

# California State Senate

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September 5, 2019

The Honorable Gavin Newsom  
Governor, State of California  
State Capitol, First Floor  
Sacramento, CA 95814

RE: Recommended Veto of AB 454 (Kalra)

Dear Governor Newsom:

I respectfully write to request your veto of Assembly Bill 454, which would prohibit the taking or possession of any migratory nongame bird as designated in the federal Migratory Bird Treaty Act (MBTA) before January 1, 2017, or any bird that may be added to the MBTA after that date.

An incidental take permit is a permit issued under the United States Endangered Species Act to private, non-federal entities undertaking otherwise lawful projects that might result in the take of an endangered or threatened species. There are numerous courts, including the 9th Circuit, that have found that MBTA does not prohibit incidental or unintentional take.

This bill would subject California's farmers, ranchers, forest landowners, and renewable energy producers to a separate standard of protection for migratory birds that prohibits incidental take. As a result, this bill would essentially criminalize the unintentional take of a single migratory bird, even when every effort has been made to avoid and minimize such an event and it is clear that the purpose of the activity is not to take birds.

Finally, this bill flies in the face of California's renewable mandate as it could chill further interest in developing renewable energy resources in California.

For these reasons, I respectfully request your veto of AB 454.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon Grove".

Shannon Grove  
Senate Republican Leader