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Who's Getting Unreasonable Water Allocations in CA?

July 12, 2021

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Despite the extremely dry conditions this year, the federal Central Valley Project and State Water Project are allocating more than 4 million acre feet of water to their contractors, with [the vast majority of that water](#) allocated to irrigation districts that claim to have senior water rights and negotiated unreasonable contracts with the state or federal government decades ago. Even as many agricultural contractors are getting 0%

allocations from the CVP, and the cities that have contracts with the CVP are (hopefully) getting the water needed to meet human health and safety this year, other water districts that contract with the CVP and SWP are getting 50%, 75%, or 100% of their maximum contract amounts of water, as [this table from the Bureau of Reclamation shows](#) (note that this table has not been updated to account for recent allocation updates, despite NRDC's repeated requests).

However, there are huge problems: these water allocations are completely breaking the system, they're deeply inequitable, and they're also unlawful.

First, in order to make these water supply allocation during the drought, the CVP and SWP are violating the terms of their water rights that protect the public, causing all sorts of unreasonable impacts from the operations of the CVP and SWP, including:

Violating water quality standards in the Delta that protect farms, communities, and fish and wildlife, worsening water quality and contributing to outbreaks of harmful algal blooms. These standards are already much weaker in dry years, but in order to deliver millions of acre feet of water to these contractors, the CVP and SWP are violating these minimum water quality standards

(as they did in 2014 and 2015);

Violating water temperature standards that protect salmon in the Sacramento River, which are likely to result in wiping out the salmon that spawn in the Sacramento River this year, increasing the risk of extinction for endangered winter-run Chinook salmon as well as threatening thousands of fishing jobs. Not only are they violating the existing temperature standards, but the Bureau of Reclamation [just admitted](#) that they will violate the already woefully inadequate Shasta Temperature Management Plan that the SWRCB approved in June, draining Shasta Reservoir even lower (down to 1.1 million acre feet, instead of 1.25 million acre feet at the end of September), which led scientists with NMFS to [tell the New York Times](#) that “We’re looking at maybe 90 percent mortality, maybe even higher this year.”

Draining water stored in upstream reservoirs, causing declining hydropower production and threatening to leave California without enough water to meet basic health and safety needs if next year is dry.

It's not just drought and hydrology that are causing these impacts - these impacts result from the decisions that water managers make in respond to the dry conditions.

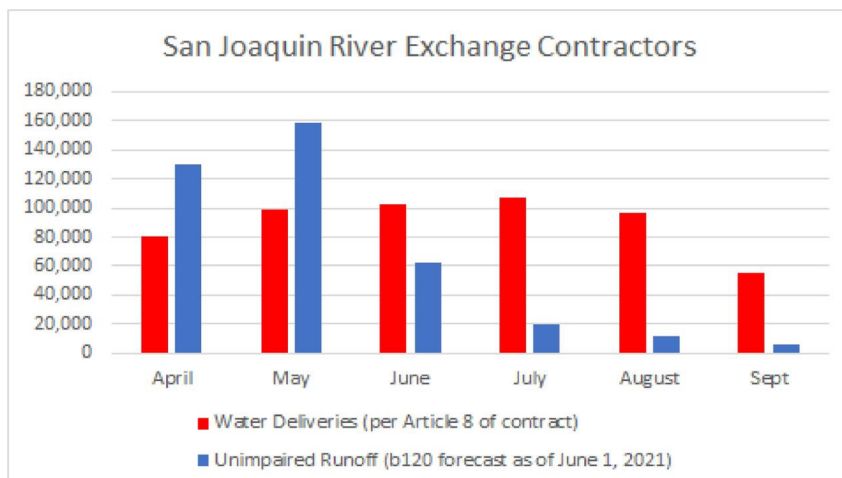
And second, these agribusinesses are getting more water than they would be entitled to under their claimed water rights! Urban residents are being asked to conserve water, and fish and wildlife are being devastated, while these contractors get more water than they are entitled to. That's unlawful: it is an unreasonable use of water under Article X, section 2 of the State Constitution.

