

Endangered Species

Special status species encountered during project construction or implementation demand distinct expertise to prevent a project from being derailed. Downey Brand attorneys have extensive experience with special status species and their habitat. We routinely navigate the state and federal rules and regulations governing land and water where species and habitat are encountered.

Permitting

Downey Brand attorneys guide our clients through compliance with the federal and California Endangered Species Acts, the Bald and Golden Eagle Act, the Migratory Bird Treaty Act, Streambed Alteration Agreements, CEQA, and NEPA. From sand and gravel mines to housing developments and water projects to solar and wind energy projects, we successfully negotiate with regulators to ensure that endangered species compliance requirements protect species and resources while allowing projects to proceed.

Ongoing Compliance

After development commences or during ongoing project implementation, compliance obligations kick in. Downey Brand attorneys ensure that mitigation obligations incurred during the permitting phase are carried out in compliance with the laws and regulations and handle new species issues that arise during operations. Not all projects stay on track, and when that happens, we negotiate conservation easements and endowments and shepherd clients through regulatory enforcement actions.

Litigation

Downey Brand lawyers represent public and private clients in litigation under both federal and state Endangered Species Acts throughout California. Whether they seek to intervene in litigation against federal or state agencies to protect their property rights or are sued for alleged take of listed species, farmers, developers, cities, counties and other local agencies turn to Downey Brand to navigate complex claims in state and federal court and achieve creative solutions to dispute resolution.

Mitigation and Conservation Banking

Sometimes species presence and habitat make land less suitable for development or projects more difficult to operate. In these situations, our attorneys can help landowners turn high-quality habitat land into a mitigation or conservation bank for which owners can sell credits and recoup investment value. Downey Brand attorneys have extensive experience working through the multi-agency process to bring a mitigation or conservation bank online and ensure that owners obtain top dollar for bank credits.

Selected Experience

- Permitted 700-acre mitigation bank for seven federally and California protected species and obtained

above market credit valuation

- Performed permitting due diligence for major financial institution on a series of wind energy repower projects focusing on potential enforcement actions under the Bald and Golden Eagle Act, Endangered Species Act, California Endangered Species Act and Migratory Bird Treaty Act.
- Permitting large solar energy projects on federal BLM land and negotiating Desert Tortoise translocation plans.