



## California Fires and the Consequences of Overregulation

Testimony Before the U.S. House  
Committee on the Judiciary;  
Subcommittee on the Administrative State,  
Regulatory Reform, and Antitrust

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February 6, 2025

Written Testimony

Chairman Jordan, Ranking Member Nadler, Chairman Fitzgerald, Ranking Member Raskin, and Members of the Subcommittee: Thank you for the invitation to appear today to testify regarding California Fires and the Consequences of Overregulation.

My name is Edward Ring and I am the Director of Energy and Water Policy for the California Policy Center, a nonpartisan public policy research institute. My observations over at least the past decade have led me to a conclusion that many of you may share: overregulation in California has made the state unaffordable to middle class and low income families. It has also endangered our lives, our homes, and our communities, and has harmed the environment at least as much as it has helped.

Today's hearing centers on the consequences of overregulation in California with a specific focus on the recent and catastrophic wildfires that consumed thousands of homes in Los Angeles and cost many lives. While no amount of preventive measures or properly applied firefighting resources can stop all of the wildfires in our state, their frequency and severity is a consequence of overregulation. The regulations most damaging to our forests are, ironically, justified by misguided environmentalist values.

Because of environmentalist regulations and litigation pursuant to the California Environmental Quality Act, the California Endangered Species Act, and their federal equivalents, California's annual timber harvest is down to 1.5 billion board feet per year, about 25 percent of what it was as recently as the 1980s.<sup>1</sup> These and other environmental laws have nearly killed our logging industry while also making it much harder to do prescribed burns or graze. These forests are dried out and unhealthy because there are now at least three times as many trees per acre than the natural density, competing for limited light, water, and soil nutrients.<sup>2</sup> There is an alternative.

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<sup>1</sup> California Timber Harvest, 2022, California Forest Foundation  
<https://www.calforestfoundation.org/resource/timber-management/>

California Timber Harvest by Year, 1952-2006, US Forest Service, USDA  
[https://www.fs.usda.gov/pnw/pubs/pnw\\_gtr866.pdf](https://www.fs.usda.gov/pnw/pubs/pnw_gtr866.pdf)

<sup>2</sup> California Forests 80%-600% Denser Than 150 Years Ago  
By Jim Jacobs, GWire, September 15, 2020  
<https://gwire.com/2020/09/15/california-forests-80-600-denser-than-150-years-ago-uc-researcher-says-biomass-is-one-of-the-answers/>

To save forests, cut some trees down, scientists say  
By Ula Chrobak, Science Advisor, April 21, 2017  
<https://www.science.org/content/article/save-forests-cut-some-trees-down-scientists-say>

Twentieth-century shifts in forest structure in California: Denser forests, smaller trees  
By Patrick McIntyre, James Thorne, David Ackerly, PNAS, January 20, 2015  
<https://www.pnas.org/doi/10.1073/pnas.1410186112>

For example, in 2020 the Creek Fire burned 380,000 acres in the Central Sierra Mountains. But 20,000 acres in the middle of that fire, the watershed around Shaver Lake, didn't burn at all. That's because for several decades the owners practiced what they call total ecosystem management. They used prescribed burns, mechanical thinning, grazing, and selective logging to manage their forest. Wildlife biologists who were on site claim that species counts in the area actually exceed levels found in forests where state regulations have banned logging.<sup>3</sup>

These practices need to be extended to all wildland in California. And in the wildland-urban interface, Los Angeles in particular, the Santa Monica Mountains Conservancy ought to completely reprioritize their actions to first ensure reducing fire risk. California is only 5 percent urbanized, and that is where 94 percent of our state's population lives. We have the most densely populated urban areas of any state in America.<sup>4</sup>

The point here is that our state has plenty of open space and wilderness. Going to extreme lengths to return ecosystems to an untouched natural state is not appropriate along the perimeter of a city of 10 million people, and in any case, our government at all levels has *not* outperformed private landowners in preserving habitat.

California's state government has enacted regulations and enabled litigation that rewards special interests while costing taxpayers literally hundreds of billions of dollars. Environmental regulations make housing unaffordable, leaving subsidized developers to inadequately fulfill a mission that the private sector can do. We pay higher utility rates to subsidize "renewables." We have carbon sequestration, carbon offset trading, carbon accounting. Environmental litigation as a business model. Entire new industries created by political decree, producing nothing of value.

The disaster in Los Angeles is a clarifying moment. The leaders running California today can allow a deregulated private sector to create millions of good jobs delivering abundant energy, water, lumber, and housing – including rebuilding the lost homes in Los Angeles – at a price normal people can afford, or we can ration our water and energy and land, expecting the government to subsidize millions of households that can no longer afford the essentials. We can manage our environment and expand our suburbs, redefining what constitutes a reasonable environmental

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<sup>3</sup> Shaver Lake Spared From Devastating Creek Fire

By Reggie Kumar, Energized, December 15, 2020

<https://energized.edison.com/stories/shaver-lake-spared-from-devastating-creek-fire>

Why didn't Shaver Lake get torched by Creek Fire?

