AB 1337 (Wicks): State Water Resources Control Board: water diversion curtailment
OPPOSE
May 12, 2023

The Honorable Chris Holden  
Chair, Assembly Appropriations Committee  
1021 O Street, Ste. 8220  
Sacramento, CA 95814

RE: AB 1337 (Wicks) – State Water Resources Control Board: water diversion curtailment.  
Position: OPPOSE

Dear Chair Holden:

The undersigned organizations write to respectfully express our opposition to AB 1337, which, as amended on April 20, 2023, would provide unprecedented statutory authority for the State Water Resources Control Board (State Water Board) to curtail the diversion or use of water under any claim of right during any water year.

Water suppliers are collectively responsible for delivering water for domestic, agricultural, and industrial purposes throughout the state. Many of these agencies also provide water for fish and wildlife uses. These agencies rely on a water rights priority system that is essential to our state’s economic, social, and environmental stability. The water rights that the people, the Legislature, and the courts have developed over the past century provide the legal framework upon which billions of dollars have been invested to make water consistently available to Californians.

AB 1337 would overhaul how California has managed and delivered water for more than a century. The bill’s vision for future water management involves handing the State Water Board unfettered authority to control water use as it sees fit. Under this proposed system of water management, water managers would operate at the whims of the state. Reliability in water rights would be severely diminished, and many water agencies would struggle to meet the needs of homes and businesses throughout the state.

Curtailments have only recently been used in a widespread fashion in California, and they have significant ramifications that extend far beyond the water right holders themselves. Curtailments, and the resulting reduction in anticipated water supply, can disrupt agriculture, industry, and other water-dependent sectors, leading to job losses, revenue declines, and other economic hardships. Additionally, curtailment orders can disproportionately impact small and disadvantaged water users who may lack the resources to adapt to changing water conditions.

Accordingly, curtailment authority should remain reserved for emergency drought conditions in order to ensure that this tool is used judiciously and effectively. By limiting curtailment to the most severe and urgent water shortages, the State Water Board can ensure that this tool is used only when necessary and that its impacts are carefully managed.

AB 1337, in contrast, proposes that the State Water Board should use curtailment to manage all water right allocations, within all watersheds, in any water year. There is nothing in the bill that prevents the State Water Board from issuing curtailments even in a year like California is currently experiencing, where there is more than enough water in watersheds throughout the state to satisfy all water rights. This would be an unnecessary task for the State Water Board and threaten to create chaos in the way water is managed, diverted, and used.
AB 1337 threatens to undermine long-standing water management and water delivery practices in watersheds throughout California.

It is not as if the water rights priority system is left unmanaged during the absence of curtailment orders. Watersheds throughout California are governed by court decrees, local water sharing agreements, watermasters, and more. In recent years, voluntary agreements among rights holders and other stakeholders have been developed in order to manage water in ways that increase predictability and supply reliability, all while addressing environmental concerns. These local water management practices are preferable to widespread state-issued curtailment orders for several reasons.

First, these tools are typically more tailored to the unique needs and circumstances of a particular watershed or basin. By involving local stakeholders in the management process, these tools can help ensure that water management decisions are made with a greater understanding of the local hydrology, ecology, and economy.

Second, local water management practices can provide greater certainty and stability to water users. Court decrees and adjudications establish legal rights to water that are more difficult to change than state curtailment orders, which can be subject to revision as drought conditions change. Watermasters, who are appointed by courts to oversee water allocation and distribution, can provide on-the-ground expertise and management that is more responsive to local conditions and needs.

Third, local water management practices are often more collaborative and cooperative than curtailment orders, which can be perceived as top-down and heavy-handed. By involving local stakeholders in the management process, these tools can help build trust and cooperation between water users and facilitate more effective and sustainable water management over the long term.

Finally, local water management practices can be more flexible and adaptable to changing conditions than state curtailment orders. For example, watermasters can adjust water allocation and distribution on a daily or weekly basis based on real-time information about water availability and demand.

While state curtailment orders can be an important tool for managing water scarcity during emergency drought conditions, local water management practices such as court decrees, adjudications, and watermasters are often more effective, collaborative, and adaptable tools for managing water resources over the long term. By leveraging these tools, water managers can ensure that water management decisions are more tailored to the unique needs and circumstances of each watershed or basin and more responsive to changing conditions.

While meant to address a narrow Court of Appeal decision, the proposed amendment to Water Code section 1052 could have far greater consequences for water right holders.

In addition to granting the State Water Board with sweeping, new curtailment authority, AB 1337 seeks to address a recent California Court of Appeal decision that held the State Water Board lacks jurisdictional authority to issue curtailment notices to pre-1914 appropriative water rights holders under Water Code section 1052, subd (a). While the amendment proposed in section 1052 is meant to address the scope of the State Water Board’s curtailment authority, the implications of this amendments may be far greater. Section 1052, subd (a) provides that “[t]he diversion or use of water

---

1 California Water Curtailment Cases (2022) 83 Cal.App.5th 164.
subject to this division other than as authorized *in this division* is a trespass” (emphasis added). The proposed amendment to this section would eliminate this limitation and potentially authorize the State Water Board to enforce a “trespass” for far more than curtailments. Consistent with other legislation introduced this year, this bill could create substantial new avenues for enforcement authority, which means that law-abiding water right holders are at increased risk of punishment based on a host of vague and fact-specific doctrines and principles. We do not believe the consequences of this amendment have been adequately considered. Additionally, this amendment is unnecessary because the State Water Board has most recently issued curtailments under different, existing authority pursuant to Water Code section 1058.5.

