

# Endangered Species

## Reform Should Balance Environmental Protections, Economic Growth

### Summary

#### Background

A long-term problem confronting the California business community is how to provide enough private land for housing, agriculture, transportation and basic infrastructure needs, including water, gas and electricity, in the face of ever-encroaching environmental laws such as the federal and state endangered species acts. The California Chamber of Commerce supports reforming endangered species laws to achieve a balance between protecting the environment and accommodating growth.

#### Current Federal/State Policy

California is one of a handful of states that is subject to regulation by three endangered species laws—the federal Endangered Species Act, the California Endangered Species Act and the California Fully Protected Species Act. Endangered species laws require that no activity be allowed that threatens the well-being of the listed species unless permission to “take” the species is granted. Federal law requires critical habitat designations within one year of listing.

#### Impact on Business, Employers, Economy

At a great expense, farmers and ranchers have been forced to alter farm management practices to accommodate species living on their land. Timber companies have spent millions of dollars preserving species habitat on timberlands while losing millions on trees that cannot be cut.

The cost of building new housing and commercial developments continues to rise while selling prices have plummeted during this economic downturn. Part of what drives increases in costs to build are the mitigation measures imposed on builders under the endangered species acts. Basic infrastructure needs like highways and wastewater facilities take twice as long to complete and invariably cost much more than originally budgeted due to regulatory impacts of the species. Water agencies and districts are struggling with how to provide water to existing connections without having to raise rates prohibitively and seek alternative water sources given a federal court ruling limiting by almost a third the amount of water that may be pumped from the Delta during certain timeframes.

#### Anticipated Actions

In the last five years, six species have been listed as either threatened or endangered in California. The listing of some, like the longfin smelt and the chinook salmon, might further limit water supplies. Meanwhile, a federal appeals court overturned the state Fish and Game Commission’s decision declining to list the California tiger salamander as an endangered species. The commission lost the appeal and has since accepted a petition for candidate species status for the salamander in February 2009. Within one year, the commission must decide whether to list the species as endangered or threatened. Meanwhile, the species is protected. The habitat covers a significant area of the Central Valley.

The Center for Biological Diversity filed five separate lawsuits in 2008 concerning what it considers to be the Bush administration’s political interference in designating critical habitat for six Western species with populations in California. Three of those lawsuits resulted in a settlement where the U.S. Fish and Wildlife Service agreed to redo critical habitat designations involving thousands of acres. Two of those lawsuits remain open. The center filed 18 more lawsuits in California during 2009; five have been resolved and 13 remain open. Most of the resolved cases resulted in the Fish and Wildlife Service agreeing to redo the designations. The center publicly criticized the Obama administration for listing just two species as endangered from the federal list of 249 candidate species. The center also has a pending lawsuit in Washington, D.C. arguing that continued delay in protecting the candidate species is illegal.

The National Research Council, a panel of scientists and experts, will conduct a \$1.5 million California water study following requests for a review from California lawmakers and Obama administration officials. Part of that review will include a re-examination of the “biological opinions” (the bases of the federal court rulings), which have resulted in as much as a 30 percent reduction of Delta water exports. The first part of the study (due on March 15, 2010) will examine the “scientific questions, assumptions and conclusions” that were included

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in the biological opinions. U.S. Senator Dianne Feinstein (D-San Francisco) and U.S. House of Representative members also urged the Obama administration to conduct the independent review, going so far as to secure \$750,000 for its funding as part of a 2010 appropriation bill.

Business, agriculture and transportation and water agencies must participate in stakeholder groups to provide comments to proposed state and federal rules, provide expert testimony refuting unsubstantiated proposals and file amicus briefs to stem the tide of encroaching endangered species act provisions that further erode land use, restrict necessary public infrastructure and shut down economic development.

### CalChamber Position

The CalChamber supports reforms to state and federal laws that achieve a balanced approach between environmental protection and socioeconomic progress.

### Reasons for Position

- Environmental regulations should be based on sound science, subject to peer review.
- Economic impacts should be evaluated to ensure that the benefits outweigh the social costs of imposing mitigation measures.

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January 2010