

# Staff Report

for the Regular Meeting of the Board of Directors, September 26, 2018

**TO:** Board of Directors

**FROM:** Remleh Scherzinger, PE, MBA, General Manager

**DATE:** September 19, 2018

**SUBJECT:** Workshop - Water Rights and Area and County of Origin Issues

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***ADMINISTRATION***

**RECOMMENDATION:**

Participate in workshop, pertaining to water rights and area and county of origin issues, as presented by Victoria A. Whitney, PE.

Attachment:

- Curriculum Vitae for Victoria A. Whitney, PE

**Victoria A. Whitney, PE**  
**Curriculum Vitae**

**Experience:**

**State Water Resources Control Board:**

**Deputy Director for Water Quality (10/1/10 to 1/31/2016).** Serving as a member of the State Water Board's executive team, I managed California's statewide water quality program. In carrying out these responsibilities, I directed a multi-disciplinary staff of 142 employees in implementing the federal Clean Water Act and California's Porter Cologne Water Quality Act, and I annually administered over \$20M in federal grants. I provided guidance and technical assistance to the nine regional boards to ensure that water quality and health and safety laws are applied consistently across the State, as appropriate. I represented the Water Boards, CalEPA, and the Administration before the Legislature; the Judiciary; federal, State, and local agencies; industry groups; environmental and environmental justice organizations; and other stakeholders. Major accomplishments of the program during this period included a Low-Threat Underground Storage Tank Case Closure Policy; a Water Quality Control Policy for Siting, Design, Operation and Maintenance of Onsite Wastewater Treatment Systems; several amendments to statewide Water Quality Plans, including regulatory standards for desalination facilities; and several statewide general water quality permits, including permits regulating composting facilities and the use of recycled water.

**Deputy Director for Water Rights, (11/20/03-9/30/10).** I managed California's water rights program and water quality certification program for hydropower facilities. As Deputy Director was delegated authority by the State Water Board to make certain policy decisions related to specific water right actions. I represented the State Water Board on water rights matters before the Legislature, courts, other agencies, and stakeholders. Major accomplishments included the development of the State Water Board's Water Rights Information Management System (eWRIMS) database, a coordinated database system that includes tabular and geospatial information, workflow routing, and administrative functionality; the implementation of a system to support the collection of fees that provide significant support for the program; the development of significant policy decisions, including the Policy for Maintaining Instream Flows in Northern California Coastal Streams; significant regulatory actions such as the revocation of water right permits for the proposed Auburn Dam and Water Quality Certification for the State Water Project's Oroville Facility; important case law involving the definition of subterranean streams; and reports to the Legislature, including a Report on Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem.

Other positions within the Division of Water Rights:

**Principal Engineer/Assistant Division Chief (1/1/03-11/19/03).** I assisted the Deputy Director of Water Rights in management of the Division, specifically overseeing the technical engineering work.

**Supervising Engineer (9/1/98-12/31/02): Program Manager of the Hearings and Special Projects Section (1/1/00-12/31/02) and Program Manager of the Bay/Delta and Compliance Section (9/1/98-12/31/99).** I managed subordinate supervisors in the conduct of water right actions and coordinated the work of Board attorneys and economists in the preparation of water right decisions. Projects completed under my management include (1) Decision 1641, implementing the 1995 San Francisco Bay/Sacramento-San Joaquin Delta Estuary Water Quality Control Plan (1995 Bay-Delta Plan) through amendments to water right permits and licenses held by the Department of Water Resources and the U.S. Bureau of Reclamation as well as other water right holders and (2) Order 2001-13 amending water right permits held by Imperial Irrigation District (IID) to allow the transfer of water from IID to the San Diego County Water Authority to facilitate the Quantification Settlement Agreement resolving interstate issues on the Colorado River. As program manager of the Division's Compliance Section, I worked with senior staff to develop the Division's water rights enforcement program.

