

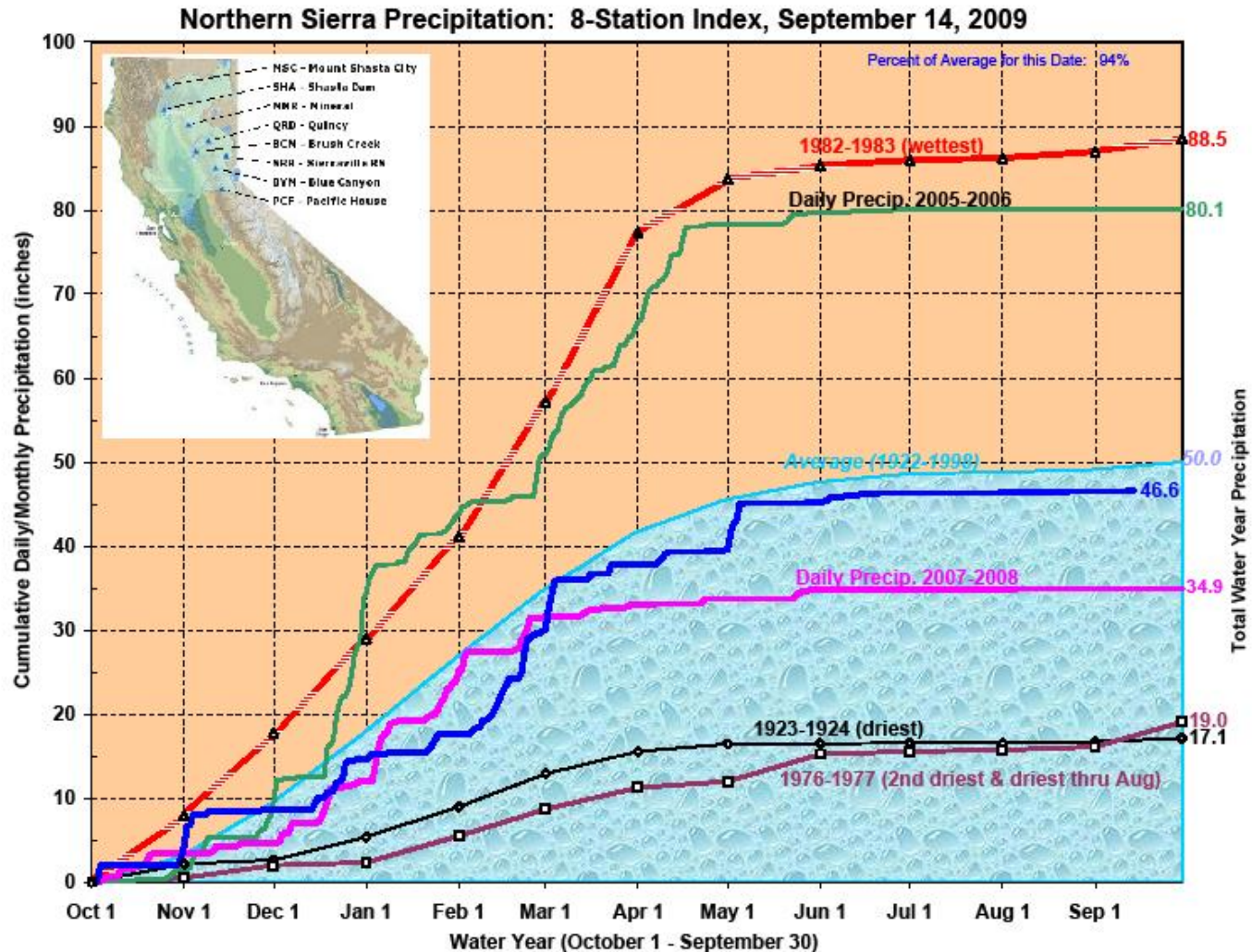
California Water Rights Law and Water Allocation

Andy Sawyer



Workshop - Rationalizing the Allocation of California Water
California Institute of Technology
April 19, 2016

Water Supply Variability and Uncertainty

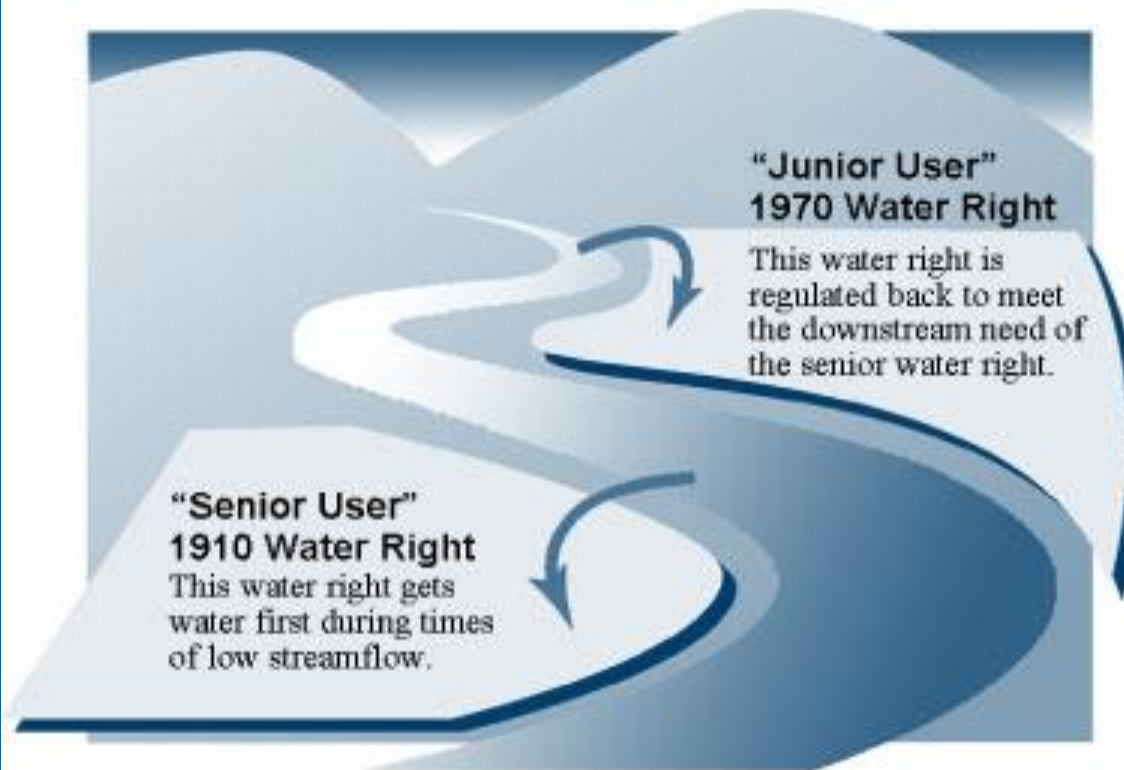


Appropriative Rights



Prior Appropriation: an example

"First in time, first in right"