By Marek Warszawski, Fresno Bee, September 24, 2020

<https://www.fresnobee.com/opinion/opn-columns-blogs/marek-warszawski/article245842780.html>

<sup>4</sup> America's Most Urban States, New Geography, March 7, 2016

<https://www.newgeography.com/content/005187-america-s-most-urban-states>

impact, or we can retreat into high density urban cores and pretend the entire earth should be turned back over to nature.

I am including in my written testimony a list of laws that should be repealed, regulations that should be scrapped, and strategies whereby California, hopefully with *help* from the federal government, can save our state.

Thank you.

## Recommended Reforms to California State Laws and Regulations

The following lists were voluntarily submitted by California-based attorneys specializing in land use, water rights, and environmental law, along with engineering consultants, trade organizations, water agencies, farmers, and activists. They are all willing to offer additional help in order to see these reforms become reality.

*Please note that expert opinion on the Delta Conveyance, otherwise known as the Delta Tunnel, is divided. Rather than remove all references to the Delta Tunnel in these recommendations, we decided to include both points of view.*

1 - Repeal the California Environmental Quality Act (CEQA, 1970), or, limit standing for lawsuits to elected law enforcement officials, and waive CEQA for housing, manufacturing and other employment projects, forest management, and infrastructure/utility and public service projects.

2 - Repeal the California Endangered Species Act (Fish and Game Code Section 2050 et. Seq) and the Fully Protected Species statutes (Fish and Game Code §§ 3511, 4700, 505, 5515) that duplicate and go far beyond the federal ESA.

3 - Repeal SB 1157 (2022) which caps the amount of water that water districts can deliver to their customers. This expensive and misguided legislation takes away the incentive for water districts to invest in new water supply projects.

4 - Repeal SB 1137 (2022) that requires 3,200 foot setbacks of oil wells from "sensitive receptors." This bill puts California's oil extraction and distribution industry at risk of collapse, risking in-state distribution capacity and only increasing imports of foreign oil.

5 - Permanently waive the California Air Resources Board (CARB) restrictions on prescribed burns that reduce fuel loads and fire risk in California's forests and chaparral.

6 - Direct the California State Water Resources Board (CSWRC) to adhere to the 2019 Biological Opinion that governed management of the Sacramento San-Joaquin Delta.

7 - To promote reestablishment of single family homes, rescind SB 9 (2021), SB 10 (2021) and RHNA compliance. The people of Altadena are very concerned corporations will buy all the properties.

8 - Repeal Public Resources Code 71450-71452 that establishes a target of locking up 30% of California's land and coastal waters from productive use (state version of Biden's January 2021 EO the so-called "America the Beautiful initiative").

9 - Reduce Striped Bass protections. The California Department of Fish and Wildlife (CDFW) manages striped bass in California to ensure a healthy population for recreational fishing,

including bag limits and commercial fishing restrictions. These protections for non-native predatory fish allow bass to continue eating native salmon, which drive the flow regulations in California.

10 - Repeal AB 32 (Health and Safety Code § 38500 et seq.) and associated Executive Orders (S-3-05, B-16-12, B-18-12, B-30,15, B-55-18) that empower the Air Resources Board to regulate and reorder the entire California economy under the guise of climate change and reducing GHG emissions.

11 - Rescind Assembly Bill AB 1893 (2024) and SB 330 (2019). These bills push corporate housing and do not protect property owners and neighborhoods. These two bills promote "builders remedy."

12 - Rescind AB 460 (2024) increasing Water Board Fines on ranchers and deprives diverters of due process when the State Water Board makes certain findings.

13 - Rescind AB 1337 (2024). The bill's vision for future water management is little more than handing the State Water Board unfettered authority to control water use as it sees fit.

14 - Overturn the Bay Delta Plan (San Joaquin River). The oldest and most independent irrigation districts in the State are being forced to dedicate 40 percent of the flow in the San Joaquin River to one species of salmon without any evidence that this flow will actually benefit fish returns. The State ignored significant evidence shows these salmon are being eaten by bass introduced into the system by the Department of Water Resources in the 1960s. *There is a federal mechanism to overturn the Bay Delta Plan; the EPA is required to approve the Bay Delta Plan.* The SWB submitted the Bay Delta Plan to EPA and EPA has yet to take any action – approval is literally sitting with the EPA.

15 – Rescind Water Code section 1058.5. This new law allows the State Water Board to take over and control locally run and independently funded water systems during statewide drought. The State Water Board did this in 2014-15 and 2021-2022 and issued weekly notices controlling local systems – many of which were incorrect and made erroneous assumptions. A court ruling overturned State Water Board actions in 2014-15 and awarded attorney fees to water right holders/irrigation districts that challenged the Board. Meanwhile, the 2021-2022 actions are still being challenged in expensive litigation – where the Board is alleging water right holders are harassing the Board by objecting to discovery.

16 - Enforce the Federal Biological Opinions over the state's variant. In late 2024, the US Fish & Wildlife Service issued the biological opinion for the Long Term Operations of the Central Valley Project and the State Water Project. These "BiOps" continue to recommend reducing flows in the Sacramento, Stanislaus and other rivers for the protection of fish and wildlife species.