**Senior Engineer (12/1/91-8/31/98): Chief of the Bay/Delta Unit (8/1/95-8/31/98) and Chief of the Hearings and Adjudication Unit (12/1/91-8/13/95).** My responsibilities included supervising the planning and conduct of Board workshops and informational, rule-making, and evidentiary administrative

hearings; working with staff to prepare water right permits and orders; negotiating and administering contracts; and representing the Board at multi-agency meetings. As Bay/Delta Unit Chief I was responsible for periodic review, update, and implementation of the Bay-Delta Plan and preparation of supporting environmental documentation. As Hearing Unit Chief, I supervised the preparation of other water right decisions and orders throughout the state. I also assisted the Office of the Attorney General in defending the State Water Board against legal challenges to those decisions and orders. I supervised technical work related to court adjudications of competing water right claims. I was also responsible for the preparation of administrative records for the courts and for the Office of Administrative Law.

**Senior Engineer, Specialist for Water Right Adjudications (5/1/90-11/30/91).** I was responsible for technical reports, Board hearings, and administrative functions related to water right adjudications. I assisted the Modoc Superior Court with the Tule Lake Stream System Adjudication and assisted the San Mateo Superior Court with the San Gregorio Creek Stream System Adjudication, including 65 days of court hearings on the Board's recommendations to the Court on the validation and quantification of all water right claims to the stream system, including claimed riparian and pre-1914 appropriative rights. I also performed work associated with Superior Court references to the Board of specific water right disputes between water users for findings of fact, findings of law, and both.

**Associate Engineer (1/1/89-4/30/90), Hearing and Adjudications Unit.** I prepared and reviewed exhibits for water right hearings, cross-examined witnesses on engineering matters, prepared hydrologic analyses, and made recommendations to the State Water Board. I prepared water right permits and water right orders following the hearings.

**Associate Engineer (1/16/87-12/31/88) and Engineer (6/19/85-1/15/87), Complaint and Compliance Unit.** I conducted investigations of water right complaints, including reviewing applicable laws, regulations, and policies; conducting field investigations to gather information regarding water diversion, conveyance and use; reviewing hydrologic records; and analyzing streamflow characteristics and reservoir operations. I produced investigation reports and prepared any necessary enforcement actions.

**Engineer (6/29/84-6/18/85), Petition Unit.** I prepared orders modifying or revoking water right permits and licenses. I also conducted water right licensing investigations.

**California Regional Water Quality Control Board, Colorado River Basin Region: Engineer (12/27/82-6/28-84).** I prepared and enforced waste discharge requirements and NPDES permits. My duties included reviewing "Reports of Waste Discharge" for compliance with water quality law, reviewing engineering designs for waste management systems, analyzing hydrochemical and hydrogeologic data, reviewing environmental documents, developing compliance and monitoring programs for dischargers, conducting compliance investigations, preparing enforcement orders, representing the Regional Board at meetings, and preparing written and oral presentations to the Board.

#### **Other Professional Associations:**

**Commissioner, Southern California Coastal Water Research Project (10/1/10 to 1/31/2016):** SCCWRP is a Joint Powers Authority to conduct coastal environmental research and suggest management strategies, particularly in southern California. <http://www.sccwrp.org>

**Board member, Aquatic Science Center (10/1/10 to 1/31/2016):** The Aquatic Science Center is a Joint Powers Authority to promote and deliver science support functions and information management for governmental and non-governmental organizations with roles in water quality protection, policy development, and assessment, particularly in the San Francisco Bay and Sacramento/San Joaquin Delta. <http://www.aquaticscience.org>

**Alternate Member, Association of Clean Water Administrators (January 2011-1/31/2016):** ACWA is a national, professional organization whose members are the State, Interstate and Territorial officials responsible for the implementation of surface water protection programs throughout the nation. <http://www.acwa-us.org>

