

**California Fish and Wildlife Strategic Vision Project**  
**Regulatory and Permitting Working Group Meeting Notes**  
*September 21, 2011*

**1) Statutory changes**

- a) Recommendations to California Law Revision Commission to clean up California Fish and Game Code (FGC)
- b) Take regional and local considerations into account
- c) Fully protected species issue (SB 618 addresses for Natural Communities Conservation Plans, if governor signs, allows take for any fully protected species in an NCCP)
- d) State version of FESA 4(d) rule
- e) California Fish and Game Commission (F&GC) do listings?
- f) Bird nests (FGC 3503, etc.)
- g) Consistency determinations and 1600 permits
- h) Arbitration process for California Endangered Species Act (similar to Section 1602 of Lake and Streambed Alteration Agreements)

Notes: Most of these are specific actions that lead to achieving bigger goals (i.e., greater efficiency. (b) is a broader statement than the others and could potentially be part of a vision statement. Any statutory changes should include a government-to-government consultation process for tribes, consult local, state and federal government agencies, and consult with any stakeholders that are potentially affected. Need better engagement and open dialogue of local DFG staff with tribes and local government agencies. Personalities, training and experience of leaders, improved communication can contribute to more effective relationships and day-to-day interactions with “customers.”

Common themes that seem to be emerging across the SAG working groups:

- 1. Commitment by leadership to implement training, increase skill sets of all employees, especially staff who directly interact with the public and stakeholders.
- 2. Creating greater efficiencies (i.e., scientific collecting permits).

Overarching comment: Work and collaborate more with tribes – unique due to sovereign status.

Tangents: Problem with scientific collecting permits being used for harvest. Tribes harvest resources for ceremonial, cultural, etc. purposes.

**2) Rulemakings – assign priorities and consider process changes /clarifications (i.e. timing, coordination)**

- a) List of potential priorities (i.e. adaptive management definition in Marine Life Protection Act)
- b) Restructure California Department of Fish and Game (DFG) based on consumptive and non-consumptive uses

Notes: (b) probably does not belong here (restructuring) – perhaps more of a governance working group issue. Consultation process, improvements in how DFG and/or F&GC initiate and go through the regulatory process.

**3) Encourage formal partnerships (assisting?) through statute (e.g. state agency partnership via advanced mitigation program)**

- a) Cultural shift toward working with landowners and building relationships
- b) Improve collaboration and partnerships between agencies and private entities
- c) Need partners with an open mind
- d) Improved partnerships with other government agencies – more efficient with reduced funds and resources
- e) How to remove barriers to working with the university systems

Notes: Example of mandated partnerships, Renewable Energy Action Team. Include tribes in partnerships; resources and expertise to contribute. What is the underlying issue that needs to be addressed – adding statutory language does what? Voluntary versus mandated – enforcement versus restoration has different types of interactions. Ultimately restoration projects also require permits, which ties into RP. Tulare Basin example of outside organization assisting in filling gaps in information and communication for solar permitting process. Another example at other end of spectrum where working with private landowners as partners has led to lack of enforcement.

**4) Consider and recommend which unfunded/underfunded mandates should be funded as priority programs and which should be eliminated or suspended**

- a) Consistent priorities in regulation and permitting
- b) SBX 1-2 Renewable Energy Resources Act – unfunded mandate

Notes: How do we fund these programs that have been mandated? If these are important programs, then need funding to make happen. Does this mean cut the programs that are not currently funded? If no more funding available, how to prioritize programs. Perhaps more outside funding to help make some of these programs happen. Annual budgeting process a form of prioritization – effective? Can we develop criteria for prioritizing programs that can be used by DFG and F&GC?

**5) Identify and recommend opportunities for more efficient permit processes**

- a) Enhanced coordination within DFG and F&GC
- b) Enhanced coordination with other state and federal agencies (i.e. the integrated resource management white paper)
- c) Increased communication and efficiency with local and regional entities
- d) Better alignment between permitting decisions and expertise
- e) DFG staff should be available for early coordination and pre-project planning
- f) Avoid informal policies – may lead to measures unsupported by law or regulation (i.e., informal policy on setbacks from levees)

- g) Recognize difference between temporary and permanent impacts (mitigation should be different)
- h) Remove barriers to restoration – how? Currently must cross same hurdles for restoration projects as a development project
- i) Seeking predictability, ability to use programmatic agreements

**6) Enforcement – address enforceability of statutes and regulations (e.g. is an unenforceable law a good law?)**

- a) Sufficient statutory and regulatory penalties and incentives
- b) Fully protected species issue
- c) Decrease the “hollow” laws that will actually be enforced
- d) Consistency in enforcement – ability to both prosecute violators and enforce laws

Notes: More violations than officers available to address – need to prioritize. When to call in the AG’s office if local law enforcement does not support DFG actions.

**7) Science as it relates to supporting management and compensatory mitigation decisions**

- a) Internal enforcement that mitigation decisions be founded in science with a reasonable expectation of success
- b) Increased opportunities for DFG biologists to further their education
- c) Increased opportunity for DFG staff to publish, either internally or externally
- d) Education of the general public on state resources and issues
- e) Continued strong resource conservation and management
- f) Proactive restoration efforts
- g) Need more effective managers with good communication skills and scientific knowledge
- h) Better conservation outcomes through improved communication between F&GC and DFG

Notes: Perhaps develop internal policies about traditional ecological knowledge and incorporating into decision-making (see overarching USFWS policy – see its website). Want decisions about permits to be based on science; consistent application of that science to permitting. Uncertainty can cause no action – how do we overcome that hurdle? DFG loss of scientific capacity adds to that challenge since must rely more heavily on outside science (that is sometimes perceived as biased). How to better incorporate adaptive management into the regulatory and permitting environment while also keeping some level of consistency for businesses? See Shasta and Scott Rivers – “Not working for either side.”

**8) Recommendations for creating user-friendly regulations using current technology (i.e. permit tracking; permit posting)**

- a) Actionable solutions
- b) Proactive approach with current regulations

- c) Improved process and general public understanding of process
- d) Make it easy to work with the permitting process
- e) Provide certainty and streamline the permitting process

**9) Implementation/interpretation of statutes and regulations – transparency, consistency and accountability**

- a) Customer service training for permit staff
- b) CESA training for staff to avoid inconsistent interpretation
- c) Improved management skills
- d) Need staff and managers with an open mind and willingness to solve problems
- e) Need 21<sup>st</sup> century DFG with increased trust of the public and regulated entities
- f) Consistency determinations for CESA (if meet federal listing process, perhaps make easier to meet state process) and 1600 permits
- g) Clarity, procedures, costs, expectations, effectiveness and protectiveness

**Volunteers for Next Round of Revisions**

Writing - Margo Parks, Curtis Knight (Brenda or Diane again?)