

Water-Rights Accord Ends Lengthy Fight

Sunnyside Division settles after 26 years; more claims still must be sorted through

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A 26-year water saga for thousands of farmers and city residents through the heart of the Yakima Valley is about to end.

The Sunnyside Division, which stretches from Parker, south of Union Gap, to Prosser, has reached a settlement of its water-right claims. Officials said the settlement assures future water supplies for the four irrigation districts, three cities and two private ditch companies that receive water from the Sunnyside Canal.

Attorneys announced a four-party settlement, under which the 99,000-acre division will reduce its water usage, during a hearing in Yakima County Superior Court on Thursday.

Agreement to cut its water use by 10 percent, which will occur in

two phases, makes the division eligible for millions of state and federal dollars to make improvements that will allow the division to operate more efficiently.

Under the settlement reached during closed-door negotiations, the division water supply will decline by an immediate 5 percent. The remaining reduction in water supplies will occur by 2016.

The settlement was reached as a part of the largest water-rights case in state history. While the Sunnyside water rights represent an important piece of the case, Judge Pro Tem Walter Stauffacher has other claims he must sort through before the case is completed.

There is no estimate of when the case will conclude.

Washington's Ecology Department essentially sued all holders

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of surface water rights in the Yakima River Basin in 1977 to sort out competing claims to water. Stauffacher has overseen the case since its inception.

It appears likely Stauffacher will approve the Sunnyside Division deal, given his statements from the bench Thursday when informed of the deal.

Jim Trull, manager of the Sunnyside Valley Irrigation District, the division's largest member, said a combination of the smaller amount of water and more efficient operation should mean no change for water users.

"This provides some certainty for us," Trull said. "It ends years of litigation, which is costly in financial and human resources. It also enables us to proceed aggressively with a water conservation program."

Water given up by the division will be used to satisfy the treaty rights of the Yakama Nation and other basin users.

The Yakama Nation became the last of the four participants in the settlement talks to approve the agreement late Wednesday. It had been previously approved by the division's members, the state Ecology Department and the U.S. Justice Department.

In a news release issued by the Ecology Department, Tribal Council Chairman Ross Sockzehigh said the agreement helps meet the goals of a 1994 federal law. That law, known as the Basin Enhancement Act, has a goal to conserve water and improve stream flows for fish.

"It guarantees that Sunnyside will help provide more water in the lower Yakima River to help support the fishery we share with the citizens of the region under our treaty with the United States," the release quoted Sockzehigh as saying.

Settling Sunnyside's claims is a major step in the lengthy case because it is the second largest irrigator in the three-county project, second only to the Wapato Irrigation Project. Its members include the Sunnyside Valley Irrigation District, three smaller irrigation districts, two ditch companies, and the cities of

Prosser, Grandview and Sunnyside.

It is that variety of users on which Stauffacher commented when told of the settlement.

"When you look at the Sunnyside Division with all its different parts and the ways it is different from other divisions, it staggers the imagination on how this would come out," Stauffacher said. "It is a tremendous job you folks have done to put this together."

Stauffacher will allow other parties in the case a chance to comment on the settlement before he decides whether to approve it, likely in late summer. He added he doubts objections will be raised.

The claims settlement for Sunnyside is the fourth one reached in the case. Previous agreements involved the Yakima-Tieton Irrigation District, the Kennewick Irrigation District and the city of Yakima.

Settlement negotiations among the participants in the case began in 1999 after a state Supreme Court ruling required Stauffacher to impose a new legal standard in the case.

That standard, known as relinquishment, requires that water not used for a consecutive five-year period is deemed to have been lost. It was feared the new approach would lead to years of appeals and further delays in the case.

According to the settlement, Sunnyside will reduce its water rights from more than 458,000 acre-feet to 435,422 acre-feet immediately. Eventually, the division water right will be 415,972 acre-feet.

The division also agreed to reduce the acreage to which it delivers water from 103,000 to 99,000.

In exchange, Sunnyside will receive an estimated \$21 million in federal funds authorized by the enhancement law and state funds to automate its main canal and add small reservoirs along the canal to store water for later use.

The public funding represents about 82 percent of the total construction cost. The division will pay the rest and will be able to keep a portion of the saved water for its use.