These are the irrigation districts sucking California dry this year:

San Joaquin River Exchange Contractors

These are four irrigation districts (Central California Irrigation District, San Luis Canal Company, Firebaugh Canal Company, and Columbia Canal Company) that exchanged their claimed rights to divert water from the San Joaquin River for water deliveries from the Bay-Delta by the Bureau of Reclamation. This year, the Bureau of Reclamation is allocating 656,717 acre feet (75% of maximum contract amounts) to the San Joaquin River Exchange Contractors, with 541,000 acre feet of that water allocated in the months of April through September pursuant to their contract. Yet the entire flow of the San Joaquin River (known as unimpaired flow or full natural flows) is only

approximately 389,000 acre feet between April and September, meaning that these 4 districts are getting the equivalent of 139% of the river's flow in these months; their allocation is also significantly greater than the unimpaired flow for the entire year.



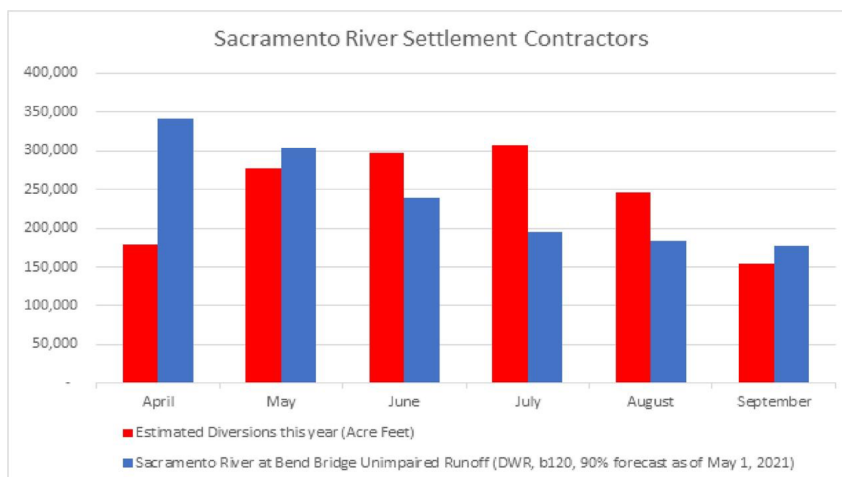
Sacramento River Settlement Contractors

The Sacramento River Settlement Contractors are more than 100 irrigation districts, companies, trusts, and individuals that claim rights to divert water from the Sacramento River, which collectively hold contracts with the Bureau of Reclamation for more than 2.1 million acre feet of water per year. The largest of these contractors are the Glen-Colusa Irrigation District (contract for 825,000 acre feet per year), Reclamation District 1008 (contract for 232,000 acre feet per year), Sutter Mutual Water Company (contract for 226,000 acre feet per year), the Anderson-Cottonwood

Irrigation District (contract for 125,000 acre feet per year), and Natomas Central Mutual Water Company (contract for 120,200 acre feet per year).

This year, the Bureau of Reclamation is allocating more than 1.586 million acre feet of water (75% of maximum contract amounts) to these Sacramento River Settlement Contractors. If they diverted the full 75% allocation this summer, it would be the equivalent of diverting 101% of the entire flow of the Sacramento River at Bend Bridge! These contractors have agreed to transfer some of their water later in the year (for which they are getting paid \$450 per acre foot, or approximately \$67 million dollars), and they claim to have voluntarily agreed to reduce their diversions to less than the 75% allocation, but even with those changes they would be diverting nearly 75% of the entire flow of the Sacramento River at Bend Bridge this summer (and more than the total flow in some months). These totals includes hundreds of thousands of acre feet of discretionary water deliveries known as "Project water," which are in excess of their claimed water rights and which are supposed to be curtailed in order to meet Reclamation's legal obligations, including temperature control for salmon below Shasta and water quality standards in the Delta.

What's more, according to data from the State and federal governments, the Sacramento River Settlement Contractors have never diverted more than 75% of their total contract amounts in the past 20 years, meaning that for most of these districts, they get all the water they ever use even in these extremely dry years when their allocation is cut by 25%. That unreasonable result has occurred despite the state constitution and contractual requirements that water allocations be limited to what is reasonably used (and then, per the contracts, reduced 25% in very dry years like 2021).



