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August 21, 2012

The Honorable Tom Berryhill
California State Senate
State Capitol, Room 3076
Sacramento, CA 95814

The Honorable Ted Gaines
California State Senate
State Capitol, Room 3056
Sacramento, CA 95814

The Honorable Doug LaMalfa
California State Senate
State Capitol, Room 3070
Sacramento, CA 95814

Executive Members

- Amador Water Agency
- Calaveras County Water District
- County of Calaveras
- County of Placer
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- El Dorado Irrigation District
- Foresthill Public Utility District
- Georgetown Divide Public Utility District
- Nevada Irrigation District
- Placer County Water Agency
- South Tahoe Public Utility District
- Tuolumne Utilities District
- Twain Harte Utility District
- Utica Power Authority

RE: Assembly Bill 685 (Eng) - OPPOSE

Dear Senators:

I am writing on behalf of Mountain Counties Water Resources Association to express our strong opposition to AB 685 (Eng). The bill has the potential to upset decades of legal precedent while doing nothing to address the challenges of providing safe drinking water to disadvantaged communities.

AB 685 would declare that it is the policy of the state that every human being has the right to clean, affordable, and accessible water. While this is a noble policy goal, California Water Code Section 106 already declares that “the use of water for domestic purposes” is the “highest use” of water. This basic water policy has been vetted through the courts for decades. Codifying a new “human right to water” without considering existing legal authority will lead to conflicts that have not been adequately addressed by this legislation. For example, AB 685 would codify a new human right to water along with an additional requirement that the water served be “affordable.” By doing so, the bill could be read to prohibit a water agency from terminating the water service of a non-paying customer. This would create budgetary issues for water agencies at a time when local budgets are already stretched thin.

The bill is so ambiguous that it would invite endless litigation in order to define exactly what a “human right to water” entails. The Senate Appropriations Committee was sufficiently concerned with potential costs to request an amendment that would exempt the State from any legal liability. The Committee noted that the State might be liable for the cost of providing safe drinking water should the law be interpreted as creating an enforceable right. Recent amendments exempt the State from liability but leave local agencies exposed to costly litigation. Local agencies cannot afford the uncertainty that this legislation would create.

California Water Code Section 106 is already a fundamental cornerstone of the water rights system in this state. Creating a new “right to water” in California law could potentially upset decades of legal precedent and negatively affect the ability of water agencies to provide safe, clean and affordable water

to all their customers. For these reasons, we strongly urge a "NO" vote on AB 685 when it comes before you for consideration on the Senate Floor.

Sincerely,

A handwritten signature in blue ink, appearing to read "JKingsbury".

John Kingsbury
Executive Director
Mountain Counties Water Resources Association

c: The Honorable Mike Eng, Member, California State Assembly
MCWRA Board of Directors
Association of California Water Agencies