

Date of Hearing: July 15, 2025

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Damon Connolly, Chair

SB 601 (Allen) – As Amended July 10, 2025

SENATE VOTE: 23-12

SUBJECT: Water: waste discharge

SUMMARY: Defines "nexus waters" to mean all waters of the state that are not also navigable waters, except as specified; establishes regulatory authorities and responsibilities for the State Water Resources Control Board (State Water Board) and Regional Water Quality Control Boards (Regional Water Boards) pertaining to the protection of water quality in nexus waters, in order to ensure that these waters continue to be protected similarly to federally-regulated, waters of the United States (WOTUS). Specifically, **this bill:**

- 1) Defines "nexus waters" to mean all waters of the state that are not also navigable waters, except for the following waters of the state:
 - a) Any waters of the state deemed nonjurisdictional under the Clean Water Act (CWA) by either the United States Environmental Protection Agency (US EPA), or a United States Army Corps of Engineers-approved jurisdictional determination or verified aquatic resource delineation report prior to May 25, 2023;
 - b) Nonwetland tributaries that are tributary only to a water of the state that was deemed nonjurisdictional;
 - c) A wetland water of the state that is adjacent to, adjoining, or otherwise hydraulically connected only to a water of the state that was deemed nonjurisdictional;
 - d) A wetland water of the state that is not adjacent to, adjoining, or otherwise hydraulically connected to any nonwetland waters of the state;
 - e) A nonwetland water of the state that is not adjacent to, adjoining, or otherwise hydraulically connected to other waters of the state;
 - f) Groundwater;
 - g) Waste treatment systems, including treatment ponds or lagoons, designed to meet CWA requirements;
 - h) Prior converted cropland designated by the United States Secretary of Agriculture;
 - i) Ditches excavated wholly in and draining only dry land that do not carry a relatively permanent flow of water;
 - j) Artificially irrigated areas that would revert to dry land if irrigation ceased;
 - k) Artificial lakes or ponds created by excavating or diking dry land to collect and retain water and that are used exclusively for purposes such as stock watering, irrigation, settling basins, or rice growing;

- l) Artificial reflecting or swimming pools or other small ornamental bodies of water, as specified;
 - m) Water-filled depressions created in dry land incidental to construction activity, as specified;
 - n) Swales and erosional features characterized by low-volume, infrequent, or short-duration flow; and,
 - o) Highly artificial and manufactured human-constructed water conveyance infrastructure, unless either of the following apply:
 - i) The infrastructure channels, impounds, or replaces a naturally occurring body of water; or,
 - ii) The infrastructure flows to, or significantly affects the chemical, physical, or biological integrity of a navigable water or a nexus water.
- 2) Provides that "nexus waters" does not include any wetland excluded from the definition of "waters of the state," as specified.
- 3) Requires the State Water Board and Regional Water Boards to include nexus waters in CWA processes, including, but not limited to, the California Integrated Report and the establishment of total maximum daily loads (TMDLs); provides that California Integrated Report listings and TMDLs listed, established, or in process for nexus waters prior to January 19, 2025, shall continue in effect or development.
- 4) Requires Regional Water Boards to consider any applicable listing pursuant to the above provision (#3), as part of existing state law that requires Regional Water Boards to consider specified information when determining sampling provisions for a municipal stormwater permit monitoring program.
- 5) Authorizes the State Water Board to adopt water quality control plans for nexus waters, as specified.
- 6) Requires that any water quality standard that was submitted to and approved by, or is awaiting approval by, US EPA or the State Water Board as of May 24, 2023 shall remain in effect and shall incorporate any modification adopted after that date pursuant to applicable state or federal law.
- 7) Requires a Regional Water Board, in prescribing—pursuant to existing state law—requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge, to take into consideration the past, present, and probable future beneficial uses to be protected.
- 8) Requires prescribed requirements, for discharges from any point source to nexus waters, to be implemented as specified; and, provides that provisions in existing state law, which requires Regional Water Boards to consider specified factors, including economic considerations, do not need to be considered.

