



March 14, 2023

The Honorable Toni Atkins
Senate President Pro Tempore
State Capitol Building
Sacramento, CA 95814

The Honorable Anthony Rendon
Assembly Speaker
State Capitol Building
Sacramento, CA 95814

The Honorable Nancy Skinner
Chair, Senate Budget Committee
State Capitol Building
Sacramento, CA 95814

The Honorable Phil Ting
Chair, Assembly Budget Committee
State Capitol Building
Sacramento, CA 95814

The Honorable Josh Becker
Chair, Senate Budget Subcommittee 2
State Capitol Building
Sacramento, CA 95814

The Honorable Steve Bennett
Chair, Assembly Budget Subcommittee 3
State Capitol Building
Sacramento, CA 95814

The Honorable Dave Min
Chair, Senate Natural Resources and
Water Committee
State Capitol Building
Sacramento, CA 95814

The Honorable Rebecca Bauer-Kahan
Chair, Assembly Water, Parks and Wildlife
Committee
State Capitol Building
Sacramento, CA 95814

Re: Western Joshua Tree Budget Trailer Bill – SUPPORT

Dear President Pro-Tempore Atkins, Speaker Rendon, Senator Skinner, Senator Becker, Senator Min, Assemblymember Ting, Assemblymember Bennett and Assemblymember Bauer-Kahan:

On behalf of the undersigned organizations – who are committed and central to realizing the Governor’s climate mandates, California’s push to net-zero and our collective transition to a clean energy economy – we write to strongly support the Newsom Administration’s (Administration) budget trailer bill, titled the Western Joshua Tree Conservation Act. The Act protects the culturally and ecologically important

western Joshua tree and mandates landscape-scale conservation planning for the species while providing for permitting to enable the timely development of the many renewable energy projects California needs to meet its clean energy goals and continue to stand as a leader in the fight against climate change.

The Western Joshua Tree Conservation Act grows out of the California Fish and Game Commission's (Commission) consideration of the Center for Biological Diversity's petition to list the western Joshua tree (*Yucca brevifolia*) under the California Endangered Species Act (CESA). Throughout that process, which began in 2020, the Commission has heard input from environmental organizations, biologists and other scientists, renewable energy companies, local governments, labor unions, housing advocates and many other stakeholders. The Commission received and considered the [Status Review](#) for the species – prepared by the California Department of Fish and Wildlife (Department) – which recommended against listing. The Commission and the Department also conducted separate, government-to-government consultations with California Native American Tribes. After taking all of this into account, the Commission asked the Department to develop a legislative approach.

The results of this process and direction are reflected in the bill before you that offers first-of-its-kind, permanent and unique protection to the trees, while allowing for renewable energy and housing development that will be critical to achieving Governor Newsom's vision for a more climate resilient California.

Just last week, the U.S. Fish & Wildlife Service (Service) [determined](#) that listing the western Joshua tree under the federal Endangered Species Act is not warranted. The scientists at the Department and the Service have now weighed in with recommendations against listing. Nevertheless, we join the Administration and Commission in remaining committed to the conservation of this iconic species and the establishment of a mitigation fund to help the state achieve landscape-level conservation of the western Joshua tree, while also facilitating timely and efficient permitting for critical renewable development.

The requirements and mandates of the proposed legislation would apply regardless of whether the Commission lists the species under CESA. At the same time, its permitting provisions would enable development of urgently needed renewable energy projects, including about 11 Gigawatts (GW) of solar planned between now and 2030 in the western Joshua tree's current range. In the absence of this permitting option, the Department's budgetary and staffing challenges would be exacerbated by the listing of the species, to the detriment of California's clean energy and conservation priorities. The proposed legislation is necessary for the renewables industry to continue to be the tip of the spear in California's battle against climate change.

The measure provides a thoughtful and unprecedented solution to the unique challenges inherent to conserving the western Joshua tree while addressing climate change. Millions of the trees are spread throughout California's desert region, in both urban and rural communities and on both public and private lands. This region is critical in California's effort to scale solar development to the level needed to achieve the state's climate commitments and is home to fast-growing communities that increasingly require new housing and the jobs that come with it. The permitting pathway established by the proposed legislation will enable the Department to regulate the impacts of these essential projects within the western Joshua tree range in a timely and effective manner.

The core components of the proposed legislation will:

1. Prohibit taking of the western Joshua tree, regardless of its listing status, except as authorized by the law;
2. Authorize the Department to issue permits to take the tree only if very specific conditions are met (including the avoidance and minimization of impacts), and create an option for the payment of fees to mitigate the impacts to, and taking of, the trees by each project;
3. Create the Western Joshua Tree Mitigation Fund to hold the mitigation fees, which the Department must deploy in collaboration with Tribes and others, solely for the purpose of addressing threats to the species, including through acquisition and conservation of the tree's habitat; and
4. Require the Department to develop and implement a robust Western Joshua Tree Conservation Plan in collaboration with the Commission, Tribes, state agencies, local governments and the public to provide for landscape-level conservation of the species.

The proposed legislation would address the unprecedented permitting challenges and budgetary constraints on the Department and would provide a novel approach to mitigating impacts to the species. Fees paid into the Western Joshua Tree Mitigation Fund – which are anticipated to total anywhere in the tens of millions to over one hundred million dollars – would be available for acquisition of larger-scale mitigation lands, including in the tree's northern range and in higher elevation areas where it is more likely to persist as the effects of climate change move the species' habitat north. Such projects and other mitigation actions would be informed by the Conservation Plan required by the legislation. Annual reports to the Commission would cover these actions and the Department's administration of the permitting system established by the legislation.

This bill exemplifies California's continued leadership in response to the effects of climate change. We stand behind smart solutions that marry critical clean energy development with conservation of biodiversity. The proposed legislation would do just that – pragmatically address the unprecedented permitting and conservation challenges presented by the western Joshua tree, while changing neither the authority of the Commission nor CESA itself.

With the Western Joshua Tree Conservation Act, California is making good on its commitments to address our climate crisis and protect biodiversity. The unique circumstances around protecting the western Joshua tree from the impacts of climate change call for bold action and a new approach, which the proposed legislation accomplishes. At the Commission's direction, the Department worked with stakeholders across the full range of interests to achieve a careful compromise. The widespread support for this solution from the renewable energy and housing industries, as well as the Center for Biological Diversity, should be a signal that California is on the right track with the Western Joshua Tree Conservation Act. For these reasons, we respectfully request that you pass this important budget trailer bill.

Sincerely,

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