

Water Resources Topics

Water Rights 101 Scott-Shasta Watersheds August 3rd, 2023



Division of Water Rights

How to participate

1. Type questions into the Zoom chat.
2. Email questions to:
ScottShastaDrought@waterboards.ca.gov



State Water Board Mission Statement

"The State Water Resources Control Board's mission is to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations."



State Water Board Mission Statement

"To this end, the State Water Board develops statewide permits, policy, and regulations to protect water quality, regulates drinking water, administers California's water rights system, and supports Regional Water Quality Control Board efforts."

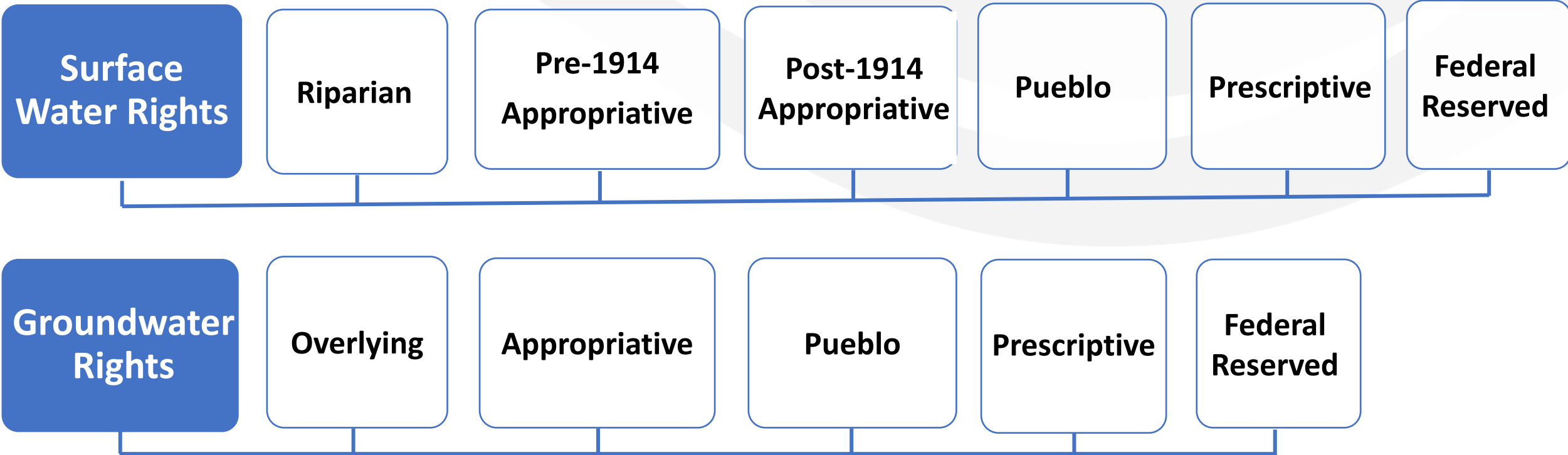


What is a Water Right?

