

Statewide Inland Water and Wildlife Issues

The Department of Fish and Game (DFG) has long struggled to be an effective influence in protecting stream flows and water quality for fish and wildlife. As the state's population expands, the demand for water increases. In many places, water is over-allocated to users, which can adversely affect fish, wildlife and aquatic communities as well as the public's opportunities to interact with these species. Water issues are extremely complicated and require a high degree of technical expertise to effectively participate in the planning and regulatory processes that allocate and control water quality and quantity. Both water quality and quantity significantly affect fish and wildlife, and DFG's public trust responsibilities to manage and protect these resources. DFG's obligations under the Fish and Game Code and the Public Resources Code merit participation in helping resolve California's current and future water issues.

In 2006, DFG was sued by an environmental group for not fulfilling its obligations in determining instream flow requirements, and failing to make recommendations to the State Water Resources Control Board (SWRCB) as set forth in the Public Resources Code. The suit was settled in 2007, with DFG agreeing to identify priority streams for determining flow requirements, and establishing a schedule for making recommendations to the SWRCB.

Many stakeholders such as environmental and fishing organizations feel DFG has not fully exercised its authorities or been effective in protecting instream flows for fisheries. However, they wholly support DFG's active involvement in statewide water-related issues. On the other hand, water users whose water availability is affected by the effective protection of instream flows for fish and wildlife are, understandably, concerned that increased attention to the needs of wildlife may detract from their needs. Fundamentally, California water law does not allow DFG to obtain a water right to benefit fish and wildlife. An existing water right holder can add fish and wildlife as an authorized beneficial use. And though DFG cannot apply to the SWRCB for a water right for fish and wildlife, the Fish and Game Code requires the owner of a dam to allow sufficient water to pass over, around or through the dam to keep fish below the dam in good condition. Enforcement of the Fish and Game Code is problematic because the SWRCB, and not DFG, is the agency vested with making decisions affecting the majority of inland water right licenses.

DFG is actively engaged at numerous levels and with diverse organizations to ensure instream flows and water quality are given appropriate consideration in all water-related matters in order to protect fish and wildlife. DFG also participates actively in the development of the State Water Plan. To help ensure efficient and effective participation in water issues, DFG formed a dedicated Water Branch within its organization comprised of biological and environmental science specialists to address the many water issues involved in protecting and managing the state's fish and wildlife resources. This team focuses on the continuing development and implementation of a statewide water planning program that will further develop technical expertise, help coordinate DFG's participation in water issues and assist in meeting the settlement requirements of the 2006 lawsuit.