

California Fish and Game Commission

Meeting Binder



December 12-13, 2018

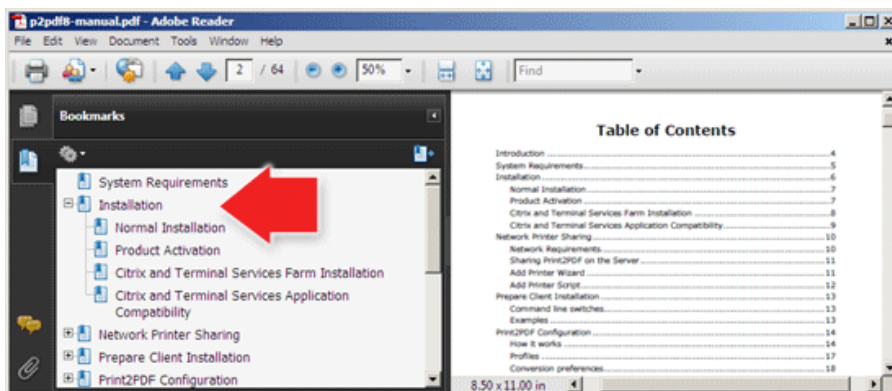
Oceanside

EASY GUIDE TO USING THE BINDER

1. Download and open the binder document using your Adobe Acrobat program/app.
2. If a bookmark panel does not automatically appear on either the top or left side of the screen, click/tap on the “bookmark symbol” located near the top left-hand corner.



3. To make adjustments to the view, use the Page Display option in the View tab. You should see something like:



4. We suggest leaving open the bookmark panel to help you move efficiently among the staff summaries and numerous supporting documents in the binder. It's helpful to think of these bookmarks as a table of contents that allows you to go to specific points in the binder without having to scroll through hundreds of pages.
5. You can resize the two panels by placing your cursor in the dark, vertical line located between the panels and using a long click /tap to move in either direction. ←→
6. You may also adjust the sizing of the documents by adjusting the sizing preferences located on the Page Display icons found in the top toolbar or in the View tab.
7. Upon locating a staff summary for an agenda item, notice that you can obtain more information by clicking/tapping on any item underlined in blue.
8. Return to the staff summary by simply clicking/tapping on the item in the bookmark panel.
9. Do not hesitate to contact staff if you have any questions or would like assistance.

OVERVIEW OF FISH AND GAME COMMISSION BUSINESS MEETINGS

- This is the 149th year of continuous operation of the California Fish and Game Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making. These meetings are vital in achieving that goal. In that spirit, we provide the following information to be as effective and efficient toward that end. Welcome and please let us know if you have any questions.
- We are operating under Bagley-Keene Open Meeting Act and these proceedings are being recorded and broadcast via Cal-Span.
- In the unlikely event of an emergency, please note the location of the nearest emergency exits. Additionally, the restrooms are located _____.
- Items may be heard in any order pursuant to the determination of the Commission President.
- The amount of time for each agenda item may be adjusted based on time available and the number of speakers.
- Speaker cards need to be filled out legibly and turned in to the staff before we start the agenda item. Please make sure to list the agenda items you wish to speak to on the speaker card.
- We will be calling the names of several speakers at a time so please line up behind the speakers' podium when your name is called. If you are not in the room when your name is called you may forfeit your opportunity to speak on the item.
- When you speak, please state your name and any affiliation. Please be respectful. Disruptions from the audience will not be tolerated. Time is precious so please be concise.
- To receive meeting agendas and regulatory notices about those subjects of interest to you, please visit the Commission's website, www.fgc.ca.gov, and sign up for our electronic mailing lists.
- All petitions for regulation change must be submitted in writing on the authorized petition form, FGC 1, Petition to the California Fish and Game Commission for Regulation Change, available at <http://www.fgc.ca.gov/public/information/petitionforregulatorychange.aspx>.
- **Reminder!** Please silence your mobile devices and computers to avoid interruptions.
- **Warning!** The use of a laser pointer by someone other than a speaker doing a presentation may result in arrest.

INTRODUCTIONS FOR FISH AND GAME COMMISSION MEETINGS

Fish and Game Commission

Eric Sklar	President (Saint Helena)
Anthony Williams	Vice-President (Huntington Beach)
Jacque Hostler-Carmesin	Member (McKinleyville)
Russell Burns	Member (Napa)
Peter Silva	Member (Jamul)

Commission Staff

Melissa Miller-Henson	Acting Executive Director
Mike Yaun	Legal Counsel
Susan Ashcraft	Marine Advisor
Ari Cornman	Wildlife Advisor
Sherrie Fonbuena	Analyst
Craig Castleton	Analyst
Sergey Kinchak	Analyst

California Department of Fish and Wildlife

Chuck Bonham	Director
Wendy Bogdan	General Counsel
Nathaniel Arnold	Assistant Deputy Director and Deputy Chief, Law Enforcement Division
Stafford Lehr	Deputy Director, Wildlife and Fisheries Division
Clark Blanchard	Assistant Deputy Director, Office of Communications, Education and Outreach
Kari Lewis	Chief, Wildlife Branch
Kevin Shaffer	Chief, Fisheries Branch
Craig Shuman	Manager, Marine Region

I would also like to acknowledge special guests who are present:
(i.e., elected officials, including tribal chairpersons, and other special guests)

Commissioners
Eric Sklar, President
Saint Helena

Anthony C. Williams, Vice President
Huntington Beach

Jacque Hostler-Carmesin, Member
McKinleyville

Russell E. Burns, Member
Napa

Peter S. Silva, Member
Jamul

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Fish and Game Commission



*Wildlife Heritage and Conservation
Since 1870*

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Acting Executive Director
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www.fgc.ca.gov

MEETING AGENDA December 12-13, 2018

**QLN Conference Center
1938 Avenida del Oro, Oceanside, CA 92056**

The meeting will be live streamed; visit www.fgc.ca.gov the day of the meeting.

NOTES: See important meeting deadlines and procedures at the end of the agenda.
Unless otherwise indicated, the California Department of Fish and Wildlife is identified as Department.

DAY 1 – DECEMBER 12, 2018, 9:00 AM

Call to order/roll call to establish quorum

1. **Consider approving agenda and order of items**

2. **General public comment for items not on agenda**

Receive public comment regarding topics within the Commission's authority that are not included on the agenda. The Commission **may not** discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting (sections 11125 and 11125.7(a), Government Code).

CONSENT ITEM

3. **Commercial logbooks**

Discuss and consider adopting proposed changes to commercial logbook regulations for broadbill swordfish harpoon, gill and trammel net fisheries, and trawl fisheries. (Subsections 107(c) through (h), subsection 174(f), and Section 176, Title 14, CCR; repeal form DFG 107)

4. **Acting executive director's report**

Receive an update from the acting executive director on staffing and legislative information of note.

(A) Staff Report

(B) Legislative report and possible action

5. **Tribal Committee**
Discuss and consider approving draft agenda topics for the next committee meeting.
Consider approving new topics to address at a future committee meeting.
 - (A) Work plan development
 - I. Update on work plan and draft timeline
 - II. Discuss and consider approving new topics
6. **Marine Resources Committee**
Discuss updates and/or recommendations from the November 14, 2018 committee meeting. Consider approving new topics to address at a future committee meeting.
 - (A) November 14, 2018 meeting summary
 - I. Receive and consider adopting recommendations
 - (B) Work plan development
 - I. Update on work plan and draft timeline
 - II. Discuss and consider approving new topics
7. **Recreational and commercial groundfish**
Consider adopting proposed changes to recreational and commercial fishing regulations for federal groundfish and associated species for consistency with federal rules for 2019 and 2020.
(Sections 27.30, 27.35, 27.40, 27.45, 27.50, 28.27, 28.55, 52.10, and 150.16, Title 14, CCR)
8. **Recreational take of red abalone**
Consider adopting proposed changes to abalone regulations to extend the fishery closure sunset date for the recreational fishery.
(Section 29.15, Title 14, CCR)
9. **Recreational take of purple sea urchin**
Discuss proposed regulations concerning the recreational take of purple sea urchin.
(Add Section 29.06, Title 14, CCR)
10. **California sheephead**
Discuss proposed changes to regulations concerning the filleting of California sheephead on vessels at sea.
(Subsection 27.65(b), Title 14, CCR)
11. **Box crab experimental gear permit (EGP)**
Receive and consider approving requests for box crab EGPs for participation in the Department's box crab EGP program.
(Pursuant to Section 8606, Fish and Game Code)
12. **Statewide Marine Protected Areas (MPAs) Program**
Receive annual update on the Department's MPAs program management activities.

13. **Pacific Herring Fishery Management Plan (FMP)**
Receive and discuss draft Pacific herring FMP and California Environmental Quality Act documentation.
Note – Staff will recommend that this item be continued to a future Commission meeting.
14. **Annual recreational ocean salmon and Pacific halibut**
Receive update on and discuss Pacific Fishery Management Council process and timeline, and automatic conformance of state regulations to federal regulations.
(Pursuant to Section 1.95, Title 14, CCR)
15. **Red Abalone FMP**
Discuss next steps in red abalone FMP development and consideration of peer review results.
(Pursuant to Section 7072 et seq., Fish and Game Code)
16. **Delayed opening and closure of fisheries due to human health risk**
Discuss action taken by Department director to order the delay or closure of fisheries due to human health risk associated with elevated levels of domoic acid.
(Pursuant to Section 5523, Fish and Game Code)
 - (A) Discuss the delayed opening of the recreational Dungeness crab season from Patrick's Point in Humboldt County north to the California/Oregon state line
 - (B) Discuss the delayed opening of the commercial Dungeness crab season from Bodega Head in Sonoma County north to the Sonoma/Mendocino county line.
 - (C) Discuss the closure of the commercial spiny lobster fishery in state waters around Santa Cruz and Anacapa islands in Ventura County.
17. **Marine petitions for regulation change**
Consider requests submitted by members of the public to adopt, amend, or repeal a regulation.
(Pursuant to Section 662, Title 14, CCR)
 - (A) Action on current petitions
 - I. Petition #2018-013: Commercial ridgeback prawn authorized fishing hours
 - (B) Action on pending regulation petitions referred to staff and the Department for review – none scheduled at this time
18. **Marine non-regulatory requests from previous meetings**
Consider non-regulatory requests submitted by members of the public at previous meetings.
 - (A) Action on non-regulatory requests
 - I. Request to use federal disaster relief funding for public education
 - II. Request to issue more commercial spot prawn permits
 - (B) Action on pending non-regulatory requests referred to staff or the Department for review

19. **Departmental informational items (marine)**

The Department will highlight marine items of note since the last Commission meeting.

- (A) Director's report
- (B) Law Enforcement Division
- (C) Marine Region
 - I. Update on Dungeness Crab Fishing Gear Working Group Risk Assessment and Mitigation Program (RAMP)

20. **Strategic planning**

Discuss and consider adopting core values, vision statement and mission statement, and discuss next steps in the strategic planning process.

Recess

DAY 2 – DECEMBER 13, 2018, 8:30 AM

Call to order/roll call to establish quorum

21. **General public comment for items not on agenda**

Receive public comment regarding topics within the Commission's authority that are not included on the agenda. The Commission **may not** discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting. (Sections 11125 and 11125.7(a), Government Code)

CONSENT ITEMS

22. **Northern California summer steelhead**

- (A) Receive a petition to list northern California summer steelhead (*Oncorhynchus mykiss irideus*) as an endangered species under the California Endangered Species Act (CESA).
(Pursuant to Section 2073.3, Fish and Game Code, and Subsection 670.1(c), Title 14, CCR)
- (B) Consider approving the Department's request for a 30-day extension to review the petition to list northern California summer steelhead (*Oncorhynchus mykiss irideus*) as an endangered species under CESA.
(Pursuant to Section 2073.5, Fish and Game Code)

23. **Bumble bees**

- (A) Receive a petition to list Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) as endangered species under CESA.
(Pursuant to Section 2073.3, Fish and Game Code, and Subsection 670.1(c), Title 14, CCR)

- (B) Consider approving the Department's request for a 30-day extension to review the petition to list Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) as endangered species under CESA.
(Pursuant to Section 2073.5, Fish and Game Code)

24. **Humboldt marten**

Consider ratifying findings for the decision to list Humboldt marten (*Martes caurina humboldtensis*) as an endangered species under CESA.
(Pursuant to Section 2075.5, Fish and Game Code)

25. **Upper Klamath-Trinity river spring Chinook salmon**

Receive 90-day evaluation report from the Department for the petition to list upper Klamath-Trinity river spring Chinook salmon (*Oncorhynchus tshawytscha*) as an endangered species under CESA.
(Pursuant to Section 2073.5, Fish and Game Code)

26. **Wild trout waters policy**

Receive Department recommendation and consider adopting proposed amendments to the Commission Designated Wild Trout Waters policy.
(Pursuant to Section 1727, Fish and Game Code)

27. **Wildlife Resources Committee**

Discuss and consider approving draft agenda topics for the next committee meeting.
Consider approving new topics to address at a future committee meeting.

(A) Work plan development

- I. Update on work plan and draft timeline
- II. Discuss and consider approving new topics

28. **Sport fishing**

Consider adopting proposed changes to sport fishing regulations.
Note: Proposed regulation changes for sport fishing report card requirements are for both marine and inland waters.
(Sections 1.53, 1.74, and 5.00, Title 14, CCR)

29. **Klamath River Basin sport fishing**

Consider authorizing publication of notice of intent to amend Klamath River Basin sport fishing regulations.
(Subsection 7.50(b)(91.1), Title 14, CCR)

30. **Central Valley salmon sport fishing**

Consider authorizing publication of notice of intent to amend Central Valley salmon sport fishing regulations.
(Subsections 7.50(b)(5), (68), (124), and (156.5), Title 14, CCR)

31. **Mammal hunting**
Consider authorizing publication of notice of intent to amend mammal hunting regulations, including sheep/elk tag quotas, and deer/elk tag validation.
(Sections 362, 364, 364.1, and 708.6, Title 14, CCR)
32. **Archery equipment and crossbow**
Consider authorizing publication of notice of intent to amend archery equipment and crossbow regulations, including bow draw weight and possession of a firearm while bow hunting.
(Section 354, Title 14, CCR)
33. **Waterfowl (annual)**
Consider authorizing publication of notice of intent to amend waterfowl regulations.
(Sections 502 and 509, Title 14, CCR)
34. **Wildlife and inland fisheries petitions for regulation change**
Consider requests submitted by members of the public to adopt, amend, or repeal a regulation.
(Pursuant to Section 662, Title 14, CCR)
(A) Action on current petitions
I. Petition #2018-014: Boat limit of finfish
(B) Action on pending regulation petitions referred to staff and the Department for review – none scheduled at this time
35. **Wildlife and inland fisheries non-regulatory requests from previous meetings**
Consider non-regulatory requests submitted by members of the public at previous meetings.
(A) Action on non-regulatory requests
I. Request to cancel hunting seasons in areas affected by wildfires
II. Request to reduce the coyote population in urban areas
III. Request for clarification on whether plastic corn cob is considered a decoy or bait when hunting
(B) Action on pending non-regulatory requests referred to staff or the Department for review
I. Request for bounty on Sacramento pikeminnow

36. **Department informational items (wildlife and inland fisheries)**

The Department will highlight wildlife and inland fisheries items of note since the last Commission meeting.

- (A) Director's report
 - I. Update on tricolored blackbird population estimates and progress with safe harbor agreements
- (B) Law Enforcement Division
- (C) Wildlife and Fisheries Division, and Ecosystem Conservation Division
 - I. Update on efforts to eradicate nutria in California
 - II. Update on wildfires and wildlife populations

37. **Commission administrative items**

Discuss and consider action on the upcoming meeting agenda items and rulemaking timetable, and identify any new business for discussion at a future meeting.

- (A) Next meeting – February 6, 2019 in Sacramento
- (B) Rulemaking timetable updates
- (C) New business

Adjourn

EXECUTIVE SESSION

(Not Open to Public)

At a convenient time during the regular agenda of the meeting listed above, the Commission will recess from the public portion of the agenda and conduct a closed session on the agenda items below. The Commission is authorized to discuss these matters in a closed session pursuant to Government Code Section 11126, subdivisions (a)(1), (c)(3), and (e)(1), and Fish and Game Code Section 309. After closed session, the Commission will reconvene in public session, which may include announcements about acts taken during closed session.

(A) Pending litigation to which the Commission is a Party

- I. Dennis Sturgell v. California Fish and Game Commission, California Department of Fish and Wildlife, and Office of Administrative Hearings (revocation of Dungeness crab vessel permit No. CT0544-T1)
- II. California Cattlemen's Association and California Farm Bureau Federation v. California Fish and Game Commission (gray wolf listing)
- III. Public Interest Coalition v. California Fish and Game Commission (CEQA compliance during adoption of dog collar regulation)
- IV. Pacific Star Sportfishing, Inc. v. California Fish and Game Commission, et al. (suspension of commercial vessel fishing permit)
- V. Aaron Lance Newman v. California Fish and Game Commission (revocation of hunting and sport fishing privileges)

(B) Possible litigation involving the Commission

(C) Staffing

(D) Deliberation and action on license and permit items

California Fish and Game Commission 2019 Meeting Schedule

Note: As meeting dates and locations can change, please visit www.fgc.ca.gov for the most current list of meeting dates and locations. In 2019, wildlife and inland fisheries items will be heard on the first day of Commission meetings, and marine items will be heard on the second day; administrative items will be heard on either day.

Meeting Date	Commission Meeting	Committee Meeting	Other Meetings
January 10		Wildlife Resources Inland Deserts Regional Office Ontario Large Conference Room 3602 Inland Empire Blvd Suite C-220 Ontario, CA 91764	
February 5		Tribal Sacramento	
February 6	Natural Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814		
March 19		Marine Resources California State Parks Mott Training Center 837 Asilomar Blvd Pacific Grove, CA 93950	
April 17-18	Los Angeles		
May 16		Wildlife Resources Natural Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814	
May 16	Teleconference		
June 11		Tribal Redding	
June 12-13	Redding		
July 11		Marine Resources California Department of Parks and Recreation Orange Coast District Office Training Room 3030 Avenida del Presidente San Clemente, CA 92672	
August 7-8	Natural Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814		

Meeting Date	Commission Meeting	Committee Meeting	Other Meetings
September 5		Wildlife Resources Justice Joseph A. Rattigan State Building Conference Rm 410 (4 th Floor) 50 D Street Santa Rosa, CA 95404	
October 8		Tribal San Diego	
October 9-10	San Diego		
November 5		Marine Resources Sacramento	
December 11-12	Natural Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814		

OTHER MEETINGS OF INTEREST

Association of Fish and Wildlife Agencies

- September 22-25, Saint Paul, MN

Pacific Fishery Management Council

- March 5-12, Vancouver, WA
- April 9-16, Rohnert Park, CA
- June 18-25, San Diego, CA
- September 11-18, Boise, ID
- November 13-20, Costa Mesa, CA

Pacific Flyway Council

- March 5, Denver, CO
- August 23, TBD

Western Association of Fish and Wildlife Agencies

- January 3-6, Tucson, AZ
- July 11-16, Manhattan, KS

Wildlife Conservation Board

- March 7, Sacramento, CA
- May 22, Sacramento, CA
- August 28, Sacramento, CA
- November 21, Sacramento, CA

IMPORTANT COMMISSION MEETING PROCEDURES INFORMATION

WELCOME TO A MEETING OF THE CALIFORNIA FISH AND GAME COMMISSION

This is the 149th year of operation of the Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making; Commission meetings are vital in achieving that goal. In that spirit, we provide the following information to be as effective and efficient toward that end. Welcome and please let us know if you have any questions.

PERSONS WITH DISABILITIES

Persons with disabilities needing reasonable accommodation to participate in public meetings or other Commission activities are invited to contact the Reasonable Accommodation Coordinator at (916) 651-1214. Requests for facility and/or meeting accessibility should be received at least 10 working days prior to the meeting to ensure the request can be accommodated.

STAY INFORMED

To receive meeting agendas and regulatory notices about those subjects of interest to you, please visit the Commission's website, www.fgc.ca.gov, to sign up on our electronic mailing lists.

SUBMITTING WRITTEN COMMENTS

The public is encouraged to comment on any agenda item. Submit written comments by one of the following methods: **E-mail** to fgc@fgc.ca.gov; **mail** to California Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090; **deliver** to California Fish and Game Commission, 1416 Ninth Street, Room 1320, Sacramento, CA 95814; or **hand-deliver to a Commission meeting**. Materials provided to the Commission may be made available to the general public.

COMMENT DEADLINES

The **Written Comment Deadline** for this meeting is **5:00 p.m. on November 29, 2018**.

Written comments received at the Commission office by this deadline will be made available to Commissioners prior to the meeting.

The **Late Comment Deadline** for this meeting is **noon on December 7, 2018**. Comments received by this deadline will be marked "late" and made available to Commissioners at the meeting.

After these deadlines, written comments may be delivered in person to the meeting – Please bring ten (10) copies of written comments to the meeting.

NON-REGULATORY REQUESTS

All non-regulatory requests will follow a two-meeting cycle to ensure proper review and thorough consideration of each item. All requests submitted by the **Late Comment Deadline** (or heard during public comment at the meeting) will be scheduled for receipt at this meeting, and scheduled for consideration at the next business meeting.

PETITIONS FOR REGULATION CHANGE

Any person requesting that the Commission adopt, amend, or repeal a regulation must complete and submit form FGC 1, titled, "Petition to the California Fish and Game Commission for Regulation Change" (as required by Section 662, Title 14, CCR). The form is available at <http://www.fgc.ca.gov/public/information/petitionforregulatorychange.aspx>. To be received by the Commission at this meeting, petition forms must have been delivered by the **Late Comment Deadline** (or delivered during public comment at the meeting). Petitions received at this meeting will be scheduled for consideration at the next business meeting, unless the petition is rejected under staff review pursuant to subsection 662(b), Title 14, CCR.

VISUAL PRESENTATIONS/MATERIALS

All electronic presentations must be submitted by the **Late Comment Deadline** and approved by the Commission executive director before the meeting.

1. Electronic presentations must be provided by email to fgc@fgc.ca.gov.
2. All electronic formats must be Windows PC compatible.
3. It is recommended that a print copy of any electronic presentation be submitted in case of technical difficulties.
4. A data projector, laptop and presentation mouse will be available for use at the meeting.

CONSENT CALENDAR

A summary of all items will be available for review at the meeting. Items on the consent calendar are generally non-controversial items for which no opposition has been received and will be voted upon under single action without discussion. Any item may be removed from the consent calendar by the Commission upon request of a Commissioner, the Department, or member of the public who wishes to speak to that item, to allow for discussion and separate action.

LASER POINTERS may only be used by a speaker during a presentation; use at any other time may result in arrest.

SPEAKING AT THE MEETING

To speak on an agenda item, please complete a "Speaker Card" and give it to the designated staff member before the agenda item is announced. Cards will be available near the entrance of the meeting room. Only one speaker card is necessary for speaking to multiple items.

1. Speakers will be called in groups; please line up when your name is called.
2. When addressing the Commission, give your name and the name of any organization you represent, and provide your comments on the item under consideration.
3. If there are several speakers with the same concerns, please appoint a spokesperson and avoid repetitive testimony.
4. The presiding commissioner will allot between one and three minutes per speaker per agenda item, subject to the following exceptions:
 - a. The presiding commissioner may allow up to five minutes to an individual speaker if a minimum of three individuals who are present when the agenda item is called have ceded their time to the designated spokesperson, and the individuals ceding time forfeit their right to speak to the agenda item.

- b. Individuals may receive advance approval for additional time to speak if requests for additional time to speak are received by email or delivery to the Commission office by the **Late Comment Deadline**. The president or designee will approve or deny the request no later than 5:00 p.m. two days prior to the meeting.
 - c. An individual requiring an interpreter is entitled to at least twice the allotted time pursuant to Government Code Section 11125.7(c).
 - d. An individual may receive additional time to speak to an agenda item at the request of any commissioner.
5. If you are presenting handouts/written material to the Commission at the meeting, please provide ten (10) copies to the designated staff member just prior to speaking.

STAFF SUMMARY FOR DECEMBER 12-13, 2018

2. GENERAL PUBLIC COMMENT (DAY 1)**Today's Item****Information** ☒**Action** ☐

Receive public comments, petitions for regulation change, and requests for non-regulatory actions for items not on the agenda.

Summary of Previous/Future Actions

- **Today's receipt of requests and comments** **Dec 12-13, 2018; Oceanside**
- Consider granting, denying or referring **Feb 6, 2019; Sacramento**

Background

This agenda item is primarily to provide the public an opportunity to address FGC on topics not on the agenda. Staff also includes written materials and comments received prior to the meeting as exhibits in the meeting binder (if received by written comment deadline), or as late comments at the meeting (if received by late comment deadline), for official FGC "receipt."

Public comments are generally categorized into three types under public forum: (1) petitions for regulation change; (2) requests for non-regulatory action; and (3) informational-only comments. Under the Bagley-Keene Open Meeting Act, FGC cannot discuss any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, petitions for regulation change and non-regulatory requests generally follow a two-meeting cycle (receipt and direction); FGC will determine the outcome of the petitions for regulation change and non-regulatory requests received at today's meeting at the next in-person FGC meeting following staff evaluation.

As required by the Administrative Procedure Act, petitions for regulation change will be either denied or granted and notice made of that determination. Action on petitions received at previous meetings is scheduled under a separate agenda item titled "Petitions for regulation change". Action on non-regulatory requests received at previous meetings is scheduled under a separate agenda item titled "Non-regulatory requests."

Significant Public Comments

1. New petitions for regulation change are summarized in Exhibit 1, and the original petitions are provided as exhibits 3-4.
2. Requests for non-regulatory action are summarized in Exhibit 2, and the original requests are provided as exhibits 5-7.
3. Informational comments are provided as exhibits 8-13.

Recommendation

Consider whether any new future agenda items are needed to address issues that are raised during public comment and are within FGC's authority.

STAFF SUMMARY FOR DECEMBER 12-13, 2018

Exhibits

1. Summary of new petitions for regulation change received by Nov 29, 2018 at 5:00 p.m.
2. Summary of requests for non-regulatory action received by Nov 29, 2018 at 5:00 p.m.
3. Petition #2018-016: Hope Valley Wildlife Area, received Nov 9, 2018
4. Petition #2018-017: Fillet size for ocean whitefish, received Nov 27, 2018
5. Letter from Blake Alexandre, representing Alexandre EcoDairy Farms, requesting a change in private lands management practices concerning Roosevelt elk, received Oct 10, 2018
6. Email from Anita Youabian requesting an end to the driftnet fishery in California, received Nov 8, 2018
7. Letter from Rachel Doughty, Greenfire Law, representing Story of Stuff Project, requesting investigation of and enforcement against Nestlé Waters North America, Inc. for potential violations of California Fish and Game Code Section 1602, received Nov 26, 2018
8. Letters from Alpine Biomass Collaborative and Rural County Representatives of California in support of Petition #2018-016 from the Alpine County Board of Supervisors, to remove Hope Valley Wildlife Area from the DFW Lands Pass Program, received Oct 9 and Nov 26, 2018, respectively
9. Letter from Daniel Dallenbach regarding previously-submitted Petition #2018-012 to allow the mining of sand on land to be donated to DFW, received Oct 9, 2018
10. Email from Patricia McPherson, Grassroots Coalition, regarding the management of Ballona Wetlands Ecological Reserve, received Nov 7, 2018
11. Email from Eric Mills, Action for Animals, regarding proposed regulations to restrict commercial trapping of wild freshwater turtles in Arkansas, received Oct 19, 2018
12. Email from Eric Mills, Action for Animals, regarding New Zealand mud snails in the San Francisco Bay area, received Oct 28, 2018
13. Email from Eric Mills, Action for Animals, regarding the fossil-fuel industry and climate change, received Nov 25, 2018

Motion/Direction (N/A)

STAFF SUMMARY FOR DECEMBER 12-13, 2018

3. COMMERCIAL LOGBOOKS (CONSENT)**Today's Item****Information** ☐**Action** ☒

Consider adopting proposed regulations for commercial logbooks.

Summary of Previous/Future Actions

- Notice hearing Aug 22-23, 2018; Fortuna
- **Today's adoption hearing Dec 12-13, 2018; Oceanside**

Background

The proposed changes amend existing regulations for federally-managed fisheries with state logbook requirements by eliminating California's logbook requirements for federally-managed groundfish trawl and highly migratory species harpoon and drift gillnet fisheries. The affected fisheries will be required to use the National Oceanic and Atmospheric Administration's National Marine Fisheries Service's (NOAA Fisheries) federal logbooks developed to more accurately reflect catch and discard in their respective fisheries.

Proposed Amendments

- Eliminate the need for state logs for swordfish activities and delete the swordfish harpoon log.
- Exempt from the state log requirement any fishermen: (1) targeting highly migratory species, and (2) using large mesh (greater than 14-inch) drift gill nets.
- Clarify the logbook requirements for each state-managed fishery and eliminate potential redundancy between state and federal regulations for the groundfish trawl fishery.

The proposed amendments eliminate logbook requirements in certain instances where vessel operators are currently required to complete state log books, but the data collected does not provide additional detail that is not already collected on state landing receipts or the data collected is not the type of data utilized in managing the fishery due to changing fishery management needs. The proposed amendments also clarify how to report in one instance where there has been confusion over which form is proper for reporting.

See Exhibit 2 for details about the proposed changes.

California Environmental Quality Act (CEQA)

Based on this, FGC staff does not believe there is any potential for a direct physical change or a reasonably foreseeable indirect physical change in the environment and therefore is not a project for the purposes of CEQA.

Significant Public Comments (N/A)

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Recommendation

FGC staff: Determine that this is not a project under CEQA. Under a motion to adopt the consent calendar, adopt proposed changes as recommended by DFW.

Exhibits

1. [DFW memo, received Jul 30, 2018](#)
2. [Initial statement of reasons](#)
3. [Economic and fiscal impact statement \(Std. 399\)](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendation under item 3 on the consent calendar.

STAFF SUMMARY FOR DECEMBER 12-13, 2018

4A. ACTING EXECUTIVE DIRECTOR'S REPORT – STAFF REPORT**Today's Item****Information** ☒**Action** ☐

Receive the acting executive director's staff report.

Summary of Previous/Future Actions (N/A)**Background**

Executive Director Valerie Termini remains on loan to DFW as chief deputy director and returns to FGC in early January. In the interim, Melissa Miller-Henson continues to serve as acting deputy director. FGC's seasonal clerk left in Nov for a full-time permanent position in the private sector; staff will begin recruitment efforts as soon as possible. Sea Grant State Fellow Leslie Hart's year-long commitment ends in Mar and a new fellow has been selected. Staff is actively working on the contract that will allow the new fellow to start in Mar.

Led by the DFW webmaster, FGC staff has begun to upgrade FGC's website template to current state standards for accessibility and uniformity. A small staff workgroup expects to complete phase one of the project early in 2019, which will include transitioning to the new template only those regulatory, meeting and endangered species materials generated in 2017 and 2018; staff will upload historical information as time permits throughout the remainder of 2019.

In Oct, Commission staff was recognized by DFW at its 2018 Employee Excellence Award ceremony in the category of organizational enhancement. Staff members were presented with individual certificates by Director Bonham and Acting Chief Deputy Director Valerie Termini. See Exhibit 2 for a transcript of the presentation to staff.

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

1. [Staff Report on Time Allocations and Accomplishments, dated Dec 5, 2018](#)
2. [Transcript of presentation – DFW 2018 Employee Excellence Award](#)

Motion/Direction (N/A)

STAFF SUMMARY FOR DECEMBER 12-13, 2018

4B. ACTING EXECUTIVE DIRECTOR'S REPORT – LEGISLATIVE UPDATE**Today's Item****Information** ☒**Action** ☐

Review and discuss legislation of interest and provide staff direction.

Summary of Previous/Future Actions

- | | |
|--|--------------|
| • Legislature convenes 2019-20 regular session | Dec 3, 2018 |
| • Most new state statutes take effect | Jan 1, 2019 |
| • Legislature returns from winter break | Jan 7, 2019 |
| • Governor must submit 2019-20 budget | Jan 10, 2019 |
| • Last day for state bills to be introduced | Feb 22, 2019 |

Background

FGC staff typically prepares a list of state legislation that may affect FGC's resources and workload; since the California State Legislature has completed its 2017-18 regular session, there are no state bills currently under consideration as of the writing of this summary. Once the legislature returns from winter break and begins introducing bills, DFW staff will also prepare a list of state legislation potentially affecting DFW. FGC staff has also summarized federal legislation of interest.

Today is an opportunity for FGC to provide direction to staff concerning legislation.

State Legislation

The California State Legislature had not yet convened for the 2019-20 regular session at the time this staff summary was prepared. Related to the 2017-18 regular session, there is a history of the California State Senate's actions (Exhibit 1) and all California State Assembly bills vetoed by Governor Brown (Exhibit 2).

Federal Legislation

Below is a list of federal bills that FGC has previously shown an interest in, or may be of interest, and the status as of November 30, 2018.

- *S. 793 Shark Finning – Shark Fin Trade Elimination Act of 2017*: Sen. Cory Booker (NJ).

Status: Senate – 11/27/2018 Placed on Senate Legislative Calendar under General Orders. Calendar No. 675. Summary: This bill makes it illegal to possess, buy, sell, or transport shark fins or any product containing shark fins. A person may possess a shark fin that was lawfully taken consistent with a license or permit under certain circumstances. Penalties are imposed for violations under the Magnuson-Stevens Fishery Conservation and Management Act. The maximum civil penalty for each violation shall be \$100,000, or the fair market value of the shark fins involved, whichever is greater.

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- S. 2773 Driftnet Modernization and Bycatch Reduction Act*: Sen. Dianne Feinstein (CA).
 Status: Senate – 09/05/2018 Committee on Commerce, Science, and Transportation. Ordered to be reported with an amendment in the nature of a substitute favorably.
 Summary: This bill calls for prioritizing the phase-out of large-scale driftnet fishing within the nation's exclusive economic zone and promoting alternative fishing methods and gear types, in order to reduce the incidental catch of living marine resources. The bill adds language to the Magnuson-Stevens Fishery Conservation and Management Act to instruct the U.S. secretary of commerce to coordinate a transition program to assist in phasing out large-scale driftnet fishing and adopting alternative fishing methods. The secretary is authorized to provide funding to individuals who surrender their permit for large-scale driftnet fishing, or surrender any gear associated with that permit, and purchase new fishing gear that minimizes the incidental catch of living marine resources. The bill authorizes \$450,000 for each of the fiscal years 2018 through 2020 for the purposes of providing the funding to individuals.

Per direction from FGC at its Oct 17, 2018 meeting, staff distributed a letter of support signed by President Sklar to Chairman John Thune and Ranking Member Bill Nelson of the U.S. Senate Committee on Commerce, Science, and Transportation, with copies to committee members, various congressional staff, and state agency representatives (Exhibit 3).
- H.R. 200 – MSA Reauthorization – Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act*: Rep. Don Young (AK).
 Status: Senate - 07/12/2018 received in the Senate and read twice and referred to the Committee on Commerce, Science, and Transportation. Summary: To amend the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to provide flexibility for fishery managers and stability for fishermen, and for other purposes. This bill revises and reauthorizes MSA through Fiscal Year 2022. No revisions have been made since the previous report.
- H.R. 1456 – Shark Fin Sales Elimination Act of 2017*: Rep. Edward Royce (CA).
 Status: Introduced 03/09/17; Referred to House Committee on Natural Resources; 3/20/17 referred to the Subcommittee on Water, Power and Oceans; 4/17/18 subcommittee hearings held. Summary: This bill makes it illegal to possess, buy, or sell shark fins or any product containing shark fins. A person may possess a shark fin that was lawfully taken consistent with a license or permit under certain circumstances. Penalties are imposed for violations under the Magnuson-Stevens Fishery Conservation and Management Act.
- H.R. 5638 Driftnet Modernization and Bycatch Reduction Act*: Ted Lieu (CA).
 Status: House – 05/08/2018 Referred to the Subcommittee on Water, Power and Oceans. Summary: This is the companion bill to S. 2773, which calls for prioritizing the phase-out of large-scale driftnet fishing within the nation's exclusive economic zone and promoting alternative fishing methods and gear types, in order to reduce the incidental catch of living marine resources.

Significant Public Comments (N/A)

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Recommendation (N/A)

Exhibits

1. [California State Legislature's *Senate Journal*, dated Oct 1, 2018](#)
2. [California State Legislature's *Supplemental Recess Assembly File* \[with\] *Governor's Vetoes*, dated Oct 4, 2018](#)
3. [Comments from FGC to Chairman Thune and Ranking Member Nelson of the U.S. Senate Committee on Commerce, Science, and Transportaton, dated Nov 7, 2018](#)

Motion/Direction (N/A)

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5. TRIBAL COMMITTEE (TC)**Today's Item****Information** ☐**Action** ☒

Discuss and consider approving draft agenda topics for the next TC meeting, and consider approving new topics to address at a future TC meeting.

Summary of Previous/Future Actions

- Most recent TC meeting Oct 16, 2018; Fresno
- **Today consider approving draft TC meeting agenda topics** **Dec 12-13, 2018; Oceanside**
- Next TC meeting Feb 5, 2019; Sacramento

Background***TC Workplan and Timeline***

TC works under FGC direction to set and accomplish its work plan (Exhibit 1).

Draft agenda topics proposed for the Feb 2019 TC meeting, shown in the "Feb" column of the work plan, include the following topics for FGC review and consideration today:

1. Staff and committee (MRC and WRC) updates
2. Agency updates (including the California Ocean Protection Council and DFW)
3. Regulation changes for:
 - a. Statewide sport fishing revisions for 2020
 - b. Commercial kelp and algae harvest management
 - c. FGC meeting procedures for TC
4. Annual FGC-tribal planning meeting follow-up
5. Co-management definition (as follow-up to the co-management vision statement adopted at the Oct 2018 meeting; see Exhibit 2)

New TC Topics

No new topics are proposed at this time.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Approve draft agenda topics for the Feb TC meeting as proposed.

