

Administration of Water Rights in California: Challenges and Modernizations

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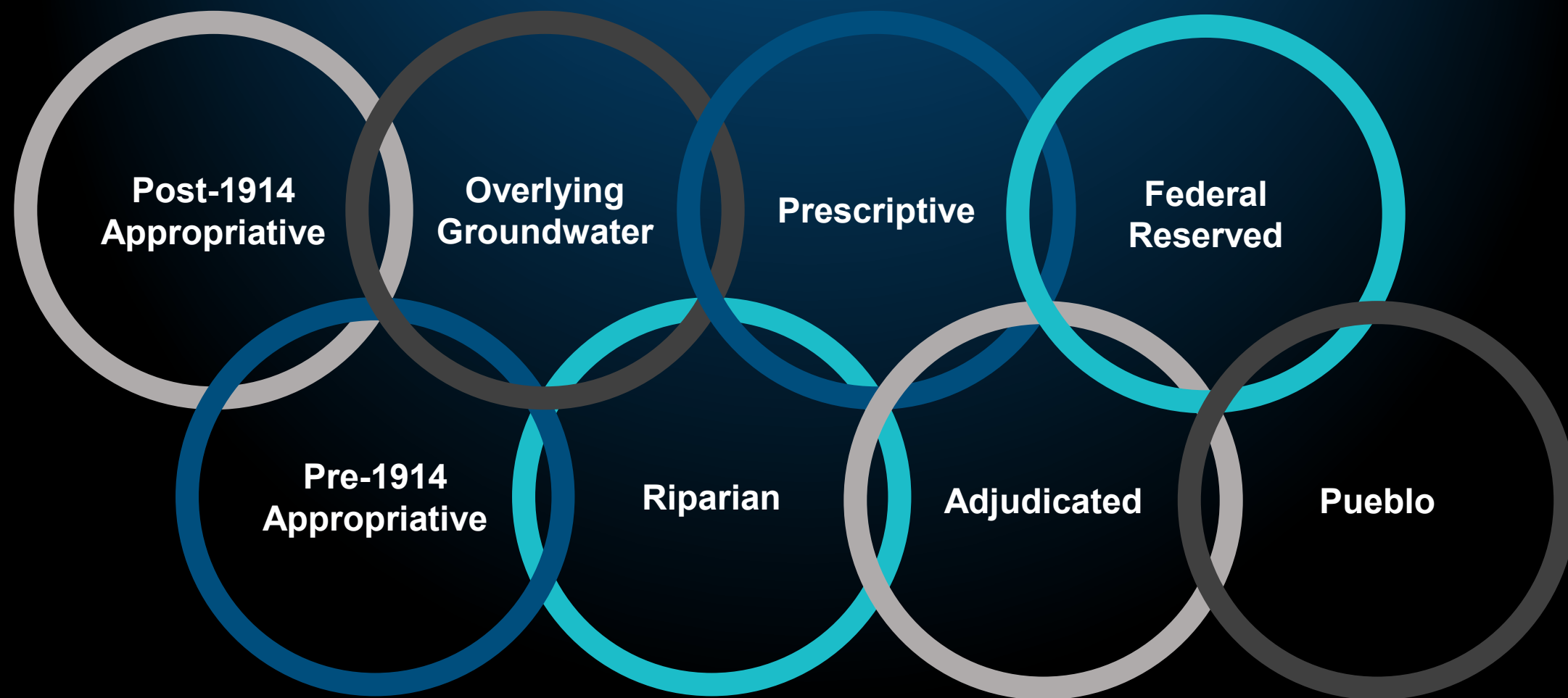
What is Water Rights Modernization?

- Updating a system created over 100 years ago, investing in modern tools
- NOT Wholesale Reform
- Working within the existing system
- Existing legal framework dictates how we approach planning, regulating, and enforcing

Timely and accurate data impacts how we plan for a resilient future



Types of Water Rights



What are we doing now?

- UPWARD- Updating Water Rights Data for CA
 - Replace antiquated data system
 - Digitize millions of paper documents
 - Establish data standards
 - Major Milestone- vendor selected!
- Drought Planning
- Supply and Demand Assessment Tools
- Telemetry Research
- Increased Enforcement



What does this get us?



Better data



Better decisions



Planning and management tools



Easier access for everyone



Innovative local solutions



Why is this necessary?

Example: Data Quality Issues in Self-Reported Diversion Data (Riparian and Pre-1914 Claims)

Watershed	Number of Claims	2018 Reported Diversion (AF) (>5,000 AFY diverters only)	2019 Reported Diversion (AF) (>5,000 AFY diverters only)
SAN JOAQUIN RIVER	2,601	3,751,671 (original) 3,229,774 (corrected) 13% reduction	4,999,286 (original) 3,742,052 (corrected) 25% reduction
SACRAMENTO RIVER	3,969	12,455,707 (original) 3,978,399 (corrected) 68% reduction	29,688,143 (original) 4,063,238 (corrected) 86% reduction

What does it look like in practice?

