



Results of Public Review of Draft Conservation and Mitigation Banking Guidelines

The California Department of Fish and Wildlife (CDFW) is grateful for the time and effort invested by our stakeholders in their review of the public draft Conservation and Mitigation Banking Guidelines released on March 18, 2014. Eleven people completed the online survey and provided supplemental comments, and four sent in comments by email or mail.

We have carefully considered the comments provided by these reviewers. The comments led to several changes that will improve and add clarity to the Guidelines.

Several of the public comments fell outside the scope of the Guidelines. For example, some reviewers suggested that the Guidelines make changes to specific requirements in sections 1797-1799 of the Fish and Game Code (FGC). The purpose of the Guidelines is simply to clarify the banking process as defined in the statute, and to offer guidance to potential bank sponsors and other interested parties. Therefore, we revised the Guidelines to state that they cannot be used to delete or change the mandated requirements of the statute.

Below are responses to other public comments or questions that fell outside the scope of the Guidelines:

Types of amendments: FGC Section 1798.6(c)(1) specifically categorizes proposed amendments to a CDFW-approved bank as either “simple” or “other.” The Guidelines cannot change categories that are specifically listed in the statute; however, the Guidelines do establish a new definition for clerical changes, meaning the most minor alterations, which was not called out as a separate category in the statute.

CDFW review timelines: The review timelines for the various bank application documents are established by FGC Section 1798. The Guidelines cannot change these mandated timelines. However, CDFW staff will work closely with the Interagency Review Team (IRT) agencies in an effort to align multi-agency reviews of bank applications.

Interagency bank agreement templates: CDFW staff is working with the other IRT agencies to update the joint bank agreement templates in a process separate from the CDFW Guidelines. The new draft bank agreement templates will be presented at a public meeting and made available for public review through a U.S. Army Corps of Engineers notice, likely in late Fall 2014.

California Environmental Quality Act (CEQA) review and banks: One comment pertained to CDFW’s participation in the review of projects during the CEQA process. This topic is beyond the scope of the Guidelines.

Mineral rights: The issue of mineral rights and potential conflicts with conservation lands is larger than just conservation and mitigation banks. CDFW is working toward policy and procedures regarding this topic.

The final Conservation and Mitigation Banking Guidelines are now available on the CDFW website at www.dfg.ca.gov/habcon/conplan/mitbank/guidelines. The Guidelines are intended to be a “living document” that can be amended as policy and practice evolve. If you have questions regarding the Guidelines or banking process please visit CDFW’s website at <http://www.dfg.ca.gov/habcon/conplan/mitbank> or contact CDFW at mitbank@wildlife.ca.gov.