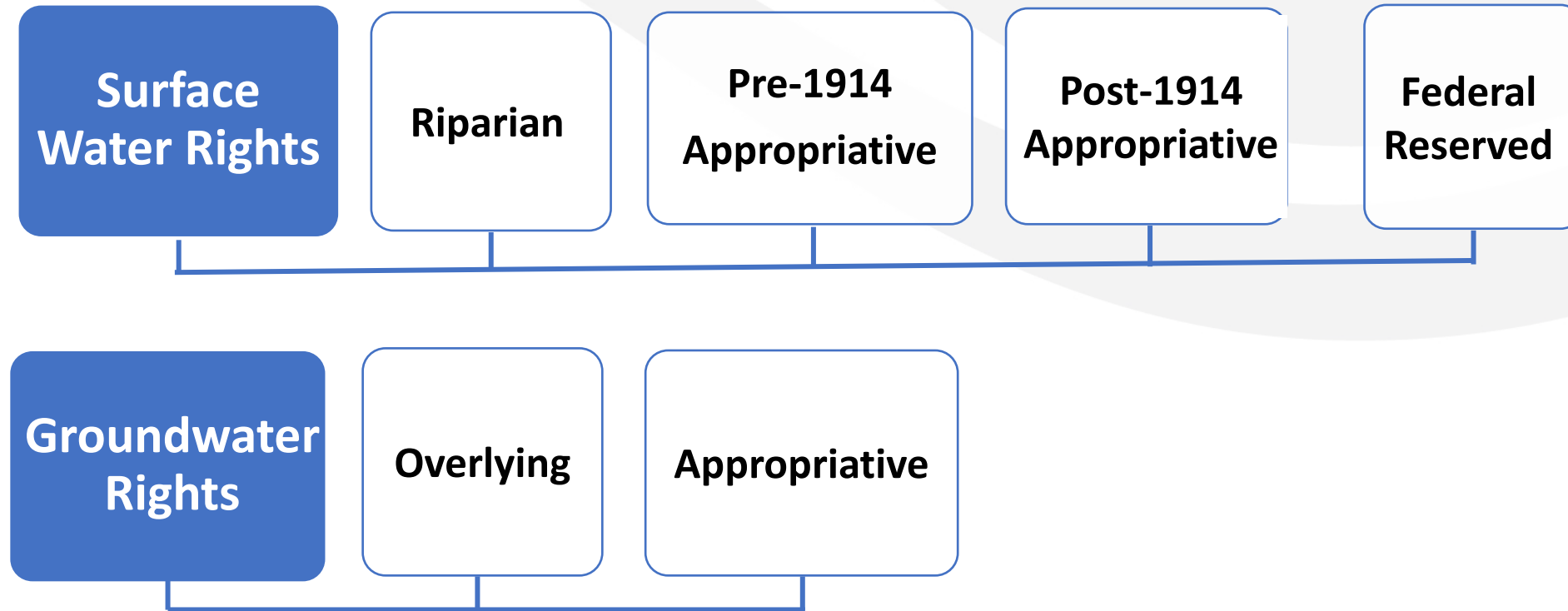
- A right to divert water and apply it to beneficial use: domestic, irrigation, municipal & industrial, mining, power, recreation, fish & wildlife, stockwatering, aquaculture, frost protection, water quality.
- Usufructuary right (right to use, not to own the water)
- Property right, not a contract
- Public trust and waste and unreasonable use limitations



