Joint Hearing:
Assembly Committee on Agriculture, and Assembly Committee on Water, Parks, and Wildlife

September 2024

CALIFORNIA
Water Boards

Division of Water Rights

Types of Recharge

Natural Recharge	Incidental Recharge (Flood related: SB122)	Managed Recharge (Underground Storage)
• Rain that falls on land surface. • Rivers and floodplains • A puddle in a farm field is contributing to recharge! • Does not require a water right	• As a by product of another activity – for example, flood management actions. • Water loss from bottom of a canal • Most incidental recharge is not controlled. • Does not require a water right	• Recharge ponds, on-farm recharge, injection wells. • Many sources: surface water, existing rights (including contracts), recycled water. • Stormwater: depends on location • Generally requires a water right at some point in the process.

Groundwater Recharge & State Water Board Role

- Groundwater recharge is the primary mechanism cited by groundwater sustainability agencies to address overdraft
- "Underground storage" vs. "Groundwater recharge"
  - Same physical processes, but can have different permitting requirements
- Diverting water from surface streams for underground storage requires a water right
- State Water Board is water rights permitting agency

Why do we need permits for recharge?

- Ensure water is available – even during high flows and floods
- Protect senior water rights holders
- Protect environment
- Protect groundwater quality – is water applied where it should be, and when it should be?

Types of Underground Storage Permits

- Standard permits
- Temporary permits
  - 180-day temporary permits
  - 5-year temporary permits
- Both standard and temporary permits can make use of a “streamlined pathway”
  - Aka “the 90/20 rule”
  - Floods, or if flows are in the 90th percentile (top ten percent of high flows), divert no more than 20 percent of streamflow

Underground Storage vs. Recharge

Water stored underground under a water right:

- Legally remains surface water
- Is the property of the right holder
- Cannot be used by others without permission
- Can be sold, contracted, or transferred

Recharge without a water right

- Legally becomes groundwater
- No claims of ownership
- Anyone can use it

Water Rights Permitting for Underground Storage

- Since 2015, a total of 48 temporary permits were processed

- Key: CEQA suspensions, beginning in 2015

- Major milestones:
  - Introduced Streamlined Pathway in 2019
  - 5-Year temporary permit, available in 2020

Temporary Permits for Groundwater Recharge During High Flows, Since 2021

Season	Temporary Permits Authorizing Diversion	Volume Authorized (acre-feet)	Water Year Type
2021 - 2022	3	79,844	critical
2022 -2023	10	669,353	wet
2023 - 2024	11	133,174	above normal

Recap of WY 2023 (2022-2023): Temporary Permits

Authorized*: 669,353 af (10 permits)

