



July 22, 2019

The Honorable Lorena Gonzalez
 Chair, Assembly Appropriations Committee
 State Capitol, Room 2114
 Sacramento, CA 95814

**RE: SB 1 (Atkins) California Environmental, Public Health, and Workers Defense Act of 2019 -
 OPPOSE UNLESS AMENDED**

Dear Assembly Member Gonzalez:

On behalf of the undersigned organizations, we convey our opposition to Senate Bill 1, unless amended. A number of the signatories to this letter previously wrote to Senator Atkins, May 8, to express concern about the Endangered Species Act provisions of SB 1. The issues identified in that letter have not been addressed, and SB 1 is now being considered in the Assembly. We continue to seek substantial conversation with Senator Atkins regarding the likelihood for statewide disruptive impacts to the state's water systems should this measure be enacted in its current form – and regarding amendments that would eliminate such impacts. Until those concerns are addressed, we vigorously oppose it. SB 1 threatens water supply reliability for millions of Californians and jeopardizes efforts to improve the environmental health of the Sacramento and San Joaquin River watersheds. This attempt, through a state statute to codify not only federal statutes and regulations, but individual permit conditions and decade old biological opinions governing water project operations in the Sacramento-San Joaquin Delta is an unprecedented act. It is out of step with the other provisions of SB 1 that do not freeze in place existing permit conditions. It will create chaos in California water and could prevent the

Newsom Administration from using the best available science to improve conditions for at-risk fish species in the Delta under the Porter-Cologne Water Quality Control Act, the California Endangered Species Act, and other state environmental laws.

The language in SB 1 is extremely problematic and is likely to have unintended consequences. As an example, in its present form SB 1 would prohibit any adjustments to the incidental take level for Delta smelt at the State Water Project pumping plant established in the 2008 Delta smelt biological opinion, notwithstanding new scientific understandings based on improved fish monitoring and research conducted over the last decade. SB 1 would deprive both state and federal agencies the kind of flexibility they have used in recent years, to better protect Delta smelt and operate the State Water Project and Central Valley Project. As written, SB 1 could result in the shutdown of the State Water Project pumping plant for months due to the detection of a single Delta smelt. Meanwhile, there is great uncertainty over the legality of SB 1 efforts to subject the Central Valley Project to the California Endangered Species Act and this could result in a disparity of pumping requirements between the SWP and CVP harming SWP operations. We urge you to delete the provisions of SB 1 (Government Code Sections 120060, 120061) that seek to dictate how federal agencies implement the federal Endangered Species Act in California.

This very real prospect of chaos threatens to spread far beyond the Delta and impact literally every user of water in the Sacramento and San Joaquin river watersheds. As you know, the State Water Resources Control Board is in the process of updating its Bay Delta Water Quality Control Plan. State and public water agencies, environmental groups and other stakeholders are collaboratively advancing ways to update this plan with voluntary agreements to provide additional flows and fund new habitat and restoration efforts. The uncertainty created by SB 1 on the State Water Project's future operations and environmental responsibilities would make the SWP's participation impossible, resulting in the collapse of the Newsom Administration's voluntary approach to updating the Board's plan.

While we understand the state's desire to serve as a strong voice against Presidential policies on many fronts – including environmental policies – in its current form SB 1 would be counterproductive to the best environmental outcomes with respect to water operations and could severely disrupt the delivery of water throughout most of the state. By interjecting the Legislature into implementing state and federal endangered species laws, SB 1 threatens both the California environment and economy. We oppose SB 1 until the section attempting to apply CESA to the CVP is removed and other provisions are significantly revised to eliminate references to incidental take permits, biological opinions and related specifics.

Sincerely,



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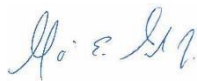
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CC: Honorable Members, Assembly Appropriations Committee
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