

# SB 147 – FULLY PROTECTED SPECIES: CALIFORNIA ENDANGERED SPECIES ACT: AUTHORIZED TAKE

## Fact Sheet

### **SUMMARY:**

Authorizes the California Department of Fish and Wildlife (CDFW) to issue an incidental take permit that would authorize the take<sup>1</sup> of a fully protected species resulting from impacts attributable to the implementation of **specified projects if certain conditions are satisfied**.

Under California Law, Fully Protected Species (Fish and Game Code Sections 3511, 4700, 5050 and 5515) and California Endangered Species Act (CESA) (Fish and Game Code Sections 2050 - 2089.25) listed species differ in a couple of key ways. First, the endangered species lists are intended to be maintained according to the best available scientific information, whereas the fully protected species lists were codified by the Legislature in 1970 and have not been updated. The population status of most of the fully protected species are not known. CDFW conducts five-year reviews of CESA-listed species, with reviews completed recently for nine species, including two fully protected species (Owens pupfish, California bighorn sheep).

- The CESA act prohibits the taking of an endangered or threatened species, except in certain situations, including, if specified conditions are met, through the **issuance of an incidental take permit**.
- The bill will authorize the CDFW to issue a permit under CESA that would **authorize the take of a fully protected species** resulting from impacts attributable to the implementation of specified projects.
- The bill would also **remove the American peregrine falcon, brown pelican, and thickettail chub as fully protected species**.
- A new section is added to Fish and Game Code 2081 as **Fish and Game Code Section 2081.15**.

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<sup>1</sup> "Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. Fish and Game Code § 86

- Projects or categories of projects eligible for a take authorization permit pursuant to this section: **A transportation project**, including any associated habitat connectivity and wildlife crossing project, undertaken by a state, regional, or local agency, **that does not increase highway or street capacity for automobile or truck travel.**
- Other projects in this bill not delivered by Caltrans include specific maintenance, repair and improvement projects undertaken by the Department of Water Resources, wind projects, solar photovoltaic transmission projects and their appurtenant infrastructure improvements.
- This bill will **not be applicable to Middle-Mile Broadband Projects** being implemented by Caltrans as these projects are not considered a transportation project.
- The **take authorization permit** provides for the development and implementation, in cooperation with CDFW, and federal and state agencies, as applicable, of a monitoring program and an adaptive management plan, approved by CDFW, that satisfies the conservation standard (Fish and Game Code Section 2805) for monitoring the effectiveness of, and amending, as necessary, the measures to minimize and **fully mitigate the impacts of the authorized take.**
- The permit includes measures necessary to satisfy the **conservation standard** of the **Natural Community Conservation Planning (NCCP) Act.**
- The applicant pays a **permit application fee** consistent with Section 2081.2.
- This bill **requires CDFW** to develop a plan by July 1, 2024, to **assess the population status of each fully protected species.**
- Governor Newsom signed into law July 10, 2023. This bill declares that it is to **take effect immediately** as an urgency statute and remain effective until December 31, 2033.
- The following are **fully protected birds** that could now have **take authorized** under CESA for a qualifying project:
  - (1) California black rail (*Laterallus jamaicensis coturniculus*).
  - (2) California clapper rail (*Rallus longirostris obsoletus*).
  - (3) California condor (*Gymnogyps californianus*).
  - (4) California least tern (*Sterna albifrons browni*).
  - (5) Golden eagle (*Aquila chrysaetos*).
  - (6) Greater sandhill crane (*Grus canadensis tabida*).
  - (7) Light-footed clapper rail (*Rallus longirostris levipes*).

- (8) Southern bald eagle (*Haliaeetus leucocephalus leucocephalus*).
- (9) Trumpeter swan (*Cygnus buccinator*).
- (10) White-tailed kite (*Elanus leucurus*).
- (11) Yuma clapper rail (*Rallus longirostris yumanensis*).

- The following are **fully protected mammals** that could now have **take authorized** under CESA for a qualifying project:

- (1) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*).
- (2) Bighorn sheep (*Ovis canadensis*), except Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) as provided by subdivision (b) of Section 4902.
- (3) Northern elephant seal (*Mirounga angustirostris*).
- (4) Guadalupe fur seal (*Arctocephalus townsendi*).
- (5) Ring-tailed cat (genus *Bassariscus*).
- (6) Pacific right whale (*Eubalaena sieboldi*).
- (7) Salt-marsh harvest mouse (*Reithrodontomys raviventris*).
- (8) Southern sea otter (*Enhydra lutris nereis*).
- (9) Wolverine (*Gulo luscus*).

- The following are **fully protected reptiles and amphibians** that could now have **take authorized** under CESA for a qualifying project:

- (1) Blunt-nosed leopard lizard (*Gambelia sila*).
- (2) San Francisco garter snake (*Thamnophis sirtalis tetrataenia*).
- (3) Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*).
- (4) Limestone salamander (*Hydromantes brunus*).
- (5) Black toad (*Bufo boreas exsul*).

- The following are **fully protected fish** that could now have **take authorized** under CESA for a qualifying project:

- (1) Colorado River pikeminnow (*Ptychocheilus lucius*).
- (2) Mohave chub (*Gila mohavensis*).
- (3) Lost River sucker (*Deltistes luxatus* and *Catostomus luxatus*).
- (4) Modoc sucker (*Catostomus microps*).
- (5) Shortnose sucker (*Chasmistes brevirostris*).
- (6) Humpback sucker (*Xyrauchen texanus*).
- (7) Owens pupfish (*Cyprinodon radiosus*).
- (8) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).
- (9) Rough sculpin (*Cottus asperimus*).