**Beijing Hydrologic Research Institute (part of the Beijing Water Authority), Beijing China: Guest Instructor (October 2010, June 2014, and March 2016).** Topics: California Water Rights (2010); California's Response to the Drought (2014); and California's Efforts to Expand the Use of Recycled Water (2016). BHRI conducts scientific research in the areas of water resources, water ecology, water conservation, water development strategies, and water policy research. [www.bwsti.com](http://www.bwsti.com)

**Sino-American Technology and Engineering Conference: Chinese Institute of Engineers in Collaboration with the Chinese State Council of the People's Republic of China: Invited Lecturer (March 2012).** Topic: Water Pollution Control Regulation. The purpose of the conference is to improve the technological innovation ability and management of China's state-owned enterprises and high-tech companies through exchanges with the U.S. experts. <http://www.cie-usa.org>

**Association of Western State Engineers, President (2005), Vice-President (2004), Member (2003-2010).** AWSE was formed in 1928 to formulate broad principles applicable to member states for the development, use, control, and regulation of the waters thereof and to provide mutual assistance in the solution of individual problems through the exchange of ideas and experiences. Members are the State Engineer or other official charged with administration of the laws governing appropriation, distribution or control of the water resources of each member state. <http://westernstateengineers.org>

### **Education:**

Bachelor of Science, Civil Engineering with an emphasis in Water Resources: University of California at Davis, 1982

UC Davis Extension: Executive Leadership Program, 2008

Intergovernmental Management Training Program, 1995.

### **Professional License:**

Licensed Professional Civil Engineer in California.

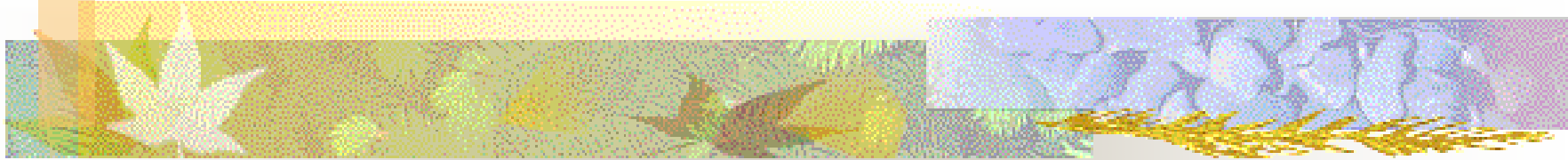
### **Presentations:**

Multiple presentations to the California Legislature on both water rights and water quality issues. Over 40 presentations on California water supply and water quality issues to State, federal and local agencies and local, trade, and technical groups, including the Association of State and Territorial Solid Waste Management Officials, the Association of California Water Agencies, CalDesal, the California Association of Sanitation Agencies, the California Association of Storm Water Agencies, the California Wine Institute, Stanford University's Water in the West Program, San Francisco's Pacific Union Club, the Sierra Nevada Conservancy, the Russian River Watershed Protection Committee, California Water Law and Policy Conference, Groundwater Resources Association, and others.

### **Community Volunteer Efforts:**

Court Appointed Special Advocate for Foster Children (March 2016 to present), President of the General Federation of Women's Clubs, American River Women's Club (August 2018 to present), Troop Leader and Service Unit Treasurer for the Tierra del Oro Girl Scouts (1994-2004), Adult Literacy Volunteer (1987-1990)

# Water Rights in California



Presented to NID Board

September 26, 2018

Victoria Whitney, former Deputy Director  
State Water Resources Control Board



# Overview

- Water Rights 101
  - Authorities
  - General Policies
  - Surface Water Rights
  - Groundwater Rights
- Special situations
- Question and (hopefully) answers

"If the formula for **water** is H<sub>2</sub>O, is the formula for an ice cube H<sub>2</sub>O squared?" --Lily Tomlin



# Water Rights Authority of the State Water Board

- Constitutional: Article X, §2
- Statutory: California Water Code  
California Code of Regulations: Title 23
- Case law: various judicial decisions



