



# Santa Clara Valley Water District

File No.: 24-0026

Agenda Date: 6/25/2024

Item No.: \*4.4.

## BOARD AGENDA MEMORANDUM

Government Code § 84308 Applies: Yes  No   
(If "YES" Complete Attachment A - Gov. Code § 84308)

### SUBJECT:

Approve Recommended Positions on State Legislation: AB 460 (Bauer-Kahan) Civil Penalties for Water Rights Violations, AB 1785 (Pacheco) California Public Records Act, and Other Legislation Which May Require Urgent Consideration for a Position by the Board.

### RECOMMENDATION:

- A. Adopt a position of "Support" on: AB 460 (Bauer-Kahan) Civil Penalties for Water Rights Violations; and
- B. Adopt a position of "Support" on: AB 1785 (Pacheco) California Public Records Act.

### SUMMARY:

**AB 460 (Bauer-Kahan) Civil Penalties for Water Rights Violations (Amended-06/10/24)**

**Position Recommendation: Support**

**Priority Recommendation: 3**

AB 460 would increase the penalties for violations of cease-and-desist orders and curtailment orders issued by the State Water Resources Control Board (State Water Board). The State Water Board allocates water rights, adjudicates water right disputes, develops statewide water protection plans, establishes water quality standards, and manages the nine Regional Water Quality Control Boards. Existing law authorizes the executive director of the State Water Board to issue a complaint to any person that diverts water in violation of a water right, does not comply with a cease-and-desist order, or makes a willful misstatement on certain water diversion and use statements required by the State Water Board.

In August 2021, the State Water Board adopted emergency regulations and shortly thereafter issued curtailment orders to establish minimum instream flows to protect Chinook salmon, coho salmon, and steelhead trout in the Scott and Shasta River watersheds. The Shasta River Water Association (SRWA), a water diverter with senior water rights, diverted water in violation of a curtailment order and press reports indicate the river's flow dropped by more than half during the diversion. The State Water Board issued a notice and draft cease-and-desist order giving SRWA 20 days to request a hearing. Eight days after the notice was issued, SRWA ceased its illegal diversion and no hearing

occurred. The State Water Board imposed the maximum penalty of \$4,000 (\$500 per day for eight days). It appears that SRWA viewed paying the maximum allowable fine was simply a cost of doing business.

Beginning January 1, 2025, AB 460 would require the State Water Board to annually adjust for inflation any civil and administrative liabilities or penalties related to water rights administration imposed by the State Water Board. The bill also would increase the penalties for violation of a cease-and-desist order (from \$1,000 to \$2,500 per day) and increase the penalties for violation of a permit term, license, certification, registration, order, regulation, or reporting requirement (from a maximum of \$500 to \$1,000 per day). Additionally, in the case of a diversion of water contrary to a curtailment order, the State Water Board would be authorized to issue a penalty for an additional \$10,000 for each day the violation occurs, and \$2,500 for each acre-foot of water diverted in violation of the curtailment order.

*Importance to Santa Clara Valley Water District (Valley Water)*

Valley Water is supplied imported water by the State Water Project and the federal Central Valley Project, and both systems are downstream diverters of water. Together the state and federal water projects supply about 40 percent of the water used in Santa Clara County. If upstream diverters, typically those with senior water rights, divert water during drought in violation of curtailment orders, it is possible that water supplies for critical human health and safety would not be available when needed. The people of Santa Clara County depend on the enforcement of California's water rights system by the State Water Board to ensure the availability of water through the state and federal water projects. AB 460, by increasing penalties for violation of water rights law and regulation, helps protect downstream diverters and the people who depend on them as well as the environment.

Staff recommends a position of "Support" on AB 460.

*Pros*

- Ensures compliance with water rights law and regulation.
- Protects the people who depend on downstream diversions, especially during drought or periods of water shortage.

*Cons*

- Valley Water also must comply with water rights law and regulation, and in the event of a violation, Valley Water would be subject to increased penalties.

**AB 1785 (Pacheco) California Public Records Act (Amended-05/29/24)**

**Position Recommendation: Support**

**Priority Recommendation:2**

The California Public Records Act (PRA) prohibits a state or local agency from posting the home address or telephone number of any elected or appointed official on the internet without first

obtaining the written permission of that individual.

AB 1785 would expand these provisions by prohibiting a state or local agency from publicly posting online the name and assessor parcel number associated with the home address of any elected or appointed official without written permission of that individual. The bill also defines “publicly post” as to intentionally communicate or make available the information on the internet in an unrestricted and publicly available manner.

### *Importance to Valley Water*

While the PRA prohibits a local agency from publicly posting the home address of an elected or appointed official, it is relatively simple to obtain a property owner’s address through publicly available assessor parcel numbers on a county recorder’s website. As threats of violence against elected and appointed officials increase, this bill aims to protect the safety of elected and appointed officials by maintaining the privacy of their home address.

Currently, only Santa Clara and Los Angeles Counties do not post elected or appointed officials’ assessor parcel number information on county recorder or assessor websites. AB 1785 would ensure that all county agencies or departments do not post an elected or appointed official’s name and home assessor parcel number information, thereby closing a loophole that allows individuals to use assessor parcel numbers to obtain an official’s home address.

Staff recommends a position of “Support” on AB 1785.

### *Pros*

- Further ensures that elected or appointed officials’ home addresses are kept private unless consent is given.
- Protects the safety of elected and appointed officials and their families.

### *Cons*

- None identified.

### **ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:**

There are no Environmental Justice impacts associated with this item. The Board’s position does not enact the legislation discussed above. If the enactment of state legislation necessitates an action by the Board, any associated Environmental Justice impacts will be assessed when the Board considers the action.

### **FINANCIAL IMPACT:**

There is no financial impact associated with this item.

**CEQA:**

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

None.

**UNCLASSIFIED MANAGER:**

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