AB 2121

Framework for Joint Recommendations

Briefing for Tam Doduc

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November 24, 2008

Form of Recommendations

- Ground Rules
  - Recommend flow elements only with inclusion of other elements
  - Reserve right to disagree on topics not covered
- Form:
  - Principles for inclusion in policy
  - Rationale and supporting analyses
  - Recommendations for further study
- Confidence Level:
  - Framework is protective of fish and viable for water users
  - Some numbers explicitly "discussion draft"
  - Scheduling meetings with other stakeholders

Scope of Policy Recommendations

- Flow recommendations
- Procedural reform / Water rights reengineering
  - 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 on governance, development of performance measures and diversion management plan
  - Defines essential components but leaves flexibility for different solutions
- Incentives for stewardship
  - Promote shift of time and manner of diversion with net benefit to fish
  - Applicant credit for including other flow enhancement (barriers, other water rights)

Scope of Policy Recommendations (2)

- Monitoring/Reporting
  - Electronic monitoring of diversions
  - Standardized reporting (moving to electronic)
  - Reservoir: withdrawals from reservoir, stage; if active also bypass; if diversion to offstream, then flow
- Policy Effectiveness Review
  - Regional monitoring, analysis, Policy Effectiveness Review necessary to flow and watershed approach elements
  - Gauging (USGS preferred) on regional basis — who pay?
  - 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 or those who refuse to come into the system

Approach to Flow Recommendations

- Areas of Special Focus:
  - Small projects above UPA
  - Cumulative impacts to salmonids ← frogs + other species
- Approach:
  - Define management objectives that can be evaluated using standard calculations, site-specific studies, watershed approach
  - Cumulative effects not necessarily calculated at POD
  - Bypass / Maximum Cumulative Diversion terms not necessarily pro-rated for all diverters
- Three possible bypass outcomes:
  - None, Winter Baseline (QWB), Salmon Spawning (QS)

Flow Related Principles

Questions:

1. Do we need to re-peer review if we recirculate SED?

- Defines Flow Thresholds for QS and QWB
  - QS = flow for salmon spawning
  - QWB = winter baseline flow for wetted riffle
  - Curves for standard terms (QS = Trush May 1, 2008, QWB = Feb. Median)
  - Includes guidance for site specific studies (TU/Trush preparing draft)
- Maximize "sweet spot" between QS and QWB
  - Preserve most flows lower than QWB (5% instantaneous reduction or functional equivalent)
  - Limit diversion between QWB and QS (10% instantaneous reduction)
  - Allow more diversion at flows above QS (20% instantaneous reduction)
  - (Number are TU/Trush discussion draft recommendation; W&B to evaluate)
- Framework protects winter flow needs and channel forming flows
  - Other policy elements (season of diversion, framework for onstream dams) help protect other life history stages and natural resource values

Implementation Above UPA

- Above UPA
  - No Bypass if pass Cum. Effects Test (CET) and DA <64 acres (typically Class III)
  - Bypass QWB if pass CET and DA >64 acres (typically Class II)
  - If fail CET increase bypass above QWB as necessary to pass CET
  - Active management allowed with monitoring / reporting
- Form of CET
  - Point of Evaluation = 1 square mile or site specific determination of UPA if necessary
  - CET = Depletion not more than 5% average annual volume at PoE
    - (Flexible approximation of 5% rate reduction below QWB)
  - Or: Depletion not more than 10% average annual volume at PoE if no bypass reservoirs collectively deplete 5% of the volume
    - (Flexible approximation of 5% rate reduction below QWB and 10% below QS)
  - Or site-specific studies (evaluation criteria being developed)

Implementation Below UPA

- Below UPA
  - Establish and bypass QS
  - Establish MCD term
    - Variable rate set at 20% of instantaneous flows
    - 20% of QS with intake set to avoid diversions below QS
    - (These examples implement 5/10/20% thresholds from above, which is under review)