

Kim Delfino - [Defenders of Wildlife in the California Coastal Protection Network](#)

Senate Energy, Utilities and Communications Committee – August 25, 2022

At minute: 00:55:18:28

Speaker 1 ([06:22](#)):

Network. We have Ms. Delfino here. Welcome. And you're ready to go.

Kim Delfino ([06:27](#)):

Thank you. Can you hear me?

Speaker 1 ([06:29](#)):

Yes, perfectly

Kim Delfino ([06:30](#)):

Great. Good afternoon. Chairman and members of the committee. Thank you for the opportunity to speak today. My name as you noted is Kim Delfino and I am here representing Defenders of Wildlife in the California Coastal Protection Network. I've been asked to speak on the issues relating to how the governor's proposal for extending the operation of Diablo canyons, uh, Diablo canyon impacts environmental protections. Uh, let me do a quick summary, uh, before I get into the details of what the environmental and public health concerns are at issue here, as noted by the previous speaker Diablo canyon is an old nuclear power plant currently scheduled to go offline in two years. And therefore it does have a lot of deferred maintenance, uh, a very packed spent fuel pool and in brittle reactor and it exists close to four, uh, earthquake fall lines. In addition, according to the state water board

every day, roughly two and a half billion gallons of sea water slosh through Diablo's enormous intake tubes cooling the hot steam heated by nuclear reactors and the warmed water is then flushed back into the sea creating significant adverse impacts on the ocean resources and animals, including fish, sea lions, turtles, and other creatures, which are killed by the millions.

Kim Delfino ([07:42](#)):

Make no mistake continuing to operate the Diablo Canyon. Beyond 2025 will have serious impacts on our environment. I wanna walk through how the governor's proposal overrides existing environmental protections and state agency jurisdictions. One, the governor's proposal contains multiple CEQA exemptions, including classifying the operations of Diablo canyon as a ministerial exemption and an exemption from seq for all permits leases, licenses, certifications, concurrence plans, decisions for applications to state agencies, and finally an exemption from the loan agreement between DWR and PG E from se a essentially nothing associated with Thete extension of Diablo canyon would be subject to se and its public review and oversight process two. The bill is written. Uh, the language that we've seen is written purposefully to limit the scope of public trust agencies, AEs and directs predetermined outcomes for permits and approvals through a combination of specific findings and statutory language that directs agencies to adopt the legislative findings, these legislative findings direct specific outcomes and determinations from agencies, removes agency discretion and override state and federal law.

Kim Delfino ([09:00](#)):

The findings, when they're coupled with the statutory directives to use the legislative filing constrains, what the agencies can consider as part of their review, and essentially dictates what should be a final decision. This would impact the state lands commission, the state water board, and the state coastal cons, uh, coastal commission three, the bill

overrides the coastal act and the federal coastal zone management act, as well as coastal commission jurisdiction under the federal coastal zone management act, there must be federal consistency, D deter, uh, reviews of federal agency, federally permitted and federally funded activities. The review is then delegated to the coastal commission and the commission standard review is the enforceable policies found within chapter three of the coastal act, the governor's proposal, amends chapter three of the coastal act and specifically orders the commission to permit the operations of Diablo canyon until January one 30, uh, 2031.

Kim Delfino ([09:59](#)):

Basically this is a legislative override of the coastal commission's obligations under the federal coastal zone management act. And if this is enacted a, this kind of UN, uh, override is unprecedented in nature, four, the governor's proposal overrides and delays compliance with the state water boards once through cooling policy until 2030, and it limits mitigation fees and directly prohibits the state water board from imposing, um, cooling towers as a potential mitigation measure, this kind of prohibition on what the state board can or cannot consider as mitigation is also unprecedented. Finally, the newest version of the governor's proposal inexplicably puts the California PUC and not the coastal commission in charge of determining what will be the future use of Diablo canyon land after the power plant closes and provides really no guidelines, other than a vague directive that the PC must determine what's in the best interest of a variety of parties.

Kim Delfino ([11:01](#)):

This doesn't make any sense to hand over this kind of decision making of the future of an important part of the coastal Don to an agency that has no natural resource public trust, uh, requirements or responsibilities. Now that I've walked through the various exemptions, overrides and efforts to restrict environmental standards. Let me

explain why this is unnecessary and should be rejected. First. There is no legitimate reason to prevent any of these relevant state agencies from doing their jobs in carrying out and administering our state and federal environmental laws. There's no requirement that all state permits and approvals must be secured before an application for relicensing is filed to the nuclear regulatory commission, nor is there a requirement that all permits and approvals must be secured before filing an application with the department of energy for a grant. Instead, all you need is a pathway for permitting, and there is a pathway here.

Kim Delfino ([11:57](#)):

The pathway is to let the agencies spend the next two years doing their jobs, which leads me to my second point as to why it's unnecessary to constrain agency discretion or undermine environmental standards. As I said, the agencies have more than two years before 2025. This has plenty of time for them to do their jobs. For example, the coastal commission has issued dozens of coastal development permits for California's three coastal nuclear plants over the last 40 years without leveraging closure or interrupting power generation. Finally, and I cannot emphasize enough unnecessarily overriding our bedrock environmental laws and the jurisdiction of the coastal commission, state water board, and state lands commission. That's a terrible precedent. These agencies and laws are in place to ensure that decisions are made to protect people and natural resources. And frankly, I cannot think of a better example of when we need to use these laws than in granting an extension of the operating life of an aging nuclear power plant. Our environmental laws are not a nice to have kind of measure. They are a must have kind of measure. And therefore I would urge that if the legislature chooses to move forward with any kind of legislation pertaining to the canyon, not that I think this is a prudent thing to do that

Speaker 4 ([13:26](#)):

We need a broadband fix

Kim Delfino ([13:27](#)):

Too. UR discretion.

Speaker 1 ([13:29](#)):

You were cut off, you were cut off in your last recommendation. Can you restate it please?

Kim Delfino ([13:35](#)):

Okay. So I, was I talking about the nice to have, or the must haveve

Speaker 1 ([13:39](#)):

No, after it was your final statement.

Kim Delfino ([13:41](#)):

Oh, well I, the punchline, um, I would urge that if you do choose to move forward with legislation that you do so in a way that does not undermine bedrock state and federal environmental laws or override agency jurisdiction or discretion, thank you.