Types of Surface Water and Groundwater Rights

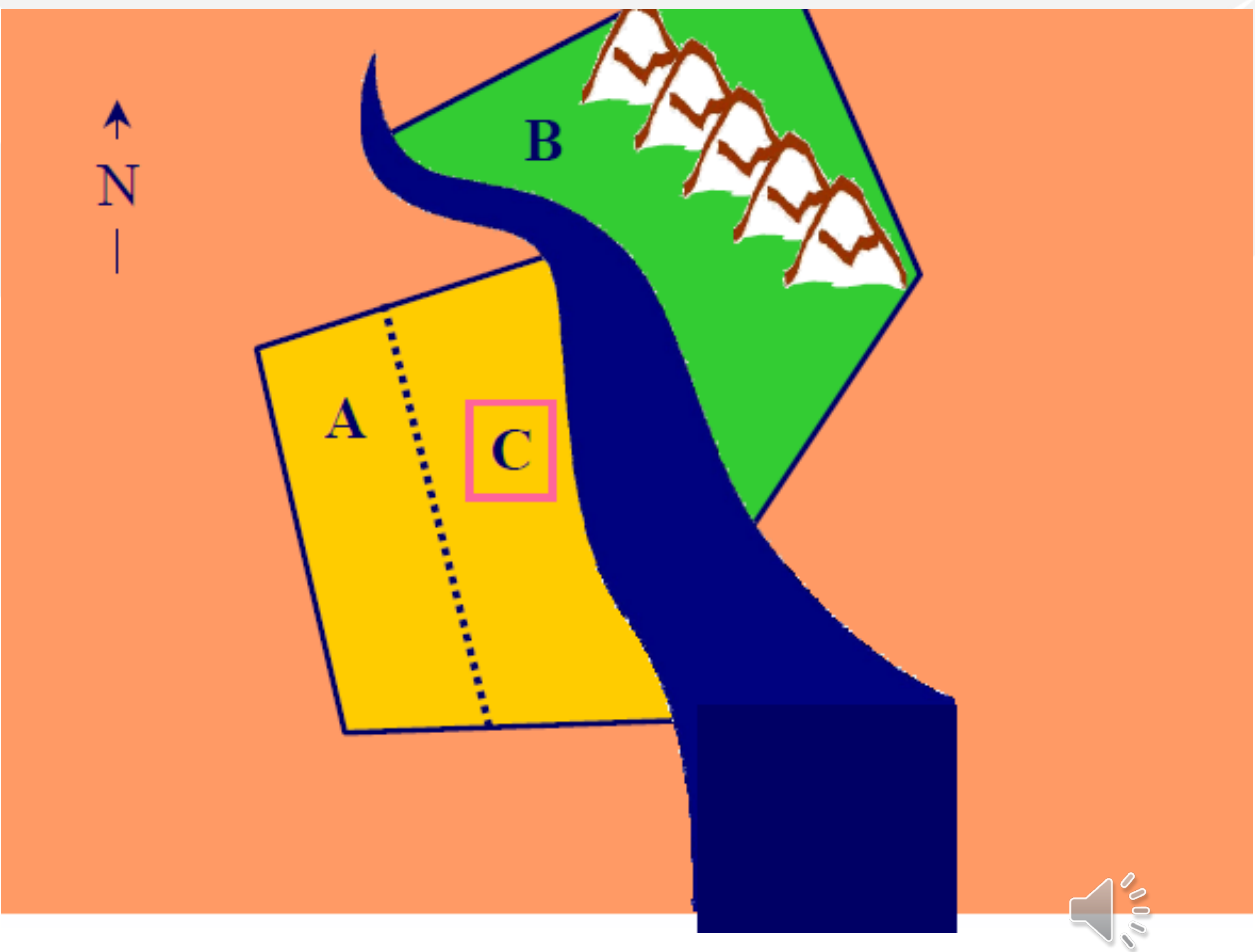


Types of Surface Water and Groundwater Rights: Scott and Shasta Watersheds



Riparian Rights

- Attach to land contiguous to stream
- Water must be used on riparian land within the watershed
- Extend only to natural flow, not “foreign water”
- No seasonal storage of water





Riparian Rights

- Generally senior to appropriative rights
- Riparian rights to the same stream are correlative
- Not subject to forfeiture for non-use
- Specific quantities of water not associated with riparian rights unless adjudicated



Appropriative Rights to Surface Water



- Acquired through diversion and beneficial use
- Must be developed with due diligence
- Use is not limited to riparian land; can be exported
- Seasonal storage permissible
- First in time, first in right
- Subject to forfeiture for non-use



Pre-1914 and Post-1914 Appropriative Rights

- The State Water Board administers a permitting system for Post-1914 appropriative water rights
- Include permits, licenses, registrations, certificates
- Pre-1914 appropriative water rights require evidence of use prior to 1914
- Pre-1914 appropriative water rights can be confirmed by courts