- 9) Requires the State Water Board to annually adjust civil monetary penalties for inflation, in accordance with the Consumer Price Index, as specified; prohibits the amount of the increase in a civil monetary penalty from exceeding 150% of the amount of that penalty from the previous year, except for the first adjustment; requires that moneys collected according to these requirements be deposited into the Penalty Adjustment Account, established by this bill in the Waste Discharge Permit Fund; requires the funds to be expended by the State Water Board to assist the Regional Water Boards and other public agencies with cleaning up or abating the effects of waste on waters of the state.
- 10) States that it is in the interest of the people of the state to restore and retain protections previously afforded to nexus waters under the CWA and acts amendatory thereof or supplementary thereto, and federal regulations and guidelines issued pursuant thereto, regardless of actions taken at the federal level to redefine WOTUS.
- 11) Provides that specified provisions (Chapter 5.5 of Division 7 in the Water Code (WC) (Chapter 5.5)) under Porter-Cologne, relating to state programs that implement the CWA, apply only to actions required under the CWA, except as otherwise authorized for point source discharges of pollutants to nexus waters.
- 12) Requires, for the purposes of Chapter 5.5, nexus waters to be treated as though they are navigable waters and navigable WOTUS; provides that "discharge" shall have the same meaning as under the CWA and acts amendatory thereof or supplementary thereto, and shall also mean any addition of any pollutant to a nexus water from any point source.
- 13) Requires, for the purposes of Chapter 5.5, "waste discharge requirements" to include waste discharge requirements issued for discharges to nexus waters.
- 14) Provides that existing state law, specifying that a report need not be filed for discharges that are not subject to permit application requirements under the CWA, does not apply for discharges to nexus waters.
- 15) Requires waste discharge requirements adopted or amended for discharges to nexus waters to be adopted pursuant to and in accordance with the requirements of Chapter 5.5.
- 16) Requires waste discharge requirements for discharges to nexus waters to implement limitations at least as stringent as any analogous CWA permit, including with respect to TMDL-based effluent limitations and effluent standards or limitations.
- 17) Prohibits discharges to nexus waters from being authorized through waivers of waste discharge requirements.
- 18) Requires waste discharge requirements for discharges of dredged or fill material to nexus waters that are wetlands to be issued in accordance with the "State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State" (Dredge or Fill Procedures), referenced in Title 23 of the California Code of Regulations; provides that, in the event of a conflict, the provisions in the Dredge or Fill Procedures shall control.

- 19) Provides that an action may be brought by the Attorney General, State Water Board, the applicable Regional Water Board, or by a district attorney, county counsel, or city attorney, as provided, to enforce specified WC provisions related to nexus waters.
- 20) Authorizes the imposition of civil penalties, not to exceed \$75,000 per day per violation of Chapter 5.5 related to nexus waters, or of waste discharge requirements for nexus waters; requires penalties to be deposited into the Waste Discharge Permit Fund, to be expended by the State Water Board to assist Regional Water Boards and other public agencies in cleaning up waste or abating the effects of waste.
- 21) Adopts a severability clause.

EXISTING LAW:

- 1) Establishes the State Water Board and nine Regional Water Boards to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations. (WC § 13100, et. seq.)
- 2) Establishes the federal CWA to regulate discharges of pollutants into WOTUS and to regulate quality standards for surface waters. (33 United States Code (USC) § 1251, et seq.)
- 3) Defines "navigable waters" to mean WOTUS, including territorial seas. (33 USC § 1362(7))
- 4) Establishes, under the CWA, the National Pollutant Discharge Elimination System (NPDES) permit program, requiring the State Water Board and Regional Water Boards to prescribe waste discharge requirements. (33 USC § 1342)
- 5) Establishes the Porter-Cologne Water Quality Control Act (Porter-Cologne), which prohibits the discharge of pollutants to surface waters unless the discharger obtains a permit from the State Water Board; declares that the health, safety, and welfare of people require there to be a statewide program for water quality control and that the statewide program for water quality control can be most effectively administered regionally, within a framework of statewide coordination and policy. (WC § 13000, et seq.)
- 6) Prohibits the discharge of waste or pollutants to surface and ground waters unless the discharger obtains a permit from the State Water Board or a Regional Water Board. (WC § 13260, et seq.)
- 7) Defines "waters of the state" to mean any surface water or groundwater, including saline waters, within the boundaries of the state. (WC § 13050(e))
- 8) Requires each Regional Water Board to formulate and adopt water quality control plans for all areas within the region; requires each Regional Water Board to establish water quality objectives in water quality control plans that will ensure reasonable protection of beneficial uses and the prevention of nuisance; requires Regional Water Boards, in establishing water quality objectives, to consider the following factors:
 - a) Past, present, and probable future beneficial uses of water;

- b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto;
 - c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors that affect water quality in the area;
 - d) Economic considerations;
 - e) The need for developing housing in the region; and,
 - f) The need to develop and use recycled water. (WC § 13240-13241)
- 9) Authorizes the State Water Board to adopt water quality control plans, as specified, insofar as they are applicable for waters for which water quality standards are required under the CWA, and acts amendatory thereof or supplementary thereto; specifies that such plans, when adopted, supersede any regional water quality control plans for the same waters, to the extent of any conflict. (WC § 13170)