An example of prior appropriation at work

Prior appropriation ensures that the first water user to obtain water rights has first access to water in times of shortage. If a "downstream" landowner has the earlier priority date (they initiated their water right in 1910) the "upstream" landowner may have to let the water pass unused to meet the needs of the senior, downstream water right holder.

Point of Diversion (POD)

7cfs

5cfs
1950

50%
return
flow

POD

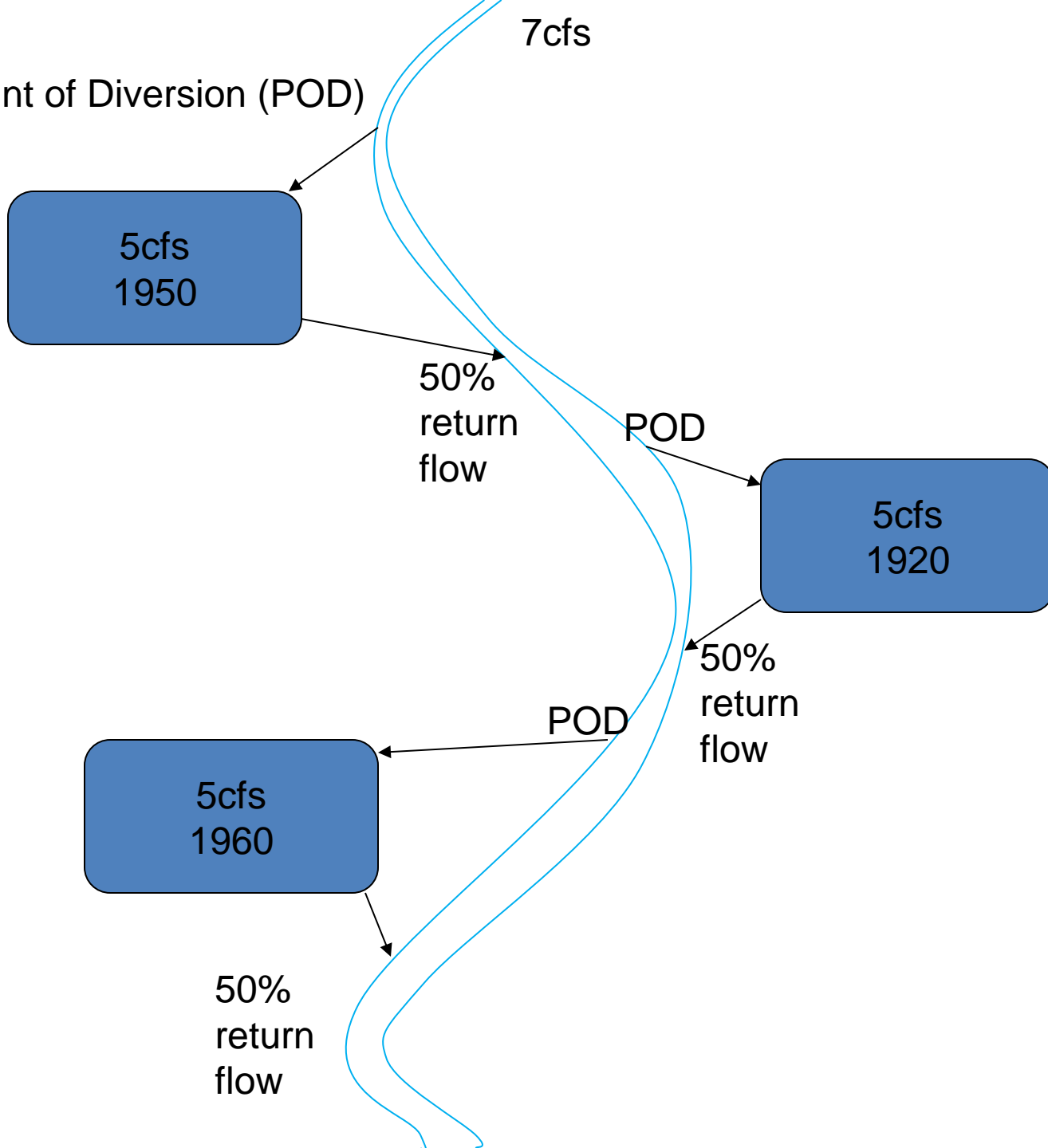
5cfs
1920

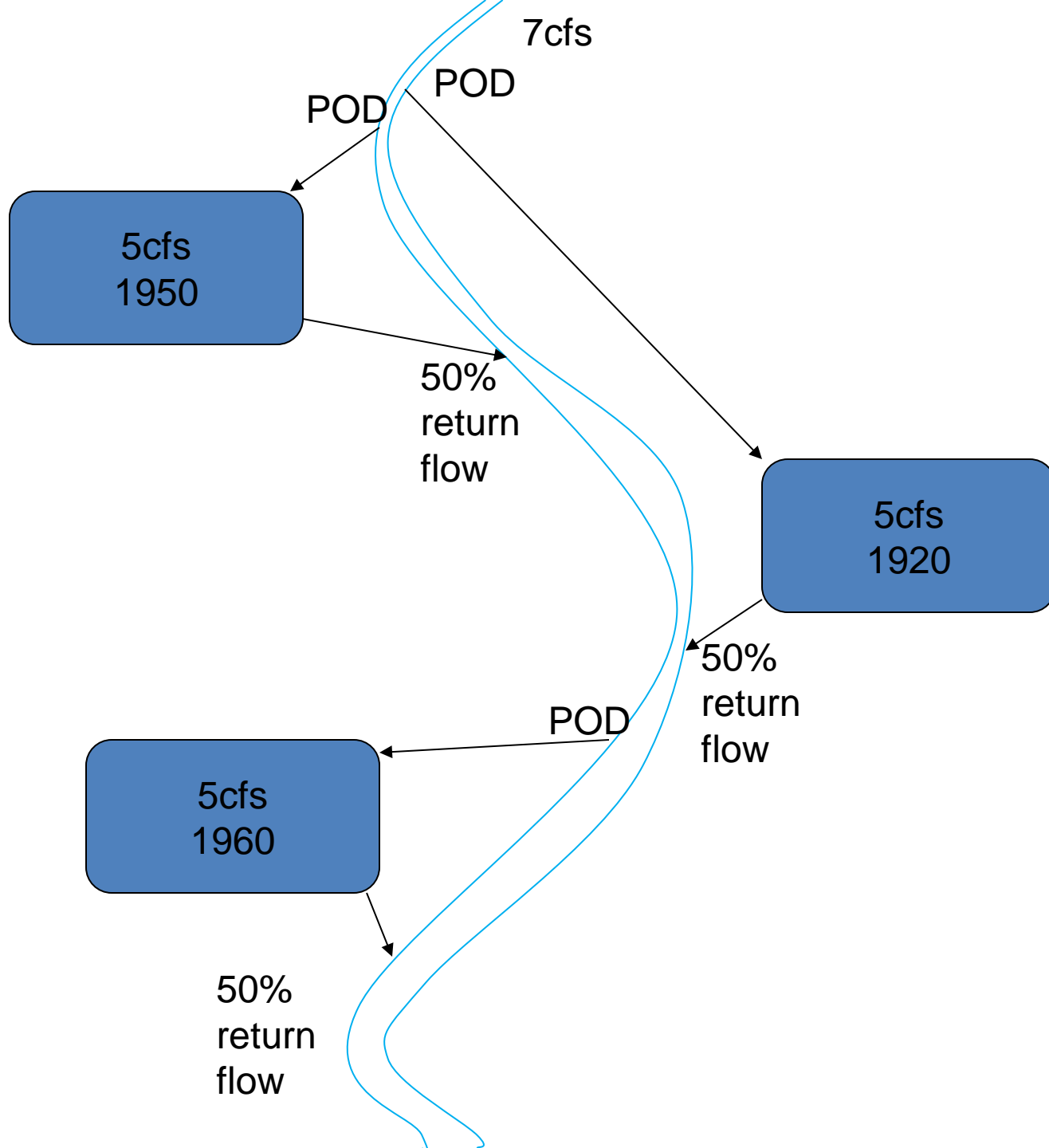
50%
return
flow

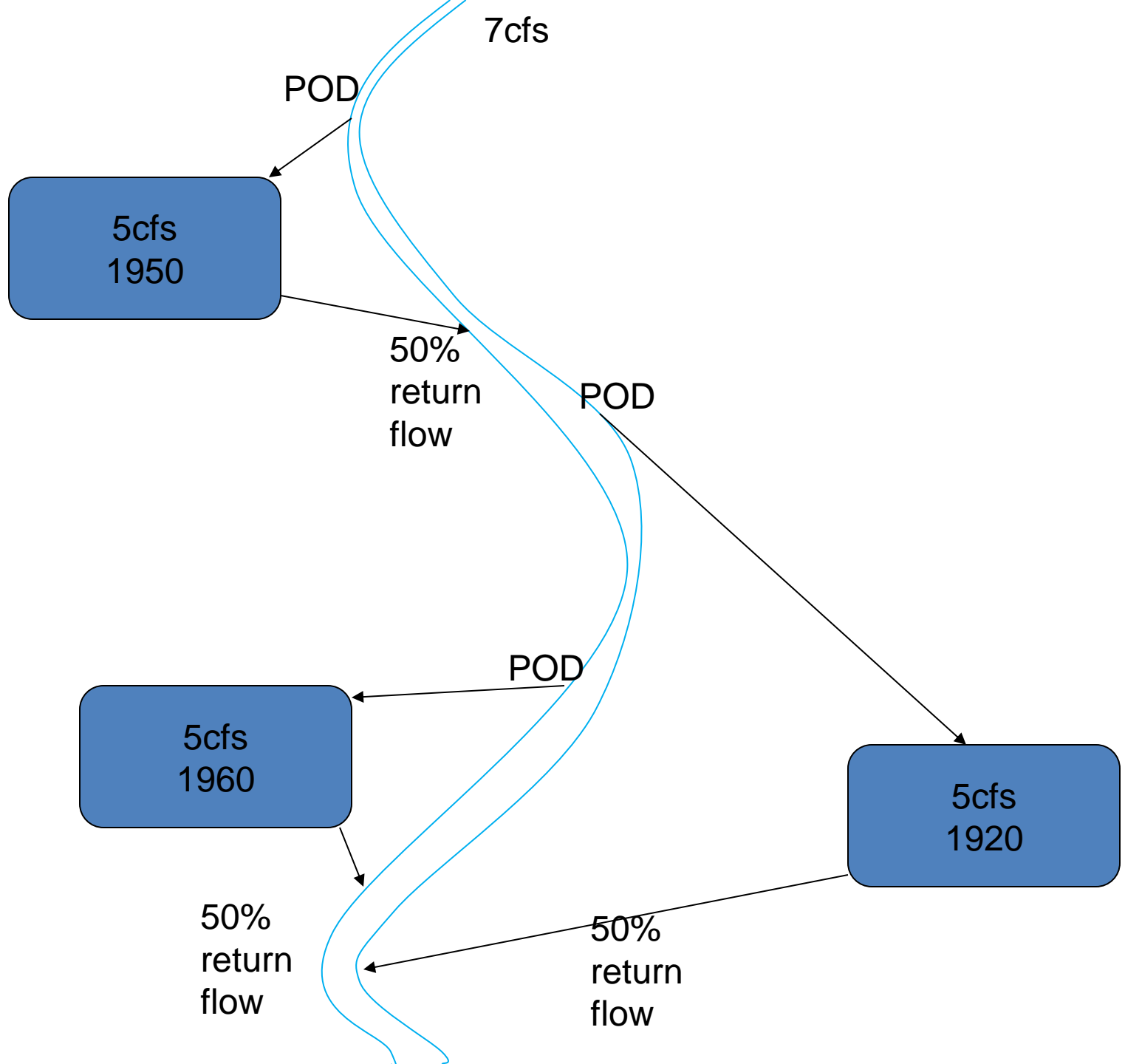
POD

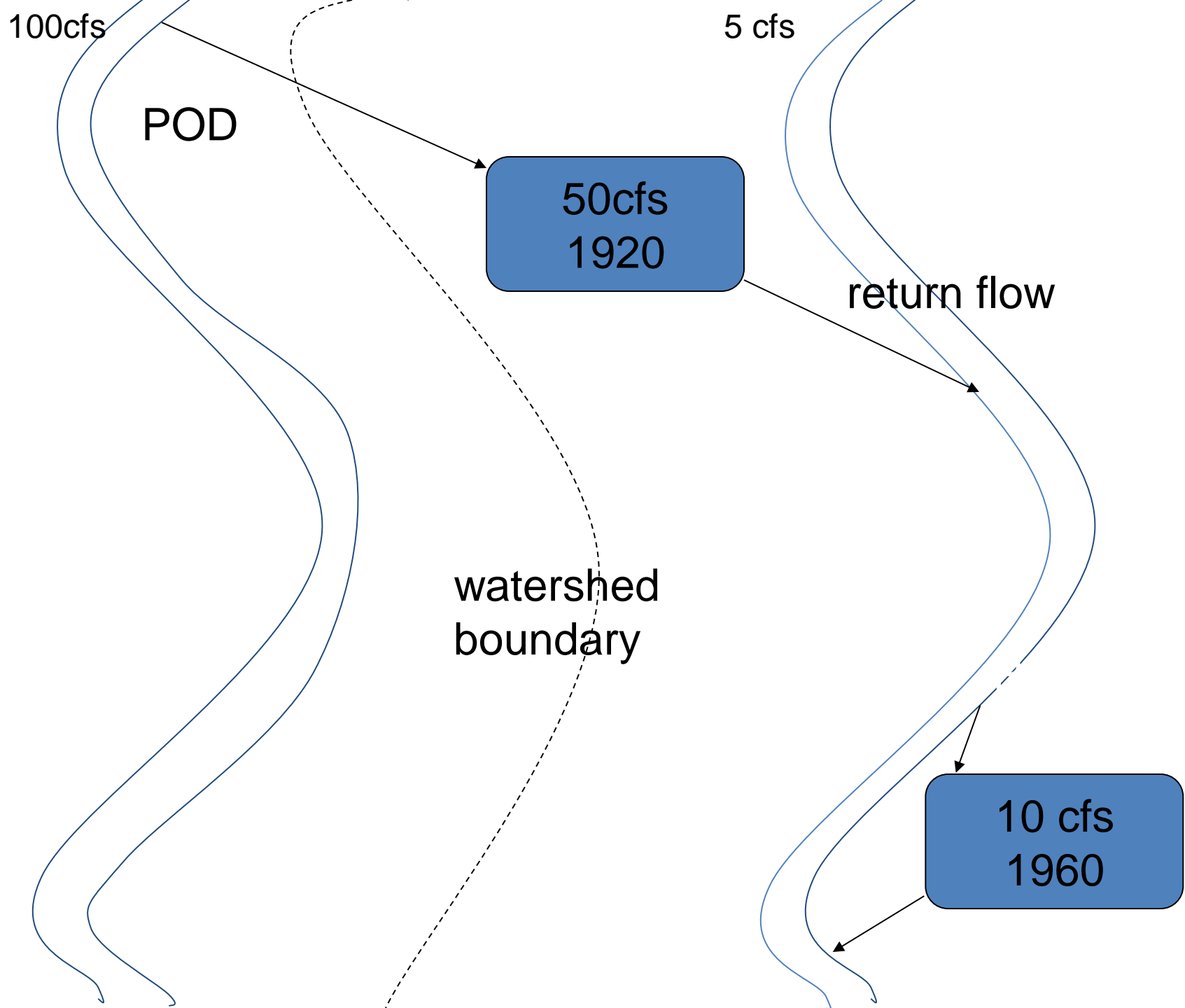
5cfs
1960

50%
return
flow

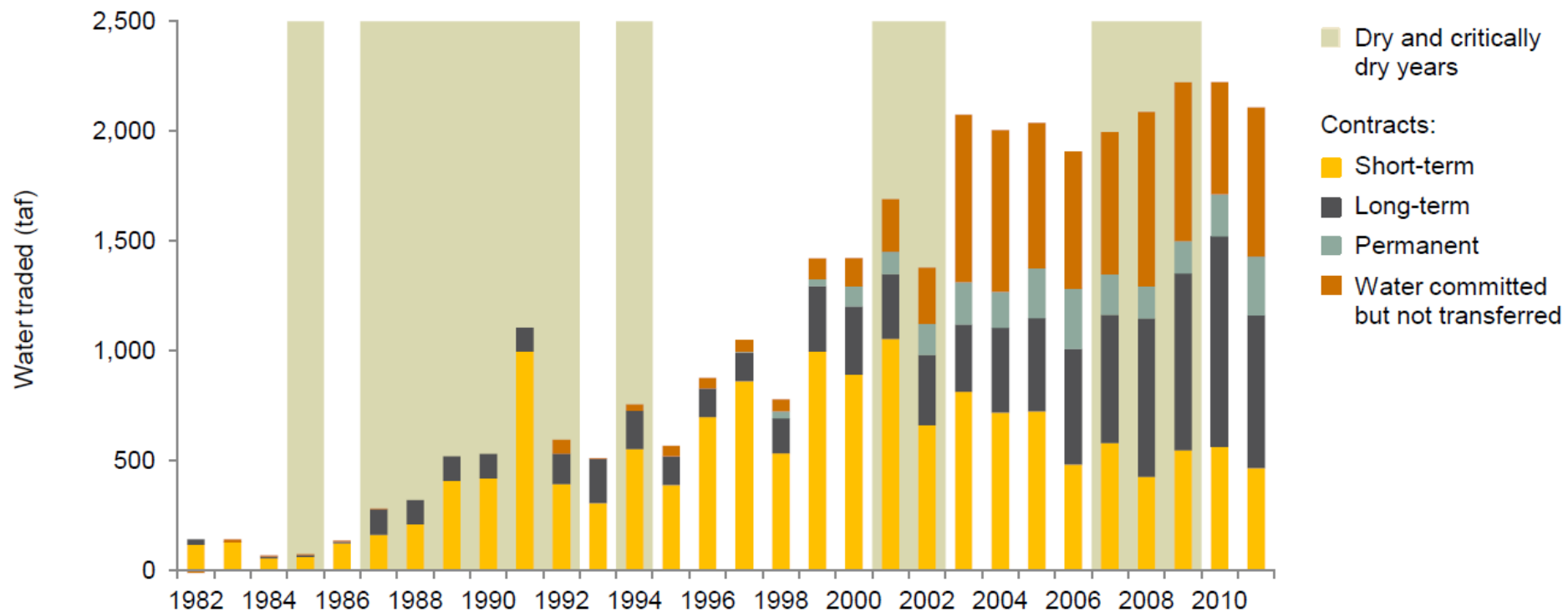








California's water market has grown substantially since the early 1980s



