



June 21, 2019

The Honorable Laura Friedman
Chair, Assembly Natural Resources Committee
State Capitol, Room 2137
Sacramento, California 95814

RUSSELL KAGEHIRO
President
Division V

TIM MAGGIORE
Vice President
Division III

LARRY ENOS, JR.
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CHARLES TUSO
Director
Division VI

JEFF BROWN
Director
Division VII

RICK GILMORE
General Manager
Secretary

Re: Senate Bill 1 (Atkins) California Environmental, Public Health,
and Workers Defense Act of 2019 – OPPOSE

Dear Chair Friedman:

This letter serves to convey our opposition to Senate Bill 1. Byron-Bethany Irrigation District has concerns about the impacts of the Endangered Species Act provisions of SB 1, which is now being considered in the Assembly. SB 1, if enacted in its current form, is likely to have statewide disruptive impacts to the state's water systems and until those concerns are addressed, on behalf of the customers and communities to which we serve water, we are forced to 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.

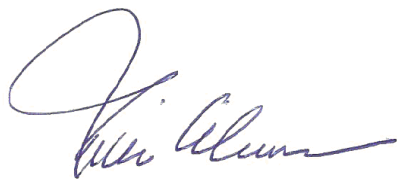
The language in SB 1 is extremely problematic and is likely to have unintended consequences. As an example, in its present form SB 1 would prohibit any adjustments to the incidental take level for Delta smelt at the State Water Project pumping plant established in the 2008 Delta smelt biological opinion, 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.

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. 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 could result in the collapse of the Newsom Administration's voluntary approach to updating the Board's plan.

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.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Rick Gilmore". The signature is fluid and cursive, with a large initial "R" and "G".

BYRON BETHANY IRRIGATION DISTRICT
Rick Gilmore
General Manager

cc: Honorable Members, Assembly Natural Resources Committee
The Honorable Toni Atkins, President pro Tempore, California State Senate
Ms. Rachel Wagoner, Deputy Legislative Secretary, Office of Governor Gavin Newsom
Ms. Christine Hironaka, Deputy Cabinet Secretary, Office of Governor Gavin Newsom
Mr. Kip Lipper, Chief Policy Advisor, Office of Senate pro Tempore Toni Atkins
Ms. Elizabeth MacMillan, Principal Consultant, Assembly Natural Resources Committee
Ms. Katie Sperla, Consultant, Assembly Republican Caucu