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill: According to the author:

"Water is a precious resource in our state, and essential for our communities to drink, grow food, safely bathe and swim in, as well as to support healthy ecosystems and the environment. Through a robust permitting process implemented by the state, the federal Clean Water Act has regulated if, how, and when industrial, municipal, or other business facilities could discharge pollutants into our "Waters of the United States," or "WOTUS" for decades. These protections were abruptly changed in May 2023, when the US Supreme Court ruling in *Sackett v EPA* significantly narrowed which waters fell under the "WOTUS" definition, undermining and rolling back these pollution protection measures for many of our streams and wetlands. SB 601 will maintain the protections these waters enjoyed for decades by integrating "nexus waters" into the standards and permitting structure for currently federally protected waters; and expand the tools available to efficiently and effectively enforce this framework and for the water boards to maintain and improve our water quality."

The federal CWA: In 1972, amendments to the Federal Water Pollution Control Act of 1948—the first major United States (U.S.) law to address water pollution—created what is commonly known today as the CWA. The CWA defines "navigable waters" as WOTUS, and aims to restore and maintain the chemical, physical, and biological integrity of these waters. To accomplish this, the CWA establishes the nation's primary regulatory scheme for regulating discharges of pollutants into WOTUS and establishing water quality standards to protect the beneficial uses of these waters.

The CWA made it unlawful to discharge any pollutant from a point source into navigable waters without a permit. As authorized by the CWA, the NPDES Permit Program controls water pollution by regulating point sources—or discrete conveyances such as pipes, or human-made ditches—that discharge pollutants into WOTUS. Examples of pollutants include, but are not

limited to, rock, sand, dirt, and agricultural, industrial, and municipal waste. Industrial, municipal, and other facilities must obtain an NPDES permit to discharge into surface water.

In California, implementation of the federal NPDES Permit Program has been delegated to the State Water Board and nine Regional Water Boards, which maintain regional jurisdiction within boundaries that are based on major watersheds. The State Water Board oversees implementation of the NPDES Permit Program throughout the state and, as such, coordinates with and supports Regional Water Board efforts, and reviews Regional Water Board actions. While the State Water Board has issued some NPDES permits, the Regional Water Boards issue the vast majority of NPDES permits in the state and ensure compliance with their permits through inspections, monitoring report reviews, and enforcement actions.

Under section 303(d) of the CWA, states must review, make necessary changes, and submit a "303(d) List" (i.e., a list of waters that do not meet water quality standards) to the US EPA. To construct this list, the State Water Board and Regional Water Boards assess water quality monitoring data for California's surface waters every two years to determine if they contain pollutants at levels that exceed protective water quality standards. Every two years, an "integrated report" reflects the analyses of all available data and information from surface waters within the boundaries of three Regional Water Boards, which are referred to as being "on-cycle." Data from the rest of the state may be reviewed for "off-cycle" assessments. Every region is "on-cycle" and fully assessed once every six years.

Water bodies and pollutants that exceed protective water quality standards are placed on the state's 303(d) List. The US EPA must approve the 303(d) List before it is considered final. Placement of a water body and pollutant on the 303(d) List requires the development of a TMDL (a calculation of the maximum amount of a pollutant allowed to enter a water body, to ensure compliance with water quality standards). In general, once a water body has been added to a state's list of impaired waters, it stays there until the development of a TMDL, and approval by the US EPA.

State regulation of water quality and Porter-Cologne: All waters in California that are not WOTUS are deemed "waters of the state" and subject to regulation under Porter-Cologne. Porter-Cologne's "waters of the state" definition applies to "any surface or groundwater...within the borders of the state," thus making Porter-Cologne's jurisdiction broader than the CWA. A key element of Porter-Cologne is the development of regional water quality control plans (also called "basin plans"), developed by Regional Water Boards and typically based around geographic boundaries of water drainage areas. Basin plans establish the beneficial uses of water within a region; the water quality objectives necessary to protect those uses; the prohibitions, policies, and action plans by which protections are implemented; and the monitoring needed to ensure attainment of water quality standards. Regional Water Boards use basin plans as regulatory tools, by citing to the basin plans' water quality standards, prohibitions, and other programs of implementation when regulating particular discharges or categories of discharges. Basin plans are adopted by Regional Water Boards, and must be approved by the State Water Board and the Office of Administrative Law.

When determining requirements for proposed discharges in basin plans, state law outlines the factors that Regional Water Boards must consider, including past, present, and probable future beneficial uses of water; water quality conditions that could reasonably be achieved; economic considerations; the need for housing in a region; and the need to develop and use recycled water.

