

# Report on Implementation of Fish and Game Code Section 2081.15

# ANNUAL REPORT TO THE LEGISLATURE

State of California
Natural Resources Agency
Department of Fish and Wildlife

2025 Report

Cover Photo: Golden Eagle (*Aquila chrysaetos*), California Department of Fish and Wildlife

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# Executive Summary

This annual report, required by Fish and Game Code section 2081.15 (Appendix A), includes a description of the role of the California Department of Fish and Wildlife (CDFW) in the implementation of Senate Bill 147 (SB 147), Chapter 59, Statutes of 2023, and information on permits issued for incidental take of fully protected species as authorized by the bill, between January 1, 2025 and December 31, 2025 (Reporting Period).

California's fully protected species statutes (Fish & G. Code, §§ 3511, 4700, 5050, and 5515) were first enacted in the 1930s and were the state's earliest laws to protect wildlife. These statutes prohibit the take of certain species of mammal, bird, reptile, amphibian, and fish that were historically considered vulnerable and in need of special protections.

Among other things, SB 147 added section 2081.15 to the California Endangered Species Act. This legislation provides a permitting mechanism for incidental take of fully protected species until December 31, 2033, for a defined set of infrastructure projects, when specified conditions are met. It also requires CDFW to develop a plan to assess the population status of each fully protected species, and to prepare an annual report to the Legislature on the implementation of the section. CDFW presents in this document the second annual report per Fish and Game Code section 2081.15, subdivision (i).

During the reporting period, two incidental take permits were issued pursuant to Fish and Game Code section 2081.15. One permit covered the incidental take of blunt-nosed leopard lizard, which is both fully protected and listed under the California Endangered Species Act as endangered, and the other permit covered golden eagle, which is fully protected.

Costs to CDFW to implement the program during the reporting period were approximately $140,587. These costs included tasks associated with preconsultation, permitting, mitigation review, compliance, and program management.

# Background

The classification of fully protected species predates the California Endangered Species Act (CESA) and federal Endangered Species Act (ESA), and California's initial effort beginning in the 1930s to identify and provide protection to certain species of California native animals that the Legislature deemed to be rare or facing possible extinction. SB 147 removed three species from the lists of fully protected species (Thicktail Chub, American Peregrine Falcon, and Brown Pelican) that the Fish and Game Commission had previously determined were either recovered or extirpated, and there are now 34 species of mammals, birds, reptiles, amphibians, and fish designated as "fully protected" (Fish & G. Code, §§ 3511, 4700, 5050, and 5515) (Figure 1).