17 - Repeal "30 by 30." In October 2020, Governor Newsom issued Executive Order N-8220, which requires conserving 30% of California lands and coastal waters by 2030. The authority, jurisdiction or efficacy of this initiative is unclear.

18 - Reject and rewrite "Water Supply Strategy." In August 2022, Governor Gavin Newsom released "California's Water Supply Strategy (WSS) - Adapting to a Hotter Drier Future", which outlines a strategy and priority actions to adapt and protect water supplies from the effects of rising temperatures and drier conditions due to climate change. Programs such as water recycling, desalination, and stormwater capture are great; however, the program does not fund local initiatives to actually do projects, instead it focuses largely on increasing State Water Board oversight and regulation of these projects. This WSS should be changed to shorten or eliminate State Water Board oversight and fund projects, rather than fund continuing and expanding regulation.

19 - Rescind Fish and Wildlife Code Section 5937. This requires dam operators to provide sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam. This code has been used too broadly by environmental plaintiffs to control the diversion, storage, and hydropower activities of dam operators.

20 - Rescind "Salmon doubling" goal. The Central Valley Improvement Act requires improvements to water management to protect fish and wildlife, including achieving the state and federal doubling goal for Central Valley Chinook salmon natural production, relative population levels between 1967-1991. The California State Water Board adopted this same goal in the 2006 Water Quality Control Plan. These goals drive much of the dedication to flow in the Delta; salmon doubling numbers are not realistic and result in chasing unrealistic metrics.

21 - Repeal SB 350 the Clean Energy and Pollution Reduction Act of 2015 that requires an increasing percent of California's energy to come from non-fossil fuel sources.

22 - Repeal all parts of the Porter-Cologne Act (Water Code §132020 et seq.) that exceed federal water quality and wetlands standards and maintain only the provisions implementing the minimum requirements of the Federal Clean Water Act. In 2019, in response to federal definitions of waters of the United States, the State Water Board adopted an expansive definition of wetlands to "fill the gap" left by the federal definition. The State Water Board did so by unlawfully amending a water quality control plan to regulate all state waters, instead of only WOTUS waters (Waters of the United States). Despite exceeding its authority and being ordered by a court to rescind the expanded wetlands definition, the State Water Board simply dropped the wetlands definition into its "Ocean Plan" to end around the limitation on its jurisdiction.

23 - Repeal Public Resources Code 25402 that requires the California Energy Commission to adopt energy efficiency standards for residential and non-residential buildings. While there were no national energy standards in the 1970s and most of the 1980s, a national energy code (ICC IECC) is now updated every 3 years.

24 - Starting with Labor Code 140, repeal provisions in the statute that establishes the Occupational Safety and Health Standards Board, known as Cal OSHA, which performs administrative actions that are redundant to those performed by Fed OSHA.

25 - Repeal SB 375 (Gov't Code Section 65080 (b)(2)) that subordinates all land use and housing development policy to government-created Greenhouse Gas Reduction (GHG) and Vehicle Miles Traveled Reduction (VMT) reduction targets.

26 - Repeal SB 391 that requires statewide transportation investment and planning to be dictated by climate change/GHG reduction mandates resulting in blocking new highway investments and congestion relief.

27 - Repeal AB 686 that mandates "Affirmatively Furthering Fair Housing" obligations on local governments that duplicate and exceed the federal Fair Housing Act and require suburban cities and counties to develop high density affordable housing in existing neighborhoods.

28 - Repeal Labor Code Section 1720 et seq. that duplicates and goes beyond federal Davis Bacon requirements for public works projects adding huge costs to housing and infrastructure.

29 - Make all regional Water Resources Control Board seats elected positions, with only registered voters from within each district's boundaries eligible to vote for a board member in that district. In addition only residents of the district would be eligible to hold office.

30 - Make the five seats on the SWRCB board elected positions, having them follow the already set boundaries of the California State Board of Equalization. These boundaries are reasonably close to the hydrologic continuity represented by the Regional Boards and have equal population distribution.

31 - Another approach to CEQA reform: Until California housing costs are again affordable (3x median household income for sale housing, and 4x median household income for rental housing - median by County), and until California's supplemental poverty rate improves from the worst in the nation to no worse than the tenth poorest state in the nation, *waive CEQA for housing, manufacturing and other employment projects, forest management, and infrastructure/utility and public service projects* ("project") which have (a) already been approved in whole or in part by a state or local agency in a plan, funding application or allocation, permit or other discretionary approval; (b) has already undergone a programmatic level of CEQA review because the project is an allowed use in a General Plan, Area Plan, Community Plan, Specific Plan, Master Plan, or Sustainable Communities Strategy. Limit standing for lawsuits seeking to enforce CEQA to elected law enforcement officials (District Attorney for a project located within a County, and Attorney General for a project located in multiple counties).

