

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Diane Papan, Chair

AB 975 (Gallagher) – As Amended April 21, 2025

SUBJECT: Lake and streambed alteration agreements: exemptions: culverts and bridges

SUMMARY: Exempts projects to repair or reconstruct a bridge up to 30 feet long or a culvert up to 70 feet long, in the County of Sutter, that has been damaged or destroyed by a fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide since 2021 from the need to obtain a Lake and Streambed Alteration Agreement (LSAA) from the Department of Fish and Wildlife (DFW). Sunsets this provision on January 1, 2029 and makes a finding regarding the need for a special statute.

EXISTING LAW:

- 1) Prohibits any entity from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from a streambed, unless DFW determines the activity will not adversely affect fish and wildlife resources or the entity enters into an LSAA with DFW to take reasonable measures to protect fish and wildlife resources (Fish and Game Code § 1602).
- 2) Exempts immediate emergency work necessary to protect life or property, immediate emergency repairs to public service facilities necessary to maintain service as a result of disaster in an area subject to a declaration of emergency, and emergency projects undertaken to repair a highway damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide within one year of the damage from LSAA requirements (Fish and Game Code § 1610).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** This bill is a five-year exemption from LSAA requirements for culvert repair projects in Sutter County. The author indicates this bill arises out of a miscommunication between the County of Sutter and DFW about how long the county had to conduct emergency repairs under the existing exemption from LSAA requirements. Based on information provided by Sutter County, there are nine culvert repair projects that the county is currently attempting to implement. The author asserts “red tape and regulatory obscurity have held back the repair of Sutter County’s small bridges and culverts for too long. The affected roadways are often the primary or only evacuation routes in wildfire zones, and communities should not risk losing evacuation access due to overregulation.”
- 2) **Background.** The LSAA program requires any person, state or local governmental agency, or public utility to notify DFW and enter into an LSAA prior to beginning any activity that may do one or more of the following:
 - Divert or obstruct the natural flow of any river, stream, or lake;
 - Change the bed, channel, or bank of any river, stream, or lake;

- Use material from any river, stream, or lake; or
- Deposit or dispose of material into any river, stream, or lake.

LSAAs, when issued, determine the extent to which a planned activity within a stream or river may adversely affect fish or wildlife or habitat and what off-setting mitigation may be required. In the absence of an LSAA, an entity may not substantially divert or obstruct the natural flow of a stream or deposit or dispose of material. Existing law requires the entity to notify DFW, which triggers the negotiation of the standards that may apply to the request. At that point, the entity and DFW enter into an LSAA that contains any necessary provisions to mitigate the planned activity's potentially adverse consequences. Before issuing an LSAA, DFW typically must comply with the California Environmental Quality Act.

Under historical practice, an LSAA could be required for an activity adversely affecting a river, stream, or lake, including those that are episodic and dry for periods of time. An LSAA may also apply to work undertaken within the floodplain of a body of water.

- 3) **Arguments in support.** Sutter County supports this bill and maintains that it addresses a pressing need in the county to repair culverts under roadways that oftentimes serve as emergency egress routes. The county asserts that the types of projects this bill addresses “generally have minimal environmental impact” and that the activities covered “are often maintenance activities within existing rights-of-way and do not involve any new construction.”
- 4) **Proposed committee amendment.** Change the inoperative date for this bill from January 1, 2029 to January 1, 2027. This will provide the County of Sutter a one-year period from the potential effective date of this bill to begin culvert or bridge repair projects, a period that is consistent with the existing LSAA exemption for emergency repair projects. Should the county experience future emergencies beyond the inoperative date of this bill, it will be able to avail itself of the emergency repair exemption under existing law (See #2 under Existing Law, above).
- 5) **Related legislation.** AB 2060 (Soria) of 2024 would have exempted a temporary water right permit (“temporary urgency permit”) to divert water for groundwater recharge from LSAA requirements if the water diversion commences before January 1, 2029. AB 2024 was held on the Senate Floor.

AB 1024 (Aguiar-Curry) of 2023 would have exempted entities in specified Central Coast and Northern California counties that hold a registration for small domestic, small irrigation, or livestock stockpond water use from LSAA requirements. AB 1024 was held in the Senate Appropriations Committee.

AB 830 (Soria) of 2023 would have exempted the temporary operation of existing infrastructure or temporary pumps to divert flood stage flows, or near-flood stage flows, to groundwater recharge from LSAAs if certain conditions are met. SB 830 was held in the Senate Appropriations Committee.

AB 1458 (Frazier) of 2021 would have exempted fire-prevention and mitigation measures activities from LSAA requirements for projects approved by a state or local agency. AB 1458 was held in this Committee.

AB 947 (Gallagher) of 2017 would have further defined the terms “river” and “stream” with respect to the LSAA application process. AB 947 was held in the Assembly Appropriations Committee.

SB 506 (Nielsen) of 2017 would have limited diversions and obstructions regulated by an LSAA and would exempt maintenance and repair facilities for instream agricultural diversions. The bill was vetoed by the Governor. The veto message stated:

This bill requires [DFW] to upgrade its [LSAA] website and post any documents created for informational, guidance, or regulatory purposes on the website by December 31, 2018.

[DFW] is beginning a rulemaking process on [LSAA] and the bill, as currently written, is premature.

I am directing [DFW] to update its website to reflect the new guidance, once the regulations are complete.

SB 1026 (Nielsen) of 2016 would have limited diversions and obstructions regulated by LSAA and would have exempted maintenance and repair facilities for instream agricultural diversions. The bill failed passage by a vote of 3-4 in the Senate Natural Resources and Water Committee.

REGISTERED SUPPORT / OPPOSITION:**Support**

County of Sutter

Opposition

None on file

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