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## **SENATE COMMITTEE ON NATURAL RESOURCES AND WATER**

**Senator Henry Stern, Chair  
2021 - 2022 Regular**

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**Bill No:** SB 463

**Hearing Date:** April 15, 2021

**Author:** Dahle

**Version:** March 8, 2021

**Urgency:** No

**Fiscal:** No

**Consultant:** Dennis O'Connor

**Subject:** Water: landowner right to modify, repair, or replace jointly used conduits

### **BACKGROUND AND EXISTING LAW**

In many parts of the state, water is supplied via jointly owned ditches, flumes, and other conduits originally built during the gold rush era.

Under current law, when two or more persons agree to joint use of a conduit, well, or pumping plant (conduit), which their grantors have contributed to the construction, to obtain, move, or dispose of water, or for any other lawful purpose, each is liable to the others for the reasonable expenses of maintaining and repairing the same in proportion to their actual use, in the absence of any agreement to the contrary.

### **PROPOSED LAW**

This bill would:

- Authorize a landowner, where a conduit is constructed across or buried beneath the lands of 2 or more landowners, to modify, repair, or replace the conduit on or beneath their land if the modification, repair, or replacement is made in a manner that does not impede the flow of the water to any other property receiving a benefit of the conduit or, otherwise injure any person using or interested in the conduit.
- Authorize a landowner, where a conduit is constructed across or buried beneath the lands of 2 or more landowners, to modify, repair, or replace the conduit on or beneath any other landowner's land, if the landowner making the change receives written permission from every landowner on whose land the conduit will be changed and the modification, repair, or replacement is made in a manner that does not impede the flow of the water to any other property receiving a benefit of the conduit or otherwise injure any person using or interested in the conduit.
- Require any increased operation, maintenance, or expenses involved in the modification, repair, or replacement of the conduit to be the responsibility of the landowner who makes the change.

### **ARGUMENTS IN SUPPORT**

According to the author, "SB 463 would reduce water waste and contamination through earthen ditches over an easement by allowing them to be modified with an impervious material. In many cases across California, water loss to agriculture and residential

property is a result of a poor delivery system. Piping can help to solve these issues for the consumer and can often reduce water waste by up to 50%. In order to achieve the State's ambitious green policy goals and ease the burden of ratepayers, the Legislature needs to update outdated case law to meet the standards of the 21st century. Recent drought and demands on our water system have shown that the State desperately needs water conservation solutions. This is a common sense measure to allow the possessors of water rights to improve accessibility and easily resolve easement issues between landowners."

**ARGUMENTS IN OPPOSITION:** None received

**COMMENTS**

There is some question as to whether a landowner making improvements to a jointly used water conduit on another's lands might somehow affect any easements associated with that water conduit, even if the owner of the land in question agrees to allow the improvements and the improvements do not cause any harm any to anyone with an interest in the conduit. This bill is intended to resolve that question.

**SUGGESTED AMENDMENTS:** None

**SUPPORT:** None Received

**OPPOSITION:** None Received

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