California Water Policy

Regional Water Quality Boards

1. POLICIES TO BE MET 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..." Lead by the 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, and these rights are 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:*** *"to protect the water quality of all California waters, including 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:*** *"ensuring the safety of drinking water, establishing standards, supervising public water systems, ensuring compliance, monitoring and reporting." It specifies Maximum Contaminant Levels (MCLs) for contaminants. California Health and Safety Code § 116270. California Code of Regulations, Title 22*
- ***Human Right to Water:*** *"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 (ESA) and California ESA:*** *conserving and protecting animal and plant species at risk by listing them as endangered, threatened or candidate, designating critical habitat locations and ensuring compliance. Lead by California Fish and Wildlife. California Fish and Game Code. Section 2050*
- ***Flood Control Act:*** *Established flood control as a federal responsibility law, lead by the US Army Corps of Engineers. Flood Control Act 1917, 1928, 1936, 1944, 1948, 1950 and 1965*

2. SURFACE WATER

Surface Water Allocation System
Agency: SWRCB – Division of Water Rights
Riparian Rights. Lux v. Haggin, 69 Cal. 255, 1886
Legal instrument: Statement of Water Diversion and Use
- *Linked to the land next to a river*
- *Shared equally among landowners*
- *No water storage is allowed*
- *No need to obtain a water permit*
- *Can't be lost by non-use*

Appropriative Water Rights. California Water Code, Title 23, Division 3, Ch. 2.5
Legal instrument: Water Right Permit
- *Based on seniority of use: "First in time, first in right"*
- *Can be lost by non-use: "Use it or lose it (after 5 years)"*
- *Volumetric use with defined beneficial use (purpose) and location*
- Pre-1914 do not require water right permit
- Post-1914 require a water right permit
  - *Individual water right holder/Institution privately owned*
  - *Central Valley Project, other federally built infrastructure, State Water Project, Colorado River aqueduct and San Diego Aqueducts, Imperial and Coachella canals, Los Angeles Aqueduct, Hetch-Hetchy System, Mokelumne Aqueduct, Eel River – Russian River (Potter Valley Project), North Marin (County) Aqueduct.*

3. GROUNDWATER

Groundwater Allocation System
Katz v. Walkinshaw, 141 California 116 (1903)
Overlaying Rights
- Groundwater use for land above the groundwater basin
- Not lost by non-use
- Shared equally among landowners ("correlative use")

Appropriative groundwater rights
- *Groundwater use outside of the groundwater basin*
- *Only if water is available after overlaying needs*
- *First in time, first in right*

Adjudicated Groundwater. City of Pasadena v. City of Alhambra (1949) 33 Cal.2d 908
Agency: SWRCB – Division of Water Rights, Adjudicated Areas
Legal instrument: Groundwater Allocation
- *A groundwater basin where a court has determined groundwater allocation among users. There are 27 adjudicated areas administered by a "watermaster". They are exempt from submitting a Groundwater Sustainability Plan (GSP). SGMA requires submission of their groundwater levels, groundwater extractions, recharge and storage.*

Sustainable Groundwater Management Act (SGMA). California Water Code Title 23, Division 2. Chapter 1.5
Agency: DWR – Sustainable Groundwater Management Program
Legal instrument: Groundwater Allocation
- *Groundwater resources be managed sustainably for long-term reliability and multiple economic, social, and environmental benefits"*
- *Avoid 6 undesirable results:*
  - *Overdraft: Lowering of levels, reduction of storage, seawater intrusion, land subsidence*
  - *Water quality degradation*
  - *Depletion of groundwater that impact SW beneficial uses.*
- *Groundwater Sustainability Agencies (GSA) locally implementing SGMA ~255*
- *Groundwater Sustainability Plans (GSP) approved and updated every 5 years. If fail to approve the GSP then there is an intervention by the SWRCB to manage the GW basin*

4. WATER FOR THE ENVIRONMENT

Agency: SWRCB – Division of Water Right
Legal Instrument: Instream Flow Permit

Policies:
1. Endangered Species Act (ESA)
2. California Wild and Scenic Rivers Act (Public Resources Code Section 5093.50 et seq)
3. Fish passage in reservoirs (Fish and Game code 5937)
4. Federal Energy Regulatory Commission (FERC) relicensing process for hydropower dams and a biological opinion (Federal Power Act 1920)
5. Public Trust Doctrine

Environmental Need Objective: to protect freshwater and riparian ecosystems

Components
- Quantity: Magnitude, timing, frequency, duration and rate of change
- Quality: Temperature, PH, TSS, DO, BOD, Metals, Salinity
- Habitat: channel forms, sediment transport and composition, woody habitat
- Connectivity: longitudinal, transversal, and SW-GW connection

