

CALIFORNIA WATER RIGHTS COMPLIANCE CHECKLIST FOR 2017

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 2017.* 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 at Brownstein Hyatt Farber Schreck, LLP.

CALENDAR OF KEY ANNUAL STATE FILING DEADLINES

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

Abbreviations:

CDFW – Department of Fish and Wildlife
DWR – Department of Water Resources
SWRCB – State Water Resources Control Board
SGMA – Sustainable Groundwater Management Act of 2014

* 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.). Please note that this checklist includes only California 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 who divert surface water must file a Statement of Diversion and Use with the SWRCB.¹ 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 July 1 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 CDFW.² 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 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.³ Depending on the type of use, registration authorizes users to divert a maximum amount of water for specific purposes.⁴ 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.
Small Domestic Use Appropriation registration form:
http://www.swrcb.ca.gov/waterrights/publications_forms/forms/docs/sdu_registration.pdf
Small Irrigation Use Appropriation registration form:
http://www.swrcb.ca.gov/waterrights/publications_forms/forms/docs/siu_registration.pdf
Livestock Stockpond Use Appropriation registration form:
http://www.swrcb.ca.gov/waterrights/publications_forms/forms/docs/lisu_registration.pdf

Annual Filings

- **Licensee Report.** SWRCB license holders must submit their Report of Licensee providing their actual water diversions and use annually. Beginning in 2016, the license reporting deadline was modified and is now due by April 1.⁵ 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.⁶ Reports must also include information on the device or method used to calculate the amount of water diverted.⁷ These forms must be submitted

electronically using the SWRCB's electronic Water Right Information Management System (eWRIMS) at:

<https://rms.waterboards.ca.gov/login.aspx?ReturnUrl=Default.aspx>

A sample license report is available at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/ewrims/docs/license.pdf

- **Permittee Progress Report.** SWRCB permit holders must submit permittee progress reports describing the status of any permitted appropriations of water annually. Consistent and 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, the filed progress reports and reported beneficial use of water may be used to demonstrate due diligence. Beginning in 2016, the permittee progress reporting deadline was modified and is now due by April 1. Reports must include information on the device or method used to calculate the amount of water diverted.⁸ 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.⁹ These forms must be submitted electronically using eWRIMS at:
<https://rms.waterboards.ca.gov/login.aspx?ReturnUrl=Default.aspx>
A sample of the permittee progress report is available at:
http://www.waterboards.ca.gov/waterrights/water_issues/programs/ewrims/docs/permit.pdf
- **Reports of Registration and Certificate Holders.** Annually, every holder of a small irrigation, 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).¹⁰ Reports are due April 1, with the first report due for the 2016 reporting year on April 1, 2017.¹¹
- **Supplemental Statements of Diversion and Use.** After a water user files an initial Statement of Diversion and Use (see above), the user must file Supplemental Statements of Diversion and Use annually by July 1.¹² Also, statement filers must include information on the device or method used to calculate the amount of water diverted.¹³ These forms must be submitted to the SWRCB electronically using eWRIMS at:
<https://rms.waterboards.ca.gov/login.aspx?ReturnUrl=Default.aspx>
A sample of the supplemental statement is available at:
http://www.waterboards.ca.gov/waterrights/water_issues/programs/ewrims/docs/statement.pdf
- **NEW Water Diversion and Storage Measurement Requirements.** The 2016 Drought Emergency Regulation for Measuring and Reporting on the Diversion of Water or Senate Bill 88 (Measurement Regulations)¹⁴ impose new measurement requirements for certain surface water users filing Supplemental Statements of Water Diversion and Use, 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 will be required to employ diversion measurement methods capable of measuring the rates of direct diversion, collection to storage, and withdrawal or release from storage.¹⁵ The effective date of this requirement will be phased in according to the size of a user's claimed right, with the earliest effective date being Jan. 1, 2017 for anyone with a right to divert 1,000 acre-feet per year or more.¹⁶ 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 Jan. 1, 2016.¹⁷ Water users subject to new measurement requirements must file documentation of compliance as part of the first annual report submitted after installation.¹⁸ 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.¹⁹ For a more detailed discussion of the Measurement Regulations, see:

http://www.bhfs.com/Templates/media/files/SB%2088%20Measurement%20Infographic_1417_010517.pdf

See also the SWRCB’s website at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/measurement_regulation/

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.²⁰ 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 Nov. 2, 2005, the renewal form would be due by Nov. 30, 2010.
- **NEW 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, through a form available on the SWRCB website.²¹
A sample measurement method form is available at:
http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/docs/measure_method_sample.pdf
Updates to the form will be posted here:
http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/water_use.shtml

