



Fact Sheet

Curtailment Statuses and Correlative Sharing Requirements in the Russian River Watershed

This document is divided into sections providing: 1) an overview of curtailments and correlative sharing requirements; 2) the process involved when receiving an Order Regarding Curtailment Status; 3) information on how to obtain an exception to curtailment or correlative sharing requirements, and 4) enforcement of curtailment and correlative sharing directives. This fact sheet does not replace or supersede information in the Order Regarding Curtailment Status, the emergency regulation, or the terms and conditions of your individual water right. If you cannot find an answer to your question, please contact Division of Water Rights staff at (916) 341-5318 or via email at RussianRiverDrought@waterboards.ca.gov.

1. Overview of Curtailments and Correlative Sharing

Why is the State Water Board issuing curtailments and correlative sharing requirements in the Russian River watershed?

As California heads into a third consecutive dry year, the State Water Resources Control Board (State Water Board) Division of Water Rights (Division) readopted an emergency drought regulation for the Russian River watershed. Under California's priority-based water rights system, if there is insufficient water to support all water rights, junior water right holders must limit or stop their water diversions first, based on their water right priority, to satisfy the rights of those more senior to them. There is not enough water for many water right holders due to extremely low flows and persistent dry conditions this year.

Water stored in Lake Mendocino is released downstream to maintain flows in the Upper Russian River, which extends from roughly 20 miles north of Ukiah down to the confluence with Dry Creek near the City of Healdsburg. During dry periods, these storage releases can account for all water in the river. The released water protects multiple species, including endangered coho salmon and threatened steelhead and chinook salmon, and supports municipal and agricultural uses.



After an unseasonably dry winter and spring, Lake Mendocino is well below historic storage levels. Diversions in the Russian River mainstem require additional releases from the lake to maintain river flow; preserving water in storage ensures the lake can continue to support minimum health and safety needs and threatened and endangered fisheries if dry conditions persist.

What is an Order Regarding Curtailment Status?

Orders Regarding Curtailment Status were sent out on June 14, 2022, to all water right holders in the Russian River watershed. These orders start implementation of the 2022 emergency regulation for curtailments in the Russian River. The orders direct right holders to check the Curtailment Status List available on the [Russian River Drought webpage](#) for updates regarding their individual curtailment status or correlative sharing requirements. Updates to the Curtailment Status List serve as an official curtailment order authorized by the emergency regulation adopted by the State Water Board on May 10, 2022, and approved by the Office of Administrative Law on June 1, 2022. Changes to the status list will be announced on the State Water Board's webpage and through Lyris email notification.

What is the difference between a curtailment and a correlative sharing requirement?

When water supplies are insufficient to meet demands, appropriate water rights are curtailed, or directed to fully cease water diversions. Appropriate water rights in the Russian River watershed have a discrete priority date and are curtailed based on the priority of the right when water is not available to meet their individual demands. Correlative sharing requirements are unique to riparian water rights that share a common supply of water. However, riparian rights do not have unique priorities and collectively share the supply available to them. The Emergency Regulation establishes how riparian claimants will share the common water available to them through correlative reductions from their reported demand.

How can people help?

Everyone in the watershed needs to conserve water during this dire drought. This includes individuals who rely on water supplied by others, those that use groundwater, and those that may be using previously stored water. It is unknown how long this drought will continue, and all supplies need to be preserved for as long as possible. If you believe someone is violating a curtailment order and diverting water illegally, please

file a complaint and our enforcement staff will investigate the issue. More information on filing complaints is available at:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/enforcement/complaints/

Information on illegal diversions will be critical in prioritizing our enforcement activities. If you believe someone is wasting water, visit savewater.ca.gov to report water waste, such as leaks and overwatering, to your local water agency.

What should diverters expect in the coming months?

Conditions will be closely monitored and water right holders will be updated if flows improve and more water becomes available. The Curtailment Status List is the definitive source of information on curtailments and correlative sharing reductions for the Russian River watershed. Updates to the Curtailment Status List will be provided on the Russian River Drought webpage and noticed through the email subscription list. You can sign up to receive email updates by subscribing to the Water Rights' "Russian River Drought" email list at:

https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html

The State Water Board encourages diverters to collaborate and help local communities adapt to water shortages, conserve water, prevent impacts to other legal water right users, and benefit fish and wildlife.

2. The Curtailment and Correlative Sharing Process

What are the main steps involved in the curtailment process?

1. Receive an Order Regarding Curtailment Status by mail.
2. Check the Curtailment Status List, available online, for your curtailment status.
3. If your appropriative water right is curtailed, then stop diversions at all points of diversion associated with the water right. For riparian water rights, your correlative sharing requirement for the month will be listed and you are authorized to divert up to that amount for the month.
4. If you are seeking an exception to divert for human health and safety needs or because your diversion does not reduce surface flows, and you have not previously submitted an exception form under the 2021 Emergency Regulation, then visit the online [Form Portal](#) to complete the applicable online form, described further below.

