



"A Voice for Salmon"
365 Days a Year

May 16, 2023

Chairman Josh Becker
Senate Budget Subcommittee 2
1020 N Street, Room 502
Sacramento, CA 95814

Chairman Steve Bennett
Assembly Budget Subcommittee 3
1021 O Street, Suite 8230
Sacramento, CA 95814

Re: Drought and Flood Streamlining Trailer Bill - Oppose

Dear Chairmen Becker and Bennett:

I am writing on behalf of the Golden State Salmon Association to express our strong opposition to the Administration's Drought and Flood Streamlining budget trailer bill. GSSA represents the California salmon fishing community, including commercial and recreational fishermen and women, party boats, restaurants, fish brokers, marinas, restaurants, equipment manufacturers and retailers, tribal interests and more. We urge you to oppose this bill, and to refer it to the water policy committees, where it belongs.

It is inappropriate for this bill to be considered as a budget trailer bill. It is clearly a policy bill that should be considered by the committees with both the jurisdiction and the expertise to address the many complex problems contained in this proposal. We agree with the LAO, which has recently stated that the legislature may "want to defer some of these decisions to the policy process."

This bill would dramatically reduce state regulation of diversions from California rivers during high flow periods. High river flows are essential to support California's salmon runs during the juvenile outmigration period. Periods of high spring flows dramatically increase the survival of juvenile salmon. In fact, the lack of such high flows in many years is a major cause of the decline of salmon in the Bay-Delta watershed and elsewhere in California. High flows also provide other important environmental benefits including supporting chemical, biological and physical processes such as maintaining water quality and facilitating sediment movement.

As a result of low populations of returning fall run Chinook adults, the 2023 California salmon fishing season has been closed for just the second time in state history. This human-made disaster has put thousands of Californians out of work and imposed severe hardships on fishing families and communities. In addition, the Central Valley winter and spring run Chinook salmon are both at risk of extinction. That risk is particularly acute for spring-run salmon. Initial counts of 2023 adult Central Valley spring run Chinook are catastrophically low.

The State of California should strengthen protections for salmon runs, not weaken them.

The trailer bill includes a long list of serious flaws, including the following:

No Definition of Flood: The bill includes no meaningful definition of a flood. To the contrary, it refers vaguely to “imminent risk of flooding and inundation of land, roads, or structures.” Clearly, even moderate flow events that fail to meet the traditional definition of a serious flood could result in “inundation of land” – including floodplains and bypass lands designed to safely avoid flood damage. In fact, the bill would allow nearly unregulated diversions not just in floods, but also when floods are “imminent.” This term is also undefined. The bill would allow hundreds of local agencies to declare a flood or an imminent flood – triggering nearly unregulated diversions. The bill also does not define when a flood or imminent flood period is over. Nor does it require local agencies to rescind the flood determinations that would trigger additional diversions.

No Protection of Flows Needed for Salmon: The bill does not include any requirement to distinguish high flows that are needed for the outmigration of salmon and the rebuilding of salmon runs, including listed and commercially important species, from truly excess flood flows. In fact, the State Water Board has never adopted a spring outmigration flow requirement to protect salmon, despite abundant evidence linking the decline of salmon to poor flow conditions. The current failed Bay-Delta flow standards were adopted in 1995. In short, the State Board has no standard to distinguish environmentally important high flows from flows that can be diverted with little environmental harm. Rather than facilitating additional diversions, the legislature should limit additional diversions and new water rights until the State Board updates and fully implements the Bay-Delta Water Quality Control Plan.

No Limit on the Number or Size of Diversions: The bill places no limit on the number or size of diversions that would be authorized. Were this provision to become law, water agencies would be likely to plan and invest to maximize these nearly unregulated diversions, with serious potential environmental impacts.

No Meaningful Screening Requirement: The bill requires “simple screens” to “minimize the impacts of diversion to salmon and other aquatic life.” The term “simple screens” is undefined. Fish screens are sophisticated technology. Their effectiveness is driven by factors such as location in a river and approach velocities to keep fish from being pinned against the screens and killed. In addition, screens often fail to prevent the entrainment of juvenile or larval fish. Without a meaningful screening requirement, this provision might do little to protect salmon and the environment.

No Monitoring: The bill includes no monitoring requirement to detect environmental impacts, including cumulative impacts. As a result, the serious harm that this bill could authorize might go undetected.

No Termination Provision: There is no provision to terminate this authorization if it is found to lead to environmental damage.

Existing Executive Order: The Governor’s flood diversion executive order (N-4-23), on which this bill is modelled, is still in effect. As of May 11, 67 new water diversions have been reported

under this EO over less than 2 months, with individual diversions as high as 34,732 acre feet. This EO will remain in effect until June 1. To date, there appears to have been no analysis to determine what, if any, environmental impacts have been caused by these diversions. It is worth noting that, if this EO is made permanent, future years could see a far higher level of diversions. It is also worth noting that the entities declaring a flood under the current EO include groundwater sustainability agencies, a sheriff and irrigation districts, raising questions about whether all of the agencies declaring floods have adequate flood expertise. Finally, the fact that the current EO is still in effect demonstrates that there is no urgent need to rush this bill through the legislature.

Designation of Recharge as a Beneficial Use: By changing state water rights law to consider recharge a beneficial use, with no requirements regarding the ultimate use of that water, the bill could create a new demand for millions of acre-feet of water. This provision could accelerate environmental impacts and exacerbate the existing overallocation of the state's surface waters.

Elimination of the Requirement for an Appropriative Water Right: The bill would eliminate the requirement for a water right to divert water during floods. This could also accelerate environmental impacts, exacerbate the existing overallocation of the state's surface water and further privatize a public resource.

CEQA and Streambed Alternation Agreement Waivers: The bill would waive existing CEQA and Streambed Alternation Agreements, creating more potential for environmental harm.

We urge you to oppose this bill, and to refer it to the water policy committees. California's salmon fishing communities are fighting for survival – as are the salmon runs we depend on. On behalf of our thousands of members, we urge you to support stronger protections for salmon – not efforts to weaken them. Thank you for considering our views.

Sincerely,



Scott Artis
Executive Director

Cc: Senate Natural Resources and Water Committee
Assembly Water Parks and Wildlife Committee