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EXPERTS URGE OVERHAUL OF CALIFORNIA'S 'ANTIQUATED' WATER LAWS

By [Chuck Abbott](#)
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As California enters its third year of drought, pressure is mounting for lawmakers to update the state's antiquated water laws. On Thursday, a coalition of legal experts and retired state officials released a report with a list of suggested reforms, which they say would make California's water politics more equitable and sustainable as climate change gets worse.

If implemented — a major if — many of the reforms would provide a check on the state's massive agricultural industry, which sucks up some [80% of all the water used](#)

McGeorge University, who coauthored the report, said to stakeholders and others in the audience. “I hope you can think creatively and be brave.”

PCL originally convened the experts for what Jonas Minton, PCL’s water policy adviser, described as an “academic exercise.” But “then the skies dried up,” he explained, and the state’s water crisis became even more urgent. California has been hit by record storms and snowfall in the past few months, but it had almost no precipitation in January, and two-thirds of the state remains in severe drought.

About a million Californians already lack access to safe drinking water, and farmers are facing severe water cutbacks.

Minton stressed that he and his colleagues had no say in the report’s findings.

The report focused largely on three thorny areas of California’s water management, which the authors argued are long overdue for reform.

First, they urged the state to sufficiently fund its Water Resources Control Board, which manages water deliveries to two-thirds of California residents and large swaths of the state’s farmland. Harder said the board also needed to diversify its leadership by adding a member who specializes in water quality and environmental justice.

She suggested the board fine-tune its approach on groundwater sustainability. Many rural Californians get their water from domestic wells. Those wells are disproportionately depleted, due to the overpumping of groundwater by farmers, and sometimes contaminated by runoff of fertilizer and other chemicals from those farms. The state’s Latino communities have been particularly affected.

“Many failing domestic wells are in economically disadvantaged communities,” said Harder, “and they have been subjected to explicit and implicit racism [when it comes to] the delivery of water.”

much water it should distribute to users who are not senior water rights holders. But as climate change gets worse and water volume in the rivers becomes less predictable, those data are becoming irrelevant. “One of the things we know is absolutely true is that [this] is no longer defensible given climate change,” said report coauthor Clifford Lee, a former state deputy attorney general. “There simply will be less water in the future.”

Lee also urged policymakers to untangle California’s water rights system, which involves a patchwork of different classifications that he says has caused “considerable confusion.” And in a move that could affect California’s farmers, the report also suggests the state amend its water code to determine whether the claims of some senior water rights holders are legitimate. “I would like to say this recommendation brings California into the 21st century,” he said. “But it really just brings California into the 20th century.”

Finally, the report recommended that policymakers address what Harder described as the state’s “extinction crisis.” California is home to more than 125 native fish species, and at least 18 of them are “highly vulnerable to extinction,” with many others in decline. One of the reforms Harder suggested was a shift in how California’s dam owners consider the health of river ecosystems before distributing water to users. Currently, dam owners are required to release water from reservoirs to ensure that fish have deep enough water to swim in. But last year almost all of California’s Chinook salmon died in their streams when the water ran low and temperatures hovered above 100°F. In light of that catastrophe, Harder says, the state should consider requiring that dam owners also maintain a safe water temperature for fish before diverting water to other users.

After presenting their recommendations at the PCL webinar, Harder and Lee gave the floor to Dennis O’Connor, the chief consultant to the California Senate Committee on Natural Resources and Water. O’Connor made it clear that the proposals face tough odds in the state legislature.

He also noted that there's no use in overhauling California's water laws unless those reforms are properly funded. "This is really important," O'Connor said. "If we pass a law but don't fund its implementation or enforcement, it's as if we never passed it in the first place."




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