# How the State Water Board Administers Water Rights

- Determines who may divert and use water under which conditions
- Processes petitions to change water rights that it issues
- Enforces against
  - Unauthorized diversions
  - Interference with prior rights
  - Permit violations
  - Waste and unreasonable use
  - Public trust violations





# How the State Water Board Administers Water Rights (cont.)

- May file statutory adjudications with the court
- Conducts court references
- Prosecutes groundwater adjudications to protect water quality



# General Policies

- The authority to allocate waters within a state belongs to the state and not to the federal government
- Water belongs to the people of the State
- A water right is a “usufruct”
- Beneficial use of water shall be maximized
- Water shall be conserved
- Water use must be reasonable



# What Triggers the Need for a Water Right?

- Two Elements
  - Taking water under control
  - Putting water to beneficial use
- Instream Uses
  - Water is not taken under control
- Flood Control
  - Water is not put to beneficial use
  - Avoidance of a nuisance



# Issues of concern


- How the right is acquired
  - State Water Board's Permitting Authority (Wat. Code §1210)
  - Exclusive method
- How the right is lost
- What do you do when there isn't enough water to meet demands



What is water right  
“priority”?

A decorative header strip at the top of the page. It is divided into three sections: a left section with a white star on a green background, a middle section with a brown bird on a green background, and a right section with blue rocks and a yellow stream.

# Surface Water Rights



# Types of Surface Water Rights (also applies to subterranean streams flowing through known and definite channels)

- Pueblo
- Federal Reserved
- Riparian
- Appropriative
  - Pre-1914
  - Post-1914
- Prescriptive
- “Adjudicated”



# Pueblo Rights

- Paramount right of a city as the successor to a Mexican or Spanish Pueblo
  - City must be the successor to a Mexican or Spanish Pueblo
  - The City must have presented its claim before the Board of Land Commissioners pursuant to the “Act to Ascertain and Settle the Private Land Claims in the State of California” and the claim must have been validated by the Board





# Pueblo Rights—Attributes

- Highest priority right in California
- Right to entire flow of streams (surface flow, including tributaries and tributary groundwater) within the historic pueblo
- Quantity is determined by present municipal needs
- Not lost by non-use or prescription



# Federal Reserved

- Created by federal law to serve the water needs of lands withdrawn from the public domain to establish federal reservations.
- Only apply to Federal Land Reservations
  - Forest Lands
  - Tribal (Indian) Reservation
- Water can only be used for the primary purpose of the reservation
- Secondary purposes must be served with water acquired under state law
- Priority is the date the reservation was created
- Includes surface and groundwater.
- Amount is sufficient to serve the needs of the reservation: practical irrigable acreage.



# Riparian Rights

- Does not require a permit from the SWRCB
- Continuous use of water not required
- Rights are correlative
- Disputes must be resolved in court
- Water diverted under riparian right can be assigned by the owner for the purpose of instream fisheries protection.