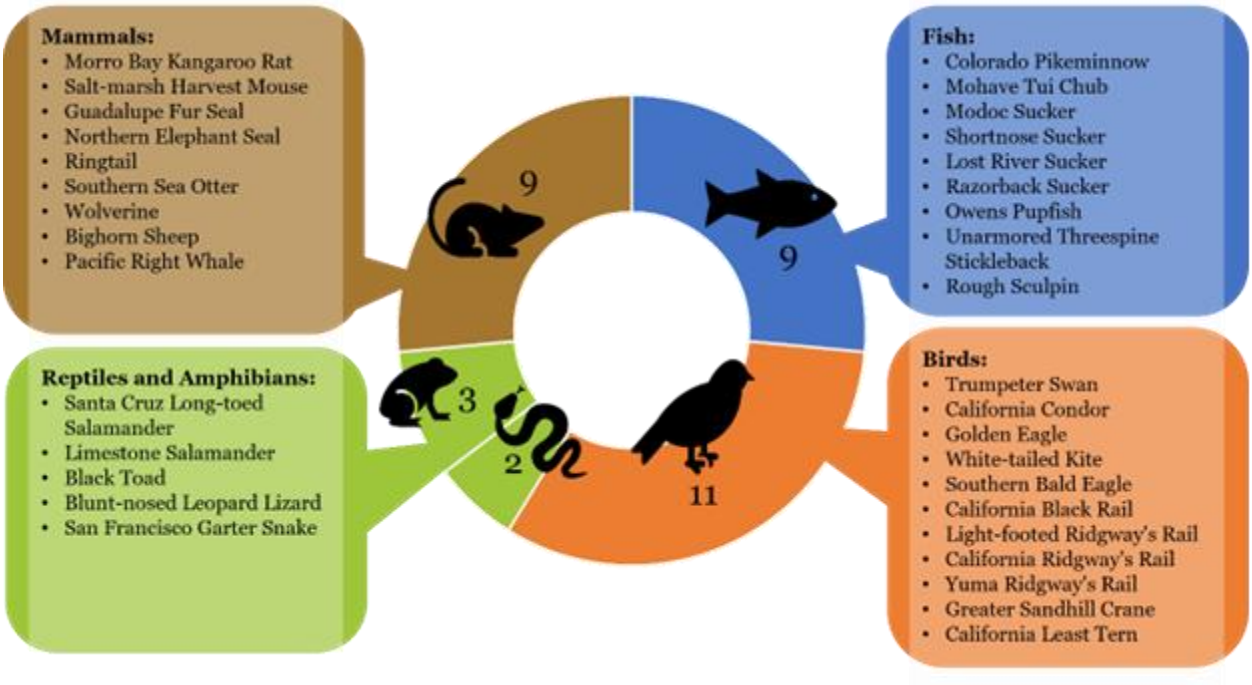



**Figure 1. The 34 fully protected species by class**

The four fully protected species statutes prohibit take (defined as "hunt, pursue, catch, capture, or kill" or any attempt to do any of those activities (Fish & G. Code, § 86)) or possession of the species listed under the section. It also prohibits the issuance of any permit or license authorizing take, except as provided by statute. The fully protected classification has been considered a more restrictive protection standard than a listing of threatened or endangered under CESA due to the limited circumstances under which take can be authorized. CDFW may authorize the taking of a fully protected species for necessary scientific research, including efforts to recover fully protected, threatened, or

endangered species. Other exceptions to these restrictions exist in the Fish and Game Code for individual projects as authorized by statute and for projects approved under the Natural Community Conservation Planning Act (Fish & G. Code, § 2835).

The most significant change to fully protected species permitting came with the enactment of Fish and Game Code section 2081.15, which allows CDFW to authorize take of fully protected species incidental to five categories of projects until December 31, 2033 (Table 1).

**Table 1: Five project categories eligible under Fish and Game Code section 2081.15**

| |
|---|
| (1) A maintenance, repair, or improvement project to the State Water Project, including existing infrastructure, undertaken by the Department of Water Resources |
| (2) A maintenance, repair, or improvement project to critical regional or local water agency infrastructure |
| (3) 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 |
| (4) A wind project and any appurtenant infrastructure improvement, and any associated electric transmission project carrying electric power from a facility that is located in the state to a point of junction with any California-based balancing authority |
| (5) A solar photovoltaic project and any appurtenant infrastructure improvement, and any associated electric transmission project carrying electric power from a facility that is located in the state to a point of junction with any California-based balancing authority |

Under Fish and Game Code section 2081.15, incidental take of fully protected species may only be authorized by CDFW if certain conditions are satisfied.

- Measures must be incorporated into the project to ensure that the conservation standard of subdivision (d) of Fish and Game Code section 2805 is satisfied, meaning that the project must use methods and procedures necessary to bring the species to the point at which the

species would no longer need to be listed under CESA.
- Take must be avoided to the maximum extent possible.
- The permit must provide for the development and implementation of a monitoring program and adaptive management plan to assess measures.

Additionally, as with incidental take permitting under CESA, the applicant must pay a permit application fee consistent with Fish and Game Code section 2081.2, permitted take must be incidental to an otherwise lawful activity, the impacts of the take must be minimized and fully mitigated, and the project may not jeopardize the continued existence of the species.

Please see Appendix A for the reporting requirements as stated in Fish and Game Code section 2081.15, subdivision (i). CDFW presents the required information for this reporting period related to permitting under this section in this annual report.

# Permitting

During the reporting period, two incidental take permits (ITPs) for fully protected species were issued under the authority of Fish and Game Code section 2081.15.

## 1. Pastoria Solar Gen-Tie Project

The Pastoria Solar Gen-Tie (PSG) Project ITP was issued May 19, 2025. The PSG Project has begun construction at the time of this Report.

### Type and Location of Project

The PSG Project involves work at a generation tie-line (gen-tie) that connects a solar photovoltaic electrical generating facility with an energy storage facility. The PSG Project qualifies for permitting under Fish and Game Code section 2081.5, subdivision (b)(5) and is located in Kern County, near the unincorporated community of Grapevine (Figure 2).




**Figure 2: Approximate location of Pastoria Solar Gen-Tie Project**

## Fully Protected Species Taken or at Risk

The PSG Project received an ITP for blunt-nosed leopard lizard (*Gambelia sila*; BNLL), which is fully protected and listed as endangered under CESA.

There have been no reports of take or observation of BNLL.

## Actions Taken to Avoid and Minimize Take

See Appendix B for descriptions of general conditions and take minimization measures that were incorporated into the ITP.

Species-specific measures incorporated into the ITP include a no-disturbance buffer of 50 feet or greater around potential BNLL burrows, a provision for potential live capture, relocation, and burrow excavation, and provisions for BNLL observation or injury. A BNLL Mortality Reduction Plan and a Burrow Map are required to be submitted to CDFW prior to the start of covered activities.