**Instead of proposing to radically overhaul water management in California, we support the Legislature modernizing the administration of the existing water rights system**

There are a number of promising proposals this year that would modernize administration of the water rights priority system with improved data, efficiency, and transparency, while maintaining the existing priority system as its legal and operational foundation. Governor Newsom has proposed appropriating more than $30 million to implement a new State Water Board project called Updating Water Rights Data for California (UPWARD). This program is intended to improve the way the state collects and manages its water rights data and information, which will be critical for data-driven water management decisions, particularly when hydrology affects supply, such as during droughts. In addition, we support proposals that have been introduced that would lead to increased deployment of stream gages, which would provide data essential to better water management. The Legislature has recognized the importance of improved data, as well, investing more than $82 million over the past two years to help advance this important effort.

The consequences of AB 1337 should not be considered lightly. This bill threatens to remake the way water rights are managed in California by employing a top-down approach that would override decades of successful collaborative water management practices.

For these reasons, we respectfully request a “NO” vote when AB 1337 is heard in the Assembly Appropriations Committee. For questions about our position or comments, please contact Kristopher Anderson, Legislative Advocate with the Association of California Water Agencies, at (916) 441-4545 or krisa@acwa.com.

Sincerely,

Will Scott, Jr.  
President  
African American Farmers of California  

Tricia Geringer  
Vice President of Government Affairs  
Agricultural Council of California  

Matthew Knudson  
General Manager  
Antelope Valley-East Kern Water Agency  

Kristopher M. Anderson, Esq.  
Legislative Advocate  
Association of California Water Agencies  

David Coxey  
General Manager  
Bella Vista Water District  

Steve Lenton  
General Manager  
Bellflower-Somerset Mutual Water Company
Jennifer Galenti
Director of Operations
California Alliance for Jobs

Michael Miller
Director of Government Relations
California Association of Winegrape Growers

P. Anthony Thomas
Senior Vice President of Legislative Affairs
California Building Industry Association

Matthew Hargrove
President and Chief Executive Officer
California Business Properties Association

Brenda Bass
Policy Advocate
California Chamber of Commerce

Roger Isom
President and Chief Executive Officer
California Cotton Ginners and Growers Association

Alexandra Biering
Senior Policy Advocate
California Farm Bureau

Dean Talley
Policy Director
California Manufacturers & Technology Association

Andrea Abergel
Manager of Water Policy
California Municipal Utilities Association

Ian LeMay
President
California Fresh Fruit Association

Robert Verloop
Executive Director and Chief Executive Officer
California Walnut Commission

Cathy Lee
General Manager
Carmichael Water District

Catherine Moy
Mayor
City of Fairfield

Bruce Houdesheldt
Mayor
City of Roseville

J.M. Barrett
General Manager
Coachella Valley Water District

Mary Rogren
General Manager
Coastside County Water District

John Bosler
General Manager/CEO
Cucamonga Valley Water District

Mark Krause
General Manager and Chief Engineer
Desert Water Agency

William Vanderwaal
General Manager
Dunnigan Water District

Mike Tietze
General Manager
East Turlock Subbasin Groundwater Sustainability Agency

