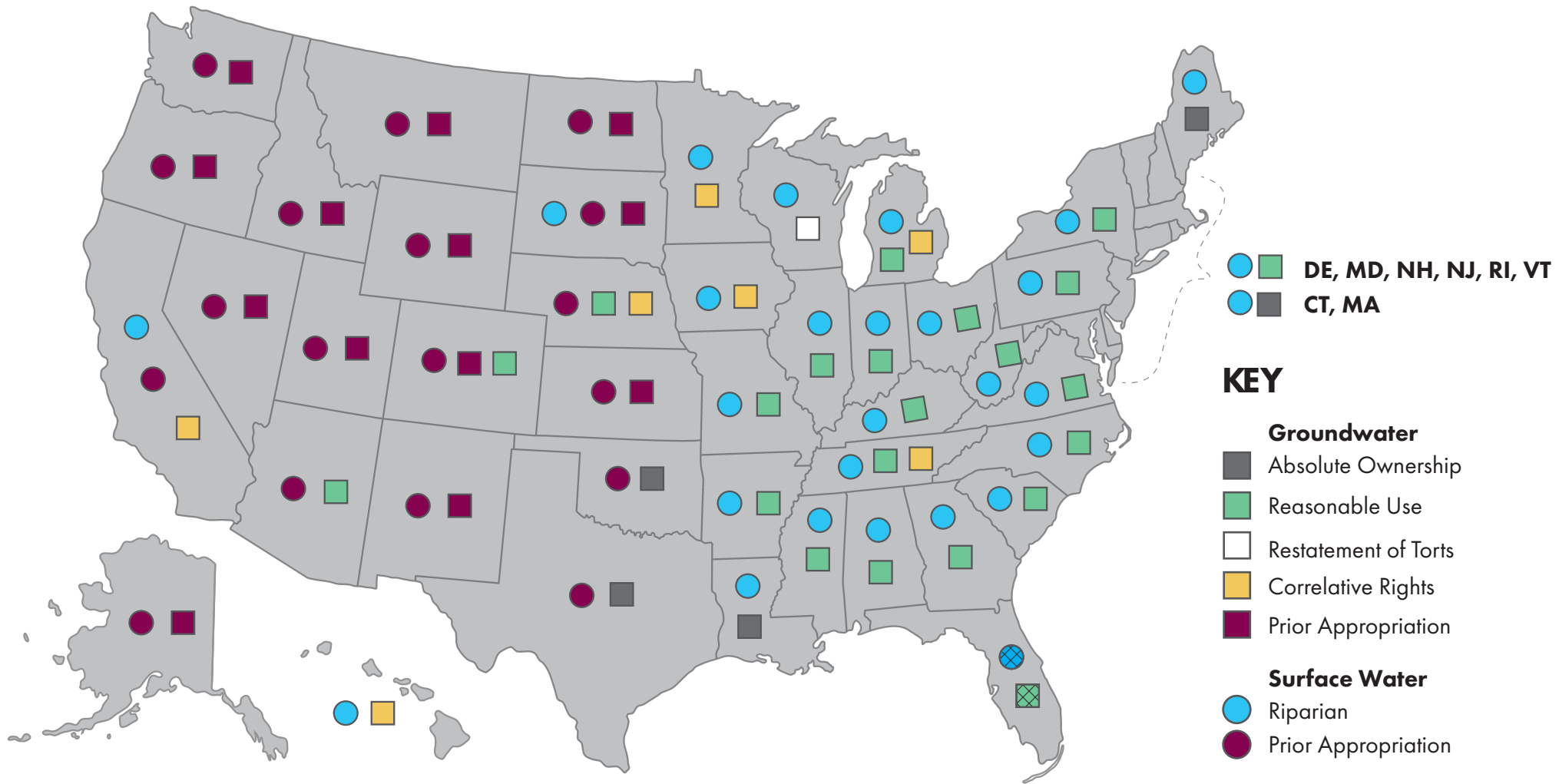


Primary Water Rights Systems in the United States



The information displayed on this map was sourced from a combination of state agency websites, academic publications, statutes, and conversations with water management professionals and representatives from state water agencies in all 50 states. This work was supported by the U.S. Department of Agriculture (USDA), Office of the Chief Economist (OCE). The findings shared in this infographic are those of the authors and should not be construed to represent any official USDA or U.S. Government determination or policy.

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Primary Water Rights Systems in the United States

Map Context

This map displays the primary water rights system(s) for each state. Many details about water rights systems and their implementation are local-context specific and are not included on this map. The map does not include tribal water rights, permit based water use systems, and may not reflect recent legislative changes or court decisions. The infographic is created for educational purposes and should not be used as legal advice.

Water rights systems provide legal boundaries for water management and are especially important to understand when developing and evaluating policies and practices around water governance (e.g., water transfers, irrigation limits, disputes among different water users, interstate water management, drought adaptation).

In many states, water rights systems for groundwater and surface water are defined differently. Water law tends to be less restrictive for groundwater use. Several states follow multiple water rights systems to manage their groundwater or surface water. In some cases, one system has priority over others; while in other cases, the systems are combined and used jointly.

Historical water needs and practices have led to a general split in water rights systems between the eastern and western US. Western states follow the prior appropriation system for groundwater, surface water, or both, which, generally, is based on the water right's seniority and is not connected to land ownership. Water rights systems for the eastern states generally stem from common law, which gives landowners the right to use water that touches their land. In areas where water is governed based on such land ownership-based systems alone (without enforced water use permits), any water use disputes must be handled in courts.

In many states, regulatory frameworks require landowners to get water use permits before they can use the water in accordance with their water rights system(s); this is especially prevalent in the eastern states. Most eastern states' regulations present a water-use threshold for when the state law transitions from the land ownership-based water rights system to a regulated permitting system for groundwater, surface water, or both. Whether the regulation, once triggered, is for the whole state or for localized areas based on watershed boundaries differs by state.

Definitions

- **Absolute Ownership** (identical or very similar to Absolute Dominion rule, English rule doctrines; stems from common law): Landowners have private ownership of any groundwater they can access through their land. In some areas that use this system, the landowner's right to use groundwater is strictly limited by state regulations.
- **Reasonable Use** (identical or very similar to American rule doctrine; stems from common law): Landowners have the right to use any groundwater they can access through their land for a beneficial use, subject to restrictions for wasteful or off-site use.
- **Restatement of Torts** (identical or very similar to Beneficial Purpose doctrine; stems from common law): Landowners have the right to use any groundwater they can access through their land without liability, subject to restrictions for wasteful use that can cause unreasonable harm to a neighboring water user or body of water.
- **Correlative Rights** (stems from common law): Landowners have the right to use any groundwater they can access through their land if the use is proportional to other groundwater rights holders and not wasteful.
- **Prior Appropriation**: The right to use water is not connected to land ownership. Instead, the water can be legally used when there is enough water based on the seniority of one's right, which is assigned by the date the right holder first used it for beneficial purpose. The water right may be forfeited if water fails to be beneficially used for a period of time.
- **Riparian** (sometimes called Reasonable Use doctrine; stems from common law): Landowners have the right to reasonably use any surface water that exists on or adjacent to their land.
- **Permitting System**: A regulatory process that requires water users to obtain water use permits before they can legally use their water in accordance to the water rights system. Prior Appropriation doctrine, popular in the western states, is generally, based on a permitting system. The land ownership-based water use systems common in the eastern states have recently started adding permitting systems to limit water usage. In some cases, permitting systems have replaced the rules imposed by the previously used water rights systems (e.g., Florida).

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WATER for FOOD
GLOBAL INSTITUTE
at the University of Nebraska



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