California also has a regulatory framework in place for wetlands protection. In 2019, the State Water Board adopted the "State Wetland Definition and Procedures for the Discharge of Dredged or Fill Material to Waters of the State" (Dredge or Fill Procedures), which aligned federal and state protections where feasible and established greater consistency in the regulation of discharges of dredged or fill material across the nine Regional Water Boards. In addition, the Dredge or Fill Procedures include a definition of "wetlands" that qualify as waters of the state and is broader than both the former federal definition and the new federal definition, established pursuant to *Sackett v. US EPA* (described further below).

Sackett v. US EPA and beyond: WOTUS is only vaguely defined under the CWA (federal law defines "navigable waters" to mean WOTUS, but does not explicitly state what WOTUS means). As a result, the term has been extensively litigated over the past fifty years. A particularly contentious area of debate has been the treatment of wetlands under the CWA. On May 25, 2023, the U.S. Supreme Court Case *Sackett v. US EPA* (*Sackett*) significantly changed the scope of WOTUS, with the Court deciding that the definition of "WOTUS" extends only to those "wetlands with a continuous surface connection to bodies that are 'waters of the United States' in their own right," so that they are "indistinguishable" from those waters. Following the Court's decision, the CWA covers only adjoining wetlands, a reading that excludes wetlands separated from jurisdictional waters by man-made dikes or barriers, natural river berms, beach dunes, and the like that had previously been protected by eight different Presidential administrations.

In its October 2023 document, "Frequently Asked Questions regarding the U.S. Supreme Court's ruling in *Sackett v. EPA*," the State Water Board provides the following assessment of how the *Sackett* decision might affect California:

"The *Sackett* decision will have serious consequences for the Clean Water Act and the scope of federal protections over the nation's waters. On a national level, *Sackett* stripped many wetlands nationwide of their federal protections. According to the Environmental Law Institute, approximately half of the states rely entirely on the Clean Water Act to protect waters and do not have independent state protections. As a downstream state, California will likely face the adverse effects of more wetlands being filled in upstream states and increases in unregulated discharges of pollutants in upstream states. As one example, the mainstem of the Colorado River, one of California's most important water supplies, will continue to be afforded federal protection. But the intermittent streams that feed the Colorado River and the wetlands in the semi-arid Colorado River watershed, many of which are in states that lack independent state law protection, are at risk of losing federal protection.

Fortunately, California is well positioned to employ its state-level authorities to blunt some of the adverse effects from the loss of Clean Water Act protections within California and continue to protect water quality within its borders. In California, [Porter-Cologne] will be a powerful tool to ensure state protection where federal protection is no longer available. However, many of California's existing regulatory programs are structured and implemented based on how the scope of the Clean Water Act had been construed for the last 50 years. With the dramatic contraction of the Clean Water Act set forth in the *Sackett* ruling, the [State Water Board] and the nine [Regional Water Boards] will need to restructure their programs to reflect the new bounds on federal jurisdiction. The State Water Board and Regional Water Boards (collectively, the Water Boards) administer various Clean Water Act programs in California, including the Clean Water Act section 401 water quality certification

program, section [NPDES] permitting program, and section 303 water quality standards program. These federal programs are in addition to water quality protection requirements for "waters of the state" under Porter-Cologne, including the issuance of state permits or "waste discharge requirements" for all discharges of waste that can affect the quality of waters of the state. The Water Boards expect that going forward there will be a greater reliance on regulation of discharges using waste discharge requirements issued solely under state law and a heavier state workload and attendant need for increased staff resources and training.

The most immediate effects...will be on the Water Boards' dredge and fill program. For discharges of dredged or fill material to waters of the United States, applicants are required to obtain a Clean Water Act section 404 permit from the Army Corps and a complementary section 401 water quality certification from the applicable Water Board. The Water Boards have typically relied on the Army Corps' work product, as well as expertise and resources, to employ a smaller number of section 401 certification staff. As substantially fewer projects will now need to obtain section 404 permits to dredge or fill wetlands, the Water Boards will not have the benefit of the Army Corps' work in areas such as wetland delineation, alternatives analysis, and compensatory mitigation. In addition to new uncertainty regarding jurisdictional scope and available permitting pathways, applicants are also likely to encounter higher state permit fees [sic] to account for the resulting increased state staffing resources needed to issue waste discharge requirements under state law for their discharges...

The contraction of federal water quality protections highlights the importance of the work that California does on the state level. State law level environmental protections will be increasingly critical in the wake of *Sackett*."