Riparian Rights

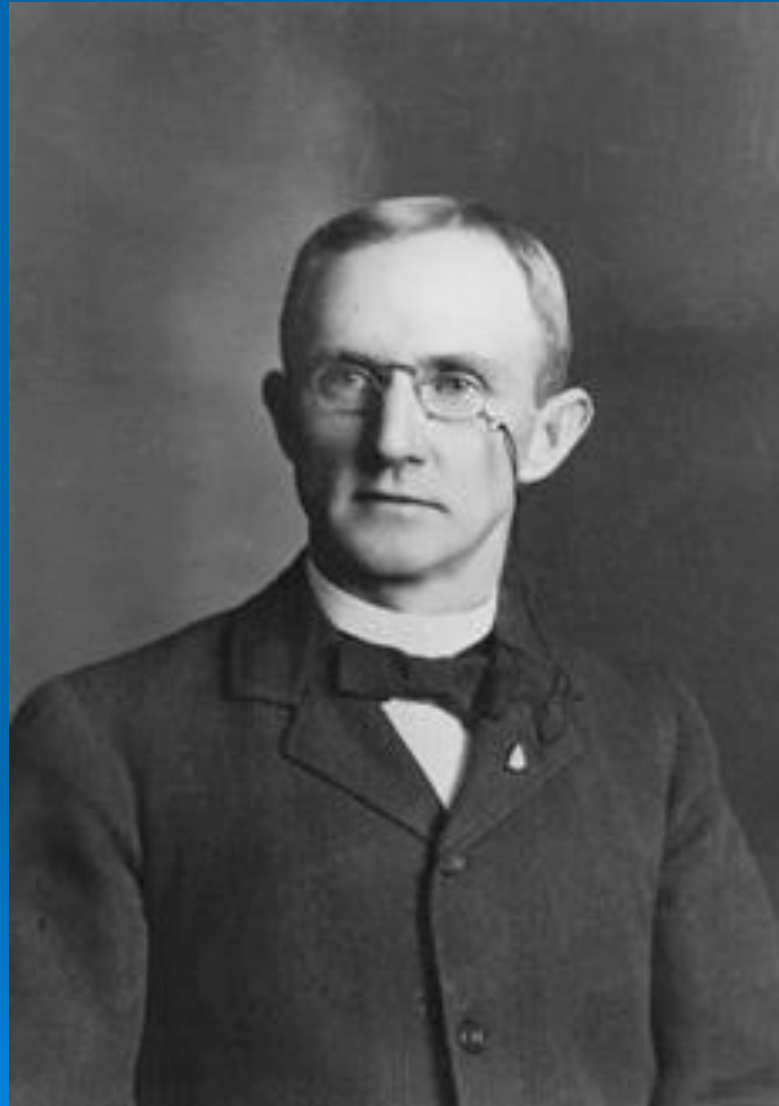


Changes to Instream Flow Water Code § 1707



Shasta River
Photo: The Nature Conservancy

Regulatory Oversight



Elwood Mead

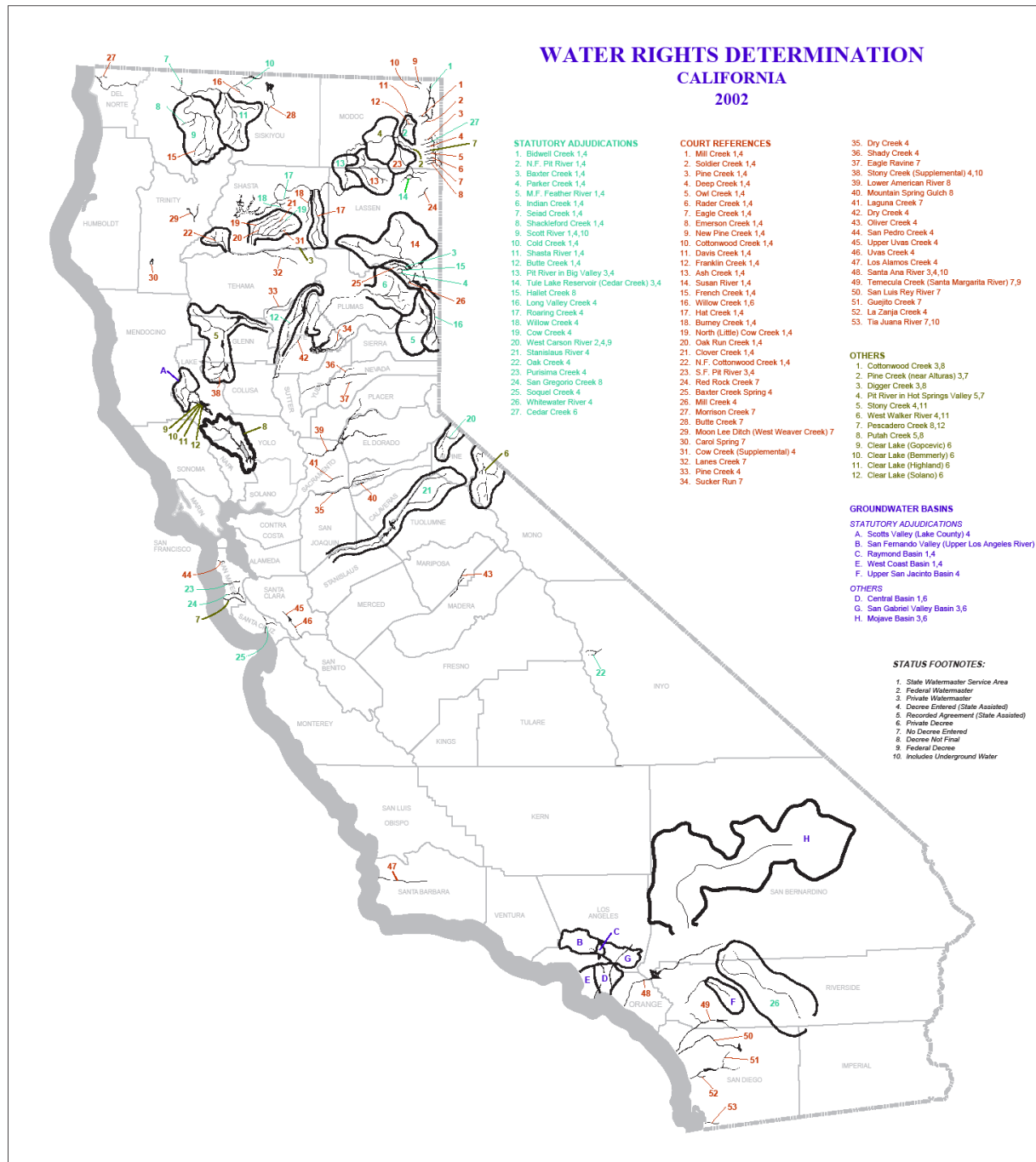
Source: University of Wyoming



Gov. Hiram Johnson
Source: Ca. State Archives



WATER RIGHTS DETERMINATION CALIFORNIA 2002



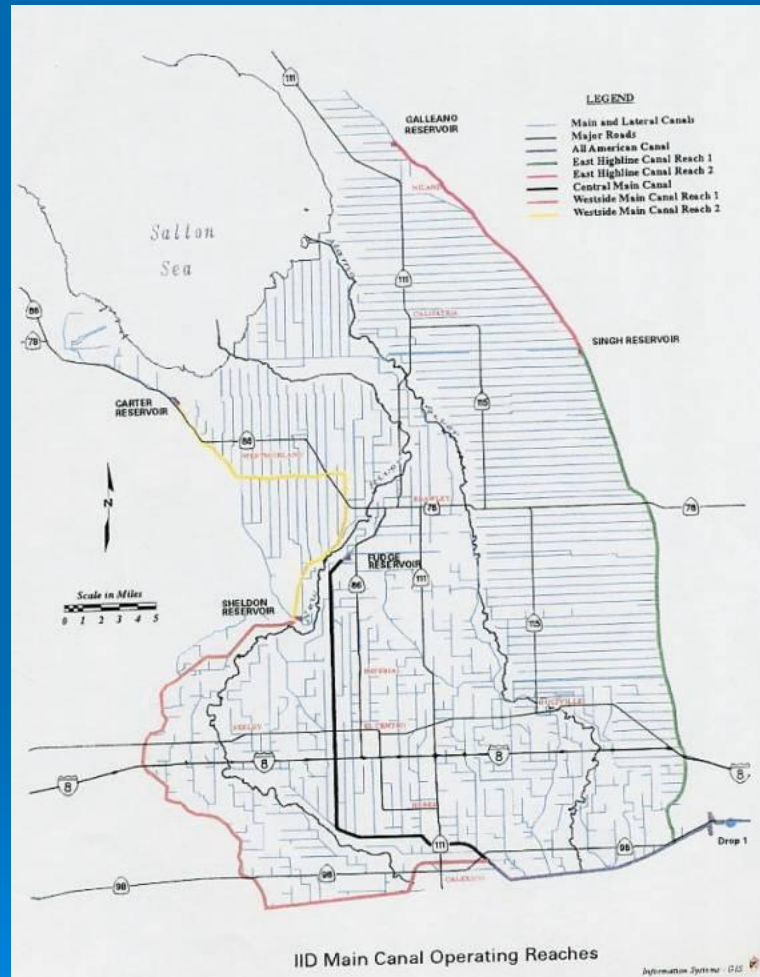
1928 Constitutional Amendment



Gin Chow (See *Gin Chow v. City of Santa Barbara* (1933) 217 Cal. 673)

Source: Montecito Water District

D-1600 (1984)



The Public Trust Doctrine and Other Environmental Requirements



Mono Lake

Photo: Mila Zinkova

Urban Water Conservation Regulations



IT IS HEREBY ORDERED THAT:

