

## First Supplement to Memorandum 2013-50

**Fish and Game Law: Proposed Part 5 of Division 2 (Finance)**

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The Commission has received a letter from the Department of Fish and Wildlife, commenting on two issues that were raised in Memorandum 2013-50. The letter is attached as an Exhibit.

The comments raise issues that require more analysis than is possible in the time remaining before the Commission's October meeting. The staff recommends that the resolution of those issues be postponed until a future meeting.

Respectfully submitted,

Brian Hebert  
Executive Director



State of California – Natural Resources Agency  
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*EDMUND G. BROWN, Jr., Governor*  
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**VIA FIRST CLASS MAIL AND ELECTRONIC MAIL**

October 8, 2013

Ms. Xochitl Carrion, Chairperson  
California Law Revision Commission  
c/o Mr. Brian Hebert, Executive Director  
4000 Middlefield Road, Room D-2  
Palo Alto, CA 94303-4739

Subject: Comments on Memorandum 2013-50

Dear Ms. Carrion:

Regarding CLRC memorandum 2013-50, the Department of Fish and Wildlife has the following comments:

**Division 2. General Financial Provisions, Part 5**

**Misplaced Definitions:**

- Department staff understands the concern with placing definitions of general application in a section that more clearly applies to the broader Fish and Game Code than just the general finance provisions. However, with regard to the definition of “wildlife” in 711.2, rather than elevating this definition by placing it in the “General Definitions” section, a possibly more holistic approach would analyze the various definitions of “wildlife” (e.g. 711.2 and 1800) and include a recommendation as to whether both are necessary, including analysis of cross-references to these sections.
- Department staff is concerned that explicitly limiting the application of the 711.2 definition of “person” to 711.7 may cause some to interpret there to be a legislative interest in excluding government entities from regulation under other sections of the Fish and Game Code. For example, while the Fish and Game Code § 67 definition of “person” that does not include government entities is in the more general definitions section, courts have clarified that government entities are subject to permit requirements under the California Endangered Species Act.

Sincerely,

Kevin Hunting  
Chief Deputy Director