



"A Voice for Salmon"
365 Days a Year

May 31, 2023

The Honorable Toni Atkins
President pro Tempore
California State Senate

The Honorable Anthony Rendon
Speaker of the Assembly
California State Assembly

The Honorable Nancy Skinner, Chair
Budget Committee
California State Senate

The Honorable Phil Ting, Chair
Budget Committee
California State Assembly

The Honorable Josh Becker, Chair
Budget Subcommittee 2
California State Senate

The Honorable Steve Bennett, Chair
Budget Subcommittee 3
California State Assembly

The Honorable Dave Min, Chair
Natural Resources and Water Committee
California State Senate

The Honorable Rebecca Bauer-Kahan, Chair
Water, Parks and Wildlife Committee
California State Assembly

The Honorable Ben Allen, Chair
Environmental Quality Committee
California State Senate

The Honorable Luz Rivas, Chair
Natural Resources Committee
California State Assembly

Re: Opposition to Water-Related Infrastructure Budget Trailer Bills

Dear President pro Tempore Atkins, Speaker Rendon, Senator Skinner, Assemblymember Ting, Senator Becker, Assemblymember Bennett, Senator Min, Assemblymember Bauer-Kahan, Senator Allen and Assemblymember Rivas:

I am writing on behalf of the Golden State Salmon Association to oppose a package of water related infrastructure budget trailer bills. GSSA represents the California salmon fishing community, including commercial and recreational fishermen and women, party boats, marinas, fish brokers, restaurants, equipment manufacturers and retails and tribal members.

When healthy, California's salmon fishing industry supports \$1.4 billion in annual economic activity, along with 23,000 jobs. However, our industry is completely shut down in 2023, imposing economic hardships on communities from the Central Coast and the Bay Area, along inland rivers and up the North Coast, into Oregon.

This shutdown has been caused by irresponsible water management decisions during a drought. To rebuild our salmon runs, we must reverse failed policies that have created lethal flow and temperature conditions in salmon rivers, particularly in the Central Valley. Unfortunately, several bills in the Administration's package of infrastructure trailer bills double down on these failed policies.

These water related infrastructure trailer bills include:

- Administrative Records Review
- CEQA Judicial Streamlining
- Fully Protected Species Reclassification
- Progressive Design Build Authority for Caltrans and DWR
- Delta Reform Act Streamlining

Salmon runs and the salmon fishing industry are fighting for survival. So are many Bay-Delta species. These bills would significantly threaten our future. We urge you to oppose these trailer bills and offer the following specific concerns:

All of the water related trailer bills are policy bills. None address legitimate budget issues. These bills raise a wide range of serious problems. Passing these trailer bills would bypass the committees with the jurisdiction and expertise to address these problems. Budget committee staff are busy working to pass a budget. As a result, it is very difficult for them to engage effectively with concerned stakeholders. As a result, passing this legislation through the budget process would deny the public an opportunity to be fully involved in legislation with many potential damaging impacts. Passing this legislation through the budget process would also reduce the effectiveness of California's elected legislators and the legislative process. We urge you to oppose these bills in the budget committees and forward them to the relevant policy committees.

This package continues the Administration's practice of catering to powerful industry voices and refusing to engage with those who bear the impacts of environmental degradation prior to the release of important proposals. GSSA and our colleagues in the environmental, environmental justice, tribal and fishing communities were not provided an opportunity to engage on these trailer bills prior to their release. This pattern of excluding a wide range of interests unnecessarily and unproductively increases the division and conflict among water stakeholder groups.

The Administrative Records Review trailer bill would allow agencies to hide illegal activities from courts. This trailer bill would make internal electronic communications inadmissible in court. This is an effort to prevent agencies from being held accountable in court, even when internal communications demonstrate that agency actions violate the law and ignore science. During the Trump Administration, the ability of fishing and environmental groups to introduce internal agency communications in court was a key - perhaps the key - to blocking some Trump rollbacks. This trailer bill is an effort to insulate

state agencies from judicial review - even when internal communications show clearly illegal activity. Transparency and accountability are hallmarks of functioning liberal governments. This is an attack on both.

The Design Build trailer bill would allow the Department of Water Resources to privatize the design and construction of the proposed Delta tunnel. Such an approach to this facility is not allowed under current law – for good reason. The Delta community is united in opposition to the Delta tunnel project. Environmental, fishing and tribal interests share that position. It would be inequitable and irresponsible for the State to allow DWR to hand control over this multi-billion dollar facility to a private contractor and – likely – also to a handful of water agencies with whom they collaborate closely. It is worth noting that none of those export water agencies are located in the Delta community in which the facility would be built. This proposal is particularly objectionable and inequitable given that the affected communities include communities of color and tribes. If DWR chooses to pursue this controversial facility, DWR should take full responsibility for that process and engage directly with the affected communities. We have similar concerns regarding the potential use of Design Build for other water infrastructure projects. We urge the legislature to oppose this effort to privatize the design and construction process for the Delta tunnel and other water facilities.

The legislature should not slash regulatory requirements for a Delta tunnel facility that has major environmental problems and little financial support. The CEQA, Delta Reform Act, Administrative Records and Fully Protected Species trailer bills all appear to be intended in significant part to weaken regulatory requirements for the Delta tunnel. Analysis to date has clearly shown that this facility could cause a broad range of environmental impacts, including to salmon runs, the fishing industry and fishing jobs. If the Administration wishes to pursue the Delta tunnel, they should demonstrate that they can responsibly avoid or mitigate environmental impacts and meet current legal requirements.

Further, the majority of export water interests have expressed either a reluctance¹, or a complete unwillingness², to finance this multi-billion dollar facility. (The Delta Reform Act requires water users to finance any new Delta conveyance facility.) It would be particularly inappropriate for the state legislature to pass a package of budget bills to slash the regulatory process for a facility that appears to be on such shaky financial ground.

Together, this package of bills – and the trailer bill process proposed by the Administration - represent an assault on the environment reminiscent of those of the Trump Administration. We urge you to oppose them as trailer bills and refer them to the appropriate policy committees.

¹ Los Angeles Times, “Report urges Metropolitan water District to abandon Newsom’s \$16- billion delta tunnel plan,” May 10, 2023. <https://www.latimes.com/environment/story/2023-05-10/water-advocacy-group-blasts-newsom-delta-tunnel-project>

² Los Angeles Times, “Water district vote deals major blow to California’s delta tunnel project.” Sept. 19, 2017. <https://www.latimes.com/local/lanow/la-me-westlands-tunnels-20170919-story.html>

Thank you for considering our views.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Artis", with a large, sweeping flourish at the beginning.

Scott Artis
Executive Director