

CALIFORNIA FISH AND WILDLIFE
STRATEGIC VISION PROJECT

COMMENTS AND SUBMISSIONS FOR REVIEW

Through February 27, 2012

From: Earle Cummings
Sent: Sat 2/25/2012 8:58 AM
To: Melissa Miller-Henson
Subject: Re: [CFWSV] Interim Strategic Vision Released

Thanks for sending it! Got it. Looks good! Only critique I have is the part in Appendix A where it points out the difficulty in approving small habitat improvement projects involving Section 1600 because they are treated as discretionary permits subject to CEQA. This was a big and deliberate blunder made back in the Pete Wilson era when salvage logging of valuable sunken old-growth redwood logs was subject to a 1600 agreement, and an anti-logging group called EPIC challenged the issuance of an agreement because it had the potential to degrade salmonid habitat in the estuaries where it was going on.

The Wilson administration hoped to destroy DFG's authority to use the timely and cost-effective agreement process by losing the case and having a precedent set that issuance of an agreement was discretionary on DFG's part. That would tie up so many projects that the Legislature would eliminate the code section entirely. It backfired for everyone. DFG wound up with an additional workload it was ill-prepared to assume, the world of permit-seekers was slowed down significantly and little real new protection resulted, while small, beneficial environmental restoration projects became more time consuming and costly.

The damage could be undone if the clear language of the code section were followed. The proponent of a project is required to give notice of intended work. DFG has authority to propose an agreement with measures to prevent harm to aquatic resources. If it is acceptable, the proponent accepts the agreement, if not, there is an arbitration step and a final agreement is adopted. This is not a discretionary permit, it is a negotiated agreement.

That's my biased perspective as the one-time DFG statewide 1600 consistency coordinator.

Earle Cummings