

**STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2022-0021**

**APPROVING A VOLUNTARY WATER SHARING AGREEMENT  
IN THE UPPER RUSSIAN RIVER WATERSHED**

WHEREAS:

1. On April 21, 2021, Governor Gavin Newsom declared a state of emergency in Mendocino and Sonoma counties due to drought conditions in the Russian River watershed ([April 2021 Proclamation](#)). The April 2021 Proclamation, in conjunction with Water Code section 1058.5, authorized the State Water Board to issue emergency regulations to prevent the unauthorized diversion and use of water and to prevent the unreasonable use of water. On March 28, 2022, Governor Newsom issued Executive Order N-7-22, which reiterated that the state of emergency identified in the April 2021 Proclamation persists.
2. On May 10, 2022, the State Water Board adopted a revised emergency regulation authorizing water right curtailments due to the ongoing drought emergency in the Russian River watershed (the Regulation). The Regulation was approved by the Office of Administrative Law on May 31, 2022.
3. Section 877.4 of the Regulation authorizes Russian River water users to propose a Voluntary Water Sharing Agreement (VSA, or Program) that, if approved by the State Water Board, could operate as an authorized exception to curtailment for signatories diverting in accordance with that agreement.
4. Section 877.4 of the Regulation further provides that approval of a VSA requires that the State Water Board find: (a) that the VSA will not adversely affect the availability of water for non-signatories, and (b) that the VSA includes support from prospective signatories in both Mendocino and Sonoma Counties.
5. Section 877.4, subdivision (c), of the Regulation authorizes the Deputy Director to notify signatories that the exception to curtailment no longer applies if, at any time after State Water Board approval of a VSA, stream gage data and other relevant information indicate that the VSA is adversely affecting or threatens to adversely affect the availability of water for non-signatories.
6. Russian River water users and local parties have proposed a VSA for State Water Board approval. The State Water Board staff have assisted local interested parties in the development of the VSA and propose to maintain a continuing technical assistance role in its implementation.

7. The VSA establishes a framework for allowing non-curtailed senior water right holders to reduce their diversions to provide water supplies for water right holders who would otherwise cease diversions. This framework involves the identification of Forbearance Thresholds that specify percent water use reductions from a baseline water usage. In so doing, the Program allows cooperative and cumulative sharing of water available for diversion to satisfy watershed-wide human domestic water needs and minimum agricultural irrigation to sustain crops. The VSA commits signatories to reduce their water usage from a baseline based on their average monthly diversions over the period of 2017 to 2019. The VSA also contains a methodology, contained in Exhibit B, for identifying when signatories would or would not have water available for sharing with other VSA signatories, and the extent to which water use reductions will be required. The methodology described in Exhibit B is consistent with the State Water Board's methodology for determining water availability, with inclusion of conservative assumptions to ensure the VSA is not identifying water as being available to users who would otherwise be curtailed under the Regulation.
8. State Water Board staff have reviewed the proposed VSA and associated Exhibits and have prepared a written analysis intended to inform the State Water Board's determination pursuant to section 877.4 of the Regulation. State Water Board staff's written analysis concludes that the Program would not adversely affect the availability of water for non-signatories. The analysis evaluates the assumptions of the VSA relative to the State Water Board's curtailment methodology and describes how comparative analyses will be conducted by staff to ensure the VSA does not result in more water use once the extent and water right priorities of VSA enrollees is known. State Water Board staff's analysis has determined that the VSA would not result in a net increase of water use nor adversely affect the water supply of non-signatories compared to the Program not being in effect and describes how this conclusion will continue to be re-evaluated as the program is implemented.
9. The VSA's initial implementation is scheduled to begin in Summer 2022. Given that this Program is a novel effort to respond to drought in the watershed, the Program will be examined by signatories following its first year of implementation to identify areas for programmatic and technical improvements. Additionally, the Program will be continually assessed by State Water Board staff during implementation to ensure it does not adversely affect water availability for non-signatories and, if necessary, to inform the Deputy Director's determination that the exception to curtailment authorized by the VSA no longer applies.

10. Program signatories that are not curtailed make water available through demand reduction actions undertaken with the express purpose of making water available for other signatories. But for the Program, the non-curtailed signatories otherwise would divert and consumptively use such water. Section 877.4, subdivision (d), therefore prohibits diversion by a non-signatory of water made available by a signatory pursuant to the Program.
11. Based on the foregoing findings and the State Water Board staff analysis of the VSA, and in accordance with California Code of Regulations, Title 23, section 877.4, the State Water Board finds that (a) the VSA will not adversely affect the availability of water for non-signatories, and (b) the VSA includes support from prospective signatories in both Mendocino and Sonoma Counties.
12. Pursuant to the April 2021 Proclamation, the California Environmental Quality Act (CEQA) is suspended as to this State Water Board action.

THEREFORE BE IT RESOLVED THAT:

The proposed Voluntary Water Sharing Agreement is approved on the following conditions:

1. State Water Board Staff shall (a) evaluate the extent of enrollment and the amounts of water available within the Program to determine if there is sufficient enrollment to facilitate the transfer of water to enrollees in need; and (b) regularly monitor and confirm that the Program does not operate in a manner that adversely affects the availability of water to non-signatories.
2. State Water Board Staff shall post on its website a list of enrollees and those approved for an exception to curtailment under California Code of Regulations, Title 23, section 877.4.
3. The Deputy Director for the Division of Water Rights shall exercise the authority granted under section 877.4, subdivision (c), to cancel the curtailment exception under section 877.4, subdivision (b), when stream gage data and other relevant information indicate that there is inadequate participation of senior water right holders to make water available for sharing without adversely affecting non-signatories. Further, the Deputy Director shall exercise the aforementioned authority under section 877.4, subdivision (c), as to tributaries where the State Water Board staff's comparative analysis following enrollment indicates that allocation of shared water to signatories would adversely affect the availability of water to non-signatories in that tributary.

4. To prevent ambiguity regarding the applicability of exceptions to curtailment and the availability of water which might result in unauthorized diversion of water, signatories to the VSA may not divert under exceptions to curtailment other than that authorized in section 877.4, subdivision (b). If a signatory to the VSA must increase diversions beyond the identified Forbearance Thresholds to satisfy minimum human health and safety needs, they shall withdraw from the VSA and request the relevant minimum human health and safety exception.
5. State Water Board staff shall continue working with local interested parties to develop the Program for long-term implementation outside the context of an emergency regulation.

### CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the forgoing 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 June 7, 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

  
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Jeanine Townsend for  
Clerk to the Board