1. The orders and provisions contained in my January 17, 2014 Proclamation, my April 25, 2014 Proclamation, and Executive Orders B-26-14 and B-28-14 remain in full force and effect except as modified herein.

SAVE WATER

2. The State Water Resources Control Board (Water Board) shall impose restrictions to achieve a statewide 25% reduction in potable urban water usage through February 28, 2016. These restrictions will require water suppliers to California's cities and towns to reduce usage as compared to the amount used in 2013. These restrictions should consider the relative per capita water usage of each water suppliers' service area, and require that those areas with high per capita use achieve proportionally greater reductions than those with low use. The California Public Utilities Commission is requested to take similar action with respect to investor-owned utilities providing water services.

ADOPTED TEXT OF EMERGENCY REGULATION

Article 22.5. Drought Emergency Water Conservation.

Sec. 863. Findings of Drought Emergency.

(a) The State Water Resources Control Board finds as follows:

(1) On January 17, 2014, the Governor issued a proclamation of a state of emergency under the California Emergency Services Act based on drought conditions;

(2) On April 25, 2014, the Governor issued a proclamation of a continued state of emergency under the California Emergency Services Act based on continued drought conditions;

(3) On April 1, 2015, the Governor issued an Executive Order that, in part, directs the State Board to impose restrictions on water suppliers to achieve a statewide 25 percent reduction in potable urban usage through February, 2016; require commercial, industrial, and institutional users to implement water efficiency measures; prohibit irrigation with potable water of ornamental turf in public street medians; and prohibit irrigation with potable water outside newly constructed homes and buildings that is not delivered by drip or microspray systems;

(4) The drought conditions that formed the basis of the Governor's emergency proclamations continue to exist;

(5) The present year is critically dry and has been immediately preceded by two or more consecutive below normal, dry, or critically dry years; and

(6) The drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to prevent waste and unreasonable use of water and to further promote conservation.

