

**Western Joshua Tree Conservation Act**

**FACT SHEET**

**Summary:**

The proposed trailer bill language would provide for the conservation of western Joshua tree at a landscape scale, while also making available a permitting and mitigation process that would rely on simpler template permits and allow payment of in-lieu fees.

**Background:**

The western Joshua tree is an iconic, ecologically and culturally important species that is an irreplaceable component of California's natural heritage. The impacts of climate change are occurring with more intensity and frequency than previously anticipated, and development, aridification, and effects of climate change like drought and wildfire are threatening the western Joshua tree and could threaten other species in the future.

At the same time, achieving a clean energy transition and providing housing for all Californians are among the highest of state priorities. Due to the widespread distribution of the western Joshua tree across the California desert region, there is a critical need to immediately conserve California's biodiversity while also ensuring timely and efficient permitting mechanisms.

The current relative abundance and widespread distribution of the western Joshua tree, in both urban and rural communities, and on both public and private lands, combined with the rapid cumulative effects of climate change pose unique conservation and permitting issues unprecedented in California Endangered Species Act (CESA) implementation.

The proposed approach creates a specific conservation program for the western Joshua tree while also recognizing the critical role renewable energy projects play in reducing greenhouse gas emissions and the negative impacts of climate change, the role public works projects play in providing essential public services, and current housing needs in California.

**Justification:**

The western Joshua tree presents a unique circumstance that requires a novel approach to support the long-term conservation of the species before it declines further. At its September 2020 meeting, in response to a petition to list the western Joshua tree as threatened under CESA, the California Fish and Game Commission (Commission) voted to advance the petition for further consideration, affording the species interim protection as a candidate species. At subsequent meetings, the Commission has not yet reached a decision as to whether to list the species.

The Western Joshua Tree Conservation Act, as proposed, would honor the Commission's decision-making process while offering environmental and permitting benefits, regardless of whether the species is listed.

If the Commission decides to list the western Joshua tree, project-by-project mitigation under CESA often leads to smaller, disconnected mitigation sites. The Western Joshua Tree Conservation Act approach of allowing an option for collecting mitigation fee dollars and spending them on larger, landscape-level mitigation projects will benefit the conservation of the species by creating economies of scale in western Joshua tree conservation that would be difficult to achieve with traditional CESA permitting.

Because the western Joshua tree is currently widespread throughout the California desert region, including within incorporated cities and areas experiencing significant development pressure, the permitting process for western Joshua tree is more complex than for any species currently listed under CESA. The Western Joshua Tree Conservation Act would more prudently manage permitting workload within the Department of Fish and Wildlife (Department) if the species were to be listed. Absent this alternative approach, the Department could face a significant increase in workload, which would exacerbate the funding gaps recently identified by the Department's service-based budget efforts.

Additionally, CESA does not provide any clear mechanism to allow trimming of western Joshua trees or removal of dead trees. The Western Joshua Tree Conservation Act provides an easy, ministerial permitting process to allow trimming and removal of dead trees that pose a threat to public health and safety.

If the Commission decides not to list the species, western Joshua tree would be protected only by the California Desert Native Plants Act, which allows take of western Joshua tree with a ministerial permit issued by the county sheriff or county agricultural commissioner. The Western Joshua Tree Conservation Act would provide more meaningful protection for the tree in the absence of a CESA listing.

The unique characteristics of the western Joshua tree require novel approaches to permitting (e.g., template permits and the option for payment of in-lieu fees). These new permitting mechanisms will not only facilitate faster and more efficient project development, but will also result in a substantial boost to efforts to conserve the western Joshua tree by facilitating the protection of large blocks of habitat, a robust transplantation program, and cooperative relationships with California Native American Tribes, land trusts, and local communities to conserve the species.

Whether the Commission decides to list or not, the Western Joshua Tree Conservation Act can more directly advance Tribal co-management, result in faster inclusion of traditional ecological knowledge in management with state agencies and serve as a landmark commitment for the integration of co-management, species conservation, and ancestral lands and knowledge.

Further, the last several budgets have included billions of dollars for clean energy and housing program investments. The Western Joshua Tree Conservation Act would facilitate permitting processes to help advance clean energy and housing projects in the region that align with the state's recent investments.

**Proposed Language:**

The Western Joshua Tree Conservation Act includes these elements:

- Authorizes the Department to permit impacts to the western Joshua tree only if specific conditions are met, including the avoidance and minimization of impacts while allowing an option for payment of fees calculated to mitigate for the specific impacts by specific projects.
- Deposits fees in the Western Joshua Tree Mitigation Fund and requires the Department to deploy the Fund, in collaboration with Tribes and others, to address threats to the western Joshua tree, including, but not limited to, acquiring, and conserving western Joshua tree habitat.
- Requires the Department to develop and implement a western Joshua tree conservation plan in collaboration with the Commission, governmental agencies, California Native America Tribes, and the public.
- Requires the Department to consult with California Native American Tribes, includes co-management principles in the conservation plan, provides for the relocation of western Joshua trees to tribal lands upon a request from a tribe, and supports the incorporation of traditional ecological knowledge into the conservation plan.
- Authorizes the Department to delegate to a county or city the ability to approve the removal or trimming of dead or dying trees, subject to conditions, and an option to pay fees, Department oversight, and express Department authority to revoke any delegation.
- Includes annual reporting to the Commission about the effectiveness, performance, and success of the program, with specific deadlines for accountability and flexibility to increase fees as necessary pursuant to public, transparent processes.