### Actions Taken to Fully Mitigate Take and Conserve the Species

To fully mitigate the take of BNLL, the permittee is required to purchase 1.91 acres of Covered Species credits prior to the start of covered activities or within 24 months of the issuance of the ITP if security is provided. Currently, the PSG Project proponent is looking into mitigation bank options to purchase the 1.91 acres of Covered Species credits. CDFW holds financial security to ensure mitigation obligations are met.

### Monitoring Program and Adaptive Management

See Appendix B for general descriptions of monitoring programs that were incorporated into the ITP.

Adaptive management is required in the *BNLL Mortality and Relocation Plan*. The PSG Project has not yet implemented any adaptive management during construction.

## 2. Sunol Valley Water Treatment Plant Ozonation Project

The Sunol Valley Water Treatment Plant Ozonation Project (SVWTPO Project) ITP was issued October 15, 2025. The SVWTPO Project has begun construction at the time of this report.

### Type and Location of Project

The SVWTPO Project involves the construction of a new ozonation facility and utility/fire water pump station, as well as repairs, at the existing Sunol Valley Water Treatment Plant. The SVWTPO Project qualifies for fully protected species permitting under Fish and Game Code section 2081.5, subdivision (b)(2) and is located in Alameda County, within the unincorporated area of Sunol (Figure 3).

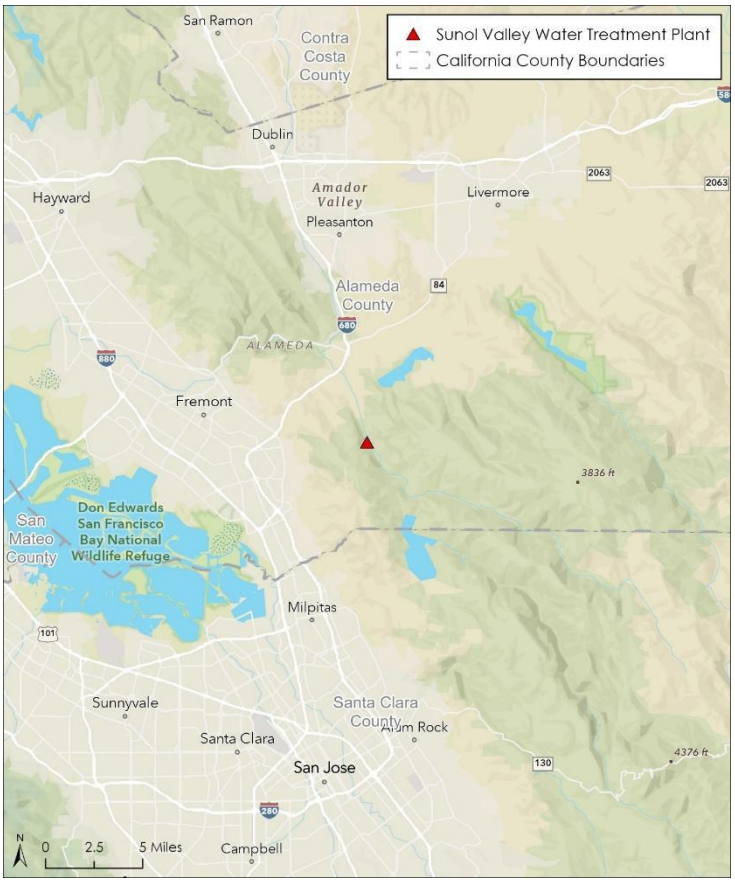



**Figure 3: Approximate location of Sunol Valley Water Treatment Plant Ozonation Project**

## Fully Protected Species Taken or at Risk

The SVWTPO Project received an ITP from CDFW for incidental take of golden eagle (*Aquila chrysaetos*). Post issuance of the ITP in October 2025, there have been no reports made to CDFW of project-related take or observation of golden eagle.

## Actions Taken to Avoid and Minimize Take

See Appendix B for descriptions of general conditions and take minimization measures that were incorporated into the ITP.

The ITP includes procedures for what to do in the case that a dead or injured golden eagle, or abandoned nest or egg, is found. Golden eagle specific measures are also included, such as a *Golden Eagle Nest Monitoring and Adaptive Management Plan, Golden Eagle Handling, Care, and Rehabilitation Plan,* and restrictions of loud intermittent activity during nesting season.

### Actions Taken to Fully Mitigate Take and Conserve the Species

To fully mitigate the take of all protected species covered by the ITP (golden eagle, Alameda whipsnake (*Masticophis lateralis euryxanthus*), and California tiger salamander (*Ambystoma californiense*)), the permittee was required to either purchase 2.9 acres of covered species credits (annual grassland and foraging habitat) from a CDFW-approved mitigation or conservation bank within the East Alameda County Conservation Strategy California Tiger Salamander South Mitigation Area, or provide for the permanent protection and management of 2.9 acres of Habitat Management lands for all covered species.