Exhibits

1. [TC workplan, updated Nov 30, 2018](#)
2. [FGC co-management vision statement, adopted Oct 17, 2018](#)

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Motion/Direction

Moved by _____ and seconded by _____ that the Commission approves the draft agenda topics for the February 2019 Tribal Committee meeting.

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6. MARINE RESOURCES COMMITTEE**Today's Item****Information** ☐**Action** ☒

Receive summary from Nov 14, 2018 Marine Resources Committee (MRC) meeting and consider adopting MRC recommendations. Receive update on MRC work plan and draft timeline. Discuss and consider approving new topics for MRC review.

Summary of Previous/Future Actions

- | | |
|---|-----------------------------------|
| • Most recent MRC meeting | Nov 14, 2018; MRC, Sacramento |
| • Today consider approving MRC recommendations | Dec 12-13, 2018; Oceanside |
| • Next MRC meeting | Mar 19, 2019; MRC, Pacific Grove |

Background

MRC works under FGC direction to set and accomplish its current work plan (Exhibit 1).

MRC Meeting Summary

MRC met on Nov 14 and discussed:

- Coastal fishing communities
- Shellfish aquaculture best management practices (BMPs)
- Offshore marine aquaculture (programmatic environmental impact report development)
- Marine Life Management Act master plan for fisheries implementation
- Lobster Advisory Committee stakeholder lessons learned report by Heal the Bay

A summary of the meeting is provided in Exhibit 2.

MRC Recommendations

Based on the Nov 14 meeting discussion, MRC developed four recommendations for FGC consideration:

1. ***Coastal Fishing Communities***

MRC recommends that staff (a) revise the Jul 2018 *Staff Report on California Coastal Fishing Communities Meetings* based on submitted public feedback; (b) develop a more comprehensive report in collaboration with stakeholders that provides more detailed background and an analysis of options for FGC action, including an overall strategy for coastal fishing communities and potentially port-specific ideas; and (c) schedule a discussion and potential recommendation at the Mar 2019 MRC meeting.

2. ***Red Abalone Fishery Management Plan (FMP)***

- a. MRC recommends (a) addressing peer review recommendations to integrate aspects of both draft management strategies based on a modeling approach developed by DFW, and including engagement with abalone divers and other

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stakeholders; (b) revising the FMP goals to allow for a *de minimis* fishery option; (c) developing triggers for the *de minimis* fishery option in consultation with stakeholders; and (d) requesting that DFW develop a proposed process and timeline which accounts for active public and MRC engagement.

- b. MRC recommends that the Red Abalone FMP be kept on the MRC work plan through the upcoming process.

3. *Shellfish aquaculture best management practices (BMPs)*

MRC recommends that staff (a) revise the draft proposed requirements for state water bottom lease BMP plans based on public input received; (b) provide opportunity for public review of the revised draft proposed requirements; and (c) schedule MRC review and potential recommendation in Mar 2019.

4. *Lobster Advisory Committee stakeholder lessons learned report*

MRC recommends that, at the Feb 2019 FGC meeting, DFW and FGC staff provide an overview of the discussion held on the DFW Lobster Advisory Committee stakeholder lessons learned report, and applications for future stakeholder processes.

Significant Public Comments (N/A)

Recommendation

FGC staff: Approve MRC recommendations 1, 2b, 3, and 4 under this agenda item; and approve MRC recommendation 2a under Agenda Item 15, Red Abalone FMP (this meeting).

Exhibits

- 1. MRC work plan, updated Nov 28, 2018
- 2. Meeting summary from Nov 14, 2018 MRC meeting

Motion/Direction

Moved by _____ and seconded by _____ that the Commission approves recommendations 1, 2b, 3 and 4 from the November 14, 2018 Marine Resources Committee meeting as proposed.

OR

Moved by _____ and seconded by _____ that the Commission approves recommendations 1, 2b, 3 and 4 from the November 14, 2018 Marine Resources Committee meeting, as proposed, except _____.

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7. RECREATIONAL AND COMMERCIAL GROUND FISH**Today's Item****Information** ☐**Action** ☒

Consider adopting proposed changes to recreational and commercial groundfish regulations.

Summary of Previous/Future Actions

- Notice hearing Aug 22-23, 2018; Fortuna
- Discussion hearing Oct 17, 2018; Fresno
- **Today's adoption hearing Dec 12-13, 2018; Oceanside**

Background

On Jun 12, 2018, the Pacific Fishery Management Council recommended changes to federal rules for annual catch limits and recreational groundfish fishing in California for 2019 and 2020, which are expected to go into effect on or around Jan 1, 2019. Changes are proposed that would make regulations for state waters consistent with the new federal regulations (Exhibit 1).

Proposed Amendments

1. Increase allowable depths and season lengths for specific recreational fisheries in identified management and conservation areas.
2. Increase or decrease the recreational bag limit for specific fisheries in identified areas.
3. Increase commercial trip limits for cabezon and greenling.

See Exhibit 2 for details of the proposed changes. Today, DFW will make a presentation summarizing the federal process and proposed regulation changes for state waters (Exhibit 3).

California Environmental Quality Act (CEQA)

A notice of exemption (Exhibit 4) has been drafted consistent with FGC staff's recommendation to rely on CEQA categorical exemptions (Class 7 and 8) for these regulation changes. Staff has reviewed all of the available information possessed by FGC relevant to the issue and does not believe adopting the regulation changes pose any unusual circumstances that would constitute an exception to the categorical exemptions set forth above. Compared to the activities that fall within Class 7 and Class 8 generally, which include the example of wildlife preservation activities, such as the effort here, there is nothing unusual about the proposed regulation changes. In addition, even if there were unusual circumstances, no potentially significant effects on either a project-specific or cumulative basis are expected.

The intent of the proposed regulation changes is to conform State regulations with federal regulations to maintain continued State authority over its recreational ocean salmon fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (Title 16, United States Code, Section 1856 (b)(1)). The regulation changes are anticipated to achieve optimum yield in the fishery, but also to prevent overfishing and thereby take into consideration the potential for negative impacts on the fishery. Therefore, FGC staff does not believe that

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reliance on the categorical exemptions is precluded by the exceptions set forth in CEQA Guidelines Section 15300.2.

Significant Public Comments

Thirteen comments were received that oppose the recreational lingcod bag limit of one fish south of Cape Mendocino. Concerns include an unnecessary reduction for divers and transparency in the scientific evidence for the decision (example in Exhibit 6), views that fish stocks are large enough to support higher limits (example in Exhibit 7), and decreases in DFW revenue (example in Exhibit 6). One organization highlights the economic cost of the regulation to businesses that support vessel owners and anglers (Exhibit 8).

FGC staff response: Lingcod limits are set by federal government regulations, and state regulations may not be less restrictive than federal limits.

Recommendation

FGC staff: Determine that the adoption is exempt consistent with the draft notice of exemption and adopt the proposed regulation changes as recommended by DFW.

DFW: Adopt the regulation changes as proposed.

Exhibits

1. [DFW memo, received Jul 30, 2018](#)
2. [Initial statement of reasons](#)
3. [DFW presentation](#)
4. [Draft notice of exemption](#)
5. [Economic and fiscal impact statement \(Std. 399\)](#)
6. [Email from Jacob Del Nero, received Oct 18, 2018](#)
7. [Email from Jeremy Liem, received Oct 19, 2018](#)
8. [Email from Andy Guillianio, Fish Emeryville, received Oct 19, 2018](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission determines the project is exempt from the California Environmental Quality Act as being categorically exempt and adopts proposed changes to Section 27.30 et al., related to recreational and commercial groundfish.

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8. RECREATIONAL TAKE OF RED ABALONE**Today's Item****Information** ☐**Action** ☒

Consider adopting proposed changes to abalone regulations to extend the fishery closure sunset date for the recreational fishery.

Summary of Previous/Future Actions

- | | |
|-----------------------------------|-----------------------------------|
| • Notice hearing | Aug 22-23, 2018; Fortuna |
| • Discussion hearing | Oct 17, 2018; Fresno |
| • Today's adoption hearing | Dec 12-13, 2018; Oceanside |

Background***Proposed Amendment***

This proposal would extend the closure of the abalone fishery beyond the current Apr 1, 2019 sunset date, for another two years, until Apr 1, 2021. Effective dates for take and possession would be updated in the regulations as well, to reflect the proposed change. The proposed regulation change is necessary to facilitate recovery of the red abalone population while preparation of the red abalone fishery management plan is underway.

See Exhibit 3 for more detailed background information.

California Environmental Quality Act (CEQA)

A notice of exemption (Exhibit 4) has been drafted consistent with FGC staff's recommendation to rely on CEQA categorical exemptions (Class 7 and 8) for these regulation changes. Staff has reviewed all of the available information possessed by FGC relevant to the issue and does not believe adopting the regulation changes pose any unusual circumstances that would constitute an exception to the categorical exemptions set forth above. Compared to the activities that fall within Class 7 and Class 8 generally, there is nothing unusual about the proposed regulation changes. In addition, even if there were unusual circumstances, no potentially significant effects on either a project-specific or cumulative basis are expected.

The intent of the proposed regulation changes is to temporarily eliminate harvest pressure on the species. Therefore, FGC staff does not believe that the reliance on the categorical exemptions is precluded by the exceptions set forth in CEQA Guidelines Section 15300.2.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Determine that the adoption is exempt consistent with the draft notice of exemption and adopt the proposed regulation changes as recommended by DFW.

DFW: Adopt the proposed regulation changes as detailed in the initial statement of reasons (ISOR).

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Exhibits

1. [DFW memo, received Jul 30, 2018](#)
2. [ISOR](#)
3. [Staff summary from Aug 22-23, 2018 meeting, Agenda Item 12](#)
4. [Draft notice of exemption](#)
5. [Economic and fiscal impact statement \(Std. 399\)](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission determines that the project is exempt from the California Environmental Quality Act as being categorically and adopts the proposed changes to Section 29.15, related to extending the fishery closure sunset date for the recreational red abalone fishery.

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9. RECREATIONAL TAKE OF PURPLE SEA URCHIN**Today's Item****Information** ☒**Action** ☐

Discuss proposed changes to regulations concerning the recreational take of purple sea urchin.

Summary of Previous/Future Actions

- | | |
|--|-----------------------------------|
| • Emergency regulation adopted | Apr 18-19, 2018; Ventura |
| • Emergency regulation extension adopted | Oct 17, 2018; Fresno |
| • Notice hearing for Section 29.06 | Oct 17, 2018; Fresno |
| • Today's discussion hearing | Dec 12-13, 2018; Oceanside |
| • Adoption hearing | Feb 6, 2019; Sacramento |

Background

On Apr 18, 2018, FGC adopted emergency regulations to increase recreational take of purple sea urchin from 35 individuals to 20 gallons in coastal waters off Mendocino and Sonoma counties; the purpose for this increase is to address conditions adversely affecting bull kelp and red abalone. FGC approved a 90-day extension of the emergency regulation at its Oct 17, 2018 meeting.

This regulatory proposal, under a regular rulemaking, would add Section 29.06 to provide for a daily recreational bag limit of 40 gallons of purple sea urchins while skin or SCUBA diving off waters of Humboldt, Mendocino and Sonoma counties. The proposal would exempt from any possession limit all recreationally-taken purple sea urchin, as does the emergency regulation. An option to this action would add Del Norte County.

Severe environmental conditions over the past several years have caused a collapse of the bull kelp (*Nereocystis luetkeana*) forest in the waters of the northern California coastline. The combination of unprecedented environmental and biological stressors has led to severe impacts on marine life that inhabit kelp forests, including widespread starvation and death of abalone (*Haliotis spp.*). In 2016 and 2017, more than 25 percent of abalones assessed (> 6,000 abalone per year) in nine creel surveys at key fished sites in Sonoma, Mendocino, and Humboldt counties had shrunken foot muscle due to starvation. Starved abalones have increased chance of mortality and severely reduced fecundity.

FGC closed the red abalone fishery for the 2018 season in Dec 2017, and it remains closed. Recovery of the abalone fishery will not be possible without the eventual recovery of bull kelp forests and the return of sufficient food to support abalone survival and reproduction.

Kelp recovery has been severely limited in part due to the proliferation of purple sea urchins (*Strongylocentrotus purpuratus*). Unlike abalone, sea urchins are generally resilient to food shortage and can survive longer without food, and therefore grazing pressure from surviving sea urchins may prevent kelp recovery. The urchin population boom is further exacerbated by the absence of important predatory sea stars (*Pisaster spp.*), which were severely impacted by

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the sudden onset of sea star wasting syndrome in 2013. Sea stars have since been recovering at a very slow pace, providing only marginal impact on purple sea urchins.

DFW will provide a presentation at the meeting on this item. See Exhibit 3 for additional background information.

Significant Public Comments

1. A commenter supports expansion of take and would like to see more organized events for take of urchins (Exhibit 5).
2. The Pala Band of Mission Indians supports any action which protects coastal resources (Exhibit 6).
3. A commenter would like FGC to remove restrictions related to Section 1.87, Waste of Fish, to make legal the waste of urchins (Exhibit 7).

Recommendation (N/A)**Exhibits**

1. [DFW memo, received Nov 14, 2018](#)
2. [Initial statement of reasons](#)
3. [Staff summary from Oct 17, 2018 meeting, Agenda Item 6](#)
4. [Economic and fiscal impact statement \(Std. 399\)](#)
5. [Email from Jeff Libarle, received Nov 27, 2018](#)
6. [Email from Kurt Broz, Pala Band of Mission Indians, received Nov 27, 2018](#)
7. [Email from Ben Wolfe III, received Nov 21, 2018](#)

Motion/Direction (N/A)

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10. CALIFORNIA SHEEPHEAD**Today's Item****Information** ☒**Action** ☐

Discuss proposed changes to filleting of fish on vessels regulations to add California sheephead.

Summary of Previous/Future Actions

- | | |
|-------------------------------------|-----------------------------------|
| • Notice hearing | Oct 17, 2018; Fresno |
| • Today's discussion hearing | Dec 12-13, 2018; Oceanside |
| • Adoption hearing | Feb 6, 2019; Sacramento |

Background

Section 27.65 defines fillet; lists the fillet requirements for, and specifies, those fish that may be filleted on a boat or brought ashore as fillets; and prohibits the filleting, steaking, or chunking of any species with a size limit unless a fillet size is otherwise specified. Almost all finfishes with a recreational minimum size limit also have a corresponding fillet length specified in Section 27.65.

Recreational anglers and the sport fishing industry, including the Sportfishing Association of California (SAC), have requested a fillet length regulation permitting California sheephead to be filleted at sea, since a minimum size limit was implemented in 2001.

The proposed regulation will amend subsection 27.65(b) to add California sheephead to the list of fish that may be filleted at sea and will specify that fillets must be a minimum of six and three-quarter inches in length and bear the entire skin intact.

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

1. [DFW memo, received Oct 10, 2018](#)
2. [Initial statement of reasons](#)
3. [DFW/SAC joint presentation](#)

Motion/Direction (N/A)

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11. BOX CRAB EXPERIMENTAL GEAR PERMIT**Today's Item****Information** ☐**Action** ☒

Receive and consider approving requests for box crab experimental gear permits (EGPs) for participation in DFW's box crab EGP program.

Summary of Previous/Future Actions

- | | |
|---|-----------------------------------|
| • Approved MRC recommendation for incidental take limits rulemaking and EGP program | Dec 6-7, 2017; San Diego |
| • MRC update on EGP program | Jul 17, 2018; MRC, San Clemente |
| • Received draft EGP criteria and conditions | Oct 17, 2018; Fresno |
| • Today consider approving EGP requests | Dec 12-13, 2018; Oceanside |

Background

Pursuant to Fish and Game Code Section 8606 governing development of commercial fishing gear, FGC has authority to approve EGPs, to be issued by DFW. The Commission may approve issuance of EGPs for the purpose of authorizing new types of commercial fishing gear and authorizing new methods of using existing commercial fishing gear. Permits are subject to any conditions FGC deems necessary to ensure proper utilization and protection of marine resources, and to minimize user group and resource allocation conflicts.

Since late 2017, DFW has been developing a collaborative research program designed to study brown box crab through FGC-approved EGPs that would be issued to commercial trap fishermen who are willing to meet conditions necessary for the project. See exhibits 1 and 2 for detailed background. The research will explore using existing fishing gear in a new way. The collaborative research program would support emerging fisheries, as mandated by the Marine Life Management act, by providing the necessary information to determine if the box crab resource represents a viable new fishing opportunity. If FGC approves the issuance of EGPs, the collaborative research program would permit fishermen to target box crabs through the use of existing commercial fishing gears used according to new methods.

At the Oct 2018 FGC meeting, DFW presented an overview of the research design and costs, and proposed EGP participation criteria and permit conditions, which were vetted in two meetings with interestred industry members and with MRC (Exhibit 3). Based on funding secured by DFW to offset costs of electronic monitoring equipment and program participation, DFW recommended that eight EGPs be issued. To avoid spatial concentration of fishing effort, DFW proposed that the eight permits be distributed according to fishing study regions with three permits issued to fishermen operating north of Point Conception, and five permits issued to fishermen operating south of Point Conception into one or more sub-regions.

Following the Oct 2018 FGC meeting, commercial trap fishermen interested in a box crab EGP, and willing to meet research requirements, permit terms and conditions, and cost-sharing needs, were asked to submit requests to FGC and specify their desired fishing region. Fishermen were also informed that if more than eight requests were received, that a drawing may be necessary to assign an order of consideration for the eight funded EGPs.

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FGC received written requests from 15 commercial trap fishermen (Exhibit 4) and forwarded the requests to DFW for review. Of these fishermen, 3 wish to fish north and 12 wish to fish south of Point Conception. DFG found that all 15 fishermen would be capable of operating under the proposed EGP due to the following: (1) possession of a valid invertebrate trap fishery permit, (2) agreeing to all draft permit terms and conditions, and (3) possession of a vessel with the capability to carry an observer (Exhibit 5).

Significant Public Comments (N/A)

Recommendation

FGC staff: Approve allocating three EGPs to the area north of Point Conception; approve allocating five EGPs to the area south of Point Conception; determine what permit conditions to include in each EGP. Direct staff to identify the fishermen who would receive the permits using a list of names from a drawing establishing the order for consideration, to be conducted immediately after the Commission recesses on the first day of its Dec 12-13, 2018 meeting:

- (1) Approve EGPs for the three applicants requesting to fish in areas north of Point Conception and the first five in the established order that requested to fish south of Point Conception, to (a) be issued sequentially in the order drawn for the south, (b) become effective for 12 months upon Apr 1, 2018 and receipt of cost-share as specified, and (c) be renewed annually for up to three years upon receipt of annual cost-share payment.
- (2) Approve EGPs for the remaining applicants, to be issued sequentially in the order drawn and in the region for which they applied, that would only become active when either: (a) a newly funded EGP in that region opens, or (b) a permittee declines to participate or withdraws voluntarily or involuntarily, thereby opening a funded EGP.
- (3) All applicant names will be drawn and the order of selection recorded. If a selected participant declines, fails to submit cost-sharing funds, does not agree to and abide by all permit terms and conditions, withdraws, or is removed during the permit term, the permit will be offered to the next potential participant in order drawn. If a future fishery is developed, access to or preferential treatment regarding future permits of any type is not implied by participation in the EGP program.

DFW: See Exhibit 5 for DFW recommendations.

Exhibits

1. Staff summary for Agenda Item 11, Jun 20-21, 2018 FGC meeting (for background only)
2. Staff summary for Agenda Item 12, Oct 17, 2018 FGC meeting (for background only)
3. DFW presentation from Oct 17, 2018 FGC meeting
4. Table of fishermen who submitted EGP statements of interest
5. DFW memo, list of applicants, and draft EGP permit, received Dec 6, 2018
6. DFW memo and draft notice of exemption, received Dec 6, 2018

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Motion/Direction

Moved by _____ and seconded by _____ that the Commission determines that the project is exempt from CEQA as being categorically exempt and approves the staff recommendations for the box crab experimental gear permits, and approves the proposed terms and conditions as discussed today.

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12. STATEWIDE MARINE PROTECTED AREAS PROGRAM**Today's Item****Information** ☒**Action** ☐

Receive annual update on DFW's marine protected areas (MPAs) program management activities.

Summary of Previous/Future Actions

- Final MPA master plan adopted Aug 24-25, 2016; Sacramento
- **Today receive annual update on management Dec 12-13, 2018; Oceanside**

Background

In 2016, the final master plan for MPAs was adopted, which formally established DFW's MPA Management Program. As the primary managing agency, DFW, along with core partners, manages California's MPAs as a statewide network using a collaborative partnership-based approach with four components: (1) Outreach and education, (2) research and monitoring, (3) enforcement and compliance, and (4) policy and permitting.

DFW's approach is essential to inform adaptive management of the MPA network and to help meet the goals of the Marine Life Protection Act. At the adoption of the final master plan for MPAs, FGC requested that DFW provide it with an annual report of program activities. DFW has prepared a written overview of actions in the past year for each of the four components (Exhibit 1). At today's meeting, DFW will present highlights from the year's MPA program management activities (Exhibit 2).

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

1. [DFW memo, received Nov 19, 2018](#)
2. [DFW presentation](#)

Motion/Direction (N/A)

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13. PACIFIC HERRING FISHERY MANGEMENT PLAN (FMP)**Today's Item****Information** ☒**Action** ☐

Receive and discuss draft Pacific herring FMP and California Environmental Quality Act documentation. *Note: DFW is requesting to continue this item to a subsequent meeting – see recommendation below.*

Summary of Previous/Future Actions

- | | |
|--|-----------------------------------|
| • DFW updates on FMP progress | 2016-2017; MRC meetings |
| • Most recent update on FMP progress | Jul 17, 2018; MRC, San Clemente |
| • Today receive draft FMP (previous schedule) | Dec 12-13, 2018; Oceanside |

Background

Since 2016, DFW has been developing an FMP for Pacific herring with a collaborative working group of herring fleet leaders, staff from conservation non-governmental organizations, and DFW staff. Following a DFW update to MRC in Jul 2018, FGC approved an MRC recommendation to support the DFW-proposed schedule for receipt of the draft Pacific herring FMP and proposed implementing regulations, following independent scientific peer review. FGC approved adding the FMP to the agenda for this meeting.

Subsequent to the agenda approval for this meeting, DFW received the peer review results and determined that additional time was necessary to adequately address the results. DFW is determining a feasible schedule for FMP approval and implementing regulations, and will provide an update and recommendations at today's meeting.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Approve revised schedule as proposed today.

DFW: Delay receipt of herring FMP (DFW will provide a specific timeline recommendation during today's meeting).

Exhibits (N/A)**Motion/Direction (N/A)**

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14. ANNUAL RECREATIONAL OCEAN SALMON AND PACIFIC HALIBUT**Today's Item****Information** ☒**Action** ☐

Receive update on and discuss Pacific Fishery Management Council (PFMC) process and timeline, and automatic conformance of state regulations to federal regulations.

Summary of Previous/Future Actions

- | | |
|------------------|-----------------------------------|
| • Today's update | Dec 12-13, 2018; Oceanside |
| • Next update | Feb 6, 2019; Sacramento |
| • Final update | Apr 17-18, 2019; Los Angeles |

Background

This agenda item is to inform the public that FGC intends for ocean salmon and Pacific halibut recreational fishing regulations to auto-conform to federal regulations in 2019.

At its Aug 16, 2017 meeting, FGC adopted regulations that allow a process to auto-conform state ocean salmon and Pacific halibut recreational fishing regulations to federal regulations. The auto-conformance regulations went into effect on Jan 1, 2018; Exhibit 1 provides an outline of the auto-conformance process.

If deemed necessary, FGC may adopt ocean salmon and/or Pacific halibut recreational fishing regulations different from federal regulations. However, since FGC is not initiating the regular rulemaking process at this meeting, if it decides to adopt regulations different from federal regulations, it may need to take emergency action at a future meeting in order to have the regulations effective by the beginning of the ocean salmon and Pacific halibut seasons.

At this time, there is no indication that the state may need to consider regulations different from federal regulations. Therefore, regular rulemakings for ocean salmon and Pacific halibut recreational fishing regulations are not proposed for 2019.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Use the auto-conformance process for ocean salmon and Pacific halibut recreational fishing regulations for 2019.

Exhibits

1. [Staff summary for Aug 16, 2017, Agenda Item 17](#)
2. [PFMC salmon fact sheet](#)
3. [PFMC Pacific halibut fact sheet](#)

Motion/Direction (N/A)

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15. RED ABALONE FISHERY MANAGEMENT PLAN**Today's Item****Information** ☐**Action** ☒

Discuss next steps in Red Abalone Fishery Management Plan (FMP) development and consideration of peer review results.

Summary of Previous/Future Actions

- | | |
|--|-----------------------------------|
| • FGC supported red abalone FMP development per MRC recommendation | Oct 8, 2014; Mt. Shasta |
| • DFW updates to MRC on FMP process | 2015-2017; MRC meetings |
| • Received update on FMP process | Dec 6-7, 2017; San Diego |
| • Discussed FMP scope and content | Apr 18-19, 2018; Ventura |
| • Last update on FMP schedule | Aug 22-23, 2018; Fortuna |
| • Received peer review results for draft FMP | Oct 17, 2018; Fresno |
| • MRC discussed next steps | Nov 14, 2018; MRC, Sacramento |
| • Today discuss next steps and timeline | Dec 12-13, 2018; Oceanside |

Background

Since 2014, DFW has been developing a red abalone FMP for adoption by FGC, with regular updates to MRC and FGC on the process, progress, and stakeholder input. DFW abalone project staff have also kept FGC and MRC updated on the unprecedented environmental conditions on the north coast and subsequent biological impacts to abalone, and how those are affecting the FMP process and possible provisions. For a more detailed background on the process to date, see Exhibit 1.

This year, attention has focused on two proposed harvest control rules (HCRs) for the FMP: the DFW-recommended HCR, and an alternate HCR proposed by The Nature Conservancy using stakeholder-developed metrics. FGC supported analysis of both HCRs through an external, independent scientific peer review convened by the California Ocean Science Trust (OST), with support from the California Ocean Protection Council.

At the Oct 2018 FGC meeting, OST presented results and recommendations from the peer review (Exhibit 2). In particular, the peer review panel highlighted that a management strategy employing a combination of aspects from each proposed HCR may be more robust against uncertainty under different fishery conditions; the panel recommended an analysis to determine how to best integrate the HCRs. FGC referred to MRC's Nov 2018 meeting a discussion of next steps and possible pathways to respond to the peer review recommendations.

At the Nov 2018 MRC meeting, DFW presented MRC with a draft approach to responding to peer review recommendations and revising the draft FMP based on outcomes. Following

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discussion, MRC developed a recommendation (see below). Today, FGC will discuss next steps in developing the red abalone FMP, including consideration of peer review results.

Significant Public Comments

1. Support for MRC's recommendations (see below), using an outside facilitator to coordinate and organize public outreach during the harvest control rule integration process, and involving fishermen in data collection.

Recommendation

FGC staff: Approve MRC recommendation.

MRC: (1) Support addressing peer review recommendations to integrate aspects of both draft management strategies, based on a modeling approach developed by DFW and including engagement with abalone divers and other stakeholders; (2) revise FMP goals to allow for a *de minimis* fishery option; (3) develop triggers for the *de minimis* fishery option in consultation with stakeholders; and (4) request that DFW develop a proposed process and timeline which accounts for active public and MRC engagement.

Exhibits

1. [Staff summary for Agenda Item 11, Oct 17, 2018 \(for background purposes only\)](#)
2. [OST red abalone FMP peer review report, dated Oct 2018](#)
3. [Email from Jack Likins, received Nov 29, 2018](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission approves the Marine Resources Committee recommendation for the Red Abalone Fishery Management Plan as proposed.

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16. DELAYED OPENING AND CLOSURE OF FISHERIES DUE TO HUMAN HEALTH RISK**Today's Item****Information** ☒**Action** ☐

Discuss action taken by DFW's director to order the delay or closure of fisheries due to human health risk associated with elevated levels of domoic acid. For this meeting:

- (A) Delayed opening of recreational Dungeness crab season, from Patrick's Point (Humboldt County) to the California/Oregon state line;
- (B) Delayed opening of commercial Dungeness crab season, from Bodega Head (Sonoma County) to the Sonoma/Mendocino county line; and
- (C) Closure of commercial spiny lobster fishery, in State waters around Santa Cruz and Anacapa islands in Ventura County.

Summary of Previous/Future Actions (N/A)**Background**

Under Fish and Game Code Section 5523(a), DFW's director has authority to order the closure of any State waters or restrict the take of any fish species if state health agencies determine that the fish is likely to pose a human health risk from high levels of toxins. If the director takes such measures, he is required to notify FGC and request that FGC schedule a public discussion of the closure at its next scheduled regular meeting. Any actions taken pursuant to Section 5523 are exempt from the Administrative Procedure Act.

On Oct 25, 2018, DFW's director delayed the opening and closed the recreational Dungeness crab fishery from Patrick's Point in Humboldt County north to the California/Oregon state line due to unhealthy levels of domoic acid (Exhibit 1). Pursuant to Section 5523(b), the closure will continue until the director is notified by the public health agencies that a health risk no longer exists.

On Nov 9, 2018, DFW's director delayed the opening of and closed the commercial Dungeness crab fishery from the southern boundary of Bodega Head State Marine Reserve, Sonoma County north to the Sonoma/Mendocino county line (Exhibit 2). On Dec 3, 2018, DFW's director scheduled the commercial Dungeness crab fishery to open in the closed area on Dec 8, 2018 since state health agencies determined that there was no longer a significant human health risk due to domoic acid (Exhibit 3).

On Oct 16, 2018, DFW's director enacted a commercial spiny lobster fishery closure near Santa Cruz and Anacapa islands in Ventura County due to unhealthy levels of domoic acid (Exhibit 4). On November 16, 2018, DFW's director lifted the commercial spiny lobster fishery closure as recommended by state health agencies since domoic acid no longer posed a significant human health risk (Exhibit 5).

Significant Public Comments (N/A)**Recommendation (N/A)**

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Exhibits

1. [Declaration of fisheries closure - recreational Dungeness crab, signed Oct 25, 2018](#)
2. [Declaration of fisheries delay – commercial Dungeness crab, signed Nov 9, 2018](#)
3. [Declaration lifting fisheries delay – commercial Dungeness crab, signed Dec 3, 2018](#)
4. [Declaration of fisheries closure – commercial spiny lobster, signed Oct 16, 2018](#)
5. [Declaration lifting fisheries closure - commercial spiny lobster, signed Nov 16, 2018](#)

Motion/Direction (N/A)

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17. MARINE PETITIONS FOR REGULATION CHANGE**Today's Item**Information ☐Action ☒

This is a standing agenda item for FGC to act on regulation petitions from the public that are marine in nature. For this meeting:

- (A) Action on the petition for regulation change received at the Oct 2018 meeting
- (B) Pending regulation petitions referred to FGC staff and DFW for review (none scheduled)

Summary of Previous/Future Actions

- (A)
 - Receipt of new petitions Oct 17, 2018; Fresno
 - **Today's action on petition** **Dec 12-13, 2018; Oceanside**
- (B)
 - N/A

Background

Pursuant to Section 662, Title 14, any request for FGC to adopt, amend, or repeal a regulation must be submitted on form FGC 1, "Petition to the California Fish and Game Commission for Regulation Change".. Petitions received at an FGC meeting are scheduled for consideration at the next business meeting, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

A petition scheduled for consideration today under (A) was received at the Oct 2018 meeting; it was submitted by the comment deadline and published in the meeting binder.

- (A) ***Petition for regulation change***
 - I. *Petition #2018-013 (Authorized fishing hours for commercial ridgeback prawn):* Only allow trawl fishing from sunrise to sunset (Exhibit A1).
- (B) ***Pending regulation petitions***
 - I. No pending marine regulation petitions are scheduled for action at this meeting.

Significant Public Comments (N/A)**Recommendation**

- (A) ***FGC staff:*** Refer Petition #2018-013 to DFW for review and recommendation.
- (B) N/A

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Exhibits

- A1. Petition #2018-013: Authorized fishing hours for commercial ridgeback prawn, received Sep 19, 2018

Motion/Direction

- (A) Moved by _____ and seconded by _____ that the Commission adopts the staff recommendation to refer Petition #2018-013 to the California Department of Fish and Wildlife for review and recommendation.

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18. MARINE NON-REGULATORY REQUESTS**Today's Item****Information** ☐**Action** ☒

This is a standing agenda item for FGC to act on non-regulatory requests from the public that are marine in nature. For this meeting:

- (A) Consider action on non-regulatory requests received at the Oct 2018 meeting
- (B) Consider action on pending non-regulatory requests referred to FGC staff or DFW for review – none scheduled for today

Summary of Previous/Future Actions

(A)

- FGC received requests Oct 17, 2018; Fresno
- **Today's action on requests** **Dec 12-13, 2018; Oceanside**

(B)

N/A

Background

FGC provides direction regarding requests from the public received by mail and email and during public forum at the previous FGC meeting. Public requests for non-regulatory action follow a two-meeting cycle to ensure proper review and consideration.

- (A) **Non-regulatory requests.** Non-regulatory requests scheduled for consideration today were received at the Oct 2018 meeting in one of three ways: (1) submitted by the comment deadline and published as tables in the meeting binder, (2) submitted by the late comment deadline and delivered at the meeting, or (3) received during public comment.

Today, two non-regulatory requests received verbally at the Oct 2018 meeting are scheduled for action:

- I. Request to use federal disaster relief funding for public education
- II. Request to issue more commercial spot prawn permits

Exhibit A1 summarizes and contains staff recommendations for each request.

- (B) **Pending non-regulatory requests.** This item is an opportunity for staff to provide a recommendation on non-regulatory requests that were scheduled for consideration at a previous meeting and referred by FGC to staff or DFW for further review.

No items are scheduled for action today.

Significant Public Comments (N/A)

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Recommendation

- (A) Adopt the staff recommendation for each non-regulatory request as reflected in Exhibit A1.

Exhibits

- A1. List of marine non-regulatory requests and staff recommendations for requests received through Oct 17, 2018

Motion/Direction

- (A) Moved by _____ and seconded by _____ that the Commission adopts the staff recommendation for actions on October 2018 non-regulatory requests.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on October 2018 non-regulatory requests, except for item(s) _____ for which the action is _____.

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19. DEPARTMENT INFORMATIONAL ITEMS (MARINE)**Today's Item****Information** ☒**Action** ☐

This is a standing agenda item to receive and discuss informational updates from DFW:

- (A) Director's report
- (B) Law Enforcement Division
- (C) Marine Region

Summary of Previous/Future Actions (N/A)**Background**

Verbal reports are expected at the meeting for items (A) through (C).

- (C) The San Francisco Chronicle ran an op-ed article penned by Director Charlton Bonham on DFW's efforts to reduce whale entanglement and support the Dungeness crab fishery (Exhibit C1)

The Dungeness Crab Fishing Gear Working Group submitted recommendations to DFW for the 2018-19 season to support the State's efforts to reduce the risk of whale entanglements in Dungeness crab fishing gear (Exhibit C2).

The DFW Marine Region notified NOAA Fisheries that it intends to apply for an incidental take permit under Section 10 of the federal Endangered Species Act to address protected species interactions in certain State-managed, fixed-gear fisheries (Exhibit C3).

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

- C1. Charlton Bonham op-ed in the San Francisco Chronicle, *California seeks plan to protect whales and Dungeness crab fishery*, dated Nov 27, 2018; also available at <https://www.sfchronicle.com/opinion/openforum/article/California-seeks-plan-to-protect-whales-and-13426429.php>
- C2. Dungeness Crab Fishing Gear Working Group recommendations, received Oct 16, 2018
- C3. Letter from DFW to NOAA Fisheries, dated Nov 26, 2018

Motion/Direction (N/A)

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20. STRATEGIC PLANNING**Today's Item****Information** ☐**Action** ☒

This is a standing agenda item for 2018-19 FGC meetings as FGC develops a new strategic plan. Today is focused on potentially adopting a new mission statement, vision statement and core values.

Summary of Previous/Future Actions

- | | |
|---|-----------------------------------|
| • First FGC strategic planning meeting | Feb 22, 2018; Sacramento |
| • Discussions of mission, vision, core values | Jun - Oct, 2018 |
| • Today's discussion and potential adoption of mission, vision and core values | Dec 12-13, 2018; Oceanside |
| • Strategic planning update | Feb 6, 2019; Sacramento |

Background

FGC created its current strategic plan in 1998, which includes a mission statement and a vision statement. Over the ensuing 20 years much has changed, among them a commission with broader authorities, a more ecosystem-based approach to addressing fish and wildlife issues, and new challenges facing wildlife populations. With the upcoming 150-year anniversary of FGC, the time is right to reassess its mission and vision statements, and to potentially adopt a set of core values.

Today's meeting marks the fourth focused on potential changes to FGC's mission and vision established in 1998 (Exhibit 1) and a potential statement of core values. In Jun 2018, FGC held its initial discussion and between Jun and Oct 2018 held discussions with stakeholders specifically about draft core values and mission and vision statements that were prepared and revised with FGC, public and staff input. After discussion at the Oct 2018 FGC meeting, staff incorporated additional ideas and comments into a new set of draft documents, resulting in a final proposal (Exhibit 2). Given the evolving nature of strategic planning processes, staff suggests that the core values and mission and vision statements be reevaluated when we reach the start of the third, and final, planning phase.

Additionally, as we near the end of this first phase of the process, staff is seeking the assistance of a contractor with strategic planning expertise, in part to help ensure that the process stays on track for a complete and valuable product by FGC's 150-year anniversary. Staff has not yet been successful in obtaining outside funding for a contractor.