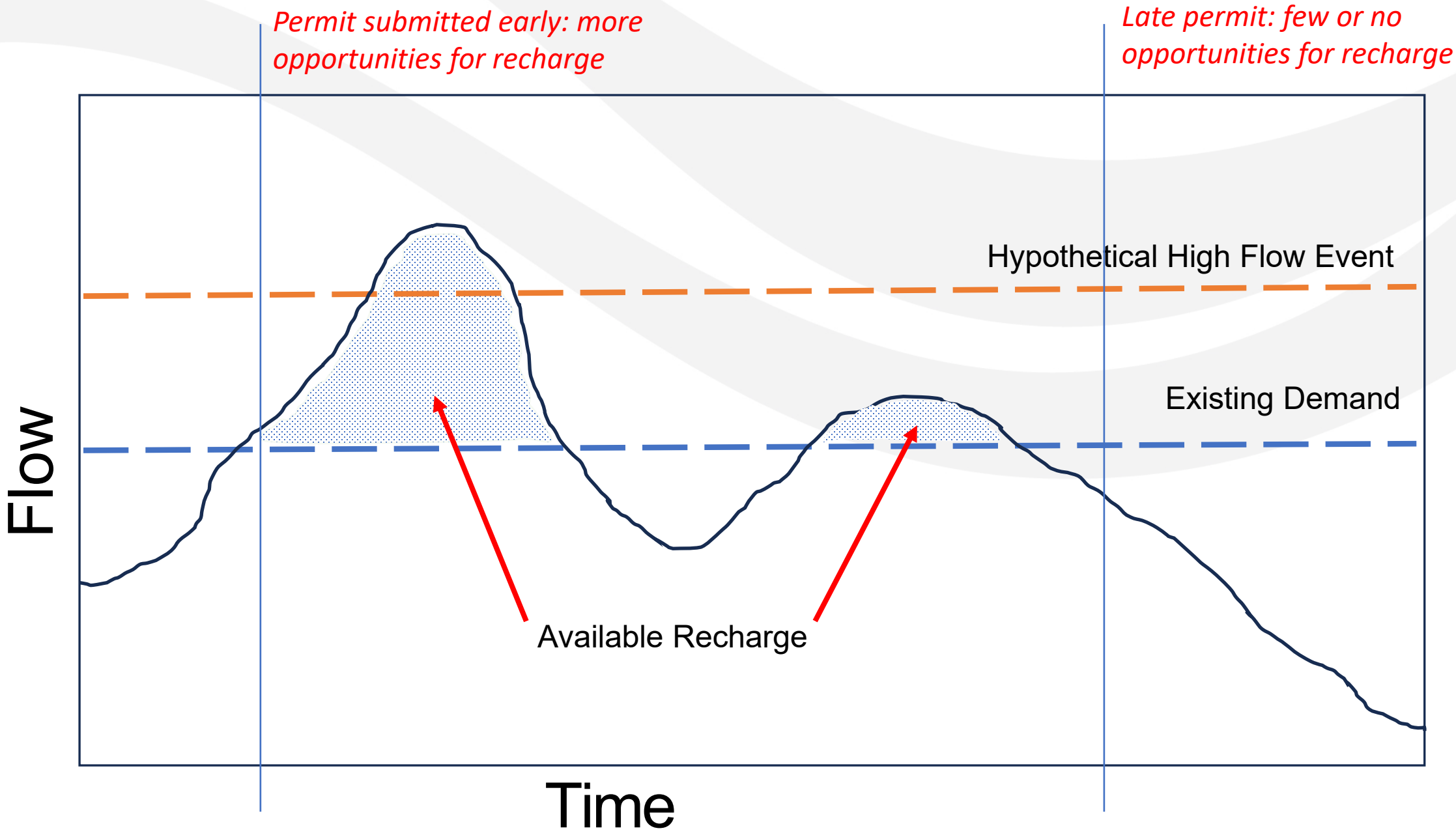
Estimated opportunity: 80,000 af

Diverted: 20,031 af

*Reclamation TUCP authorized an additional 602,182 af, for a total authorized volume of 1,271,535 af

Why did parties divert less than authorized and available?

- Late application
- Permits issued part way through requested season, but quantity authorized reflects entire project season
- Lack of infrastructure (e.g. temporary pumps, recharge fields, fish screens)
- Lack of readiness (e.g. other permits)
- Difficulty complying with permit terms (fish screens, diversion criteria)


Permit submitted early: more opportunities for recharge
Late permit: few or no opportunities for recharge
Hypothetical High Flow Event
Existing Demand
Available Recharge
Flow
Time

WY 2023 – Streamlined Permit Details

Water Availability	Permit	Submitted 120 days before diversion season?	Days to issue permit	Total water available through permit (AF)	Total water diverted (AF)
Streamlined Pathway (*modified method)	Stockton East Water District (T033357)	No, 97 days after beginning of diversion season	13	3,200	119
	Merced Irrigation District and California Department of Water Resources (T033344)	No, 23 days after beginning of diversion season	14	4,442	0
	*Aliso Water District (T033324)	Yes, 128 days prior to diversion season	123	4, 561	134
	*Triangle T Water District (T033328)	No, 97 days prior to diversion season	125	31,232	0

WY 2023 – Non-Streamlined Permit Details

Water Availability	Permit	Submitted 120 days before diversion season?	Days to issue permit	Total water available through permit (AF)	Total water diverted (AF)
Customized	Rosedale Rio-Bravo Water Storage District (T033368)	No, 20 days prior to diversion season	20	11,104	0
	Kern Water Bank Authority (T033366)	No, 49 days prior to diversion season	36	14,281	14,281
	City of Huron and Arroyo Pasajero Mutual Water Company (T033338)	No, 38 days prior to diversion season	19	1,195	0
	Yolo County Flood Control and Water Conservation District (T033347)	No, 4 days after start of diversion season	21	10,692	4,604
	Scott Valley Irrigation District (T033339)	No, 57 days prior to diversion season	75	816	816
	Omochumne-Hartnell Water District (T033322)	Yes, 130 days, but late for 5-year permit processing	140	2,444	77

Recent Temporary Permit Outreach

- Staff Workshop: June 2024 (Recording available)
- Staff direct email to recent and potential applicants: May/June 2024
- Staff presentations at various recharge related events:
  - 8 events since September 2023