GROUNDWATER

One-Time Filings

- **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 must file an Initial Notice of Extraction and Diversion of Water with the SWRCB (or if applicable, the SWRCB-designated local entity).²² For the purpose of requirement, “groundwater” is defined as “water beneath the surface of the ground whether or not flowing through known and definite channels.”²³ The deadline for filings is March 1; penalties for non-filing (deemed equivalent of non-use) arise if filing is not done by July 1. Filings must contain the requested information for the preceding calendar year.²⁴ The form is available at:
http://www.waterboards.ca.gov/waterrights/publications_forms/forms/docs/gw_first_notice.pdf

Annual Filings

- **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 1.²⁵ These forms must be submitted

electronically using eWRIMS at:

<https://rms.waterboards.ca.gov/login.aspx?ReturnUrl=Default.aspx>

- **Local Groundwater Extraction Reporting Requirements.** Individual counties may impose additional groundwater extraction reporting requirements. Please contact us for more information on local requirements that may apply to you.
- **Notice of Cessation or Reduction of Use.** Annually, users of groundwater 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 non-tributary source.²⁶ For the purposes of this filing, “groundwater” means: “water beneath the surface of the ground, whether or not flowing through known and definite channels.”²⁷ 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. 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 Nov. 1 to Oct. 31, and the deadline for submission is Dec. 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.²⁸ Before filing a Notice of Cessation of Use, groundwater users should consult legal counsel to formulate a strategy for claiming any cessation or reduction of use of groundwater. The Notice of Cessation of Use form is not available online. Please contact our office for a copy.
- **NEW Annual Groundwater Extraction Reporting Requirements.** Beginning in July 2017, SGMA will require groundwater users to file extraction reports with the SWRCB for extractions that come from: (1) “probationary basins” designated after June 30, 2017, or (2) areas within a “high- or medium-priority basin” not managed by a groundwater sustainability agency (GSA) and where the county does not assume the responsibility to be the GSA.²⁹ However, de minimis extractors—users who pump 2 acre-feet or less per year—are exempt.³⁰ These groundwater extraction reports will be due each year by Dec. 15 for extractions made in the preceding water year.³¹ Under SGMA, “groundwater” means: “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” and “water year” means: “the period from October 1 through the following September 30.” For more information on how the SGMA may affect you, please contact us.

Request for Notice

- **RECOMMENDED Request to Be Added to Interested Persons List(s).** 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 2014.³² A list of these agencies is available at: http://www.water.ca.gov/groundwater/sgm/gsa_table.cfm 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.

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- ¹ Cal. Water Code § 5100 *et seq.*
 - ² Fish & Game Code § 1602.
 - ³ Water Code § 1228 *et seq.*
 - ⁴ Water Code § 1228.1.
 - ⁵ See Cal. Code Regs., tit. 23, §§ 907(e), 929(b).
 - ⁶ C.C.R. tit. 23, § 929(b).
 - ⁷ C.C.R. tit. 23, §929(c)(4).
 - ⁸ C.C.R. tit. 23, §§ 907(e), 925(b), (c)(4).
 - ⁹ C.C.R. tit. 23, § 925(b).
 - ¹⁰ C.C.R., tit. 23, §924(a).
 - ¹¹ C.C.R. tit. 23, §§ 907(e), 924(a), (c).
 - ¹² Water Code § 5104; C.C.R. tit. 23, §§ 907(e), 920(a).
 - ¹³ C.C.R. tit. 23, § 920(c)(6).
 - ¹⁴ C.C.R. tit. 23, § 907 *et seq.*
 - ¹⁵ Water Code § 1840(a)(1); see also C.C.R. tit. 23, § 932(a).
 - ¹⁶ C.C.R. tit. 23, § 932(c)(1)(a).
 - ¹⁷ Water Code § 1840(b)(1)(A); C.C.R. tit. 23, § 933.
 - ¹⁸ C.C.R. tit. 23, § 937(a)(2).
 - ¹⁹ Water Code § 1840(b)(2); C.C.R. tit. 23, § 935(a).
 - ²⁰ Water Code § 1228.5.
 - ²¹ Water Code § 1840(a)(1)(A); C.C.R. tit. 23, § 937(a)(3).
 - ²² Water Code § 4999 *et seq.*
 - ²³ Water Code §§ 5000.
 - ²⁴ Water Code § 5001; C.C.R. tit. 23, §§ 907(d)(4).
 - ²⁵ C.C.R. tit. 23, §§ 907(d)(4).
 - ²⁶ Water Code § 1005.1.
 - ²⁷ Water Code § 1005.1
 - ²⁸ Water Code §§ 1005.2, 1005.4.
 - ²⁹ Water Code § 5202(a).
 - ³⁰ Water Code § 10721(e).
 - ³¹ Water Code § 5202(b).
 - ³² Water Code § 10723.4.

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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