5. Sign up for the Board's email distribution list and monitor the State Water Board's website. This will be the only means for receiving updates on the status of curtailments and when they have ended.
6. If you are continuing to divert under an exception to curtailment, submit additional information based on reporting requirements.
7. See Section 4 below for a summary of the steps involved in the enforcement process.

What is the Curtailment Status List?

The Curtailment Status List is the State Water Board's official list of water rights that are curtailed or reduced. Updates to the Curtailment Status List becomes effective the day after being issued. You must cease diversions as soon as possible following a published update to the Curtailment Status List, as each day of violation can contribute to fines in an enforcement proceeding.

What is a riparian water budget allocation?

Curtailment orders issued to a riparian claimant establish a maximum allowable diversion in the form of an assigned water budget allocation based on the claimant's reported diversion and use from 2017 through 2019. Such assigned water budgets form the basis for correlative reductions in diversions pursuant to riparian claims of right. A water user claiming a riparian right who has been issued a curtailment order shall cease or reduce diversions correlatively in accordance with the updated Curtailment Status List. If a riparian claimant has been correlatively reduced, the status will be in red, and the user must not divert past their assigned maximum allowable diversion. However, if a riparian claimant's assigned water budget has not been correlatively reduced, the status will be in green, and the diversion amount listed will reflect their full water budget allocation. In some instances, if a riparian claimant reported zero water diversion for a month, they would still be considered fully allocated, showing green on the Curtailment Status List.

If a water user claiming a riparian right disagrees with the assigned water budget allocation provided in their Order Regarding Curtailment Status, the user must inform the Deputy Director of their actual planned diversion and use within 14 days of receiving the Order.

What analysis was used to determine who gets a curtailment order?

For water users in the Russian River watershed, the regulation authorizes the Deputy Director to rely on the best available information to measure available water supply against water demand and evaluate the extent to which junior water right holders must be curtailed to ensure water supplies are adequate to satisfy senior water rights. Consistent with the regulation, the Deputy Director is relying on the Drought Water Rights Allocation Tool (DWRAT) to perform this analysis. For additional information regarding the water availability methodology for the Russian River watershed, please see https://www.waterboards.ca.gov/drought/russian_river/

Water right holders in the Russian River watershed may seek authorization to continue diversions pursuant to certain authorized exceptions.

What is the due process available to someone that receives an order?

If you believe your order was in error, you may submit a petition for reconsideration to the State Water Board. The Board must receive your petition within 30 days of the date it was issued, and the Board's reconsideration will follow the procedure in Water Code sections 1122 to 1124. You are responsible for complying with the order, even while a challenge is pending. Penalties for violating the regulation will continue to accrue unless the Board or a court rescinds the curtailment order.

Violating an order may result in administrative enforcement. The State Water Board's Office of Enforcement may issue an administrative civil liability (ACL) complaint assessing monetary penalties, a draft cease and desist order (CDO), or both. You would be able to contest the ACL complaint or draft CDO by requesting a hearing before the State Water Board's Administrative Hearings Office (AHO). Following the hearing, the AHO would issue a draft order for public review and comment, then send the proposed order for approval by the State Water Board. You would have 30 days from the State Water Board's final decision to appeal that decision in court.

How long will curtailments and correlative sharing requirements last?

Throughout the drought emergency, the Division of Water Rights will continually monitoring the best available information regarding hydrologic conditions within the Russian River watershed, including the impacts of precipitation events, differences between sub-basins, and fluctuations in water demand during the year. When the best available information indicates that water is now available under one or more water rights that have been curtailed, the Deputy Director will notify water users by an update

to the Curtailment Status List posted at the State Water Board's Russian River Drought Response webpage and noticed using the Russian River Drought email distribution list.

The emergency regulation authorizing the curtailments and correlative sharing requirements will remain in place for no longer than one year or until the Governor declares an end to the ongoing drought emergency. If necessary, the State Water Board may initiate a new emergency rulemaking process to revise or readopt an emergency regulation should drought conditions continue into the following year.

3. Exceptions to Curtailment

What exceptions are available?

The regulation provides a pathway for certain diversions to continue even though a curtailment order is in effect. Section 877.1(h) of the regulation describes the water uses that qualify as "minimum human health and safety needs," such as human consumption and sanitation. Authorization for minimum human health and safety diversions fall into one of three categories:

- Diversions for minimum human health and safety that are no greater than 55 gallons per person per day (gpcd), which do not require prior approval from the Deputy Director
- Diversions for minimum human health and safety that are over 55 gpcd, which require a petition and approval by the Deputy Director
- Diversions that cannot be quantified on a gpcd basis, which require a petition and approval by the Deputy Director

Additionally, certain non-consumptive uses that do not decrease downstream flows may continue even though a curtailment order is in effect. Non-consumptive uses and the requirements for continued diversion are detailed in section 878 of the regulation.

Please note that each of these exceptions may come with reporting requirements specified in section 879 of the regulation.

How can someone apply for an exception?