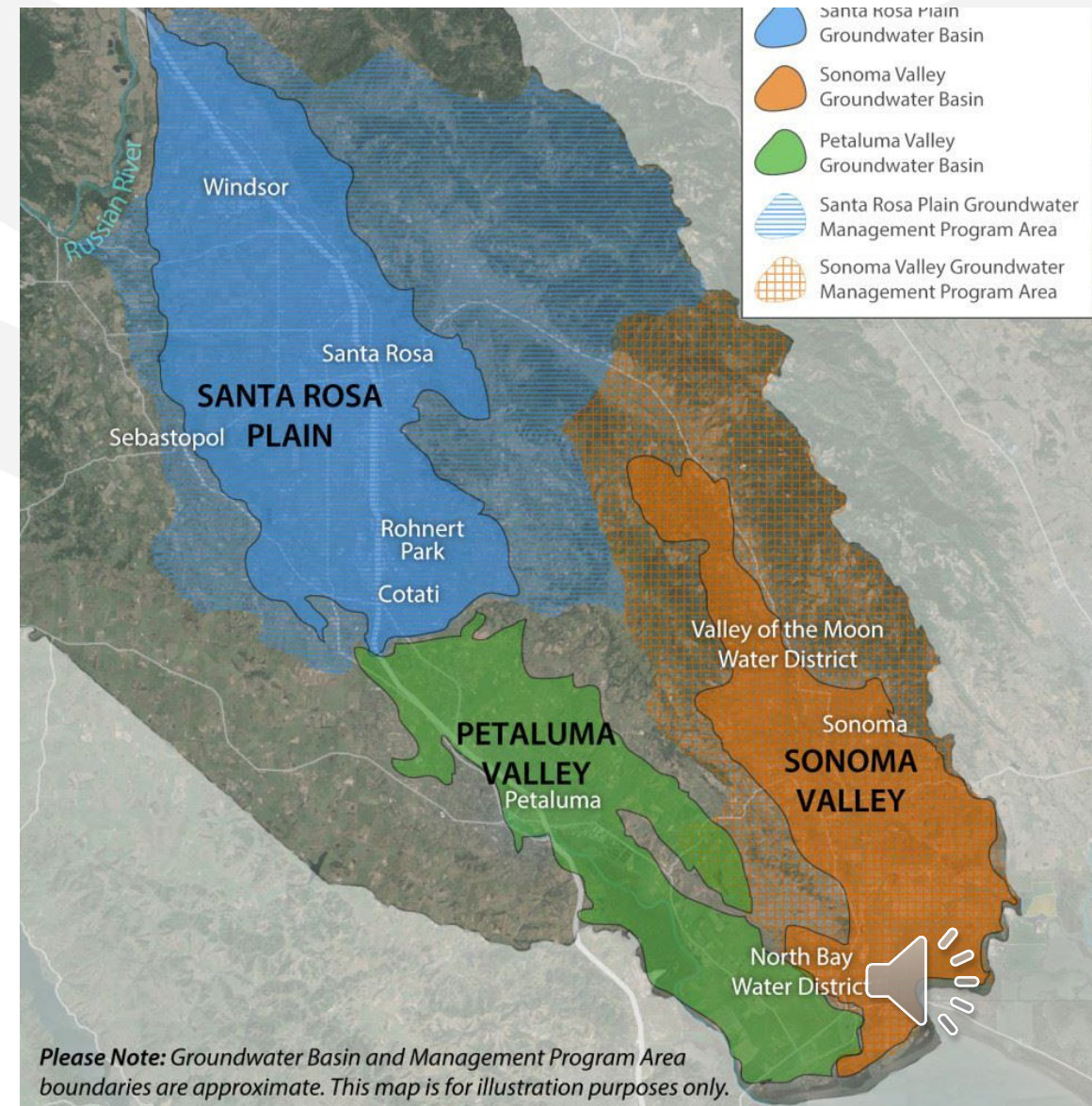
Overlying Groundwater Rights

- Attach to overlying land
- Water must be used on overlying land within the groundwater basin
- Extend only to “native” water
- Generally senior to appropriative rights
- Overlying rights to the same groundwater basin are correlative
- Not subject to forfeiture for non-use



Appropriative Rights to Groundwater

- Acquired through diversion and beneficial use
- Not limited to overlying land, can be exported
- Extend to non-native water if abandoned
- First in time, first in right
- Subject to forfeiture for non-use



What are adjudicated rights?