Russian River Voluntary Water Sharing Program

- First of its kind in California
- Foundational components:
 - Data collection and processing
 - Board staff investment
 - Local cooperation
 - Time, time, time

What's next?

- Existing processes take a long time
- Staff subject to redirection (up to 85% of Division redirected to work on emergency drought response)
- Most CA water (outside of flood flows) is spoken for or allocated
- Different approaches require structural changes to existing laws and regs, and any such structural changes would come with more substantial impacts to diverters and environment



Drought Response in 2021 and 2022

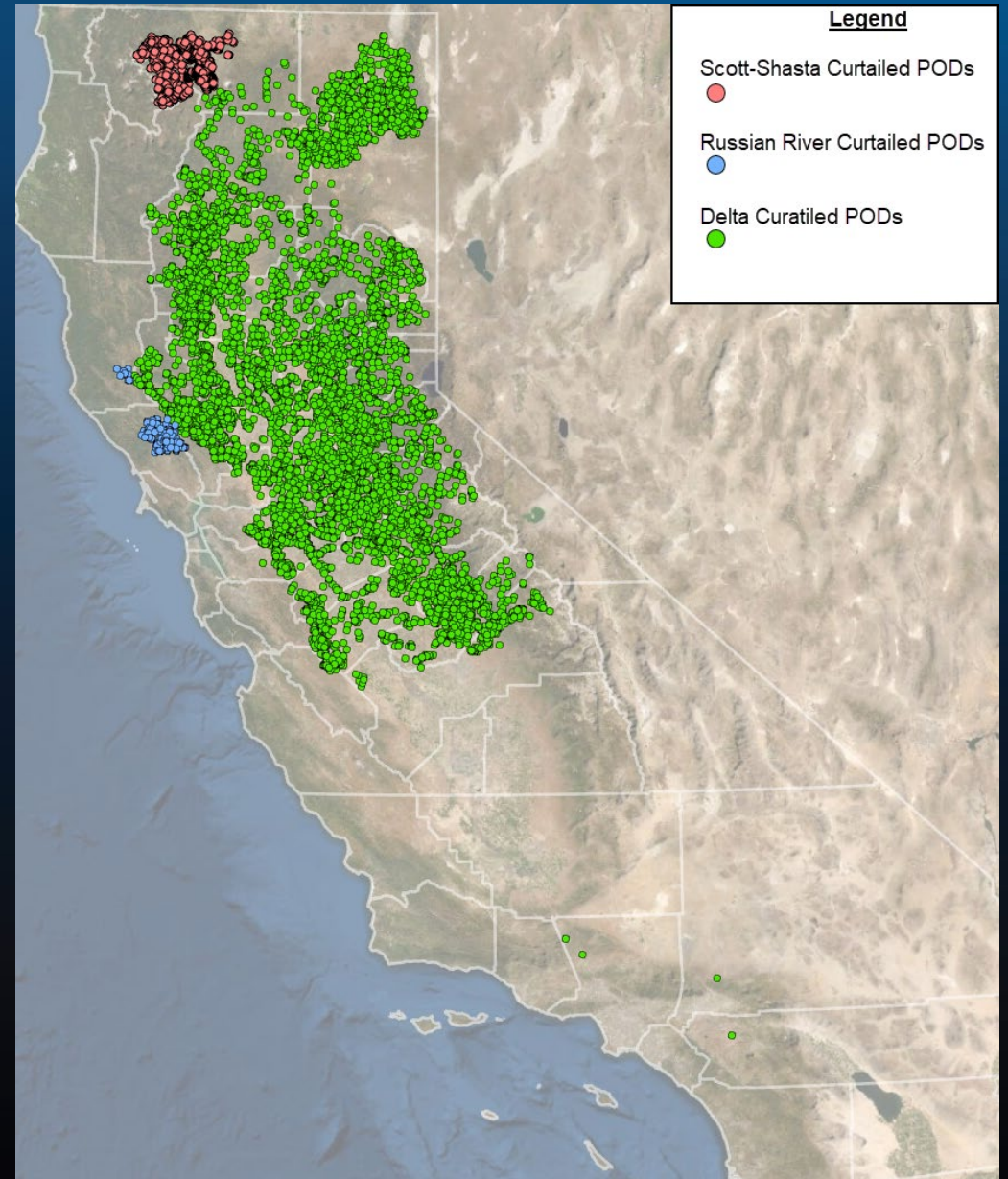
Emergency Regulations adopted in four watersheds authorizing issuance of orders:

- Emergency instream fish protection flows in key watersheds
- Curtailing water diversion and use in order of water right priority
- Seeking information relevant to determine compliance



