



March 15, 2022

Assembly Member Bill Quirk, Chair
Assembly Environmental Safety and Toxic Materials Committee
1020 N Street, Room 171
Sacramento, California 95841

RE: Assembly Bill 2113 (R. Rivas): Making Communities Whole - SUPPORT

Dear Chair Quirk and ESTM Committee Members,

The undersigned organizations are advocates for healthy water quality for all Californians. We recognize that, to achieve this goal, degraded waterways must be restored and vigilantly monitored, communities must be able to participate in the regulatory processes that impact their watersheds, and scientifically valid methods must be used to prevent water quality from degrading further. For these reasons, we support Assembly Bill 2113 because it will ensure that communities harmed by water quality violations are made whole by requiring enforcement fines to go back to the community to restore their watershed and open spaces.

The State Water Pollution Cleanup and Abatement Account (CAA) was designed as a safety net, intended to make sure that even when polluters could not be found, there was adequate financing to clean contaminated sites. This account is funded through a variety of sources, including criminal and civil penalties and any money contributed to the account and accepted by the state board.¹ This funding structure has allowed the CAA to be used as a “clearing account” for the State’s Site Cleanup Program.² The idea is that polluters pay the cost of remediating their contaminated sites into the CAA, relieving them of liability. The appropriate Regional Board would then fund a restoration project, mitigating the damage done by the pollution violations. And finally, the Regional Board should be able to recover its restoration costs from the CAA.³

However, nothing mandates that the funds polluters pay into the CAA must be used to remediate the damage caused by the violation, or even that the State Water Board needs to repay a regional board for its restorative work.⁴ Instead, CAA funds can be used for projects anywhere in the state. To that effect, the State Water Board has used the CAA for emergency needs, unevenly distributing those monies back to the regional watersheds that contributed the funds in the first place. This has led to situations where polluters have paid to pollute yet those payments are never used to remediate the contaminated watersheds. AB 2113 seeks to solve this issue through the creation of the Waterway Recovery Account.

The Waterways Recovery Account will receive its funding by splitting the annual proceeds of the CAA. These monies will be dedicated to achieving four main goals: (1) funding regional restoration projects, (2) increasing citizen water quality monitoring, (3) providing impacted communities the resources they need to participate in regulatory processes, and (4) providing a funding source for the State Water Board to study the effectiveness, and research the development of, stormwater best management practices (BMP). And the remaining funds may be spent at the State Water Board’s discretion to address emergency issues that arise unexpectedly.

By dedicating the CAA to these four issues plus emergency needs, regional boards will be better equipped

¹ [Cal. Wat. sec. 13441](#).

² SWRCB, *Cleanup and Abatement Account Funding Program Guidelines*, Oct. 2018, at 1, https://www.waterboards.ca.gov/water_issues/programs/grants_loans/caa/docs/draft_caa_guidelines.pdf.

³ [Cal. Wat. sec. 13443](#).

⁴ *Id.*

to bring their waters back into attainment and prevent those waters from degradation through citizen monitoring. In addition, Regional Boards will benefit from increased engagement with their communities by decreasing language barriers, improving access to water quality data, and improving stakeholder engagement. Finally, by earmarking funds for stormwater research, regional areas will benefit from decreasing levels of stormwater pollution harming their waterbodies.

Watersheds are regional. They bind communities together, and together, regional communities will benefit from increased water quality. To ensure that communities are made whole by water quality pollution, the undersigned organizations express their support of AB 2113.

Sincerely,

Sean Bothwell
Executive Director
California Coastkeeper Alliance

Matt O'Malley
Waterkeeper, Legal & Policy Director
San Diego Coastkeeper

Garry Brown
Executive Director & CEO
Orange County Coastkeeper
Inland Empire Waterkeeper
Coachella Valley Waterkeeper

Bruce Reznik
Executive Director
Los Angeles Waterkeeper

Don McEnhill
Executive Director & Riverkeeper
Russian Riverkeeper

Jen Kalt
Director
Humboldt Baykeeper

Melinda Booth
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