AB 2121

Framework for Joint Recommendations

State Water Resources Control Board

Brian Johnson, Peter Kiel & Bob Wagner

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Status of Recommendations

- Agreed on framework but working on details
  - TU/Trush believe should be protective for fish
  - W&B/ESH believe should be viable for water users
  - Should work better than either Joint Guidelines or Draft Policy
- Eager to discuss with SWRCB, Agencies, other stakeholders
  - Some numbers explicitly “discussion draft”
  - Some elements only supported with inclusion of others
    - TU supports flow framework only with monitoring and gauging
    - W&B/ESH only with procedural reform

Comparison to Joint Guidelines, Draft Policy

- Orientation: more management objectives and implementation than regional formulas
  - Should work equally well whether using site-specific studies, regional estimates or watershed approach
  - Includes procedural reform, monitoring/reporting, regional gauging, incentives for stewardship, watershed approach
- Particular focus: small projects above upper point of anadromy and cumulative effects to salmon
  - Less time on other projects (e.g., municipal diversions), species
- Includes focus 3 bypass outcomes based on watershed size and cumulative effects
  - Proposal: No bypass, winter baseline flow, spawning flow
  - Joint Guidelines had two (no bypass or winter baseline)
  - Draft Policy had one (pro-rated spawning flow)

Flow Recommendations (1)

- Above upper point of anadromy
  - Cumulative effects test determines need for salmon spawning bypass
  - If little or no cumulative effects and tiny (0.1 square mile, class 3) watershed, no bypass required
  - If little or no cumulative effects and larger watershed, bypass winter baseline flow
  - Active management of bypass allowed with proof of compliance

Flow Recommendations (2)

- Below upper point of anadromy
  - Bypass flow needed for salmon spawning
  - Calculate maximum cumulative diversion
- All bypass flows can be calculated with regional estimate or site specific studies
  - Salmon spawning flows = Trush May 1 comments proposed
  - Winter baseline flows = February Median proposed
  - Site specific studies = Policy will provide guidance on conducting
- Season of diversion = Generally Dec. 15 – March 31
  - Unless other season accomplishes same objectives

Procedural Recommendations

- Develop initial work plan (include all parties) after public notice
- Written guidance on environmental studies:
  - Applicants may prepare draft CEQA/public trust document
  - Meet/confer with parties on studies
  - Guidance on appropriate study approaches, baseline, thresholds of significance
- Mechanism to review staff decisions at key points of the permit process (consider designating one board member or rotation of members)
- Application-related documents (work plan, WAA, studies) readily available to parties and public to improve transparency
- MOU with DFG, Regional Boards on permit coordination (e.g., section 1600)

Guidance for Watershed Approach

- Recommendations to focus on
  - Governance
  - Development of performance measures
  - Design of diversion management plan
- Defines essential components but leaves flexibility for different solutions
- Recommendations based on May 1 comments

Incentives for Stewardship

- Framework will include recommendations to encourage beneficial changes to existing diversions as well as recommendations for processing new permits
- Promote shift of time and manner of diversion with net benefit to fish (e.g., off-stream ponds as an alternative to direct diversion)
- Applicant can get credit for including other flow enhancement (removal barriers, changes to existing water rights) with new project

Compliance Monitoring & Reporting

- Electronic monitoring of diversions
- Standardized reporting (moving to electronic)
- If on-stream reservoir: monitor withdrawals from reservoir, stage
- If active management, also monitor bypass
- If diversion to off-stream storage, monitor flow

Regional Monitoring & Policy Review

- Regional monitoring of stream flows and Policy Effectiveness Review
  - Necessary to flow and watershed approach elements
- Gauging (USGS preferred) on regional basis
- Rights holders = access and participation
- Program staff = set-up and maintenance

Enforcement

- Bring water users into WR system
  - Fix processing
  - Use informal enforcement tools
- Prioritize based on harm to species or senior right holders
- Direct formal enforcement (ACL, CDO, AG) to:
  - Significant and measurable harm
  - Those who refuse to come into the system