

Byzantine water laws will leave Californians high and dry

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In summary

Water law experts have developed ideas for revising California's antiquated water laws. Here are some of their recommendations:

By Richard Frank

Richard Frank is a professor of environmental practice, who teaches water law at the University of California, Davis, School of Law.

Holly Doremus, Special to CalMatters

Holly Doremus is a professor of environmental regulation, who teaches water law at the University of California, Berkeley, School of Law.

It's been said that California is confronting a 21st century water crisis armed with 20th century infrastructure and 19th century laws. That's indisputably true.

California's water rights system was created in the latter half of the 1800s. It has changed surprisingly little since then. In a state that prides itself on environmental innovation, it's alarming that California's calcified water rights system is out of sync with current needs.

That's especially problematic in light of the linked phenomena of climate change and drought. Climate scientists predict that the state's decades-long drought is a harbinger of even worse things to come. As California's population continues to grow, less water will be available to meet urban, agricultural and environmental water needs. The predictable, and already apparent, result? Constant conflict and crisis.

It needn't be this way. Critically important water law reforms are possible.

Over the past year, water law experts convened under the auspices of the [Planning and Conservation League Foundation](#) to develop ideas for revising California's antiquated water laws. Earlier this month, the [group submitted its recommendations](#) to the California Legislature with the hope that they will be enacted into law.

We identified a number of needed reforms. Here are some of the most pressing:

Protecting drinking water wells. California farmers have traditionally increased groundwater pumping during droughts to make up for surface water shortages. But this increased pumping dried 2,000 household wells in the 2012-16 drought. We recommend that groundwater pumpers be required to protect or replace wells, and cover increased energy costs where deeper wells are needed.

Verifying private water rights. California's system of surface water rights is based primarily on a "first-in-time-first-in-right" principle, in which "senior" water users who secured their water rights earlier have priority. The problem is that this priority is based primarily on self-reporting and the honor system. The State Water Resources Control Board needs the authority, funding and staff necessary to verify the accuracy of water claims, some of which date back a century or more.

Providing the water board with timely response authority. Current law often prevents the State Water Board from taking timely action to protect the environment and senior water users due to outdated and undue procedural requirements. We recommend that the water board be given express authority to act quickly to enforce state water laws against those who seek to violate or circumvent them.

Requiring real-time water reporting. Under current law, water users report their water diversions annually, for the previous year. California should require real-time reporting, and use computer and satellite technology (as a number of other states already do) to track diversions. Doing so would allow state water regulators to make timely water allocation decisions.

Safeguarding the Delta. The Sacramento-San Joaquin Delta, heart of California's water delivery system and the West Coast's largest estuary, is crashing. To protect its future, the state must update and implement its 25-year-old plan to ensure enough freshwater is flowing through the Delta to sustain fish, wildlife and communities.

Accounting for climate change in water planning. We recommend that decisions on new water projects and water allocations explicitly consider the effects of climate change upon California's water system, using the best available current scientific information.

It's long overdue that California's water rights system be brought – kicking and screaming, if necessary – into the 21st century. Our recommendations attempt to provide a clear road map for the Legislature and other state policymakers to do just that, and we are pleased to see lawmakers pursuing needed reforms through [Assembly Bill 2108](#), introduced by Assemblymember [Robert Rivas](#), a Democrat from

Salinas; [Assembly Bill 2639](#), introduced by Assemblymember [Bill Quirk](#), a Democrat from Hayward; and [Senate Bill 1205](#), introduced by Sen. [Ben Allen](#), a Democrat from Redondo Beach.

There's not a moment to lose or a drop of water to waste.

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