Greg Thomas
General Manager
Elsinore Valley Municipal Water District

Jim Abercrombie
General Manager
El Dorado Irrigation District
<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bruce Kamilos, P.E.</td>
<td>General Manager</td>
<td>Florin Resource Conservation District/Elk Grove Water District</td>
</tr>
<tr>
<td>Jason Phillips</td>
<td>Chief Executive Officer</td>
<td>Friant Water Authority</td>
</tr>
<tr>
<td>John Friedenbach</td>
<td>General Manager</td>
<td>Humboldt Bay Municipal Water District</td>
</tr>
<tr>
<td>David Merritt</td>
<td>General Manager</td>
<td>Kings River Conservation District</td>
</tr>
<tr>
<td>Steven Haugen</td>
<td>Watermaster</td>
<td>Kings River Water Association</td>
</tr>
<tr>
<td>Thomas McCarthy</td>
<td>General Manager</td>
<td>Kern County Water Agency</td>
</tr>
<tr>
<td>Catherine Cerri</td>
<td>General Manager</td>
<td>Lake Arrowhead Community Services District</td>
</tr>
<tr>
<td>Patrick Kaspari, P.E.</td>
<td>General Manager</td>
<td>McKinleyville Community Services District</td>
</tr>
<tr>
<td>Paul E. Shoenberger, P.E.</td>
<td>General Manager</td>
<td>Mesa Water District</td>
</tr>
<tr>
<td>Ed Franciosa</td>
<td>General Manager</td>
<td>Modesto Irrigation District</td>
</tr>
<tr>
<td>Allison Febbo</td>
<td>General Manager</td>
<td>Mojave Water Agency</td>
</tr>
<tr>
<td>Tobe Plough</td>
<td>Board President</td>
<td>Montecito Water District</td>
</tr>
<tr>
<td>Heather Baez</td>
<td>Governmental Affairs Manager</td>
<td>Municipal Water District of Orange County</td>
</tr>
<tr>
<td>Rick Thomasser, P.G.</td>
<td>District Manager</td>
<td>Napa County Flood Control &amp; Water Conservation District</td>
</tr>
<tr>
<td>Manuel Cunha, Jr.</td>
<td>President</td>
<td>Nisei Farmers League</td>
</tr>
<tr>
<td>Ivy Brittain</td>
<td>Legislative Affairs Director</td>
<td>Northern California Water Association</td>
</tr>
<tr>
<td>Scot Moody CSDM</td>
<td>General Manager</td>
<td>Oakdale Irrigation District</td>
</tr>
<tr>
<td>Dennis LaMoreaux</td>
<td>General Manager</td>
<td>Palmdale Water District</td>
</tr>
<tr>
<td>Jason Franklin</td>
<td>General Manager</td>
<td>Pinedale County Water District</td>
</tr>
<tr>
<td>Anthony Firenzi</td>
<td>Director of Strategic Affairs</td>
<td>Placer County Water Agency</td>
</tr>
<tr>
<td>Robert S. Grantham</td>
<td>General Manager</td>
<td>Rancho California Water District</td>
</tr>
<tr>
<td>Trent Taylor</td>
<td>Water Resources Manager</td>
<td>Rosedale-Rio Bravo Water Storage District</td>
</tr>
<tr>
<td>Tom Coleman</td>
<td>General Manager</td>
<td>Rowland Water District</td>
</tr>
<tr>
<td>Darin Kasamoto</td>
<td>General Manager</td>
<td>San Gabriel Valley Municipal Water District</td>
</tr>
</tbody>
</table>
Lance Eckhart  
General Manager  
San Gorgonio Pass Water Agency

Chris White  
Executive Director  
San Joaquin River Exchange Contractors  
Water Authority

Paul Helliker  
General Manager  
San Juan Water District

J. Scott Petersen, P.E.  
Water Policy Director  
San Luis & Delta-Mendota Water Authority

Daniel R. Ferons  
General Manager  
Santa Margarita Water District

Matt Stone  
General Manager  
Santa Clarita Valley Water Agency

Chris Lee  
Interim General Manager  
Solano County Water Agency

Cary Keaten  
General Manager  
Solano Irrigation District

Peter M. Rietkerk  
General Manager  
South San Joaquin Irrigation District

Charles Wilson  
Executive Director  
Southern California Water Coalition

Jennifer Pierre  
General Manager  
State Water Contractors

Richard Atkins  
Board President  
Stockton East Water District

Carlos Quintero, P.E.  
General Manager  
Sweetwater Authority

Tom Neisler  
General Manager  
Tehachapi-Cummings County Water District

Matthew Litchfield  
General Manager  
Three Valleys Municipal Water District

Danny Wade  
General Manager  
Tranquility Irrigation District

Aaron Fukuda  
General Manager  
Tulare Irrigation District

Kathleen K. Haff  
Chair, Tuolumne County Board of Supervisors  
Tuolumne County Water Agency

Don Perkins  
General Manager  
Tuolumne Utilities District

Michelle Reimers  
General Manager  
Turlock Irrigation District

Deanna Jackson  
Executive Director  
Tri-County Water Authority

Mauricio E. Guardado, Jr.  
General Manager  
United Water Conservation District

Tom Love  
General Manager  
Upper San Gabriel Valley Municipal Water District

Bob Reeb  
Executive Director  
Valley Ag Water Coalition
Gary Arant  
General Manager  
Valley Center Municipal Water District

Erik Hitchman  
General Manager  
Walnut Valley Water District

Roger Isom  
President and Chief Executive Officer  
Western Agricultural Processors Association

Anjanette Shadley  
Assistant General Manager  
Western Canal Water District

Gary Arant  
General Manager  
Valley Center Municipal Water District

Erik Hitchman  
General Manager  
Walnut Valley Water District

Roger Isom  
President and Chief Executive Officer  
Western Agricultural Processors Association

Anjanette Shadley  
Assistant General Manager  
Western Canal Water District

Gail Delihant  
Senior Director, CA Government Affairs  
Western Growers Association

Craig Miller  
General Manager  
Western Municipal Water District

Noelle Cremers  
Director, Environmental & Regulatory Affairs  
Wine Institute

Willie Whittlesey  
General Manager  
Yuba Water Agency

cc: The Honorable Buffy Wicks  
Honorable Members, Assembly Appropriations Committee  
Nikita Koraddi, Principal Consultant, Assembly Appropriations Committee  
Brent Finkel, Consultant, Assembly Republican Caucus