

Wildlife and Habitat Conservation Coalition

Dedicated to the sustained conservation of native animal and plant species in the Southwest Bioregion.



April 24, 2018

Water, Parks, and Wildlife Committee
Legislative Office Building
1020 N Street, Room 160
Sacramento, CA 95814
[via email only](#)

Re: AB 2545 - opposition

Dear Assembly Members,

The Wildlife and Habitat Conservation Coalition (WHCC) is comprised of 17 conservation-based organizations in San Diego County.

WHCC opposes AB 2545 as written, and provides comments below for consideration by the Committee on Water, Parks, and Wildlife (Committee) during its April 24, 2018, hearing. AB 2545 defines “rivers” and “streams” so narrowly that many stream systems in the semi-arid and arid parts of the State would no longer be subject to the Streambed Alteration Agreement program. We appreciate the Committee’s Bill Analysis posted on the internet on April 20, 2018, agree with the Opposing Arguments therein, and recognize that 12 organizations have already leveled opposition to AB 2545. Our specific comments follow.

1. The intent of the second sentence in the definition is unclear. The sentence is: “This includes watercourses having a surface or subsurface flow that supports or have supported riparian vegetation.” Clarification is needed as to whether this means that the definition applies ONLY to such watercourses OR that such watercourses are a subset of the watercourses to which the bill applies.
2. The phrase “have supported riparian vegetation” would be problematical in application absent stipulation of a time frame or any criteria for the documentation that would be needed to confirm the historical presence (or lack) of riparian vegetation.
3. The omission of “wildlife” and limiting the application of the regulations only to those rivers and streams that support fish or other aquatic life is unacceptable. This could be interpreted to mean that a river or stream that supports wildlife other than fish (the Fish and Game Code’s definition for wildlife includes fish) or aquatic life, is not subject to the regulations. This is inconsistent with the language in both:

a. Section 1600:

*The Legislature finds and declares that the protection and conservation of the fish and **wildlife** resources of this state are of utmost public interest. Fish and **wildlife** are the property of the people and provide a major contribution to the economy of the state, as well as providing a significant part of the people’s food supply; therefore their conservation is a proper responsibility of the state. This chapter is enacted to provide conservation for these resources; and*

- b. Section 1 of the proposed bill itself, that includes the language”to protect fish and **wildlife** resources that depend on natural rivers, streams, and lakes.”

4. In limiting the definition only to those rivers and streams that support fish or other aquatic life, AB 2545 is inconsistent with the following language which includes features that may not support fish or aquatic life: rivers and streams include “those that are episodic (they are dry for periods of time) as well as those that are perennial (they flow year round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.” <https://www.wildlife.ca.gov/Conservation/LSA>
5. Proposed Section (e)2 does not contemplate projects that might affect listed, fully protected, or other sensitive species present on/in the “artificial water conveyance infrastructure” (*e.g.*, in the vegetation it supports). Any such project should require at least the filing of a notification.
6. It is important to recognize that many artificial water conveyance structures - whether (especially/if) unlined or not, may have replaced natural streams or may have diverted water from natural streams/rivers and diminished the ecological value of the natural systems. For example, if the proposed definition had been in place prior to the 2003 Colorado River Quantification Settlement Agreement (QSA), there would have been far less mitigation for the impacts to riparian and aquatic resources lost/diminished in the All-American and Coachella canals. That mitigation involved hundreds of acres of riparian restoration, replacement of the sport fishery, provision of wildlife drinkers, *etc.*

Thank you for your consideration of our comments.

Sincerely,

Laura Hunter, Coordinator
Wildlife and Habitat Conservation Coalition