

An Introduction to Water Rights in California



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What is a Water Right?

- A water right is legal permission to use a reasonable amount of water for a beneficial purpose
- A water right is required for the diversion and use of water

Types of Water Rights

- Riparian
- Appropriative
 - Pre-1914
 - Post-1914
- Pueblo
- Federal Reserved
- Prescriptive
- Adjudicated
- Groundwater

Riparian Right

- Water use limited to “riparian lands”
 - Smallest portion of land adjacent to the source of water (may be preserved during subdivision)
- Water used must be the “natural flow”
 - Water may not be imported from another stream
 - Water may not be collected during a time of plenty and stored for use during a time of deficiency (aka “seasonal storage”)

Riparian Right

- Does not require a State Water Board Permit/License/Certificate
- Right is not lost by non-use

Appropriative Right

- In most cases, required for diversion of water:
 - For use on “non-riparian lands”
 - For use of imported water
 - For “seasonal storage” of water
- “First in Time – First in Right”
- Right may be lost due to non-use
- Pre-1914 or Post-1914

Pre-1914 Appropriative Right

- General limits on pre-1914 rights:
 - must be initiated before December 19, 1914
 - limited to quantity of water used before December 19, 1914
- Does not require a State Water Board Permit/License/Certificate

Post-1914 Appropriative Right

- Requires a State Water Board Permit/License/Certificate
- Types
 - Permit/License
 - Stockpond Certificate
 - Registration Certificate

Post-1914 Appropriative Right

- Permit/License/Certificate conditions on the diversion and use of water:
 - Priority
 - Diversion
 - Quantity (volume/rate), Point, and Season
 - Use
 - Purpose and Place
 - Other conditions to protect prior water right holders and the environment

Change Petitions

- Riparian or Pre-1914 Appropriative Right
 - State Water Board approval is not required
- Post-1914 Appropriative Right
 - State Water Board approval is required to change certain conditions of water right permits, licenses, and some certificates
- For adjudicated rights, the State Water Board exercises concurrent jurisdiction with the courts

General Findings and Considerations

- No injury to any legal user of water
- Not initiate a new right
- Does not have potential to impair instream beneficial uses

Water Code Section 1707

- Petition to change purposes of use to preserve or enhance
 - Wetlands habitat
 - Fish and wildlife resources
 - Recreation in, or on, the water
- By either
 - foregoing diversion or
 - Diverting water to enhance

Additional Required Findings

Change must meet the following:

- Will not increase the amount of water the person is entitled to use
- Will not unreasonably affect any legal user of water
- Otherwise meets the requirements of the Water Code Division

Process Considerations

Consider:

- Likelihood of injury?
- Impacts to fish and wildlife?
- Right was properly established?
- Recent beneficial use of the water?
- Evidence of continuous beneficial use of water?

Other Process Considerations

- CEQA review
- Public Notice
- Protest Resolution
- Supplemental Decree (if adjudicated)

More Information

- [Instream Flow Dedication webpage](#)