

ASSEMBLY THIRD READING

AB 2215 (Calderon)

As Amended April 16, 2026

Majority vote

SUMMARY

Extends the time periods to put water appropriated under six water right permits held by the Department of Water Resources (DWR) for the State Water Project (SWP) to beneficial use until December 31, 2046.

Major Provisions

- 1) Extends the time periods under water right permits number 16477, 16478, 16479, 16480, 16481, and 16482 (held by DWR for SWP) to put water to beneficial use until December 31, 2046.
- 2) Clarifies that this bill shall not be construed as an approval for any proposed modification of the physical facilities of SWP, including the Delta Conveyance Project.
- 3) States legislative findings regarding the importance of SWP and the need for DWR to modernize the SWP and states legislative intent that this bill not set a precedent for other water rights.

COMMENTS

Acquisition of a post-1914 appropriative water right consists of two main phases: (1) permitting and (2) licensing. Permitting is the process of filing an application to request that the State Water Resources Control Board (State Water Board) authorize the development of a water diversion project. A permit provides the legal authorization to develop the project and divert water in accordance with conditions and within a time schedule. Licensing is the process of reviewing a permitted project that is complete to confirm the amount of water put to beneficial use and that the permit conditions were met. A license is the final confirmation of the water right and remains effective as long as the license conditions are met and beneficial use continues. The issuance of a license is colloquially referred to as "perfecting" a water right.

Conditions in a permit may include deadlines for the construction and completion of diversion works (e.g., conveyance) because infrastructure must be built in order for the permittee to put water under the permit to beneficial use. The State Water Board may revoke some or all of the right to use the water subject to a permit during the permit development period if the permittee has not put water under the permit to beneficial use. In cases where the deadlines in a permit have passed, referred to as an "expired permit," the permit can still be used as an authorization to divert water. However, only the amounts, including storage amounts, diversion rates, and amounts put to beneficial use, prior to the permit deadlines can be diverted and used under the expired permit. Use of a permit cannot be expanded after the permit deadlines, and any expanded use will not be included as part of the licensing process.

To avoid loss of the use of all or a portion of the water appropriated under a permit, a permittee may request that the State Water Board extend the time periods under a permit; however, the permittee must demonstrate that they have pursued putting water under the permit to beneficial

use with due diligence. A party requesting a time extension may be required to complete an Environmental Impact Report (EIR) under the California Environmental Quality Act (CEQA) to assess the environmental impacts of a project, and alternatives, necessary to put unused water under a permit to beneficial use.

DWR is also responsible for managing SWP, "a multi-purpose water storage and delivery system that extends more than 705 miles" and encompasses a collection of canals, pipelines, reservoirs, and hydroelectric power facilities that delivers clean water to 27 million Californians, 750,000 acres of farmland, and businesses throughout California. SWP collects surface water from the northern part of the state in its largest reservoir, Lake Oroville, and transports that water south through rivers, the Sacramento-San Joaquin Delta, and the California Aqueduct to 29 cities, counties, and water districts that have contracts with SWP. DWR delivers a percentage of water to its contractors depending on hydrologic conditions and forecasted runoff. There are currently 29 contractors with SWP [i.e., the State Water Contractors (SWC)].

This bill applies to six water right permits held by DWR for the SWP. Permits 16477 and 16480 are primarily for power generation at the Oroville/Thermalito Complex (non-consumptive uses) and the others (16478, 16479, 16481, and 16482) are primarily for water supply purposes that authorize DWR to divert and redivert water in the Feather River and Delta channels. Regarding allowable water diversion under the six permits affected by this bill, DWR states (in the 2009 petition for extension of time):

DWR can divert and redivert up to 10,350 cubic feet per second (cfs) at the Banks Pumping Plant for direct use and storage from January 1 to December 31 of each year. DWR can also divert up to 3,880,000 acre-feet per year (AFY) of water to storage in Lake Oroville between September 1 and July 31 and up to an additional 1,186,100 AFY to storage in San Luis Reservoir and the other southern California reservoirs January 1 through December 31 for multiple uses in the SWP service area. DWR's ability to divert and store water at the maximum rates authorized in the permits is dependent on annual hydrologic conditions, in-basin demands, instream requirements, water quality objectives, and operational and regulatory restrictions.

