

California Legislature

September 5, 2019

The Honorable Toni Atkins
President pro Tempore
California State Senate
State Capitol, Room 205
Sacramento, CA 95814

Dear Senator Atkins:

We, the undersigned members of the California State Assembly, appreciate your authorship of Senate Bill 1 to protect California's environment from any adverse changes in federal law.

However, we are concerned that your bill, as currently drafted, could undermine operation of the Central Valley Water Project, unintentionally lock in outdated science related to the management of listed species, and upend wetland regulation efforts currently being pursued by the State Water Resources Control Board.

For these reasons, we respectfully request that the following four amendments be made to your bill.

1. Strike the addition of section 2057 to Fish and Game Code.

This would eliminate the new requirement and arguably unconstitutional provision that the California Endangered Species Act (CESA), a state law, applies to the federal Central Valley Project operations. This provision threatens the current Voluntary Settlement Agreement negotiations, as it could lead the Central Valley Water Project contractors to discontinue their participation.

2. Strike the addition of subsection (c) of section 2076.7 of the Fish and Game Code regarding application of federal standards.

Species listed on an emergency basis under CESA would be granted all the protections of CESA, so federal protections are not necessary. Additionally, maintaining federal protections prevents the application of newer science to better manage listed species. In the instance of California's water management, maintaining the federal standards means a loss of 750,000 acre-feet of water, enough to serve nearly 7.5 million people, this year. Removing this subsection would limit the unintended consequences of locking in decades old science.

3. Strike amendments to Section 13050, subdivision (d)(1) and (d)(2) of the Water Code.

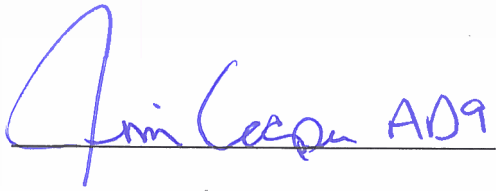
After more than a decade of work on developing a policy to define and regulate “waters of the state,” the State Water Resources Control Board adopted its Waters of the State policy in April. The Office of Administrative Law (OAL) approved the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Procedures) on August 28, 2019. The State Water Board issued a Notice of Decision on August 30, 2019. The proposed language in Section 13050 undoes agreements negotiated in that policy and would require additional permits for many regulated entities. For example, this amendment would not codify the conditions or exemptions to permits for different industries, including construction and agriculture, that are contained in the State Water Resources Control Board’s Waters of the State policy. Thus, it raises the question as to whether the conditions agreed upon would be applicable if SB 1 is signed into law.

4. Strike amendments to Section 13050, subdivision (e)(1) and (2) of the Water Code.

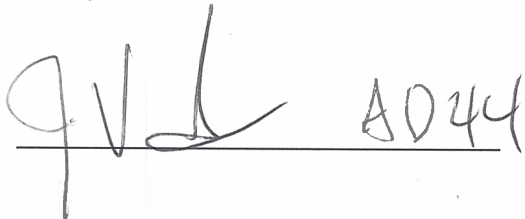
Codifying this section of the Waters of the State policy would also undo the agreement negotiated, finalized in April, and just approved by OAL on August 28, 2019. The definition of Waters of the State has not been amended in the Porter Cologne Act since the 1960’s, and should not be done in the last week of session, without a public hearing.

Thank you for your thoughtful consideration of these amendments. We would be pleased to discuss them with you at your convenience.

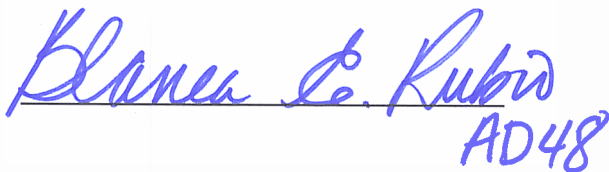
Sincerely,

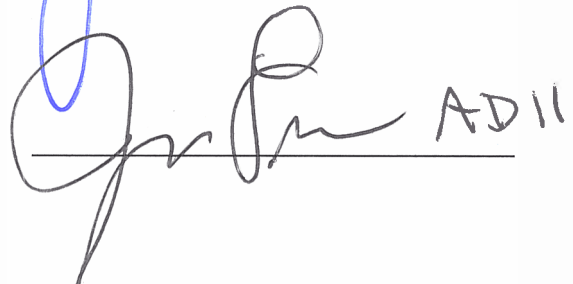
 AD9

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J _____ AD 41

Vinny _____ AD-34

Cecilia Aquino _____ AD 4

Sharon Quint-Silva AD 65th

_____ AD 62
