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**Primer on California Water Rights**

The following is an extremely general summary of California water rights. The rules stated below may not apply, or may apply differently, in particular situations. In addition, these rules are subject to qualifications and exceptions. If you have questions about specific situations involving water rights, you should contact an attorney.

There are essentially two systems of water rights in California: (1) rights in surface water; and (2) rights in groundwater. Within each of these systems, there are essentially two types of rights: (a) rights associated with land ownership – "riparian rights" in surface water and "overlying rights" in groundwater; and (b) "appropriative rights" in both surface water and groundwater. The attached schematic helps to illustrate those rights.

**Surface water rights**

*A riparian right is the right of a landowner whose property is adjacent to a surface stream to use a reasonable amount of the stream's natural flow on the property. If there is not enough natural flow in the stream to serve all riparian water uses, then each riparian landowner has the right to a reasonable amount of water from the stream. As to a stream's natural flow, riparian rights have priority over all appropriative rights. Farmer B in the schematic has a riparian right.*

*An appropriative right is the right of anyone to divert water from the stream for use anywhere. An appropriative right can be for the use of a stream's natural flow or to store water for later use. Among appropriative rightholders, priorities are determined by the rule "first in time is first in right." If there is not enough water for each of them, then the first appropriator may take all water to which it is entitled before the second appropriator may take any.*

Water Agency, Farmer C and City have appropriative rights to use river water. Farmer C and City have appropriative rights to divert from the river's natural flow. Water Agency can store water under its appropriative right for later use. Farmer C has the highest priority (1885), with City (1900) and Water Agency (1965) following. All of their rights are subordinate to Farmer B's riparian right – City is serving its residents' properties, not its own. Farmer A has no surface water right. While Water Agency's right is the most junior, it is the only one that allows for storage for future use. Water Agency must only bypass natural flow to satisfy the rights of Farmer B, Farmer C and City. They do not have rights to Water Agency's stored water. City, however, has obtained rights to Water Agency's stored water under a contract with Water Agency. If Farmer C wants to avoid Farmer B's riparian right, Farmer C can buy stored water from Water Agency, as can Farmer A.

**Groundwater Rights**

*Landowners whose properties overlie a groundwater aquifer hold overlying rights to pump "correlative" shares of the aquifer's sustainable yield and to use that water on their overlying properties. All of the Farmers hold these rights. Even though Farmer B is not exercising its overlying right because it does not have a pump, it could start doing so with equal "correlative" priority.*

Entities that pump water for use on non-overlying properties or others' properties can hold appropriative rights. These rights attach to the portion of an aquifer's sustainable yield that is surplus to the overlying landowners' uses. Among themselves, groundwater appropriators' priorities are determined by the rule of "first in time is first in right." The Farmers' overlying rights are senior to City's appropriative groundwater right because the City uses pumped water on its residents' properties, not its own.