In addition to the *Sackett* decision, WOTUS may be subject to further scrutiny and revision as Lee Zeldin, the current US EPA administrator, announced on March 12, 2025 that the US EPA and U.S. Army Corps of Engineers intends to review and revise the definition of WOTUS, to ensure that the revised definition "follows the law, reduces red-tape, cuts overall permitting costs, and lowers the cost of doing business." Notably, the first Trump administration narrowed the conditions upon which non-adjacent wetlands would be considered WOTUS. If the past is any indication of the future, the definition of WOTUS may become even more constrictive than the definitions put in place post-*Sackett*.

Stakeholder engagement and recent amendments to this bill: Proponents of this bill contend that California must protect its environmental laws from federal rollbacks, and that *Sackett* leaves many California waters unprotected. According to supporters, this necessitates the need for SB 601, to ensure that these waters continue to be treated similarly to federally-regulated waters, albeit under state (i.e., Porter-Cologne) and not federal authority. Proponents argue that the changes that SB 601 would make to Porter-Cologne are needed, because enforcement under current state law is weaker, more cumbersome, and more resource intensive relative to the CWA. Presenting a different view, an opposition coalition of business and agricultural organizations, as well as some local governments and special districts, contend that California must strike a balance between environmental protection and economic productivity. The opposition coalition has raised concerns that this bill, among other things, does not require consideration of economic impacts, is overly broad, and goes well beyond the stated goals of preserving the state of the law as it was prior to the Supreme Court's actions.

Over the course of the legislative process, this bill has undergone significant revisions pursuant to stakeholder conversations and engagement among the author, sponsors, and opposition. Most recently, the bill was amended to, among other things, respond to stakeholder concerns that the bill authorizes the State Water Board to override the Regional Water Boards in the basin planning process, not just for nexus waters, but for all waters of the state. The relevant provision in the bill has been amended so that it now constrains the State Water Board's expanded authority to only nexus waters. In both the Senate and the Assembly, the bill's definition of "nexus waters" has also undergone amendments, pursuant to conversations with stakeholders regarding clarifications and additional exemptions needed to avoid capturing waters that were not WOTUS prior to the *Sackett* decision. As this bill moves forward, discussions will likely continue for remaining areas of concern, including the topics of economic considerations and the definition of "nexus waters."

This bill: SB 601 aims to ensure that waters previously protected as WOTUS under the CWA, before the *Sackett* decision dramatically reshaped which waters may be deemed WOTUS, continue to be protected as they were before and treated similarly to federally-regulated waters. SB 601 takes on the complex and important task of protecting California's former WOTUS, and pushing forward critical conversations about how best to do this. This major undertaking has elicited strong and differing positions on the appropriate means of protecting these waters, and a great deal of input from a diverse range of stakeholders has shaped SB 601 throughout the legislative process. For those issues that remain, continuing stakeholder engagement could be of benefit as this bill moves forward.

Arguments in support: According to a coalition of supporting environmental organizations:

"Two years ago, the U.S. Supreme Court issued a decision (*Sackett v. EPA*) that stripped many California streams and wetlands of federal Clean Water Act protections, leaving state waters highly vulnerable to pollution. The Trump Administration has also announced plans to further erode the Clean Water Act via a new, narrower 'waters of the United States' rule. Between *Sackett* and Trump, it is estimated that over 600,000 miles of California streams and up to 96 percent of California's wetlands are at risk of losing Clean Water Act protections. According to the State Water Board's 2024 BCP, '[t]he *Sackett* Ruling will have significant and widespread consequences for the Clean Water Act and the scope of federal protections over the nation's waters.' SB 601 aims to maintain those federal standards for waters once protected by the Clean Water Act that may no longer be federally protected.

Federal rollbacks will not only result in the loss of protections but will also put an insurmountable burden on the California Water Boards to re-write federal permits as state permits via a different process with different applicable standards. Currently, there are no state general permits akin to California's federal general permits, meaning tens of thousands of state permits could be necessary—all requiring individual [California Environmental Quality Act (CEQA)] compliance. SB 601 saves resources by eliminating the need to conduct CEQA on new state permits for nexus waters. According to the [State] Water Board, '[u]nlike when issuing [federal] permits, the Water Boards must fully comply with the [CEQA] when issuing state [permits].' The Water Boards 'anticipate needing additional resources to complete the necessary analysis and to adopt replacement waste discharge requirements where NPDES permits are no longer required.' SB 601 would allow the Water Boards to essentially 'copy and paste' existing federal permits into state permits without undergoing CEQA or conducting new analyses for existing permit standards.