Significant Public Comments

Inyo County Fish and Wildlife Commission strongly supports the comments provided to the Commission in Oct 2018 by a group of over 20 hunting and fishing organizations (Exhibit 3).

Three sportmen's organizations provide a critique of the draft core values and vision and mission statements and make recommendations for additional changes. In general, they state that:

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- the draft core values and mission and vision statements unduly favor social and political policy values over sound scientific wildlife management and conservation, and that they also appear to favor the values of non-consumptive users over the values of consumptive users, such as as hunters, anglers, and commercial fishermen;
- an outside contractor is not necessary and that Fish and Game Preservation Fund money should not be used to hire a strategic planning contractor;
- clarification is needed on what the term “bold” means in the context of FGC’s mission; and
- a new core value, *scientific objectivity*, be added as the primary underlying value and basis for all FGC’s actions: We recognize the value of and will pursue informed decision-making based on the principles of sound scientific wildlife management and conservation. For purposes of this core value, conservation means the wise use and management of the state’s wildlife and habitat resources (Exhibit 4)

Recommendation

FGC staff: Adopt the proposed core values and mission and vision statements, and acknowledge that they may need revision before the strategic planning process is complete.

Exhibits

1. Current FGC mission and vision statements, adopted in 1998
2. Proposed core values, mission statement and vision statement, dated Nov 30, 2018
3. Email from Inyo County Fish and Wildlife Commission, received Oct 29, 2018
4. Email from Kathy Lynch, Lynch and Associates, conveying three letters from Safari Club International California Coalition, Outdoor Sportsmen’s Coalition of California, and California Sportsmen’s Lobby, received Nov 9, 2018

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the core values, a revised vision statement, and a revised mission statement as discussed and amended today, and commits to revisiting all three during the third phase of the strategic planning process.

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21. GENERAL PUBLIC COMMENT (DAY 2)**Today's Item****Information** ☒**Action** ☐

Receive public comments, petitions for regulation change, and requests for non-regulatory action for items not on the agenda.

Summary of Previous/Future Actions

- **Today's receipt of requests and comments** **Dec 12-13, 2018; Oceanside**
- Consider granting, denying or referring **Feb 6, 2019; Sacramento**

Background

This agenda item is primarily to provide the public an opportunity to address FGC on topics not on the agenda. Staff also includes written materials and comments received prior to the meeting as exhibits in the meeting binder (if received by written comment deadline), or as late comments at the meeting (if received by late comment deadline), for official FGC "receipt."

Public comments are generally categorized into three types under public forum: (1) petitions for regulation change; (2) requests for non-regulatory action; and (3) informational-only comments. Under the Bagley-Keene Open Meeting Act, FGC cannot discuss any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, petitions for regulation change and non-regulatory requests generally follow a two-meeting cycle (receipt and direction); FGC will determine the outcome of the petitions for regulation change and non-regulatory requests received at today's meeting at the next in-person FGC meeting following staff evaluation.

As required by the Administrative Procedure Act, petitions for regulation change will be either denied or granted and notice made of that determination. Action on petitions received at previous meetings is scheduled under a separate agenda item titled "Petitions for regulation change". Action on non-regulatory requests received at previous meetings is scheduled under a separate agenda item titled "Non-regulatory requests."

Significant Public Comments

All written comments were summarized and provided as exhibits under Agenda Item 2, "General public comment for items not on agenda".

Recommendation

Consider whether any new future agenda items are needed to address issues that are raised during public comment and are within FGC's authority.

Exhibits

[See exhibits for Agenda Item 2.](#)

Motion/Direction (N/A)

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22. NORTHERN CALIFORNIA SUMMER STEELHEAD (CONSENT)**Today's Item****Information** ☐**Action** ☒

- (A) Receive a petition to list northern California summer steelhead (*Oncorhynchus mykiss irideus*) as an endangered species under the California Endangered Species Act (CESA).
- (B) Consider DFW's request for a 30-day extension to review the petition.

Summary of Previous/Future Actions

- Received petition Sep 28, 2018
- FGC transmitted petition to DFW Oct 8, 2018
- Published notice of receipt of petition Oct 26, 2018
- **Today's public receipt of petition and act on DFW's request for a 30-day extension** **Dec 12-13, 2018; Fresno**
- Receive DFW 90-day evaluation Feb 6, 2019; Sacramento
- Determine if petitioned action may be warranted Apr 17-18, 2019; Los Angeles

Background

- (A) On Sep 28, 2018, FGC received a petition (Exhibit 1) from Friends of the Eel River to list northern California summer steelhead as endangered under CESA (Exhibit 1). On Oct 8, 2018, FGC staff transmitted the petition to DFW for review. A notice of receipt of petition was published in the California Regulatory Notice Register on Oct 26, 2018.
- (B) California Fish and Game Code Section 2073.5 requires that DFW evaluate the petition and submit a written evaluation with a recommendation to FGC within 90 days of receiving the petition; under this section, DFW may request an extension of up to 30 days to complete the evaluation. DFW has requested a 30-day extension (Exhibit 2); if approved, the due date for DFW's evaluation would change from Jan 6, 2019, to Feb 5, 2019.

Significant Public Comments

One comment was received recommending an increase in penalties for poaching endangered species (Exhibit 3).

Recommendation

FGC staff: Approve DFW's request for an extension of 30 days under a motion to adopt the consent calendar.

Exhibits

1. [Petition, received Sep 28, 2018](#)
2. [DFW memo, received Nov 5, 2018](#)
3. [Letter from Dennis Fox, received Nov 20, 2018](#)

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Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the FGC staff recommendations under items 22-26 on the consent calendar.

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23. BUMBLE BEES (CONSENT)**Today's Item****Information** ☐**Action** ☒

- (A) Receive a petition to list Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) as endangered species under the California Endangered Species Act (CESA).
- (B) Consider DFW's request for a 30-day extension to review the petition.

Summary of Previous/Future Actions

- Received petition Oct 17, 2018
- FGC transmitted petition to DFW Oct 26, 2018
- Published notice of receipt of petition Nov 9, 2018
- **Today's public receipt of petition and act on DFW's request for a 30-day extension** **Dec 12-13, 2018; Oceanside**
- Receive DFW 90-day evaluation Feb 6, 2019; Sacramento
- Determine if petitioned action may be warranted Apr 17-18; 2019; Los Angeles

Background

- (A) On Oct 17, 2018, FGC received a petition (Exhibit 1) from the Xerces Society for Invertebrate Conservation, Defenders of Wildlife, and Center for Food Safety to list Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) as endangered under CESA (Exhibit 1). On Oct 26, 2018, FGC staff transmitted the petition to DFW for review. A notice of receipt of petition was published in the California Regulatory Notice Register on Nov 9, 2018.
- (B) California Fish and Game Code Section 2073.5 requires that DFW evaluate the petition and submit a written evaluation with a recommendation to FGC within 90 days of receiving the petition; under this section, DFW may request an extension of up to 30 days to complete the evaluation. DFW requests a 30-day extension (Exhibit 3); if approved, the due date for DFW's evaluation would change from Jan 24, 2019, to Feb 23, 2019.

Significant Public Comments

A commenter requests the petition be rejected stating that it is deficient because CESA does not apply to insects (Exhibit 2).

Recommendation

FGC staff: Approve DFW's request for an extension of 30 days under a motion to adopt the consent calendar.

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Exhibits

1. [Petition, received Oct 17, 2018](#)
2. [Letter from Paul Weiland, Nossaman LLP, on behalf of Wonderful Orchards, received Oct 25, 2018](#)
3. [DFW's request for an extension of 30 days, received Dec 5, 2018](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the FGC staff recommendations under items 22-26 on the consent calendar.

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24. HUMBOLDT MARTEN (CONSENT)**Today's Item****Information** ☐**Action** ☒

Consider adopting findings for the decision to list Humboldt marten (*Martes caurina humboldtensis*) as an endangered species under the California Endangered Species Act (CESA).

Summary of Previous/Future Actions

- | | |
|---|-----------------------------------|
| • Received petition | Jun 8, 2015 |
| • FGC transmitted petition to DFW | Jun 18, 2015 |
| • Published notice of receipt of petition | Jul 24, 2015 |
| • Approved 30-day extension for DFW evaluation | Oct 7-8, 2015; Los Angeles |
| • Received DFW evaluation of petition | Dec 9-10, 2015; San Diego |
| • Determined listing may be warranted | Feb 10-11, 2016; Sacramento |
| • Approved DFW request for 6-month extension to complete status review report | Feb 8-9, 2017; Rohnert Park |
| • Received DFW's status review report | Jun 20-21, 2018; Sacramento |
| • Determined listing is warranted | Aug 22-23, 2018; Fortuna |
| • Today potentially adopt findings | Dec 12-13, 2018; Oceanside |

Background

On Aug 23, 2018, FGC made a finding pursuant to Fish and Game Code Section 2075.5, that the petitioned action to list Humboldt marten as endangered under CESA is warranted. FGC staff has completed a draft notice of findings substantiating FGC's action, for FGC's consideration today (Exhibit 1).

Significant Public Comments (N/A)**Recommendation**

FGC staff: Under a motion to adopt the consent calendar, adopt FGC staff's proposed notice of findings that the petitioned action to list Humboldt marten as endangered is warranted pursuant to Section 2075.5(e)(2) of the Fish and Game Code.

Exhibits

1. [Draft notice of findings](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the FGC staff recommendations for items 22-26 on the consent calendar.

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25. UPPER KLAMATH-TRINITY RIVER SPRING CHINOOK SALMON (CONSENT)**Today's Item****Information** ☒**Action** ☐

Receive DFW's 90-day evaluation report on the petition to list Upper Klamath-Trinity River spring Chinook salmon as an endangered species under the California Endangered Species Act (CESA).

Summary of Previous/Future Actions

- | | |
|--|-----------------------------------|
| • Received petition | Jul 23, 2018 |
| • FGC transmitted petition to DFW | Aug 2, 2018 |
| • Published notice of receipt of petition | Aug 17, 2018 |
| • Public receipt of petition and approved DFW's request for a 30-day extension | Oct 17, 2018; Fresno |
| • Today receive DFW's 90-day evaluation | Dec 12-13, 2018; Oceanside |
| • Determine if petitioned action may be warranted | Feb 6, 2019; Sacramento |

Background

A petition to list Upper Klamath-Trinity River spring Chinook salmon as an endangered species under CESA was submitted by the Karuk Tribe and the Salmon River Restoration Council on Jul 23, 2018. On Aug 2, 2018, FGC transmitted the petition to DFW for review. A notice of receipt of petition was published in the California Regulatory Notice Register on Aug 17, 2018.

California Fish and Game Code Section 2073.5 requires that DFW evaluate the petition and submit to FGC a written evaluation with a recommendation, which is being received today under the consent calendar (Exhibit 2).

Based upon the information contained in the petition and other relevant information, DFW has determined that there is sufficient scientific information available at this time to indicate that the petitioned action may be warranted. DFW recommends that the petition be accepted and considered (Exhibit 1).

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

1. [DFW memo, received Nov 27, 2018](#)
2. [DFW 90-day evaluation, dated Nov 2018](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the FGC staff recommendations under items 22-26 on the consent calendar.

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26. WILD TROUT WATERS POLICY**Today's Item**Information ☐Action ☒

Potentially approve proposed amendments to FGC's policy on Commission Designated Wild Trout Waters.

Summary of Previous/Future Actions (N/A)**Background**

Fish and Game Code Section 1727 requires that DFW annually submit to FGC a list of no less than 25 miles of stream or stream segments and at least one lake deemed suitable for designations as wild trout waters. DFW proposes the addition of two new waters:

1. Hilton Lake #4 (Mono County), and
2. South Fork Smith River, from the confluence with Craigs Creek upstream to Goose Creek, including Craigs Creek, Rock Creek, and Coon Creek, and excluding all other tributaries (Del Norte County).

DFW further proposes that the South Fork Smith River stream segment also be designated as a Heritage Trout Water, which is a further designation by FGC to recognize the beauty, diversity, historical significance, and special values of California's native trout. Heritage trout waters support populations that best exemplify indigenous strains of native trout within their historic drainages, and are able to provide anglers with the opportunity to catch native trout consistent with the conservation of the native trout present. Exhibit 1 provides more detail on the proposed changes to the policy.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Approve amendments to the policy on Commission Designated Wild Trout Waters as recommended by DFW.

DFW: Approve the recommended amendments.

Exhibits

1. [DFW memo, including Commission Designated Wild Trout Waters policy text with proposed amendments, received Nov 15, 2018](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for items 22-26 under the consent calendar.

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27. WILDLIFE RESOURCES COMMITTEE (WRC)**Today's Item**Information ☐Action ☒

Discuss and consider approving draft agenda topics for the next WRC meeting, and consider approving new topics to address at a future WRC meeting.

Summary of Previous/Future Actions

- Most recent WRC meeting Sep 20, 2018; WRC, Sacramento
- **Today consider approving draft WRC meeting agenda topics** **Dec 12-13, 2018; Oceanside**
- Next WRC meeting Jan 10, 2019; WRC, Ontario

Background***WRC Work Plan and Draft Timeline***

FGC directs committee work. Current topics already referred to WRC are shown in Exhibit 1. Draft agenda topics for the Jan 2019 WRC meeting are shown in the Jan column of the WRC work plan for FGC review and consideration today. Topics include: (1) discussion and recommendations on annual upland (resident) game bird hunting regulations; (2) discussion of the statewide sport fishing revision and simplification for 2020 regulations; and (3) review of a draft FGC Delta fisheries policy.

Discuss and Approve New WRC Topics

Staff proposes referring the bullfrog and non-native turtle project to WRC. Referral would support productive discussions and more opportunity for public input as the stakeholder engagement process approved by FGC proceeds, leading to a potential WRC recommendation. Staff also recommends that Petition #2016-030 (American bullfrogs), referred to staff for review in 2017, be referred to WRC for consideration and potential recommendation through the project process.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Refer to WRC the Bullfrog and non-native turtle project and Petition #2016-030, and approve the draft agenda topics for the January 2019 WRC meeting.

Exhibits

1. [WRC work plan, updated Dec 3, 2018](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission approves the new topic as proposed by staff, and approves the draft agenda topics for the January 2019 Wildlife Resources Committee meeting.

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28. SPORT FISHING (ANNUAL)**Today's Item****Information** ☐**Action** ☒

Consider adopting proposed changes to sport fishing regulations.

Summary of Previous/Future Actions

- | | |
|-----------------------------------|-----------------------------------|
| • WRC vetting | Jan 11, 2018; Santa Rosa |
| • Notice hearing | Aug 22-23, 2018; Fortuna |
| • Discussion hearing | Oct 17, 2018; Fresno |
| • Today's adoption hearing | Dec 12-13, 2018; Oceanside |

Background

Three changes to sport fishing regulations are proposed, related to the definition of inland waters, size and bag limit for Lake Perris largemouth bass, and report card requirements.

Inland Waters Definition (Exhibit 1)

The current definition of inland waters can be confusing to anglers who want to fish two rods in a bay, but are not sure if a second rod validation is required; a second-rod validation is only required in inland waters. However, the current definition is not clear whether inland waters include or exclude bays. The definition reads, "Inland waters exclude the waters of San Francisco Bay and the waters of Elkhorn Slough..." To be consistent and clear, the proposed change in definition clarifies that all bays are excluded, not just San Francisco Bay, and, therefore, a second rod validation is not required in a bay.

Lake Perris Largemouth Bass Size and Bag Limit (Exhibit 1)

The current regulations were changed in 2009 to protect the fishery when the lake was drawn down by 43% to repair the dam. The dam repair has been completed and the water is restored to an 80% pool. DFW proposes to re-establish the bass regulations to the statewide standard of 5 fish at 12 inches.

Sport Fishing Report Cards Requirements (Exhibit 2)

Report card regulations do not include a mechanism for confirming that report card holders have meet report card reporting requirements. This proposal would require report card holders who submit data online to write the provided confirmation number on their card and retain the card until 90 days after the reporting deadline. Additionally, this proposal updates lost report card procedures to provide guidelines for obtaining a replacement card, and for reporting harvest from a lost card without obtaining a replacement.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Adopt the negative declaration and proposed regulation changes.

DFW: Adopt the regulation changes as presented in the initial statement of reasons (ISOR).

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Exhibits

1. [ISOR, sections 1.53 and 5.00](#)
2. [ISOR, Section 1.74](#)
3. [Economic and fiscal impact statement \(Std. 399\)](#)
4. [Negative declaration as filed with the State Clearinghouse on Sep 20, 2018](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission finds that the negative declaration reflects the independent judgment of the Commission and adopts the negative declaration, adopts the proposed project, and adopts proposed changes to sections 1.53, 1.74 and 5.00 related to sport fishing regulations.

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29. KLAMATH RIVER BASIN SPORT FISHING**Today's Item****Information** ☐**Action** ☒

Consider authorization to publish notice of intent to amend Klamath River Basin sport fishing regulations.

Summary of Previous/Future Actions

- | | |
|---------------------------------|-----------------------------------|
| • Today's notice hearing | Dec 12-13, 2018; Oceanside |
| • Discussion hearing | Feb 6, 2019; Sacramento |
| • Discussion hearing | Apr 17-18, 2019; Los Angeles |
| • Adoption hearing | May 16, 2019; Teleconference |

Background

FGC annually adopts Klamath River Basin salmon sport fishing regulations for consistency with federal fishery management goals. Specific bag and possession limits for Klamath River Basin Fall-run Chinook Salmon (KRFC) are scheduled for adoption after the Pacific Fishery Management Council (PFMC) has reviewed the status of West Coast salmon stocks and final fishery allocation recommendations have been adopted.

Subsection 7.50(b)(91.1) is proposed for amendment to change the quota, bag limit and possession limit.

For notice purposes, DFW recommends an allocation range of 0-67,600 adult KRFC; a bag limit between 0-4 KRFC, of which 0-4 may be adult KRFC until the quota is met, then 0 adult KRFC; and a possession limit of 0-12 KRFC, of which 0-4 may be adult fish when the take of adult fish is allowed.

Pre-season stock projections of 2019 adult KRFC will not be available from PFMC until Mar 2019. The 2019 basin allocation will be recommended by PFMC in Apr 2019 and presented to FGC for adoption as the in-river sport harvest quota at FGC's May 2019 teleconference.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Authorize publication of a notice as recommended by DFW.

Committee: Authorize publication of a notice as recommended by DFW.

DFW: Authorize publication of a notice as detailed in the initial statement of reasons (ISOR) (Exhibit 2).

Exhibits

1. [DFW memo, received Dec 3, 2018](#)
2. [Draft ISOR](#)

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3. [Draft economic and fiscal impact statement \(Std. 399\)](#)
4. [DFW presentation](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend subsection 7.50(b)(91.1), related to Klamath River Basin sport fishing regulations.

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30. CENTRAL VALLEY SALMON SPORT FISHING**Today's Item****Information** ☐**Action** ☒

Consider authorization to publish notice of intent to amend Central Valley salmon sport fishing regulations.

Summary of Previous/Future Actions

- | | |
|---------------------------------|-----------------------------------|
| • Today's notice hearing | Dec 12-13, 2018; Oceanside |
| • Discussion hearing | Feb 6, 2019; Sacramento |
| • Discussion hearing | Apr 17-18, 2019; Los Angeles |
| • Adoption hearing | May 16, 2019; Teleconference |

Background

FGC generally adopts Central Valley salmon sport fishing regulations on an annual basis to align state regulations with federal fishery management goals set by the Pacific Fishery Management Council (PFMC).

DFW is proposing a range of size, bag and possession limits for Sacramento River Fall-run Chinook Salmon in the American, Feather, Mokelumne, and Sacramento rivers to encompass possible PFMC 2019 recommendations for Central Valley salmon escapement goals. PFMC's escapement estimate will be released in mid-Apr 2019.

The scope of options in the initial statement of reasons (ISOR; Exhibit 2) is intentionally broad to allow for flexibility in developing the final Central Valley salmon limits. DFW will recommend specific regulation changes to FGC at its Apr 17-18, 2019 meeting for adoption at FGC's May 16, 2019 teleconference.

Three options are being presented for consideration:

- Option 1 allows take of any size Chinook salmon;
- Option 2 allows for take of a limited number of adult (3-5 year-old) Chinook salmon, with grilse (2 year-old) Chinook salmon making up the remainder of the daily bag and possession limits;
- Option 3 allows for take of only grilse Chinook salmon.

When considering a grilse fishery, it is important to determine a size cut-off that balances angling harvest opportunity for male grilse versus preserving the limited number of females available to spawn. DFW is proposing a grilse salmon size limit range of less than or equal to 26 to 28 inches total length for discussion before DFW makes a final recommendation in Apr.

All options increase fishing opportunities on the Feather and Mokelumne rivers by: (1) extending the salmon fishing season by two weeks on the Feather River between the Thermalito Afterbay Outfall and the Live Oak boat ramp; and (2) by extending the salmon and hatchery steelhead

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fishing season by two and one-half months on approximately ten miles of the Mokelumne River between the Highway 99 Bridge and Elliott Road.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Authorize publication of a notice as recommended by DFW.

Committee: Authorize publication of a notice as recommended by DFW.

DFW: Authorize publication of a notice as detailed in the ISOR.

Exhibits

1. [DFW memo, received Dec 3, 2018](#)
2. [Draft ISOR](#)
3. [Draft economic and fiscal impact statement \(Std. 399\)](#)
4. [DFW presentation](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend subsections 7.50(b)(5), et al., related to Central Valley salmon sport fishing regulations.

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31. MAMMAL HUNTING**Today's Item****Information** ☐**Action** ☒

Consider authorization to publish notice of intent to amend mammal hunting regulations, including sheep/elk tag quotas and deer/elk tag validation.

Summary of Previous/Future Actions

- | | |
|---------------------------------|-----------------------------------|
| • WRC vetting | Sep 20, 2018; WRC, Sacramento |
| • Today's notice hearing | Dec 12-13, 2018; Oceanside |
| • Discussion hearing | Feb 6, 2019; Sacramento |
| • Adoption hearing | Apr 17-18, 2019; Los Angeles |

Background

Nelson Bighorn Sheep – Proposed changes as reflected in the initial statement of reasons (ISOR) (Exhibit 2):

- Adjust the number of Nelson bighorn ram tags available for the 2019 season based on bighorn sheep spring population surveys conducted by DFW. Final tag quota determinations will be made pending completion of all surveys and data analyses.
- Establish the Newberry, Rodman and Ord Hunt Zone as a new bighorn sheep hunt zone in San Bernardino County.
- Reallocate the Kelso Peak/Old Dad Mountains fund-raising tag due to a significant population decline in the herd unit following a recent outbreak of respiratory disease. The proposal would reallocate this fund-raising tag to be valid in the Cady Mountains Hunt Zone.

Elk – Proposed changes as reflected in the ISOR (Exhibit 3):

- Specify elk license tag quotas for each hunt in accordance with management goals and objectives. The proposed ranges of elk tags for 2019 are presented in subsections 364(r) through 364(aa).
- Amend and correct the Special Condition in subsection (d)(13)(B)3 for the East Park Reservoir General Methods Tule Elk Hunt, alerting hunters to the current Colusa County variance which permits the use of muzzleloaders. Additionally, due to military use constraints at Fort Hunter Liggett, alert hunters that hunt dates are annually subject to change and may be adjusted or cancelled by the base commander pursuant to subsection 364(p)(4).

SHARE Elk Hunts – Proposed changes as reflected in the ISOR (Exhibit 4):

- Adjust elk tag quotas for each hunt area, in response to dynamic environmental and biological conditions, to achieve elk herd management goals and objectives and maintain hunting quality. Preliminary tag quota ranges are provided; the number of tags

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recommended will be proposed prior to the Apr 2019 adoption hearing based on survey data collected between Aug 2018 and Mar 2019.

Tag Countersigning and Transporting Requirements – Proposed changes as reflected in the ISOR (Exhibit 5):

- Clarifies the regulatory requirement for countersigning deer and elk tags by an authorized person who physically signs their name to the tag attached to the deer or elk carcass. Specifically, clarifies for the public and law enforcement that “firefighters employed on a full-time basis” are authorized to countersign, in addition to the other authorized persons found in 708.6(c); part-time, volunteer, or other fire station personnel are not authorized to sign the tag.
- Also clarifies that the authorized persons “countersign” as the required action, corrects outdated state job title of Plant Quarantine Inspector, clarifies that the provisions apply both to deer and elk tags, and other minor editorial changes.

Significant Public Comments (N/A)

Recommendation

FGC staff: Authorize publication of a notice as recommended by DFW

Committee: Authorize publication of a notice as recommended by DFW

DFW: Authorize publication of a notice as proposed in the ISOR.

Exhibits

1. DFW memo, received Nov 21, 2018
2. Draft Nelson bighorn sheep ISOR
3. Draft elk ISOR
4. Draft SHARE elk hunts ISOR
5. Draft tag countersigning ISOR
6. Draft economic and fiscal impact statement (Std. 399)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend sections 362, 364, 364.1 and 708.6 related to mammal hunting regulations.

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32. ARCHERY EQUIPMENT AND CROSSBOW**Today's Item****Information** ☐**Action** ☒

Consider authorization to publish notice of intent to amend archery equipment and crossbow regulations.

Summary of Previous/Future Actions

- | | |
|---|-----------------------------------|
| • FGC granted Petition #2017-001 (firearms) | Apr 18-19, 2018; Ventura |
| • WRC vetting (bows/crossbows) | Sep 20, 2018; WRC, Sacramento |
| • Today's notice hearing | Dec 12-13, 2018; Oceanside |
| • Discussion hearing | Feb 6, 2019; Sacramento |
| • Adoption hearing | Apr 17-18, 2019; Los Angeles |

Background

DFW proposes two changes to archery equipment and crossbow regulations (Exhibit 1), as reflected in the initial statement of reasons (ISOR; Exhibit 2). The first, changing the standards for bows and crossbows, is a DFW request. The second, carrying firearms while archery hunting, is in response to FGC granting Petition #2017-001 in Apr 2018.

Subsection 354(f) requires that a bow “cast a legal hunting arrow...130 yards” with an intent to ensure that archery equipment is strong enough to project an arrow at a rate lethal to the game mammal; DFW has experienced difficulties enforcing this performance standard. DFW proposes a new standard prescribing a specific draw weight for a bow and a crossbow of at least 40 pounds and 125 pounds, respectively. Draw weight as used in archery sports is the measure of force required to draw a bow to a ready-to-fire position, and is the standard measurement in the majority of surrounding states.

Subsection 354(h) states that “archers may not possess a firearm while hunting in the field during any archery season, or while hunting during a general season under the provisions of an archery only tag.” DFW proposes an amendment allowing possession of a concealable firearm while hunting big game other than deer under an archery-only tag, provided the hunter does not use the firearm in any way to take the game animal. Pursuant to Fish and Game Code Section 4370, possession of a concealable firearm is not allowed while deer hunting; however, Section 4370 does provide an exception for peace officers.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Authorize publication of a notice as recommended by DFW.

Committee: Authorize publication of a notice as recommended by DFW (committee discussion did not include subsection 354(h) related to possessing a firearm under an archery-only tag).

DFW: Authorize publication of a notice as proposed in the ISOR.

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Exhibits

1. DFW memo, received Nov 21, 2018
2. Draft ISOR
3. Draft economic and fiscal impact statement (Std. 399)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend Section 354, related to archery equipment and crossbow regulations.

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33. WATERFOWL (ANNUAL)**Today's Item****Information** ☐**Action** ☒

Consider authorizing publication of notice of intent to amend annual migratory waterfowl regulations, including issuance of a federal electronic stamp.

Summary of Previous/Future Actions

- | | |
|---------------------------------|-----------------------------------|
| • WRC vetting | Sep 20, 2018; WRC, Sacramento |
| • Today's Notice hearing | Dec 12-13, 2018; Oceanside |
| • Discussion hearing | Feb 6, 2019; Sacramento |
| • Adoption hearing | Apr 17-18, 2019; Los Angeles |

Background

DFW proposes changes to migratory waterfowl regulations in Section 502 (Exhibit 2), to match the proposed frameworks for the 2019-20 season which are approved by the Pacific Flyway Council and are adopted by the U. S. Fish and Wildlife Service (Service). The proposed frameworks allow for a liberal, 107-day duck season. Duck daily bag limit ranges and duck season length ranges are provided to allow FGC flexibility (Exhibit 2).

A range of season length and bag limits (zero bag limit represents a closed season) is also provided for black brant. The ranges are necessary, as the black brant frameworks cannot be determined until the Pacific Flyway Winter Brant Survey is conducted in January 2019.

DFW recommendations are to:

- (1) add small Canada geese to the regular season in subsection 502(d)(1)(B) for the Northeastern California Zone,
- (2) add small Canada geese to season in subsection 502(d)(6)(A)3 for the Klamath Basin Special Management Area, and
- (3) open the late season for white geese two weeks after the close of the regular season in subsection 502(d)(6)(A)9 for the Imperial County Special Management Area.

Section 509 (Exhibit 3) incorporates requirements found in Federal regulations, including a requirement that hunters must possess a Federal migratory-bird hunting and conservation stamp for the taking of migratory birds. To be consistent with Federal regulations and allow DFW to issue electronic Federal migratory-bird hunting and conservation stamps in the future, amendments to the text of Section 509 are necessary.

The California Waterfowl Association will express a desire (see late comments) to close the waterfowl season on Jan 31 instead of the last Sunday in Jan. The Service Regulation Committee (SRC) of the Pacific Flyway recently approved the Jan 31 request for Mississippi and any other state that may wish to change. This last-minute option was only recently received by DFW and it has not been analyzed in either the draft initial statement of reasons or the draft environmental documents (already filed with the State Clearinghouse). DFW is

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recommending no change to the season close day (last Sunday in Jan) until there has been adequate opportunity to vet the effects of this change. There are several reasons for DFW's recommendation:

- An analysis of the Jan 31, 2020 season closure was not included in the environmental document filed with State Clearinghouse.
- Jan 31 may or may not fall on a Sunday (in 2020 it falls on Friday). Traditionally, duck hunting seasons open and close on weekends. There are no data (human dimensions/hunter surveys) to support a midweek change. Public hunt areas get more use on weekends than they do midweek and most people have Monday-Friday jobs. So a midweek opener/closure may have an economic effect on local businesses.
- If the duck season were to close on a non-Sunday, the way California's season lengths are currently configured, it would require the opening day for other hunts to fall on a non-weekend as well.
- One option would be to open on a Saturday and then close for a few days during the week in order to take advantage of the January 31 closing date, but this complicates regulations. The public hunt areas that the Department administers receive more use on weekends as opposed to midweek and most people have Monday-Friday jobs.
- Opening on a Saturday and then closing for a few days during the week would also affect youth hunt days, which are currently held seven days after the close of the regular season, and split seasons.

The DFW Waterfowl Program tends to take cautious steps (supported by data) when recommending major changes to hunting season regulations; DFW recommends fully vetting consideration of a Jan 31 end date, and its consequences for hunters, hunting seasons, and local businesses.

Significant Public Comments (N/A)

Recommendation

FGC staff: Authorize publication of a notice as recommended by DFW, and properly vet a potential change to the season closure.

Committee: Authorize publication of a notice as recommended by DFW.

DFW: Authorize publication of a notice as proposed in the initial statement of reasons (ISOR).

Exhibits

1. DFW memo, received Nov 6, 2018
2. Draft migratory waterfowl (ISOR)
3. Draft concurrence with federal regulations ISOR
4. Draft economic and fiscal impact statement (Std. 399)

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Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend sections 502 and 509 related to annual waterfowl regulations.

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34. WILDLIFE AND INLAND FISHERIES PETITIONS FOR REGULATION CHANGE**Today's Item****Information** ☐**Action** ☒

This is a standing agenda item for FGC to act on regulation petitions from the public that are non-marine in nature. For this meeting:

- (A) Action on the petition for regulation change received at the Oct 2018 meeting.
- (B) Update on pending regulation petitions referred to staff or DFW for review (none scheduled)

Summary of Previous/Future Actions

- (A)
 - Receipt of new petitions Oct 17, 2018; Fresno
 - **Today's action on petitions** **Dec 12-13, 2018; Oceanside**
- (B)
 - N/A

Background

Pursuant to Section 662, Title 14, any request for FGC to adopt, amend, or repeal a regulation must be submitted on form FGC 1, "Petition to the California Fish and Game Commission for Regulation Change." Petitions received at an FGC meeting are scheduled for consideration at the next business meeting, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

A petition scheduled for consideration today under (A) was received at the Oct 2018 meeting; it was submitted by the comment deadline and published in the meeting binder.

(A) *Petition for regulation change*

- I. *Petition #2018-14 (Boat limits for finfish)*: Allow anglers to continue fishing until boat limits are reached while fishing for finfish in inland waters (Exhibit 1).

(B) *Pending regulation petitions*

- I. No pending wildlife and inland fisheries regulation petitions are scheduled for action at this meeting.

Significant Public Comments (N/A)**Recommendation**

- (A) **FGC staff:** Refer Petition #2018-14 to DFW for review and recommendation.
- (B) N/A

Exhibits

- A1. Petition #2018-14: boat limits for finfish, received Oct 4, 2018

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Motion/Direction

- (A) Moved by _____ and seconded by _____ that the Commission adopts the staff recommendation to refer Petition #2018-14 to the California Department of Fish and Wildlife for review and recommendation.

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35. WILDLIFE AND INLAND FISHERIES NON-REGULATORY REQUESTS**Today's Item****Information** ☐**Action** ☒

This is a standing agenda item for FGC to act on non-regulatory requests from the public that are non-marine in nature. For this meeting:

- (A) Consider action on non-regulatory requests received at the Oct 2018 meeting.
- (B) Consider action on pending non-regulatory requests referred to FGC staff or DFW for review.

Summary of Previous/Future Actions

(A)

- FGC receipt of requests Oct 17-18, 2018; Fresno
- **Today's action on requests** **Dec 12-13, 2018; Oceanside**

(B)

- FGC receipt of request Aug 16, 2017; Sacramento
- Request referred to DFW Oct 11-12, 2017; Atascadero
- **Today's action on requests** **Dec 12-13, 2018; Oceanside**

Background

FGC provides direction regarding requests from the public received by mail and email and during public forum at the previous FGC meeting. Public requests for non-regulatory action follow a two-meeting cycle to ensure proper review and consideration.

- (A) **Non-regulatory requests.** Non-regulatory requests scheduled for consideration today were received at the Oct 2018 meeting in one of three ways: (1) submitted by the comment deadline and published as tables in the meeting binder, (2) submitted by the late comment deadline and delivered at the meeting, or (3) received during public comment.

Today, two non-regulatory requests received at the Oct 2018 meeting are scheduled for action. Exhibit A1 summarizes and contains staff recommendations for each request; see individual written requests in exhibits A2-A3.

- (B) **Pending non-regulatory requests.** This item is an opportunity for staff to provide a recommendation on non-regulatory requests that were scheduled for action at a previous meeting and referred by FGC to staff or DFW for further review.

One item is scheduled for action today related to Sacramento pikeminnow. The item is summarized and a staff recommendation is provided in Exhibit A1; DFW's memo with a response is provided in Exhibit B1.

Significant Public Comments

WRC and FGC have received several comments, both written and verbally, requesting the cessation of hunting in areas affected by this year's wildfires (for an example, see Exhibit A4).

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Recommendation

- (A) Adopt the staff recommendation for each non-regulatory request as reflected in Exhibit A1.
- (B) Adopt the staff recommendation for Sacramento pikeminnow as reflected in Exhibit A1.

Exhibits

- A1. List of terrestrial and inland waters non-regulatory requests and staff recommendations
- A2. Email from Brigitte Robertson requesting the cancellation of hunting in areas affected by wildfires, received Aug 17, 2018
- A3. Email from Steffanie Byrnes requesting action to control coyotes, received Sep 5, 2018
- A4. Letter from Marilyn Jasper, Sierra Club and Public Interest Coalition, requesting the cancellation of hunting in areas affected by wildfires, received Nov 29, 2018
- B1. Memo from DFW opposing a bounty on Sacramento pikeminnow, received Oct 12, 2018

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on December 2018 non-regulatory requests.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on December 2018 non-regulatory requests except for _____, for which the action is _____.

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36. DEPARTMENT INFORMATIONAL ITEMS (TERRESTRIAL AND INLAND FISHERIES)**Today's Item****Information** ☒**Action** ☐

This is a standing agenda item to receive and discuss informational updates from DFW:

- (A) Director's report
- (B) Law Enforcement Division
- (C) Wildlife and Fisheries Division and Ecosystem Conservation Division

Summary of Previous/Future Actions (N/A)**Background**

Verbal reports are expected at the meeting for items (A) through (C).

- (A) The director's report will include an update on tricolored blackbird population estimates and progress with safe harbor agreements.
- (B) The Law Enforcement Division prepares a quarterly report containing a snapshot of wildlife officers and their work, from poaching and pollution investigations to handling calls about problem wildlife and assisting allied law enforcement agencies (Exhibit B1).
- (C) The Wildlife and Fisheries Division report will include an update on efforts to eradicate nutria in California and an update on wildfires and wildlife populations.

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

- B1. DFW Law Enforcement Division 2nd quarter report, received Nov 27, 2018

Motion/Direction (N/A)

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37A. ADMINISTRATIVE ITEMS – NEXT MEETING**Today's Item**Information ☐Action ☒

This is a standing agenda item to review logistics and approve draft agenda items for the next FGC meeting.

Summary of Previous/Future Actions (N/A)**Background**

The next FGC meeting is scheduled for Feb 6, 2019 in Sacramento. As a single day meeting, both marine and wildlife and inland fisheries items will be heard on the same day. Staff does not anticipate any special logistics for this meeting.

Potential agenda items for the Feb meeting are provided in Exhibit 1 for consideration and potential approval.

Note that for two-day FGC meetings in 2019, wildlife and inland fisheries items will be heard on the first day and marine items will be heard on the second day.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Approve draft agenda topics for the Feb 6, 2019 FGC meeting.

