

Introduced by Senator Nielsen

February 12, 2016

An act to amend Section 1602 of the Fish and Game Code, relating to fish and wildlife.

LEGISLATIVE COUNSEL'S DIGEST

SB 1026, as introduced, Nielsen. Department of Fish and Wildlife: lake or streambed alteration agreements.

Existing law prohibits an entity from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or from depositing certain material where it may pass into any river, stream, or lake, without first notifying the Department of Fish and Wildlife of that activity, and entering into a lake or streambed alteration agreement if required by the department to protect fish and wildlife resources.

This bill would limit the diversions and obstructions governed by these alteration agreement requirements to the diversions and obstructions that alter the bed, channel, or bank of a river, stream, or lake. The bill would exempt routine maintenance and repair of facilities for instream agricultural diversions from the alteration agreement requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1602 of the Fish and Game Code is
2 amended to read:

1 1602. (a) An entity ~~may shall~~ not substantially ~~divert or~~
2 ~~obstruct~~ alter the bed, channel, or bank of any river, stream, or
3 lake in a manner that diverts or obstructs the natural flow ~~of, or~~
4 of the river, stream, or lake, substantially change or use any
5 material from the bed, channel, or bank ~~of, of~~ any river, stream,
6 or lake, or deposit or dispose of debris, waste, or other material
7 containing crumbled, flaked, or ground pavement where it may
8 pass into any river, stream, or lake, unless all of the following
9 occur:

10 (1) The department receives written notification regarding the
11 activity in the manner prescribed by the department. The
12 notification shall include, but is not limited to, all of the following:

13 (A) A detailed description of the project's location and a map.

14 (B) The name, if any, of the river, stream, or lake affected.

15 (C) A detailed project description, including, but not limited to,
16 construction plans and drawings, if applicable.

17 (D) A copy of any document prepared pursuant to Division 13
18 (commencing with Section 21000) of the Public Resources Code.

19 (E) A copy of any other applicable local, state, or federal permit
20 or agreement already issued.

21 (F) Any other information required by the department.

22 (2) The department determines the notification is complete in
23 accordance with Chapter 4.5 (commencing with Section 65920)
24 of Division 1 of Title 7 of the Government Code, irrespective of
25 whether the activity constitutes a development project for the
26 purposes of that chapter.

27 (3) The entity pays the applicable fees, pursuant to Section 1609.

28 (4) One of the following occurs:

29 ~~(A)~~

30 ~~(i)~~

31 (A) (i) The department informs the entity, in writing, that the
32 activity will not substantially adversely affect an existing fish or
33 wildlife resource, and that the entity may commence the activity
34 without an agreement, if the entity conducts the activity as
35 described in the notification, including any measures in the
36 notification that are intended to protect fish and wildlife resources.

37 (ii) Each region of the department shall log the notifications of
38 activities where no agreement is required. The log shall list the
39 date the notification was received by the department, a brief
40 description of the proposed activity, and the location of the activity.

1 Each item shall remain on the log for one year. Upon written
2 request by any person, a regional office shall send the log to that
3 person monthly for one year. A request made pursuant to this
4 clause may be renewed annually.

5 (B) The department determines that the activity may
6 substantially adversely affect an existing fish or wildlife resource
7 and issues a final agreement to the entity that includes reasonable
8 measures necessary to protect the resource, and the entity conducts
9 the activity in accordance with the agreement.

10 (C) A panel of arbitrators issues a final agreement to the entity
11 in accordance with subdivision (b) of Section 1603, and the entity
12 conducts the activity in accordance with the agreement.

13 (D) The department does not issue a draft agreement to the
14 entity within 60 days from the date notification is complete, and
15 the entity conducts the activity as described in the notification,
16 including any measures in the notification that are intended to
17 protect fish and wildlife resources.

18 (b) (1) If an activity involves the routine maintenance and
19 operation of water supply, drainage, flood control, or waste
20 treatment and disposal facilities, notice to and agreement with the
21 department shall not be required after the initial notification and
22 agreement, unless the department determines either of the
23 following:

24 (A) The work described in the agreement has substantially
25 changed.

26 (B) Conditions affecting fish and wildlife resources have
27 substantially changed, and those resources are adversely affected
28 by the activity conducted under the agreement.

29 (2) This subdivision applies only if notice to, and agreement
30 with, the department was attained prior to January 1, 1977, and
31 the department has been provided a copy of the agreement or other
32 proof of the existence of the agreement that satisfies the
33 department, if requested.

34 (c) *This section does not apply to the routine maintenance and*
35 *repair of facilities for instream agricultural irrigation diversions.*

36 (e)

37 (d) It is unlawful for any person to violate this chapter.

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