32 - Extend the substantive and procedural requirements of SB 167 (2017), the Housing Accountability Act (HAA), to all state agencies and special districts, and to all



infrastructure/utilities/public facilities that provide service to existing or future residents or employees. *The HAA limits the time agencies have to consider and approve projects, limits the authority of agencies to disapprove projects to projects that will cause significant adverse public safety impacts based on objective standards, and creates a lawsuit right by applicants or pro-development applicants against non-compliant agencies inclusive of attorneys fees, fines and compelled project approvals, against noncompliant agencies.*

33 - *Suspend all laws and regulations implementing the 2022 CARB Scoping Plan that result in higher housing production costs, higher electricity or natural gas costs, higher gasoline or diesel fuel costs, or are intended to limit or otherwise regulate vehicle miles travelled (VMT).*

34 - Require all California environmental agencies (e.g., Cal/EPA and Natural Resource Agency departments, boards and commissions, regional water quality control boards, regional or county air quality management agencies, state or local historic preservation officers) *to develop objective standards and ministerial approval processes in six months, and until then to waive all procedural requirements and issue permits or authorizations to residential, commercial, industrial, mixed use, or infrastructure/utility/public service projects that comply with objective pollution prevention, control or cleanup standards, to receive permits or approvals within 60 days.*

35 - Designate all water and recycled water projects, including desalination and treatment plants, storage (surface and groundwater), diversion, conveyance, distribution, and discharge equipment and systems, that will increase the availability of reliable and affordable water supplies *as emergency water system improvements for which an environmental agency can enforce only objective pollution prevention, control or cleanup standards, and only elected law enforcement officials can sue for failure to comply with an applicable objective standard, until such time as California communities and agriculture have sufficient water supplies for existing and planned future uses.*

36 - The labor force is restricted right now due to AB 5. Rescinding AB 5 (2019) will allow small business architects, engineers and contractors to supplement their staff. There are not enough of these technical staff in the region so rescinding this bill would make a major impact on speed of rebuilding.

37 - Rescind SB 386 (2024). This bill could undermine the reliability of any water right, and, in turn, interests that depend on these rights. The bill would authorize the State Water Board to drag any water rights holder before the Board to defend its claim of right.

38 - Repeal AB 1066 (2016), the agricultural worker overtime bill. Agricultural workers used to be able to work 6 days x 10 hours a week. California now limits them to 5x8. This severely cuts their income, and holds them in income brackets dependent on government support.

## A Plan for Tying Federal Relief Funds to Reforms

### Required to obtain first tranche of Congressionally-authorized funding for fire recovery:

- California waives CEQA/CESA & F&G Code/Water Code to deliver full water allocation from Delta
- California suspends enforcement of all state greenhouse gas reduction measures that increases housing, electricity or fuel prices; California prohibited from counting as GHG emission reductions the departure of people or jobs or industries to other states and countries; California required to include GHG emissions from fires and estimated GHG emissions from goods imported to and consumed in California, and submit to Feds a cost-benefit analysis including disparate cost burdens by household income, before accessing any fed funding – note this could be part of IRA clawback conditions also given state law DEI mandates embedded in California’s IRA projects

### Required to obtain second tranche of funding:

- Report confirming that debris/hazmat clearance done within 2 months
- Report confirming that construction and building permits are being issued within 1 week (on average) after applications submitted by a licensed construction professional (architect, engineer, or similar attesting that application complies with all applicable objective legal standards)
- Report confirming that 50% of required infrastructure is completed
- Report confirming what laws/regs have been waived to reduce the cost of constructing new housing to produce housing available for sale at 3x household median income, and rental housing at 4x median household income (by County)
- If any deadline missed, second tranche of funding limited to 20% until additional Feds approve additional state/local law/reg waivers or revocations have been implemented to achieve deadlines – monthly reports required thereafter to Feds to demonstrate compliance and second tranche funding metered out with satisfactory monthly progress reports approved by Feds

### Required obtain third (final) tranche of funding:

- Report confirming 50% of structures are built or under construction
- Report confirming that 90% of infrastructure is built or under construction

- Report confirming housing production costs have been reduced, and cap tax credits for affordable housing to \$350k/unit [national average to produce an affordable housing apartment unit] until such time as these housing production reforms have resulted in these 3x (for sale) and 4x (rental) outcomes
- If any deadline missed, third (final) tranche of funding limited to 20% until additional Feds approve additional state/local law/reg waivers or revocations have been implemented to achieve deadlines – monthly reports required thereafter to Feds to demonstrate compliance and third tranche funding metered out with satisfactory monthly progress reports approved by Feds.

## Recommendations for the U.S. Forest Service

The 4d rule, by regulation, states that the activities it covers do not constitute "take" for the species identified under the ESA. So, we could harvest our forests, reduce fuel loads, conduct salvage logging operations, reduce tree stands there thereby reducing the amount of water the trees take up and leave more to flow into our rivers and reservoirs, and not have to worry about Section 7 consultations, biological opinions, or any of those regulatory burdens under the ESA that grind things to a halt.

Second, at least in California, there are so many listed plants, animals and fish, that just taking on one or two means the gridlock still continues. For example, Northern Spotted Owl, Marbled Murrelet, every single run of Steelhead (Omykiss) and Salmon (Chinook, Coho, etc. spanning spring, fall, late-fall, winter, etc.), Elderberry beetle, and dozens of listed plants.