Exhibits

1. Potential agenda items for the Feb 6, 2019 meeting

Motion/Direction

Moved by _____ and seconded by _____ that the Commission approves the draft agenda items for the February 6, 2019 Commission meeting, as amended today.

STAFF SUMMARY FOR DECEMBER 12-13, 2018

37B. ADMINISTRATIVE ITEMS – RULEMAKING TIMETABLE**Today's Item**Information ☐Action ☒

Review and consider approving requested changes to the perpetual timetable for anticipated regulatory actions.

Summary of Previous/Future Actions

- FGC approved changes to rulemaking timetable Oct 17, 2018; Fresno
- **Today consider approving proposed rulemaking timetable Dec 12-13, 2018; Oceanside**

Background

FGC maintains a perpetual timetable for anticipated regulatory actions. At each FGC meeting, staff provides the latest approved timetable along with requests for changes from FGC staff and DFW, highlighted in bolded and underlined blue text (Exhibit 1).

- It is anticipated that DFW will request a delay in the Pacific Herring Fishery Management Plan (FMP) under Agenda Item 13, which will also require a delay to the rulemaking for implementing regulations for the FMP.

FGC staff makes the following recommendations:

- Add reference to Deer/Elk Tag Validation with Mammal Hunting.
- Replace "Sport Fishing (Annual)" with "Statewide Sport Fishing Revisions and Simplification for 2020".
- Correct Klamath-Trinity Salmon to read Klamath River Basin Sport Fishing (Annual).
- Due to the Feb 2019 FGC meeting changing from two days (Feb 6-7) to one (Feb 6), move regulatory action items originally scheduled for Feb 7 to Feb 6, 2019.
- Additions and edits to committee vetting and recommendation days.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Adopt the proposed changes to the timetable for anticipated regulatory actions and provide direction on the scheduling of any rulemaking changes identified during the meeting.

Exhibits

1. Proposed timetable for anticipated regulatory actions, dated Dec 6, 2018

Motion/Direction

Moved by _____ and seconded by _____ that the Commission approves the proposed changes to the rulemaking timetable.

STAFF SUMMARY FOR DECEMBER 12-13, 2018

37C. ADMINISTRATIVE ITEMS – NEW BUSINESS

Today's Item

Information ☒

Action ☐

This is a standing agenda item to allow Commissioners to bring new items of business to FGC.

Summary of Previous/Future Actions (N/A)

Background (N/A)

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits (N/A)

Motion/Direction (N/A)

STAFF SUMMARY FOR DECEMBER 12-13, 2018

EXECUTIVE SESSION**Today's Item**Information ☐Action ☒

Executive session will include four standing topics:

- (A) Pending litigation to which FGC is a party
- (B) Possible litigation involving FGC
- (C) Staffing
- (D) Deliberation and action on license and permit items – none scheduled

Summary of Previous/Future Actions (N/A)**Background**

During the public portion of its meeting, FGC will call a recess and reconvene in a closed session pursuant to the authority of Government Code subsections 11126(a)(1), (c)(3), and (e)(1), and Section 309 of the Fish and Game Code. FGC will address the following items in closed session:

(A) *Pending litigation to which FGC is a party*

See agenda for a complete list of pending civil litigation to which FGC is a party.

(B) *Possible litigation involving FGC*

None to report at the time the meeting binder was prepared.

(C) *Staffing*

FGC's executive director is still serving as DFW's chief deputy director through a temporary assignment. FGC's deputy executive director is fulfilling the role of acting executive director, consistent with the deputy executive director's duty statement.

Recommendation (N/A)**Motion/Direction (N/A)**

CALIFORNIA FISH AND GAME COMMISSION
RECEIPT LIST FOR REGULATION CHANGE REQUESTS: RECEIVED BY 5 PM ON NOVEMBER 29, 2018
Revised 11-30-2018

FGC - California Fish and Game Commission **DFW** - California Department of Fish and Wildlife **WRC** - Wildlife Resources Committee **MRC** - Marine Resources Committee

Tracking No.	Date Received	Accept or Reject	Name of Petitioner	Subject of Request	Code or Title 14 Section Number	Short Description	FGC Decision
2018-016	11/9/2018	A	Donald Jardine, Alpine County Board of Supervisors	Hope Valley Wildlife Area	T14, 551(w)(15)	Remove Hope Valley Wildlife Area from the Lands Pass Program	Receipt: 12/12-13/2018 Action scheduled: 2/6/2019
2018-017	11/27/2018	A	Ben Wolfe III	Fillet Size for Ocean Whitefish	T14, 27.65 (b)(10)	Delete minimum fillet size for ocean whitefish and only require the fillet to bear the entire skin intact	Receipt: 12/12-13/2018 Action scheduled: 2/6/2019

CALIFORNIA FISH AND GAME COMMISSION
RECEIPT LIST FOR NON-REGULATORY ACTION: RECEIVED BY 5 PM ON NOVEMBER 29, 2018
Revised 11-30-18

FGC - California Fish and Game Commission **DFW** - California Department of Fish and Wildlife **WRC** - Wildlife Resources Committee **MRC** - Marine Resources Committee

Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Decision
10/10/2018	Blake Alexandre, Alexandre EcoDairy Farms	Private Land Management (PLM) and Roosevelt elk	Requests a change in PLM practices concerning Roosevelt elk.	Receipt: 12/12-13/2018 Action scheduled: 2/6/2019
11/8/2018	Anita Youabian	Driftnet fishery	Requests an end to the driftnet fishery in California.	Receipt: 12/12-13/2018 Action scheduled: 2/6/2019
11/26/2018	Rachel Doughty, Greenfire Law	Investigation of Nestlé Waters North America, Inc.	Requests an investigation of and enforcement against Nestlé Waters North America, Inc. for potential violations of California Fish and Game Code Section 1602.	Receipt: 12/12-13/2018 Action scheduled: 2/6/2019



RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2018 NOV 12 PM 12:51

**COUNTY OF ALPINE
Board of Supervisors**

November 7, 2018

California Fish and Game Commission
Re: Petition to the CA Fish and Game Commission
for Regulation change.
Eric Sklar, President
1416 Ninth St, Room 1320
Sacramento, CA 94244-2090

RE: Enclosed Petition to the California Fish and Game Commission for Regulation Change
Request to repeal Title 14 Section 551(w) (15) Removing Hope Valley Wildlife Area from the
Lands Pass Program.

Dear Commission Members:

Mr. Erik Sklar, President
Mr. Anthony C. Williams, Vice President
Mrs. Jacque Hostler-Carmesin, Member
Mr. Russell Burns, Member
Mr. Peter Silva, Member

Alpine County Board of Supervisors respectfully request that California Fish and Wildlife
Commission remove Hope Valley Wildlife Area from the Lands Pass Program.

Please see enclosed Petition to the California Fish and Game Commission for Regulation
Change requesting to repeal Title 14 Section 551(w) (15) Removing Hope Valley Wildlife Area
from the Lands Pass Program.

Please notify Alpine County Board of Supervisors regarding which meeting the Commission will
review this petition. Please notify us with plenty of notice so that someone may attend.

We thank you for working with Alpine County to reverse this regulatory action.

Sincerely,

Donald Jardine
Chair, Board of Supervisors
Alpine County

CC: Julie Horenstein, Ecological Reserve and Land Acquisition California Department of Fish
and Wildlife julie.horenstein@wildlife.ca.gov



Tracking Number: (2018-016)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

- 1. Person or organization requesting the change (Required)**
Name of primary contact person: Alpine County Board of Supervisors
Address: PO Box 158, Markleeville, CA 96120
Telephone number: 530-694-2281
Email address: clerk@alpinecountyca.gov
- 2. Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: California Fish and Game Commission for Regulation Change
- 3. Overview (Required)** - Summarize the proposed changes to regulations: Repeal Title 14 Section 551(w)(15) Removing Hope Valley Wildlife Area from the Lands Pass Program
- 4. Rationale (Required)** - Describe the problem and the reason for the proposed change: Alpine County Board of Supervisors respectfully request that the California Fish and Game Commission repeal Title 14 Section 551(w) (15) Hope Valley Wildlife Area removing Hope Valley Wildlife Area from the Lands Pass Program. Hope Valley should remain an all access area for locals and visitors to enjoy free of any charges with the exception of the required permits for hunting or fishing. Alpine County has the lowest population of all the California Counties and we are dependent on our tourism for the local economy. The Lands Pass Program permit procedures requiring all visitors 16 years and older to purchase a permit online before entering has prevented many people from enjoying this area. This is due to the requirement to purchase online and the fact that we have very limited or no cell phone service in this area. The current boundaries for the California Department of Fish and Wildlife lands are intermittent and bordering both private and United States Forest Service Lands. The areas where the Lands Pass is now required are confusing even to us, let alone, the visitors who are travelling through the area. The Hope Valley facilities are maintained by Sorensen's Resort. The trash is also collected by Sorensen's Resort. Over the years many volunteers, including but not limited to, Sorensen's Resort, Alpine Watershed Group, and "Friends of Hope Valley", have worked to improve the area and have completed many projects over the years to maintain this area for everyone to freely enjoy. There is also an ADA access point which was funded separately to allow for easy access to the West Fork of the



Carson River. The Lands Pass sign has deterred many physically impaired visitors and locals from enjoying the area and this was not the goal of this grant project. Alpine County supports keeping these lands public and therefore open for all to access and enjoy without the need to purchase a Lands Pass prior to their visit. The Hope Valley Economic and Recreation Study recommends that the Pickett's Junction area should be for day use with picnicking, parking, and snow play. Many visitors stop to enjoy Hope Valley when travelling through it to get to other destinations and do not know they are required to purchase Lands Passes until they arrive in Hope Valley, only to find that they have no cell service and therefore no way of purchasing a Lands Pass. The map of designated areas for Hope Valley is very confusing with not one specific area designated. A person could find themselves hiking, biking or skiing into the Lands Pass designated area without even knowing it. The Lands Pass Program has both economic and cultural impacts in Hope Valley Wildlife Area. Hikers are required to buy Lands Passes to cross California Department of Fish and Wildlife Areas to access Forest Service Land for recreation. Cross Country skiers and snowshoe enthusiasts also require a Lands Pass to enter and exit Forest Service Land through California Department of Fish and Wildlife Areas which will impact the local businesses who rely on these visitors in winter. Washoe Tribal Members need to purchase a Lands Pass to access religious and historical sites. It appears from the maps provided for the Lands Pass Program that cyclists are also required to buy a Lands Pass to travel through Pickett's Junction area. These areas also contain popular highway access to backcountry skiers who would need to cross over the California Department of Fish and Wildlife land to access backcountry skiing within Forest Service Lands. The County was not aware of the proposed regulatory action to include Hope Valley Wildlife Area in the Lands Pass Program and was not given an opportunity to comment on how this affects our community and visitors to Alpine County prior to the implementation. Please see attached notification list for this action provided to us by Julie Horenstein, Ecological Reserve and Land Acquisition California Department of Fish and Wildlife. The only copy sent to the County was sent to the Fish and Game Commission and not to the Board of Supervisors nor to the local Washoe Tribal Council. Therefore, Title 14 Section 551(w) (15) Hope Valley Wildlife Area must be repealed to allow all locals and visitors to enjoy this area without the cost, inconvenience and confusion of buying a Lands Pass.

SECTION II: Optional Information

5. **Date of Petition: November 6, 2018**

6. **Category of Proposed Change**

- ☐ Sport Fishing
- ☐ Commercial Fishing
- ☐ Hunting
- ☒ Other, please specify: Lands Pass Program-Hope Valley Wildlife Area

7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

- ☐ Amend Title 14 Section(s): [Click here to enter text.](#)
- ☐ Add New Title 14 Section(s): [Click here to enter text.](#)
- ☒ Repeal Title 14 Section(s): Section 551(w)(15) Hope Valley Wildlife Area

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [Click here to enter text.](#)

Or ☒ Not applicable.



9. **Effective date:** If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: As early as possible or by no later than December 1, 2018
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Supporting documents attached include: 1) Letters of support 2) Department of Fish and Wildlife Hope Valley Map showing areas designated Lands Pass areas. 3) Phillip Bellman's letter 4) Letter from Alpine County Board of Supervisors dated January 16, 2018 with attached Lands Pass Notification List-which does not include Alpine County Board of Supervisors nor was it sent to the local Washoe Tribal Council. 5) Hope Valley Economic and Recreation Study Final Report April 1989-By Alpine group.
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: It appears that looking at the Economic and Fiscal Impact Statement that was sent to us with this petition that no consideration was given for the impact on our local, businesses and visitors and that the Statement just refers to costs for the California Fish and Game Commission. It appears that no studies were completed to analyze the impacts on our community and visitors?
12. **Forms:** If applicable, list any forms to be created, amended or repealed:
Click here to enter text.

SECTION 3: FGC Staff Only

Date received: Click here to enter text.

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION

FGC staff action:

2018 NOV -9 P. 12 51

- ☒ Accept - complete
☐ Reject - incomplete
☐ Reject - outside scope of FGC authority

Tracking Number 2018-016

Date petitioner was notified of receipt of petition and pending action: December 12-13, 2018

Meeting date for FGC consideration: February 6, 2019

FGC action:

- ☐ Denied by FGC
☐ Denied - same as petition _____
Tracking Number
☐ Granted for consideration of regulation change

Attachment 1



Alpine Watershed Group

Protecting the Headwaters of the California Alps

RECEIVED

OCT 10 2018

ALPINE COUNTY
BOARD OF SUPERVISORS

October 3, 2018

Alpine County Board of Supervisors
PO Box 158
Markleeville, CA 96120

Attn: Donald M. Jardine, Chair

Re: Letter of Support to Remove the Hope Valley Unit from the Lands Pass Program

Dear Mr. Jardine,

On behalf of the Alpine Watershed Group's Board of Directors, we would like to request that you add this letter to your petition to the California Fish and Game Commission to request removal of Hope Valley from the Lands Pass Program. Our organization seeks to increase public use and appreciation of the public lands of the valley, and we find that the Lands Pass is a deterrent to these public goals.

A key issue is the handicapped access point which was funded separately and especially to allow wheelchair access to the West Fork of the Carson River (see photos at end of letter). Unfortunately, a warning sign at that point is a significant deterrent. It is certainly inappropriate to charge for use of this facility. Cell phone access is limited or non-existent at that location, and even if connected, the visitor cannot obtain instant permission for entry. Visitors are turned away.

A further concern is that many visitors take nothing from the land, as they are simply into hiking, painting, cross-country skiing, or photography. No warden or other state employee is needed to supervise their use. Even the trash containers are maintained by private interests, not California Department of Fish and Wildlife (CDFW).

Land ownership in the valley is a mixture of US Forest Service, private, and CDFW. It is not possible for a visitor to know which lands are which. Such uncertainty further exacerbates public use and enjoyment of the area.

Our organization regularly leads volunteers in conducting stream flow and water quality monitoring in this reach, and we also lead stream field trips and educational workshops to involve the public in stream and watershed restoration. It would be counterproductive to ensure that all have permits or to simply avoid CDFW lands along the river.

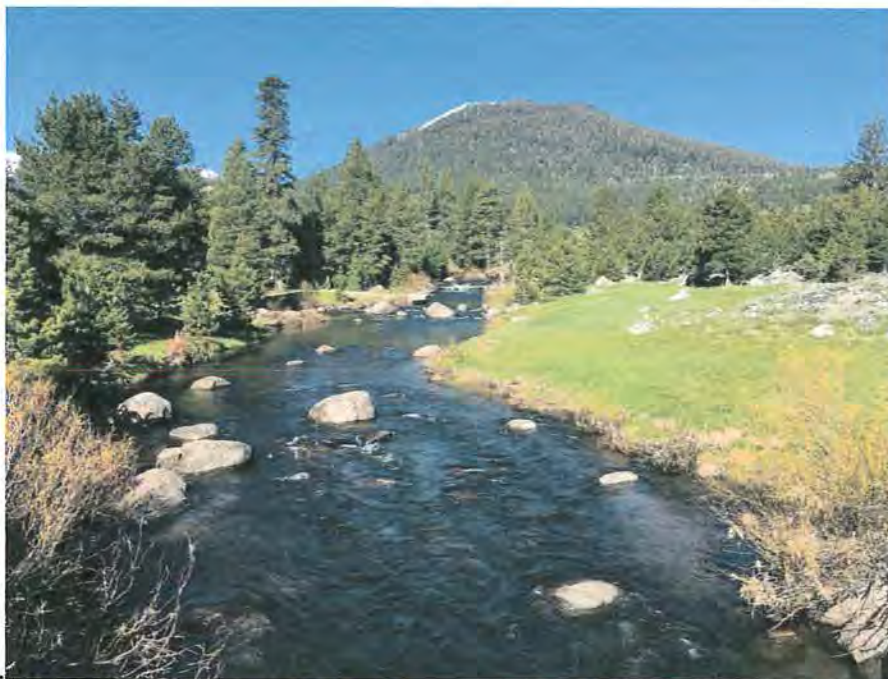
Alpine County Board of Supervisors
Letter of Support to Remove the Hope Valley Unit from the Lands Pass Program
October 3, 2018
Page 2

We join the Alpine County Board of Supervisors and the Alpine County Chamber of Commerce in requesting that the Hope Valley Unit be exempt from the Lands Pass requirement. We appreciate the Alpine County Board of Supervisors petitioning the California Fish and Game Commission to change the regulation given the impacts of the Lands Pass Program on our community and on our organization's mission to preserve and enhance the Carson River Watershed.

Sincerely,

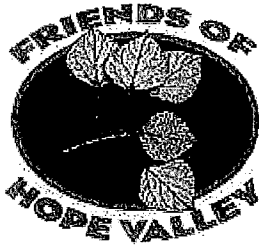

Kimra D. McAfee
Executive Director

cc: Carol McElroy



Top: ADA accessible
wheelchair stream-site
Bottom: Signage for
Lands Pass at entrance
to ADA trail to
stream-site





FRIENDS OF HOPE VALLEY
PO Box 431
Markleeville, CA 96120
www.friendsofhopevalley.com

RECEIVED

JUN 21 2018

ALPINE COUNTY
BOARD OF SUPERVISORS

BOS, CAO

To: State of California – Fish and Game Commission

Re: Lands Pass Program in Hope Valley

Friends of Hope Valley (FOHV) is a non-profit organization dedicated to the preservation of the historic, recreational, and scenic values of Hope Valley and the Sierra Nevada's eastern slope in Alpine County. In the 1980's our group worked with Trust for Public Lands to help establish lands in Hope Valley to become public.

We were instrumental in the passage of California Proposition 70 in 1988, which provided funds for the purchase of the Picketts Junction area of Hope Valley as well as river bottom land along Blue Lakes Road; the California Department of Fish and Wildlife's purchase of 2,500 additional acres of Hope Valley, including the development-threatened Willow Creek area. Our vision was to have an open space so that everyone could enjoy Hope Valley, one of the last remaining undeveloped meadows in the Sierra.

We support the efforts of the Alpine County Board of Supervisors request to withdraw of the Lands Pass Program in Hope Valley. It's just not the appropriate area to be charging people to visit. Hope Valley is sacred land to the Washoe people, we can't charge "people of the land" to be there.. The rich heritage of Hope Valley is a place to share not a place to charge a fee to visit.

The All Access area is a result of years of volunteer effort for the establishment of the site, Sorensen's staff maintains the parking area and restrooms. FOHV has lead restoration projects, and willow planting along the banks for the last thirty years. FOHV repairs and paints signs, trims the tress, sweeps the platforms and general trash cleanup. Our volunteer efforts are so the public can freely enjoy the area.

The boundaries of the CDFW lands in the valley are random, surrounded by other public lands. It will be impossible for visitors to decipher where they are. There is no gateway or entrance, the few parking areas and signs don't really distinguish land boundaries or which public agency manages the land.

The economy of Alpine Country depends on tourism, Hope Valley, the jewel of the Sierra is among the reason many visitors come to the county. It's a significant destination that draws visitors to the county.

Debbi Waldear
President, Friends of Hope Valley

Judy Warren-Wickwire
Director of Alpine Historical Society



Chamber of Commerce
& Interagency Visitors Center

HOME OF THE TOUR OF THE
CALIFORNIA ALPS - DEATH RIDE®

ALPINE COUNTY
FILM COMMISSION OFFICE

CHARTER MEMBER OF THE
SCENIC BYWAY ASSOCIATION

Friday, August 3, 2018

Ms. Valerie Termini
Executive Director
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

RE: Removal of the Hope Valley Wildlife Area Land
Pass Program

Dear Ms. Termini:

We would like to submit our support letter for the Alpine County Board of Supervisors' petition to the California Fish and Game Commission for a regulation change to remove Hope Valley Wildlife Area from the Lands Pass Program.

As a community that relies heavily on a strong tourism market, this program greatly impacts our local businesses, residents and our visitors that enjoy the Hope Valley area year round.

We feel strongly that these lands remain open without fees for all to access and enjoy.

Thank you for working with the Alpine County Board of Supervisors to reverse this regulatory action.

Sincerely,

Teresa Burkhauser, CMP
Executive Director on behalf of the
Alpine County Chamber of Commerce
Board of Directors

cc: Alpine County Board of Supervisors

3 WEBSTER STREET
P.O. BOX 265
MARKLEEVILLE, CA 96120

(530) 694-2475

fax (530) 694-2478

www.alpinecounty.com



August 30, 2018

Valerie Termini, Executive Director
California Fish and Wildlife Commission
P.O. Box 944209
Sacramento, CA 94224-2090
RE: Request to remove Hope Valley Area from the Lands Pass Program

Dear Ms. Termini,

The Kirkwood Meadows Public Utility District (District) Board of Directors joins the Alpine County Board of Supervisors in support of their request that the California Fish and Wildlife Commission remove the Hope Valley Wildlife Area from the Lands Pass Program.

The enforcement area of the Lands Pass Program within the Hope Valley Wildlife Area is largely unknown, not only by the local community, but more importantly tourists, and there is a dearth of signage explaining the rules of the Lands Pass Program or delineating the boundaries of an enforcement area. This is an added expense and a deterrent to people wishing to enjoy recreation in Hope Valley, which in turn, has a direct impact on the local economy. Some of our own employees have stopped using this area for recreation due to this confusion.

Hope Valley has a rich history of land use and recreation and was ultimately preserved for public enjoyment by a group of engaged citizens, Friends of Hope Valley. The District's Board of Directors supports keeping these lands public and open for all to access and enjoy, free of charge.

We thank you for considering the impacts of the Lands Pass Program on our community and working with the Alpine County Board of Supervisors to remove the Hope Valley Wildlife Area from the Lands Pass Program.

Sincerely,

Erik M. Christeson
General Manager, Kirkwood Meadows PUD

Alpine Biomass Collaborative

04 October 2018

California Fish and Wildlife Commission
Attn: Valerie Termini, Executive Director
PO Box 944209
Sacramento, CA 94224-2090

Re: Request to Remove the Hope Valley Unit from the Lands Pass Program

Dear Ms. Termini,

The Alpine Biomass Collaborative (ABC) is requesting the removal of Hope Valley in Alpine County from the Lands Pass Program. The ABC's mission statement is "Unifying partners to promote forest and watershed health, and local economic development". The area is largely unfenced and has been used by the public for decades, well before its acquisition by the California Department of Fish and Wildlife (CDFW).

Members of the public cross these lands to access public land in and around Hope Valley and have done so for decades prior to it being acquired by CDFW. There isn't and has not been any significant fencing nor signage to indicate that now this access is prohibited without paying a fee. Land ownership in the Hope Valley is a mixture of US Forest Service, private, and CDFW. It is not possible for a visitor to know which lands are which. Furthermore the boundaries are not adequately signed, and whether it is correct or not, the public assumes that it is public land and has used it as such for decades. The public arrives and even if they are willing to pay a fee, there is not an easy reliable way to do so as cell phone coverage is unreliable in this area.

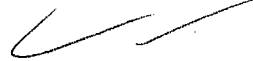
We understand that CDFW stated at an Alpine County Board of Supervisors' meeting that statewide, CDFW expects to receive about \$53,000/year in revenue for all the recently added "fee areas" in the state. This is a trivial amount statewide and an unnecessary revenue stream for CDFW that discourages the public from experiencing the benefits of outdoor recreation.

Unifying partners to promote forest and watershed health, and local economic development.

We join the Alpine County Board of Supervisors, the Alpine County Chamber of Commerce, and the Alpine Watershed Group among others in requesting that the Hope Valley Unit be exempt from the Lands Pass requirement.

Thank you for your consideration.

Respectfully submitted



David Griffith
Markleeville, CA
2018.10.03 09:14:27 -07'00'

Alpine Biomass Collaborative

Per: David Griffith, Chair

cc Alpine County Board of Supervisors

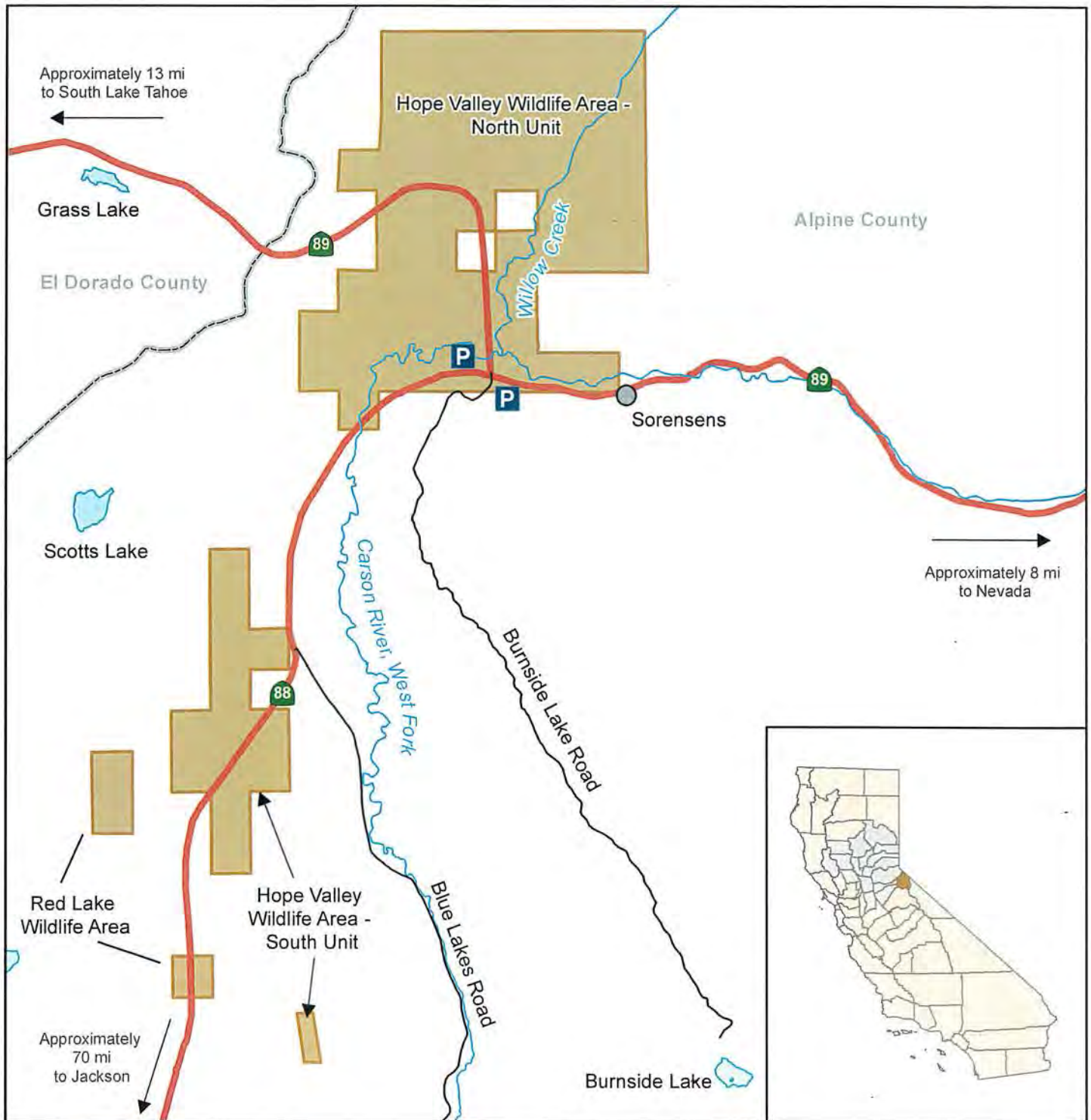
Attachment 2

California Department of Fish and Wildlife

North Central Region

HOPE VALLEY WILDLIFE AREA

Alpine County



- Wildlife Area
- River / Lake
- County Line
- State Highway
- Local Road
- P Parking



0 1 Miles

Disclaimer: Boundaries are approximate.
Maps are intended for general purposes only.

December 2014 - WLB

Attachment 3

From: Philip Bellman
Sent: Friday, January 12, 2018 4:05 PM
To: Donald Jardine; Don Jardine
Cc: Philip Bellman
Subject: Lands Pass

Hi Don —

Thank you for addressing the Lands Pass issue and for drafting an excellent letter to Fish & Wildlife. It is clear that few people, if any, in Alpine County were aware of this plan. It makes little sense and is not likely to generate much funding. What it will do is confuse visitors to Alpine County and make it difficult to visit the Hope Valley. Especially affected are the areas around Pickett's Junction, north of the junction, and Red Lake. You can imagine the leaf peepers, photographers, cyclists, and hikers who arrive in the Hope Valley only to find they need a permit — and there is not even cell service to allow getting a daily permit. And in other parts of the valley, it may be difficult to know when one is on state land or on federal land.

It's also clear from Julie's email messages this week that the Lands Pass is the result of the department suffering losses from decreasing numbers of hunting licenses. The areas affected in Alpine County have not been used by hunters in decades — but the impact of this program will discourage many visitors from coming at all. I also really appreciate your addressing the concerns of the Washoe, who seem to have not been consulted or informed as well.

Thanks for your efforts!

Phil Bellman

Attachment 4



COUNTY OF ALPINE
Board of Supervisors

January 16, 2018

Valérie Termini, Executive Director
California Fish and Game Commission
PO Box 944209
Sacramento, CA 94244-2090

RE: Request to remove Hope Valley Wildlife Area from the Lands Pass Program

Dear Ms. Termini:

Alpine County Board of Supervisors respectfully request that California Fish and Wildlife Commission remove Hope Valley Wildlife Area from the Lands Pass Program. The County was not aware of the proposed regulatory action to include Hope Valley Wildlife Area in the Lands Pass Program and was not given an opportunity to comment on how this affects our community and visitors to Alpine County.

Please see attached notification list for this action provided to us by Julie Horenstein, Ecological Reserve and Land Acquisition California Department of Fish and Wildlife. **The only copy sent to the County was sent to the Fish and Game Commission and not to the Board of Supervisors nor to the local Washoe Tribal Council.**

The Lands Pass fee and impacts on the local community appear to have not been analyzed. In 1988-1989 the Hope Valley Economic and Recreation Study was commissioned by the Trust for Public Lands, Alpine County Board of Supervisors, Alpine County Chamber of Commerce and the Friends of Hope Valley to analyze the effect of 15,000 acres of private land within Hope Valley being purchased by the United States Forest Service and the California Department of Fish and Wildlife. There had also been some discussion on development of these lands, in particular around Pickett's Junction.

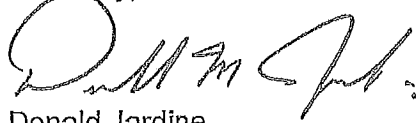
Alpine County supports keeping these lands public and therefore open for all to access and enjoy. The Hope Valley Economic and Recreation Study indicates that the Pickett's Junction area should be for day use with picnicking, parking and snow park.

The Lands Pass Program will have both economic and cultural impacts in Hope Valley Wildlife Area. Hikers would be required to buy Lands Passes to cross California Department of Fish and Wildlife Area to access Forest Service Land for recreation. Cross Country skiers would also require a Lands Pass to enter and exit Forest Service Land through California Department of Fish and Wildlife Areas which will impact local businesses which rely on cross country and snowshoe recreationers in winter. Washoe Tribal Members would need to purchase a Land Pass to access religious and historical sites. It appears from the maps provided for the Lands

Pass Program that cyclists will also be required to buy a Lands Pass to travel through Picketts Junction area. These areas also contain popular highway access to backcountry skiers who would need to cross over the California Department of Fish and Wildlife land to access backcountry skiing within Forest Service Lands.

We thank you for working with Alpine County to reverse this regulatory action which was implemented without consideration for the impacts to our local community and visitors to Alpine County.

