



July 31, 2025

Submitted to: CESArecovery@wildlife.ca.gov

California Department of Fish and Wildlife
Wildlife Branch, Attn: Austin Roy/Recovery Guidelines
P.O. Box 944209
Sacramento, CA 94244-2090

Re: Comments on the Draft Guidelines for Recovery Planning

Attention Austin Roy:

The California Building Industry Association (CBIA) and the Association of California Water Agencies (ACWA) appreciate the opportunity to provide comments on the California Department of Fish and Wildlife (CDFW) Draft Guidelines for Recovery Planning (Draft Guidelines).

CBIA is a statewide trade association representing thousands of member companies including homebuilders, trade contractors, architects, engineers, designers, suppliers and industry professionals in the homebuilding, multi-family and mixed-use development markets in California.

ACWA is a statewide trade association representing approximately 470 public water agencies that collectively deliver approximately 90% of the water in California for domestic, agricultural, and industrial uses.

Our organizations support the development of non-regulatory recovery plans for species protected under the California Endangered Species Act (CESA) and applaud the Department in pursuing the development of the Draft Guidelines. However, after reviewing the Draft Guidelines, we have identified several concerns and would appreciate the Department providing clarification on those concerns.

As noted in the Draft Guidelines Executive Summary, an amendment to CESA in 2018 gave the California Department of Fish and Wildlife (CDFW) the authority to develop non-regulatory recovery plans for CESA-listed threatened and endangered species with the stated purpose of guiding CDFW staff and other interested parties in CESA recovery planning and implementation activities. It establishes CDFW's framework for developing recovery plans for California's threatened and endangered fish, wildlife, and plant species, which includes a consistent approach that also provides flexibility to accommodate the unique circumstances of each species.

Our organizations support a non-regulatory approach and understands why CDFW is focusing on the three specific parts used by the Federal Government and the Federal Endangered Species Act (ESA) regarding recovery planning for endangered species. We further commend the Department's decision to build on proven strengths of the federal recovery regime. We consider the three parts – Scientific Assessment, Recovery Plan, and Implementation Strategy – appropriately reflect the recovery plan umbrella for the species. A plan cannot be developed unless CDFW has the most recent scientific data and a plan cannot be successful unless it provides specific tasks to lead to success.

However, we are concerned that provisions in the draft guidance document suggests that recovery plans are more prescriptive as they relate to specific tasks to be included in other permits overseen by the Department. For example, Sec. 2.2.2 of the draft guidance document states that “Recovery actions provide strategic guidance and are detailed enough to direct implementation tasks, yet the mechanisms for how those actions will be achieved are presented in the implementation strategy.” As stated, we view the implementation strategy, the recovery plan, and the scientific assessment to all be part of the same recovery plan for the species. And, if certain aspects of the plan prescribe detailed tasks to be used by CDFW staff when issuing permits, then recovery plans have become regulatory documents, not guidance, which is contrary to the operable statutory language in CESA. This concern can also be found in the language in Sec. 2.3 Implementation Strategy section of the Draft Guidelines. It states that

“revisions to an implementation strategy can occur as needed, such as the addition, removal, or modification of implementation tasks or partners, or changes to the priority of tasks. However, revisions to an implementation strategy cannot create new recovery actions or modify existing actions in the recovery plan without a formal revision and public review of the recovery plan.”

This suggests that the implementation strategy that is part of the recovery plan does have regulatory implications. If this is the case, then the state would be adopting recovery plans of a regulatory nature and would need to comply with the Administrative Procedure Act.

In addition, the Draft Guidance states that when “fully implemented, recovery actions are intended to meet all the species’ recovery criteria that are listed in the plan.” Those include threat-based, demographic, management and regulatory, and ecosystem-based criteria. Again, a guidance document should not include regulatory criteria.

Also, consideration as to the success of the recovery plan and the ability to delist a species should not include a requirement that all four criteria must be met in the event one or more of the challenges only poses a minor threat to the species. Rather, as noted throughout the Guidance, the best available science should govern listing and delisting determinations.

Our organizations appreciate that both the recovery portion of the guidance document and the implementation strategy segment include time and cost estimates. We encourage the Department to treat time and cost estimates seriously since part of the text in Sec. 2.2.3 could be construed to mean that those in charge of creating recovery plans will not take into account costs until the implementation strategy is finalized. While we recognize the symbiotic relationship between the

two portions of an overall recovery plan for a species, we cannot stress enough that a detailed discussion of costs – whether it be included in the recovery plan where issues such as “measurable recovery criteria” or “prioritization of recovery actions” or as part of the implementation strategy where there will be an identification of actual recovery actions – must be included as part of the plan and affected stakeholders should be included in the development of those estimates. As a threshold matter, recovery activities are to be pursued as appropriated or available resources permit. We support the Department’s expressed intent to rely on federal recovery plans; given limited resources, effective and efficient prioritization without unnecessary duplication of efforts is essential.

One final note – large landowners throughout the state, many of which are members of our organizations, have engaged long-term conservation strategies and commitments at a landscape level. These undertakings benefit entire ecological systems and processes for the benefit of many species. In planning future recovery efforts, we encourage the Department to recognize and highlight the existing and future benefits of such programs. In so doing, the Department should also respect the mutual commitments of both landowner and the regulatory community that established these beneficial compacts. The Department’s ongoing recognition of and respect for these agreements not only honors prior deals, it encourages landowners who may be hesitant to consider such long-term commitments that the certainty and predictability, along with the notable ecological benefits, are worth the undertaking.

CBIA and ACWA have a long-standing track record and history of supporting new ideas that will improve the conservation of a species while at the same time providing certainty for landowners, public agencies, and home builders attempting to meet the needs of their customers and rate payers as well as the housing availability and affordability needs of Californians. We would appreciate the opportunity to further discuss our concerns with the Draft Guidelines and to determine if the development and implementation of recovery plans for endangered species will be non-regulatory per CESA statute.

Thank you for considering our comments and we look forward to working with the Department on this matter and other endangered species issues.

Sincerely,



Nick Cammarota
Senior Vice President & General Counsel
California Building Industry Association



Stephen Pang
State Relations Advocate
Association of California Water Agencies