

The logo for Natural Resources Management Corporation, featuring the letters 'NRM' in a large, bold, green serif font.

NATURAL RESOURCES MANAGEMENT  
CORPORATION

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### Feature Articles Enclosed

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## Water Rights

The way that water rights developed in the State of California is unique and is becoming more and more a topic of discussion, what with new rain patterns and rising demands. Here is a brief introduction to the way that water rights are regulated in our State.

According to the State Constitution, no one can own water, but we are granted the right to use it so long as the use is beneficial. Surface water and ground water are addressed entirely differently by the law. Surface water is that which is connected to a surface water body (e.g. stream, lake, spring, river) and has a definite flow to it. Some surface water, however, can actually be under ground; for instance, when there is a sub-surface tributary that connects to a river at some point.

Ground water is water that percolates in the ground and has no definitive flow or direction. Distinguishing surface from ground water is difficult because ground water often started as surface water but then became part of the soil. If part of the soil composition, then it is considered ground water. Sheet water, or water that is the result of a torrential downpour may flow down streets and off of rooftops, but this is considered ground water because it is not part of a body of water with a definitive flow. The reason this matters at all is that people's rights to use water depends on whether it is surface or ground water.

To use surface water, one must have either a riparian right, or an appropriated right. The riparian right comes only with land that is

connected or contiguous with a natural body of water. So historically, for instance, if your land is abutting a river, you could use the water on your land for irrigation, so long as no one else's riparian rights were infringed. Riparian rights are subject to shortages, e.g. droughts, and in these cases, all riparian rights holders have to share in cutting back use, proportionally. Courts oftentimes determine how landowners will share in cutting back water usage. It is possible to have a riparian right even if your land does not touch water but only if at an earlier time the land was part of a parcel with riparian rights and at the time of subdividing, the deed reserved prior riparian rights of the land. Aside from this kind of conveyance, riparian rights cannot be sold and cannot be the subject of an easement. Furthermore, water attained through riparian rights cannot be stored for longer than 30 days.

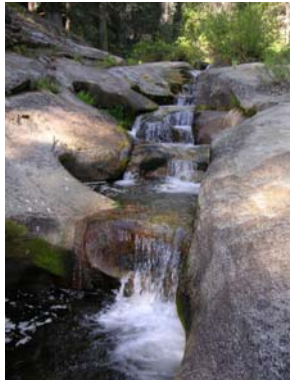
Appropriated right to use surface water, as opposed to riparian rights, is not attached to a piece of land, and prior to 1914, was simply the first to use was first in right. Basically, if a person had lawful access to the water and put it to beneficial use, this became a right. After 1914, the State required people to obtain permits from the Regional Water Quality Control Board to use water that carries strict terms and conditions. Like the pre-1914 appropriated rights, the first to obtain a permit holds priority in use. This is useful to know because when a permit holder amends their permit, the amendment is born on a latter date and that amendment has a lower priority than the original permitted use. This prioritization of uses is important in times of drought when not all appropriated uses can be accommodated. At these times, the most recent permit holders can lose their right until adequate water supplies are available again.

Ground water, which is water that percolates in the ground, has no definitive channel or directional flow. A landowner has “overlying rights” and may drill a well to reach water that is contiguous with their land. The landowner can use this water so long as it doesn’t affect another’s ground water rights. If it is found that the well is actually surface water and infringes on another landowner’s riparian rights, then both uses have to be cut back to accommodate each landowner.

One advent is that people have begun to divert sheet water (rain run-off) on their land because it is considered an overlying right until it reaches the neighbor’s land, but this too can lead to conflicts. Courts are being called on more often to determine fair ground water uses like this.

Ground water also can be accessed under an appropriated right where an aquifer is tapped to provide water for another remote piece of land. Here, the appropriated right is established by an easement, but under no circumstances can it exceed a safe yield of the aquifer. The appropriation of ground water is an established right being exercised by our municipal water system. Courts again often are called in to determine what level of use can be sustained while keeping the aquifer in equilibrium.

Northern California is richer in surface water than it is in ground water. Inland mountainous regions often make it difficult to reach aquifers and in any case, surface water is more easily attained from various rivers. Southern California, in contrast, is sparse in surface water and relies almost entirely on ground water. With water use demands increasing, however, more disputes are arising to determine the proportionate cutting back of surface riparian rights, or who came first with regard to surface appropriated rights. And if all of this weren’t enough, fish and the natural ecology are entitled to their respective use of water, which arguably are connected and which were started before any landowner’s use.



## Agri-Crime

Agriculture-related crimes, or “agri-crime”, has not been a high priority for law enforcers due to the difficulties in investigating and prosecuting, and so too often, farmers have accepted criminal behavior as a part of doing business. Here are some things you can do if your land is prone to trespass and other crimes.

First, be aware that agri-crime typically involves trespassing. A trespassing violation is punishable by fines, imprisonment, and multiples of any damages caused to your property if the crime was malicious (Section 602.8 of the Penal Code). For imprisonment to apply, your land must be marked by “No Trespassing” signs not less than three per mile along your property’s exterior boundary. Call the Farm Bureau for signs at 1-800-698-FARM at minimal cost.

It is common for agri-crime to be associated with a clandestine narcotics lab because narcotics criminals seek out the protection of remote rural lands. If you come across behavior or waste that could

be the by-product of pot farming or a “meth lab”, call your sheriff’s department or the regional Bureau of Narcotics Enforcement in Redding at (530) 224-4750.

Insurance companies are getting intolerant to agri-crime as well, and at least one company affiliated with the Farm Bureau is offering assistance. Allied Insurance Co. is offering between \$250 and \$1,000 for information regarding agri-crime against a member of the Farm Bureau. For information about this, contact Allied’s Claims Dept. at (916) 924-4131.

Through the Farm Bureau, landowners can join a local Rural Crime Prevention Task Force made up of agriculture-related businesses. Contact information is through the local Farm Bureau or call (559) 624-1054 or via [www.crcptf.com](http://www.crcptf.com); dues are \$50 annually.

Also, the FBI has set up the “Action Program” in 45 of the 58 counties in California for registering “Owner Applied Numbers” (OANs), which is a number provided to landowners to put on their equipment to assist in identifying and recovering the object after it has been stolen. Go to [www.agcrime.net](http://www.agcrime.net) or call your sheriff’s office and ask about a registration for identifying farm equipment. The Farm Bureau can get you in touch with companies that specialize in marking equipment and other personal property.

Aside from law enforcement and programs like these, here are some suggestions for improving security on your property:

- Mark your property to improve recovery and discourage theft,
- Prevent easy access by securing attractive items on your land (e.g. chemicals, gasoline, tools),
- Improve security measures through enhanced lighting, fencing and regularly patrolling your land, and
- Patrol your operations in off-hours if your operations only require minimal hours or presence on your land.



Another important way to help is to bring this to the attention of others interested in stopping agri-crime. Presently, the Farm Bureau, law enforcement, and certain legislators are working to improve protections of rural lands against crime. For example, California Senator Jeff Denham is bringing new attention to agri-crime via his bill, SB 459, which he introduced to the Senate on February 22, 2007 and is now currently active. SB 459’s mission is to provide rural counties with “Agriculture Crime Prevention Program and Task Forces”. For this bill to pass in the State and to be implemented in Humboldt County, however, significant support for this bill will need to be generated from County officials and the public. For more information, go to: <http://www.legislature.ca.gov/>.

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