

Expressed general concern that the Lake and Streambed Alteration process is unnecessary due to a number of other permits regulating waterways. This comment has been noted by the Department but is outside of the scope of this rulemaking. Specific comments regarding the proposed amendments to Section 699.5 are as follows:

- a) Opposed to the fee increase.

Department response: Refer to email 1 (a).

- b) Increased costs of permits and regulations result in a loss of potential timber income and are a deterrent to the continued ownership of forestry properties by smaller non-industrial landowners.

Department response: The Department will no longer collect fees for timber harvest projects pursuant to Public Resources Code section 4629.6, subdivision (c), provided the Department received the notification after July 1, 2013. This includes a notification made to the Department pursuant to Fish and Game Code section 1602 or section 1611.

Haley Stewart, Defenders of Wildlife, September 11, 2013. (Email 3, letter attached)

Specific comments regarding the proposed amendments to Section 699.5 are as follows:

- a) Expressed support for the proposed amendments to update fees for the Lake and Streambed Alteration Agreements; agrees with the Department's Initial Statement of Reasons and anticipated benefits to the environment as noted in the Public Notice.

Department response: The Department has adopted the proposed fee increase.

Janet Olave, Mendocino County Resource Conservation District October 7, 2013. (Email 4, letter attached)

Specific comments regarding the proposed amendments to Section 699.5 are as follows:

- a) Opposed to the fee increase for restoration projects.

Department response: Refer to email 1 (a).

- b) Request that fees only cover staff time.

Department response: Fees recoup personnel time and overhead, but not expenses outside of LSAA process.

- c) Compared fee costs to current and future MCRCD projects

Department response: The Department is unable with this rulemaking to review fees charged to specific projects.

- d) Presented alternatives to fees using project benefits.

Department response: Fees cover nominal costs of administration and are required by statute in F&GC 1609.

- e) The existing fee schedule is a barrier and disincentive to implementing restoration and increasing the fees worsens the situation.

Department response: There is no provision in the Code or in regulations allowing for the differentiation of fees for restoration as opposed to standard development projects. This comment has been noted by the Department but is outside of the scope of this rulemaking.

Katherine M. Pease, Heal the Bay, October 7, 2013. (Email 5, letter attached)

Specific comments regarding the proposed amendments to Section 699.5 are as follows:

- a) Expressed that a more comprehensive project evaluation should be used in the assessment of fees for Lake and Streambed Alteration projects such as size and environmental impact.

Department response: The fees have been established based on the cost of the project. Other factors used to determine fees are outside the scope of this rulemaking.

- b) The Department should reduce or waive fees for environmentally beneficial projects.

Department response: Refer to email 4 (e).

Adriane Garayalde, Shasta Valley Resource Conservation District, October 8, 2013. (Email 6, letter attached)

Specific comments regarding the proposed amendments to Section 699.5 are as follows:

- a) Expressed that the current fee schedule does not differentiate between development and restoration work. As fees create an encumbrance for beneficial work, the fee schedule should be recalculated with a smaller fee assessed for restoration projects.

Department response: Refer to email 4 (e).

Nino Mascolo, Southern California Edison, October 8, 2013. (Email 7, letter attached)

Expressed that the opportunity exists to incorporate efficiencies into the program including improved processing times, pre application consultation and evaluating the use of Operation By-Law letters. This comment has been noted by the Department but is outside the scope of this rulemaking. Specific comments regarding the proposed amendments to Section 699.5 are as follows:

- a) Stated that SCE understands the reasoning behind adjusting the fees.

Department response: Refer to email 3 (a).

Patricia McPherson, October 8, 2013. (Email 8)

Expressed concern that violations to Agreements have been ignored and that the Department has not conducted proper scientific studies when evaluating hydrology. Suggested terms of an Agreement need to be explicit and should include CEQA mitigation relevant to streambed alteration. These comments have been noted by the Department but are outside the scope of this rulemaking. Specific comments regarding the proposed amendments to Section 699.5 are as follows:

- a) The public needs to be provided with more information regarding fees recovered for administration and enforcement.

Department response: Currently, the fees cover the costs of staff to process approximately 85% of the notifications received. If the Department does not adjust the fees, it will experience a budget shortfall that will further impact its ability to process notifications associated with Fish and Game Code Sections 1600 et seq

- b) The fees appear to be based on cost of the project but do not appear to reflect changes to a project over multiple years.

Department response: The graduated schedule of fees is based on project cost. For Long-Term Agreements (longer than 5 years), the applicant is charged a base fee plus the fee based on project cost. If an entity chooses to identify more than one project in a single notification, the Department may require the entity to separately notify the Department for one or more of the projects

included in the original notification based on their type or location. If the notification includes more than one project, the fee shall be calculated by adding the separate fees for each project.

