



State of California - Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
ECD/Water Branch
830 S Street
Sacramento, CA 95811
<http://www.wildlife.ca.gov>

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



July 1, 2013

Via Electronic Submission

Tammy Vallejo
State Water Resources Control Board
Division of Water Rights
Water Quality Certification Program
vallejo@waterboards.ca.gov

Subject: Comments on Federal Energy Regulatory Commission / State Water Resources Control Board Draft Memorandum of Understanding

Dear Ms. Vallejo:

The California Department of Fish and Wildlife (Department or CDFW) appreciates the opportunity to review and comment on the draft memorandum of understanding (MOU) between the Federal Energy Regulatory Commission (Commission) and the State Water Resources Control Board (SWRCB) regarding coordination of pre-application activities associated with proposed non-federal hydropower projects in California. Based upon CDFW's review, we respectfully provide the following comments.

The Department, both in our role as a Public Trust Agency and as a Responsible Agency, invests significant staff resources in the pre-application activities of non-federal hydropower projects here in California. These pre-application activities are critical as they set the scope for subsequent environmental documents and, through the study plan process, develop the scientific record to support future license conditions.

As a general comment, based on our review, the draft MOU will not diminish the SWRCB's independent authority to require any study or information during the pre-application activities. The Department supports the concept of coordinating, to the extent possible, the respective pre-application activities of both the Commission and the SWRCB; however this preservation of the SWRCB's water quality certification authority is essential from our perspective.

The Department would like to acknowledge the valuable contributions of SWRCB staff to previous scoping processes. Based on CDFW experience, the SWRCB brings expertise in Clean Water Act compliance issues and relevant State laws to scoping discussions. Also, by virtue of working within the framework of California's watersheds and river basins, SWRCB staff often has insight into project impacts beyond Commission-designated boundaries.

Ms. Tammy Vallejo
July 1, 2013
Page 2

The Department supports the continued opportunity for SWRCB staff to provide appropriate context to environmental scoping activities. Specific to the draft MOU, CDFW also supports inserting SWRCB guidance into the pre-application as soon as feasible.

Another pre-application activity, the development of study plans necessary to inform future protection, mitigation and enhancement measures, requires a significant amount of effort over a relatively compressed time period. Timely input from both Commission and SWRCB staff on study development could facilitate that process. As an example, as information needs are identified and draft study plans are developed; input from the Commission and SWRCB staff on proposed methodologies could improve the likelihood of final study plans satisfying all interested parties' objectives. Again, CDFW supports the engagement of SWRCB staff, to the extent possible, early in the study plan development process.

In terms of study development, CDFW would like to take this opportunity to emphasize the constructive role we can play in this process. As the State Trustee Agency for fish and wildlife and the habitats upon which they depend, CDFW has significant expertise in natural resource assessment and management. In addition to biologists, CDFW staff includes engineers and environmental scientists with expertise in utilizing modeling tools to analyze the impact of proposed projects on water temperature and hydrology, as well as fish and wildlife populations. The Department respectfully asserts we can provide valuable scientific guidance to assist the SWRCB in determining water quality certification conditions necessary to meet Basin Plan protection of beneficial uses as well as State laws such as the Fish and Game Code. The Department commits to working with SWRCB staff to provide our natural resource and modeling expertise in a timely manner to assist in the development of meaningful and robust study plans.

In conclusion, CDFW appreciates this opportunity to provide comments on the draft MOU. If you have any questions, please feel free to contact Annie Manji at (530) 224-4924 or at Annie.Manji@wildlife.ca.gov.

Sincerely,



Scott Cantrell
Chief, Water Branch