



California Wind Energy Association

March 14, 2019

The Honorable Eduardo Garcia
Chair, Assembly Water, Parks and Wildlife Committee
State Capitol, Room 4140
Sacramento, CA 95814

RE: AB 454 (Kalra) – Oppose

Dear Chair Garcia,

The California Wind Energy Association (CalWEA) is a 19-year-old trade association representing wind energy and related companies focused on the California market, primarily including owners and operators of wind energy projects located in California.

Regrettably, CalWEA must strongly oppose AB 454, which would generally make unlawful the taking or possession of any migratory nongame bird designated in the federal Migratory Bird Treaty Act (MBTA). The bill runs counter to the findings of many U.S. Courts of Appeal, including the Ninth Circuit, that the MBTA was not meant to apply to incidental or unintentional take occurring in the course of otherwise lawful activities, such as wind energy project development and operations. In so doing, AB 454 would criminalize the unintentional take of a single migratory bird at a wind farm, even when every effort has been made to avoid and minimize such an event and it is clear that the purpose of the activity is not to take birds.

Wind energy development is subject to rigorous environmental review, including adherence to the U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines and its Eagle Conservation Plan Guidance for Land-Based Wind Energy. In addition, in California, the permitting of wind farms requires the issuance of discretionary land use permits, which requires extremely thorough and demanding environmental review under the California Environmental Quality Act (CEQA), including post-construction environmental surveys and adaptive management requirements.

In seeking to criminalize incidental take of a migratory bird, AB 454 would chill interest in developing renewable energy resources in California at a time when such development will be critical to the achievement of California's greenhouse-gas-reduction goals.

For these reasons, we must strongly oppose AB 454.

Sincerely,

A handwritten signature in black ink that reads "Nancy Rader". The signature is written in a cursive, flowing style.

Nancy Rader
Executive Director

cc: Members and Staff, Assembly Water, Parks and Wildlife Committee
Assembly Member Ash Kalra