Arrest That Sprinkler!!

Textually, this is not difficult. [Article X Section 2 of the California Constitution reads](#):

> The right to water or to the use or flow of water in or from any natural stream or water course in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water.

What reasonable or beneficial use does a front lawn serve? This isn't trivial. By some serious estimates, [about 50% of residential water use is used on lawns and related landscaping](#). And for what? What value does a front lawn serve?

I am sure that one could find *something,* of course. But the reasonable use doctrine does not allow a use that one could find *some* use for. It must be useful within context.

The California Supreme Court has been quite clear on this: simply because someone has water rights does not mean that changing conditions are irrelevant. Just the opposite. In the seminal case of [Joslin v Marin Municipal Water District (1967)](#), the Court was quite clear that water rights can and must be changed given "the increasing need for the conservation of water in this state." (Brian Gray of the UC College of Law – San Francisco[has written a helpful primer on this.](#)). In [Imperial Irrigation District v. State Water Resources Control](#)

[Board](#) (1986), the Court of Appeal held not only that changed conditions can turn a reasonable use into an unreasonable one, but that this even applies to appropriators from before 1914 (when California first legislated statewide regulation of surface water appropriation).

Front lawns are a classic postwar development of single-family zoning and 1950's patriarchy: Dad goes to work, Mom stays home and plays with the kids on the lawn. Doesn't happen much anymore.

And it's worse than that, because you could easily increase density while maintaining single-family houses if you could get rid of the front lawn.

The challenge here is political of course, but even more so technical. Suppose that the State Water Resources Control Board decides that watering lawns is illegal as an unreasonable use. What would it do? There isn't a little meter at everyone's house that goes off depending upon use (which as I have argued before, is a big problem).

I suppose that the first step is to make a statistical estimate of the amount of water each agency uses for watering lawns, and tell agencies that within a certain amount of time, their water rights will be reduced by that amount. There will be a lawsuit on that, but SWRCB can win if they do the right analysis and make the right findings.

Then the agencies will have to do the dirty work – which could involve legislative help. The second task for them would be simply to tell residents that using your water supply to water your front lawn is forbidden. We can see how much that does: it might do quite a lot if there is adequate notice and transition time.

Then after a certain period of time, the local agency could fine people for watering their front lawns. As a technical matter, I wonder whether this would really be that difficult. There is no huge privacy interest: it's your *front* lawn, after all. Drone surveillance of front lawns could be comparatively simple.

Your New Water Inspector: Make My Day

One could, of course, imagine the livid homeowner who screams: "who are to tell me I can't have a lawn?" The response is easy. You can have a lawn: you just can't use water — a public resource — on it. You want to have a lawn without water? In the words of the famous hydrologist Harry Callahan: Go ahead — make my day.

Yes, yes, I know I know: 1) it sounds simple on paper (pixel?) from a professor who doesn't have to do it; and 2) agricultural unreasonable use is greater. Both true. But let's not make the perfect the enemy of the good. And this isn't a matter of leverage, i.e. "why should we conserve of those alfalfa farmers won't?" It's just good policy. Let's do it.