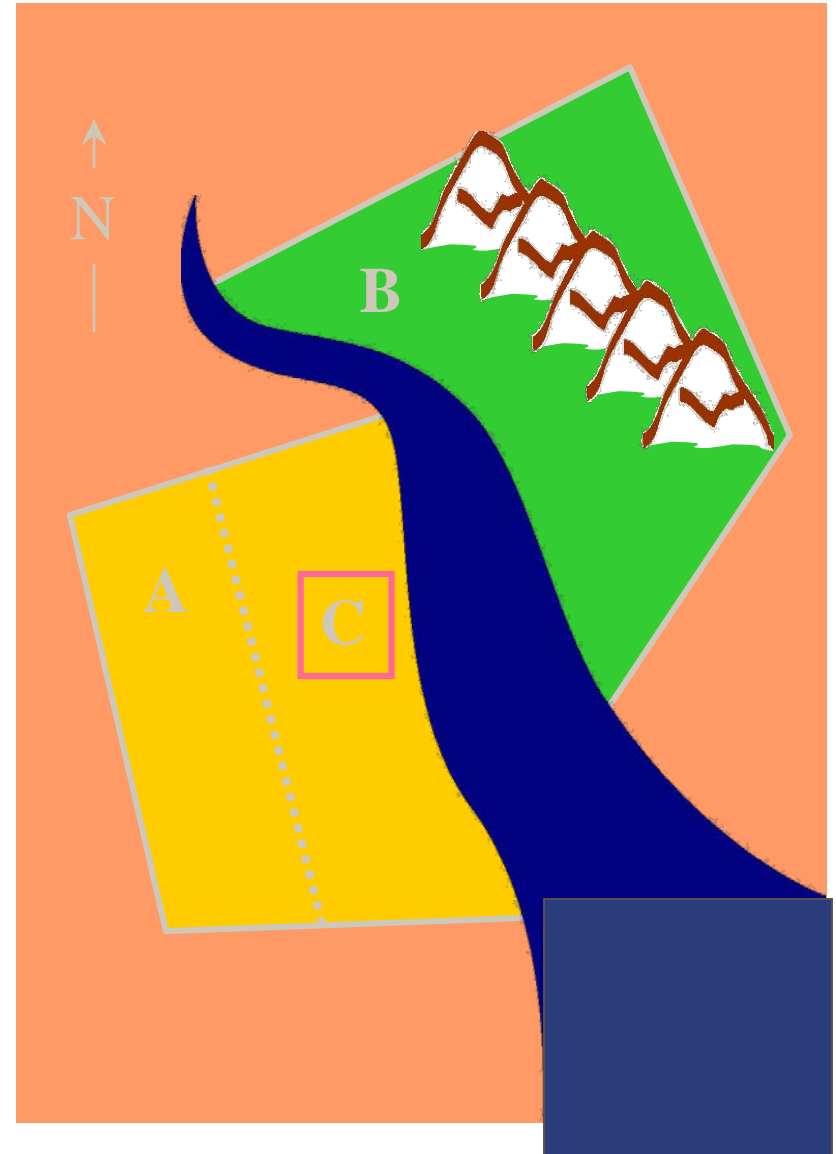


# Riparian Rights

- Property must abut the source stream
- 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
- Place of use must be in the watershed of the stream source

# Riparian Rights

- Right attaches to land when the land is “patented”
- Lost when a parcel is physically separated from the source unless specifically retained at the time of separation
- The right is limited to the smallest legal tract in the chain of title
- Once lost, the right cannot be re-established





# Appropriative Rights

- For diversion of water on nonriparian parcels or for diversion of “foreign” water
- For storage of water on any parcel
- Can be sold
- Right is quantified and can not be increased
- Can be forfeited or abandoned by inaction (“Use it or lose it”)
- Priority is the date the appropriation commenced: “first in time, first in right”



# Pre-1914 Appropriative Right

- Legislature “grandfathered” “existing” uses.
- Right must have been initiated before December 19, 1914
- Does not require a permit from the State Water Board
- Quantity is limited to the amount of water “used” in 1914
  - Priority of right relates back to date of posting notice or other acts indicating an intention to divert and use water.
  - Limited to quantity of water diligently and continuously put to reasonable beneficial use
  - Doctrine of Progressive Development
- Two methods
  - Common Law
  - Civil Code Procedure, 1872



# Post-1914 Appropriative Right

- Requires a permit/license from SWRCB
  - Application
  - Permit
  - License
- Issued for the appropriation of “Unappropriated Water” (defined in WC§1202)
- Applies to surface water and subterranean streams
- Cannot be issued on a fully-appropriated stream
- Continuing authority





# Post 1914 Appropriative Right

- Permit specifies:
  - Purpose of use
  - Point of diversion and place of use
  - Quantity (rate and season)
  - Priority
  - Project completion schedule
  - Other conditions to protect prior water right holders, the public interest, the public trust, and the environment (CEQA/NEPA)