Flood Diversions Without Water Rights

Image: Tulare Lake Basin 2023, Dept. of Water Resources

Governor's Executive Order N-4-23, March 10, 2023

Governor's Executive Order N-7-23, May 17, 2023

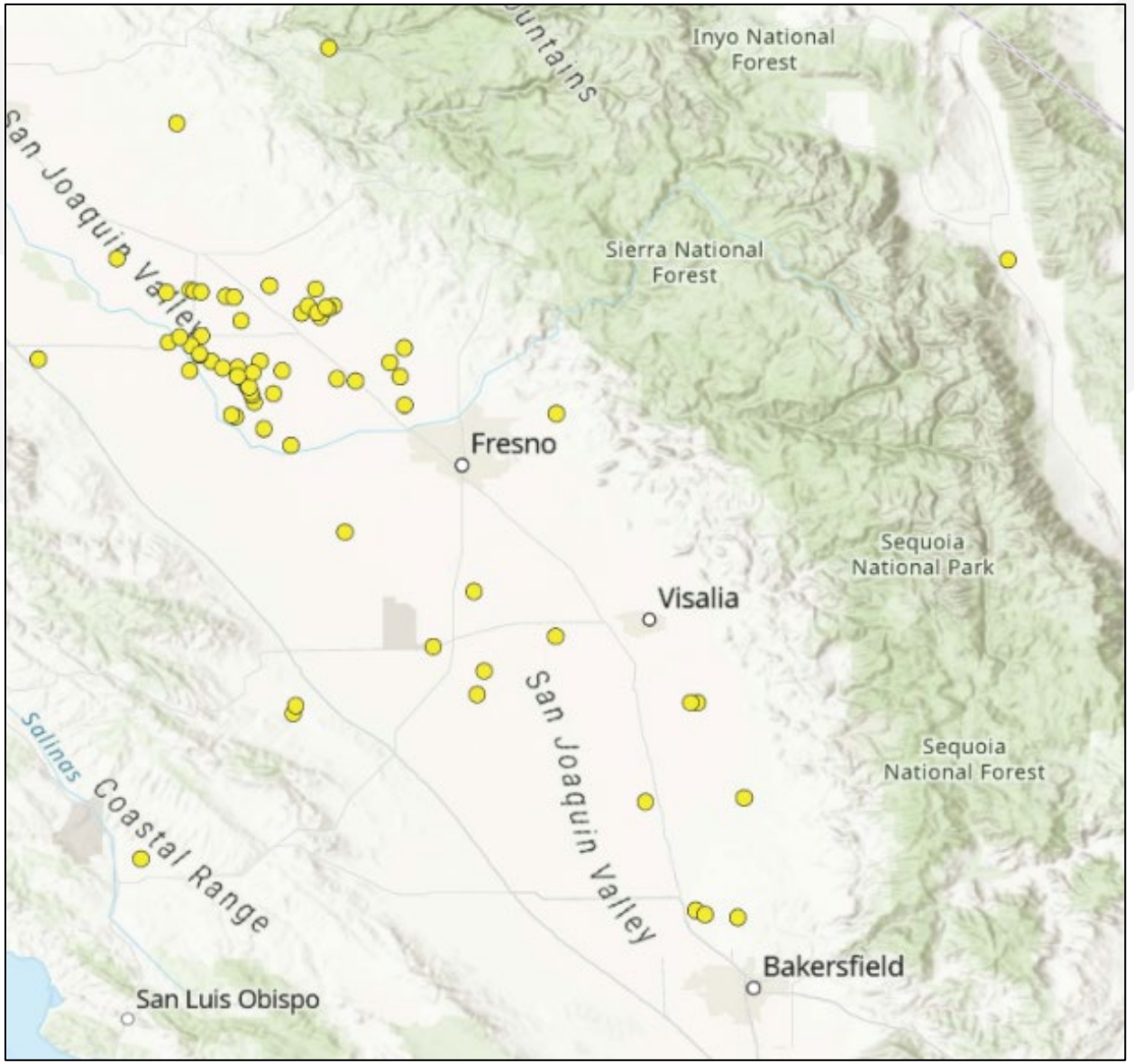
Senate Bill 122 to add Water Code 1242.1, July 10, 2023

- Authorizes diversions through January 1, 2029

All diversions reported to the Board, Board posts materials to website

Flood Diversions **Under EOs (2023)**

- Water Year 2023: “wet” year
- Total diversions: 402,101 acre-feet
- Total diverters: 75
- Total PODs: 254
- Total area used: 93,170 acres
- Maps and reports posted: https://www.waterboards.ca.gov/waterrights/water_issues/programs/groundwater-recharge/



Water Code 1242.1 (July 2023)

Appropriate locations: Existing recharge basins, active ag lands, managed wetlands, existing flood facilities

Identified areas inappropriate for flood recharge: dairy land application areas, uncultivated land, recent pesticide/fertilizer, could damage infrastructure

Must use existing infrastructure OR temporary pumps

Cannot construct new permanent diversion solely for flood diversions (without going through full permitting process)

Flood Diversions Under Water Code 1242.1

- No reported diversions to date (September 2024) – reflects 2024 hydrology

Upcoming Flood Diversions WC 1242.1 Workshop

- Virtual workshop on **October 9, 2024** 10:00 to 11:30 am
- Useful tips for implementation and compliance
- How to file reports & timelines
- Will be recorded & posted to our website
- Interested in temporary permits instead? See recorded June 2024 workshop on our website or contact us