

# California Water Policy



## 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 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 and ensuring compliance, monitoring and reporting." [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:** conserving and protecting plant and animal species at risk of extinction. 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

## SURFACE WATER

**Legal instrument:** Water Right Permit  
**Agency:** SWRCB – Division of Water Rights

**Surface Water Allocation System**

**Riparian Rights:**

- 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 Right:**

- 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**
  - Central Valley Project.
  - Other Federally built infrastructure.
  - State Water Project.
  - Colorado River aqueduct and San Diego Aqueducts
  - Imperial and Coachella.
  - Los Angeles Aqueduct.
  - San Francisco, SF Bay, Hetch Hetchy System.
  - Mokelumne Aqueduct.
  - Eel River – Russian River. Potter Valley Project.
  - North Marin (County) Aqueduct.

## GROUNDWATER

**Legal instrument:** Groundwater Allocation  
**Adjudicated Groundwater:**  
**Agency:** SWRCB – Division of Water Rights, Adjudicated Areas

A groundwater basin where a court has determined the groundwater allocation among users. There are 27 adjudicated areas administered by a "watermaster". They are exempt to submit a Groundwater Sustainability Plan (GSP). SGMA requires submission of their groundwater levels, groundwater extractions, recharge and storage

**Sustainable Groundwater Management Act (SGMA)**  
**Agency:** DWR – Sustainable Groundwater Management Program

"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 year.

If failed to approve the GSP then there is an intervention by the SWRCB to manage the GW basin

**Groundwater Allocation System**

- **Overlaying Rights**
  - Groundwater use for land above the groundwater basin
  - 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

## WATER FOR THE ENVIRONMENT

**Legal Instrument:** Instream Flow Permit

**Agency:** SWRCB – Division of Water Right

**Policies**

- 1) Endangered Species Act (ESA)
- 2) California Wild and Scenic Rivers Act
- 3) Public Trust Doctrine
- 4) Fish passage in reservoirs (Fish and Game code 5937)
- 5) Federal Energy Regulation Commission (FERC) relicensing process for hydropower dams and a biological opinion

**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

## TRIBAL WATER

**Legal instrument:** Federally Reserved Rights

**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 uses (TBUs) are beneficial and reasonable uses, and meet water quality standards

**Policies**

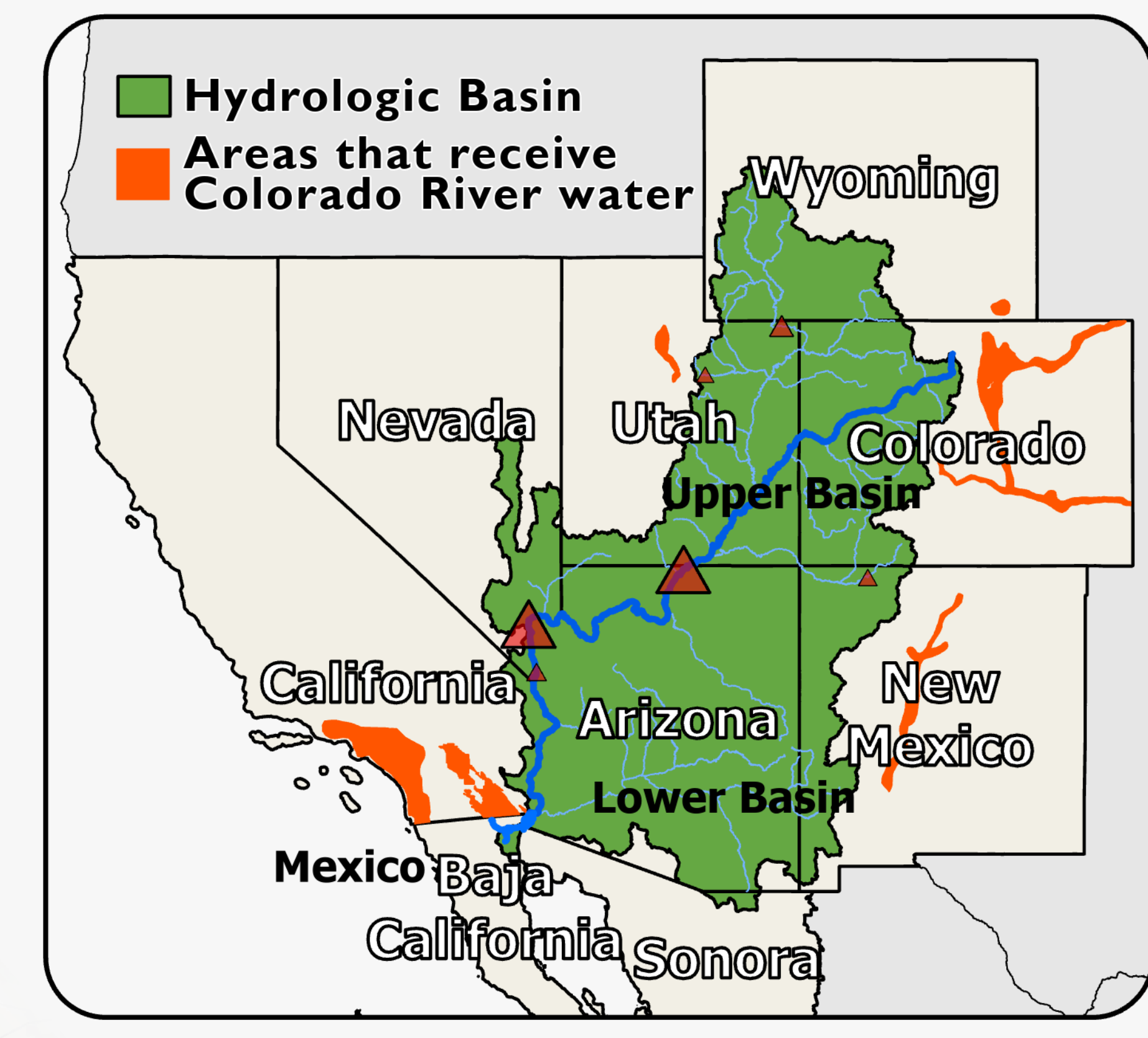
- Winans Doctrine: Tribal rights include water (Winans v. United States, 1905)
- Winters Doctrine: Land set aside includes water (Winters v. United States, 1908)
- Tribal Beneficial Usages (TBUs):

**Agency(ies):**

- SWRCB – 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

**Water Allocation System**

- Defined by each tribe



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