- Adjudicated or decreed rights are not a new or different type of right
- It is an existing right which has been defined by a court



Water Rights Adjudication Process

- Design a comprehensive system of how water should be distributed in the watershed based on existing law
- Can be initiated either through the court or a petition to the State Water Board
- Study hydrology, water right claims, land use, etc to prepare preliminary findings
- Rationale for how water is allocated can be challenged by the parties
- The culmination of an adjudication is issuance of a court decree
- The decree sets forth all the water rights which were evaluated and found valid and sets them in priority order.



Typical Contents of Decrees

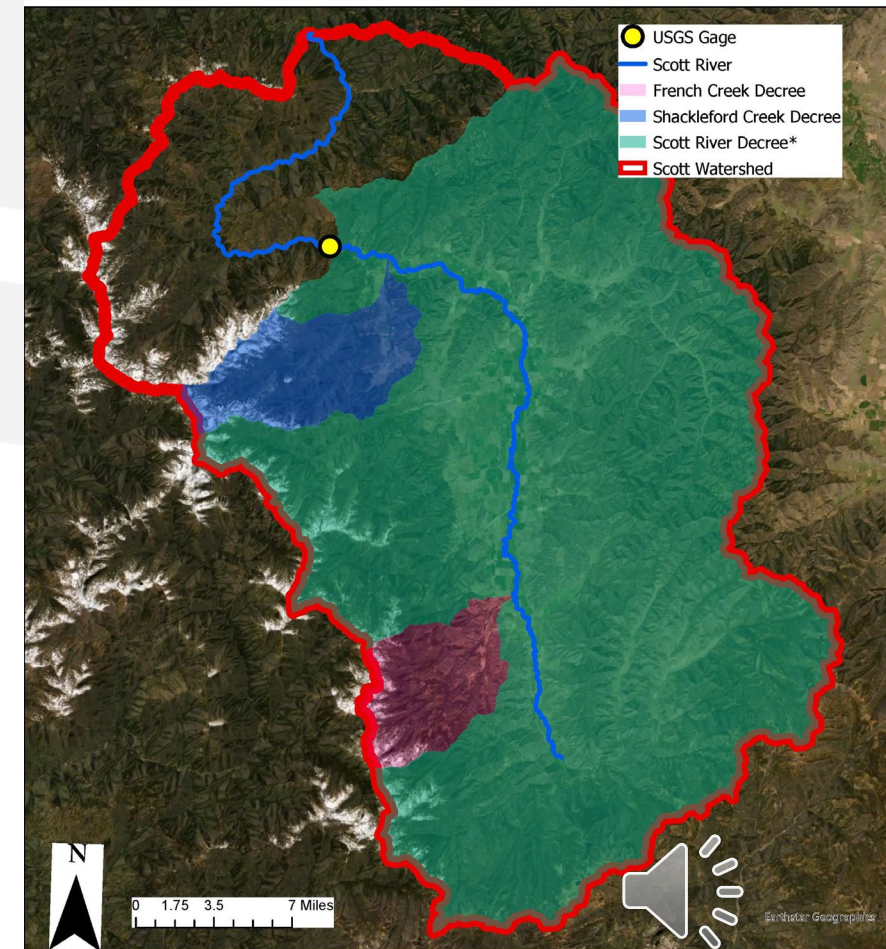
- Water right adjudged to each party
- The priority, amount
- Season of use
- Purpose of use
- Point of diversion
- Place of use of the water
- General rules or special considerations
- Water right claims that were found invalid are **not listed in the decree.**



Adjudications in Scott and Shasta Watersheds

- Shasta River Decree – 1932
 - Appropriative surface water rights
- Shackelford Creek Decree – 1950
 - All surface water rights
- French Creek Decree – 1958
 - All surface water rights
- Scott River Decree – 1980
 - Surface water rights to tributaries downstream of Fort Jones USGS gage not included
 - Some groundwater included

Surface Water Adjudications in the Scott Watershed



* The Scott River Decree includes water rights on the mainstem of the Scott River downstream of the USGS Gage. Water rights on tributaries to the Scott River downstream of the USGS Gage were not included in the Scott River Decree and are not adjudicated.

