

Cutting Green Tape to Achieve 30 by 30

California Ecological Restoration Business Association



The California Ecological Restoration Business Association (CalERBA) applauds the leadership of Governor Newsom’s Executive Order (EO) and CNRA to establish a goal of 30% state land and water conservation by 2030 while advancing the “Cutting Green Tape” initiative (CGT). CalERBA represents a growing economic sector of companies in the business of delivering accountable ecological outcomes, from wetland and stream mitigation banking to critical habitat restoration. We believe the state’s economy and environment stand to greatly benefit from expansion of the ecological restoration industry, which brings skilled jobs to rural regions and reinforces the resiliency of natural systems.

California must enlist both private and public lands to successfully reach the goal of 30% conservation by 2030. Ecological restoration markets and projects offer landowners the incentives they need to not only conserve land, but also generate ecological uplift crucial to the biodiversity goals of the EO. Our industry is particularly encouraged by the Governor’s directive to “strategically prioritize investments in cooperative, high priority actions” and commitment to “increase the pace and scale of environmental restoration.” Improvements to the existing processes for mitigation and restoration projects implemented under federal and state programs in California are an immediate opportunity for the state to act on the EO and GCT priorities.

The ecological restoration industry’s potential is currently restrained by the framework of “green tape” or environmental reviews that were not designed with environmentally beneficial projects in mind. The CGT initiative is a proactive endeavor to address this challenge, but it will miss out on a valuable opportunity to mobilize private capital and job creators to advance the EO’s goals if the private sector perspective is left out of the conversation. CalERBA members work with regulation on dual fronts, both as service providers to permittees with compliance challenges as well as regulated entities subject to restoration project approvals and permitting. Our experience gives CalERBA a unique perspective on balancing regulatory reform with the integrity of essential environmental safeguards. By focusing on process and immediate improvements to program implementation, California could lead the way on effective environmental permitting.

For faster delivery of ecological uplift and to incentivize land for conservation, CalERBA recommends:

- In CNRA and CDFW’s response to the EO’s February 2022 deadline, request that all state mitigation banks, landscape scale permittee responsible mitigation, and habitat restoration projects are expedited and counted towards the 30 by 30 goal. Mitigation and habitat restoration should be clearly classified as a mechanism that “enables enduring conservation measures on a broad range of landscapes... in partnership with land managers.” The ecological uplift provided by CalERBA member projects as a result of careful planning and construction delivers greater biodiversity gains than just land preservation alone, and also supports a sector of economic activity and jobs. All of these benefits justify treatment of mitigation and restoration projects as a “high priority” category for achieving the EO’s goals.
- Revisit effectiveness of CDFW review timelines and fees for the mitigation program. In 2012, the CA Legislature, CDFW and the mitigation community agreed on a fee schedule for mitigation bank reviews in exchange for faster bank review timelines and dedicated funding

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towards implementation and compliance oversight. However, at eight years later, mitigation review delays persist beyond the agreed upon 30, 60 or 90-day review timelines and implementation of mitigation requirements varies notably across state regions. Fees collected should fund designated project manager and counsel experts who can work closely with California IRTs and devote their time to processing mitigation requests. CDFW regional work plans should be updated to reflect these staff members' dedication to the mitigation program and evaluations based on achieving program targets (i.e. 80% of BEIs reviewed in 180 days or less). The Governor's office and CDFW leadership should assess progress to date under the current fee arrangement and enact training, hiring, project management and work plan changes to advance timeline compliance and overall program efficiencies. If an assessment reveals a programmatic issue with the 2012 fee agreement, discussions with the CA legislature may facilitate authorization of alternative approaches.

- Develop a publicly available dashboard that tracks statewide progress on ecological restoration permitting and priority projects. This dashboard would provide an accountable, transparent record on permitting times across project types and track application of fees collected for agency services towards staff training, permit review, and program oversight. CA may look to build on and improve the federal permitting dashboard framework. The dashboard should also monitor progress on restoration and mitigation projects that qualify towards the state's 30 by 30 goal. CDFW might consider coordination with the Army Corps' RIBITS platform to provide a special designation for pending mitigation projects designated as a high priority for meeting EO goals.
- Through the dashboard or other public notice mechanism, send clear market signals on mitigation and restoration needs for federal and state agency objectives and state infrastructure plans. Facilitate a forum for public, NGO, and private sponsors of restoration to convene and coordinate on restoration responses and the goals of state programs, such as the RCIS. To the extent possible, CA should also consider the requirements and standards for mitigation projects established by federal partners to maximize efficiencies and coordination across programs. When the fundamental requirements of mitigation align at the state and federal levels, restoration providers are incentivized to pursue more multi-benefit projects with diverse ecosystem services since there are multiple regulatory programs driving demand and consistency across programs.
- State agencies should look for opportunities to address delays due to poor planning on construction general permits. Any comprehensive planning approach should foster integration of construction general permits with local agency regulations at touchpoints earlier in the project permitting process.

CalERBA acknowledges the productive progress to date under the CGT Initiative, and supports:

- Prioritization of permit approvals for environmentally beneficial restoration projects, while maintaining commitment to California's environmental laws.

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- Cutting permitting timelines in half to essentially double the amount of habitat and other restoration that is implemented. Reduce the number of days/years to permit.
- Fostering a shared culture across state agencies of support for calculated risk, in order to approve restoration and stewardship efforts that seek to build resilience.
- Development of a separate permitting track for restoration to increase efficiency and speed. Such a track would require coordinated and adequate funding, and organizing staff in units to serve as “restoration stewards” rather than “just” regulators. The latter improves process, perspectives, and partnerships, and there are already state programmatic-level examples of this matrix approach.
- Creating a regulatory agency culture of flexibility and assumed adaptation, with clear sideboards and creative incentives for accountability that support staff. Culture change includes refining hiring processes, encouraging calculated risk-taking, open communication and feedback, addressing vulnerabilities, e.g. be prepared to litigate.

CalERBA appreciates the opportunity to be a part of these exciting conversations. We look forward to collaborating on immediate actions and long-term policy changes. Please do not hesitate to reach out with any questions or if CalERBA members can provide further insight or data from their projects and experiences in the state. Thank you for your leadership and consideration of our industry perspective.

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