Sincerely,



Donald Jardine
Chair, Board of Supervisors
Alpine County

CC: Julie Horenstein, Ecological Reserve and Land Acquisition California Department of Fish and Wildlife julie.horenstein@wildlife.ca.gov
Honorable Ted Gaines
Honorable Frank Bigelow
RCRC
CSAC

NOTIFICATION LIST

First Line	Second Line	Address (Third Line)	City	State	Zip	Name (First)	Number
Modoc	Fish Game & Recreation Commission	202 W 4th Street	Alturas	CA	96101		21
Kern County	Fish and Game Fine Commission	2820 M Street	Bakersfield	CA	93301	Mr. David McArthur	13
Colusa County	Fish and Game Commission	546 J Street, Suite 202	Colusa	CA	95932		5
Del Norte County	Fish and Game Commission	586 G Street	Crescent City	CA	95531		7
Sierra County	Fish and Wildlife Commission	P.O. Box 554	Downieville	CA	95936	Marilyn Tierney,	38
Alameda County	Fish and Game Commission	4925 Broder Blvd.	Dublin	CA	94568	Secretary	1
Imperial County	Fish and Game Commission	940 W. Main Street, Ste. 208	El Centro	CA	92243	Sheriff Herbert Walters	12
Solano County	Park and Recreation Commission	675 Texas Street, Ste. 6500	Fairfield	CA	94533	Mr. Steve Heimsmeier	40
Humboldt County	Fish and Game Commission	P.O. Box 922	Ferndale	CA	95536	Ms. Johanna Rodoni	11
Fresno County	Recreation & Wildlife Commission	2220 Tulare Street, 8th Floor	Fresno	CA	93721	Mr. John Thompson	9
Madera County	Fish and Game Commission	4608g Road 208	Friant	CA	93626	Mr. Neil K. McDougal	18
Placer County	Fish and Game Commission	8459 Lakeland Dr	Granite Bay	CA	95746		27
Kings County	Fish and Game Advisory Committee	1400 W Lacey Blvd	Hanford	CA	93230	Mr. Tim Breshears	14
San Benito County	Fish and Game Commission	481 Fourth Street	Hollister	CA	95023-3840	c/o Clerk of the Board	30
Lake County	Fish and Game Commission	883 Lakeport	Lakeport	CA	95453	Mr. Greg Glust	15
Los Angeles County	Fish and Game Commission	500 West Temple Street,	Los Angeles	CA	90012		17
Mono County	Fisheries Commission	Room B-50	Mammoth Lakes	CA	93546	Mr. Steve Marti, Chair	22
Alpine County	Fish and Game Commission	PO Box 2415	Mammoth Lakes	CA	93546		2
		P.O. Box 286	Mardeeville	CA	96120		
Contra Costa County	Fish and Wildlife Committee	30 Muir Rd	Martinez	CA	94553		6
Stanislaus County	Fish and Wildlife Committee	3800 Cornucopia Way, Suite C	Modesto	CA	95358		42
San Luis Obispo County	Fish and Game Commission	P.O. Box 406	Morro Bay	CA	93443	Mr. Norm Martignoni	33
Napa County	Wildlife Conservation Commission	1195 Third Street, Ste. 210	Napa	CA	94559-3092	Mr. Stephen Omdorf	24
Nevada County	Fish and Wildlife Commission	950 Main Avenue, Suite 170	Nevada City	CA	95959		25
Marin County	Wildlife and Fisheries Advisory Commission	1682 Novato Blvd. Ste. 150 B	Novato	CA	94947-7021	Mr. Ed Schultz	19
		25 County Center Dr., Suite 200	Oroville	CA	95965		3
Butte County	Fish and Game Commission	3900 Pelican Way	Oxnard	CA	93035		47
Ventura County	Fish and Game Commission	330 Fair Lane	Placerville	CA	95667	Mr. Karl Weiland	8
El Dorado County	Fish and Game Commission	15565 China Rapids Drive	Red Bluff	CA	96080		44
Tehama County	Fish and Game Commission						
Shasta County	Fish and Game Commission	1855 Placer Street	Redding	CA	96001	Eric Wedemeyer	37
Riverside County	Fish and Game Commission	4800 Crestmore Road	Riverside	CA	92509-6858	Mr. Jim Real	28
Sacramento County	Recreation and Park Commission	4040 Bradshaw Road	Sacramento	CA	95827	Mr. Dan Gonzales, Chair	29
Monterey County	Fish and Game Commission	P.O. Box 5249	Salinas	CA	93915	Mr. John Akeman	23
San Bernardino County	Regional Parks Department	777 East Rialto Avenue	San Bernardino	CA	92415-0763		31
San Diego County	Fish and Wildlife Advisory Commission	9325 Hazard Way, Suite 100	San Diego	CA	92123-1217		32

Santa Clara County	Fish and Game Commission	70 West Hedding Street, 10th	San Jose	CA	95110	35
Orange County	Fish and Game Commission	Floor, East Wing PO Box 4048	Santa Ana	CA	92702-4048	26
c/o Santa Barbara City Planning & Development						
Santa Barbara County	Fish and Game Commission	123 E Anapamu Street	Santa Barbara	CA	93101	34
Santa Cruz County	Fish and Game Commission	701 Ocean Street, Rm. 312	Santa Cruz	CA	95060	36
Sonoma County	Fish and Wildlife Commission	133 Aviation Blvd., Ste. 110	Santa Rosa	CA	95403	41
Calaveras County	Fish & Game Commission Clerk	15807 Waldear's Path	Sheep Ranch	CA	95246	4
Tuolumne County	Fish and Game Commission	18036 Blue Bell East	Sonoma	CA	95370	46
Lassen County	Fish and Game Commission	707 Nevada Street	Susanville	CA	96130	16
Mendocino County	Fish and Game Commission	501 Low Gap Rd	Ukiah	CA	95482	20
Trinity County	Fish and Game Commission	PO Box 1917	Weaverville	CA	96093	45
Glenn County	Fish and Game Commission	PO Box 1202	Willows	CA	95988	10
c/o Yolo County Parks and Resources Dept.						
Yolo County	Fish and Game Commission	120 West Main Street, Suite C	Woodland	CA	95695	48
Siskiyou County	Fish and Game Commission	1119 South Oregon Street	Yreka	CA	96097	39
Sutter County	Fish and Game Commission	146 Garden Hwy	Yuba City	CA	95991	43

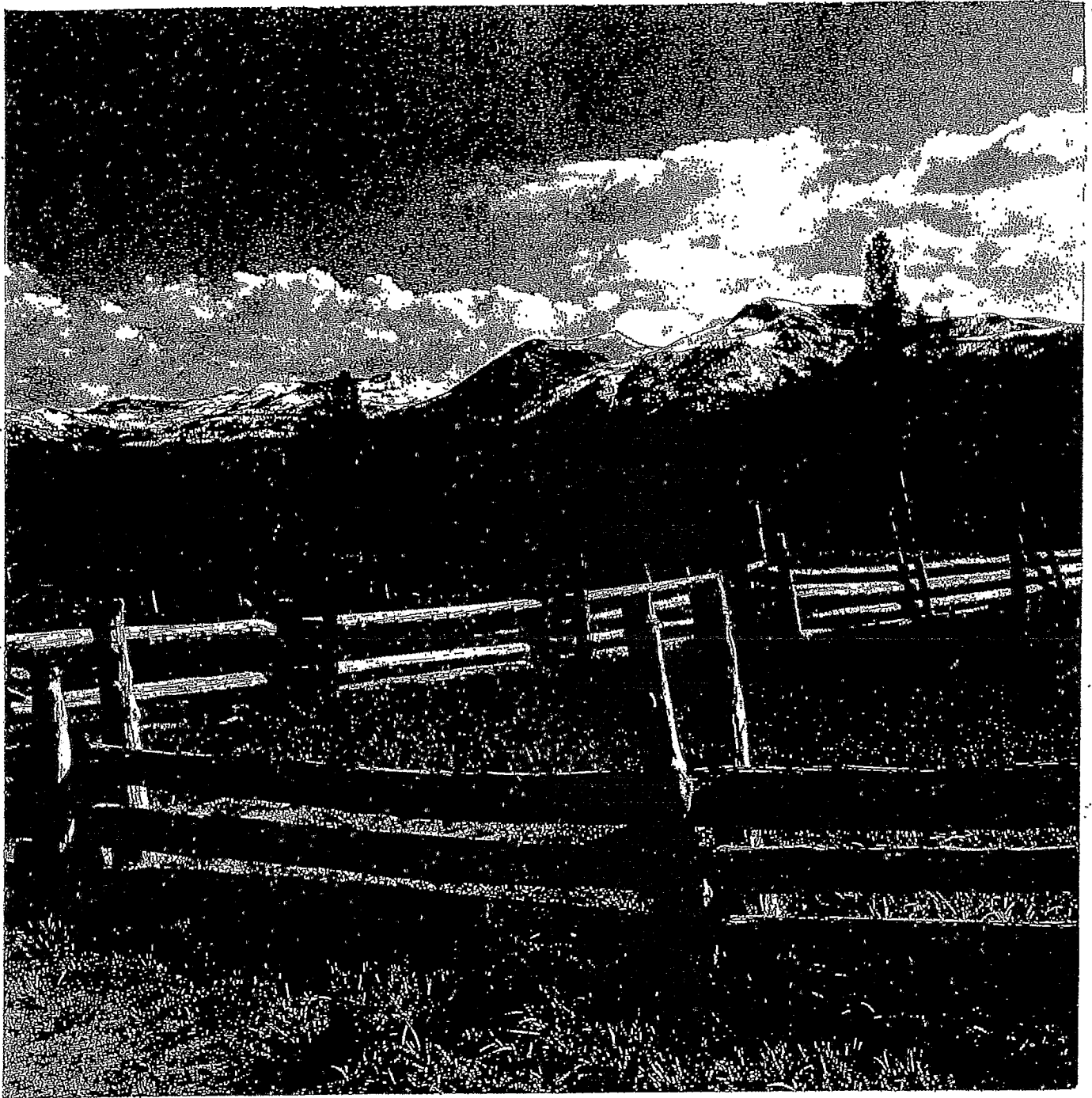
Attachment 5

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Hope Valley

Economic and Recreation Study

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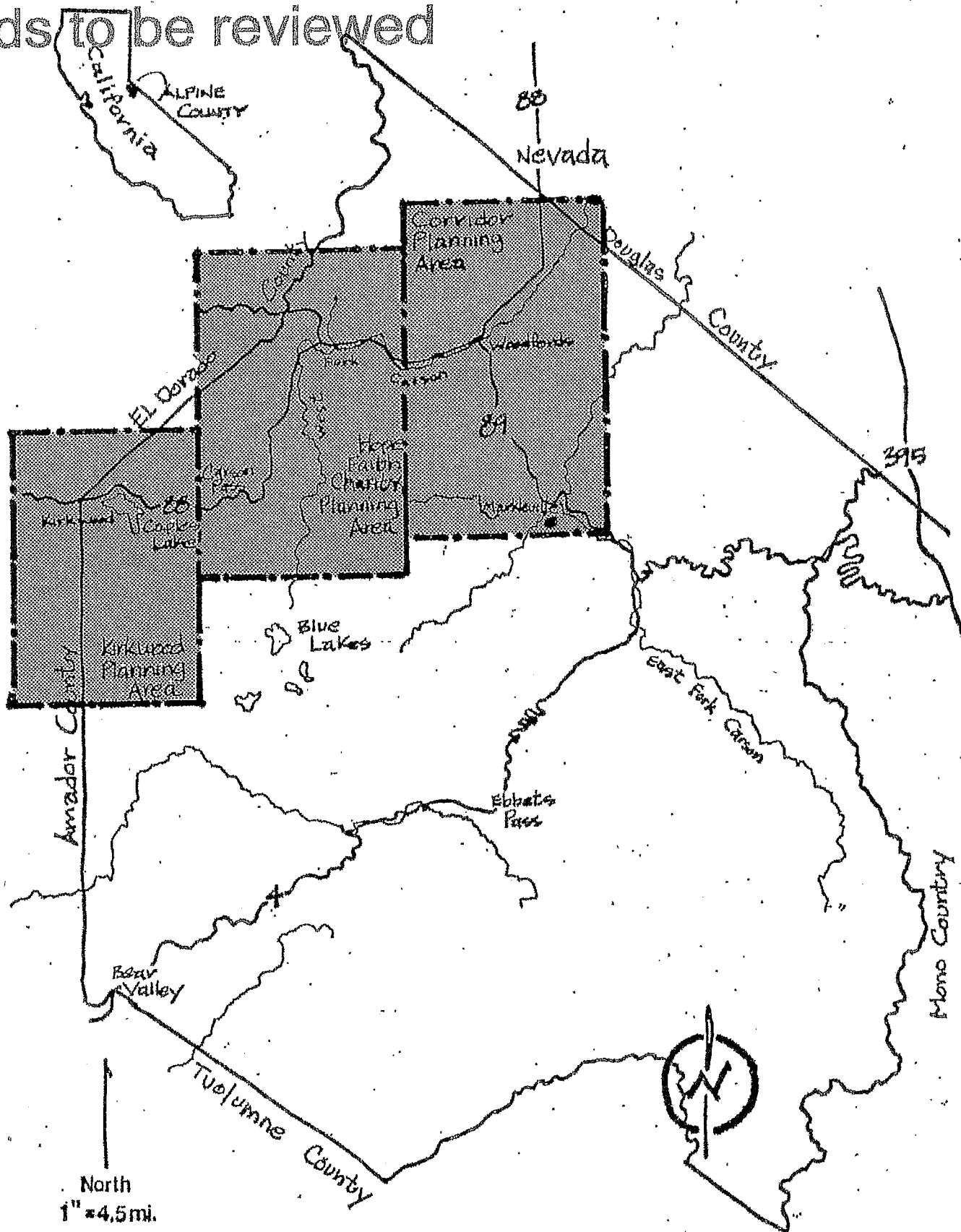
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Hope Valley Economic and Recreation Study

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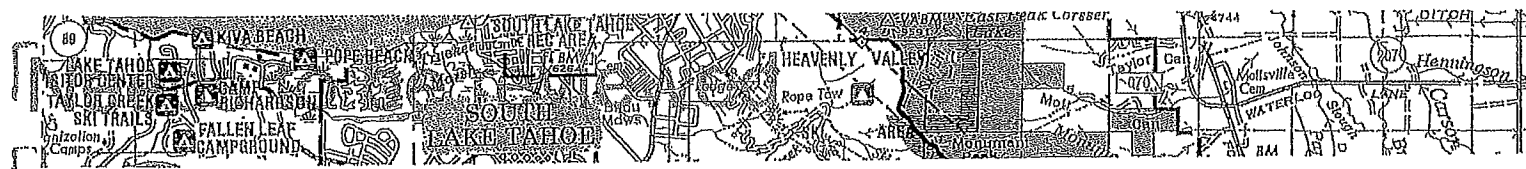
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Hope Valley Economic and Recreation Study

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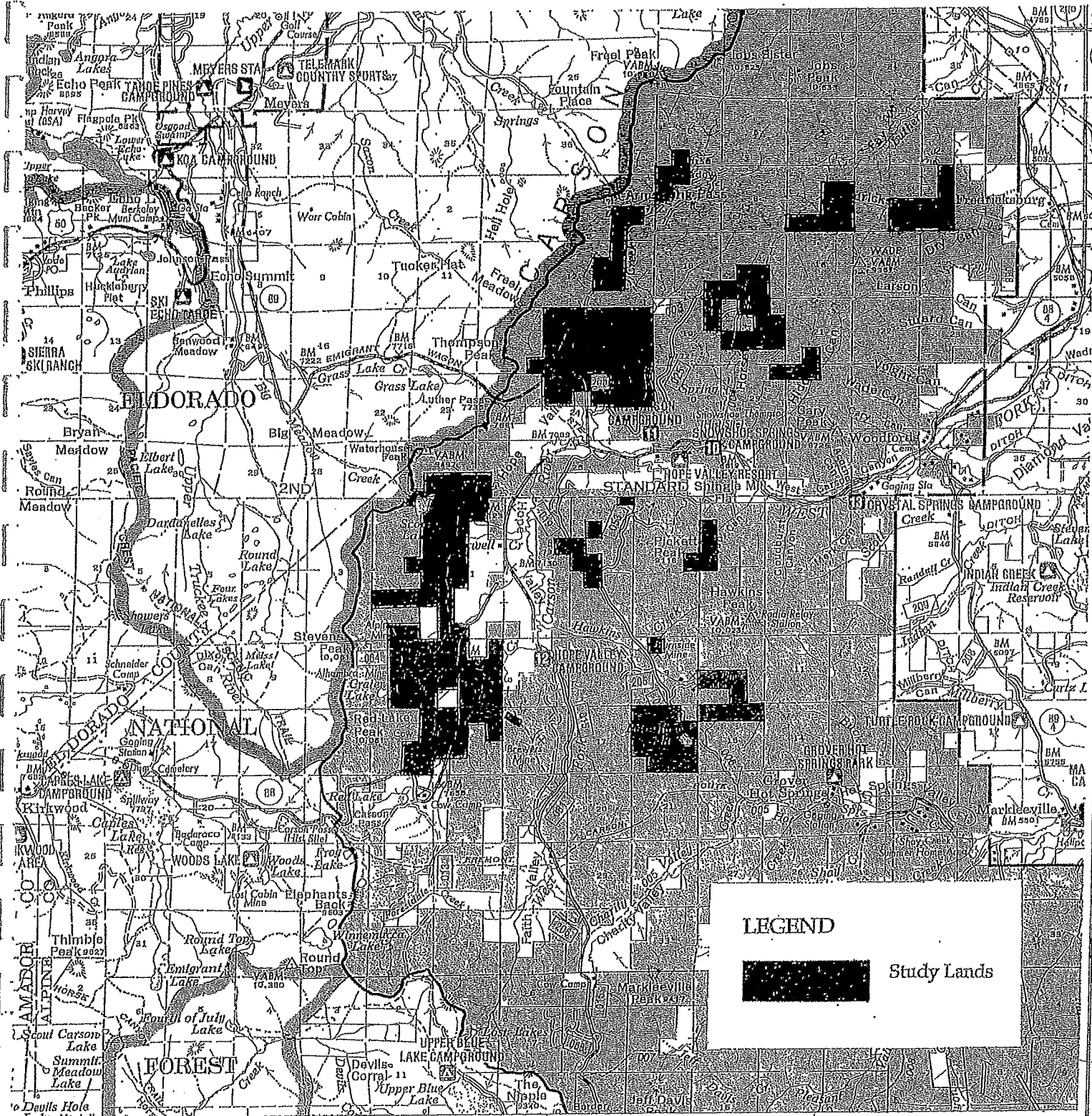
HOPE VALLEY STUDY LANDS

Hope Valley
Economic and Recreation Study

Alpengroup

1988

Lake Tahoe, Nevada



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1

Purpose ▼

The purpose of this report is to determine the Economic and Recreation impacts of the proposed purchase of nearly 15,000 acres of private land in the Hope Valley area of Alpine County.

This study was commissioned by the Trust for Public Lands, Alpine County Board of Supervisors, Alpine County Chamber of Commerce, and the Friends of Hope Valley.

The scope of work for this study included a literature review of existing reports, research, and field reviews. Alpengroup has prepared the sections of this report that will pertain to biophysical, cultural, economic and recreation issues of the proposed purchase, with the information that is available at the present time.

Needs to be reviewed

Hope Valley Economic and Recreation Study

Final ▼ April 1989

▲Biophysical

Settings
Climate
Forest Description
Resource Elements
Wild & Scenic Rivers
Timber

This section describes the existing situation of resources and activities of the project area.

Biophysical Settings

The project area is surrounded by National Forest lands of the Toiyabe National Forest, with the exception of those Toiyabe National Forest lands lying within the Lake Tahoe Basin. In 1973, by Presidential proclamation, a portion of the Toiyabe National Forest in the Lake Tahoe Basin became part of a special management area, the Lake Tahoe Basin Management Unit (LTBMU), along with portions of the Tahoe and El Dorado National Forests. This was established to provide special protection for the unique feature of Lake Tahoe and its watershed. Although the project area is adjacent to the LTBMU, the planning constraints of the Tahoe Regional Planning Agency do not apply to the proposed project area.

The Toiyabe consists of three distinct divisions. The three divisions are: Sierra Nevada (Carson and Bridgeport Ranger Districts), Central Nevada (Austin and Tonopah Ranger Districts) and Mt. Charleston (Las Vegas Ranger District). The proposed project area falls within the Sierra Nevada division. The Toiyabe is a scattered Forest encompassing parts of western, central, and southern Nevada and eastern California.



Climate

The Sierra Nevada is heavily influenced by its close proximity to the Pacific Ocean. Annual variation in snowfall is great because of the Pacific influence. Precipitation falls mainly in the winter as snow and may total as much as 70 inches per year at the highest elevation. At the base of the Sierra Front, precipitation seldom exceeds 15 inches.

Forest Description

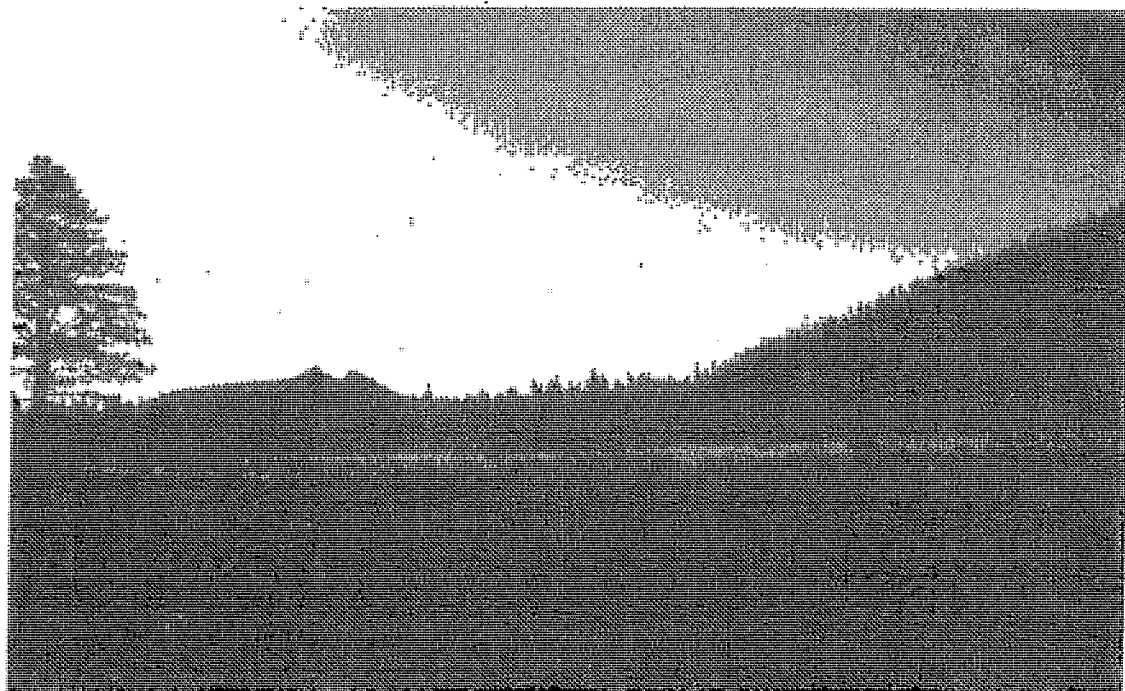
The area supports a variety of tree species, including Jeffrey pine, white fir, California red fir, western white pine, and lodgepole pine. Lesser amounts of sugar pine, incense cedar and mountain hemlock exist. Aspen is extensive throughout the valley and there are stands of pinyon-juniper at the lower elevations. The area produces water for western Nevada and includes the sources of the Carson River systems. Lakes are plentiful, visual quality is outstanding and recreational use of the area is extremely high.

Fire plays a very important role in almost all of the ecosystems found in the Eastern Sierra. It effects vegetative community development through its influence on succession. Studies show that the fire cycle has been 10 to 40 years with stands replacing fire every 200 to 400 years. Fire exclusion through successful fire protection has altered this natural process. Reintroduction of fire by a natural ignition process in wilderness would allow development of natural ecosystems.

Resource Elements

In the National Forest System, the Toiyabe has held an average ranking of 19th in the Nation in outdoor recreation over the last decade. It has consistently held second place in Region 4 (Intermountain Region).

The Toiyabe is the largest Forest in acres in the contiguous 48 states, and is widely scattered through central, western and southern Nevada and eastern California. Portions of the Forest are located close to Nevada's two major population centers, Reno-Sparks - Carson City, and Las Vegas. The Tahoe El Dorado, Stanislaus, and Inyo National Forests, which lie between the Toiyabe National Forest and the large California population centers, all contribute a recreation user spillover to the Toiyabe. The proximity of Lake Tahoe and Yosemite National Park also greatly affects recreation use on the Toiyabe National Forest.



There are also a number of resorts based on private lands, which significantly impact the recreation resource of the National Forest. Foremost is Mono Village, which offers a store, restaurant, boating and fishing facilities, large campground and parking to the public for access to the Hoover Wilderness beyond.

It seems likely there will continue to be applications for new kinds of recreational special uses, such as river running. Over the last 10 years, special use permits for floating the East Carson River have been in great demand. Helicopter skiing also has become popular. This recent general increase in applications for recreation special use permits and the growing interest in additional wilderness classification, can be expected to continue.

Dispersed Recreation

Dispersed recreation use includes activities such as hunting, fishing, hiking, driving for pleasure, camping and other activities outside of developed sites.

Several areas of the Forest experience unusually high levels of dispersed recreation use. Such an area is the upper East Carson River drainage, which is the Toiyabe portion of the Carson-Iceberg Wilderness. Such areas are responsible for the Toiyabe's frequent number-one ranking in dispersed recreation in the Intermountain Region.

Wild and Scenic Rivers

Rivers that have designation potential for Wild, Scenic and/or recreation classification were inventoried by the Former USDI Heritage Conservation and Recreation Service for possible inclusion in the National Wild and Scenic River System under Section 2, PL 90-542. The Eastfork of the Carson River, from last diversion dam; approximately one (1) mile above Lahontan Fish Hatchery, to the source, was inventoried. The Toiyabe NF has completed eligibility studies on the East fork of the Carson River.

Wilderness

Existing Wilderness

The Carson-Iceberg Wilderness and the Mokelumne Wilderness are near the project area. A national Roadless Area Review and Evaluation (RARE II) was completed in January 1979. As a result of RARE II, a number of areas on the Toiyabe National Forest were recommended for wilderness and further study.

The RARE II decision was challenged by the State of California. The Ninth Circuit Court of Appeals upheld the decision that the RARE II Environmental Statement is inadequate. After evaluating the court decision, the US Department of Agriculture determined that all roadless areas would be re-evaluated for wilderness through the Forest Planning Process.

Prior to the California Wilderness Act of 1984, the Forest planning process had developed an inventory of lands that are essentially unroaded and undeveloped, meeting the minimum definition of wilderness, and qualified for wilderness evaluation per NFMA Regulation 219.17. The inventory contained 65 roadless areas, totalling 2,187 thousand acres forest-wide.

California Wilderness Act of 1984 (CWA) in September, 1984, the California Wilderness Act (CWA) was signed by the President. The legislation included the following on the Toiyabe National Forest:

Wilderness (CWA)

Carson Iceberg 77,000 acres (approximate acreage) - Excludes an area around Noble Canyon. (An additional 83,000 acres is on the Stanislaus National Forest)

Mokelumne addition 19,000 acres (approximate acreage) - Includes the Raymond Peak Core area and Tragedy Elephants Back area. (An additional 36,000 acres are on the Stanislaus and El Dorado National Forests)

Congressional Study Areas (CWA) These areas require a report to the congress within three years of the date of the CWA.

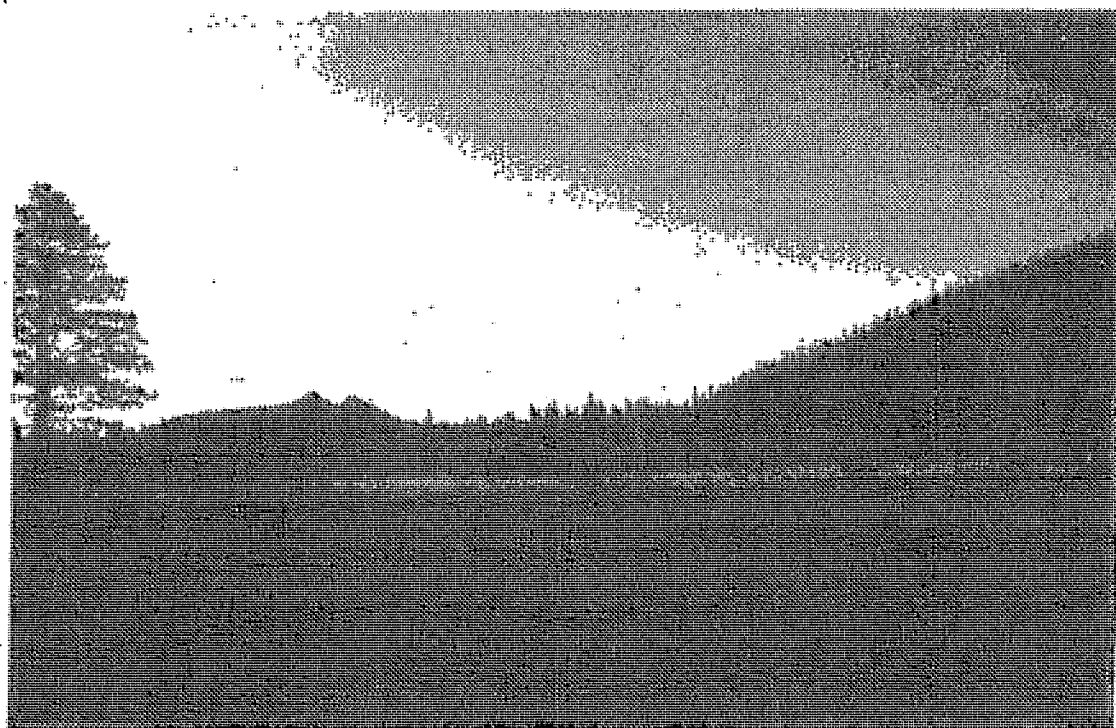
Carson-Iceberg Planning Area - 9,700 acres (approximate acreage) - Area around Noble Canyon.

Hoover West Planning Area 49,200 acres (approximate acreage) - Area around West Walker River.

Timber

Existing Situation

The Sierra Nevada range supports commercial stands of Jeffrey pine, the true firs, and lodgepole pine, with lesser stands of white pine and mountain hemlock. Logging has been conducted in the Sierra since the 1800's. Pinyon-juniper stands



are found throughout Toiyabe National Forest, with the majority in central Nevada. These woodlands have historically provided firewood, charcoal, and fencing materials.

The Toiyabe has been selling 6,000,000 board feet of timber annually, primarily in sawlog size material from the Alpine County and Dog Valley areas. Timber management activities and annual sale are the result of a timber management plan approved April 3, 1970. This plan was amended October 31, 1973, and extended through September 30, 1980. The plan was again amended April 14, 1980, to place areas recommended for wilderness by the January, 1979, RARE II Final Environmental Statement from "commercial forest land" to "productive deferred." This amendment also adjusted the volume, inventory, growth, mortality, and potential yield figures. It also extended the management plan until preparation and approval of a new plan based on reinventory of the Forest's timber resources or development of the Forest Land Management Plan.

Dwarf mistletoe and bark beetles are affecting timber stands on the Forest. These localized areas require treatment to prevent spread of the insects or disease. It is expected that loss of growth and mortality from disease and insects will continue but not increase, provided good growth rates are maintained in the timber stands and localized infection areas receive control treatments.

The primary silvicultural system used in recent years has been shelterwood. Removal cuts have been made in stands with good existing understories of saplings and poles. These understories have been thinned by removal of sawlogs and fuelwood operations. The continuing high demand for fuelwood enables good utilization of material produced from normal precommercial thinning. Emphasis has been placed on thinning overstocked immature stands. In mixed conifer stands, especially those where red fir is the major species, various stages of shelterwood cuts have been implemented with the objective of obtaining reproduction and eventual conversion to a young growth managed stand.

Timber harvest on the Toiyabe National Forest prior to 1970 had been higher as old growth timber was harvested. The need for timber produced from Toiyabe National Forest is not believed to be increasing. The Gardnerville mill could obtain a larger percentage of their needs from private and/or adjacent National Forests. The Gardnerville mill is approximately 45 percent dependent on the Toiyabe National Forest.

Future Condition Under Current Management

Over a 200 year period, the National Forest's timber stands are described as follows:

Jeffrey pine - Within recommended wilderness, the pine continues toward older age classes. Within nonwilderness areas, age class distribution improves, although there remains an excess acreage of small sawtimber 70-90 years of age.

Mixed conifer - Within recommended wilderness, the mixed conifer continues toward older age classes. Within nonwilderness areas, age class distribution improves, except there is a shortage of small sawtimber 70-90 years of age.

Lodgepole pine - As there is no regulated harvest, the lodgepole pine working group moves toward over-maturity and age class distribution becomes greatly unbalanced after 200 years.



Needs to be reviewed

Hope Valley Economic and Recreation Study

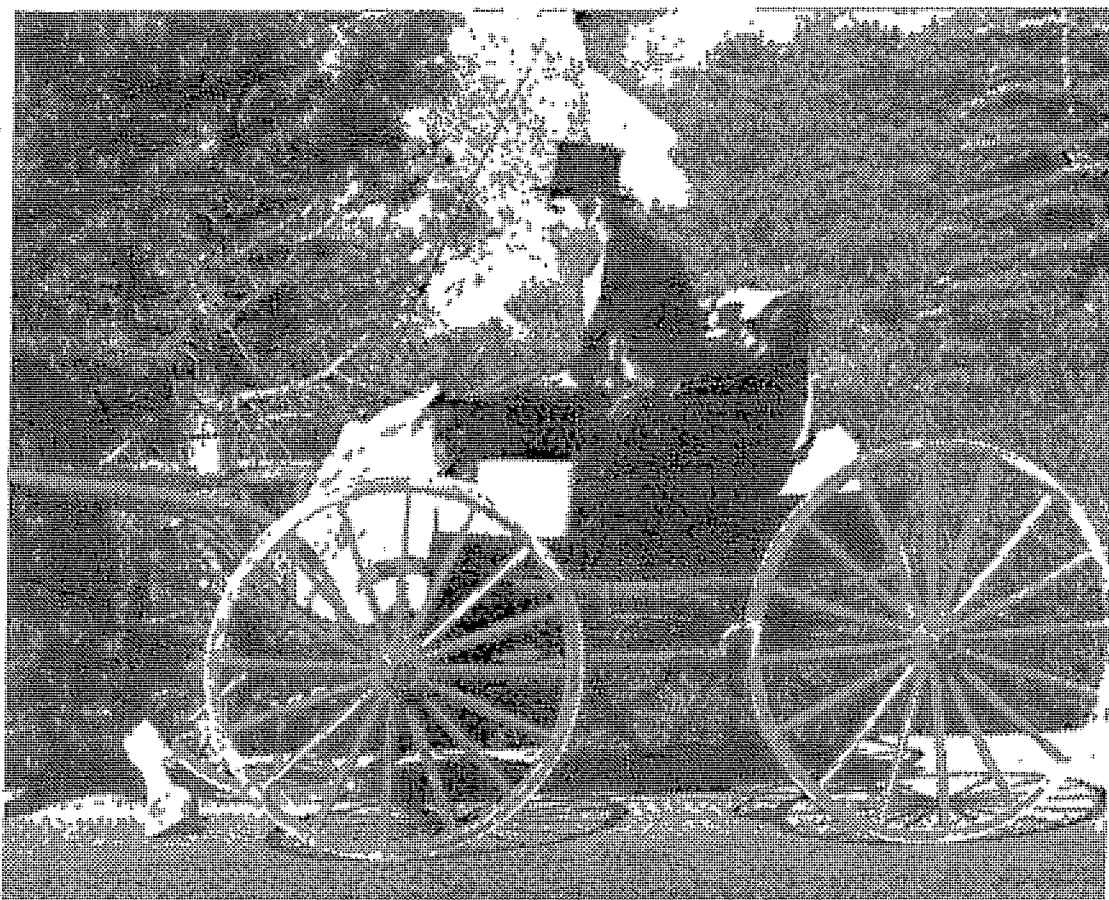
Final ▼ April 1989

▲ Cultural

Prehistory
Ethnography
History
Early Exploration
Early Settlement
Transportation
Communication
Mining
Logging
Agriculture & Grazing

PREHISTORY

The general regional prehistoric cultural sequence of the north-central Sierra Nevada is unclear. Some of the oldest finds reported for this region suggest occupation by about 8,000 years ago (Tahoe Reach Phase) in the Truckee River Canyon near Squaw Valley (Elston et al. 1977:151), at around 7,000 years ago (Spooner Phase) near Spooner Lake (Elston 1971:87), and by about 6,000 years ago in the Truckee Basin (Keesling and Johnson 1978; Rondeau 1982). The most intensive period of occupation in the region may have occurred at varying intervals between 4,000 years ago and 1,500 years ago (Marta Phase) (Heizer and Elsasser 1953). The protohistoric ancestors of the Washoe may date roughly from 1,500 years ago to the time of historic contact (Kings Beach Phase), (Heizer and Elsasser 1953; Elston 1976). Numerous archaeological studies in the Lake Tahoe Basin and at Carson Pass (Bennyhoff et al. 1982) generally support this prehistoric cultural sequence.



ETHNOGRAPHY

The project area lies within the territory of the Southern Washoe (Naneletti, Price 1962). The Washoe are a Great Basin group within the Hokan Linguistic stock. They embody a blend of the Great Basin and California in their geographical position and cultural attributes. Lake Tahoe is central to their territory and they had no settlements west of the Sierra crest. They may have enjoyed land use privileges, hunting on the North and Middle Forks of the Stanislaus as well as the Calaveras, Consumnes, or American Rivers (Kroeber 1925:570).

The Washoe are a relatively informal and flexible political collectivity. The ethnographic record suggests that the general area was inhabited at various times of the year by small groups who made seasonal movements in order to procure economic resources as they became available. The Washoe have a tradition of making long treks across the Sierra passes for the purpose of hunting, trading, and for the gathering of acorns. The Washoe had trade relations and communications with other mountaineers and lowland groups.

Anthropologist A. L. Kroeber (1925) estimated that the Washoe population in 1770 was approximately 1500. Records indicate dramatic decreases in the Washoe population prior to the 1840s due to epidemics of disease. By the 1850s, Euroamericans had permanently occupied the Washoe territory and changed traditional life. Mining, lumbering, farming, grazing, commercial fishing, tourism, and the growth of settlements disrupted traditional Indian relationships to the land. As hunting and gathering wild foods were no longer possible, the Washoe were forced into dependency upon the "white" settlers.

The Washoe continued to live in the Woodfords and Markleeville vicinity. The Washoe, under the leadership of Captain Jim, ranged through Truckee Meadows, the Washoe Lake area, Markleeville, and south to Double Springs (Long n.d.:55). According to Harry Hawkins (1967:55, 71), an early settler in Woodfords ... *"The Indians used to have their wickiups here near my home at Woodfords. They just had big wickiups right over there (south of Woodfords) in the flats. Down on the flat below the old Indian camps were. Their mills were there, too—plenty of them. They had mills all around on this place. Most of them got that deep granite all around. We used to go down there to the flat there before my father plowed it up. We'd pick up all kinds of arrowheads, spearpoints, mortars, all that kind of—thought nothing about it. Now, you can't find a chunk, a piece, the size of a dime, hardly."*

A Washoe Cemetery is located within the project area. Hawkins (1965:56, 71) refers to it as *"the graveyard of the forgotten ones ... I don't know how many's in that cemetery."*

That's a big one. You can just spot out the places, and who knows who's buried there ... There's some buried right down in the gulch that the sand has covered all over now. No signs of them at all." Goldy Bryan (personal communication 10/3/1984), a Washoe elder born in Dresslerville and now living in Woodfords, notes that the practice of concentrated burials within a cemetery was imposed by the whites. Traditionally the dead were buried almost anywhere. Once the body was interred, the spot was not usually revisited, as is the Euroamerican custom.

The presence of a Washoe roundhouse somewhere near the project area (Hawkins 1967; Bryan personal communication 10/3/1984), the likelihood of Washoe burials occurring outside the designated "Washoe Cemetery", and the existence of both temporary and permanent encampments make the project vicinity highly sensitive to contain prehistoric remains.

HISTORY

Basically 6 sets of integrated activities or industries are associated with the Euroamerican utilization of the general project area: (2) early exploration; (2) settlement; (3) transportation and communication; (4) livestock grazing; (5) mining; and (6) logging.

Early Exploration

The earliest known Euroamerican traveler in the region was Jedediah Strong Smith in 1827. Joseph Walker led a group of trappers up the Truckee River in 1833. In 1841, John Bidwell came through the Sonora Pass. Three years later, John C. Fremont and his guide, Kit Carson, crossed Carson Pass and Fremont made the first recorded mention of Lake Tahoe (Farquhar 1965:56; Scott 1957). The Mormon Battalion crossed into the Carson Valley in 1848, constructing a wagon road which became known as the Carson Pass Route.

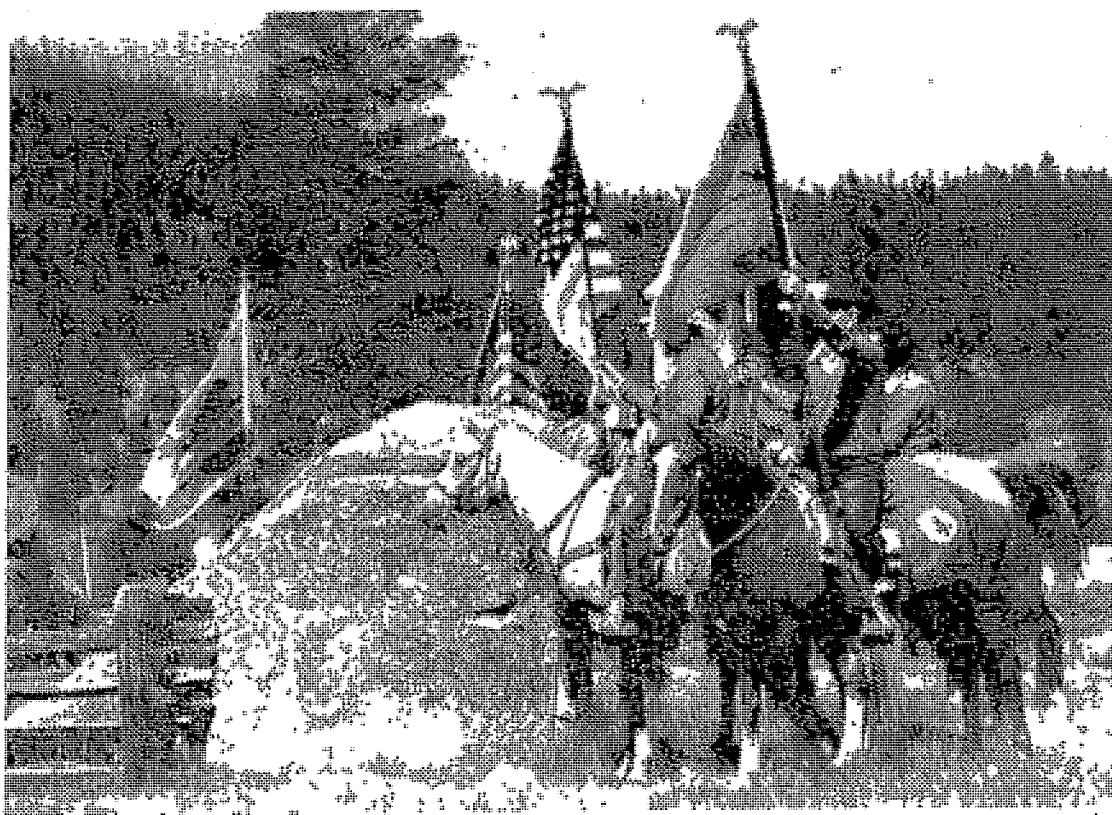
Alpine County was created on March 16, 1864 as the 46th county in the state. It was formed from parts of Amador, Tuolumne, El Dorado, Calaveras, and Mono counties. A series of land surveys by the Surveyor General of California were prompted by the importance of determining the boundary between California and Nevada (then the Territory of Utah). The eastern boundary of Alpine County was not established until a third survey in 1893, which restored county lines to their present borders.