The California Water Boards are also losing critical enforcement tools necessary to hold polluters accountable and provide an even playing field for the regulated community. Porter-Cologne cannot hold polluters accountable in the same manner as the Clean Water Act. Enforcement under state law is more cumbersome, more resource intensive and lacks the same deterrence as enforcement under the Clean Water Act. According to the State Water Board, the 'reduction in Clean Water Act jurisdiction limits the availability of some enforcement tools that the Water Boards have traditionally used' in reliance on the broader definition of 'waters of the United States.' The Clean Water Act provides more direct enforcement authority for violations, whereas imposing civil liabilities for violations of non-NPDES [waste discharge requirements] often requires additional notice to the violator or the adoption of an enforceable order before a potential discharge can be subject to administrative penalties. SB 601 removes those cumbersome roadblocks to hold polluters accountable...

Porter-Cologne does not have an impaired waterbody program like the Clean Water Act. Pursuant to Section 303(d) of the Clean Water Act and federally delegated authority, California's State and Regional Water Boards assess water quality monitoring data for California's surface waters every two years to determine if waters contain pollutants at levels that exceed use-protective water quality standards. Under the Clean Water Act, waterbodies that exceed water quality standards are placed on California's federally derived 303(d) List. U.S. EPA must approve California's 303(d) List before it is considered final. Placement of a waterbody and pollutant on the 303(d) List requires the development of a Total Maximum Daily Load (TMDL), a water quality improvement plan designed to bring the waterbody into attainment with applicable standards. Without SB 601, nexus waters would no longer be subject to the state's 303(d) processes and therefore would lose all momentum in recovering from impairments...

Californians have enjoyed 50 years of Clean Water Act protections. The U.S. Supreme Court's misguided and incongruent decision for California cannot demand that we go backwards. The Trump Administration will only further weaken federal clean water protections and make it more difficult for California to regulate our waterways via federal law. SB 601 will bolster state law to safeguard California from federal turbulence on clean water protections."

Arguments in opposition: According to an opposition coalition that includes business and agricultural organizations, as well as some local governments and special districts:

"California has long been a leader in environmental stewardship. In fact, California adopted its own water quality laws in the Porter Cologne before Congress passed the CWA. However, the complex web of state and federal laws and regulations that uphold this leadership also create significant challenges for businesses, including those that provide housing, and local governments and agencies, including those that provide transit and water infrastructure, striving to operate in the state. It is important for California to strike a balance between environmental protection and allowing for economic productivity. Unfortunately, in an effort to 'Trump-proof' California, SB 601 treats these as mutually exclusive goals. For example, the bill would gut requirements for the [State Water Board] and [Regional Water Boards] (Water Boards) to consider economic impacts, the need for housing and recycled water use, and the ability to comply when issuing waste discharge requirements or discharge permits. The increased regulatory compliance costs, litigation costs, liability, and removal of key economic considerations is likely to result in severe and unmitigated impacts on the

regulated community. SB 601 would impact housing development projects, agricultural operations, water and wastewater projects needed to improve water supply reliability in the face of climate change, and much more. These impacts would lead to higher costs for businesses, agriculture, and local governments, and, in turn, a higher cost of living for Californians...

The primary impetus for SB 601 is the U.S. Supreme Court's decision in *Sackett v. EPA* in 2023, which addressed the definition of WOTUS with regards to the CWA. Last year, the Legislature proactively approved 26 new positions and \$4.7 million from the Waste Discharge Permit Fund (beginning in 2024–25 and ongoing) to help the Water Boards address any increased workload resulting from the Sackett decision and resulting need to regulate former WOTUS as waters of the state. In addition, Legislature directed the State Water Board to develop a report by 2026 with a comprehensive assessment of the decision's impacts to the state. This report will cover: (1) effects on permitting and workload; (2) any legal challenges to state authority to regulate such waters (we do not know of any such challenges that have been filed to date); (3) progress on General Orders; (4) any regulatory limitations faced by the Board; and (5) recommendations for statutory changes needed to protect water quality in waters no longer under federal jurisdiction.

SB 601 short-circuits this thoughtful process. It attempts to rewrite state law and vastly expand regulatory authority without waiting for the very analysis the Legislature itself requested. There is no justification for rushing to impose broad, permanent changes before the State Water Board has even had a chance to evaluate the situation and recommend targeted solutions. Acting now not only undermines the Legislature's own oversight process—it risks creating unnecessary regulatory burdens and unintended consequences based on speculation rather than evidence. SB 601 is not just premature—it is a solution in search of a problem...