Scott Valley and Shasta Valley Water Master District Administration of Water Rights

Purpose:

The District is responsible for ensuring **decreed water rights** are managed so they do not conflict with or cause harm to another decreed right holder.

Reporting:

“The Scott Valley and Shasta Valley Watermaster District shall prepare annual reports of that identify the persons who have diverted water, the general place of use, and the quantity that has been diverted from each source.”

IN THE MATTER OF SCOTT RIVER WATERMASTER SERVICE AREA AND WATER RIGHT DECREES VARIOUS CLAIMANTS WATERS SHACKELFORD CREEK, ET AL 

SWRCB Administration of Water Rights

- State Water Board administers a permitting system for post-1914 appropriative water rights
- Water Rights Reporting
- Public Trust Doctrine and Waste and Unreasonable Use
- Development and implementation of instream flows
- State Water Board enforcement:
 - Unauthorized Diversions
 - Violations of terms and conditions of permits, licenses, certifications, or registrations
 - State Water Board Decisions, Regulations, or Orders



Reporting of Diversion and Use of Water to the State Water Board

- All diverters of surface water must report to the State Water Board
- Reports are submitted online
- SSWD reports for diversions that are Water Mastered
- Adjudicated rights that are not Water Mastered must file an Initial Statement of Water Diversion and Use (Statements) and annual reports thereafter
- No fees associated with Statements
- Diverters that divert over 10 acre-feet of water must measure their diversions (in accordance with SB-88)



Change of Ownership Process

- Inform the State Water Board of changes in ownership
- “Change of Ownership Form”, available from the State Water Boards website
- A direct link to the form is provided below:

STATE WATER RESOURCE AGENCY
DIVISION OF WATER RIGHTS
CHANGE OF OWNERSHIP FORM

This form should be used to notify the State Water Board of current updates as well as changes to the owner/diverter or responsible party.