# Post-1914 Appropriative Right-- Types of Permits

## ■ Permit/License

- Protests can be filed
- If protests are not resolved, permit is denied or approved with conditions
  - For minor projects (<200 af or 3 cfs) by staff after a field investigation is conducted
  - For major projects after a hearing is held by the Board



# Post-1914 Appropriative Right-- Small Use Registrations

- Expedited permits for small users who meet certain criteria
- Types
  - Livestock, 2001
    - Certificates
    - Registrations
  - Domestic
  - Irrigation (north coast streams only)



# Special Situations: strategies to preserve water supply for future uses

- Municipal Preference (competing applications)
- State Filings
  - assignment
  - release from priority
- Area of Origin Protections



# Prescriptive Right

- Legalized theft
- Use must be:
  - Actual
  - Open and Notorious
  - Adverse
  - Under Claim of Right
  - Continuous and uninterrupted for 5 years
- Cannot prescript the State (People v. Shirokow)
- Cannot obtain an appropriative right by prescription



# Adjudicated (Decreed)

- Courts confirm existing rights (Pueblo, Reserved Federal, Riparian, Pre-14)
- Rights are set forth in a judgment and decree
- Watermasters often administer decrees in adjudicated areas.



# Adjudicated (Decreed)

- Board's role is an advisor to the courts
- Board conducts investigation and makes recommendation
- Process is not subject to CEQA
- “Reasonable costs” are allocated to the affected parties



# Adjudicated (Decreed)

- Court Reference (Wat. Code §2000)
- Statutory (Wat. Code §2500)





# Court Reference

- Court refers a matter to the Board
- Board makes findings
  - Fact
  - Law
  - Both
- Applies only to the named parties



# Statutory (Stream system)

- Initiated by Petition to the Board
- Board finds an adjudication is in the public interest
- Applies to all water users
- Advantages
  - riparian rights can be subordinated
  - riparian rights are quantified
- Disadvantage
  - time consuming and expensive



# Groundwater Rights



# Groundwater

- Classification of Groundwater
- Types of Groundwater Rights
- Groundwater Adjudications
- Sustainable Groundwater Management Act (SGMA)



# Classification of Groundwater

- Subterranean Stream flowing in a known and definite channel
  - **Wat. Code §1200.** Whenever the terms stream, lake or other body of water, or water occurs in relation to applications to appropriate water or permits or licenses issued pursuant to such applications, such term refers only to surface water, and to subterranean streams flowing through known and definite channels.
- Percolating Groundwater



# Groundwater Appropriation Method

## ■ Classification

- “Subterranean Stream”
  - Law of Surface Water
    - Riparian
    - Permit Required
- “Percolating Groundwater”
  - Law of Groundwater (Case law)
    - No Permit Required



# Subterranean Streams

## ■ Case law

- *City of Los Angeles v. Pomeroy*, 124 Cal. 597 (1899)
- In a 1999 decision the SWRCB set forth the four-part test for determining whether groundwater falls within its permitting authority: (In re Garrapata Water Co., SWRCB Dec. No. 1639 (June 17, 1999).)



# Physical Characteristics of Subterranean Streams: the four part test

- (1) a subsurface channel must be present;
- (2) the channel must have a relatively impermeable bed and banks;
- (3) the course of the channel must be known or capable of being determined by reasonable inference; and
- (4) groundwater must be flowing in the channel.





# Presumptions: Percolating Groundwater

- Groundwater is presumed to be percolating
- Person claiming the groundwater is a subterranean stream must prove it



# Types of Percolating Groundwater Rights in California

- **Overlying:** Rights attach to parcels that overlie the groundwater basin. Senior right.
- **Appropriative:** Occurs when water is diverted for use on non-overlying property. Junior to overlying rights.
- **Adjudicated:** Rights have been quantified by the courts.