The State Water Board has made online forms available for curtailed water users that wish to continue diversions under one of the authorized exceptions. Those forms are available at <https://public.waterboards.ca.gov/WRInfo>. Please note that there are different forms depending on which exception you are seeking. If you are unsure about

the appropriate form, please contact Division of Water Rights staff at (916) 341-5318 or RussianRiverDrought@waterboards.ca.gov.

What if I was approved for an exception under the 2021 Emergency Regulations?

The conditions of the approved exception would continue to apply for the 2022 drought. Water right holders who seek modifications (such as an increase in requested diversion, change of place of use, etc.) or any other change that would be considered inconsistent with the curtailment exception approved in 2021, will be required to submit a new survey detailing the changes to their 2021 exceptions with sufficient justification.

Do I still need to report my monthly water usage under an exception?

Yes. If you continue to divert water under any human health and safety exemption, filed either previously or anytime going forward, you must still file monthly reporting of your continued diversions under the exception approved in 2021.

What is a non-consumptive use?

In general, a non-consumptive use describes diversion and use that do not decrease downstream flow. Some examples include direct diversion for hydropower that discharges to the same watercourse, or an instream flow dedication pursuant to Water Code section 1707. Section 878 specifies other circumstances that may qualify, as well as requirements for continuing to divert under an authorized non-consumptive use exception.

What is the 10,000 acre-foot stored water reservation in Lake Mendocino and am I eligible to redivert this water?

As a term of Sonoma County Water Agency's Permit 12947A, certain quantities of water stored in Lake Mendocino were reserved for diverters in Sonoma and Mendocino Counties. State Water Board Decision 1030 allotted a 10,000 acre-foot reservation for use by junior appropriators within Sonoma County. Note, a junior appropriator is someone who has a permit, license, or registration certificate from the State Water Board with a priority date after 1949. State Water Board Order WR 74-30 later clarified that rediversion under the reservation is not available when stored water is needed to satisfy instream flow requirements. During the 2021 drought, storage in Lake Mendocino was exceptionally low and any available water under the reservation was

needed to ensure instream flow requirements. While reservoir storage is greater this year, it remains unclear how much of that reservation is available for rediversion and who is eligible to divert that water. The Finding of Emergency as well as Section 877.5 of the Regulation address when water in the stored water reservation is available for rediversion.

Water users within Sonoma County may not redivert water previously stored in Lake Mendocino pursuant to the 10,000 acre-foot reservation described in Permit 12947A, Term 23, if any of the conditions outlined in Section 877.5(a) of the Regulation occur. The Division of Water Rights will provide notification to users if the stored water reservation is no longer available and rediversion must cease.

What must I do if I am eligible and want to use water from the 10,000 acre-foot reservation?

Eligible water users must submit a claim online (Lake Mendocino Reservation Use Form) via the Water Right Form and Survey Submittal Portal, identifying their rediversion under Permit 12947A, Term 23 if they want to use that water after being curtailed. Claim forms were initially required to be submitted by late June 2022; right holders however may request access to the claim form for submission within 14 calendar days of an initial curtailment status. Such requests should be made by email to RussianRiverDrought@waterboards.ca.gov and include the water right identification number and the right's basis for the rediversion.

What is the Voluntary Water Sharing Program?

Since April 2021, a diverse group of stakeholders in the Russian River watershed have met to collaboratively develop a Voluntary Water Sharing Program for the Upper Russian River. The program was approved by the State Board at the June 7, 2022 State Water Board Meeting. The program will provide water users in the Russian River watershed an alternative to curtailment of their water diversion and use. Participants can enroll in the program by reviewing and signing an agreement, a draft of which is available for review and input on the Voluntary Water Sharing Program webpage. Please explore the Program webpage for more information:

https://www.waterboards.ca.gov/drought/russian_river/voluntary_program.html

4. Enforcement of Curtailment Orders

What is the enforcement process?

Those who illegally divert when there is insufficient water under their priority of right are subject to potential enforcement actions, including fines of up to \$1,000 per day and \$2,500 per acre-foot of unauthorized water. Before the board takes enforcement action, diverters are notified and afforded an opportunity for a hearing. Generally, enforcement involves the following steps:

1. Enforcement staff select a site for investigation, possibly based on complaints received, evidence of a violation, or violations of other water rights requirements (such as lack of annual water use reporting).
2. Staff investigate, either through a site visit or a desktop analysis.
3. If the curtailment order has been violated, staff will prepare a draft administrative civil liability (ACL) draft cease and desist order (CDO) and issue it to the water right holder.
4. The water right holder will have 20 days to request a hearing or accept the ACL.
5. Requesting a hearing could result in a proceeding before the State Water Board's Administrative Hearings Office (AHO). More information on the AHO and its processes are available at:

https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office

Will State Water Board staff be conducting field inspections?

Yes. Locations will be selected based on the availability of staff resources, complaints received, number of water rights violations that appear to be occurring at the site, and magnitude of the continued diversion, among other factors.

(This fact sheet was last updated August 5, 2022)