5. TRIBAL WATER

Water Allocation System Defined by Each Tribe
Agency(ies):
- *WRCB – Division of Water Rights, Adjudicated Areas*
- *Applicable Regional Water Quality Control Boards*
- *DOI-Secretary's Indian Water Rights Office SIWRO*
- *Bureau of Indian Affairs*
- *Bureau of Reclamation*

Legal instrument: Federally Reserved Rights

Policies
- *Winans Doctrine: Tribal rights include water (Winans v. United States, 1905)*
- *Winters Doctrine: Land set aside includes water (Winters v. United States, 1908)*
- *Tribal Beneficial Usages (TBUs)*

Characteristics:
- *Sovereign nations subject to federal government rules*
- *Defined by: (1) Treaties, (2) Court cases, (3) Federal mandates or operations, and (4) adjudications or settlements*
- *Linked to the tribal land (Federal land)*
- *Tribal Beneficial Usages (TBUs) are beneficial and reasonable uses, and meet water quality standards*

6. RECYCLED WATER

Water Allocation System Specified by the Supplier
California Water Code. Div. 7, Ch. 2, Sec. 13050(n); Ch. 7, Sec. 13550(a); Title 22, Div. 4, Ch. 3, Art. 3; Div. 7. Ch. 7.3, Sec. 13560
Agency(ies):
- SWRCB – Drinking Water Branch
- Regional Water Quality Control Boards
- Local Water Agencies

Legal instrument: Recycled Water Permit
- Acquisition: Do not require a new water right, an individual/company must connect to a recycled water supplier (e.g., a municipal utility), establish an agreement, and comply with permit requirements, water quality and use restrictions
- Beneficial uses: Non-potable uses (e.g. irrigation, golf courses, etc.) direct and indirect potable reuse (e.g. aquifer recharging)
- Water Quality: Depends on the beneficial use, regulated by Porter Cologne Water Quality Act
- Reporting: Water producer to report monthly volumes of influent, effluent and treatment level

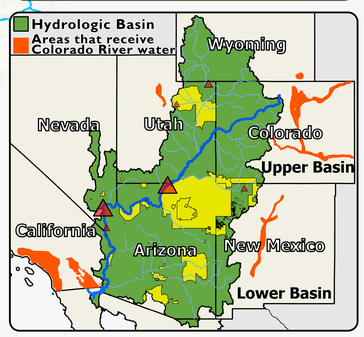
7. AGRICULTURE

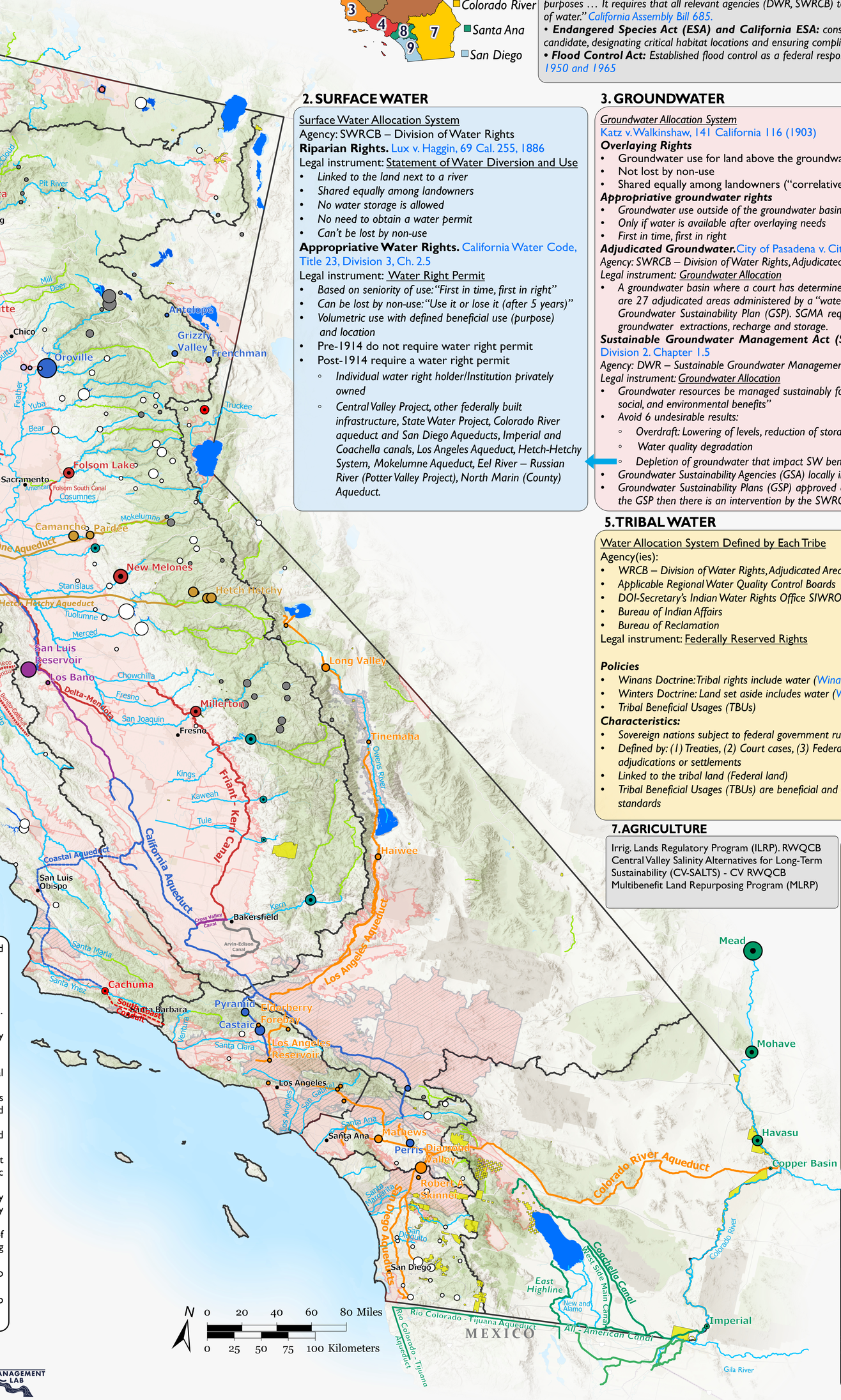
Irrig. Lands Regulatory Program (ILRP). RWQCB
Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) - CV RWQCB
Multibenefit Land Repurposing Program (MLRP)