# Groundwater Adjudications

- Water Code Section 2100
- Prerequisite:
  - Destruction of or irreparable harm to the quality of groundwater basin
  - Recommendations by the Dept of Water Resources under Wat. Code sections 12617 or 12923
    - §12617: DWR to investigate solutions to water problems and make recommendations to protect water quality
    - §12923: Investigations of groundwater basins
  - Investigation by any governmental agency



# Groundwater Adjudications

- Purpose: to restrict pumping, impose physical solutions or both
- Parties: All claimants to the use of the affected waters except minor users (<10 afa per year).



# Sustainable Groundwater Management Act (SGMA)

- Intended to address over-subscribed groundwater basins
- Local preference
  - Local groundwater management agencies
  - Local groundwater management plans
- State can step in if locals fail
- Recent case law: public trust



# Diversion curtailments



# Uh Oh: Not enough water

- Drought
- Too many straws
- Environmental Collapse



# Curtailment: “The Rules”

- Post-1914 appropriative rights, generally in date order of the application, newest first with exceptions for municipal preference.
- Pre-1914s who postdate land patents
- Riparians (correlative: are they equal?)
- Pre-1914s who predate the land patents
- Federal reserved rights may fit in anywhere depending on the date the reservation was established
- Pueblo





# The Exceptions

- Municipal Preference (competing applications)
- State Filed Water Rights
- Area of Origin Protections
  - State Filings (county of origin)
    - assignment
    - release from priority
  - SWP/CVP (watershed of origin)



# Municipal Preference

- Allows a permit applicant who plans to use the water for municipal purposes to seek priority over other competing applications
- If approved, gives the municipal user priority
- Allows for other permits to be issued for an interim period
- Municipality must compensate for facilities



# State Filed Water Rights

- Authorizes the State to file applications to use unappropriated water as part of general water resources development.
- Applications have the priority of the date they were filed by the state.
- While held by the state not subject to diligence requirements



# State Filed Water Rights

- After a hearing the State Water Board may assign all or any portion of a state filing to support a water supply project consistent with a general or coordinated plan.
- If the proposed project is inconsistent with the required conditions of the state filing, a petitioner may request that an application be released from the priority of the state filing.
- Any water assigned or released from priority becomes available if it is not used.



# What do the protections do?

- Reserve to areas where water originates an undefined (inchoate) preferential rights for future water needs.
- Allow export to other areas during the period before local needs develop



# Area of Origin Protections

- Derive from statute or SWRCB permit conditions imposed on a case by case basis.
- In theory, resolve a threat that SWRCB-issued export permits for immediate use will harm potential future uses in the protected watershed.
- No priority among protected users regardless of the basis of right.
- Those with a protection are not entitled to water from those subject to protection at a lower cost than any other customer.



# Area of Origin Statutes

- County of Origin

  - WC § 10500-10506 (1931)

- Watershed Protection

  - WC § 11460-11465 (1933)

- The Delta Protection Act (1959)

  - WC § 12200

- The New Watershed Protection Act (aka the “Protected Area Legislation”)

  - WC § 1215 (1984)



# Area of Origin Statutes

- County of Origin-- WC § 10505 (1927)
  - Applies to State filings
  - Release of priority shall not deprive the county in which the water originates of any water necessary for development in the county
  - As County needs the water it shall be withdrawn from outside areas and made available to the county of origin (1955 Attorney General Opinion)





# Area of Origin Statutes

- Watershed Protection -- WC § 11460 (1933)
  - Applies to CVP and SWP only (units of the original CVP in the 1930's)
  - Will not deprive the prior rights of all the water needed for beneficial uses in the watershed (State filings may not be assigned if there will be impacts)
  - In effect CVP and SWP exports are last in priority to directly divert or divert to storage natural and abandoned flows



# Area of Origin Statutes

- Delta Protection Act
  - Protects users in the Delta
  - CVP and SWP provide salinity control and adequate water supplies for Delta users
  - Prevents diversions from Delta channels to which Delta water users are entitled
  - Reiterates the CVP/SWP exports are subject to prior needs of upstream areas of origin.



