



Meeting: **Authority Board Agenda Item 3.1**

May 25, 2022

Subject: **AB2639 (QUIRK) Bay/Delta Water Quality Control Plan/Water Right Permits**

Requested Action:

Review and comment on proposed Assembly Bill 2639(Quirk) San Francisco Bay/Sacramento-San Joaquin Delta Estuary: water quality control plan: water right permits.

Detailed Description/Background:

As part of the Amendment 3 work plan, a water right permit is to be secured from the State Water Resources Control Board for Sites Water. The timing between application and issuance of a permit is expected to be 18-24 months. This report is to make the RC and AB aware of the potential implications of current provisions in AB2639 that could have an impact on securing the water right permit within a timeframe that avoids impacting the overall project schedule and could create unanticipated delay costs to the project.

As proposed AB2639 would require the state board, on or before December 31, 2023, to adopt a final update of the 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, as specified, and to implement the amendments to the plan adopted by the state board pursuant to Resolution No. 2018-0059 on December 12, 2018. The bill would also prohibit the state board, on or after January 1, 2024, from approving a new water right permit that would result in new or increased diversions to surface water storage from the Sacramento River/San Joaquin River watershed until and unless the state board has taken those actions. This latter condition would effectively place a moratorium on the State Board acting on water rights for certain projects, including potentially on the Sites Reservoir Project.

The Sites project team has been working cooperatively with interested association groups, and business and labor organizations to secure greater certainty that the Sites water right will not be held up unnecessarily due to delays in the Bay Delta Plan Update. The best-case scenario is that the Sites water right permit be issued prior to 2023 deadline. The most likely scenario is that the Bay Delta Plan Update gets extended while completing the Sites water right rolls over into early 2024. This scenario effectively delays the Sites project until the Bay Delta Plan update reaches completion which is highly uncertain given the complexity and numerous steps and public process that has to be implemented to achieve completion.

Thus far, the bill's author has not accepted amendments that would allow the Sites water right to proceed should the Bay Delta Plan Update remain unfinished at the conclusion of 2023. The bill is not dictating that a water right not be

issued for Sites, just that it may get stalled for whatever time it takes to complete the Bay Delta Plan update.

This connection between Sites and the Bay Delta plan Update is unnecessary on a technical level. The author has been informed that the Sites water right application proposes inclusion of special term 96 which recognizes the State Board's reserved jurisdiction to amend the Sites water right to implement an updated Bay Delta Plan. Having special term 96 in the Sites water right creates the technical linkage with the Bay Delta Plan Update.

The bill is currently in the Assembly review process having recently gotten out of the Committee on Water Parks and Wildlife and Committee on Environmental, Safety and Toxic Materials. The Appropriations Committee recently placed the bill in suspense. If the bill gets out of Assembly it would move into the Senate where it would be considered under rules by two committees plus appropriations and then would be voted on by the entire Senate. This process would need to be completed by Sept 10, otherwise the bill would terminate as this is the second year of Legislature.

The Sites project team will continue to monitor the activity on this bill and will work with the Legislative and Outreach Committee should a Sites Authority position be needed. A listing of entities supporting and opposing this bill follows at the end of this report.

Prior Action:

None.

Fiscal Impact/Funding Source:

If AB2639 were to become law and the completion of the Bay Delta Plan Update and the Sites water right permit were delayed past December 31, 2023, the project schedule could be impacted.

Staff Contact:

Jerry Brown

REGISTERED SUPPORT / OPPOSITION:

Support

American Rivers
American Whitewater
California Outdoors
California Sportfishing Protection Alliance
California Water Impact Network
California Water Research
Center for Biological Diversity
Coast Action Group Community Water Center
Defenders of Wildlife
Early Childhood Matters
Environmental Justice Coalition for Water
Environmental Water Caucus
Foothill Conservancy
Friends of The River
Golden State Salmon Association
Natural Resources Defense Council
Nontoxic Neighborhoods
O.A.R.S.
Pacific Coast Federation of Fishermen's Associations
Planning and Conservation League
Protect American River Canyons
Restore the Delta
Save California Salmon
Save the American River Association
Sierra Club California
South Yuba River Citizens League
Southern California Watershed Alliance
Tuolumne River Trust
Water Climate Trust
Winnemem Wintu Tribe

Opposition

Amador Water Agency
American Council of Engineering Companies of California
Anderson-Cottonwood Irrigation District
Association of California Water Agencies (ACWA)
Bella Vista Water District
California Chamber of Commerce
California Farm Bureau
California Municipal Utilities Association (CMUA)
Calleguas Municipal Water District
Coachella Valley Water District

Coastside County Water District
Cucamonga Valley Water District
El Dorado Irrigation District
Elsinore Valley Municipal Water District
Foothill Municipal Water District
Fresno Irrigation District
Glenn-Colusa Irrigation District
Kinneloa Irrigation District
Lake Arrowhead Community Services District L
as Virgenes Municipal Water District
Mercy Springs Water District
Modesto Irrigation District
Mojave Water Agency
Northern California Water Association
Oakdale Irrigation District
Panoche Water District
Regional Water Authority
Rowland Water District
San Gabriel Valley Municipal Water District
Three Valleys Municipal Water District Turlock Irrigation District
Upper San Gabriel Valley Municipal Water District
Valley Center Municipal Water District
Western Canal Water District
Western Growers Association
Western Municipal Water District