In addition, to satisfy the conservation standard of subdivision (d) of Fish and Game Code section 2805 for golden eagle, CDFW determined that the permittee would be required to purchase power pole retrofit credits. They are required to retrofit 10 power poles in Alameda, Contra Costa, and Santa Clara counties, with a minimum of five of the retrofits within five miles of the golden eagle nest site adjacent to the project.

### Monitoring Program and Adaptive Management

See Appendix B for general descriptions of monitoring programs that were incorporated into the ITP.

Adaptive management is required in the *Adaptive Management Plan*, specifically mortality reduction actions which must be enacted for the duration of the ITP unless updated by CDFW to reflect best available science. The designated biologist may propose updates to the *Adaptive Management Plan* as a result of new information gathered through compliance monitoring. In the preceding calendar year, no adaptive management-driven modifications have been made to the plan.

## 3. Previously Reported Projects

For updates on previously reported projects, see Appendix C.

# Cost

Fish and Game Code section 2081.15, subdivision (i)(2) requires this report to contain the "cost to the department of the implementation of this section in the preceding year broken down by task."

Tasks Performed

- Statewide coordination, tracking, and program reporting.
- Working with entities prior to permit application.
- Application review, drafting and executing permit.
- Review of habitat mitigation land packages and land management plans.
- Post-permit issuance compliance and report review.

During the Reporting Period, the implementation cost to CDFW was $140,587.41.

CDFW's time tracking system does not break down time by task.

# Conclusion

The enactment of SB 147 was a significant change to the fully protected species statutes. Granting CDFW authority to permit incidental take of fully protected species for certain projects allows important infrastructure projects to proceed without incurring the unreasonable risks and potential liability that would result from the need to fully avoid impacts to these species entirely in the absence of take authorization, while still requiring appropriate avoidance, minimization, and mitigation for the impacts to those species.

During the reporting period, CDFW initiated work on ITPs for a variety of qualifying projects, and two permits were issued. It is anticipated that the demand for fully protected species take permits will continue to increase, especially as more renewable energy projects are initiated across the state. SB 147 continues to be an effective solution for balancing project permitting needs with fully protected species conservation.

# APPENDIX A

**Fish and Game Code – Reporting Requirements**

**Section 2081.15**

(i) On or before July 1, 2025, and annually thereafter, the department shall prepare and submit a report to the relevant policy and budget committees of the Legislature regarding the implementation of this section. The report shall include, at a minimum, all of the following information:

(1) For each individual permit issued to take a fully protected species pursuant to this section, all of the following information:

(A) The type and location of the project for which the permit was issued, including the county in which the project is located.

(B) The fully protected species at risk due to the project and any take of the fully protected species due to the project in the preceding calendar year.

(C) Actions taken to avoid, minimize, and fully mitigate the take of, and to conserve, the fully protected species.

(D) A description of the monitoring program, including observation frequency, and any adaptive management-driven modifications to the monitoring program in the preceding calendar year.

(2) The cost to the department of the implementation of this section in the preceding calendar year broken down by task.

# APPENDIX B

| **Actions Taken to Avoid and Minimize Take** | |
|---|---|
| General Conditions: | Includes measures such as<br>● Approved designated biologists and monitors<br>● Education programs<br>● Trash abatement<br>● Dust and erosion control<br>● Herbicide and pesticide use limits |
| Take Minimization Measures: | Includes measures such as<br>● Time-of-day work restrictions<br>● Vehicle and equipment inspections<br>● Pre-construction surveys<br>● Erosion control |
| | |
| **Monitoring Programs** | |
| Compliance Monitoring Program | ● On-site daily monitoring by a designated biologist or designated surveyor for the duration of the day, when construction or ground- or vegetation-disturbing operation and maintenance activities occur<br>● Designated biologist must conduct regular compliance inspections during periods of inactivity until completion of construction<br>● Daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of the species and their sign, survey results, and monitoring activities required by the ITP |

| | |
|---|---|
| Monitoring, Notification, and Reporting Provisions | ● Monthly compliance reports<br>● Annual status reports<br>● Final mitigation report |

# APPENDIX C

**Previously Reported Projects**

| **Allensworth Water Well Project** | |
|---|---|
| Full report found in Legislative Report year: | 2024 |
| Take reported in preceding year: | None reported |
| Adaptive management in preceding year: | None reported |
| | |
| **Pelicans Jaw Hybrid Solar Project** | |
| Full report found in Legislative Report year: | 2024 |
| Take reported in preceding year: | None reported |
| Adaptive management in preceding year: | None reported |