

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Diane Papan, Chair

AB 734 (Schultz) – As Amended April 21, 2025

SUBJECT: Environmental protection: biological resources data: reporting

SUMMARY: Requires the State Energy Resources Conservation and Development Commission (Energy Commission) to make biological resources data it receives during the permitting processes for energy and renewable energy projects available to the public unless disclosure of the data would put species at risk. Specifically, **this bill:**

- 1) Requires the Energy Commission to make biological resources data it receives during the permitting process for a thermal power plant or an electric transmission line available to the public.
- 2) Requires the Energy Commission to make biological resources data it receives during the permitting process for specified renewable energy projects available to the public.
- 3) If the biological resources data disclosed under #1 or #2, above, would include location data derived from the California Natural Diversity Database (CNDDB), the Department of Fish and Wildlife (DFW) may submit a written determination to the Energy Commission to prohibit the data's disclosure if DFW deems that doing so would pose a risk to individuals of a species.
- 4) Provides that DFW shall include in the written determination specified in #3, above, an assessment of the maximum amount of data from CNDDB that can be released without posing a risk to the species. DFW's determination, if made, shall be provided to the Energy Commission in writing and the Energy Commission shall make it available to the public on its docket.
- 5) Defines "biological data" as information pertaining to species and their habitats, including observations, surveys, scientific studies, species needs, and habitat conditions, and including maps on a scale of one inch equals 500 feet for purposes of this bill.

EXISTING LAW:

- 1) Provides that the Energy Commission has the exclusive power to permit all sites for electric transmission lines and/or thermal power plants in the state. The issuance of a permit from the Energy Commission shall be in lieu of any permit, certificate, or similar document required by any state, local, or regional agency [Public Resources Code (PRC) § 25500].
- 2) Provides that the Energy Commission has the authority to permit the following renewable energy projects through June 30, 2029 if the project meets specified labor standards and employs a skilled and trained workforce (PRC § 25545 *et seq.*):
 - a) A solar photovoltaic or terrestrial wind energy project that generates 50 megawatts (MW) or more;
 - b) An energy storage system with a capacity of 200 MW hours or more;

- c) A stationary renewable electrical power plant that generates 50 MW or more;
 - d) Facilities that manufacture components for renewable energy projects or energy storage projects that make a capital investment of at least \$250 million over a five-year period;
 - e) An electrical transmission line that interconnects projects described in (a), (b), and (c) to an electrical transmission system in the state; and
 - f) A hydrogen production facility and associated on-site storage that does derive hydrogen from a fossil fuel feedstock and that has received funding from specified public sources.
- 3) Provides the Energy Commission may exempt thermal power plants with a generating capacity of up to 100 MW from its certification authority if the Energy Commission finds that no substantial adverse impact on the environment or electrical resources will result from the construction or operation of the proposed thermal power plant (PRC § 25541).
- 4) Establishes the Significant Natural Areas Program (Program) within DFW and charges DFW with maintaining and expanding a data management system, designated CNDDDB, to assist in carrying out the Program (Fish and Game Code § 1932).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** The author states that changes the Energy Commission made to its regulations associated with permitting energy projects in 2023 have restricted the public release of maps that contain biological resources data “to a scale so general as to make it impossible for the public to participate in the permitting process effectively.” The author notes that this is a significant change in how state agencies have previously handled biological data and limits the public’s ability to determine whether energy projects are developed in a manner that avoids and minimizes adverse impacts to sensitive species and their habitat.

The author argues, “[This bill] remedies the [Energy Commission’s] change in permitting practice by requiring that it make important biological information available to the public in a timely manner and at a reasonable scale to allow the public to participate effectively in the review and comment process associated with permitting. This bill is consistent with California’s efforts to build a cleaner, more affordable, and equitable future while protecting our public trust resources and providing for meaningful public review and comment in our permitting processes.”

- 2) **Background.** In 2023, the Energy Commission amended its regulations associated with the permitting of small power plants and updated Appendix B in Title 20 of the California Code of Regulations, which dictates the requirements of scale for public maps that contain information on biological resources. The change restricted public release of maps that contain biological resources at a scale greater than 1:350,000. Under the regulations, maps submitted at a scale of 1:6,100 must be submitted “under confidential cover.”

Much of the biological resources data addressed by this bill comes from biological surveys done by the proponents of energy projects; however, some of the data may come from

CNDDDB. CNDDDB is an inventory of the status and locations of rare plants and animals in California and is maintained by DFW. DFW staff work with partners to maintain current lists of rare species, as well as an ever-growing database of GIS-mapped locations for these species. CNDDDB is a “natural heritage program” and part of a network of similar programs in North America. CNDDDB data comes in the form of text information and spatial information and is used to help inform conservation decisions, aid in environmental review of projects and land use changes, and provide baseline data helpful in recovering endangered species and for research projects. CNDDDB data is available to the public at a coarse scale and to subscribers at a finer scale. This is to protect against “the very real possibility that some people will use the detailed information to do harm to species or its habitat” (CNDDDB Data Use Guidelines v4.2 2011).

- 3) **Arguments in support.** The Defenders of Wildlife are the sponsor of this bill and argue that it “would provide the public with the necessary biological resource information to participate effectively and efficiently in the public review and comment processes associated with project permitting at the [Energy Commission].” Defenders of Wildlife notes that the Energy Commission amended its regulations pertaining to the handling of biological data in 2023 and cites dozens of requests for data associated with 10 energy projects that have been denied since this change. Defenders of Wildlife assert “the suppression of data and information renders the public review and comment process meaningless.”
- 4) **Related legislation.** AB 205 (Committee on Budget), Chapter 61, Statutes of 2022, among other provisions, enacts provisions of law described under “Existing Law” #2, above.

REGISTERED SUPPORT / OPPOSITION:

Support

Defenders of Wildlife (sponsor)
Audubon California
California Native Plant Society
Center for Biological Diversity

Opposition

None on file

Analysis Prepared by: Pablo Garza / W., P., & W. / (916) 319-2096