Instead of going species by species and allowing the enviros to sue on every single order, rule, action, consider doing a single, joint 4d rule that declares these enumerated activities for healthy forests are NOT a take. The rationale could be that the risk of massive wildfires (i.e., Los Angeles and the Oroville fire just to name two) are far greater and more devastating to people, these species, their habitat, air and water quality, and a host of other environmental calamities (mudslides post fire, fossil fuels in both the fore and then the cleanup, soil sterilization for years later, all the debris clogging our waterways and polluting our rivers, streams and reservoirs, sedimentation choking our aquatic ecosystems for years if not decades) than the activities need to bring our forest ecosystems back to healthy thereby ensuring the long term survival of the habitat and species themselves.

This will be very controversial and the environmental litigation complex will lose its mind but there will only be one action to sue on instead of them getting innumerable chances if you go a species by species route.

## Federal Water Projects in California – Recommendations

There are many things the federal government can do to help make more water available for housing and agriculture, faster and cheaper, than any of the failing solutions that the Newsom administration is pursuing. These all have the benefit of being job creators, not requiring regulatory reform that will be tied up in court for years and thus would have broad support among water users [ag and urban] and traditional opponents (tribes, environmental and fishing organizations).

### *Increasing Water Delivery Through Existing Systems*

Installing state of the art fish screens at Delta pumps (required by the Central Valley Project Improvement Act and past biological opinions – never implemented).

Improving levees in Sacramento San Joaquin Delta: this will strengthen resilience of existing water flows through the Delta while also providing needed public safety improvements (flood protection).

Agricultural water conservation - funding for canal piping and lining projects, improved irrigation efficiency systems.

### *Water Resource Development*

Fund the “Fish Friendly Delta Diversion Project,” a proposal by the San Joaquin Valley Blueprint, a coalition of water agencies in San Joaquin County, to create a lined channel in a Delta island with perforated pipes buried under rocks and gravel. Designers claim a 200 acre infiltration basin could safely withdraw 15,000 acre feet per day without altering current or endangering fish. This could be built in lieu of the Delta tunnel. It would eliminate years of litigation, and provide water at a dramatically lower cost. Currently there is insufficient support for Delta tunnel from Central Valley agriculture due to cost, and its extended timeline (no water for at least 25 years). Could be supported by the parties opposing a Delta tunnel, which are all Delta counties and many conservative northern California counties (Butte, Plumas, Yuba), environmental groups, business groups (Howard Jarvis Taxpayers’ Assn, sport and commercial fishing organizations). Federal government could initiate its own project for CVP exports, accomplishing for federal government water contractors what California (Newsom) has been unable to do.

### *Funding for groundwater recharge and banking projects.*

Reject federal permitting (and any funding) for Newsom’s Delta Conveyance Project (rescind biological opinion coverage; do not issue 404 permit). The DCP will take decades to implement, not provide any additional water (despite Newsom claims) and is broadly opposed by agriculture in and above the Central Valley, Howard Jarvis Taxpayers’ Association, local governments [including red counties such as Placer County and El Dorado County, due to its impacts on Delta

water quality and agriculture, upstream water supplies/storage], tribes and environmental organizations. Refusing/rescinding federal permitting for the DCP will force California to implement more cost-effective readily implementable solutions, such as projects noted here.

### *Water Quality*

Fund enhanced treatment to deal with PFAS and other constituents. PFAS is turning up everywhere, including groundwater, and posing a threat to new and affordable housing development in the Central Valley, due to treatment requirements. At the same time, revisit potentially infeasible and unwarranted federal PFAS standards, which have been lowered to 4 parts per trillion (PPT), with California considering a state standard as low as 1 PPT.

Improve upper watershed forest management – dual benefit of fire control and water quality [forest fires pose huge threat to water supplies from water quality problems]. The Placer County Water Agency has been a leader in this area.

### *Improving Governmental Efficiency in Water Management*

Enact the FISH Act, previously introduced by Congressman Kevin Calvert, as a vital step toward addressing regulatory inefficiencies in species management. The FISH Act will reduce bureaucratic conflicts and enable more effective, ecosystem-based management strategies by consolidating ESA responsibilities under a single federal agency. These reforms are crucial for balancing the needs of water users with efforts to recover endangered species and balancing conflicts like those that currently exist between Delta smelt, Winter-run Chinook salmon, terrestrial species (Giant Garter Snake), and waterfowl.

## **Water and Wildlife Recommendations – Federal Actions**

Improve the federal regulatory process. One of the biggest challenges to improving water management is the time and cost of complying with federal regulations related to the construction of new infrastructure and the maintenance of existing infrastructure. This issue could be addressed in the following ways:

- 1 - Expand the use of Categorical Exclusions (CE) for routine operation and maintenance activities at water infrastructure facilities.
- 2 - Re-issue Department of the Interior Secretarial Order 3355 which was issued by Secretary David Bernhardt during President Trump's first term and apply it across federal agencies. This common-sense regulatory reform set firm time schedules and document length limits that federal agencies were required to meet when applying the National Environmental Policy Act (NEPA). Enacting this policy could take years off the regulatory process.

