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March 21, 2023

The Honorable Buffy Wicks  
California State Assembly  
1021 O St, Suite 4240  
Sacramento, CA 95814

**RE: AB 1337 - State Water Resources Control Board: water shortage enforcement –  
OPPOSE**

Dear Assemblymember Wicks,

On behalf of the Modesto Irrigation District (MID), we write in respectful opposition to AB 1337 (Wicks). This bill would expand the State Water Resources Control Board's (State Water Board) authority to, among other things, curtail water diversions based on any water right, and to issue regulations purporting to protect the public trust. The bill would also authorize the State Water Board to impose civil liability penalties up to \$1,000 per day or up to \$2,500 per acre-foot of water diverted or used in violation of adopted regulations.

MID agrees that fines for illegal diversions should be raised to levels that are commensurate with the magnitude of the violation. However, we cannot support the unprecedented and unjustified expansion of State Water Board authority to issue regulations enabling the curtailment of any water right, and to avoid due process protections where "impracticable." Curtailment is an extraordinary remedy that is currently limited to emergency circumstances, and applicable only to post-1914 water rights. MID does not agree that such extraordinary powers should be expanded to ordinary times, that State Water Board jurisdiction should be expanded to include pre-1914 and riparian rights, or that due process rights should only be applicable if practicable. Water rights are property rights and cannot be taken or diminished without due process.

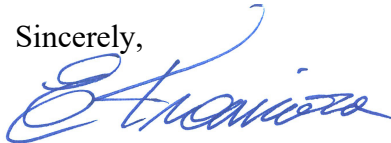
The existing water right priority system already establishes the relative rights and responsibilities of all water right holders in times of shortage, including the right to seek redress at the State Water Board or court if a violation of priority occurs. The water right priority system is easy to understand, well-known, and reliable. There is no need for the State Water Board to have the authority to issue curtailments to enforce water right priority as a general matter, nor to have expansive and unprecedented authority over riparian and pre-1914 rights. The State Water Board, working with water right holders within the existing priority system, has all of the authority it needs to enforce priority.

Beginning in 1893, MID has provided surface water from the Tuolumne River to one of the most productive regions of the Central Valley in accordance with several pre-1914 and post-1914 water rights. Currently, we provide irrigation water to more than 3,000 accounts within a 160 square-mile irrigation service area that encompasses approximately 60,000 acres of farmland. Since 1994, MID has delivered approximately 844,000 acre-feet of high-quality treated surface water to the City of Modesto whereby significantly reducing the City's once sole reliance on groundwater from the Modesto Sub-basin.

If enacted, SB 1337 would bring unprecedented uncertainty to water right holders and water service providers in California. The State Water Board's issuance of a regulation purporting to enforce water right priority against riparian and pre-1914 water right holders, without clear due process protections and the opportunity to provide evidence and in the absence of extraordinary circumstances, is unacceptable. The costs to defend against over-burdensome regulations and enforcement would be extraordinary, particularly when added to the proposed fines and penalties.

For these reasons, the Modesto Irrigation District must oppose AB 1337. Should you have any questions regarding these comments, please contact District staff: Dana Ferreira, Regulatory Analyst at [dana.ferreira@mid.org](mailto:dana.ferreira@mid.org).

Sincerely,



Ed Franciosa, P.E.  
General Manager

CC: Chair & Members, Assembly Water, Parks & Wildlife Committee  
Chair & Members, Assembly Judiciary Committee  
The Gualco Group, Inc.