Early Settlement in Alpine County

The names given to the valleys of Hope, Faith, and Charity are expressive of the emigrants' feelings for this long-hoped-for land of promise. With the hardships of the desert behind them and with the mighty Sierra summit ahead, they found respite in these valleys.

In 1861 Jacob Marklee first staked out land at the site of Markleeville. By 1863, it had a population of 2,620 and supported a post office, Wells Fargo Express Office and telegraph (Howatt 1966:13). With the decline of silver in 1875, the county seat was moved here from Silver Mountain City.

Woodfords was established as the outpost of Brannan Springs in 1847 by a Mormon named Sam Brannan. This was the first white settlement of the region. In 1848 a traveler stopping place was built. By 1849 the influx in population prompted Dan Woodford to erect a hotel, which was the town's town was referred to as Cary's Mills. Shortly a post office established the town name as Woodfords. In 1852 Cary



built a house, the Wade House, which is the oldest house on the east slope of the Sierra in this area. In 1854 W. P. Merrill opened a trading post which was used by the Wells Fargo Express. A pony express mount station was a Cary's barn (Alpine County Historic Landmark #805). The Pacific Coast Business Directory for 1867 shows the following listings for Woodfords: (Long n.d.:20) Carey's Mills; Hawkins, Mary - Hotel Proprietress; Merrill, W. P. - General Merchandise; Shelter, Otto - Hotel Proprietor; Wade, O. C. - Hotel Proprietor; Wade, William B. - Postmaster and Lumber Dealer.

Other early settlements related to mining and the associated support industries of lumber and transportation: Fredericksburg, established in 1864; Kongsberg or Silver Mountain City, founded in 1858 and the county sat until 1875; Monitor (or Loope), founded in 1862; Summit City, founded in 1864; Harmonial City, Raymond City, Centerville, Splinterville, all founded in the mid-1860s; Mount Bullion, established in 1869; and Silver King, founded in 1866. Diamond Valley, located 4 miles from Woodfords, was an early Mormon settlement and the home of John A. "Snowshoe" Thompson.

Transportation and Communication

The demand for routes of travel, caused by the sudden opening and rapid development of the mines, was imperative, both as the general routes of access and as the arteries of supplies to provision the thousands who converged on the area during the late 1840s and 1850s. By 1855, the entire Carson Pass and Luther Pass area had been thoroughly examined for potential transportation routes and many observation points had been occupied for mapmaking (Farquhar 1965:97).

Woodfords was a major transportation center in Alpine County, at the junction of Carson Canyon and the Markleeville road (Highways 88 and 89) as early as 1859 (Jackson 1964:56). All 3 major routes accessing the Carson Valley, the Tahoe Basin, and the west slope of the Sierra passed through Woodfords. One such route, the Carson Pass Road, now State Highway 88 (Alpine County Historic Landmark #315 and #661) was opened in 1848 by a remnant of the disbanded Mormon Battalion (Stewart 1962). It was shown on an 1875 GLO Plat as "Road from Placerville to Genoa" (Alpine County Assessor's Office).

Ebbetts Pass (Alpine County Historical Landmark #318), or the "Big Trees Road", State Highway 4, was named for J. A. Ebbetts, who recommended and surveyed this as a potential route for the transcontinental railroad. In 1864 it was opened as a major wagon road.

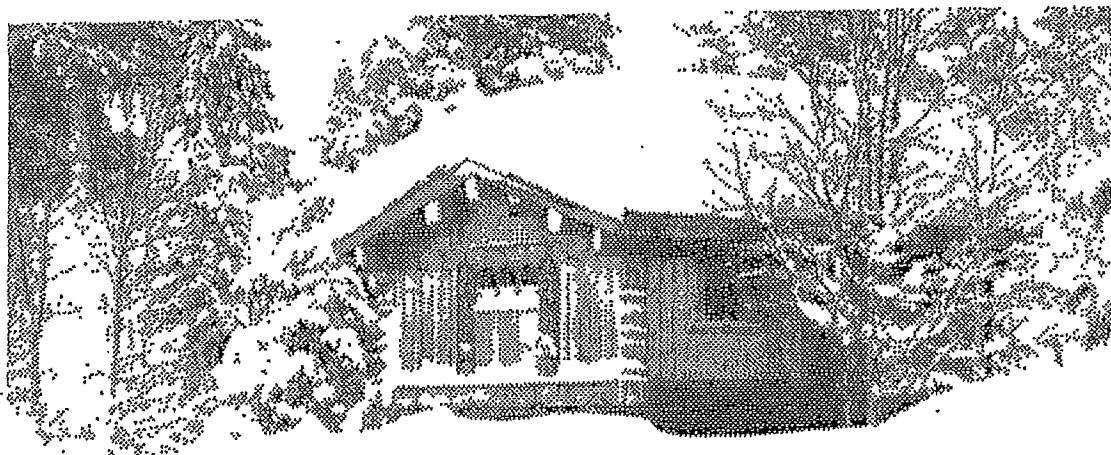
Luther Pass was known as early as 1850. It branched off at Pickett's Junction in Hope Valley and headed north to the Upper Truckee River and to the Johnson Pass Route (State Highway 50).

The route through Woodford's Canyon was used regularly as early as 1849. Also known as Horsethief Canyon, pioneers were frequently robbed of their horses as they traveled westward. Thieves fattened stolen horses in the mountains and sold them in Nevada. The same horse could be stolen and resold several times.

In response to the need for adequate communication over the Sierra, several counties and private companies financed the conversion of mountain trails into toll roads for the transport of mail and supplies by wheeled vehicles. It was customary for an individual or company to obtain a franchise to construct and maintain a road. In turn, they were permitted to charge toll and erect a toll gate or toll house. Toll gates were located at Green's (Pickett's Junction), half-way between Green's and Luther Pass, 1 mile west of Woodfords, and numerous others were operated throughout Hope Valley and beyond the passes. Toll roads throughout Hope and Charity Valleys were made public roads after 1893 (Howatt 1966:97).

The pony express flourished briefly in 1860. It ran through Woodfords for weeks and was then re-routed to follow the route over Daggett Pass (Kingsbury Grade), as free toll was offered there. This first route went from Genoa to Fairview, to Woodfords, to Green's (Hope Valley), to Caples, and onto Hangtown (Placerville).

When heavy snows hindered wheel and horse travel, the mail was carried by "Snowshoe" Thompson, who made a remarkable series of trips across the Sierra on skis from 1856 to 1876. At first he used the Placerville-Johnson-Luther Pass Route, but later he followed the Big Tree Route to Hope Valley. Both routes passed through



Hope Valley and continued down Woodfords Canyon to Genoa (Farquhar 1965:100). He cached his skis at the spring in Woodfords Canyon, where he began and ended his journey across the Sierra. "Snowshoe" Springs is now a public campground.

The discovery of silver in Nevada caused the whole character of Sierra travel to flow in the reverse pattern. Roads and way stations along the Johnson and Carson routes were overcrowded with travelers. The big bonanza in Washoe stimulated the search for silver in every direction and furthered the development of transportation routes and support facilities in the vicinity of the project area.

Mining

The area did not take part in the gold rush, but was prospected in the early 1860s with the Comstock discovery. There was a high population of American, Canadian, Irish, and Norwegians in these mines (Howatt 1966:641). The first major mining was at Silver Mountain in Scandinavian Canyon. During the 1860s mines within the Monitor, Mogul, Silver Mountain, and Silver King mining districts developed. The use of improper milling methods, along with a lack of available capital and labor resulted in repeated failures of Alpine mining enterprises. Several British investors financed Alpine County mines as early as 1865 through the late 1870s (Jackson 1964:58).

Copper, lead, and zinc are found in small amounts in Hope Valley. Substantial quantities of stone, sand and gravel have been mined in the flood plain of the West Branch of the Carson River in the southern or upper end of Hope Valley. Tungsten was mined in the 1940s-50s by the Alpine Mine and the Burnside Mine, located in the western and eastern part of Hope Valley.

Logging

The lumber industry in Alpine County was associated with the needs of the mills and mines of the Comstock. Wood was cut during the winter in areas adjoining major streams. The logs were floated down in the early spring freshets. Mills were first located along the lower portions of the East and West Branches of the Carson River. Gradually mills were moved from the foothills into the higher elevations. Cary, Woodfords, and Peabody mills were all water powered mills which serviced local needs around 1853 or 1854 (Jackson 1964:55). Transport to the rivers in the early 1860s was by mules and wagons. After 1865, logs were moved by V-flume. The lumber business declined with the demonetization of silver and the demise of the Comstock. It continued to support settlements in the Carson Valley and Alpine County.



Agriculture and Grazing

In the early 1860s many emigrants, unsuccessful in gold mining, turned to farming and were attracted by the active market for agricultural products in the mining towns. Alpine County farmers fed large numbers of workers in the Comstock and served local consumers. Most of the soils in the region are residuals and poor agriculturally. The only alluvials are in the Upper Carson, Hope, Faith, and Charity, and Diamond valleys. Accordingly, these were the seasonal centers of the dairying and stock raising industry. Also, temperate zone fruits, vegetables, potatoes, hay, barley, and oats were grown.

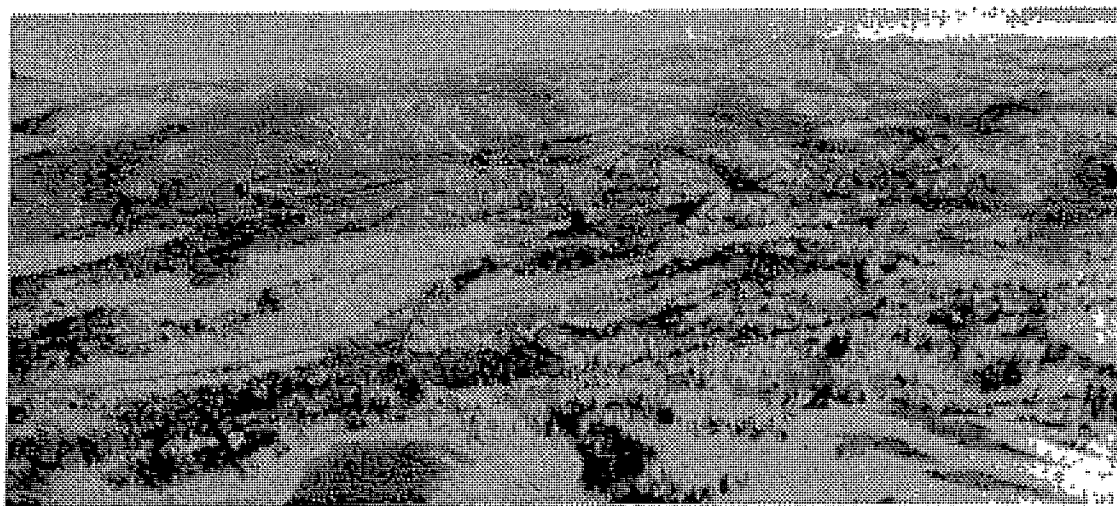
Woodfords was an important milling and product distribution center. Cary erected a water-powered flour and grist mill in 1865, the only mill of its kind in the Carson Valley (Jackson 1964:56). In January, 1874, Rickey and company established a barrel factory at Woodfords primarily to manufacture butter tubs needed by dairymen in Hope Valley.

Diamond Valley, one of the richest agricultural sections, produced barley, wheat, hay, oats, and fruit on a large scale by the 1870s. Snowshoe Thompson owned 100 acres of planted wheat and barley averaging 25 bushels per acre. He had an annual hay crop of 80 tons and owned both dairy and beef cattle, and also owned a threshing machine, reaper and mower (Howatt 1966:79). Today almost the entire valley has been converted to cattle range and planted pasture by the Heise Corporation of Gardnerville, Nev. (Alpine County Records Office: Deeds; Howatt 1966:79; Hawkins 1967:28).

Cattle, sheep, horses, and mules were driven up from ranches in the San Joaquin, Sacramento, and Carson Valleys. Dairy and beef cattle came from San Joaquin, Sacramento and Amador counties. Summer herds were the most numerous migrating herd. Most sheep came over the Big Trees Road from San Joaquin, Calaveras, Stanislaus, Sacramento, and Amador counties, less so from the Carson Valley. Basques were usually employed as sheepmen.

Since the late 1880s, Nevada ranchers, including such families as Dressler, Berry, Fay Wilderson, Park, Scossa, Dangberg, Settlemyer, Neddenreip, and Heise have owned both land and water rights in Alpine County. The water rights to the Carson River, which date back to 1858, reveal the importance of the Nevada cattlemen in Alpine County. Rights to water became an object of bitter dispute between ranchers of Alpine County and the Carson Valley. In 1890 the Alpine Land and Reservoir Company was organized by some Alpine County farmers, to build storage reservoirs in Alpine County and sell the water.

The cost of construction was prohibitive and the company sold out to Carson Valley farmers who constructed dams on various sites in Alpine County, with an aim to store unused water to be used later for irrigation in the Carson Valley. According to the California Superior Court ruling of November 29, 1921, on water rights on the West Fork of the Carson river, the Alpine farmers and ranchers, then 18 in number, received a total of 39.24 cubic feet per second. Two other Nevada ranchers received 17.98 cubic feet per second for use in Douglas County, Nev. (Water Rights, November 29, 1921, Alpine County Archives). Nevada ranchers also own water rights to about 15 lakes in Alpine County (Howatt 1966:89). As of 1960 about 4,000 acres in California and 10,000 acres in Nevada are irrigated by diversions from the West Fork of the Carson River.

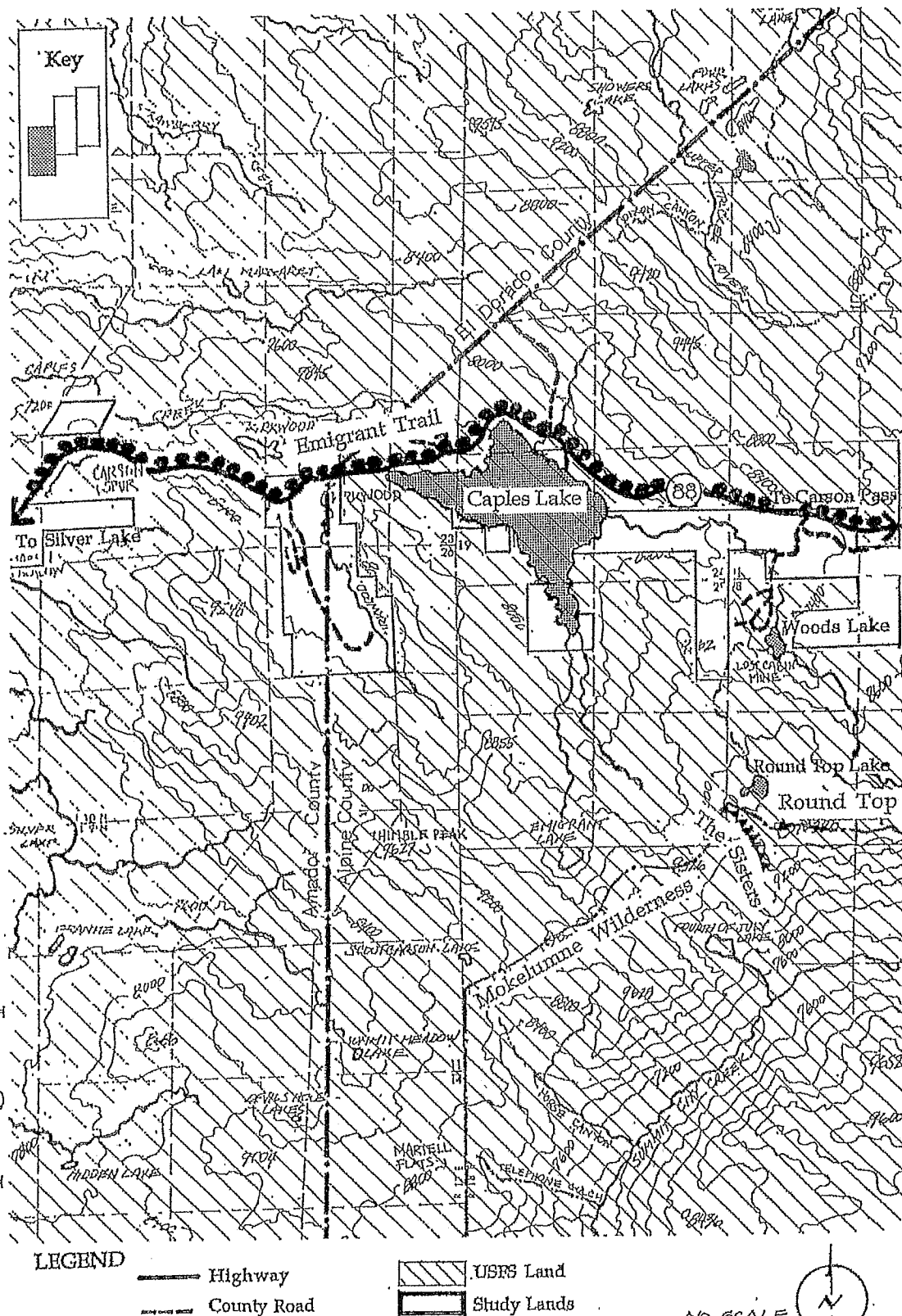


Needs to be reviewed

CULTURAL/NATURAL RESOURCES

Hope Valley
Economic and Recreation Study

Alpengroup 1988 Lake Tahoe, Nevada



Needs to be reviewed

CULTURAL/NATURAL RESOURCES

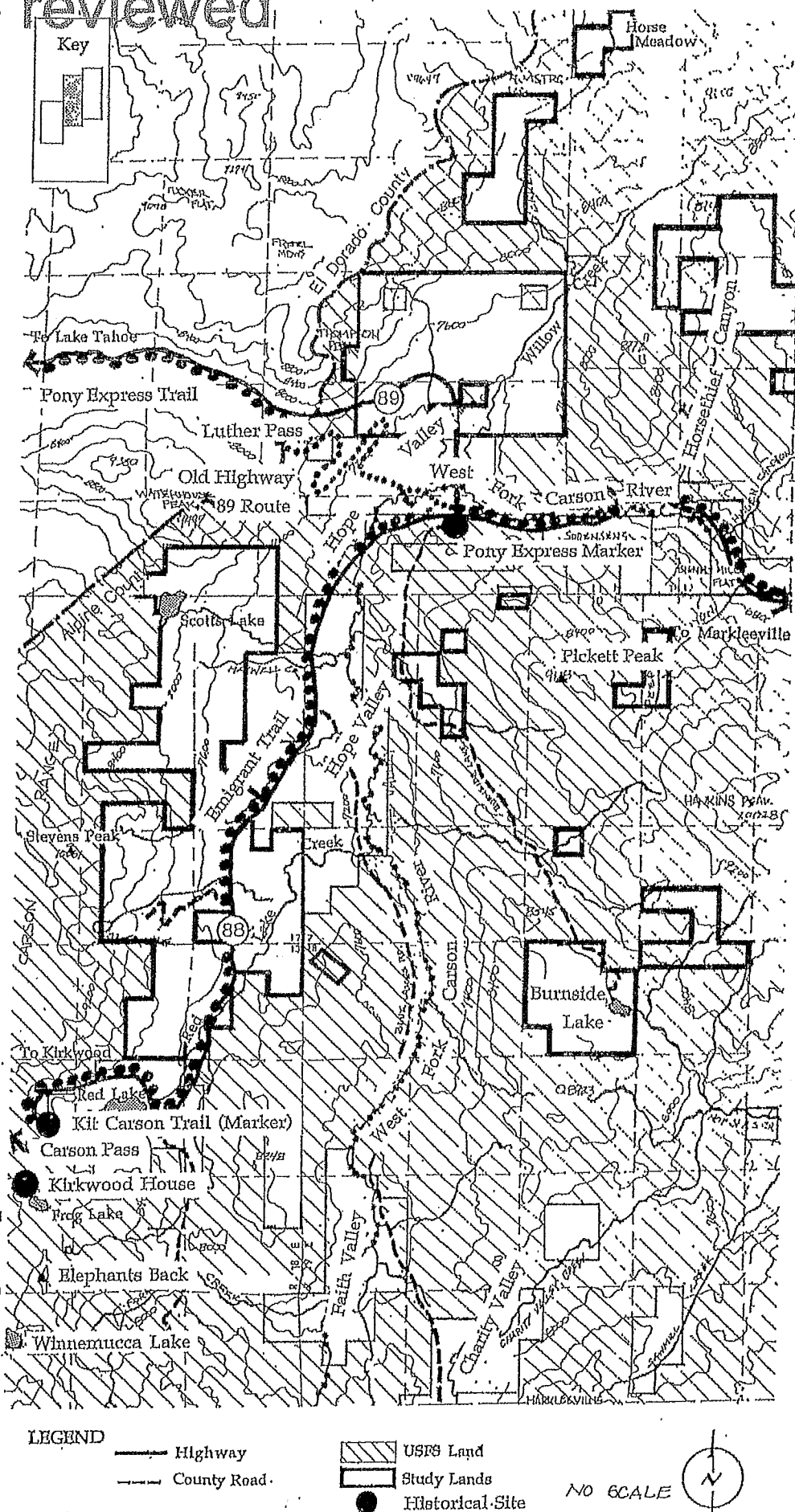
Hope Valley

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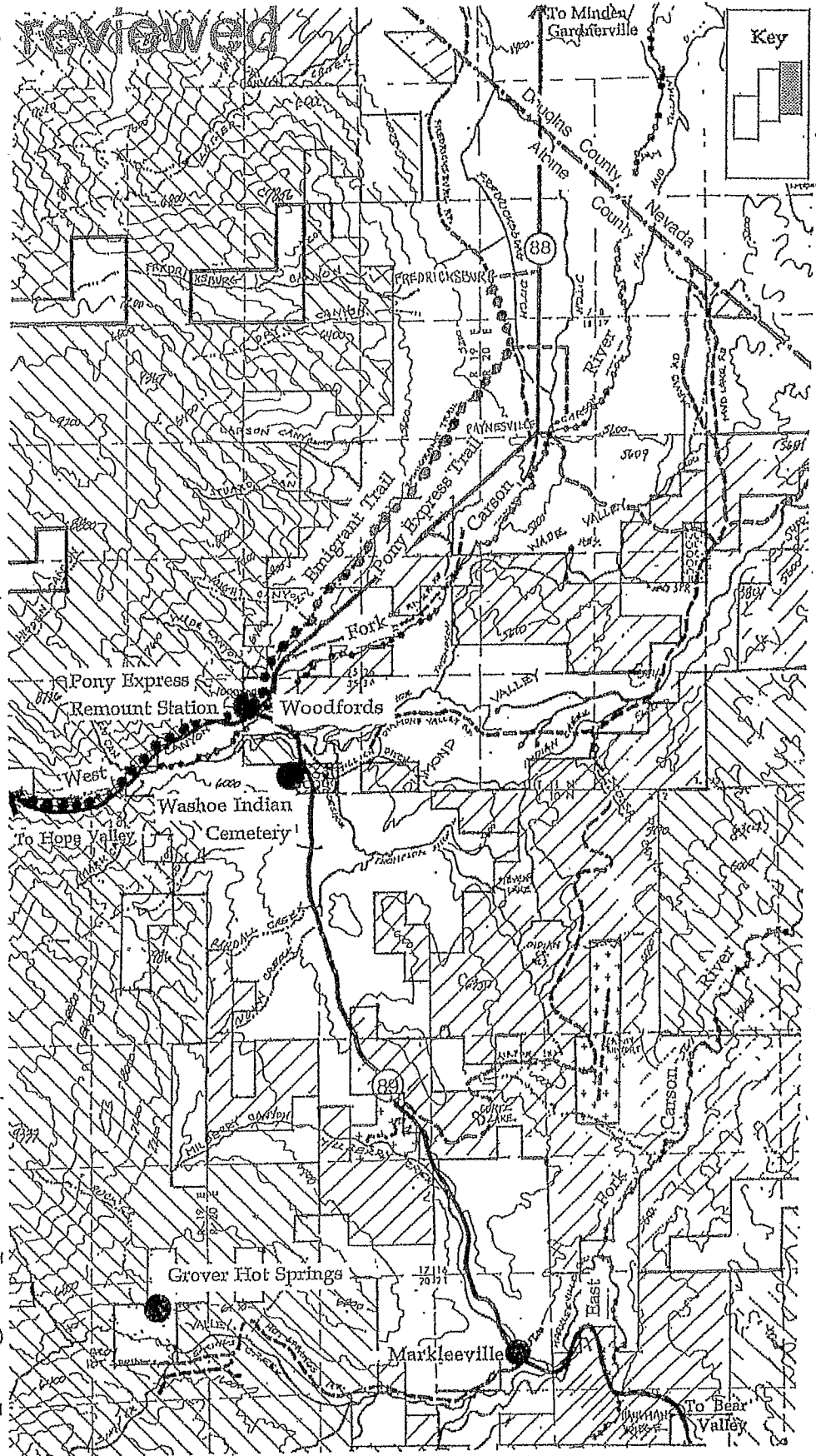


Needs to be reviewed

CULTURAL/NATURAL RESOURCES

Hope Valley
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Alpengroup 1988 Lake Tahoe, Nevada

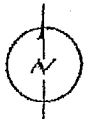


LEGEND

— Highway
— County Road

USFS Land
Study Lands
Historical Site

NO SCALE



Needs to be reviewed

Hope Valley Economic and Recreation Study

Final ▼ April 1989

▲ Recreation

- ▼ Existing
Recreation
- ▼ Future
Recreation

Needs to be reviewed

Hope Valley Economic and Recreation Study

Final ▼ April 1989

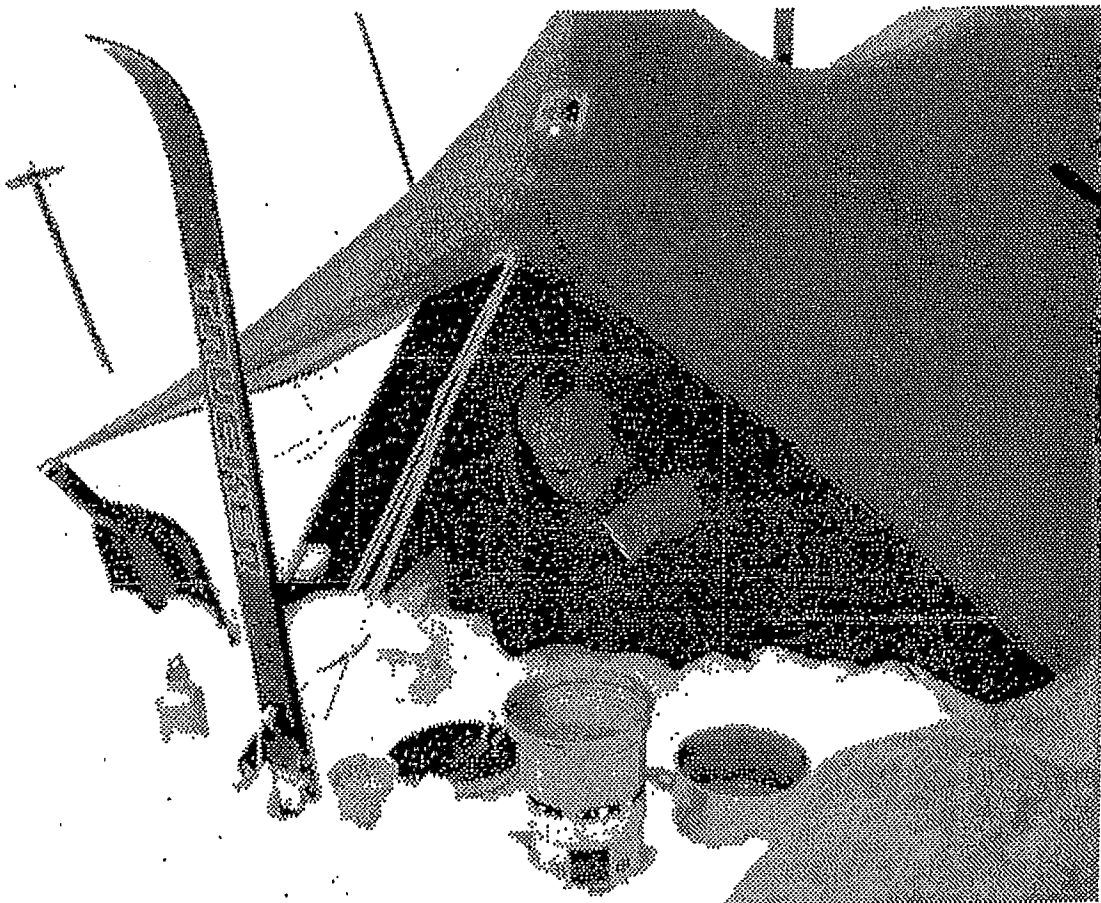
▲ Existing Recreation

Existing Recreation
Opportunities
Recreational Providers
Users
Visitation

RECREATION ▼

Alpine County represents a great opportunity for outdoor recreation. The wealth of its natural resources includes rugged mountains, picturesque valleys, free flowing streams, varied habitats and abundant wildlife. These resources appeal to a wide variety of travelers looking for a place to get away. The study area, the corridor surrounding Hope Valley stretching from Kirkwood to Markleeville, offers all of these resources and, in addition, a stunning beauty. As a result of this combination of scenery, activities and accessibility, the area enjoys a growing reputation as a vacation spot.

This chapter will describe the existing recreational activities, typical visitors, and recreation providers and support facilities in the area, as well as describe the planned future for recreation. The last portion of the chapter will address economic impacts and benefits from increased recreation and tourism.



EXISTING RECREATIONAL OPPORTUNITIES ▼

Recreation in Hope Valley is based on the diversity of natural resources present. Situated in the Carson Range of the Sierra Nevada, the landscape presents a seemingly endless array of mountains and narrow canyons that open into grass covered valleys. Numerous small streams feed into mountain lakes and reservoirs, as well as the West Fork of the Carson River. Recreational potential abounds in this setting. The following paragraphs describe existing recreational uses in the areas.

Summer:

Hiking. Many hiking trails exist in the area and pass through meadows, high, treeless plateaus, dense forest and riparian areas. The Pacific Crest National Scenic Trail is perhaps the best known and crosses the area at Carson Pass. Trails in the northern study area access Horsethief Canyon, Horse Meadow, Pickett Peak, and Stevens Peak. From the Carson Pass area, trails reach Meise Meadows, Red Lake Peak, Elephants Back, Round Top and The Sisters. Lakes along these trails include Meise, Frog, Winnemucca, Woods and Round Top. In addition, the Mokelumne Wilderness Area sits just south of Caples Lake and provides hiking and primitive camping opportunities.

Camping. Camping opportunities in the area include developed tent and RV campgrounds, undeveloped sites where camping is allowed, and primitive backcountry camping. The campgrounds operated by the USFS include Hope Valley Campground, Kit Carson and Snowshoe Springs campgrounds, and the Woods Lake and Caples Lake campgrounds. The State of California operates a campground at Grover Hot Springs State Park; the county campground is located at Turtle Rock County Park. Two popular undesignated camping areas are located at Picketts Junction and along the Blue Lakes Road. Backcountry camping can occur in all US Forest Lands, however, popular spots exist around most lakes in the Carson Pass area.

Fishing. The West Fork of the Carson River is a popular fishing area. However, in Hope Valley itself, overgrazing by private landowners has reduced the fisheries habitat quality in the river. Currently, Rainbow and Cutthroat Trout are found. In addition to the river, many area lakes provide fishing opportunities. Of these Caples Lake is the largest and most accessible.

OHV. Past human activities in the area such as logging, mining, and ranching left many unimproved roads. Jeep trails and 4-wheel drive trails provide vehicle access to such areas as Blue Lakes, Burnside Lake, and Scotts Lake. Motorized vehicles are not permitted off established dirt roads on any public lands.

Mountain Biking. This relatively new activity is rapidly growing in popularity throughout the West and certainly within the study area. Three years ago, mountain bikes were unknown in Hope Valley; this year all area trails have experienced mountain bike use. Currently, several trails are off-limits for this use. These include all trails within the state park, the Pacific Crest Trail, the historic Emigrant Trail, and all wilderness trails.

Equestrian. Horseback riding in Hope Valley has enjoyed a long history. The Emigrant Trail and a Pony Express Trail route both crossed through the area and ranching-related horse use continues today. Much of the existing recreational use consists of horse owners trailering in their animals for day or week long rides into the surrounding backcountry lakes. Few adequate trailhead facilities currently exist to serve these users. Guided trail rides available at the Kirkwood Stables help to diminish trail use conflicts such as equestrians and vehicles using the same trail. (See the following discussion for more information about Kirkwood Stables.)

Miscellaneous. Many other outdoor activities occur during the moderate weather months within the study area. These include picnicking, hunting, mountain climbing, nature study, photography, bicycling (along paved roads), swimming and wading (in natural streams, lakes, and hot springs), and boating (at Caples Lake). In addition, area resorts offer more developed activities such as tennis, nature-oriented classes, swimming, and hot tubs. Llama pack trips and river rafting (on the East Fork of the Carson) can be experienced through special arrangements with Sorensens, Kirkwood, or the Woodfords Inn.

The study area is also used during the year for numerous training seminars and workshops for Federal, State, Regional, and Local Search and Rescue Teams.

Winter:

Alpine Skiing. At the south and west edge of the study area, Kirkwood offers a fully developed downhill ski resort. Although a portion of this resort sits outside of Alpine County, its proximity to Hope Valley adds to the activities diversity in the area. Kirkwood currently offers eleven lifts and 55 ski trails.

Nordic Skiing. The Carson Range, with its high mountains, frequent valleys and



abundant snowfall offers unlimited cross-country and mountaineering ski opportunities. In the study area, Nordic skiing has enjoyed a tremendous growth in popularity during the last ten years. Popular mountaineering destinations include Elephants Back, Round Top, Red Lake Peak and Meise Meadows. Other popular routes include Willow Creek Canyon, Red Lake Creek drainage, and the southern portion of Hope Valley. USFS marked, ungroomed cross-country trails include Winnemucca Lake and Red Lake. In addition, two resort areas mark and groom trails for skiing and (at Kirkwood) for skating. Sorensens maintains 40 km of groomed trails one of which provides access to Burnside Lake. Another 40 km are marked but ungroomed. The Kirkwood Nordic Center maintains 75 km of groomed track with skating lanes.

Snowmobiling. Snowmobiling is another popular winter sport in the area. Snowmobiles can be found on most jeep trails, though by far the heaviest use occurs along a corridor from Hope Valley to Blue Lakes, generally following the Blue Lakes Road. Tahoe Winter Sports grooms snowmobile tracks in this area.

Miscellaneous. Other winter activities in the study area include, snowshoeing, winter camping (developed camping available only at Grover Hot Springs State Park), snow play, ice fishing (at Caples Lake), and swimming (also only at Grover Hot Springs). In addition, Sorensens and Kirkwood offer their visitors special activities such as sledding and sleigh rides.

The terrain and snowpack that is indigenous to the area provides an excellent environment for snow studies, seminars for avalanche awareness, and winter Search and Rescue training.

Special Events: Special events also draw people to this area for outdoor recreation. Races, rodeos, and other celebrations are included in this category. In determining existing recreation, this study considered only annual events. They are:

Tour of the California Alps - The Death Ride: This bicycle ride that is held in July follows a rigorous route up and down the mountain passes of Alpine County. It is considered one of the most outrageous bicycle rides staged on the West Coast.

Canine Connection: This 15 km sled dog race event in Hope Valley occurs every February. A similar race, staged in Truckee, is a large draw for the North Shore of Lake Tahoe and Truckee.

Alpine County Faire: This event is held in Markleeville and Woodfords every August.

Kirkwood Rodeo: A small, one day rodeo held at Kirkwood Stables occurs every summer.



RECREATION PROVIDERS ▼

Within the study area, four public agencies and seven major private groups provide recreational opportunities or recreational support services. This mix of public and private groups helps create the recreational diversity described in the last section. However, with so many players involved, the results sometimes are confusion, duplication of effort (particularly as regards planning and promotion), inadequate resource management, and haphazard rules enforcement. In order to fully understand the existing recreation picture, it is necessary to better understand the recreation providers.

United States Forest Service.

The USFS controls much of the land within the study area. As most of that land falls within the Toiyabe National Forest, the following discussion will assume that jurisdiction. (The El Dorado National Forest boundary crosses at Carson Pass; thus Caples Lake, and the Kirkwood area fall within that Forest. All of the lands under purchase consideration would transfer to the Toiyabe National Forest.)