8. COLORADO RIVER

California's Water Code, Division 6, Part 5 (sections 12500-12560)
Agency(ies):
- Colorado River Board of California
- U.S. Bureau of Reclamation
- Coachella Valley WD, Imperial ID, Los Angeles DWR, Metropolitan WD, Palo Verde ID, San Diego WA, DWR, CA Dept. of Fish and Wildlife

Water Allocation System
1922. Colorado River Compact. Upper and Lower basin states (7.5 MAF/y each)
1928. Boulder Canyon Project Act. Lower Basin: CA (4.4), AZ (2.8) and NV (0.3)
1931. 7 party agreement. Division of water between CA water users
1944. Water Treaty U.S. and Mex. (1.5 MAF/y)
1970. Long Range Op. (Rules to divert water)
2003. Quantification Settlement Agreement: Palo Verde (0.3), Imperial ID (2.812), Coachella Valley ID (0.433), Metropolitan WD (0.655), San Diego WA (0.2)
2007. Interim Guidelines for shortage
2019. Drought Contingency Plan (DCP)
2026. Renegotiation of DCP





- California Main Rivers
- Wild and Scenic Rivers
- Main Reservoirs
- Groundwater Adjudicated Areas
- SGMA Main Jurisdiction Area
- Tribal Lands
- Federal Owner/Water Provider
- State Owner/Water Provider

Reservoir Storage

- Over 3 million
- 2 to 3 million
- 1 to 2 million
- 500,000 to 1 million
- 200,000 to 500,000
- 100,000 to 200,000
- 50,000 to 100,000
- Less than 50,000

Owner/Water Provider

- CVP - Central Valley Project. *Bureau of Reclamation (BOR)*
- BOR - Federally BOR owned facilities
- Colorado River Aqueduct (MWD)
- ACE - Other Federally owned facilities. *Army Corps of Engineers*
- Other Federal owned facility
- Shared between CVP and SWP
- SWP - State Water Project. *Department of Water Resources (DWR)*
- Department of Water Resources (DWR)
- Mokelumne Aqueduct (EBMUB)
- San Francisco Bay Area Municipal Water Agencies (SFPUC)
- Los Angeles and San Diego Water Agencies (LAWP, SDCWA and Metropolitan WD)
- Local Water Agency
- Privately owned/Other

INSTRUCTIONS

Before starting, locate your position on the map using a pin and identify whether you are:
- Near a river (blue and green lines),
- On top of an aquifer (pink or hatched pink areas),
- Close to tribal land (yellow polygons), or
- Receiving water from major water projects(aqueducts or canals).

Then follow the steps below to identify which water policies apply to your location and use:

Box 1 – Policies to Be Met at All Times: Review the general policies that apply statewide, regardless of water source or use.
Box 2 – Surface Water: Read the policies and allocation systems that apply to the use of surface water, including riparian and appropriative rights.
Box 3 – Groundwater: Review the groundwater policies and management systems, including SGMA and adjudicated basins.
Box 4 – Water for the Environment: Learn about the policies that maintain water in rivers for ecological, recreational, and scenic purposes.
Box 5 – Tribal Water: Read the policies and doctrines that apply to water within or connected to tribal territories and federally reserved rights.
Box 6 – Recycled Water: Review the policies governing the use of recycled water, including permits, beneficial uses, and reporting requirements.
Box 7 – Agriculture: Review the policies that apply only to agricultural lands.
Box 8 – Colorado River: Review the policies apply to agencies receiving water from the Colorado River.

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