Authority: Section 1058.5, Water Code.

References: Cal. Const., Art., X § 2; Sections 102, 104, 105, and 275, Water Code;
Light v. State Water Resources Control Board (2014) 226 Cal.App.4th 1463.

Sec. 864. End-User Requirements in Promotion of Water Conservation.

(a) To prevent the waste and unreasonable use of water and to promote water conservation, each of the following actions is prohibited, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:

(1) The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;

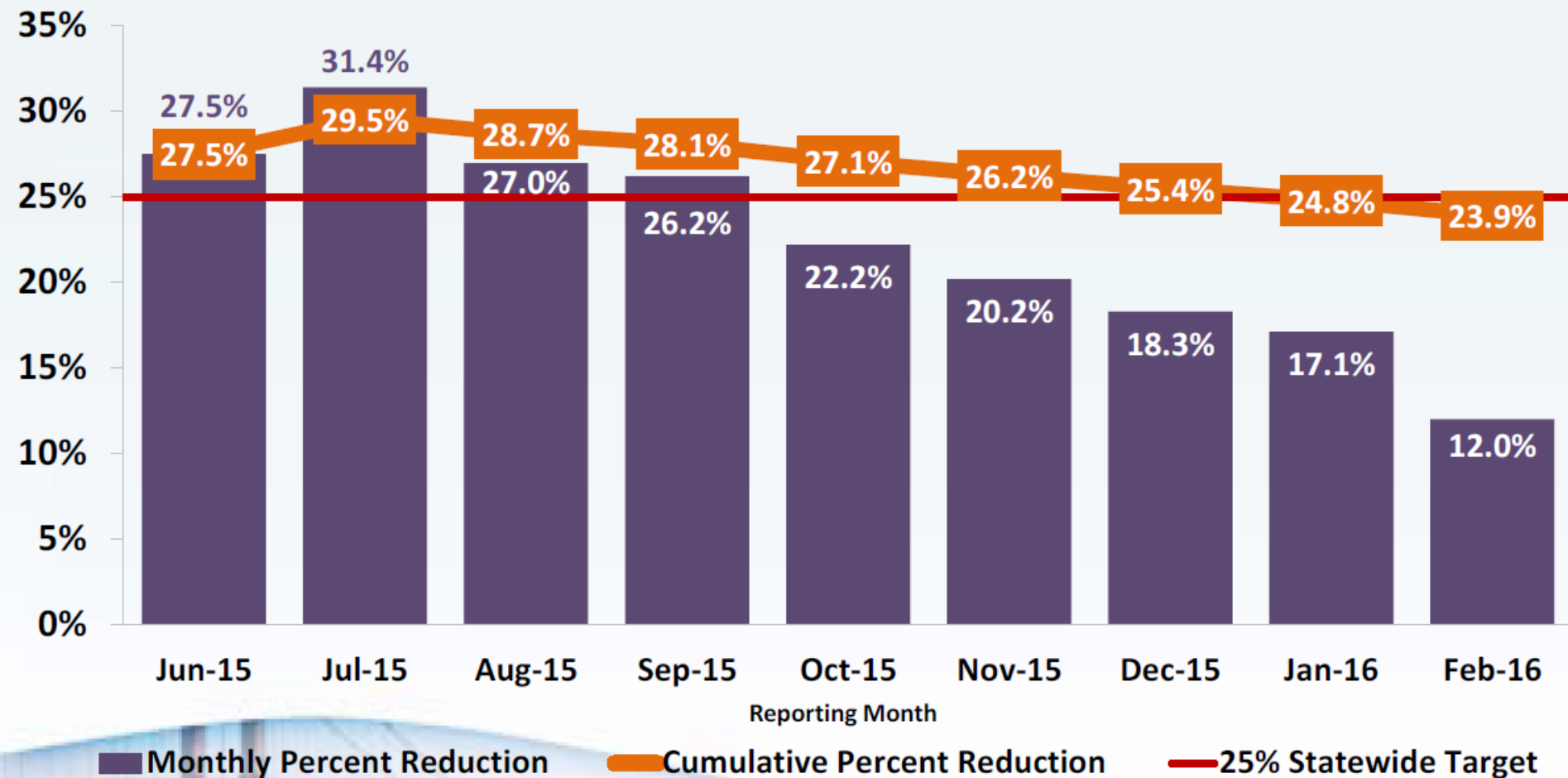
(2) The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;

(3) The application of potable water to driveways and sidewalks; and

(4) The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system;

Statewide Water Production Percent Reduction

(Compared to 2013)