Unlike other forest areas where logging or other uses predominate, the Toiyabe National Forest is ranked 19th nationally for recreation use. Within the Forest, the Alpine County facilities prove to be very popular, often operating at an occupancy rate twice that recommended to preserve the resource. In the 1986 Toiyabe Land and Resource Management Plan, the Forest Service recognizes recreation's importance and defines the development and management direction for this study area. That direction provides priority for developed and dispersed recreation, as well as wildlife habitat, aesthetics and watershed maintenance.

Within the study area, developed forest service facilities include: 135 summer campsites at the Hope Valley, Kit Carson, Snowshoe Springs, Woods Lake and Caples Lake campgrounds; hiking and jeep trails; and an information station at Carson Pass. In addition, permittees operate Alpine and Nordic ski and snowmobile trails, horse pack trails, campgrounds and the Hope Valley and Caples Lake resorts. Special use permits allow private individuals to operate commercial enterprises on federal lands. Under these permits, private groups invest the needed capital improvements and collect the profits; the USFS can control certain aspects of the operations and receive a portion of the profits as a permit fee. As federal budgets tighten, this sort of public-private partnership will become a more common way to meet the growing recreational demand.

California State Parks.

California State Parks operates the 538 acre Grover Hot Springs State Park. This facility, once a private resort, centers around the naturally occurring hot mineral water piped into a concrete pool. At all times of the year, visitors can swim or soak in the "hot" pool, at 100 F, or in the "cold" pool, at 80 F. A changing room and showers completes the pool facility. By State Park standards, the pool complex is run-down and will receive extensive remodeling when funds become available. Other facilities at this park include: 46 picnic sites (30 of these form the winter campground), 76 summer campground units, a nature hike and trailhead to Burnside Lake, and cross country skiing. (Mountain bike, equestrian and OHV use is prohibited in the park except along one existing dirt road.)

California State Parks also operates a Snow-Park permit facility at Carson Pass. From this parking lot, most of the Carson Pass cross-country ski areas are accessible.

California Fish and Game.

California Fish and Game stocks the West Fork of the Carson River. The Rainbow and Cutthroat are considered good sport and eating fish. Currently, Fish and Game provides no other use facilities.



Alpine County.

Alpine County operates Turtle Rock County Park just outside of Markleeville. The primary activity for recreationists in this park is a 28 unit campground, with eleven spots reserved for summer-long senior visitors. The facility is not available during the winter months.

Woodfords.

In the Woodfords area, Woodfords Inn and Woodfords Station both provide visitor services. Woodfords Inn offers 20 motel rooms, an outdoor hot tub and coordination with Mort's River Rafting trips along the East Carson River. Typical hotel users include hunters, fishers, hikers and vacationers exploring the scenic beauty of Alpine County. At Woodfords Station, a restaurant/deli and general store are available, as well as visitor services such as maps, souvenirs and fishing licenses.

Hope Valley Resort.

The Hope Valley Resort consists of a general store, gas station and restaurant and operates under a special use permit from the USFS. Its major clients are highway travelers and campers at the Kit Carson and Snowshoe Springs campgrounds. This business has struggled over the years under a succession of managers and is currently open only during the summer months. The projected increase in recreational use of the area may indicate a brighter future for this operation.

Sorensens Resort.

Sorensens Resort, located on private property at the edge of Hope Valley itself, is an aggressively growing year-round resort. A full description of this resort can be found in the economic case studies at the end of this chapter. Briefly, Sorensens offers lodging (including group events such as conferences and weddings), food, gift items, special activities such as nature study, hiking trails, and a complete cross-country ski package including groomed and marked trails, equipment rental and lessons. In addition, staff will coordinate such activities as equestrian rides at Kirkwood Stables and llama pack trips.

Caples Lake Resort.

This resort is the only one in the study area with direct access to a lake. As such it offers recreational opportunities unique in the area. These include lake fishing, a small boat ramp, and motor boat and canoe rental. (The 5 mph speed limit

restriction on the lake prohibits larger boats and activities such as water skiing.) In addition, the year-round resort offers lodging in 7 cabins and 6 lodge rooms, a small store, and a renowned restaurant. Typical visitors fall into two groups; those drawn to the area to experience the Sierra outdoors (primarily for fishing, hiking, skiing, and nature study), and those already staying in the area and drawn to the restaurant.

This resort, as with the Hope Valley resort operates with a special use permit from the USFS. The terms of the permit do not allow ski rental or ski lessons, although after a master plan is completed other facility expansion may be possible.

Kirkwood.

Kirkwood resort is a fully developed year-round destination resort. Many of the facilities are located in Almadore County, yet this resort has such an impact on outdoor recreation, it will be discussed fully here. Also discussed will be the Kirkwood Nordic Center and the Kirkwood Stables. These groups are not technically a part of the Kirkwood organization though together they form the "Kirkwood Experience."

Kirkwood Meadows offers the full range of recreational activities and visitor support services. In the summer these include: lodging and restaurant facilities (including conference facilities), general store and gift shops, 4 tennis courts, and hiking trails. Visitors also take advantage of nearby public recreational opportunities such as boating, fishing, and swimming. Alpine skiing is the main winter attraction and the resort offers eleven lifts with 55 ski trails. Ski rental and equipment and clothing purchases are also available.

Kirkwood Nordic Center is the developed Nordic skiing operation in the Carson Pass area. Operated only during the winter, this group has the exclusive permit from the USFS to develop and maintain ski trails as well as to rent and sell equipment. The area offers 75 km of groomed track with skating lanes, warming huts, and a day lodge with equipment sale and rental, and lessons. The nearby Kirkwood Inn offers food service and lodging.

Kirkwood Stables, in operation since 1986, is a relative newcomer in the area. Located on Kirkwood property, a special use permit allows trail rides to take visitors out of the valley and into the El Dorado National Forest. Conditions of the permit allow only guided, hourly or half-day rides. A corral and small office structure are the only on-site facilities required for this operation. Kirkwood Stables has 10-12 rentable horses available, although at any one time, some of these may be rotated out to pasture.

Recreation Users ▼

Recreation Users

People that visit an area to participate in recreational activities often fall into distinct user groups. Member of these groups will share interests, recreational needs, facility development needs, and often travel and spending habits. In the Highway 88 Study, the USFS identified and described typical user groups within the Highway 88 corridor, of which Hope Valley is a part. The following section summarizes information from that study, augmenting it with more specific user information where necessary.

- (1) car campers,
- (2) those with special access needs,
- (3) day users,
- (4) youth groups, and
- (5) resort and cabin renters.

These groupings are based upon social and economic analysis of the management situation, historical and projected trends of user groups, informal interviews with Forest Service recreation management professionals and forest users, oral and written issue statements, newspaper articles, government studies and documents, land use surveys, and census data. These groups are not mutually exclusive; a person may belong to more than one group.

The current situation for each of the groups is described as a way of comparing their impacts.

A social variable is a factor that can be used to measure the social impacts of the various alternatives on different social groups. For example, people within each group may have similar lifestyles, attitudes, beliefs and values which are projected as likes, perceptions, and fears.

Other components of social organization such as community cohesion and stability are also social variables are discussed for each social group. In addition the effects on population in terms of distribution, growth and density is a social variable which is considered.

This study recognizes that characteristics identified for each group are generalizations and, as such, will not be true for everyone in the group.

1. Car Campers

Car campers are overnight visitors who camp in developed campgrounds for periods from one night to two weeks and participate in such daytime activities as relaxing in camp, camp-cooking and barbecuing, fishing, sightseeing, swimming, hiking, and generally enjoying the mountains. (Winter campers are considered in this study but their numbers are relatively few and the focus is on summer users of the study area.) They generally travel and camp with their families and possess strong feelings about family use of the outdoors and natural resource appreciation. They travel predominantly in autos and recreational vehicles and prefer relatively high standard roads for access to campgrounds and other facilities. The vehicles they use for transportation require travel routes that provide easy access.

The majority of campers come from urban Sacramento, Stockton, and San Francisco metropolitan areas. These three areas account for over 80% of the total family and group campground use in the area.

The summer season of car camper use is the school vacation and holiday weekends period. This typically covers the roughly 100-day or three-month period from Memorial Day weekend through Labor Day. When traveling to the recreational facilities along Highway 88 campers find scenic travel through the area to be an attractive feature of the trip.

Car campers share some common recreational life styles. These consist of a recreational goal, recreational opportunities, special group access, security, and public space for daytime activities.

Their recreational goal revolves around a central theme, which is to travel to the outdoors with family or friends, pitch a tent or level an RV, cook out, fish and hike in an unrestricted, natural forest setting. These visitors travel to the forest to enjoy an outdoor family experience in a rustic setting while taking in the great outdoors. This theme is central to the group's recreation style.

The recreational opportunities of the car camper are centered around the availability and location of campgrounds and campsites with water being a primary attractant. Because of the close proximity of the available campgrounds in the area, heavy use is experienced with crowding occurring approximately 30 to 50 percent of the time during the 100-day high use season. Crowding is indicated by turnaway and near turnaway days.

As a social group, car campers can be easily joined by special groups such as the

poor, disadvantaged, or minorities so long as transportation fees, and fuel prices permit. The special groups find little obstacle to joining the car camper social group to share its associated privileges. Compared with resort rentals, downhill skiing, and recreation residence owning, car camping requires only access to a vehicle, ability to afford some fairly inexpensive equipment, fuel, and modest campground fees.

Security is another recreational life style component for the camper. The group's sense of security can be affected by anxiety, unpredictability, and the "unknown". The primary factor associated with this study, which can influence the group's sense of security, is a lack of opportunity to participate in their form of recreation. This lack of opportunity can be created by the failure to expand the facilities necessary to meet the current and future demands for campgrounds in the area. If competition and crowding is allowed to dramatically increase, opportunities for this group to find a campsite decrease. This reduces their potential for enjoyment and causes anxiety, the unpredictability of finding a place to stay, and a fear of a wasted trip.

The final aspect of car campers recreational life style is their need for public space. It is not sufficient to merely provide this social group with campsites; they also require space for appropriate activities during the day. These activities are primarily water oriented in the Highway 88 area, encompassing such pastimes as fishing, swimming, sunbathing, and boating.

Car campers also share an appreciation for the existence of the National Forests with their varied resources. They appreciate and value the natural environment, its scenic beauty, its wildlife, and its psychological benefits for the general public and most seek to protect it by picking up litter and suppressing forest fires.

2. Special Access Needs

Those with special access needs are individuals who visit the forest and who, because of their age, physical handicap or disability, have restricted access and travel capabilities. These visitors have special requirements for travel and access if they are to share in the enjoyment of the forest. They are generally hindered by rough terrain. In addition, they may have special needs in terms of sleeping quarters, shelter, or other facilities. Not all the individuals who visit the forest are capable of "roughing it" by sleeping on the ground, cooking out, and hiking over rough topography.

Transportation is an important need for this group. The portions of the forest they

are able to visit are generally limited to those areas which they can access by auto or which have smooth flat ground. This precludes their use of the rugged portions of the Highway 88 study area. However, with proper development, much of Hope Valley could be available for these users.

This group often also has special housing needs. They frequently require structures or vehicles with beds or cots for overnight stays. Since they are often not capable of sleeping out on the ground, this social group is usually limited to staying in lodges, organization camps, cabins, or recreational vehicles (RV). If these individuals are to share in the enjoyment of the forest they will usually need developments offering the possibility for these kinds of accommodations.

The best opportunities for a recreational experience for this social group are in the lodges, resorts, and organization camps. However these opportunities are not without their restrictions also. First, there are a limited number of rooms available at the resorts in the area and they are frequently full during peak demand periods. Second, they are relatively more expensive than other forms of camping, etc.

The most accessible overnight recreational opportunity for the visiting handicapped or disabled person is in an affordable RV in one of the campgrounds in the area. These areas, although easily accessible, do not always provide all the facilities and conveniences sometimes required by the disabled. This includes wheelchair routes, dining areas, and suitable restrooms. Campgrounds which have the potential to provide access to the disabled are limited by their relatively rustic nature.

The elderly, handicapped or disabled with special access and travel requirements who visit the study area have some common values about the forest. They appreciate and value the natural environment, its visual beauty, and its psychological benefits. They feel they are equally entitled to enjoy the benefits of the forest as any other member of society. When lack of access restricts their recreational opportunities, they feel single out and ignored. They often share the view that the National Forests should be available for all members of the public. Although they may share many common attitudes and beliefs they do not appear to possess a strong sense of community cohesion.

3. Day Users

Day users are those individuals and families who travel Highway 88 and stop off for the day to swim, picnic, fish, photograph, view wildflowers and scenery, experience the fall colors or other such spring, summer and fall daytime activities. Generally their length of stay in the area is short. The areas they frequent for outdoor

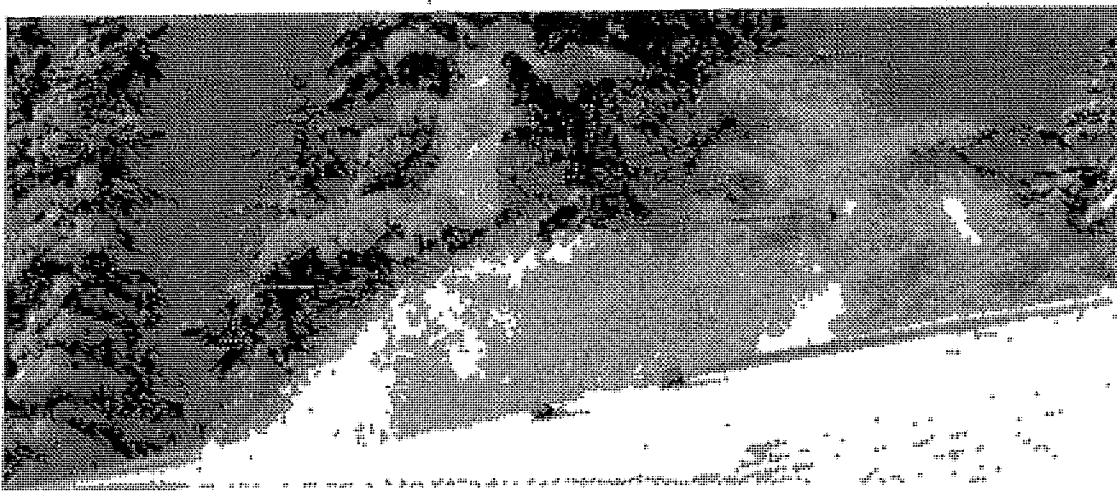
enjoyment are usually adjacent to the highway or short roads just off the highway. They are attracted by vistas and lakeshores. Much of their use is associated with the lakes, streams, and meadows in the area.

They are a diverse group coming from many different backgrounds and origins linked solely by their day use activities and their travel route on Highway 88. Day users in the Hope Valley study area come primarily from three cities or towns: Sacramento, the Tahoe area, and Minden/Gardnerville. All three areas are growing and should contribute an ever increasing number of day users in Hope Valley.

While most day users share with campers, cabin owners and disabled persons a deep respect for a desire to protect the Forest environment, day use area maintenance requirements indicate that a larger minority than in the other groups lack this ethic. Litter and vandalization are constant concerns, especially in dispersed recreation situations where social controls are least evident.

Transportation and access is the most critical need for the day use social group. Highway 88 and its associated side roads provide access for day users to the recreation sites in the area. Once at the day use sites, adequate parking and open, uninhibited access to lakeshore or other recreational areas are important for this group to enjoy the forest.

Access to and day use parking at Kirkwood, Silver Lakes and, to some extent, Caples Lake, is limited by existing recreational residence and organization camp development on National Forest land. The combination of little parking and restricted lakeshore access, both actual and perceived, is a limiting factor for this social group.



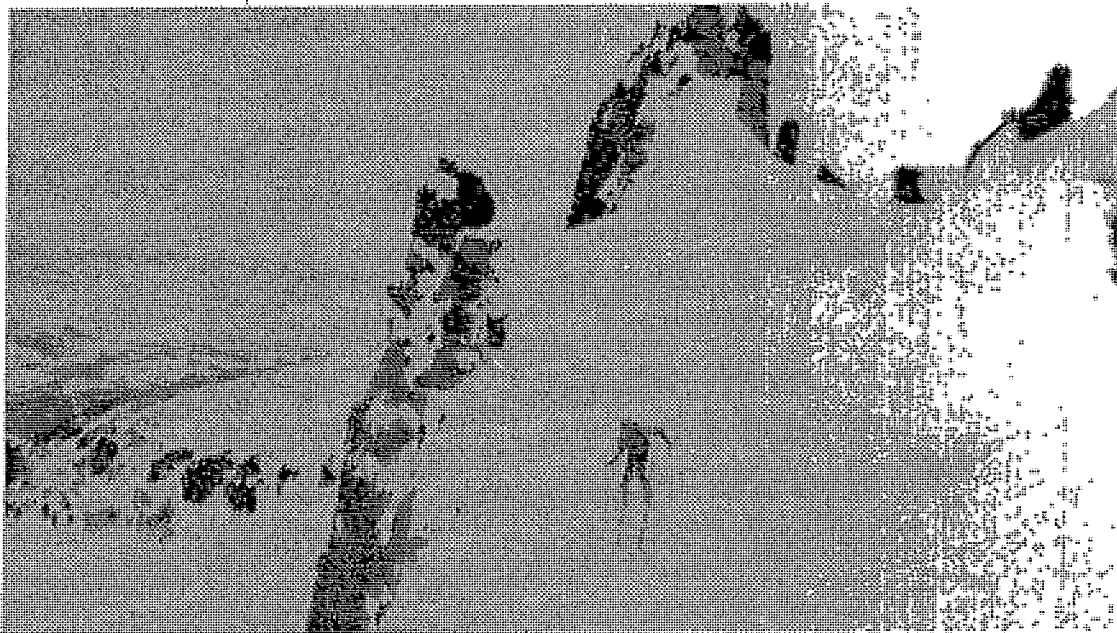
Some of the roads in the area, such as those at Silver Lake, are restrictive to day users, especially those new to the area, due to the presence of the recreational residences along both sides of the road. These roads are perceived as private because of the cabins lining both sides. As such, they are avoided by the day users who fear they are trespassing on someone's land.

In order for the day user social group to fully enjoy the recreational activities available in the study area improved day use access opportunities to the lake fronts, and other areas are needed.

The conflict of popular day use activities may soon become a limiting factor for these uses. As visitation to the area increases, incompatible uses may be forced closer and closer together. The result of this situation may be a degradation in the desirability of the area for the use in question. An example is the inherent conflict between Nordic skiers and snowmobilers. Another potential conflict includes various trail uses such as hiking, horseback riding and mountain bike riding.

4. Youth Groups

The Youth Groups are the organizations such as Boy Scouts, Girl Scouts, Campfire, Inc., churches, and others. These groups use the out-of-doors as the media whereby youth are taught character-building traits, imbued with organization ethics, and learn outdoor skills and manners. Some of the organization camps bring together



youths that are not bound together by organizationalities at home but the effort is made to develop cohesiveness and cooperation through group activities.

Many of the activities are based on natural history, woodsmanship, and other outdoor recreation activities such as fishing, hiking, overnight camping, boating, and swimming. Other games such as volleyball, and craft programs are often included as well.

Essential to these groups is a base of operations—an organization camp, or a public group camp to which the groups return year after year. Room for each camper to bed down—often in a communal area or dormitory—and a community kitchen are essentials along with extensive areas for daytime activities. In the study area, most groups have need for a waterfront area for boating and swimming activities. In the case of organization camps, these are permanently assigned. Groups using public group camps must use public launching facilities and public beaches, which are in short supply. Without waterfront activities, groups are more limited in activities which can occupy large numbers of youth. Hiking and fishing is usually less enjoyable when the groups are large.

Because the youth groups are organized under trained leaders, their outdoor ethics are usually above average. They spend considerable time “policing” their areas and respect the environment. As with any large group of youngsters there is often a noise problem and it is for this reason that organization and group camps should be located at some distance from other users.

5. Resort and Cabin Renters

The summertime resort and cabin renting social group is usually older and more affluent than the camper group. Their children often have left the nest and they can afford to spend a little more for their trip to the mountains and enjoy the luxury of a bed and prepared meals. They spend their time in the same daytime activities as the campers—boating, fishing, nature walks, sun-bathing—but without the chores of cooking, fire-building, and camp-tending.

In the study area, many of the cabin renters are former campers. They learned of the area in years past while camping; fell in love with the area and now return in “style”. Others may have had former friends who were summer cabin owners but have since sold their cabin. They came to enjoy visits with their friends and now continue their trips to the mountains by staying in one of the resorts. A few are younger affluent couples who found the area by skiing at Kirkwood and return in the summer to stay for a weekend.

Some of this group have family and friends who never learned to enjoy "roughing it" in a tent and so, to still enjoy the environment and their friendship, come to the mountains with friends and stay in rented quarters.

The primary constraint on this social group is the limit on the number of first-rate, lake basin, rental cabins. The finer resorts are often booked a year in advance on popular weekends.

RECREATION VISITATION ▼

The user groups described above combine each year to make up the total visitation. It is vital in planning for the future to understand the existing recreational use pattern. Unfortunately, very little statistically accurate data exists from which to determine visitation. For purposes of this study, all recreational and support services providers in the area were interviewed and their visitation estimates recorded. The following section provides these visitation figures. However, several important factors must be explained before these figures take on meaning.

First, recreational use in Hope Valley is very seasonal in nature. A minimum number of users will remain constant throughout the year, with large peaks during the summer months and the core winter months when the snow is plentiful. The yearly visitation figures provided here do not acknowledge this trend and should not be used to predict use at any given time.



Secondly, a typical visitor will participate in a variety of activities while in the study area. Thus, the same visitor may be counted by several groups reporting visitation. For example, an overnight guest at the Woodfords Inn may hike or fish during the day, eat a meal at Sorensens, and end the day at Grover Hot Springs. Thus, this same person may be counted by the USFS, Sorensens and the State Park. As a result of this, the following numbers cannot be simply added together to produce an area-wide visitation figure. On-site surveys, outside the scope of this study, could provide this valuable information.

Lastly, and most important, visitation statistics can be collected in a variety of ways; all of which may be accurate enough for the intended purpose, yet can all skew the data, making comparisons between groups akin to comparing apples and oranges. None of the groups in this study count each person participating in an activity. Generally, the resorts derive visitation from their room occupancy rate and restaurant receipts. The State Park system counts tickets sold for the hot springs precisely, and does not count cross country skiers at all. The USFS method provides a good illustration of the difficulty in manipulating visitation numbers.

The USFS uses a unit of measure called a Recreation Visitor Day (RVD) to count visitation. An RVD is based on an individual stay of 12 hours. Thus, the same 100 people participating in two different activities, one with an average stay of 4 hours, one with an average of 12 hours, will be counted as 25 RVD's and 100 RVD's



respectively. This method may suit USFS planning purposes, yet under counts participants in most short-time day use activities.

Whatever the inaccuracies, the following visitation figures do provide an overview of recreational use. Of the numbers reported, the USFS statistics more fairly represent an overall use figure. This is true because so much of the study area is USFS land and most visitors to the area participate in activities in the forest at some point of their stay.

USFS

1. Camping, developed	63,400 RVD's
dispersed	85,000 RVD's
2. Fishing	10,000 RVD's (includes all area streams and lakes)
3. Hunting	3,800 RVD's (none of this use occurs in Hope Valley itself)
4. Cross country skiing	3,500 RVD's
5. Snowmobiling	3,000 RVD's

*Based on the above discussion of RVD's, the above figures for camping probably better represent the number of people involved. The estimates for the other uses undercount. For example, the average stay for cross country skiers calculated in the RVD formula is 4 hours, thus the true visitation for that use may reach 8,000 people.

California Fish and Game

1. Fishing	10,800 users (includes fishing in Hope Valley portion of the West Carson River)
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California State Parks

1. Day use	75,352 visitors (includes all activities except the campground)
2. Camping	28,780
3. Snow-Park	Not available

Alpine County

1. Camping	Not available
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Woodfords

No specific visitation information was collected for the Woodfords area. However, the 1987 fire in the area will impact visitation in the future. One USFS Study (Methods for Assessing the Impact of Fire on Forest Recreation) shows preference for recreation in an area significantly declines after a major fire. Thus, the ability of the forest to regenerate will impact the contribution of the Woodfords area to overall recreation.

Hope Valley Resort

Due to frequent ownership change, no reliable visitation figures are available.

Sorensens Resort

1. Lodging	23,000 visitors
2. Store/Day Use	7,500
3. Other Day Use (hiking, restaurant)	15,000

Caples Lake Resort

1. Lodging	4,500 visitors
2. Store/Day Use	13,500
3. Boat Rental	3,100
4. Restaurant	11,500

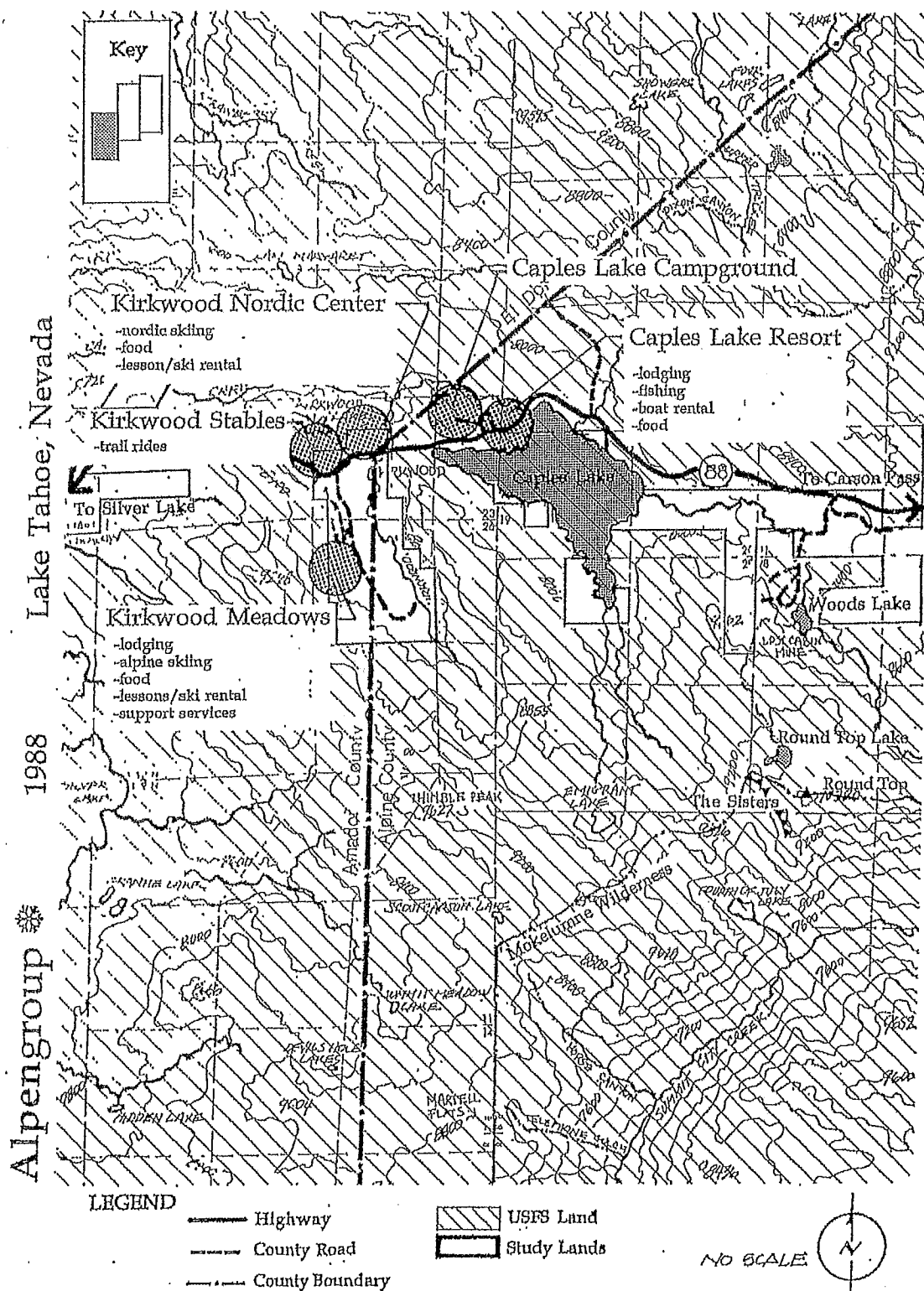
Kirkwood*

1. All Summer Use	10,700 guests
2. Winter: Alpine Skiing	380,000 skier visits
Nordic Skiing	10,000 skier visits

*Includes Kirkwood Meadows, Kirkwood Stables, and Kirkwood Nordic Center.

EXISTING RECREATION

Hope Valley Economic and Recreation Study



Needs to be reviewed

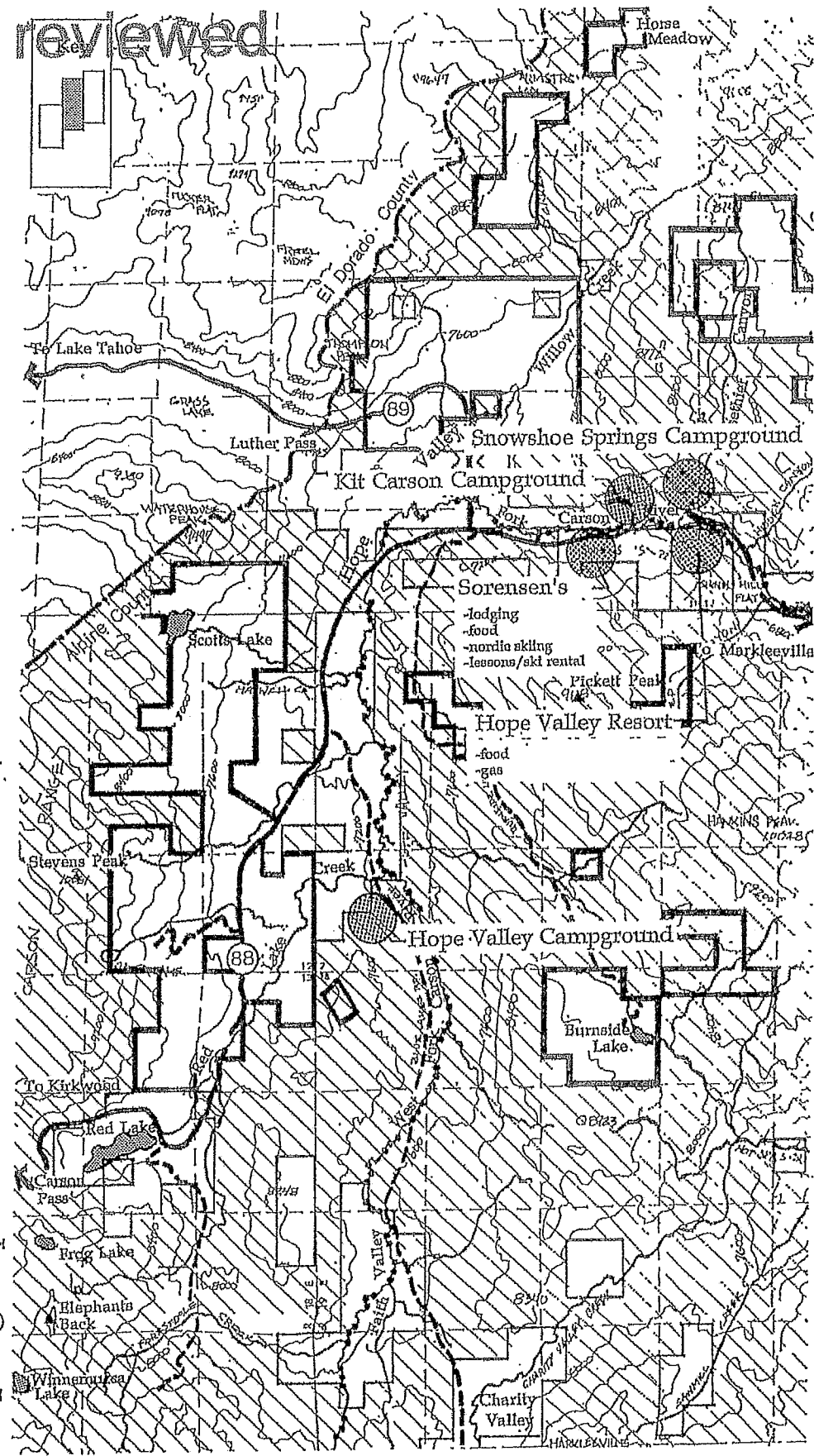
EXISTING RECREATION

Hope Valley Economic and Recreation Study

Alpengroup ❄️

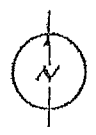
1988

Lake Tahoe, Nevada



- LEGEND**
- Highway
 - County Road
 - County Boundary
 - USFS Land
 - Study Lands

NO SCALE

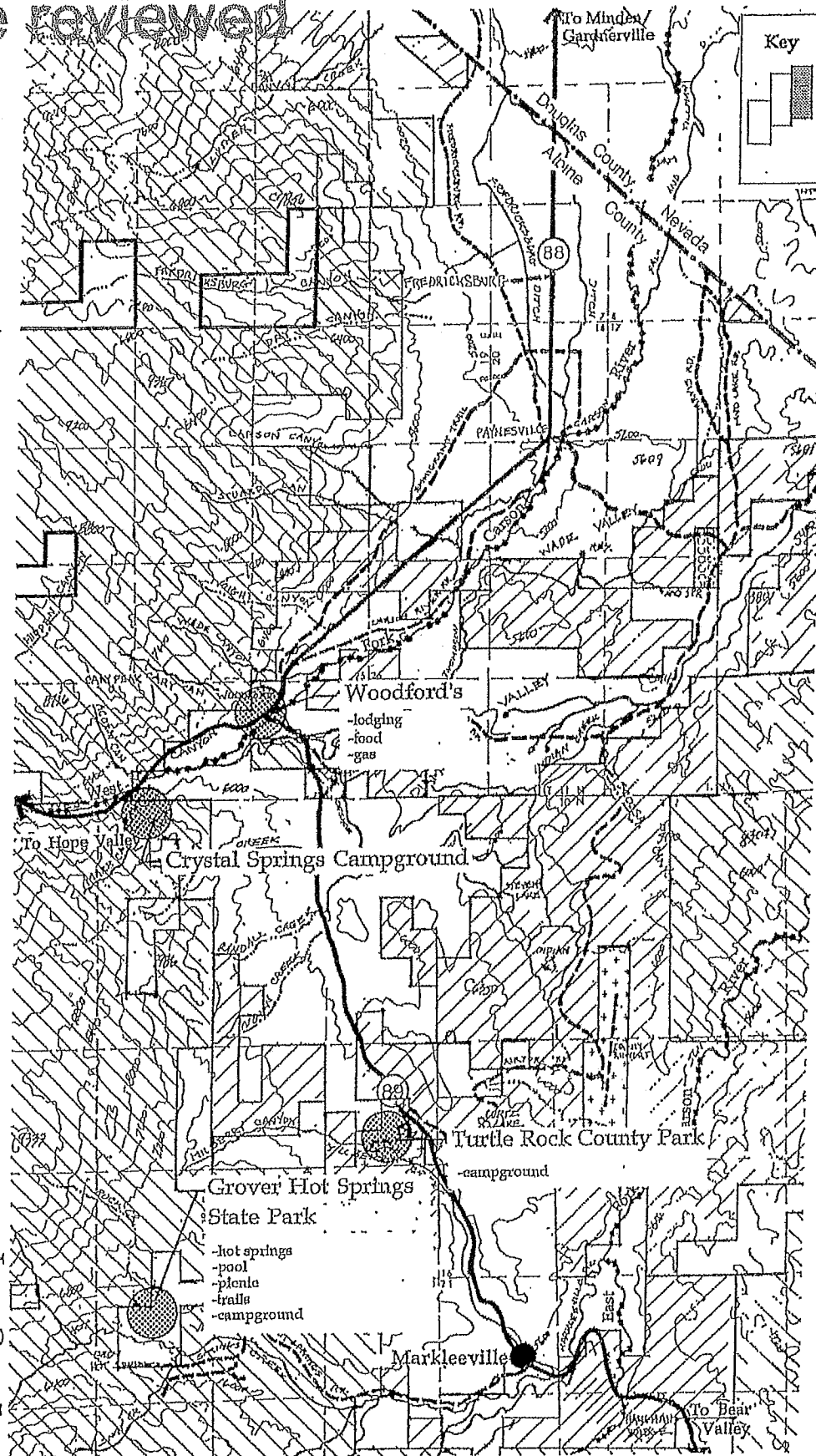


Needs to be reviewed

EXISTING RECREATION

Hope Valley
Economic and Recreation Study

Alpengroup 1988 Lake Tahoe, Nevada



Needs to be reviewed

Hope Valley Economic and Recreation Study

Final ▼ April 1989

▲ Future Recreation

Planned Recreation
Study Recommendations

Future Planned Recreation ▼

The future recreation in the study area shows an increase in the number of participants and in the variety of activities offered. Several sources help identify this trend. First, the 1988 Toiyabe Forest Plan states the major users of the Northern Sierra forests originate from central California, the San Francisco Bay area, Reno, and Carson City. Census data shows these areas growing in population. Smaller communities closer to the study area such as Lake Tahoe, Minden/Gardnerville and Jackson are also growing rapidly. All these communities will contribute an ever-growing number of recreationists to the Hope Valley area.

Secondly, all recreational providers interviewed for this study have witnessed a recreation growth trend. Estimates of increased use in the area in the past five years ranged from 25% to 75% for some activities. Several government studies support this trend. For example, California State Parks, in their study The Recreation and Leisure Industry's Contribution to California's Economy, identified the projected growth* of the following high-expenditure, rapid-growth recreational activities:

- Snow skiing (49% growth)
- Visiting scenic area (35%)
- Fishing (32%)
- Hiking and backpacking (32%)
- Nature appreciation (31%)

*Projected growth between 1980-2000

The USFS Highway 88 Future Recreation Use Determination study also supports the recreational growth trend in the area. This study recorded a steady growth in campground use between 1976 and 1980. By 1980, the campgrounds considered by the study were so popular, crowding became a limiting factor and use dropped off.

