



COACHELLA VALLEY WATER DISTRICT

Established in 1918 as a public agency

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May 5, 2025

The Honorable Buffy Wicks
Chair, Assembly Appropriations Committee
1021 O Street, Suite 8220
Sacramento, CA 95814

RE: AB 1319 (Schultz) – Oppose Unless Amended

Dear Chair Wicks:

The Coachella Valley Water District is writing to respectfully express our “oppose unless amended” position on AB 1319. This bill would require the California Fish and Game Commission (Commission) to consider whether to adopt an emergency regulation to add a species to the list of endangered or threatened species under the California Endangered Species Act (CESA) if any federal action would decrease the protection of a federally listed species that is native to California.

We have concerns with the application of section two of the bill. The section creates additional uncertainty for permittees with the potential to lead to extensive delays in the implementation of projects and maintenance activities and significantly increases costs to the California Department of Fish and Wildlife (CDFW).

Explicit Emergency Authority is Unnecessary

The Commission and CDFW already have the appropriate and expeditious tools to address any concerns related to a species that is native to California. CDFW and the Commission can utilize the emergency regulation process consistent with Fish and Game Code section 399, and CDFW can submit a petition for listing in the absence of a petition from an interested party, which would expedite the traditional candidate status process. By using these existing tools, CDFW could best manage its resources and manage the fiscal impact of adding new species to the endangered and threatened species list.

Under existing law, the Commission can initiate an emergency regulation to list a species under CESA pursuant to Fish and Game Code section 399. Section 399 provides the following two reasons for emergency regulations: 1) necessary for the immediate conservation, preservation or protection of a species; or 2) necessary for the immediate preservation of public peace, health and safety, or general welfare. If a species that was critically endangered was delisted under the Federal Endangered Species Act (ESA), the Commission could arguably utilize these emergency regulatory provisions to list the species.

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The more typical process for listing a species includes a petition. When a petition is submitted by an interested party, CDFW typically has 90 days to evaluate the petition on its face before the Commission would consider the petition. However, CDFW also has the authority to recommend that the Commission add a species in the absence of a petition from an interested party. If CDFW recommended a species for consideration by the Commission, and the Commission agreed with the petition, the listing process would forgo the “departmental recommendation” part of the process, which would significantly expedite the Commission’s ability to grant candidate status for the species.

Required Review of “Decreases in Protection” Increases Uncertainty

The provisions in section two of the bill are not only unnecessary, they create additional uncertainty as water agencies and businesses move forward with projects across the state to increase climate resilience. While the Commission could use the tools described above, there is nothing in current law that would require them to consider any possible federal action that “decreases protection.” So, this bill would create a new burden and additional uncertainty.

The term “decrease in protection” is so broad that the same action could be viewed by different parties as either decreasing or increasing protection. Some possible actions that could be considered decreased protection: court decisions overturning federal species protection actions; a change in a biological opinion based on the best available science; an action by the Federal Endangered Species Act Committee to waive Endangered Species Act (ESA) requirements for a specific agency action. None of these actions would be unique to the current federal administration. By having such a broad, open-ended mandate for CDFW to recommend actions for consideration by the Commission, this bill would create a situation where the Commission was likely considering almost every federally listed species that is native to California on an ongoing basis.

While the sponsors would argue that projects with federally issued permits could continue with those existing permits following a consistency determination, our respective members have found that CDFW rarely issues a consistency determination without requiring significant renegotiation of federal permits to better mirror state requirements and processes. This process can take significant time and lead to delays. We do not believe that providing the possibility of a consistency determination process would mitigate the significant uncertainty this bill would create.

Significant Fiscal Impact to CDFW

This bill will have a significant impact on the workload of CDFW, an agency that, according to the Senate Committee on Budget and Fiscal Review, has lost position authority for 190 positions over the last fiscal year. Two-thirds of the savings from these position cuts came from special fund positions, positions that are intended to respond to permit requests, including consistency determinations and incidental take permits.

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This bill will require CDFW to constantly monitor a broad array of federal actions related to protected species, and if the Commission adopts emergency regulations, work through the permanent adoption process. Further, CDFW will need to work with a broad array of potential permittees on possible consistency determinations or incidental take permits, both of which typically take at least several months of staff time to complete. With all these various requirements, CDFW would need to dedicate a considerable amount of staff time to implement section two of the bill.

Due to these significant fiscal impacts and policy concerns, the undersigned coalition respectfully opposes AB 1319 and request further amendments to address the concerns Honorable Buffy Wicks outlined in this letter. Without these amendments, we respectfully request your "NO" vote when it is heard in the Assembly Appropriations Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "J. M. Barrett", written over a horizontal line.

J. M. Barrett
General Manager