SUBMIT FORM BY EMAIL, POSTAL MAIL, OR FAX

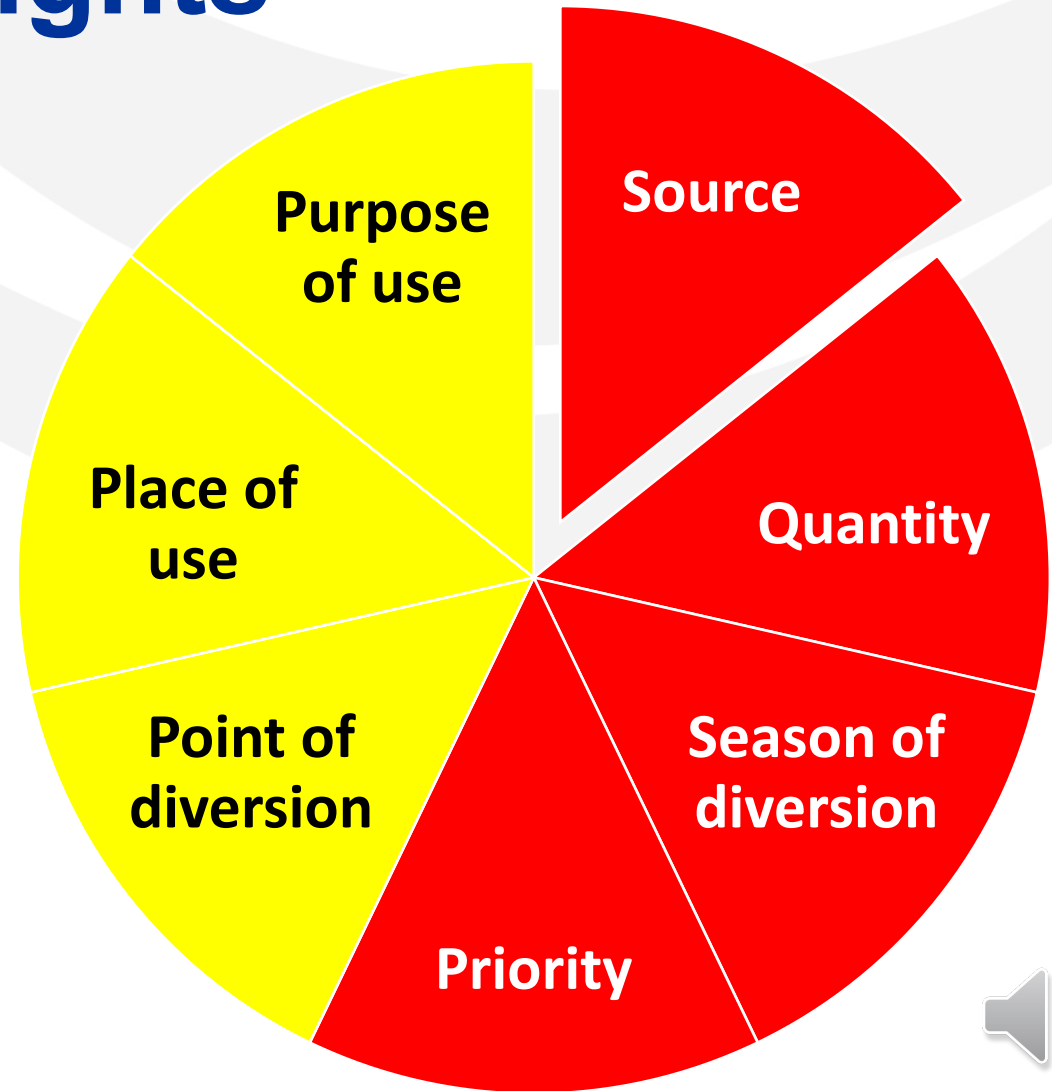
Phone: (916) 341-5300 Fax: (916) 341-5400
P.O. Box 2000, Sacramento, CA 95812
changerequest@waterboards.ca.gov

1. Water Right ID(s) associated with this change in ownership:	
2. New Owner Information	
Primary Owner Name	
Address, City, State, Zip	
Phone Number	Email (if available)
Do you want the primary owner to receive all mail for this water right? <input checked="" type="checkbox"/> Yes	
Additional Information <small>(If you checked "No" above and would like to designate an agent)</small>	

https://www.waterboards.ca.gov/water_issues/programs/ewrims/ownership/change_of_ownership.pdf

Changes to Water Rights

- If you want to change your water right, please contact the Water Board.
- No expansion of a right allowed
- The Board must find no injury, no unreasonable impacts to fish & wildlife



Instream Flow Dedications – Water Code 1707

- Any water right holder may submit a petition to change their purpose of use, point of diversion or place of use for enhancing wetlands habitat, fish and wildlife resources, or recreation
- Short term or long term
- Changes cannot injure other legal users of water
- Water right is used instream, therefore not subject to forfeiture by non-use



Public Trust Doctrine

- Protects public trust uses of navigable water bodies:
 - Navigation, commerce, fishing, recreation, and the preservation of fish and wildlife habitat
- Calls for balancing of beneficial uses
- Also applies to diversions from non-navigable tributaries and interconnected groundwater





Waste and Unreasonable Use

- Prohibits the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water
- Applies to all water use (or misuse)
- What is reasonable is fact-specific and subject to change
- California Water Code gives Board the authority to enforce

