



June 6, 2022

Dan York, Chair  
Tony Firenzi, Vice  
Chair

The Honorable Steve Bennet  
1021 O Street, Suite  
Sacramento, CA 94249-0012

**RE: AB 2201 (Bennet) – Groundwater sustainability agency: groundwater extraction permit: verification**

**Members**

- California American Water
- Carmichael Water District
- Citrus Heights Water District
- Del Paso Manor Water District
- El Dorado Irrigation District
- Elk Grove Water District
- Fair Oaks Water District
- Folsom, City of
- Golden State Water Company
- Lincoln, City of
- Nevada Irrigation District
- Orange Vale Water Company
- Placer County Water Agency
- Rancho Murieta Community Services District
- Roseville, City of
- Sacramento, City of
- Sacramento County Water Agency
- Sacramento Suburban Water District
- San Juan Water District
- West Sacramento, City of
- Yuba City, City of

**Associates**

- County of Placer
- El Dorado County Water Agency
- Sacramento Area Flood Control Agency
- Sacramento Municipal Utility District
- Sacramento Regional County Sanitation District
- Yuba Water Agency

**Position: Oppose Unless Amended**

Dear Assemblymember Bennet,

On behalf of the Regional Water Authority (“RWA”), I am respectfully writing to express RWA’s oppose unless amended on AB 2201, as amended April 27, 2022, a measure related to new well permitting.

RWA is a joint powers agency representing 21 public water suppliers in Sacramento, Placer, El Dorado, Yolo, Nevada, Yuba, and Sutter counties. Collectively, RWA members manage water that comprises nearly 20 percent of the water that flows into the Delta, which provides some or all the water to 30 million Californians and 6 million acres of agricultural land. RWA’s mission is to “serve, represent and align the interests of regional water providers and stakeholders for the purpose of improving water supply reliability, availability, quality and affordability.” Central to achieving our mission is adapting to climate change, with further enhancing the ability to move water into and out of the region’s sustainably managed groundwater basins being key to that. Enhanced management will allow the region to adapt a system that was built on spring and summer snow melt to a future with a substantially reduced snowpack.

Unfortunately, as currently drafted AB 2201 would create costly and technically difficult to implement new responsibilities for California’s groundwater sustainability agencies (GSA’s). These new responsibilities would open questions about legal liabilities and the application of the California Environmental Quality Act (CEQA) to GSA’s. The bulk of these challenges arise from the analysis required of a GSA in Section 1 (c) 3 of the bill which requires a GSA to provide a written verification that a proposed new well “is not likely to interfere with the production and functioning of existing nearby wells and is not likely to cause subsidence that would adversely impact or damage nearby infrastructure.”

Governor Newsom’s March 28, 2022 executive order (N-7-22) contains a provision similar to Section 1 (c) 3, but places the responsibility of that provision on the permitting agency. Several permitting agencies have addressed this issue by requiring well applicants to provide a report from a qualified licensed professional. We believe that this approach is appropriate, meets the intent of AB 2201, but places the responsibility on the well applicant, this avoids the cost and legal ramifications that Section 1 (c) 3 currently present.

Letter to the Honorable Steve Bennet  
Re: AB 2201 – Groundwater sustainability agency:  
Groundwater extraction permit: verification  
June 3, 2022  
Page two of two

Additionally, RWA has concerns with public comments on a well application being taken by a GSA. Under existing law, the GSA does not have authority to approve a new well permit and even with the changes proposed in AB 2201 would not have the final decision on a new well permit. These facts make would make it appropriate for public comments to be taken by the permitting agency and not the GSA.

Notwithstanding the challenges outlined above RWA recognizes that there is a shortfall in existing law in terms of required communication between the well permitting agency and GSA's on new wells. We support the approach to enhance this communication that the bill lays out in Section 1 (c) 1 and 2.

As currently drafted AB 2201 would create more challenges than it would solve for sustainable management of groundwater. RWA is committed to working through these issues and we offer the attached amendments that we believe meet the spirit of what the bill is focused on and would address our most significant concerns. Should you be willing to take these amendments, RWA would likely move to a supportive position on the bill. If you or your staff have any questions, please contact Ryan Ojakian of RWA's staff at (916) 967-7692 or [rojakian@rwah2o.org](mailto:rojakian@rwah2o.org).

Sincerely,



Jim Peifer  
Executive Director

## SECTION 1.

Section 10725.7 is added to the Water Code, to read:

### 10725.7.

(a) For purposes of this section, the following terms have the following meanings:

(1) "Local agency" means any city, county, district, agency, or other entity with the authority to issue a permit for a new groundwater well or for an alteration to an existing well.

(2) "Public water system" has the same meaning as defined in Section 116275 of the Health and Safety Code.

(3) "Well" has the same meaning as defined in Section 13710.

(b) Notwithstanding Sections 10726.4 and 10726.8, a local agency shall not approve a permit for a new groundwater well or for an alteration to an existing well in a basin subject to this part and classified as medium- or high-priority until the following have occurred:

(1) ~~it the local agency has obtains~~obtained a the written verification described in subdivision (c) from the groundwater sustainability agency that manages the basin or area of the basin where the well is proposed to be located. ~~determining that the factors listed in paragraphs (1) to (3), inclusive, of subdivision (c) are present.~~

(2) the local agency has posted notification of the well permit application on its internet website to allow the public to comment on the well permit application for at least 30 days.

(c) The groundwater sustainability agency shall have a ministerial duty to ~~not provide the~~a written verification to the local agency ~~unless if it determines~~written information provided by the local agency, including any proposed well permit terms, demonstrates all of the following factors are present:

(1) The extraction by the proposed well ~~would conform to is consistent with~~ any sustainable groundwater management program established in any applicable groundwater sustainability plan adopted by that groundwater sustainability agency.

(2) The extraction by the proposed well would not ~~significantly decrease~~impair the likelihood of achieving a sustainability goal for the basin covered by a groundwater sustainability plan.

(3) The local agency has been provided a written report prepared by a licensed professional that ~~concludes~~ ~~the~~ extraction by the proposed well is not likely to interfere with the production and functioning of existing nearby wells and is not likely to cause subsidence that would adversely impact or damage nearby infrastructure. As used in this section, "licensed professional" means a professional engineer licensed pursuant to Business and Professions Code, Division 3, Chapter 7, Section 6700 et seq. and or a professional geologist licensed pursuant to Business and Professions Code, Division 3, Chapter 12.5, Section 7800 et seq.

(d) A groundwater sustainability agency may ~~impose charge~~ a fee ~~upon~~to a local agency in an amount that does not exceed the reasonable costs incurred by the groundwater sustainability agency in making the determinations required for the written verification, issuing the written verification, or both. A groundwater sustainability agency may require payment of the fee authorized by this subdivision before issuing the written verification described in subdivision (c).

~~(e) The groundwater sustainability agency shall post notification of the well permit application on its internet website to allow the public to comment on the well permit application for at least 30 days before issuing the determinations required by subdivisions (b) and (c).~~

(fe) This section does not apply when the local agency determines to that the a well that would provides less than two acre-feet of water annually for domestic use or a well used by where a public water supply system is the permit applicant.