-4A68-9A4F-D972A19543D164F>
Sent: Thursday, June 25, 2015 10:48 PM
To: Dadamo, Dorene@Waterboards
Cc: Kauba, Amy@Waterboards; O'Hagan, John@Waterboards
Subject: Re: curtailments

I am copying John so that he can send you a link to information on our website where this is already described or if that does not exist, to let you know if there are any changes. I am heading back from Pasadena now and will not be in the office tomorrow.

Sent from my iPhone

> On Jun 25, 2015, at 9:23 PM, Dadamo, Dorene@Waterboards <Dorene.Dadamo@waterboards.ca.gov> wrote:

>

> Amy- please locate the link to the press statement Caren references,
> below, along with a link to the Q&A on curtailments.

>

> Caren- I will send the links out to those that have made inquiries,
> along with the description you provided on process:

>

> In the event that the Board determines an unauthorized diversion is
> occurring, the next step would be for the board to issue a draft CDO
> and ACL Complaint. Recipients would have 20 days to request a hearing
> or comply with the draft CDO and pay the penalty. The penalties would
> start accruing when the order becomes final. A final order would be
> issued either after the 20 day period has elapsed and no hearing is
> requested or, if a hearing is requested, after a hearing is held and
> the Board makes a decision.

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> Dorene D'Adamo
> State Water Resources Control Board
> (916)341-5607
> dorene.dadamo@waterboards.ca.gov

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> On 6/25/15, 8:37 AM, "Trgovcich, Caren@Waterboards"
> <Caren.Trgovcich@waterboards.ca.gov> wrote:

>

>> The next step, if we would that an unauthorized diversion is

>> occurring would be to issue a draft CDO and ACL Complaint and the
>> recipients would have 20 days to request a hearing or comply with the
>> draft CDO and pay the penalty. The penalties would start accruing
>> when the order becomes final. A final order would be issued either
>> after the 20 day period has elapsed and no hearing is requested or,
>> if a hearing is requested, after a hearing is held and the Board makes a decision.

>>

>> -----Original Message-----

>> From: Dadamo, Dorene@Waterboards
>> Sent: Thursday, June 25, 2015 8:28 AM
>> To: Trgovcich, Caren@Waterboards
>> Cc: Howard, Tom
>> Subject: Re: We were just kidding- curtailment

>>

>> I realize that. I'm referring to any future curtailment order that we
>> may issue and the need for the recipients of the notice to comply now
>> in order to avoid accrued penalties-- if in fact that is what would happen.

>>

>> Sent from my iPhone

>>

>> On Jun 25, 2015, at 8:14 AM, Trgovcich, Caren@Waterboards

>> <Caren.Trgovcich@waterboards.ca.gov> wrote:

>>

>> We are not issuing curtailment orders. That provision of the
>> regulation, adopted last year, was not extended when the regulation
>> was re-adopted earlier this year for general application. A
>> curtailment order is available for the 3 minimum fish flow tributaries.

>>

>> -----Original Message-----

>> From: Dadamo, Dorene@Waterboards
>> Sent: Thursday, June 25, 2015 7:39 AM
>> To: Trgovcich, Caren@Waterboards
>> Cc: Howard, Tom
>> Subject: Re: We were just kidding- curtailment

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>> Why don't we make it clear that if a curtailment order is issued, the
>> penalties start accruing on the date stated in the curtailment notice?

>>

>> Sent from my iPhone

>>

>> On Jun 25, 2015, at 7:22 AM, Trgovcich, Caren@Waterboards

>> <Caren.Trgovcich@waterboards.ca.gov> wrote:

>>

>> DeeDee - the statement below was issued to the media yesterday afternoon.

>> Because of the litigation, the AG's office wanted to be very careful
>> about what the message said and in what context it was provided. We
>> will put a closed session on the next agenda to discuss the litigation.

>>

>> CT

>>

>> Statement in response to concerns raised about State Water Board
>> Actions related to most recent curtailment notices

>>

>> An email notice will be going out soon to water right holders who
>> have received notices of curtailment and have not yet responded with
>> curtailment certification forms. The information provided on the
>> form is important to help the State Water Board effectively protect
>> senior water rights and administer the state's water right priority
>> system during a drought. Based on the answers provided on the form,
>> the State Water Board may not need to inspect a particular diverter.
>> Also, if a diverter identifies that the curtailed water right is the
>> sole source of water for health and safety needs, the State Water
>> Board can assist the diverter in finding alternative water supplies,
>> or determine that enforcement discretion is warranted. A copy of the
>> letter will also be posted at this location as soon as it is available.

>>

>> Also, there appears to be some confusion about what the Board's
>> recent notices of water unavailability (curtailment notices) are and require.
>> This confusion is based on misunderstandings of recent state court
>> filings in response to requests by Central Valley irrigation
>> districts for local courts to stop the State Water Board's
>> curtailment notifications of senior water right holders as of June 12.

>>

>> What is a Curtailment?

>> It is not always clear to diverters whether water flowing in a stream
>> is necessary to support senior water users downstream, is a release
>> of stored water for downstream purposes, or is actually available for
>> diversion. Accordingly, the State Water Board, which has that
>> information, informs holders of water rights with certain priority
>> dates through a curtailment notice that water supplies are so low
>> that there is not enough water available for them to divert under those rights.

>>

>> A curtailment notice, provided by the State Water Board's Division of
>> Water Rights, lets water right holders receiving it know that if
>> diversions are not stopped under those rights, the water right holder
>> may be subject to enforcement for an unauthorized diversion of water.
>> This notice is not an order. An enforceable order would follow an
>> evidentiary hearing, if requested by the diverter, at which the State
>> Water Board would determine whether an unauthorized diversion or
>> threat of unauthorized diversion was occurring.

>>

>> The State Water Board is currently in the field to determine if
>> unauthorized diversions are actually taking place. These inspections
>> are based on all information available to the Board.

>>

>> Unauthorized diversions are subject to enhanced penalties pursuant to
>> the
>> 2014 emergency legislation to protect water supplies during the
>> drought emergency. Under Water Code section 1052, diversions when no
>> water is available under a water right constitutes an unauthorized
>> diversion and a trespass.

>>

>> Under Water Code section 1052, unauthorized diversions are subject to
>> penalties by the Board or a court. Violations are subject to fines

>> up to
>> \$1,000 per day and \$2,500 per acre-foot of water unlawfully diverted,
>> cease and desist orders, or prosecution in court.
>>
>> For more information on the curtailment process please visit
>> http://www.waterboards.ca.gov/waterrights/water_issues/programs/droug
>> [ht/fa_q.shtml#curtailment](http://www.waterboards.ca.gov/waterrights/water_issues/programs/droug/ht/fa_q.shtml#curtailment), or this curtailment fact sheet
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>> -----Original Message-----
>> From: Dadamo, Dorene@Waterboards
>> Sent: Wednesday, June 24, 2015 11:03 PM
>> To: Howard, Tom
>> Cc: Trgovcich, Caren@Waterboards
>> Subject: We were just kidding- curtailment
>>
>> I've received several messages about the AG's statement. I'd like to
>> see what we are saying on messaging. Also, I'd like to request a
>> closed session to discuss.
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>> <http://www.mantecabulletin.com/m/section/1/article/125337/>
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