



against unauthorized 'take' of listed species found in [ESA and CESA]...are insufficient...." (*Id.*) Without more clarity, the Board is unable to understand the requested action and, therefore, denies the Petition. (Gov. Code, § 11340.6, subds. (a).)

As for the second ground, to the extent the Petition seeks an express, absolute ban on any "take" (i.e., even a take that could be authorized under ESA or CESA during an emergency), it fails to provide authority that would enable the Board to set more stringent take standards than those found in ESA and CESA. Both ESA and CESA allow for emergency consultation and permitting or agreements that may authorize a take during an emergency. (See e.g., 50 C.F.R. § 402.05; Fish & G. Code, § 2081.) The Petition fails to identify authority that would enable the Board to set more stringent take standards than those already found in ESA and CESA. And, thus, the Board denies the Petition on that ground as well. (Gov. Code, § 11340.6, subd. (c).)

While the Petition is denied for the above reasons, the Board offers you an alternative approach that may allow you to pursue the regulatory actions you seek. The Board invites you to prepare all documents necessary to satisfy the notice requirements under Article 5 of the Administrative Procedures Act (commencing with Gov. Code, § 11346) for the Board to consider the issues raised in your Petition, except for the vague proposal regarding a takings amendment to 14 CCR § 1052 discussed above. (Petition p. 6.) Should you decide to pursue this alternative approach, your prepared noticing documents will be promptly brought forth before the Board or one of its standing committees for consideration of commencing a rulemaking effort.

The Board appreciates your continued participation and interest in the policy and regulatory development as they pertain to forestry and fire protection within the State of California.

Best Regards,



Matt Dias  
Executive Officer  
Board of Forestry and Fire Protection