





August 19, 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**

Assembly Appropriations Committee -- August 21, 2019

Dear Chairwoman Gonzalez:

We are writing to express our opposition to SB 1 by President pro Tem Atkins unless amended. We support the goal of SB 1 to protect California's environment and worker safety laws from any future rollbacks in federal law. However, if enacted, SB 1 could have unintended consequences for Metropolitan and its member agencies.

Some of the language in SB 1 is extremely problematic. For example, the endangered species provisions go beyond statutes and regulations and include incidental take permits or biological opinions, including the biological opinions governing the coordinated operations of the State Water Project (SWP) and Central Valley Project (CVP) as they existed prior to the Trump Administration. The federal government is in the process of updating the federal biological opinions. California has initiated consultation separately under the California Endangered Species Act (CESA) that covers all species. If the state is required to adopt the standards from the previous biological opinions from 2008-09 that could constrain SWP operations and shift water supply costs from the federal CVP to SWP; create confusion for water managers; and prevent the state from using best available science to improve conditions for at-risk fish in the Delta in any new permit.

The amended bill also assumes that CESA applies to the federal CVP. That is an unsettled area of law, and it is likely that this language will lead to litigation. In the interim, SWP would bear the full costs of meeting the 2008-09 biological opinion requirements. These water supply costs would limit SWP's flexibility to implement the Voluntary Agreements that is the Newsom

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Administration's effort to update the Bay Delta Water Quality Control Plan to provide additional flows and fund new habitat and restoration efforts.

Another troubling aspect of SB 1 is that it would allow state agencies to adopt federal baseline standards with as little as 30-days' notice, precluding meaningful public comment.

We have had several meetings with the author's staff and the proponents of the bill to share our concerns and suggest amendments. Unfortunately, until all our concerns outlined in this letter are addressed, we must continue to oppose SB 1. The amendments we seek include striking the provision relating to biological opinions and the incidental take permits; striking the provision that applies CESA to the Central Valley Project, and amending the "less protective" definition to apply to the relevant statutes.

We are committed to working with the author and the proponents of the bill to see if we can reach an agreement on amendments to address our concerns while maintaining the bill's stated goal. If you have any questions regarding our position on the measure or our suggested amendments, please do not hesitate to contact Kathy Viatella at the Metropolitan Water District of Southern California at kviatella@mwdh2o.com or by phone (916) 650-2614.

Sincerely,

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cc: President pro Tem Toni Atkins
Members of the Assembly Appropriations Committee
Jennifer Galehouse, Deputy Chief Consultant, Assembly Appropriations Committee
Ellen Ceseratti, Consultant, Assembly Republican Caucus