- c) Long term projects over multiple acres should include fees for monitoring and enforcement of the Agreement until the project is rendered complete.

Department response: Refer to Email 4 (d).

Noelle C. Cremers, California Farm Bureau Federation, October 8, 2013. (Email 9, letter attached)

Expressed a desire to work with the Department to improve efficiencies within the program. Efficiencies described include designing practices for implementation of projects for landowners and prioritizing workloads of Department staff. Expressed that a cost/benefit analysis of conditions within an Agreement should be conducted and that more flexible staffing allocations would lead to decreased response time for notifications received by the Department. These comments have been noted by the Department but are outside the scope of this rulemaking. Specific comments regarding the proposed amendments to Section 699.5 are as follows:

- a) Current fees discourage restoration.

Department response: Refer to Email 4 (e).

- b) Individuals required to obtain Agreements continue to see increased response times on Agreement applications. Ms. Cremer does not believe this is due to inadequate fee levels.

Department response: Refer to Email 8 (a).

Eric Brown, South Coast Habitat Restoration, September 4, 2013. (Letter 1)

Specific comments pertaining to the proposed amendments to Section 699.5 are as follows:

- a) Supports the proposed amendments to Section 699.5.

Department response: Refer to email 3 (a).

- b) Reduction or removal of fees for voluntary restoration projects would increase the number of beneficial restoration projects throughout the state.

Department response: Refer to email 4 (e).

Public Hearing, October 8, 2013.

Noelle C. Cremers, CA Farm Bureau Federation, October 8, 2013. (Public Testimony).

Attended and presented testimony at the public hearing concerning this rulemaking and presented the points of the Farm Bureau letter delivered by email.

Department response: Refer to responses for Email 9.

There were no other speakers, and no other comments were submitted.

VI. Location and Index of Rulemaking File

A rulemaking file with attached file index is maintained at:

Department of Fish and Wildlife
1416 Ninth Street, Room 1211B
Sacramento, California 95814

VII. Location of Department Files:

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1416 Ninth Street, Room 1211B
Sacramento, CA 95814

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Proposed Regulation Changes:

No alternatives were identified. The intent of the proposed amendments is to adjust Department fees for lake and streambed alteration agreements in accordance with FGC Section 713 and to reflect legislation that took effect on July 1, 2013.

(b) No Change Alternative:

The no change alternative would result in the Department being unable to fully recover its costs related to lake and streambed alteration agreements and to create confusion with the regulated community because without the proposed changes, the public may not be aware that fees are no longer required for timber harvest agreements.

(c) Consideration of Alternatives:

In view of information the Department currently possesses, no reasonable alternative considered would be more effective in carrying out the purposes for which the amendments are proposed, or would be as effective as and less burdensome to the affected private persons than the proposed amendments.

IX. Impact of the Regulation Changes

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories below have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States.

The proposed action to adjust the fees in Section 699.5, Title 14, CCR, will affect a relatively small number of individuals, businesses, and agencies engaged in projects which would require lake and streambed alteration agreements and payment of the corresponding fees. The fees will increase by approximately 9.5%. The fee increase takes into account only the incremental change in the Implicit Price Deflator (IPD) over the past four years as authorized by statute.

Considering the relatively small number of agreements issued over the entire state, this proposal is economically neutral to business. Therefore, the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

(b) Impact on the Creation or Elimination of Jobs within the State, the Creation of new Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The proposed action only adjusts fees to account for inflation. The Department does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses, the expansion of businesses in California; nor benefits to worker safety.

Health and Welfare of California Residents:

The Department anticipates benefits to the health and welfare of California residents by maintaining the Department's capacity to protect the state's aquatic and riparian habitats and the fish and wildlife resources that depend on them through the administration and enforcement of FGC section 1600 *et seq.*

Benefits to the Environment:

The Department anticipates benefits to the environment. It is the policy of this state to encourage the conservation and maintenance of lakes and streams, and the fish and wildlife resources that depend upon aquatic and riparian habitats, for their use and enjoyment by the public. The fee increases included in this rulemaking will enable the Department to recover its costs to administer and enforce FGC section 1600 *et seq.*

(c) Cost Impacts on Representative Private Person or Business

The Department does not anticipate any significant cost impact to private persons or businesses who must comply with this proposed rulemaking.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State.

There are no related costs or savings in Federal Funding to the State.

(e) Other Nondiscretionary Costs/Savings to Local Agencies. None

(f) Programs Mandated on Local Agencies or School Districts. None

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4.

None.

(h) Effect on Housing Costs. None.