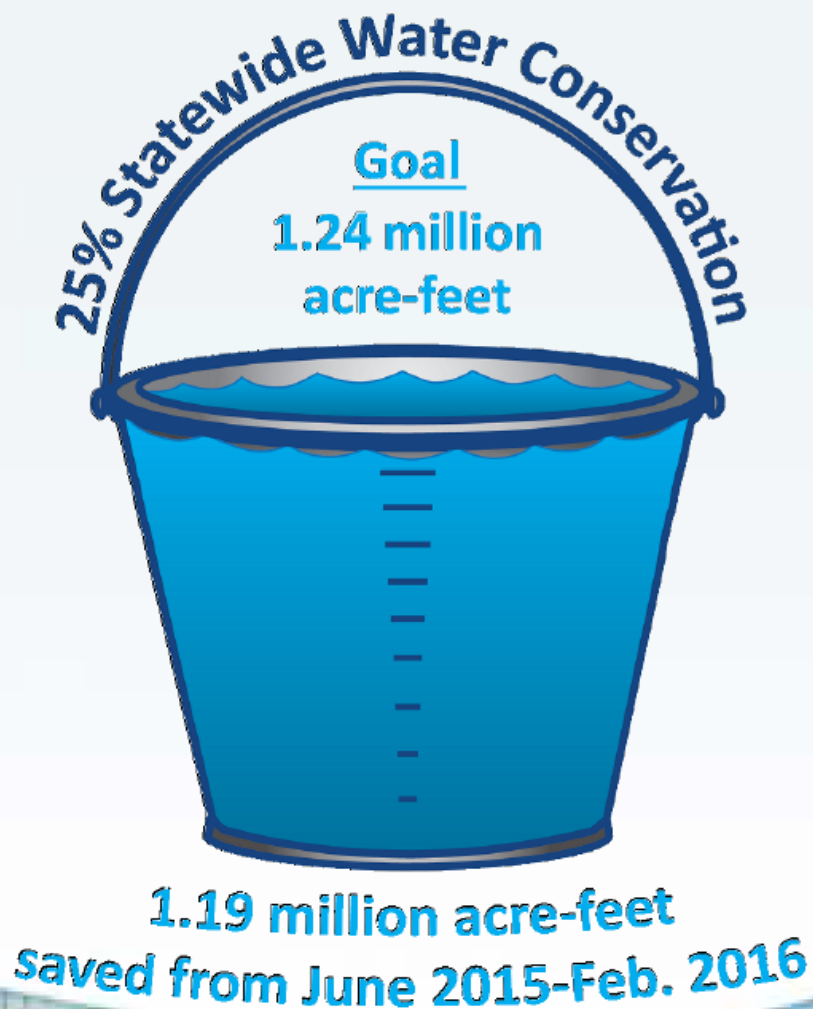


February 2016 savings (13.6 billion gallons or 41,591 acre-feet) brings statewide 9-month cumulative savings to 23.9 percent

Statewide Cumulative Savings

(June 2015 – February 2016)

- 1,186,966 acre-feet
(386.8 billion gallons)
of water saved
- This is 96% of savings goal
- Savings is enough to provide
5.9 million Californians (15%
of state population) with
water for one year



Water Diversion and Use

- Measurement
- Reporting

4. AMOUNT OF WATER DIVERTED AND USED

Note: Please report only the amounts diverted and used under this supplemental statement only. Do not report water diverted under other water rights, groundwater, or water supplied or purchased from others.

4a. Choose the unit:
☐ Gallons ☒ Acre-feet (AF) 2

4b. ☐ Check this box if the amount of water used is the same as the amount directly diverted. Do not check this box if your use of water is non-consumptive or if you have no use of water. If no use, enter 0 (zero) 2

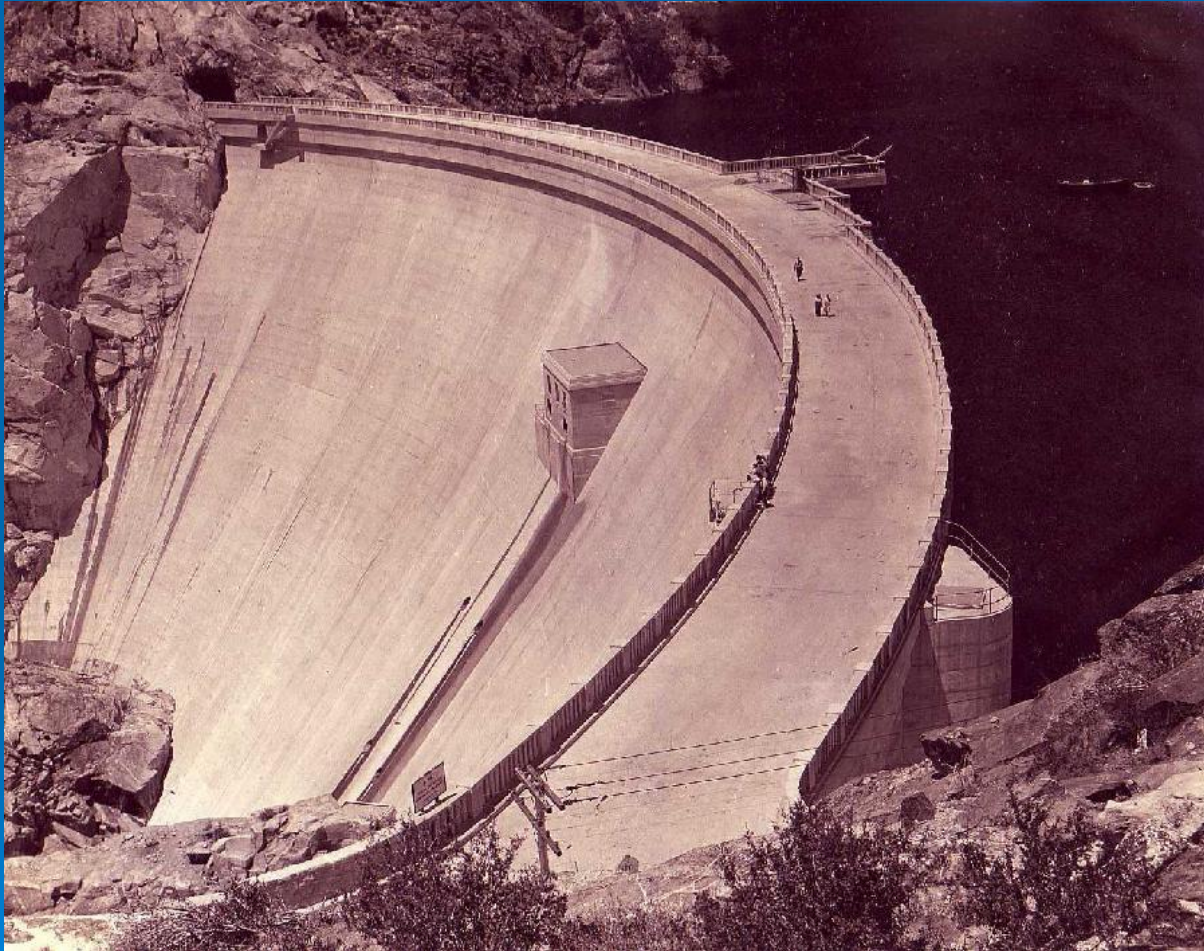
4c. Enter numerals only (no commas or letters). If no water was diverted as used, enter 0 (zero)

	Amount directly diverted	Amount diverted or collected to storage	Amount used 2
January			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			
Total	0	0	0

4d. If the total water diverted or used above is 0, please provide an explanation. Pre-1914 claim holders may lose their rights for



Questions?



O'Shaughnessy Dam

Source: National Archives & Records Administration