

Eel River Water Rights

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Water Rights and Water Management Technical Briefing
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Summary of Indian Reserved Water Rights

- Predicated on federal law, and are not dependent on state substantive law.
- *Winters/Implied Reservation Doctrine* (1908): The creation of an Indian reservation impliedly reserves water rights to the tribe or tribes occupying the territory and those water rights are reserved in order to carry out the purposes for which the lands were set aside.
- Priority Date: time immemorial (aboriginal) or no later than the date the Indian reservation was created.
- Tribes' water rights are not geographically limited to those streams that traverse or border the tribes' reservations, but rather apply to all basin water sources that flow into the portions of a river on which the tribe relies.
- “Use it or lose it” approach to appropriate water rights does not apply.
- Example: a reservation established in 1865 that starts putting water to use in 1981 under its reserved rights has, in times of shortage, a priority that is superior to any non-Indian water right with a state-law priority acquired after 1865.

Round Valley Indian Tribes Water and Fishing Rights

- The Tribes have unadjudicated federal reserved water and fishing rights in the Eel River derived from the creation of their Reservation in 1858, as enlarged in 1873.
- Brief history of the Tribes' Reservation
 - Creation of the RVIT Reservation by the federal government in 1858 and its enlargement in 1873 vested the Tribes with an implied, federally reserved water right sufficient to meet the purposes of the Reservation.
 - The federal statute that defined the borders of the Round Valley Reservation in 1873 explicitly reserves the right of the Tribes to fish in the Eel River. The primary purpose of the Reservation was to create a homeland for the Tribes based on their fishing way of life and economy.
- The Tribes' reserved water right for fishing entitles the Tribes' to minimum flows in the Eel River, including the Main Stem, the North and Middle Fork and its tributaries, to support a healthy fishery.
- The priority date for both the Tribes' water right and fishing right is time immemorial, because the creation of the reservation simply confirmed water and fishing uses that go back to aboriginal uses of what is now the Eel River and aboriginal occupancy of the land that is now the Reservation.
 - At the latest, the priority date is 1858, the date the Reservation was created, or 1873, the date Congress enlarged it.

Summary of State-Based Eel River Water Rights

Source: State Water Resources Control Board's Water Rights Database

Pre-1914 Water Rights

- 29 rights in Mendocino County
- 1 right in Lake County
- 47 rights in Humboldt County

Post-1914 Water Rights

- 751 rights in Mendocino County
- 73 rights in Lake County
- 1,783 rights in Humboldt County

Largest diverters include PG&E, US government, municipalities, ranchers, cannabis/livestock/domestic, water companies.

Water Rights Records Search

Enter query criteria below and click "Search".

1 Water Right Type: (Ctrl-click to select multiple values)

Adjudicated
Appropriative
Appropriative (State Filing)
Cert of Right - Power

Sub Type: (Check all that applies) (FOR STATEMENTS ONLY)

Riparian
 Pre 1914
 Court Decree/ Adjudication ==> #:
 Other ==> Specify:
 Un-Authorized Diversion Incomplete Statement

2 Water Right Status: (Ctrl-click to select multiple values)

Active
Adjudicated
Cancelled

3 Application ID:
Permit ID:
License ID:

Special Use Area:

4 County: (Ctrl-click to select multiple values)

Alameda
Alpine
Amador
Butte

5 Primary Owner:

Entity Type: (Ctrl-click to select multiple values)

Corporation
Estate
Federal Government
Government (State/Municipal)

6 Source (River name or Source Name):

7 HUC:

8 Watershed: (Ctrl-click to select multiple values)

ADOBE
AHWAHNEE
AMARGOSA
AMERICAN RIVER
ANTELOPE
ANZA BORREGO

Use Type: (Ctrl-click to select multiple values)

Aesthetic
Aquaculture
Domestic
Dust Control

Search Reset Search

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