

Water sharing deal may get nod

State regulators consider agreement by Russian River rights holders

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The State Water Resources Control Board is poised to approve a historic agreement designed to allow Russian River water rights holders to share scarce supplies in the likely event regulators cut off withdrawals this summer because of the ongoing drought.

If approved Tuesday, the Upper Russian River Voluntary Water Sharing Agreement would allow older “senior” water rights holders to give some of their share to junior claimants who might not otherwise have enough for irrigation and other needs.

One water board staffer described it as a “voluntary effort to balance rights to water under existing law with the various needs in the watershed.”

The proposal is intended to benefit “community resilience, regional resilience,” ahead of any individual water rights holder’s personal needs, said Elizabeth Salomone, general manager of the Russian River Flood Control and Water Conservation Improvement District.

It is the product of months of intense negotiation since fall but dates back to initial conversations begun in 2020, as the unfolding drought raised the prospect of state-ordered curtailments on water rights

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holders in the upper Russian River watershed, above the confluence of Dry Creek near Healdsburg.

"This is a way for stakeholders in the Upper Russian River to show that we are taking regional responsibility for our water resources," Salomone said.

Success of the program, assuming it's approved, depends on how many water right holders ultimately enroll and whether a sufficient number of senior rights holders are among them. Without the generosity of senior rights holders least likely to have their access to river diversions curtailed, there's no water to share for the benefit of those with lesser rights.

Moreover, there must be enough water in the entire system for distribution among water rights holders in the first place — an issue of great uncertainty, given the complexity of the Russian River watershed and its dependence on diversions from the Eel River for summer flows.

During dry months, the upper reaches of the Russian River are fed largely by Lake Mendocino, which receives flows diverted from Lake Pillsbury and the Eel River through PG&E's Potter Valley power plant into the East Branch Russian River.

While there was more rainfall in the region last winter than in the two previous winters, Lake Mendocino is holding less than 57% of its water storage target for this time of year. Releases in the coming months are expected to be at the bare minimum required to protect federally listed salmon and steelhead trout.

But the water level at Lake Pillsbury is low, too. It's at about 68% of its target storage curve, and concerns about maintaining a pool of cool water to release into the Eel River during chinook spawning season next winter, as well as other issues, have prompted Pacific Gas & Electric to seek federal permission to reduce releases into the East Branch Russian River by more than 60%.

That means there may not be extra water in the upper Russian River for even senior water rights holders, and no potential for sharing.

The Sonoma County Water Agency and others have submitted comments to federal regulators in hopes of dialing back PG&E's low flow request. But comments are due Thursday, and no one is sure when the federal regulatory agency may take action or what it might be.

In the meantime, work on the sharing agreement has continued, with early enrollment beginning May 27 and continuing through June 20.

Water Board staff says senior rights holders could expect to forgo 25% to 75% of their baseline average water usage from 2017 to 2019. The calculations would be based on enrollments, and signers would have opt-out opportunities.

Felicia Marcus, former chair of the state water board and now visiting fellow at Stanford University's Water in the West Program, said the closest thing she's seen to the

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arrangement was an agreement in the San Joaquin River Delta during the last drought when a group of farmers with senior water rights agreed to take only 75% of the water afforded them by their right with the promise they would not be curtailed later.

She welcomed the Russian River scheme as an "encouraging," even "heartwarming" development, given the harsh nature of the West's archaic water rights system and general reluctance of those with water rights to relinquish what's theirs.

"I think it's very exciting that people stepped up to make sure other people get some, as opposed to, 'Oh, I got mine; forget you,' which is how existing water law is written," Marcus said.

The state's system of water rights grants access to natural river and tributary flows to those whose land touches a watercourse or who have what are called appropriative rights allowing them to divert water to another site for specific, beneficial uses.

During drought, when flows run low, the state can "curtail" diversions, however, beginning with those who acquired their rights most recently and working backward.

The state last year froze more than 1,800 water rights for ranchers and other landowners, municipalities, rural water districts and others to slow depletion of dwindling supplies in lakes Mendocino and Sonoma.

State water board personnel had said they expected curtailment orders to be issued this year, as well, though likely affecting fewer water rights. They could begin soon after June 15, the date until which the most recent curtailment order is suspended, said Sam Bolland-Brien, supervising engineer with the State Water Resources Control Board.

Devon Boer, executive director of the Mendocino County Farm Bureau and a lead voice in the water sharing discussions, said the uncertainties of enrollment and water availability left a lot unknown.

But like others, she said the framework is a good one that could provide a template for the future, if not this year, and so far suggests their support for a considering the community good.

"It's a new concept for diverters to consider," she said. "There is a bit of a faith effort."

For more information, go to bit.ly/3mivtXZ.