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California Land Use & Development Law Report

# California Supreme Court Agrees to Hear Case Under California Endangered Species Act

The California Endangered Species Act allows interested parties to file a petition with the California Fish & Game Commission to list or delist a species as threatened or endangered. If the Commission accepts the petition, it then decides whether to take the action requested in the petition, based on a scientific report by the California Department of Fish & Game.

In 1995, the Commission listed as endangered coho salmon in two creeks in Santa Cruz County. Years later, the timber industry filed a delisting petition disputing the factual basis for the 1995 listing. The Commission decided not to accept the petition for full consideration.

In December 2012, the court of appeal upheld the Commission's decision, ruling that a delisting petition was an improper means for challenging the factual basis for the Commission's 1995 listing decision. Rather, the court ruled, a delisting petition is reserved for presenting new information, arising after the listing decision, showing the conditions that led to the listing are no longer present and the species is either extinct or has recovered.

On February 27, the California Supreme Court decided to hear the case.

The Court's web site summarizes the issue presented: "Under the California Endangered Species Act, may the Fish and Game Commission consider a petition to delist a species on the ground that the original listing was in error? If so, does the petition at issue here contain sufficient information to warrant the Commission's further consideration?"

*Central Coast Forest Association v. California Fish & Game Commission*, California Supreme Court No. S208181. For additional information, see our post on the [court of appeal's decision](#).

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