([https://www.doi.gov/sites/doi.gov/files/uploads/3355\\_-\\_streamlining\\_national\\_environmental\\_policy\\_reviews\\_and\\_implementation.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/3355_-_streamlining_national_environmental_policy_reviews_and_implementation.pdf))

3 - Extend the maximum term for National Pollutant Discharge Elimination System (NPDES) permits issued to states and municipalities from five years up to up to ten years. (This would require legislation, but this congress could likely pass this kind of legislation with President Trump's support)

4 - Endangered Species Act (ESA):

- Direct federal agencies to focus the ESA on the recovery of listed species. Federal agencies should develop actionable ESA recovery plans to increase species' chance of developing abundant populations.
- Mandate federal agencies delist species when warranted. Species should be delisted when they no longer meet the definition of a threatened or endangered species. Currently federal agencies do not automatically delist a species once it has met delisting criteria.
- Re-issue a rule defining "habitat" under the ESA and limit the designation of critical habitat to areas that contain the necessary elements for species to thrive at the time of listing. The definition of habitat was previously promulgated by the Trump administration on December 16, 2020, but was undone by the Biden Administration.
- Direct federal agencies to discontinue listing species based on speculative future impacts. Some species that currently have healthy populations have been listed as threatened due to projections of impacts that might happen (sometimes not for decades) in the future. The FWS and NMFS should discontinue speculative listings.

5 - Federal Energy Regulatory Commission (FERC) needs to be streamlined. Numerous water providers in California also generate hydroelectric power. Revenue from the sale of this power helps develop and maintain water infrastructure. This is an issue in California and around the U.S. Today approximately 17 gigawatts of hydropower are at risk due to licensing and relicensing uncertainty. On average it takes between seven and ten years to relicense a hydropower facility. There are approximately a dozen federal agencies involved in the relicensing project that can impose mandatory conditions on the license (requirements the power producer must comply with to get their license). Sometimes the conditions federal agencies place on producers have nothing to do with the hydropower project. This could be addressed by directing FERC to develop a streamlined process for relicensing hydropower projects (two years) and limit mandatory conditions to matters directly related to the production of hydropower.

6 - Expand the use of Forecast-Informed Reservoir Operations (FIRO) across federal agencies. Using this technology can help federal water managers capture more water in reservoirs during extreme weather events.

7 - Address Wildfire threats on federal lands in California and around the U.S. California communities are not alone in facing significant threat due to wildfire. The U.S. Department of Agriculture reported last year that more than one-third of the U.S. population, roughly 115 million, are in high wildfire risk counties. These issues could be addressed through a number of mechanisms.

- Increase the pace and scale of forest health treatments on federal lands especially in areas that are at high risk of fire and/or are near critical water infrastructure.
- Encouraging the use of existing categorical exclusions (CEs) for forest health treatments under NEPA increasing the limitations on those CEs from 3,000 to 10,000 acres.
- Provide CE's for wildfire mitigation treatments around utility corridors for both electric and water infrastructure.
- Focus treatments on areas that are at higher risk of wildfire.
- Coordinate cross agency response not just to active wildfires but to pre-fire mitigation efforts.
- Many of these recommendations are included in H.R. 471 the Fix Our Forests Act which recently passed in the House of Representatives. President Trump could encourage the U.S. Senate to take up this critical legislation quickly.

## **Comprehensive List of Water Policy Reforms for California**

This list has some overlap with preceding recommendations but was prepared by one agency and is an excellent compilation of everything necessary to protect and enhance our water supply. It also includes reforms designed to remove environmentally excessive mandates that are harming our state's ability to produce affordable energy or responsibly manage our forests and wildlands.

There are two sections: (1) The state, regional, and local level, and, (2) at the federal level.

### **Section One – At the State, Regional, Local Levels:**

**1 - Additional Funding for California's Aging Water Infrastructure:** Eliminate Federal Funding of, and related to, the State of California's High-Speed Rail Project (H.R. 213 by Rep. Kevin Kiley-R-CA-3) and reallocate such funds (\$6 billion in Federal Funding in 2023) to invest in California's

aging water infrastructure, including new water storage and conveyance facilities projects that benefit California water, such as:

- the Delta Conveyance Project (see 1<sup>st</sup> bullet under #2 below); and,
- San-Luis Delta Mendota Canal.

Also, the California State Budget for the upcoming fiscal year should redirect its own funding of High-Speed Rail to instead invest in California's aging water infrastructure.

**2 - Store More Water and Streamline New Water Sources:** Exempt water supply projects from the California Endangered Species Act (CESA) and California Environmental Quality Act (CEQA) - Amend California Public Resources Code 21080 (CEQA) and Fish and Game Code 2087 (CESA) to exempt projects that seek to increase water supplies for the State of California.

