

California won't identify who's draining the state's groundwater

June 2,
2015



i

A new law that attempts to preserve California's precious groundwater comes with a catch: The state will hide the names of people draining this vast underground water source, Reveal has learned.

The secrecy provision could make it impossible for the public to identify water wasters and learn whether conservation efforts are taking hold, according to documents and interviews.

Read more coverage on water

One of the law's authors, former Assemblyman Roger Dickinson, said farmers and private pumpers wanted confidentiality.

"In essence, this was a battle we didn't think we could take on," Dickinson said. "So we agreed to keep the confidentiality."

At issue is little-noticed language in the [Sustainable Groundwater Management Act](#), a package of laws that for the first time sets rules on farmers' use of groundwater, a vital but rapidly disappearing subterranean water supply for the Golden State.

California growers provide the country with almost half of its fruits, vegetables and nuts. In a normal year, they rely on groundwater for about one-third of their entire water supply. Years into a historic drought, it can account for more than

half.

Meanwhile, groundwater management has been a free-for-all, with farmers drilling ever-deeper wells and pumping as much water as they want with little regulation or scrutiny.

The result: Some rural aquifers have been subject to such intense pumping that they are in danger of drying up. Some rural residents' taps have [gone dry](#), and growers have chopped down orchards fields and fallowed fields. In parts of the Central Valley, the [earth has sunk](#) as much as one foot per year as the water has been drained beneath it.

The Legislature tried for years to address the issues. The package of bills that finally passed – hailed as historic by Gov. Jerry Brown when he signed them in September – has a long lead time but ambitious goals.

The new laws require officials to identify regions in California where aquifers are in danger of drying up. It gives water officials the power to limit overdrafts.

And, for the first time, the laws require farmers and other well operators in affected regions to account for how much water they are drawing from the ground. The most-stressed aquifers must be recharged and brought to sustainability by 2040.

For decades, water use data was a matter of public record in California – at least for residential and commercial customers of public utilities.

During the last drought, in 1991, news stories [naming and shaming](#) water wasters led to important reforms. But in 1997, in response to privacy concerns about Silicon Valley tech executives, the [Legislature weakened](#) the state Public Records Act to make water consumption information confidential.

In discussing the groundwater measures, water agencies wanted that same confidentiality provision applied to groundwater users.

Environmental groups, including Sierra Club California and Clean Water Action California, argued that the confidentiality language was too broad. They feared it could be used to hide not just the names of the pumpers, but also how much water was being pumped. They didn't get much traction.

James Wheaton, legal director of the Oakland-based Environmental Law Foundation, called the secrecy provision “jaw dropping.” He said lawmakers are saying, “We're going to finally regulate and monitor groundwater, and we're going to keep it all secret.”

The foundation is [suing to open confidential records](#) about groundwater contamination on the Central Coast, arguing that state secrecy violates a fundamental principle of democratic governance.

A cloak of [secrecy already shrouds](#) other important information about California's groundwater. Well logs, documents filed by well operators that could provide scientists with important information about the condition of aquifers, are secret in California, though they are public records in other Western states.

Dickinson, a former Assembly Democrat from Sacramento and co-author of the groundwater legislation, said confidentiality became “a very sensitive subject” as the bills were being written.

Over the years, some agencies have made water-extraction data public, and others have refused, said Dickinson, now a lawyer in Sacramento. Farmers and private pumpers opposed making the information public, and in the end, proponents feared that a debate over confidentiality might kill the entire effort to regulate groundwater, he said.

He said he believes additional legislation likely will be necessary “somewhere down the road” to make more information about pumping public.

Dickinson's co-author, Sen. Fran Pavley, D-Calabasas, has trumpeted the groundwater bills as a major legislative achievement. But she wasn't interested in talking about the secrecy issue.

Through an aide, Pavley declined requests for an interview. At one point, the aide said Pavley was unavailable for a phone interview because she was on a plane to her district in Los Angeles County. Asked whether she could be interviewed after the plane landed, the aide said that wouldn't be possible, either.

"We're not going on the record on this," the aide said.

Sign up for our newsletter

Stay up to date with the latest investigations and episodes from Reveal delivered to your inbox.