

# LAND USE & NATURAL RESOURCES

CLIENT ALERT

MAY 6, 2010

## STATE AND FEDERAL WILDLIFE AGENCIES STRUGGLE OVER CALIFORNIA'S LISTING OF CALIFORNIA TIGER SALAMANDER

Yesterday, the California Fish and Game Commission voted to list the California tiger salamander as threatened under the California Endangered Species Act. The Commission's decision is the culmination of several years of litigation and administrative proceedings. This action means that projects resulting in the "take" of California tiger salamander now will require permits under both the California Endangered Species Act (CESA) and the federal Endangered Species Act (FESA).

CESA and FESA impose different regulatory standards – and establish different processes -- for the issuance of take permits. Not surprisingly, the California Department of Fish and Game (CDFG) and U.S. Fish and Wildlife Service (USFWS) have already taken inconsistent positions on a number of development projects. In some cases CDFG has asked that completed federal processes be re-started to be made consistent with CESA. Although legislation has been introduced in Sacramento to address this problem, projects involving the California tiger salamander may experience these regulatory complications in the meantime.

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