

MEET AT ALL TIMES

- Beneficial and Reasonable Use:** “... water resources [should] be put to beneficial use ... and that the waste or unreasonable use water be prevented...” State Water Resources Control Board (SWRCB). California Constitution, Article X, Section 2; California Water Code [§100](#).
- Water is owned by all Californians:** “All water within the State is the property of the people of the State, but the right to the use of water may be acquired by appropriation in the manner provided by law.” California Water Code [§102](#). The state holds water in trust for the public; individuals and organizations may acquire a right to use water subject to beneficial and reasonable use.
- Public Trust Doctrine:** Water must be preserved in trust by the state for public use (e.g. navigation, fishing, recreation, environmental protection and restoration). This doctrine is intrinsic of the legal systems of California and can limit or modify water diversions, protect river ecosystems, and maintain recreational and scenic values. California Constitution Article X Sec. 4.; California Civil Code §670; National Audubon Society v. Superior Court
- Clean Water Act – Porter-Cologne Water Quality Control Act** This law protects the water quality of all California waters, rivers, lakes, aquifers, estuaries and bays (surface & groundwater) through 9 Regional Water Quality Control Boards. This law set water quality standards in rivers, and regulates point and non-point pollutant sources, among other. California Water Code, Division 7: [Water Quality](#)
- Safe Drinking Water Act:** This law safety of drinking water, it established drinking water standards (MCLs – Maximum Contaminant Levels), supervises public water systems and ensure compliance, monitoring and reporting, and provides funding for infrastructure, lead by the SWRCB. California Health and Safety Code § 116270. California Code of Regulations, [Title 22](#)
- Human Right to Water:** In California, “every human being has the right to safe, clean, affordable and accessible water adequate for human consumption, cooking and sanitary purposes. It requires that all relevant agencies (DWR, SWRCB) to consider this policy when revising, adopting or establishing policies and regulations pertinent to the use of water.” California Assembly Bill [685](#).
- Endangered Species Act.** This environmental law conserves and protects plant and animal species at risk of extinction lead by California Fish and Wildlife. California Fish and Game Code. Section [2050](#)
- Flood Control Act.** This act established flood control as a federal responsibility law, led by the US Army Corps of Engineers

SURFACE WATER

Legal instrument: **Water Right Permit**

Agency: SWRCB – [Division of Water Rights](#)

Surface Water Allocation System

- Riparian Rights:** (1) Linked to the land next to a river, (2) Shared equally among landowners (“correlative use”), (3) No water storage is allowed, (4) No need to obtain a water permit, (5) Can’t be lost by non-use. For example, Small and large land owner individuals, private companies
- Appropriative water Right:** (1) Based on seniority of use: “First in time, first in right”, (2) Can be lost by non-use: “Use it or lose it (after 5 years)” , (3) Volumetric use with defined beneficial use (purpose) and location, (4) Pre-1914 do not require water right permit, (5) Post-1914 require a water right permit. Examples of appropriative water right permits holders: individuals, cities, communities, irrigation districts, Public Water Agencies, including those associated with large Infrastructure water projects*

GROUNDWATER

Legal instrument: Groundwater Allocation. Agency: DWR – [Statewide Groundwater Management](#)

Groundwater Allocation System

- Overlaying Rights:** (a) Groundwater use for land above the groundwater basin, (b) shared equally among landowners (“correlative use”), e.g. farmers irrigating fields with GW from a well in that parcel
- Appropriative groundwater rights:** (a) Groundwater use outside of the groundwater basin, only if water is available after overlaying needs, (b) first in time, first in right. E.g. farmer extracting groundwater from a well, diverting it into an irrigation canal/river, and using it outside of the groundwater basin.

Policies and regulation

- Adjudicated Groundwater:** (a) a groundwater basin where a court has determined the groundwater allocation among users, (b) there are 27 adjudicated areas administered by a “water master”, (c) they are exempt to submit a Groundwater Sustainability Plan (GSP), (d) SGMA requires submission of their groundwater levels, groundwater extractions, recharge and storage. Agency: SWRCB – [Division of Water Rights, Adjudicated Areas](#)
- Sustainable Groundwater Management Act (SGMA):** (1) “groundwater resources be managed sustainably for long-term reliability and multiple economic, social, and environmental benefits” (2) Avoid 6 undesirable: four related to overdraft [lowering of groundwater levels, reductions in groundwater storage, seawater intrusion, land subsidence], degradation of water quality and impacts of interconnected surface waters affecting beneficial (surface water) uses. Groundwater Sustainability Agencies (GSA) locally implementing SGMA. Groundwater Sustainability Plans (GSP) approved and updated every 5 years. If failed to approve the GSP then there is an intervention by the SWRCB to manage the GW basin. Agency: DWR – [Sustainable Groundwater Management Program](#)

ENVIRONMENTAL FLOWS

Legal Instrument: Instream Flow Permit

Agency: SWRCB – [Division of Water Rights](#)

Environmental Needs: Protect Freshwater and Riparian ecosystems

- Endangered Species Act (ESA),
- California Wild and Scenic Rivers [Act](#),
- Public Trust Doctrine,
- Fish passage in reservoirs (Fish and Game code 5937),
- Federal Energy Regulation Commission ([FERC](#)) [relicensing process](#) for hydropower dams

TRIBAL WATER

Legal Instrument: Federally Reserves Rights

Agencies: SWRCB – [Division of Water Rights](#). Adjudicated Areas, Regional Water Quality Control Board, DOI – Secretary’s Indian Water Rights Office (SIWRO), Bureau of Indian Affairs, Bureau of Reclamation

Tribal Allocation System: [Defined by each tribe](#)

Policies and regulation

- Winans Doctrine (1905):** Tribal rights include water
- Winters Doctrine (1908):** land set aside include water
- Tribal Beneficial Use (TBU)**

Characteristics: (a) Sovereign Nations subject to federal governments rules, (b) defined by: treaties, court cases, federal mandates or operations, and adjudications or settlements. They are linked to the tribal land (i.e. federal land), Tribal beneficial Use (TBU) are beneficial and reasonable uses and meet water quality standards.