March 12, 2024

The Honorable Diane Papan, Chair
Water, Parks, and Wildlife Committee
1020 N Street, Suite 160
Sacramento, CA 95814

RE: ACA 2 (Alanis) Water Resiliency Act of 2024 – OPPOSE

Dear Chair Diane Papan and Members of the Committee,

The undersigned groups are writing to express our strong opposition to ACA 2, entitled the "Water Resiliency Act of 2024." While we recognize the importance of investing in water infrastructure and adapting to the challenges posed by climate change, we believe that this bill, as currently drafted, is fundamentally flawed and would have adverse consequences for California's economy, rivers, ecosystems, and vulnerable communities.

ACA 2 would divert significant taxpayer dollars—ranging from $2-3 billion annually— from the General Fund to the California Water Resiliency Trust Fund, empowering the California Water Commission (CWC) to determine the distribution of these funds. The project categories under ACA 2 are incredibly broad, and could include highly controversial projects, such as the Delta Tunnel and Sites Reservoir. Furthermore, the bill introduces an accelerated review process for project applicants, limiting public input, environmental and cost-benefit review, and potentially increasing the risks associated with these projects. Despite the broad nature of allowed projects and the limitation of environmental review, the language actually makes it more difficult to build projects that benefit vulnerable communities.

We strongly believe that this bill contradicts the principles of responsible funding and equity. Instead of fostering responsible water infrastructure development, ACA2 would establish a fund that would benefit corporate agriculture and powerful water interests, while disadvantaged communities and the environment are excluded.

ACA 2 violates the beneficiary pays principle

ACA 2 deviates from the "beneficiary pays" funding principle. On a number of occasions, the Legislature and state water program administrators have stated their intent that the costs of state water programs and projects should be paid by those who benefit from them. Examples of the application of the beneficiary pays principle are found in most water programs, including the financing of CAL-FED Bay Delta Program, the State Water Project, flood control projects, and water quality and water rights regulation. Public funds should not subsidize private business interests.

Unfortunately, this legislation specifically allows private entities to receive and benefit from public funding, including allowing private ownership of facilities constructed with funding from this program.

In fact, of particular concern, is the failure of ACA 2 to require that public funds be used for public benefits. Unlike the Prop 1 Water Storage Investment Program or SB 149 (2023), ACA 2 bill language lacks safeguards to ensure that public funds are limited to projects providing tangible public benefits.

Prevents state agencies from implementing the Human Right to Water

ACA 2 would limit funding for needed projects serving disadvantaged communities. As written, the bill would:

- Require eligible projects to be shovel-ready, limiting the ability of low-income communities to access the program;

- Limit the ability of the largest counties in California to access the program. By including a priority for projects in counties with less than a million people, the proposal limits the ability of 28 million people in 10 counties[1] to access funding for water projects. These counties contain more than 350 water systems that have been identified by the State Water Board as failing, at-risk or potentially at risk of failure.[2]
- Limit eligible projects for disadvantaged communities to those that "increase the clean, safe and affordable water supply." This would seem to limit bills that replace aging infrastructure or promote consolidation. It's not clear whether projects to protect or restore water quality would be eligible .
- Reduce transparency about projects and feasible alternatives by limiting CEQA requirements. CEQA provides both critical information about a project and feasible alternatives, and also requires public hearings to solicit feedback.

These requirements clearly violate the state's Human Right to Water Statute, which requires the state to consider this statute when revising, adopting, or establishing policies, regulations, and grant criteria.

Streamlining risks poor outcomes and reckless spending

The proposed accelerated review process may lead to hasty decision-making and increased potential for siphoning public funds to private interests. Adequate review time is crucial for allowing impacted communities to provide input and ensuring the equitable management of resources. The communities that are most likely to be impacted by projects in their backyard deserve to have a voice.

Budget conditions are already constraining critical state programs

Considering the severe budget constraints proposed this year and the existing cuts to environmental programs, diverting a substantial amount of money as proposed by ACA 2 would cause further cuts to essential programs of the State. Water infrastructure funding is an important state priority; yet this funding does not address many of the state's water priorities. That means that we will have a fund that impacts

---

[1] The 10 counties with over 1,000,000 population are Alameda, Contra Coast, Fresno, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego and Santa Clara.

[2] 2023 Drinking Water Needs Assessment, State Water Resources Control Board; SAFER Dashboard

other General Fund programs and priorities, yet isn't even designed to address the state's highest water priorities. This is irresponsible.

In conclusion, we strongly oppose ACA 2. We urge you to vote against this bill and reject this detrimental and ill-conceived idea – for both the people of California, and the rivers on which they depend. We agree that the need for updating our water infrastructure is undeniable, but we must focus our limited resources on a climate resilient water future rather than water management strategies of the past. We appreciate your attention to these concerns and your commitment to responsible and equitable governance.

With warm regards,

Keiko Mertz
Policy Director
Friends of the River
keiko@friendsoftheriver.org

Caleen Sisk
Chief and Spiritual Leader
Winnemem Wintu Tribe

Jann Dorman
Executive Director
Friends of the River
janndorman@friendsoftheriver.org

Gary Mulcahy
Government Liaison
Winnemem Wintu Tribe

Jon Rosenfield
Science Director
San Francisco Baykeeper

Nathan Rangel
Executive Director
California Outdoors

Chris Shutes
Executive Director
California Sportfishing Protection Alliance

J.P. Rose
Policy Director, Urban Wildlands Program
Center for Biological Diversity

Jennifer Clary
Executive Director
Clean Water Action

Kyle Jones
Policy & Legal Director
Community Water Center

Ashley Overhouse
Water Policy Advisor
Defenders of Wildlife

Scott Artis
Executive Director
Golden State Salmon Association

Dr. C. Mark Rockwell
V.P. Conservation
Northern Calilfornia Council, Fly Fishers International

Matthew Baker
Policy Director
Planning and Conservation League

Barbara Barrigan-Parrilla
Executive Director
Restore the Delta

Aaron Zettler-Mann
Executive Director
South Yuba River Citizens League

Patrick Koepele
Executive Director
Tuolumne River Trust

Peter Drekmeier
Policy Director
Tuolumne River Trust