- Delta Conveyance Project (DCP) - Remove barriers to build the DCP -- which would improve State Water Project water deliveries at the times and in the volumes needed, while also addressing subsidence and improving water storage capacity and water resiliency for California -- including streamlined permitting process. Exempt from CESA and CEQA, help expedite Federal permitting, and contribute Federal funding to the DCP.
- Desalination and other Water Supply Projects – Exempt California water supply projects, including brackish and ocean water desalination, from: CESA, CEQA, Coastal Commission review (amend California Coastal Act and extend exemptions in Sections 30610 and 30611), and State Lands review, as well as from the U.S. EPA's NPDES, U.S. Endangered Species Act (ESA), the National Environmental Policy Act (NEPA) permitting requirements, and other lengthy litigation/review processes.
- Contribute to local and regional water reliability by championing ocean desalination projects and expediting/streamlining permitting for such, including restarting and fast-tracking the Huntington Beach ocean desalination project which was halted by the CA Coastal Commission in 2022.
- Water Storage – Exempt from CESA and CEQA, and streamline all permitting for water storage projects in CA, starting with the Sites Reservoir; and raising Shasta Dam.

**3 - Water/Property Rights:** Set up a Federal Legal Defense Fund in the U.S. Justice Department to defend against the State of California “takes” of water/property rights.

**4 - Develop Long-Term Water Supply Targets for California:** SB 366 (from 2024), would have required the Department of Water Resources (DWR), as part of the 2033 update, to revise the contents of the California Water Plan to focus on developing a long-term water supply planning target for 2050 to identify and create plans for future water needs of various water sectors. The



bill (sponsored by the California Municipal Utilities Association, “CMUA”) was vetoed by Governor Newsom. The same author introduced the bill again this year -- SB 72 -- again sponsored by CMUA.

**5 - Allow Water Agencies to Operate Using Traditional Fuel Technologies:** If the State of California wants to receive Federal Funding, then utilities’ -- and especially water agencies’ -- mobile and stationary fossil fuel equipment (fleet and generators that run on diesel and gas) must be EXEMPT from:

- California Air Resources Board (CARB) Advanced Clean Fleet Rule -- Amend Section 27156 of the California Vehicle Code -- which mandates all local agency fleets transition to zero emission vehicles; and,
- CARB Rules on Generator runtime limits.

These exemptions will ensure facilities can continue to deliver water with the power needed to do so.

**6 - Reopen the San Onofre Nuclear Plant and Co-Locate a Water Desalination Facility**

- Reopen the San Onofre Generating Station (SONGS) nuclear power plant in San Onofre, owned by Southern California Edison. At its peak, SONGS generated enough electricity for 1.5 million homes.
- Co-Locate an ocean water desalination facility with SONGS.

**7 - Repeal the “Making Water Conservation a California Way of Life” Regulations**

- Repeal the Making Water Conservation a California Way of Life Regulation (California Water Code Section 10602.2). This regulation will cost ratepayers over \$13 billion, with draconian limits on urban water use, while only saving a small percentage (approximately 2% or less) of total water use statewide in California.
- Repeal from the California Water Code the provisions of SB 1157 (chaptered in 2022) that will ratchet down indoor water use. Especially repeal these provisions for areas that recycle/reuse water from indoor uses.

**8 - Streamline Recovery Efforts for Southern California:** In the wake of the devastating Southern California fires, allow quick re-building by waiving local building code restrictions and streamlining permitting related to hazardous materials, health/safety, and other building requirements.

## 9 - Review for Repeal All Climate Change Laws in California and Redirect Investments

**Appropriately:** California has several climate change laws (see below), including those that require businesses to disclose their emissions and laws that require the state to reduce its own emissions. Review all such laws to eliminate redundant and unnecessary actions and redirect funding to instead invest in reliable energy and water infrastructure and supplies for California.

- **Senate Bill 253** – The Climate Corporate Data Accountability Act requires large businesses to disclose their greenhouse gas emissions.
- **Senate Bill 261** – The Climate-Related Financial Risk Act requires large businesses to disclose their climate-related financial risks.
- **AB 32 Climate Change Scoping Plan** – This plan outlines how California will reduce its greenhouse gas emissions.
- **Senate Bill 32** – This bill strengthened California's climate goals by requiring a 40% reduction in greenhouse gas emissions by 2030.
- **Programs to Reduce Energy Use** – These programs include energy efficiency standards for new construction and retrofits for existing buildings.
- **Programs to Reduce Emissions from Transportation** – These programs include vehicle performance standards and manufacturer requirements.
- **Programs to Reduce Emissions from Industry** - These programs include estimating, evaluating, and tracking greenhouse gas emissions from industrial sources.
- **Other Climate Change Laws in California** – AB 102, SB 101, AB 103, SB 104, SB 105, SB 758 (Block), SB 788 (McGuire & Jackson)

**10 - Review for Repeal All Electrification and Renewable Energy Laws in California and Redirect Investments Appropriately:** Review all such laws to eliminate redundant and unnecessary actions and redirect funding to instead invest in reliable energy and water infrastructure and supplies.

