

Thoughts on HOUSE BILL 729

Positive:

This is a much-needed legislation, since the Federal Protections for Wetlands have not addressed these critical ecosystems.

Even with the federal legislation/laws, California still lost 90% of its vernal pools. Consequently. Some of their counties have enacted their own regulations and monitoring..

<https://www.placer.ca.gov/3483/Vernal-Pools#:~:text=It%20is%20estimated%20that%20more,pool%20habitat%20in%20Placer%20County>

<https://www.placer.ca.gov/DocumentCenter/View/56008/Appendix-D---Aquatic-Resources-Delineation-Guidance>

Maine has a statewide program that defines the vernal pools that are significant habitat and the level of evidence required to be a significant vernal pool. They also identify both animals and plants that depend on the pools.

<https://www.maine.gov/dep/land/nrpa/vernalpools/index.html>

Maryland needs its own legislation that addresses our unique species that use these pools and our unique climate and ecosystems.

Negative:

As currently written, the definition of Vernal Pool is too broad and will result in a backlash from landowners and other interests, and result in significant legal challenges and litigations. This could render some projects and developments dead in the water and prevent some landowners from ever developing most of their land in areas replete with vernal pools of any size and quality.

For example: Vernal pools created by fallen trees whose roots pulled out of the ground leaving a large hole that fills with water and becomes a vernal pool could render that area unusable by the owner once a single amphibian species moves in and reproduces there. This can happen quickly and within weeks of the tree falling in some areas.

The list of species may be too short and there is no weighting given to them. Plants are not reflected in the current list, should they be as they are in the lists developed by Maine? A weighting for the relative importance of each species is not reflected. Should the more endangered species be given a heavier weighting in establishing the significance of a pool or network of small pools?.

Solutions:

Use the term Significant Vernal Pool and develop a definition for significant that has some dynamic range to it to assign relative value.

It appears that in the Placer California guidelines pools are classified as to size and distribution. A network of small pools is considered differently than a single pool.

The Maine guidelines uses the term Significant and goes on to define that in terms of the number and variety of species that use that pool/

The possibility of creating suitable pools elsewhere on the property for a “no net loss” of vernal pools is not reflected in the current wording and should be in the list of options to be defined and considered to mitigate the potential for excessive restrictions on landowners when a suitable alternative may be found to preserved the local habitat..