# Area of Origin Statutes

- New Watershed Protection Act-- WC § 1215 (1984)
  - Applies to export projects (including GW) initiated after 1/1/85 in protected areas
  - Protected areas - Central Valley, Mono Lake, Truckee, Walker and Carson River Systems and the Russian River
  - Allows in-basin users to obtain a higher priority right than the exporter or to contract for water from the exporter



# What does this mean?

- In times of shortage in the Central Valley, water diverted directly (natural and abandoned flows) by the CVP and SWP under their water rights for export is curtailed first.
- Water diverted to storage in CVP/SWP reservoirs during times of shortage is curtailed in based on the priority of the water right(s) for the reservoir.
- Water diverted by other permittees is curtailed based on the priority of the rights they hold.
- The CVP/SWP may continue to export water previously stored in its reservoirs despite curtailments.



# Term 91

- The CVP/SWP uses natural channels to convey water from their reservoirs to their export pumps in the Delta.
- The CVP/SWP asserted users on those channels were diverting water that was not legally available to them.
- The State Water Board agreed and included permit conditions in permits issued after 1965 prohibiting such diversions.



# How is it implemented?

- In the Central Valley Watershed the State Water Board imposes “term 91”
- Puts user on notice that it cannot divert water being released from CVP/SWP storage for water quality in the Delta
- Water Board calculates how much water is being released for water quality
- Board curtails water diversion in priority order until that amount zeros out.



# EID v. SWRCB

- Board imposed Term 91 in a permit issued to EID on a state-filed application
- Downstream of EID were two water users who were junior in priority to the state-filed application. The water rights held by those users did not include Term 91.
- EID argued that the Board could not impose Term 91 in a permit issued on a state-filed application.
- The Board argued that it could, notwithstanding that there were existing junior appropriators downstream. The basis of this argument was equity: the downstream junior users were not entitled to water released from storage, but the fact they divert it did not entitle EID to similarly divert water.



# Court Ruling

- The Board can impose Term 91 in permits issued on state-filed applications
- The Board can only do so if all junior permits and licenses also include Term 91





# What Do Area of Origin Laws Do?

- Provide a means for Area of Origin inhabitants to acquire a right with a higher priority than the CVP/SWP exports of natural and abandoned flow.
- Allow Area of Origin inhabitants to purchase water from the SWP/CVP pursuant to contracts and conditions therein.



# What Don't Area of Origin laws Do?

- Independently create new water rights for area of origin users; a water right must exist.
- Entitle area of origin water right holders to divert water previously stored upstream and released for downstream or instream beneficial use.



## Other Protected Watersheds (“New Watershed Protection Laws”)

- The State Water Board determines the water needed for future growth in the protected watershed.
- The State Water Board creates a “reservation” setting aside that amount for inbasin users to apply for.
- The State Water Board tracks how much of the reservation has been assigned.

## For more info:

Water Code Sections and case law summaries:

[https://www.waterboards.ca.gov/laws\\_regulations/docs/wrlaws.pdf](https://www.waterboards.ca.gov/laws_regulations/docs/wrlaws.pdf)

For information on Area of Origin Laws

[https://www.waterboards.ca.gov/board\\_agendas/2013/oct/100813\\_7origin.pdf](https://www.waterboards.ca.gov/board_agendas/2013/oct/100813_7origin.pdf)

For Water Rights Questions:

(916) 341-5400

[www.waterboards.ca.gov/waterrights](http://www.waterboards.ca.gov/waterrights)

### CALIFORNIA'S AREA OF ORIGIN LAWS

A Report to the State Water Resources Control Board  
and  
the Delta Stewardship Council

by

Craig M. Wilson  
Delta Watermaster



## Statutory Rights Law

AND RELATED CALIFORNIA CODE SECTIONS  
(As amended, including Statutes 2017)



JANUARY 2018



Questions?