

**Senate Bill No. 1334**

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Passed the Senate June 2, 2010

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*Secretary of the Senate*

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Passed the Assembly August 16, 2010

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2010, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 2820 of the Fish and Game Code, relating to wildlife resources.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1334, Wolk. Natural community conservation plans.

The Natural Community Conservation Planning Act authorizes the Department of Fish and Game to enter into agreements with any person or public entity for the purpose of preparing a natural community conservation plan, in cooperation with a local agency that has land use permit authority over the activities proposed to be addressed in the plan, to provide comprehensive management and conservation of multiple wildlife species. The act requires the department to approve a natural community conservation plan for implementation after making specified findings based upon substantial evidence in the record, including a finding that the plan has been developed consistent with the planning agreement process.

This bill would include in the required finding that the plan has been developed consistent with the planning agreement process an additional finding of cooperation with a local agency that has land use permit authority over the activities proposed to be addressed in the plan.

*The people of the State of California do enact as follows:*

SECTION 1. Section 2820 of the Fish and Game Code is amended to read:

2820. (a) The department shall approve a natural community conservation plan for implementation after making the following findings, based upon substantial evidence in the record:

(1) The plan has been developed consistent with the process identified in the planning agreement entered into pursuant to Section 2810, including cooperation with a local agency that has land use permit authority over the activities proposed to be addressed in the plan.

(2) The plan integrates adaptive management strategies that are periodically evaluated and modified based on the information from

the monitoring program and other sources, that will assist in providing for the conservation of covered species and ecosystems within the plan area.

(3) The plan provides for the protection of habitat, natural communities, and species diversity on a landscape or ecosystem level through the creation and long-term management of habitat reserves or other measures that provide equivalent conservation of covered species appropriate for land, aquatic, and marine habitats within the plan area.

(4) The development of reserve systems and conservation measures in the plan area provides, as needed for the conservation of species, all of the following:

(A) Conserving, restoring, and managing representative natural and seminatural landscapes to maintain the ecological integrity of large habitat blocks, ecosystem function, and biological diversity.

(B) Establishing one or more reserves or other measures that provide equivalent conservation of covered species within the plan area and linkages between them and adjacent habitat areas outside of the plan area.

(C) Protecting and maintaining habitat areas that are large enough to support sustainable populations of covered species.

(D) Incorporating a range of environmental gradients, such as slope, elevation, aspect, and coastal or inland characteristics, and high habitat diversity to provide for shifting species distributions due to changed circumstances.

(E) Sustaining the effective movement and interchange of organisms between habitat areas in a manner that maintains the ecological integrity of the habitat areas within the plan area.

(5) The plan identifies activities, and any restrictions on those activities, allowed within reserve areas that are compatible with the conservation of species, habitats, natural communities, and their associated ecological functions.

(6) The plan contains specific conservation measures that meet the biological needs of covered species and that are based upon the best available scientific information regarding the status of covered species and the impacts of permitted activities on those species.

(7) The plan contains a monitoring program.

(8) The plan contains an adaptive management program.

(9) The plan includes the estimated timeframe and process by which the reserves or other conservation measures are to be implemented, including obligations of landowners and plan signatories and consequences of the failure to acquire lands in a timely manner.

(10) The plan contains provisions that ensure adequate funding to carry out the conservation actions identified in the plan.

(b) A natural community conservation plan approved pursuant to this section shall include an implementation agreement that contains all of the following:

(1) Provisions defining species coverage, including any conditions of coverage.

(2) Provisions for establishing the long-term protection of any habitat reserve or other measures that provide equivalent conservation of covered species.

(3) Specific terms and conditions, that, if violated, would result in the suspension or revocation of the permit, in whole or in part. The department shall include a provision requiring notification to the plan participant of a specified period of time to cure any default prior to suspension or revocation of the permit in whole or in part. These terms and conditions shall address, but are not limited to, provisions specifying the actions the department shall take under all of the following circumstances:

(A) If the plan participant fails to provide adequate funding.

(B) If the plan participant fails to maintain the rough proportionality between impacts on habitat or covered species and conservation measures.

(C) If the plan participant adopts, amends, or approves any plan or project without the concurrence of the wildlife agencies that is inconsistent with the objectives and requirements of the approved plan.

(D) If the level of take exceeds that authorized by the permit.

(4) Provisions specifying procedures for amendment of the plan and the implementation agreement.

(5) Provisions ensuring implementation of the monitoring program and adaptive management program.

(6) Provisions for oversight of plan implementation for purposes of assessing mitigation performance, funding, and habitat protection measures.

(7) Provisions for periodic reporting to the wildlife agencies and the public for purposes of information and evaluation of plan progress.

(8) Mechanisms to ensure adequate funding to carry out the conservation actions identified in the plan.

(9) Provisions to ensure that implementation of mitigation and conservation measures on a plan basis is roughly proportional in time and extent to the impact on habitat or covered species authorized under the plan. These provisions shall identify the conservation measures, including assembly of reserves where appropriate and implementation of monitoring and management activities, that will be maintained or carried out in rough proportion to the impact on habitat or covered species and the measurements that will be used to determine if this is occurring.

(c) If a plan participant does not maintain the proportionality between take and conservation measures specified in the implementation agreement and does not either cure the default within 45 days or enter into an agreement with the department within 45 days to expeditiously cure the default, the department shall suspend or revoke the permit, in whole or in part.

(d) Any data and reports associated with the monitoring program required by this section shall be available for public review. The entity managing the plan shall also conduct public workshops on an annual basis to provide information and evaluate progress toward attaining the conservation objectives of the plan.

(e) To the extent provided pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code and any guidelines adopted pursuant thereto, if the impacts on one or more covered species and its habitat are analyzed and mitigated pursuant to a program environmental impact report for a plan adopted pursuant to this chapter, a plan participant that is a lead agency or a responsible agency under that division shall incorporate in the review of any subsequent project in the plan area the feasible mitigation measures and alternatives related to the biological impacts on covered species and their habitat developed in the program environmental impact report.

(f) The department may provide assurances for plan participants commensurate with long-term conservation assurances and associated implementation measures pursuant to the approved plan.

(1) When providing assurances pursuant to this subdivision, the department's determination of the level of assurances and the time limits specified in the implementation agreement for assurances may be based on localized conditions and shall consider all of the following:

(A) The level of knowledge of the status of the covered species and natural communities.

(B) The adequacy of analysis of the impact of take on covered species.

(C) The use of the best available science to make assessments about the impacts of take, the reliability of mitigation strategies, and the appropriateness of monitoring techniques.

(D) The appropriateness of the size and duration of the plan with respect to quality and amount of data.

(E) The sufficiency of mechanisms for long-term funding of all components of the plan and contingencies.

(F) The degree of coordination and accessibility of centralized data for analysis and evaluation of the effectiveness of the plan.

(G) The degree to which a thorough range of foreseeable circumstances are considered and provided for under the adaptive management program.

(H) The size and duration of the plan.

(2) If there are unforeseen circumstances, additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources shall not be required without the consent of plan participants for a period of time specified in the implementation agreement, unless the department determines that the plan is not being implemented consistent with the substantive terms of the implementation agreement.



Approved \_\_\_\_\_, 2010

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*Governor*