2022 Curtailment Enforcement

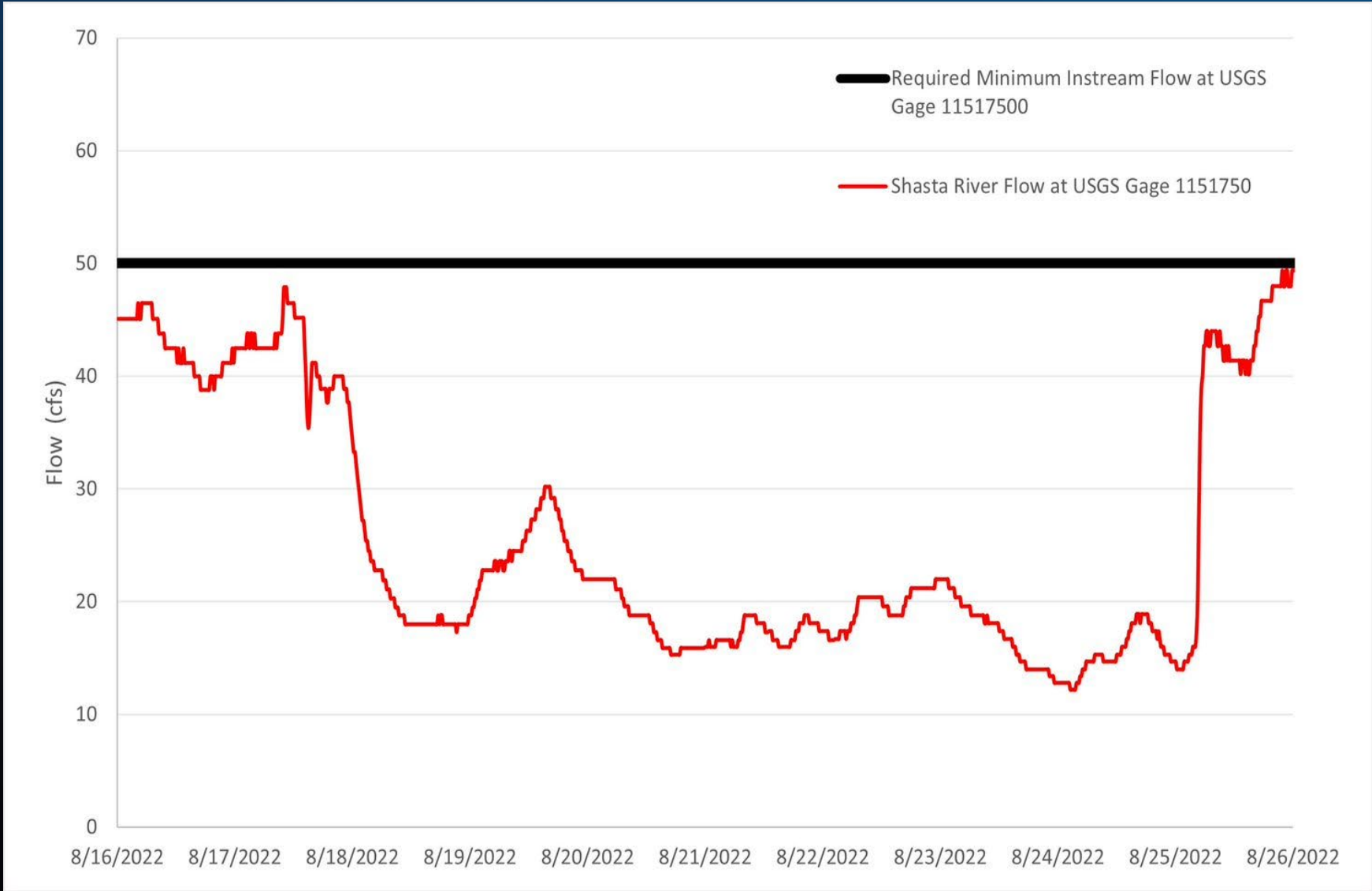
- **Total inspections 1,219 | > 848 MAF**
 - Scott and Shasta: 33 | 58,194 AF
 - Sacramento-San Joaquin: 847 | 23.1 MAF
 - Russian: 339 | 87,430 AF
- Total Notices of Violation issued – 867
- Total Administrative Civil Liability Complaints issued - 312
- Complaint Investigations still pending - 116



Compliance Verification & Enforcement Tools

- **Cease and desist order**
 - Not final until 20 days to request a hearing has passed OR a requested hearing is held, and final order issued.
- **Administrative civil liability**
 - Violation of emergency regulation or curtailment order: \$500 per day (Wat. Code § 1846.)
 - Violation of a cease and desist order: \$10,000 per day during declared drought (Wat. Code § 1845, subd. (b)(1)(A)); otherwise \$1,000 per day (Wat. Code § 1845, subd. (b)(1)(B).)
- **Information orders** – explicit authority in emergency regulations
- **Immediate interim relief** – No authority to administratively issue

Challenges Illustrated – Shasta River Water Association



Enforcement Challenges

- Investigation and enforcement are time and resource intensive
- Field presence alone is not enough to prevent violations
- Violations with low risk of detection and often result in direct economic benefit
- Need for immediate compliance and enforcement in times of shortage
- Uncertainties surrounding claimed water rights and State Board jurisdiction and authority