California has several Electrification laws and regulations to reduce emissions and increase the use of electric vehicles, including:

- **Zero Emission Vehicle (ZEV) Executive Order** - Requires that all new passenger cars and trucks sold in California be zero-emission by 2035. This includes battery-electric and fuel cell electric vehicles.

- **Advanced Clean Cars II** - A set of regulations that increase the sales requirements for ZEVs, starting with the 2026 model year. The regulations also tighten emission standards for gasoline-powered cars and light trucks.
- **Electric Vehicle Charging Standards** - Standardizes payment options for electric vehicle charging stations.
- **ZEV Market Development Strategy** - A strategy developed by the California Air Resources Board (CARB) to support the ZEV regulations. The strategy assesses statewide ZEV infrastructure and is updated every three years.
- **Single-Family Electric Ready** - A program that provides guidance on how to prepare a home for an electric cooktop. California's primary Renewable Energy law, known as Senate Bill 100 (SB 100), mandates that 100% of the state's electricity retail sales must come from renewable and zero-carbon resources by 2045, with interim goals of reaching 60% by 2030; this is achieved through a mechanism called the Renewables Portfolio Standard (RPS) which requires utilities to procure increasing amounts of renewable energy to meet customer demand.

#### **Section Two – At the Federal Level (issues to benefit California water):**

**Water and Wildfire Recommendations:** One of the biggest challenges to improving water management is the time and cost of complying with Federal Regulations related to the construction of new water infrastructure and the maintenance of existing water infrastructure. This issue could be addressed by improving the Federal Regulatory process in the following ways:

**Expand the use of Categorical Exclusions (CE)** under NEPA for routine operation and maintenance activities at water infrastructure facilities.

**Re-issue Department of the Interior Secretarial Order 3355**, issued by Secretary David Bernhardt during President Trump's first term, and apply it across federal agencies. This common-sense regulatory reform set firm time schedules and document length limits that Federal Agencies were required to meet when applying NEPA. Enacting this policy could take years off the regulatory process.

**Extend the maximum term for NPDES permits** [National Pollutant Discharge Elimination System] issued to states and municipalities from five years up to up to ten years. This would require legislation, but the 119<sup>th</sup> Congress could likely pass this kind of legislation with President Trump's support (see H.R. 1181 from 118<sup>th</sup> Congress).

**Amend the Endangered Species Act (ESA):**

- Direct federal agencies to focus the ESA on the recovery of listed species. Federal agencies should develop actionable ESA recovery plans to increase a species' chance of developing abundant populations.
- Mandate federal agencies delist species when warranted. Species should be delisted when they no longer meet the definition of a threatened or endangered species. Currently federal agencies do not automatically delist a species once it has met delisting criteria.
- Re-issue a rule defining "habitat" under the ESA and limit the designation of critical habitat to areas that contain the necessary elements for species to thrive at the time of listing. The definition of habitat was previously promulgated by the Trump administration on December 16, 2020, but was undone by the Biden Administration.
- Direct federal agencies to discontinue listing species based on speculative future impacts. Some species that currently have healthy populations have been listed as threatened due to projections of impacts that might happen (sometimes not for decades) in the future. The U.S. Fish & Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) should discontinue speculative listings.

**Streamline the Federal Energy Regulatory Commission (FERC):** Numerous water providers in California also generate hydroelectric power. Revenue from the sale of hydroelectric power helps develop and maintain water infrastructure. This is an issue in California and throughout the nation:

- Approximately 17 gigawatts of hydropower are at risk due to licensing and relicensing uncertainty.
- On average it takes between 7-10 years to relicense a hydropower facility, with approximately a dozen federal agencies involved in the relicensing that can impose mandatory conditions on the license (requirements the power producer must comply with to get their license).
- Sometimes the conditions federal agencies place on producers have nothing to do with the hydropower project.
- This could be addressed by directing FERC to develop a streamlined process for relicensing hydropower projects (2 years) and limit mandatory conditions to matters directly related to the production of hydropower. See text of H.R.4045 from 118<sup>th</sup> Congress.

**Expand the use of Forecast-Informed Reservoir Operations (FIRO)** across federal agencies. Using this technology can help water managers capture more water in reservoirs during extreme weather events.

**Address Wildfire threats on federal lands in California and around the U.S.:** California communities are not alone in facing significant threats due to wildfire. The U.S. Department of Agriculture reported last year that more than one-third of the U.S. population, roughly 115 million, are in high wildfire risk counties. These issues could be addressed through a number of mechanisms:

- Increase the pace and scale of forest health treatments on federal lands, especially in areas that are at high risk of fire and/or are near critical water infrastructure.
- Encourage the use of existing Categorical Exclusions (CE) for forest health treatments under NEPA by increasing the limitations on those CEs from 3,000 to 10,000 acres.
- Provide CE's for wildfire mitigation treatments around utility corridors for both electric and water infrastructure.
- Focus treatments on areas that are at higher risk of wildfire.
- Coordinate cross-agency response to pre-fire mitigation efforts (and not just to active wildfires).

Many of these recommendations are included in H.R. 471, the Fix Our Forests Act, which recently passed the House of Representatives. President Trump could encourage the U.S. Senate to take up this critical legislation quickly.