SB 601 would amend Porter-Cologne to create a new category of waters, called "nexus waters," which the author and proponents argue is necessary to fill the gap created by the Sackett decision. However, the proposed category of "nexus waters" is vague and potentially broader than the pre-Sackett decision. The definition would encompass all waters of the state, unless specifically exempted within the proposed definition, leading to additional confusion as to what might constitute waters of the state but not nexus waters. This ambiguity will force permittees to hire a small army of consultants just to determine whether they must obtain this 'nexus waters' permit, adding costs and delays to important projects and operations. Instead of clearly defining the alleged void this bill is trying to fill, SB 601 leaves the category of 'nexus waters' open-ended, which would create a state version of the constant litigation seen over the definition of WOTUS in federal courts..."

Related legislation:

- 1) AB 1313 (Papan). Requires the State Water Board to establish, as provided, a statewide commercial, industrial, and institutional NPDES order to regulate stormwater and authorized non-stormwater discharges from facilities with impervious surfaces that are significant contributors of pollutants to federally-protected surface waters. This bill is on the Inactive File on the Assembly floor.
- 2) SB 1 (Atkins, 2019). Would have enacted the California Environmental, Public Health, and Workers Defense Act of 2019, to ensure that protections afforded to Californians under

federal environmental and labor laws and regulations, as of January 2017, remained in place in the event that the federal government weakened or repealed any of those federal laws or regulations. This bill was vetoed by Governor Gavin Newsom.

REGISTERED SUPPORT / OPPOSITION:

Support

A Voice for Choice Advocacy
Active San Gabriel Valley
Alianza Coachella Valley
American Rivers
Audubon California
Azul
Batiquitos Lagoon Foundation
Battle Creek Alliance
Bolsa Chica Land Trust
CactusToCloud Institute
California Coastal Protection Network
California Coastkeeper Alliance
California Environmental Voters
California Marine Sanctuary Foundation
California Native Plant Society
California Sportfishing Protection Alliance
California Trout
California Wilderness Coalition
Californians for Alternatives to Toxics
CalPIRG
Catholic Charities of Stockton
Center for Biological Diversity
Center for Community Action and Environmental Justice
Center for Environmental Health
Central California Environmental Justice Alliance
Central California Environmental Justice Network
Citizens Committee to Complete the Refuge
Citizens for Los Angeles
Clean Water Action
CleanEarth4Kids.org
Climate Action California
Coast Action Group
Coastal Corridor Alliance
Coastal Environmental Rights Foundation
Coastal Policy Solutions
Community Water Center
Defenders of Wildlife
East Area Progressive Democrats
East Bay Regional Park District
Ecological Rights Foundation
Endangered Habitats League

Environment California
Environment in the Public Interest
Environmental Action Committee of West Marin
Environmental Center of San Diego
Environmental Defense Center
Environmental Defense Fund
Environmental Law Foundation
Environmental Protection Information Center
Exergy Systems
Fish On
Food & Water Watch
Friends Committee on Legislation of California
Friends of Ballona Wetlands
Friends of Gualala River
Friends of Harbors, Beaches and Parks
Friends of the Dunes
Friends of the Eel River
Friends of the Inyo
Friends of the River
Golden Gate Bird Alliance
Golden State Salmon Association
Heal the Bay
Hills for Everyone
Humboldt Waterkeeper
Idle No More, Venice
Inland Empire Waterkeeper
Leadership Counsel for Justice & Accountability
League of Women Voters of California
Los Angeles Alliance for a New Economy
Los Angeles Neighborhood Land Trust
Los Angeles United Methodist Urban Foundation
Los Angeles Waterkeeper
Los Padres Forest Watch
Mono Lake Committee
Monterey Waterkeeper
Mount Shasta Bioregional Ecology Center
National Parks Conservation Association
Native American Land Conservancy
Natural Resources Defense Council
Occidental Arts and Ecology Center
Orange County Coastkeeper
Orange County Environmental Justice
OurWaterLA Coalition
Physicians for Social Responsibility, Los Angeles
Planning and Conservation League
Plastic Pollution Coalition
Resource Renewal Institute
Restore the Delta
Russian Riverkeeper

