



May 09, 2022 Submitted/May 16, 2022 Signatories Updated

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

**Re: AB 2639 (Quirk): Proposed Bay-Delta Plan Deadlines/Hold on New Water Rights**

**Position: Oppose Unless Amended - April 19, 2022 Version**

Dear Chair Holden:

The undersigned organizations oppose AB 2639 unless it is amended as suggested in the attachment to this letter. This bill would require the State Water Resources Control Board (State Water Board or Board) to:

- 1) Adopt a final update of the San Francisco Bay/Sacramento–San Joaquin Delta Estuary Water Quality Control Plan (Bay-Delta Plan or Plan) by December 31, 2023; and
- 2) Implement the final San Joaquin River/Southern Delta update of the Bay-Delta Plan, through regulation or other appropriate implementation methods, by December 31, 2023.

**The bill would also, on or after January 1, 2024, prohibit the State Water Board from approving any new water right permit that would result in new or increased diversions to surface water storage from the Sacramento River/San Joaquin River until and unless the Board has taken the actions summarized in 1) and 2).**

Our organizations appreciate the importance of both the Bay-Delta Plan and the protection of beneficial uses in the Bay-Delta. However, AB 2639 is highly problematic because:

- 1) The proposed deadlines would be unworkable and counter-productive; and**
- 2) The proposed hold on new water right permits as summarized above would have profound negative impacts on water management and work against California becoming climate resilient.** If local water management projects were delayed by the proposed pause on new water right permits, what **new costs** would the State incur for ensuring reliable drinking water supplies?

Following are explanations of these concerns and suggestions for amendments.

**1. While completion of the Plan update is important, the proposed December 31, 2023 deadline for adoption of the final Bay-Delta Plan update is not workable.**

The effect of subdivision (a) of proposed California Water Code Section 13170.6 would be to set a December 31, 2023 deadline for the State Water Board’s adoption of the Sacramento River, Delta, and Tributaries update to the Bay-Delta Plan (Sacramento/Delta Update). While our organizations appreciate the need for the process to come to a conclusion, **rushing things at the end can work against engagement with the public in important public processes.** Some of the process steps that the State Water Board will need to be complete include: a) development of the Scientific Basis Report for any submitted voluntary agreement; b) public review and comment on that report; c) compliance with the California Environmental Quality Act; d) development of the Draft Staff report; e) public review and comment on the Draft Staff report; f) preparation of the response to comments; g) development of the proposed final changes; h) Board workshops; and i) Board consideration of adoption.

Instead of this legislation resulting in the short-cutting of key public processes, our organizations suggest that the proposed deadline be changed to a narrative deadline of “as soon as practicable,” and that the bill require the State Water Board to submit a report to the Legislature by December 31, 2023 that details the progress on completion of the final update.

**2. The proposed December 31, 2023 deadline in subdivision (b) for implementation of the final San Joaquin River/Southern Delta update of the Bay-Delta Plan is not workable and would be counter-productive.**

First, proposed subdivision (b) **ignores that there are multiple lawsuits pending** relative to the final San Joaquin River/Southern Delta update.

Second, the **proposed deadline could have the effect of negatively refocusing the State Water Board's implementation efforts and weakening due process** in this complex area. As proposed, subdivision (b) could have the unintended effect of redirecting State Water Board resources away from completing ongoing negotiations with interested Lower San Joaquin River tributaries. Through these negotiations, these water agencies continue to seek a more collaborative, alternative solution that would achieve the environmental goals of the 2018 San Joaquin River/Southern Delta update to the Bay-Delta Plan while simultaneously addressing the serious water supply impacts and legal concerns Association of California Water Agencies (ACWA) members have raised regarding the 2018 Bay-Delta Plan update.

Given that multiple lawsuits are pending relative to the San Joaquin River/Southern Delta Plan update, and that multiple public water agencies are currently seeking a more collaborative solution to address the concerns raised in these lawsuits, our organizations suggest that subdivision (b) instead propose that the State Water Board be required, by December 31, 2023, to release for public review any draft environmental review it has prepared in compliance with the California Environmental Quality Act to evaluate any agreement submitted to the Board as an alternative means to achieve the goals of this Plan update, or any subsequent amendments to that update.