Feather River Settlement Contractors

The California Department of Water Resources has contracts with 8 water districts along the Feather River that claim senior water rights and negotiated a settlement contract with DWR, on average delivering more than 1 million acre feet of water per year. This

year, DWR is allocating 600,000 acre feet of water to these districts (a 50% allocation), even though the total unimpaired runoff from April to July is 630,000 acre feet, meaning that the allocation to these contractors would require diverting nearly the entire flow of the Feather River this summer.

Stanislaus River Contractors

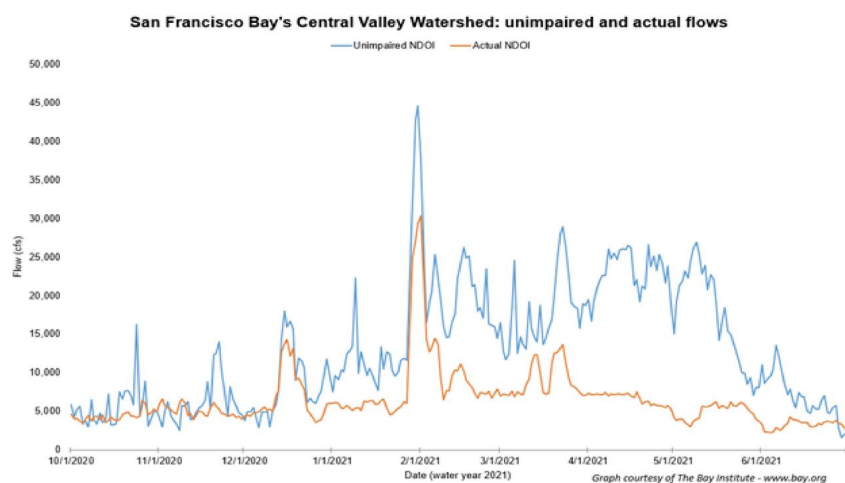
Four water districts (Central San Joaquin Water Conservation District, Stockton-East Water District, Oakdale Irrigation District, and South San Joaquin Irrigation District) hold contracts with the Bureau of Reclamation for 755,000 acre feet of water per year, and the Bureau of Reclamation is apparently allocating 100% of their water supply this year even though the estimated unimpaired runoff on the Stanislaus River is only 331,000 acre feet of water.

Where is the Water Going this Year?

Overall, even though this year is extremely dry, from January 1 to the end of June approximately 58% of the water that would naturally have flowed down the Sacramento River, San Joaquin River, and their tributaries and into and through the Delta was stored or diverted, with only 42% of the water actually flowing

downstream as nature intended (as shown in the graph below, prepared by our partners at The Bay Institute).

And while water flowing through the Delta is critical for protecting native fish and wildlife, much of the water that was allowed to flow through the Delta was necessary to keep the Delta fresh enough for the CVP and SWP – as well as farms and cities in the Delta – to be able to pump and divert fresh water, rather than sucking saltwater into their pumps.



The common theme for all of these allocations is that they are far greater than the amount of water that these contractors would be entitled to under their claimed water rights. After all, no one seriously believes that its ok to divert every drop of water and dry up a river, do they?

Actually, some of these contractors do. And some of them have argued that the government has to cease all

water deliveries to cities if they don't get their contractual amounts of water. For instance, in 2014, lawyers for the Sacramento River Settlement Contractors sent [this letter](#) to the Bureau of Reclamation demanding that if they could not deliver their 75% allocation, the Bureau had to cease all other water deliveries, including water deliveries to cities South of the Delta that were necessary in part to simply meet needs for human health and safety.

This year, the absurdity and unreasonableness of California's water rights system has been brought into stark relief. The federal Central Valley Project and State Water Project are violating the requirements of their water rights that protect the public – violating water quality standards in the Delta that protect farms, cities, and the environment, and violating water temperature standards below Shasta Dam that protect the salmon fishery – because they are choosing to instead allocate more than 4 million acre feet of water from the Bay-Delta, largely to agribusinesses. The decisions to make these unsustainable allocations – not just drought -- are why the water system is breaking down this year. That's unreasonable and inequitable, and it violates Article X, section 2 of the State Constitution.

ABOUT THE AUTHORS



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