

Flood Control, Groundwater Recharge, and Water Rights

Does flood control require a water right?

A water right is needed whenever water is diverted from a surface water body (e.g., lake, river, stream, subterranean stream, or artificial channel operating as a natural channel) for a beneficial use. Control of flood flows to prevent nearby flooding does not require a water right; in these cases, water is diverted to avoid a hazard, not to achieve a beneficial use.

Single-purpose flood control projects that do not trigger the need for a water right may result in incidental groundwater recharge, but the recharge is not essential to the project's goals or design. No right may be asserted to any of the incidental groundwater recharge. However, certain multi-benefit flood control projects may also be intended to increase groundwater recharge for later beneficial use. These multi-use projects may need a water right.



Groundwater recharge as an intended purpose (i.e. additional recharge for later beneficial use)

You may need a water right if:

- You take intentional actions to increase infiltration from the floodwater. This could include diverting more water than needed solely to control flooding, preventing water from returning to the stream when it otherwise would have done so after high flows have receded, or ripping soil in areas to be flooded (flood basins, agricultural fields) to enhance percolation above normal flood control operations.
- Groundwater recharge is integral to the project or its design. For example, a flood control project which receives funding linked to the groundwater recharge may need a water right.
- You, for your own use or on behalf of well owners in your area, want to assert the right to divert to beneficial use the additional water stored in the aquifer beyond what would have naturally infiltrated from single-purpose flood control activities.

Incidental groundwater recharge

If flood control is the primary purpose of the project and groundwater recharge is only an incidental result, you have not taken intentional actions to increase recharge, and you do not intend to assert a right to extract and use the recharged groundwater, you likely do not need an appropriate water right.

What if I don't think I need a water right?

We recommend you develop and maintain documentation which supports your determination for future review by the Division of Water Rights. You may consider employing professional services (e.g., engineers, attorneys) to prepare this documentation. The Division of Water Rights maintains a list of firms that have indicated that they perform services in the area of California water law or water rights consulting. The Division of Water Rights does not recommend or endorse any particular firm or consultant. https://www.waterboards.ca.gov/waterrights/board_info/docs/consultantslist.pdf
https://www.waterboards.ca.gov/waterrights/board_info/docs/attorneylist.pdf

What if I do think I need a water right?

As part of consulting with a water rights consultant or attorney on your project, if you are advised to seek appropriate water rights, you can also discuss existing right or permitting options for your project. Once you are ready to begin the permitting process, please review the information available on the following webpage, including staff contacts for your geographic area:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/

General Questions? Contact the Division of Water Rights at (916) 341-5300.