



March 20, 2023

The Honorable Rebecca Bauer-Kahan, Chair
 Assembly Water, Parks and Wildlife Committee
 Legislative Office Building, Room 160
 Sacramento, CA 95814

RE: Support for AB 859 (Gallagher and Cortese) – Navigable Flood Waters

Dear Assembly Member Bauer-Kahan:

Our organizations, which represent hundreds of thousands of outdoor enthusiasts in California, urge you to support AB 859 (Gallagher and Cortese), which would clarify the public’s right to use navigable floodwaters for waterfowl and other hunting purposes.

AB 859 amends Section 2016 of the Fish and Game Code to make it consistent with a State Attorney General Opinion that found that hunting is an integral part of the public right of navigation; and, that Section 2016’s restriction on hunting navigable floodwaters is unconstitutional because it conflicts with Article X, Section IV of the California Constitution, which requires the State Legislature to protect the public’s access to navigable waters. A subsequent State Opinion also effectively reaffirmed this conclusion.

This change will not only help ensure that sportsmen exercising their rights on navigable floodwaters are not wrongly cited for trespassing, but will save the court system time and money. Most district attorneys are unaware of the State Opinions, and judges who have access to them typically dismiss that particular charge due to concerns about infringement on the public's Constitutional rights.

Please note that, under AB 859, Section 2016's restrictions on hunting still apply to any non-navigable waters and lands that meet the signage and other requirements of that Section.

Furthermore, the bill does not affect any other provision in law, including other code sections that limit or ban hunting or the ability of the California Fish and Game Commission to further regulate the taking of game and fish on navigable waters.

It should also be noted that AB 859 is consistent with the Governor's 30x30 objective of ensuring public access for all Californians to the outdoors <https://www.californianature.ca.gov/pages/30x30> and the California Department of Fish and Wildlife's Hunting and Fishing Recruit, Retain and Reactivate efforts <https://wildlife.ca.gov/R3>.

For these reasons, please support AB 859 when it is heard by your committee.

Sincerely,

Mark Hennelly, Vice President of Advocacy
California Waterfowl Association

Joel Webster, Vice President of Western Conservation
Theodore Roosevelt Conservation Partnership

Cyrus Baird, Senior Director of Government Affairs
Delta Waterfowl

Marc Engstrom, Director of Public Policy, California
Ducks Unlimited

James Stone, President
Nor-Cal Guides and Sportsmen's Association

Lori Jacobs, President
California Houndsmen for Conservation

Kerry Luft, Executive Vice President
Max McGraw Wildlife Foundation

Fred Harpster, President
Black Brant Group Fred Harpster, President

Steve Miller, President
Tulare Basin Wetlands Association

Devin O'Dea, California Chapter Coordinator
Backcountry Hunters and Anglers

Lisa C. McNamee, Legislative Coordinator, California Chapters
Safari Club International

Steve Hunter, President
Safari Club International, Golden Gate Chapter

Steve Chappell, Executive Director
Suisun Resource Conservation District

Adam Chavez, President
California Hawking Club

Dan Whisenhunt, CEO
California Deer Association

Chriss Bowles, President
California Bowmen Hunters/State Archery Association

Gary Brennan, President
San Diego County Wildlife Federation

Don Kirby, President
Cal-Ore Wetlands and Waterfowl Council

Keely Hopkins, California State Director
Congressional Sportsmen's Foundation