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September 2, 2011

The Honorable Christine Kehoe
Chair, Senate Appropriations Committee
California State Senate
State Capitol, Room 5050
Sacramento, CA 95814

RE: AB 685 (Eng) – Oppose

Dear Senator Kehoe:

On behalf of the Mountain Counties Water Resources Association (MCWRA), we strongly oppose AB 685, which would declare that it is the policy of the state that every human being has the right to clean, affordable, and accessible water.

AB 685 is unnecessary and duplicative. California Water Code Section 106, established in 1913, already declares “that the use of water for domestic purposes” is the “highest use” of water. This basic western state water policy has been vetted through the courts for decades.

AB 685 would establish domestic water use as a “human right” with the added requirement that the water served be “affordable”. This would establish a new requirement to provide service regardless of affordability or payment of necessary water charges, thus shifting this cost to others. Article XIII D of the California Constitution (as amended by Proposition 218 in 1996), in combination with the California Water Code, does not allow water suppliers to discriminate within customer classes, and it requires that rates be related to the cost of service, thereby prohibiting suppliers from creating “affordable” rates at the expense of other ratepayers.

Additionally, the bill would require relevant state agencies, including the Department of Water Resources, State Water Resources Control Board, the Regional Water Control Boards, and the California Department of Public Health, to implement the “right to water” policy upon revising existing and/or upon adopting or establishing new policies, regulations, and grant criteria. AB 685 would place additional burdens on state agencies and departments that are already stretched thin because of budget cuts. At a time

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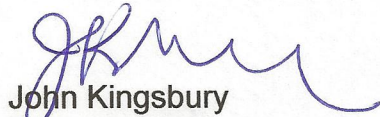
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when state budget revenues continue to fall short, creating a costly new requirement in state law is not sound fiscal policy.

California Water Code Section 106 is already a fundamental cornerstone of the water rights system in the state, and it would appear unnecessary to make any modification to further amplify the domestic preference policy. Moreover, creating a new "right to water" in California law could potentially upset decades of legal precedent and could cost the State of California untold amounts of money.

For these reasons, we urge your "NO" vote on AB 685.

Sincerely,



John Kingsbury
Executive Director
Mountain Counties Water Resources Association

c: Senator Elaine Alquist
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Senator Ted Lieu
Senator Fran Pavley
Senator Sharon Runner
Senator Curren Price
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