Permits 16478, 16479, 16481, and 16482 all contain term 0000114 that stipulates "the total quantity of water to be appropriated by storage from the Feather River under ... [permits 16477, 16478, 16479, and 16480] shall not exceed 3,880,000 [AF] per annum."

In 2009, DWR filed six petitions requesting a five-year extension for the six permits affected by this bill because the project associated with the permits was not yet complete. In its petition for extension of permits 16478, 16479, 16481, and 16482, DWR offers the following rationale for the extension: "the initial conservation and transportation facilities were essentially completed in 1973, however, other facilities have been constructed, are under construction, or are planned to accommodate existing and anticipated demand for SWP water and to minimize impacts of SWP operations." Additionally, DWR indicated that SWP is a large and complex system "and as such it is difficult to separate water diverted under the provisions of specific individual permits." Finally, DWR stated it could not determine when construction would be complete nor when all water under the permits would be put to beneficial use, though it did state "it is clear, however, that demand exists for the additional SWP water supply and is expected to grow as demand continues to increase in the SWP contractors' service area."

The 2009 petitions note that maximum annual diversion to storage from the Feather River at Lake Oroville was 2,488,607 AF during the 1977-78 water year (compared to a maximum permitted diversion of 3,880,000 AF). Likewise, in the petition to extend permits 16477 and 16480, DWR indicates "the maximum rate of direct diversion at the Oroville/Thermalito Complex for power generation was 17,888 cfs on March 25, 1995, plant capacity." DWR acknowledges in both petitions that additional time extensions would likely be needed in the future: "DWR may need to petition for further extensions of said permits." DWR and the State Water Board disagreed on whether an EIR was required for the 2009 petitions. DWR noted that issuance of the permits pre-dated CEQA and that DWR was not required to complete an EIR for its petitions for extension of time in 1991. As a result, DWR never prepared an EIR for the 2009 petitions and due to other priorities and workload, the State Water Board never approved or denied the 2009 petitions. DWR withdrew the 2009 petitions in August 2024 and subsequently submitted a new, single petition for time extension for all six permits in January 2025.

DWR filed a new, single petition with the State Water Board for a time extension on permits 16477, 16478, 16479, 16480, 16481, and 16482 on January 1, 21, 2025. The 2025 petition updates the 2009 petitions and requests a 76-year time extension from 2009 to 2085, similar to the time extension in this bill. DWR indicates that due to updated methodology, the maximum diversion to storage in Lake Oroville to date is 2.6 million acre-feet (MAF) in 1977-78 and the maximum diversion and re-diversion from the Jones pumping plant in the southern Delta to date is 4.043 MAF in 2005. DWR issued a notice of preparation of an EIR and scoping meeting for the petition to comply with CEQA on September 30, 2025. The EIR is intended to be used by the State Water Board in issuing a decision on the petition.

In February 2024 DWR submitted a petition for change to the State Water Board on four of the six permits addressed by this bill: permits 16478, 16479, 16481, and 16482. The change petition is separate from the petition for time extension and seeks to add two new points of diversion and re-diversion with a combined maximum rate of 6,000 cubic feet per second in the North Delta to implement the proposed Delta Conveyance Project. The petition was transferred to the Administrative Hearings Office of the State Water Board in June 2024 and the hearing is currently underway. Protestants to the change petition have raised the issue of the expired SWP permits addressed by this bill in the hearing on the petition for change in point of diversion.

According to the Author

The author argues this bill is necessary to avoid uncertainty and allow more time for DWR to complete infrastructure for SWP that will allow DWR to perfect its water right permits:

"[DWR] is responsible for operating and maintaining the SWP, and has been diligently working under a permit allowing DWR to enhance their capacity to appropriate water from the SWP – often referred as 'perfecting' a water right. Projecting the need for more time, DWR began proactively seeking an extension from the [State Water Board] to continue perfecting their water rights in 2009. Despite an updated request in 2025, DWR's requests have gone unprocessed. Without an extension, the State Water Board could limit DWR's water rights to current levels, which will not meet the growing demand for water and will hinder DWR's ability to address climate change."

