

April 3, 2023

The Honorable Bauer-Kahan
Chairwoman, Assembly Water, Parks, & Wildlife Committee
1021 O St, Suite 6320
Sacramento, CA 95814

RE: Letter in Opposition of AB 460 - (Bauer-Kahan)

Dear Chairwoman Bauer-Kahan,

On behalf of the Turlock Irrigation District (TID), we regrettably write in opposition to AB 460. The bill would dramatically expand the State Water Resources Control Board's administrative authority in a manner that conflicts with the established water rights system. The bill would provide the State Water Board with expansive authority to issue interim relief orders on exceedingly short notice and with nearly unbound discretion.

TID is the first publicly owned irrigation district in the state and is one of only four today that provides irrigation water and power to residential, commercial, industrial and agricultural customers within its service area. TID provides safe, low-cost, reliable energy to a growing customer base of almost 240,000 home, farm, business, industrial and municipal users within a 662-square-mile service area. TID serves approximately 4,700 irrigation customers covering approximately 150,000 acres of prime, Central Valley farmland. The water rights TID holds serve as the economic backbone of our diverse community; livelihoods, jobs and economic security are at stake across our entire region if such rights are jeopardized or undermined.

AB 460 sidesteps fundamental constitutional due process protections. There is already a process where the State Water Board can obtain short-term injunctive relief by referring matters to the Attorney General. The scope of actions this bill targets requires fact-finding and balancing — which is a role the state has long entrusted to courts as neutral adjudicators to accomplish.

AB 460 goes far beyond simply preventing illegal diversions by bad actors. The State Water Board already has the authority to seek interim relief to prevent illegal diversions. The State Board also has sufficient existing administrative enforcement authorities under current law to address illegal diversions. Unfortunately, this authority is not always used.

While TID agrees that fines for illegal diversions should be raised to levels that are commensurate with the magnitude of the violation, TID cannot support the unprecedented and unjustified expansion of State Water Board authority to determine, in its sole discretion, how, when, and against whom to apply and enforce the waste and unreasonable use doctrine, the public trust doctrine, and provisions of the Fish and Game Code. The legislation provides no guidance as to the evidence needed to support alleged violations of these doctrines and statutes, and would bring to light conflicts between the State Water Board's quasi-judicial and quasi-legislative roles.

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If enacted, AB 460 would bring unprecedented uncertainty to TID, as well as every dam owner and water service provider in California. At any moment, and on extremely short notice, the State Water Board could issue an interim relief order effectively commandeering an agency's reservoir and/or curtailing its diversions. The costs to defend against alleged violations under an interim relief order would be overly burdensome.

It is because of these concerns and reasons that TID must oppose AB 460. Should you have any questions regarding these comments, please contact Josh Weimer, External Affairs Manager at jmweimer@tid.org or (209) 883-8361.

Regards,

A handwritten signature in cursive script that reads "Michelle Reimers".

Michelle Reimers
General Manager

CC: Members, Assembly Water, Parks & Wildlife Committee
Chair & Members, Assembly Judiciary Committee