

Fight for Your Right to Water



It's been well established that drought, water scarcity and sustainability are the most important issues facing the water industry. In the coming decades, these factors will not just shape the way we use and value water, they also will drive technological innovation and the laws and regulations surrounding water.

For some, these issues may just seem like something you see on the news—something that other people in other places deal with. Here in the Great Lakes region, it's hard to imagine running out of water. In Chicago, looking out at Lake Michigan, we have a seemingly endless supply of water. As populations expand and water demand grows, however, stress on our water resources will only increase.

This stress already weighs heavily on many regions in the U.S. Texas and the American Southwest are at the forefront of a hot-button topic that will only increase in importance as water becomes scarcer: the issue of water rights.

Recently, state governments have been putting more focus on those who rely on private wells for their water. In 2011, the Texas State House of Representatives passed a bill allowing Terrell County to tax well owners using more than 25,000 gal of water per day. Last summer, the Terrell Water Conservation Board met to discuss the implementation of new regulations—including a requirement to register all wells on private property with the state.

NewsWest 9 reported that this requirement did not sit well with many private residential well owners (even though most would be exempt from the tax, because they use less than 25,000 gal per day). The problem, according to local well owner Mark Walker, is that many residential well owners do not even know how much water they actually use—they do not have water meters installed on their wells. He added that because he has a private well, however, he already is mindful of water conservation. Nonetheless, according to NewsWest 9, “residents say registering their wells is the first step to removing their property rights.”

The state of New Mexico also made water rights news last summer when a decision was handed down in the *Bounds v. State of New Mexico* case. Under New Mexico law, the state engineer grants permits for domestic wells when requested, with no investigation needed. *Bounds* challenged this statute, arguing that it violated the state's prior appropriation doctrine and the due process clause of its constitution.

The New Mexico Supreme Court upheld the law, however, because, according to the Water Systems Council, “the prior appropriation doctrine gives the senior water user ‘the better right,’ but does not dictate how users are permitted. [Because] no property right has been infringed upon by the domestic well statute, no due process rights were involved.” Had the decision favored *Bounds*, residential well owners may have had to face the more rigorous well permitting process required for commercial well users.

These cases are only two of the many that are sure to arise in the coming years, and the way that the issue of water rights is treated in the Southwest will certainly set the tone for other regions. As we continue to face increasing water scarcity, this will be just one part of the larger picture in conserving and protecting our precious water resources.

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