Arguments in Support

State Water Contractors (SWC) is the sponsor of this bill and asserts that "SWP is the nation's largest state-owned water and power generator and user-financed water system, and it plays a

critical role in addressing climate change, helping California manage its water supply during extremes such as flood and drought." SWC argues that "DWR has been diligently pursuing the development of its existing SWP water rights. Over several decades, DWR has constructed 36 water storage facilities, 21 pumping plants, five hydroelectric power plants, four pumping-generating plants, and approximately 700 miles of canals, tunnels, and pipelines." Further, SWC contends "Without the full development of the SWP water rights, rates may increase for 27 million Californians, water supply reliability is less certain, and the SWP risks an investment that cannot be fully realized. Unfortunately, the full development of the SWP's water rights has been hindered by circumstances outside of DWR's control, making [this bill] necessary. Giving DWR more time to develop its already approved water rights addresses water availability and affordability for the vast majority of the state and is clearly in the public's interest."

Arguments in Opposition

The Delta Counties Coalition (Contra Costa, Sacramento, San Joaquin, Solano, and Yolo) opposes this bill arguing that it is unfair to other water right holders, interferes with the ongoing water rights hearings on the Delta Conveyance Project change petition, and will jeopardize the health of the Delta. The Delta Counties Coalition states: "This change would make SWP water rights subject to a completely different set of rules than any other water rights in the state. While others must show good cause to the State Water Board for their rights to be extended, [DWR] would be allowed to construct and expand its water rights decades after those time periods elapsed (in 2000 and 2009, respectively). This is unfair to other water users and moreover jeopardizes the health of the Bay Delta estuary." The Delta Counties Coalition notes that the EIR for the petition for time extension has not been completed and asserts "there is every reason for the largest water rights decision in modern history to follow the normal public permit extension process. To provide a special legislative carveout for the SWP and the Delta Tunnel would be unfair not only to those communities most impacted by this megaproject, but also to water rights holders and applicants throughout the state that continue to be obliged to follow normal procedures."

The Defenders of Wildlife (DOW) also oppose this bill arguing it "gives preferential treatment to [SWC], and would set a bad precedent for water right permits going forward. All water rights holders should be held to the same standard." Further DOW maintains, that despite language in this bill providing it does not authorize the controversial Delta Conveyance Project, this bill is connected to approval of the Delta Conveyance Project because "the extension is a necessary requirement for [DWR] and SWCs to pursue construction projects" like the Delta Conveyance Project."

FISCAL COMMENTS

According to the Assembly Appropriations Committee, this bill will have the following fiscal impact:

Minor and absorbable costs for DWR and the State Water Board. By statutorily validating and granting a time extension for DWR's permits for the SWP outside of the State Water Board's standard regulatory process for time extensions, this bill may result in indeterminate cost savings to both DWR and the State Water Board. In addition, DWR estimates this bill may result in savings to ratepayers of approximately \$11 million over a four-year period. Cost savings are associated with avoiding preparation of updated reports and modeling, response to parties in the

regulatory process, and representation before the State Water Board's administrative hearing officer. These costs are paid by SWC's ratepayers.

VOTES

ASM WATER, PARKS, AND WILDLIFE: 11-0-2

YES: Papan, Jeff Gonzalez, Alanis, Alvarez, Ávila Farías, Bains, Bennett, Boerner, Caloza, Hart, Muratsuchi

ABS, ABST OR NV: Gallagher, Rogers

ASM APPROPRIATIONS: 12-1-2

YES: Wicks, Arambula, Calderon, Caloza, Dixon, Fong, Mark González, Pacheco, Pellerin, Solache, Ta, Tangipa

NO: Hoover

ABS, ABST OR NV: Krell, Muratsuchi

UPDATED

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FN: 0002451