**3. The proposed prohibition on any new water right permits resulting in new or increased diversions to surface water storage from the Sacramento River/San Joaquin River Watershed until the State Water Board's two actions are completed would have profound negative impacts on water management and should be deleted.**

On and after January 1, 2024, the bill's specified prohibition on water rights actions would be in effect unless and until the State Water Board has accomplished the two proposed actions related to the Delta-Plan. This water rights moratorium proposal and the two deadlines come from a report that the Planning and Conservation League (PCL) distributed in February. In the opening to this report, PCL notes that the "recommendations can and should be carefully scrutinized." The authors of the report did not include an analysis of what impact the proposed water rights moratorium would have on water management in California. It would have profound negative impacts on water management.

Water agencies proactively evaluate the needs of their service areas for decades to come, and, as a result, many ACWA members have water right applications currently pending before the

State Water Board. Other applications are under development. Obtaining these rights is necessary to meet future demands from a growing population, respond to climate change, diversify water supplies, and more. **Artificially tying these applications to the Bay-Delta Plan process endangers this forward-thinking approach and the ability of agencies to provide water for their customers and the environment.**

**Example – AB 2639’s Proposed Water Rights Moratorium  
Could Delay Sites Reservoir – A Proposition 1 Storage Project**

One example of a project that the proposed water rights moratorium could affect is Sites Reservoir (Sites). Sites is in part being funded with Proposition 1 storage dollars that California voters approved in 2014. Delaying this project would delay the availability of critically needed water supplies (water collected in wet years to help with water supplies in dry years). Delaying this project would work against improving California’s climate resilience.

**Example – AB 2639’s Proposed Water Rights Moratorium  
Would Limit Use of Surface Water to Offset Groundwater Demand Reductions under SGMA**

Another type of project that would be negatively impacted by the proposed water rights moratorium is the use of surface water to offset demand reduction in Sustainable Groundwater Management Act (SGMA) implementation in critically overdrafted groundwater basins. Delays on these types of projects due to the proposed subdivision (c) water rights moratorium **would force negative water supply impacts on communities in the San Joaquin Valley, including disadvantaged communities.** If local water management projects are delayed, what costs will the State incur for ensuring reliable drinking water supplies?

**It is counter-productive to use a temporary water rights moratorium for water managers as a hammer to drive the State Water Board’s completion and implementation of the Bay-Delta Plan. Water management in California is already challenging. Proposed subdivision (c) regarding water rights should be deleted.**

**4. Suggested Amendments**

The undersigned organizations will remove their opposition to AB 2639 if the Author makes the amendments developed by ACWA and shown in the attachment to this letter.

The undersigned organizations respectfully oppose AB 2639, unless amended as shown in the attachment, and request that the Assembly Committee on Appropriations hold the bill. If you have any questions, please contact ACWA Deputy Executive Director for Government Relations Cindy Tuck at [CindyT@acwa.com](mailto:CindyT@acwa.com) or (916) 669-2388.

Sincerely,

[See signatories on next 2 pages]

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Attachment – ACWA's Suggested AB 2639 Amendments

cc: The Honorable Bill Quirk  
Honorable Members, Assembly Committee on Appropriations  
Ms. Nikita Koraddi, Principal Consultant, State Assembly Appropriations Committee  
Mr. Gregory Melkonian, Consultant, Assembly Republican Caucus



## Attachment

### ACWA's Suggested Amendments to AB 2639 (Quirk)

[Additions shown with underscore and  
deletions shown with strikeout.]

#### Proposed New Water Code Section 13170.6

SECTION 1. Section 13170.6 is added to the Water Code, to read:

13170.6. (a) (1) The board shall, ~~on or before December 31, 2023~~ as soon as practicable, adopt a final update of the 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary adopted by the board in Resolution No. 95-24 on May 22, 1995, as amended by the 2006 amendment adopted by the board in Resolution No. 2006-0098 on December 13, 2006.

(2) The board shall, on or before December 31, 2023, provide a report to the Legislature detailing progress on completion of the final update.

(b) The board shall, on or before December 31, 2023, ~~through regulation or other appropriate implementation methods, implement~~ release for public review any draft environmental review it has prepared in compliance with the California Environmental Quality Act to evaluate any agreement submitted to the board as an alternative means to achieve the goals of the amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary adopted by the board pursuant to Resolution No. 2018-0059 on December 12, 2018, or any subsequent amendment to that resolution.

~~(c) On or after January 1, 2024, the board shall not approve 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 board has taken the actions described in subdivisions (a) and (b).~~

April 19, 2022 – Based on April 19 Version of AB 2639.