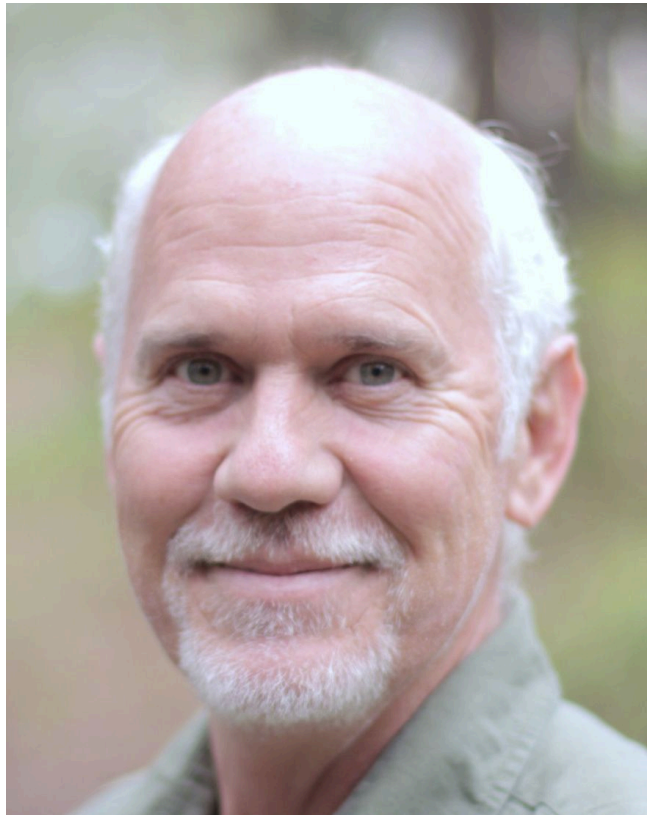


In My View: Who has a right to water?

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I think safe drinking water should be a basic human right, but this is not reality.

One in ten people on the planet lack access to clean water. Overuse, water pollution, lack of infrastructure, and changing weather patterns due to climate change are some of the drivers of water scarcity. Droughts are causing regional famines because there is not enough water to grow crops.

Who has a right to the water that's left?

Water Use Rights

Basically, the state of California and the federal government own all the water in California. Individuals and entities are allowed to “use” the water through licenses, permits, contracts, and government approval. Therefore, a water right is not an ownership right, but rather a use right.

It is within the power and responsibility of the state and federal governments to regulate the right to use water in California. Before I discuss proposed changes to water rights, I want to provide additional information about water delivery in California.

Groundwater

Last week, I described the expansive California water distribution system, but I only talked about surface water and not groundwater. Groundwater is also an important source of water but is regulated separately from surface water.

According to the California Department of Water Resources, “During an average year, California’s 515 groundwater basins and subbasins contribute approximately 41 percent toward the State’s total water supply. During dry years, groundwater contributes up to 60 percent (or more) of the statewide annual supply and serves as a critical buffer against the impacts of drought and climate change.”

“About 83 percent of Californians depend on groundwater for some portion of their water supply and many communities are 100 percent reliant on groundwater for their water needs. For decades, groundwater in some parts of the State has been pumped out faster than can be recharged, causing record low groundwater levels in those areas.”

Sustainability?

In the San Joaquin Valley, farmers have pulled so much water from the aquifer that the ground is starting to subside. This is creating a new set of problems and this subsidence may fracture the California Aqueduct.

Almost a decade ago California passed the Groundwater Management Act, which requires groundwater dependent regions to halt overdraft and bring basins into balanced levels of pumping and recharge through local planning efforts. This is a work in progress.

Locally, many of us rely on groundwater for our daily water needs. We take it for granted that we have a right to this water. Thanks to the plentiful rain that we receive our groundwater continues to recharge.

Local Districts

The large water projects I described in my last column are predominantly wholesalers of water. But most residential and commercial water customers receive their water from a water district that acquires water from either surface water or ground water sources.

Some municipal water districts control all aspects of water delivery from source to sink, like the Cities of San Francisco, Los Angeles, and Crescent City. San Francisco and Los Angeles get water from far away. Crescent City has permits to pull good clean water from the Smith River for delivery to the residents of Crescent City.

Residents who live outside Crescent City receive water through Community Service Districts. These special districts are run by elected or appointed members of the community.

Looming Legislation

A story in the San Francisco Chronicle (6/7/23), “California may rein in system of water rights” alerted me to looming legislation.

“Who gets California’s water, and how much, is a high stakes affair, and it’s based on a system of water rights born long ago, when the West was wild and often unfair. The first-come first-served pecking order established during European settlement gave the new dominant landowners first dibs on pumping rivers and creeks. Most senior water rights holders gained their status by making claims on rivers and creeks before 1914.”

“Amid growing water shortages and focus on equity, the state legislature is advancing measures that would help regulators rein in the most privileged and profligate water users.”

Assembly Bill 1337 will reaffirm the State Water Resources Control Board’s ability to curtail the most senior water rights holders. This bill is motivated by a court case which challenged the State’s authority to limit the draws of pre-1914 rights holders amid widespread water shortages. Several tribes described the water rights system as “discriminatory and racist” and supported the state in its legal fight.

Assembly Bill 460 would streamline the state water board’s ability to crack down on water rights holders who illegally take water. This bill is inspired by an event last year when farmers and ranchers along the Shasta River flouted state curtailment orders. Due to delays with the hearing process, the state was unable to stop these illegal takings before they caused serious environmental damage.

Senate Bill 389 would give the state water board greater authority to investigate the authenticity of senior water rights and strip the rights of those deemed illegitimate. Some fear that the state board may be overzealous in its demand for evidence. Water rights dated 1914 or earlier can be tough to document.

These three bills are moving through the legislative approval process. If they are passed and signed by Governor Newsom, these new laws may help to allocate water more fairly. This will not be the end of it.

There is fierce competition for limited water resources. Historic water claims make it even more complicated to negotiate and regulate fair water rights for all Californians.

Liquid Assets

Our water abundance in Del Norte County is one of our greatest resources. As always, we should remain vigilant to protect our water and ensure that new statewide regulations intended to solve a problem elsewhere are not applied inappropriately to our own local water use.

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