Safe AG Safe Schools
San Diego Bird Alliance
San Diego Coastkeeper
San Francisco Baykeeper
San Luis Obispo Coastkeeper
Santa Barbara Channelkeeper
Santa Clara Valley Bird Alliance
Save California Salmon
Save Our Shores
Save the Bay
Sea of Clouds
Seventh Generation Advisors
Shasta Waterkeeper
Sierra Club California
Sierra Nevada Alliance
Siskiyou Crest Coalition
Smith River Alliance
SoCal 350 Climate Action
Social Eco Education
Sonoma County Conservation Action
Sonoma County Japanese American Citizens League
Sonoma Ecology Center
Sonoma Mountain Preservation
Sonoma Safe Agriculture Safe Schools
South Yuba River Citizens League
SurfRider Foundation
The 5 Gyres Institute
The League to Save Lake Tahoe
The Nature Conservancy
The Otter Project
The River Project
The Stream Team
The Summertree Institute
Trout Unlimited
Tuolumne River Trust
Turtle Island Restoration Network
Union of Concerned Scientists
Ventura Coastkeeper
Water Climate Trust
Waterkeeper Alliance
Western States Policy Advocate Union of Concerned Scientists
WildCoast
Winnemem Wintu Tribe
Wishtoyo Foundation
Yuba River Waterkeeper

Opposition

African American Farmers of California
Agricultural Council of California
Alameda Countywide Clean Water Program
Almond Alliance
Alta Irrigation District
Association of California Egg Farmers
Association of California Water Agencies
Bay Area Council
Brea Chamber of Commerce
California Agricultural Aircraft Association
California Apple Commission
California Association of Realtors
California Association of Sanitation Agencies
California Association of Wheat Growers
California Association of Winegrape Growers
California Bean Shippers Association
California Blueberry Association
California Blueberry Commission
California Building Industry Association
California Chamber of Commerce
California Citrus Mutual
California Construction & Industrial Materials Association
California Cotton Ginners & Growers Association
California Council for Environmental & Economic Balance
California Dairy Campaign
California Farm Bureau Federation
California Forestry Association
California Fresh Fruit Association
California Grain & Feed Association
California League of Food Producers
California Manufacturers and Technology Association
California Municipal Utilities Association
California Pear Growers Association
California Rice Commission
California Seed Association
California Special Districts Association
California State Association of Counties
California State Floral Association
California Stormwater Quality Association
California Strawberry Commission
California Tomato Growers Association
California Walnut Commission
California Water Association
Camrosa Water District
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
City of Roseville
City of Santa Rosa
City of Shasta Lake

City of Thousand Oaks
Contra Costa Water District
Corona Chamber of Commerce
County of Marin
County of Monterey
County of Riverside
Cucamonga Valley Water District
Elsinore Valley Municipal Water District
Fresno Metropolitan Flood Control District
Garden Grove Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Grower-Shipper Association of Central California
Imperial Irrigation District
Industry Business Council
J.G. Boswell Company
LA Canada Flintridge Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
League of California Cities
Livermore Valley Chamber of Commerce
Long Beach Chamber of Commerce
Mendocino and Humboldt Redwood Companies
Menifee Valley Chamber of Commerce
Mesa Water District
Metropolitan Water District of Southern California
Milk Producers Council
Mission Springs Water District
Monterey County Farm Bureau
Murrieta Wildomar Chamber of Commerce
Napa Chamber of Commerce
Nisei Farmers League
North San Diego Business Chamber of Commerce
Northern California Water Association
Oceanside Chamber of Commerce
Olive Growers Council of California
Orange County Business Council
Pacific Egg & Poultry Association
Padre Dam Municipal Water District
Paradise Irrigation District
Paso Robles Templeton Chamber of Commerce
Placer County Water Agency
Rancho Cordova Chamber of Commerce
Rancho Mirage Chamber of Commerce
Redondo Beach Chamber of Commerce
Regional Water Authority
Ridgecrest Chamber of Commerce
Riverside County Flood Control & Water Conservation District
Roseville Chamber of Commerce
Rowland Water District

Rural County Representatives of California
Sacramento Suburban Water District
San Diego Regional Chamber of Commerce
San Juan Water District
San Luis Delta-Mendota Water Authority
Santa Clara Valley Water District
Santa Clarita Valley Chamber of Commerce
Santa Clarita Valley Water Agency
Santa Clarita Valley Water District
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
Temecula Valley Chamber of Commerce
Three Valleys Municipal Water District
Torrance Area Chamber of Commerce
Tri County Chamber Alliance
Tulare Chamber of Commerce
Tuolumne Utilities District
Valley AG Water Coalition
Ventura County Farm Bureau
Walnut Valley Water District
Water Blueprint for the San Joaquin Valley Advocacy Fund
WaterReuse California
West Valley Water District
Western Growers Association
Western Municipal Water District
Western Plant Health Association
Western Tree Nut Association
Western United Dairies
Western United Diaries
Wine Institute

Analysis Prepared by: Naomi Ondrasek / E.S. & T.M. / (916) 319-3965