The increase in available recreational activities will also occur. For example, the National Outdoor Recreational Bicycle Association (NORBA) estimates the amount of mountain bike use in the Northern Sierra has doubled each of the last three years. Following this trend, several of the recreational providers interviewed intend to soon start renting mountain bikes for visitor use.

Another example is equestrian riding. Already a popular activity for those who own horses, Kirkwood Stables has seen its trail ride visitation more than double in 1988. This organization hopes to expand its operation into Hope Valley to meet the growing recreational use demand.

For a better picture of the recreation future in the study area, the following section describes each organization's development/expansion plans.

United States Forest Service

The proposed land acquisition presented in this study will most impact the USFS and the California Fish and Game's future plans. How either of these agencies may develop this land is uncertain at this time and will remain so until the land transfer and subsequent master planning effort is complete. This study presents a possible development scenario for those lands in the next section. However, the newly completed Toiyabe National Forest Land and Resource Management Plan provides policy direction and specific implementation steps for the current USFS lands.

The study area is included in the USFS Management Area #3. This area encompasses 114,600 acres of USFS land in Alpine County as well as the Mokelumne and Carson-Iceberg wildernesses. Management direction prescribes maintaining or enhancing the area's dispersed and developed recreational opportunities. In addition, visual quality, habitat and watershed protection are plan goals. Specific plan recommendations are:

1. **Camping:** Reconstruct Hope Valley Campground; build a new 120 - site campground in Faith Valley. Also, provide health and sanitation facilities along the Blue Lakes Road to enhance winter recreational opportunities.
2. **ORV:** Continually analyze ORV use to assure protection of natural values and to enhance dispersed recreational opportunities. Also, maintain road closures to resolve conflicts between snowmobilers and cross-country skiers and to protect the resource.
3. **Lands:** Promote protection of Hope Valley through local zoning or acquisition. In addition, complete the land trade with California State Parks at Grover Hot Springs.
4. **Range:** Promote continuance of private land grazing permits in Hope Valley.
5. **Planning:** Assist Alpine County in maintaining or improving its tax base through the land exchange program.

6. **Facilities:** Improve the Blue Lakes Road.

7. **Protection:** Practice an aggressive fire management program to protect watershed values and private land below Forest lands along the Woodford's face.

The El Dorado National Forest may consider a slightly different set of criteria for determining future recreation. Mountain lakes such as Caples Lake and Woods Lake provide a significant recreational feature in this Forest. These lakes and shoreline facilities are currently approaching capacity. Thus, any expansion plans must show ways to mitigate impacts on these resources.

California Fish and Game

Currently, this organization has no facilities in Hope Valley. Annually, they stock the West Fork of the Carson River. This helps enhance the fishing potential of this stream. With completion of the proposed land transfer, Fish and Game could own and manage 25-50% of the acres involved. Habitat restoration will be the prime goal for these lands, yet user facilities may also be required. Specific facility recommendations for this area are included in the following section.

California State Parks

The master plan for Grover Hot Springs State Parks dates to 1956. A major plan update required to evaluate the need for new or expanded facilities may be 5 to 10 years away. Thus, only renovation work is expected to occur before that time. Park staff recognize the need for extensive renovation of the pool complex to bring it up to state standards. Included in this may be: rebuilding the hot pool and the showers/changing room building, and restoring the landscaping.

Alpine County

No plans currently exist to change or increase the capacity at the Turtle Rock County Park campground.

Woodfords

The future of recreation in the Woodford's area is tied directly to the ability of this area to regenerate after the disastrous 1987 fire. Several studies evaluating the attractiveness of recreation areas after fire show a much higher preference rating in areas that quickly recovered. In this case, the combination of the very hot fire that burned seed cones and soil organic matter, and the on-going two-year drought may

significantly slow that regrowth period. For the existing businesses, this may mean not planning for expansion. Neither the Woodford's Inn or the Woodford's Station currently have firm expansion plans. This may also deter new businesses from getting started.

Hope Valley Resort

The current owners of this resort took over management in August, 1988. Thus, future plans are unknown at the time of this study. Also, no master plan exists for this facility.

Sorensens Resort

Sorensens expansion plans are discussed fully in the Economics of Recreation section in this chapter. Briefly, this resort intends to expand most existing aspects of the operation, and add new ones. The major expansion element includes developing a lodge complete with guest rooms, a full restaurant, gift shop, and recreational equipment rental and sale. New activities will include a mountain bike program, a hostel-style dormitory, and a spa/sauna facility.

Caples Lake Resort

Caples Lake Resort operates under a special use permit from the USFS. The management intends to develop the property into a small, top-notch resort. Although a long-range plan has not been completed, some elements crucial to this goal have been identified. These include expanding lodging facilities, and the marina, as well as offering new activities such as organized recreational programs and conference facilities. As noted above, expansion that results in increased use of the lake should present mitigation measures.

Kirkwood

Kirkwood Ski Resort plans to strengthen its positioning as a year-round resort, as well as expand its winter-time activities. The 1973 Kirkwood EIS showed the resort at buildout housing 6,500 PAOT (people at one time) in the winter, and 2,200 PAOT in the summer. (1987 data shows existing sleeping capacity is 1,684.) These figures are considered the carrying capacity for the area.

Specifically, Kirkwood plans to build additional tennis courts, a swim/recreational complex, more lodging/living units, new chair lifts that open new terrain, and a new ski base serving facilities such as food and beverage areas. In addition, the

resort plans to organize and offer family and individual recreational programs. These could include mountain bike facilities, and organized backpacking, horsepacking and tennis programs. Additional conference facilities are also planned. These plans will expand the yearly summer visitation from 10,000 to 100,000 guests and winter use from 380,000 to 450,000 skier visits.

Kirkwood Stables plans expansion in several ways. This program hopes to increase the duration, routes and types of rides it can offer. This will include longer rides that travel to a wider variety of destinations. Pack trips that deliver campers into the backcountry, and guided overnights may also be included. Kirkwood Stables could also organize special event rides such as trailing the historic Emigrant Trail. With this program, visitation could increase fourfold.

The Kirkwood Nordic Center operates with a special use permit from the USFS until the year 2002. Under that permit, ski trail and base facility expansion could occur. Summer use of the facility to offer activities such as mountain bike rental must mitigate impacts on other resources as explained above. Expansion in existing winter-time special events such as races and volksski (group ski) represents one possible expansion technique.

Study

Recommendations ▼

Hope Valley is a place of great natural beauty and recreational potential. The increasing number of visitors and the growing number of recreational and service providers combine to insure its continued popularity. Hope Valley and the area around it are also sensitive natural habitats and vulnerable to disturbance and degradation. Thus, recreational use must be carefully planned and monitored.

After completion of the land transfer process, the USFS and the California Department of Fish and Game will complete a joint management and master plan for Hope Valley. Many other groups should be involved in the planning process, helping to set plan goals, recreation policy, and program recreational facilities. These groups include Alpine County, Friends of Hope Valley, the Chamber of Commerce, and other interest groups such as National Outdoor Recreation Bike Association (NORBA) and other recreational associations.

As a result of the research necessary for this study, Alpengroup has gained insight into this issue. Through numerous interviews, document research, and a look at other groups future plans, this study can identify some features necessary to fulfill the recreation potential of the area. The following section describes Alpengroup's study recommendations beginning with a concept for the area, and including recommended use policies, facility development and phasing.

Plan Concept:

The Hope Valley area's greatest asset to its visitors is its natural beauty. It offers an important experience in our modern, hectic lifestyle: getting away from the crowds, experiencing a natural setting and taking part in vigorous, healthful activities. Future uses should encourage dispersed activities that allow appreciation of the natural environment. Where visitors must congregate, facilities should be screened or hidden from the road and major trails. Short duration, special uses should focus attention on the area's natural or historic resources.

The following uses could be developed to implement that plan concept.

Summer:

Many users interested in a variety of activities could be accommodated in the area. However, conflicts between uses and with the natural environment could develop; thus, crucial to all uses should be a developed, organized approach to interpretation. Interpretive display boards at all trailheads and parking areas should include information about natural resources and how to use the area wisely. As often as possible, trail uses should be professionally guided or managed to decrease improper use.

Camping. The area's campgrounds currently experience overcrowding, indicating a need for increased units. The natural resources could accommodate additional over-night use if properly developed and managed. This study recommends moving the undeveloped Picketts Junction camping area further up the road to Burnside Lake. This campground should remain small with the units spread into the trees. No group units should be developed here.

Along the Blue Lakes Road, more camping units should be developed. A total of 120 campsites should be available to accommodate a variety of users. The site plan could show three campground areas; one designated for traditional family camping, one for small to medium sized groups, and one to serve as an equestrian pack station/trailhead. The latter would meet the need of current users who trailer their horses to the area to ride, as well as provide a base facility for pack trips and trail rides into the back country around Hope Valley. During the winter, some or all of these units could accommodate snowmobilers, skiers, or other winter campers using the area.

This study encourages the USFS to develop this facility as a joint public-private operation. This will not only ensure more timely completion, but will help the short-staffed public agency with enforcement and interpretation duties in the area.

Hiking. Hiking trails should be developed from the campgrounds and picnic areas described. These could connect to existing, long-distance trails such as the Pacific Crest Trail. They should also provide shorter loops, preferably accessing the river with interpretive information concerning the habitat restoration process. Some should also take into account the needs of special access groups such as the handicapped or elderly.

Fishing. With habitat restoration, this activity should greatly increase in Hope Valley. Special consideration must be given to visitor access when developing the restoration program. This may require public access restrictions until the vegetation gets established, yet long-term restrictions will discourage use and may be hard to enforce. The visual character of any required fencing should also be considered; fences lining the river for any great distance would detract from the existing scenic quality of the valley.

This study proposes two primary visitor access treatments for fishermen.. The first would accommodate all overnight visitors in the valley. These would include designated pedestrian access points from campgrounds or lodges through any fences to stable stream banks. The second access type would provide off-road parking, limited picnic facilities and fish cleaning areas. Care should be given to locating such parking areas to limit their visual impact. Interpretive information about habitat restoration should be located in these areas.

Picnicking. In addition to the picnic facilities provided above, designated hike-in picnic areas should be located. These areas should be within two miles of a trailhead and provide a view of the valley. Pack-it-in, pack-it-out signs should be located at the designated trailheads.

Mountain Biking. As this sport grows in popularity, the USFS will need to develop a policy concerning trail use. This study recommends encouraging mountain bike use of existing developed dirt roads. In addition, all hiking trails should be evaluated to allow this use on those trails stable enough to accommodate it. All steep, highly erodible trails should be considered inappropriate for mountain bike use. New trails could be built to provide linkages and more challenging rides. Private groups such as Sorensen's or Kirkwood could spearhead this effort.

Equestrian. A trailhead and pack-station facility would provide access to a historic and appropriate trail use in Hope Valley. This facility is described above.

Other Uses. A developed citizen information campaign should highlight other dispersed activities in the area such as primitive camping and mountain climbing.

Winter:

Snowmobiling. Snowmobiling should continue to be encouraged along the Blue Lakes Road. The campground described above will facilitate this use.

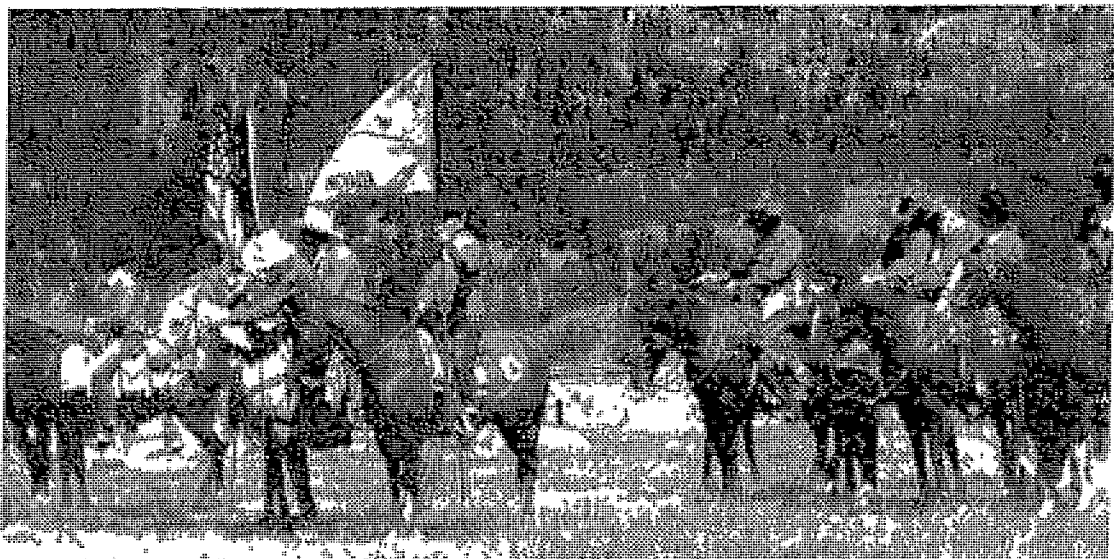
Continued education should aim towards reducing conflicts with cross-country skiers. Snowmobiles should be excluded from the north and west side of Highway 88.

Cross-Country Skiing. Hope Valley should become a destination for cross-country skiers. A trail system with groomed and marked trails should ring the Valley, with special emphasis on the north and west side of Highway 88. Cross-country skiing should be discouraged along the Blue Lakes Road to decrease conflicts with snowmobilers. Longer trail connections could be made from the Valley to Freer Peak and Grass Lake.

Snow-Park. A snow-park facility should be located in Hope Valley. This parking lot, ideally a winter-time use of a summer-time picnic area, should sit at the edge of the open space to reduce its visual impact. Snow-park users could access the ski trails described above.

Special Uses:

Special uses could occur in the Valley. Criteria should be established so that these uses would not conflict with the overall plan concept. They should be occasional, short in duration and highlight a natural or historical area feature. These could include: Pony Express or Emigrant Trail equestrian rides with overnights in the valley; a small rodeo, similar to the present Kirkwood rodeo; fishing derbies; ski races; a winter carnival built around snowplay; and sleigh rides. As with other facility location, environmental impacts of these uses must be considered so that degradation does not occur.



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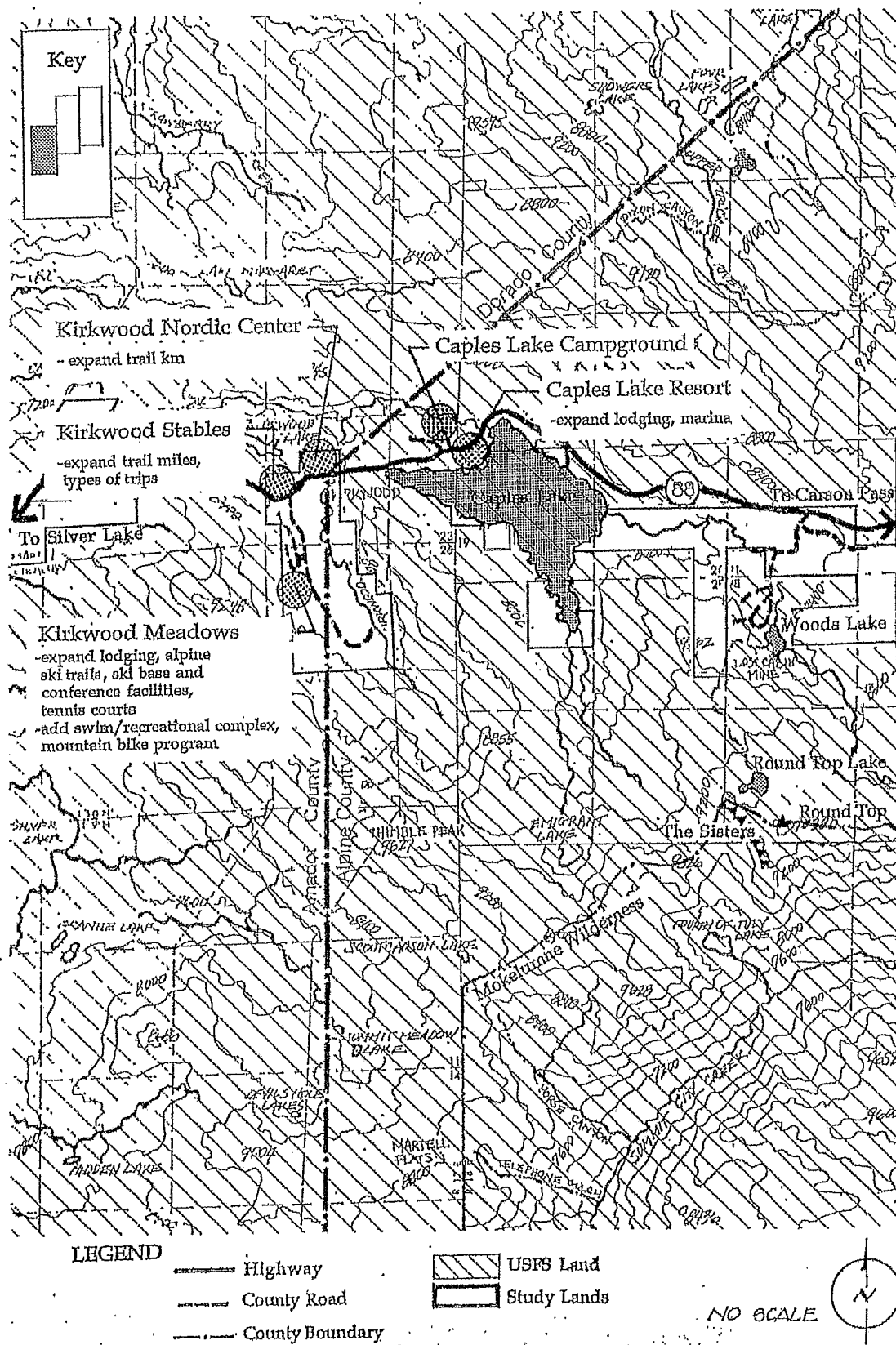
PLANNED RECREATION

Hope Valley Economic and Recreation Study

Lake Tahoe, Nevada

1988

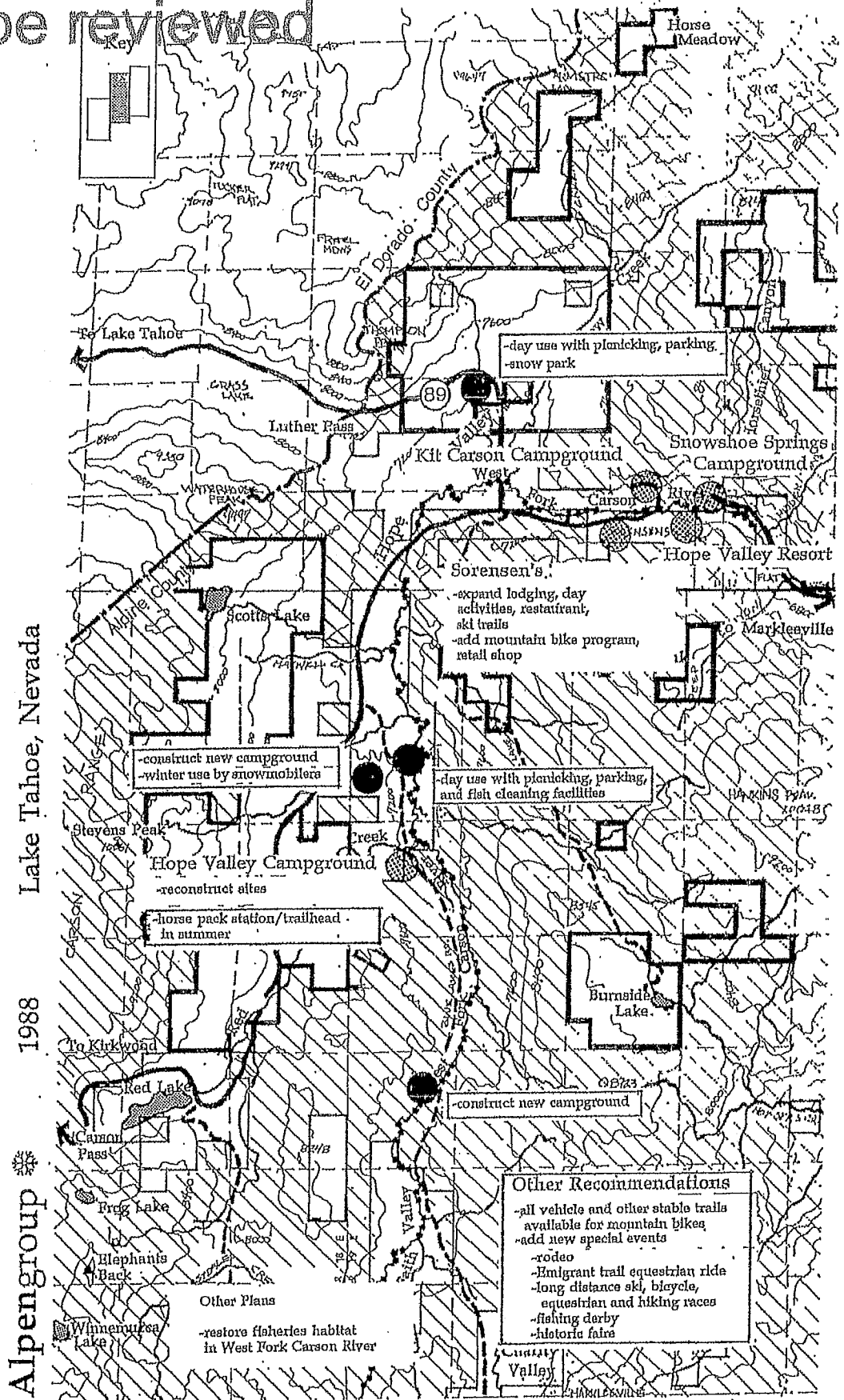
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Needs to be reviewed

PLANNED RECREATION

Hope Valley Economic and Recreation Study



Alpengroup 1988 Lake Tahoe, Nevada

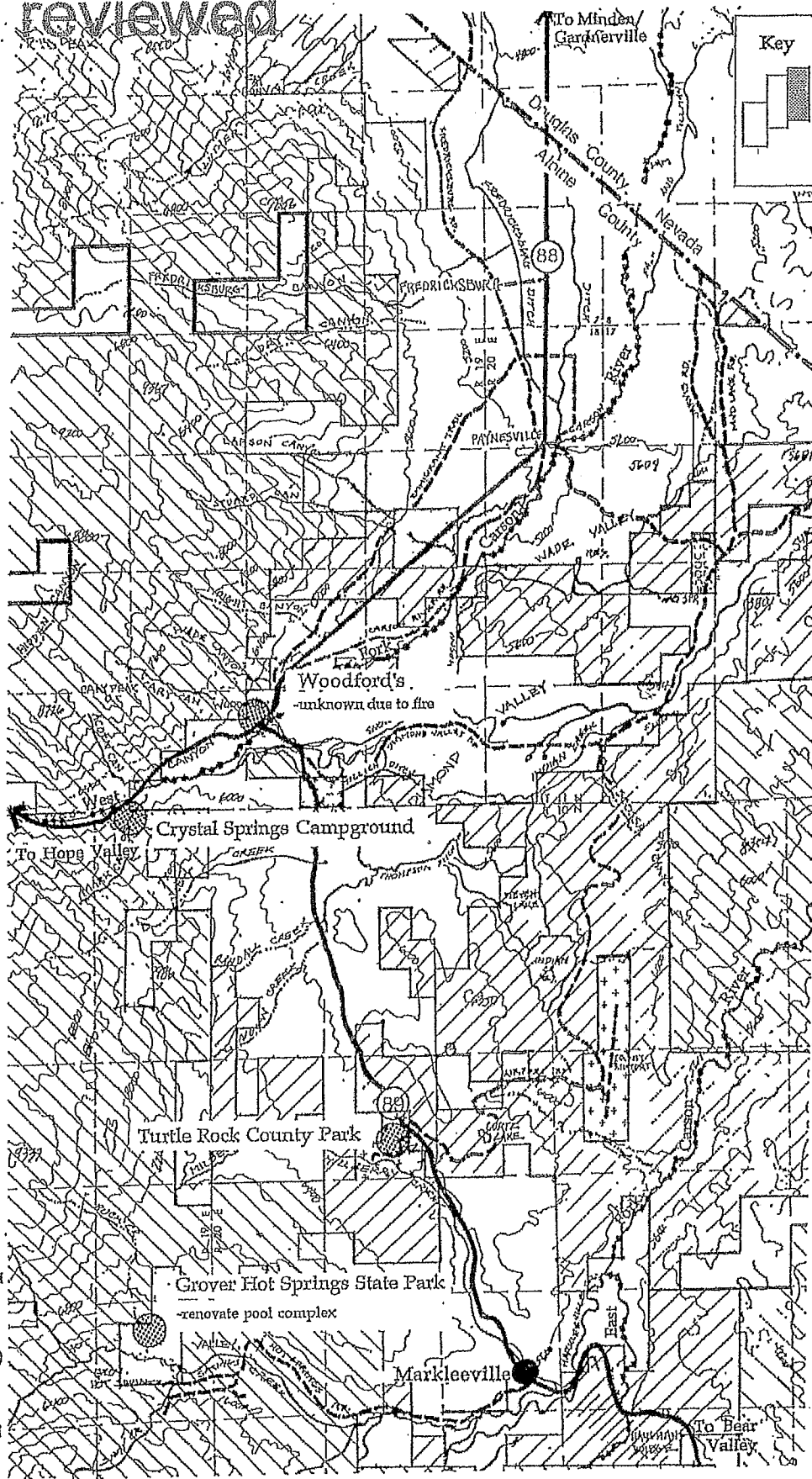
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PLANNED RECREATION

Hope Valley
Economic and Recreation Study

Alpengroup 1988 Lake Tahoe, Nevada



LEGEND

- Highway
- County Road
- County Boundary

- USFS Land
- Study Lands

NO SCALE



Needs to be reviewed

Hope Valley Economic and Recreation Study

Final ▼ April 1989

▲ Economics

▼ Economics of
Recreation:
Case Studies

▼ Economics
Summary

Jackson Hole Study ▼

The emergence of new, different or more powerful (in the sense of increased support) political and special interest groups is a manifestation of the increased awareness citizens have of their economic stake in publicly owned resources. In the case of fishery resources, the interest of business groups with fishery management issues is evidence that groups other than fishermen and non-consumptive users have linked their well-being to fish and fishing. The fact that interest groups, heretofore discussed only in conceptual terms, are now mobilized is an indication of the changing public perspective toward fishery management.

The increased interest comes also from the changing attitudes and preferences of fishermen, the front line users of the resource. Fishing has become more commercialized because fishermen are demanding more and better equipment, more and better services and, finally, more and better (and different) fishing opportunities. In short, we are no longer a nation—or state or county—of self-sufficient fishermen.

The more commercialized fishing becomes, the greater the economic stake becomes for those nonfishing residents regardless of whether they are associated with a fishing-related business.

If the Hope Valley area is to compete effectively with surrounding states for nonresident (and nonlocal resident) angler dollars, it needs a quality fishery. A good comparison is the current state of the fisheries in Jackson Hole, Wyoming. The surrounding states did not gain a competitive edge on Wyoming by finding or developing natural areas equal in beauty to Jackson Hole and then establish a quality fishery. Rather, quality fisheries were established in areas that were less attractive than Jackson Hole but those areas have been successful in pulling long time anglers away. The reality of the loss of long time fishermen to quality fisheries in the surrounding states is that the 11 inch average sized fish caught in the Snake River is not of sufficient size to attract and hold the nonlocal quality oriented angler.

The contribution of fishing to the Jackson Hole economy is sufficient to expect that part of the revenue collected from the recently approved room tax would be used to promote fishing. Attempts to reach the angler that would be desirable to attract through broad sweep promotion campaigns of the Jackson Hole area are likely to be ineffective. The ardent angler is a small percentage of the total tourist population. The amount of fishing detail that could be included in a broad appeal ad is so limited that it would likely get little attention from this specialized segment of the tourist population. The angler that would be worthwhile attracting probably can be reached more effectively with targeted promotional programs.

In Jackson Hole, California contributed the largest number of tourist fishermen with almost double (19.6 percent compared to 10.9 percent) the number of the second highest state, Utah. Generally, expenditures by anglers from adjacent and nearby states are proportionately less than expenditures by anglers from more distant states. Nearly 30 percent of the tourist license receipts drawn for the sample were from nearby states. Of the more distant states of origin accounting for relatively large numbers of tourist fisherman, other than California, Texas is next in line (6.4 percent) followed by Illinois (3.6 percent), Arizona (3.1 percent), New York (2.7 percent), Pennsylvania (2.3 percent) and Florida (2.2 percent).

The minimum expenditure for a fisherman staying at a dude ranch or resort, fishing without the services of a guide, runs in the \$70 to \$100 per day category. The high end runs between \$400 and \$500 per day just for accommodations and fishing services. A significant proportion of the guest ranch, resort and outfitter fishing guests purchased clothing and art objects in Jackson that amounted to more than those guests spent on fishing.

Discussion of the economic and user implications associated with different fishery management plans illustrates the problems that can arise with maximum sustained yield (MSY) management programs and reliance on fishing pressure estimates and age/size distributions to judge the effectiveness of those programs. The fishing pressure and age/size numbers could indicate the management program was a biological success whereas the community could consider the fishery to be far less than ideal. To the extent the fishing preferences of anglers deviate from the harvest objectives of a MSY management program, the fishery will produce less public benefit than it is capable of producing.

Different groups of residents derive different types of benefits from fishing. For the angler group, benefits are realized in the form of personal satisfaction. But it would be misleading to suggest that the benefits experienced by all anglers are the same. The benefit realized by catch and release fishermen may be as different from the benefit experienced by harvest oriented anglers as are their combined benefits different from the benefits that fishing-related businessmen realize.

There is a resident group that derives benefit from fishing in the form of business opportunities which, eventually, factors down to profits, salaries and wages. There is a third group of residents who neither fish nor have direct fishing-related business connections but who receive benefits from fishing in the form of secondary economic impacts from nonlocal angler expenditures. Other groups undoubtedly could be identified that have a benefit claim on the area's fishery resources. Resident fisherman have been the most active and financial supportive benefit

group of fishery management programs and, because of that support, would seem to have an additional claim on the resource.

For any particular stream segment or standing water body, only one set of use regulations can be adopted and that decision may be viewed as an either/or choice. Over the waters in a geographic area, however, use regulations tailored to different user group preferences could be implemented. The special interest anglers that prefer minimum regulations and liberal creel limits can be accommodated, as can the catch and release special interest group and the fly-fishing-only special interest group and any other special interest group who's fishing preferences would not deplete or harm the fishery.

The fishery can be allocated to accommodate or give special preference to any or all (and more) of the special interest groups named. This is not to suggest that each benefit group has an inherent right to have a portion of the fishery managed to suit their particular preferences. There will undoubtedly be special interest requests for which administrative costs would be prohibitively high. There likely will be special interest requests that can not be implemented without causing unjustifiable harm to established users. Accommodating these requests would be inconsistent with the public benefit principle. The second case is not intended to suggest that all anglers can expect to have their favorite water managed as it is presently. If fishery resources are to be managed for the benefit of the public, individuals and groups have to be precluded from gaining defacto property rights to a certain water or section of water.

The common and necessary foundation to all user groups, direct or indirect, resident or nonresident, is a healthy, viable fishery. That the fishery resource is owned in common by all citizens and held in trust for present and future generations precludes any management consideration that would deplete or harm the resource. It precludes, with limited exceptions, use regulations that would permit one or more user groups to exploit fish populations at the expense of other user groups.

How should Hope Valley's fishery resources be managed? First and foremost, in a biologically sound manner. After that baseline is satisfied, the public benefit obligation suggests that fishery management programs should key on diversity.

Fishing and the Economy ▼**Local Fisherman Expenditures**

There is little economic consequence of a decision by a local resident to go fishing on a Saturday afternoon. The fishing spot likely is only a few miles from home, which may or may not require a fill-up of gasoline. If the outing is planned for more than a couple of hours, a convenience store stop for snacks might also occur. Depending on the type of fishing that is planned and the angler's supply of required tackle, the trip might include a stop at a tackle shop or sporting goods store. A typical Saturday afternoon outing might result in expenditures of \$2 or \$3 for gas, \$2 or \$3 for snacks and -maybe- another \$2 or \$3 for tackle. Hardly enough to fuel the fires of of an economy.

Instead of using a low end example, let's consider the angler who had been saving or planning to upgrade his/her fishing equipment and spends \$200 at a local tackle shop. Suppose, for example, the \$200 was spent on one of 30 quality rods that tackle shops in Alpine County had stocked and expected to sell during the year. The purchase of one of those rods by our fisherman was part of the expected sales pattern for the community.

The tackle shop making the sale, in competition with other local shops, benefited from the angler's decision to purchase anew rod. Since the purchase was part of the historical sales pattern for fishing equipment, it would not represent an increase in net sales at the community level. If our fisherman had saved for the rod by putting off the purchase of other items that were needed or planned, then the benefit realized by the tackle shop came at the expense of sales losses by other retail outlets. In other words, the tackle shop owners gain was a loss to other store owners in Alpine County such that, for the community, there would be neither gain nor loss. About the only way the \$200 expenditure could be considered a net community benefit is if the angler had been contemplating purchase of the equipment through a sporting goods catalog or from an out of town outlet.

The point is, that fishing expenditures, equipment or related activities, by local residents produce net economic benefit in only limited and unusual instances even if local fisherman were to double or triple their fishing expenditures. The gain by tackle shop and sporting good store owners would be offset by the loss of sales among other retail stores. The exception to this statement is the case where purchases are made locally rather than at or through nonlocal outlets. If the economy was to perform other than has been described, a good argument could be made to "spend ourselves rich".

Nonlocal Angler Expenditures

When the "gone fishin'" sign is hung in the office and the site for that activity is Hope Valley, there is potential for net economic gain from fishing expenditures. Expenditures by nonlocal fishermen is new money coming into the local economy. These expenditures represent a new demand for goods and services and a new opportunity for producers and suppliers to expand.

Suppose there was a community that had been very stable with respect to population, income and the preferences of that population for goods and services. For ease of illustration, let's assume that the community was so stable that retail merchants could predict down to the last toothpick what residents would purchase and that orders were placed once a year. Suppose, next, the first ever nonlocal fisherman came into the area to fish. While there, the fisherman ate at local restaurants, purchased fishing equipment and replaced a tire that blew out while traveling to the area. In one sense, sales to the nonlocal fisherman would have disrupted the stability of the community. Part of the goods and services that had been ordered to satisfy the wants of local residents would now have been sold. The merchants would have to place a second order to replace the merchandise that was sold to the nonlocal fisherman or shortages would develop before the next annual order was placed. Residents would find that they had money to spend on goods and services they wanted, but there were no goods and services to purchase. Since most businesses look for opportunities to expand, it seems safe to assume that they would order additional goods. At the end of the year, the community would find that sales had expanded by the amount of purchases made by the nonlocal fisherman and a little more. A close accounting of sales would reveal that the expanded sales over and above the fisherman's purchases were made to local residents who had received additional income as a result of the initial increase in sales. The community economy would have expanded by the new money brought in or the increase in goods and services sold to individuals living outside the community.

Economic Impact Analysis

This economic principle applies to all communities, states, and regions. That is, the potential for residents (excluding the existence of savings and other forms of wealth) living in an area to purchase goods and services produced outside their immediate area depends on the amount of goods and services they sell to outside markets. These sales represent the means by which area residents earn income to purchase goods and services produced outside the area. Unless residents are content to exist on the goods and services produced within their area, they must produce good and services for markets outside the area to earn the income necessary to purchase or import the nonlocal products they desire.

Special Regulations ▼

The following is a Summary of Special Regulation Management Programs in Colorado, Idaho, Montana and Wyoming, and the results of the programs.

- 1: Special regulation programs were initiated to increase both number and size of fish.
- 2: Programs were based on catch and release, slot limits, minimum size limits and reduced creel limits with catch and release and slot limits the most frequently used and, apparently, the most effective regulations.
- 3: Local resistance was encountered at each water that has been designated in the three states although the success of the programs appears to be softening the resistance.
- 4: Fishing pressures drops the first and, in most instances the second year after designation and then climbs as numbers and size of fish begin to respond.
- 5: Fishing pressure has returned to predesignation levels on almost all streams and as much as 20 to 50 percent greater than predesignation levels on some streams in Idaho.
- 6: Although the contacts in the three states generally felt the local/nonlocal balance of angler use on special reg waters had shifted in favor of nonlocal fishermen (i.e., nonlocal fishermen were attracted to the designated water), little, if any, documentation exists to verify their observations. (The Idaho and Montana biologists observed that there was a developing group of anglers that looked for special reg waters in their selection of weekend or vacation fishing sites.)
- 7: When asked to indicate the long term economic impact on the local economy of managing part of a stream under special regs, the three contacts indicated that the results were generally positive but none of the three states had conducted any follow-up studies to evaluate this point. (The Colorado and Idaho contacts referred to conversations with outfitters, tackle shop owners and Chamber of Commerce directors that supported their observations while the observation by the Montana contact was based on second hand reports from department field personnel.)
- 8: Each of the three biologists, independently, emphasized the need to tailor the

regulations that govern each designated water to the aquatic and biological characteristics of that water and to avoid arbitrary designations. (The Colorado contact indicated that the agency had made some decisions in the early phases of their program that they would like to change now that they have a better data base to work with.)

Description of Special Regs on Representative Sample of rivers in Colorado, Idaho, Montana and Wyoming

Colorado

- 1: Blue River (Gold Medal section) 2.5 miles
 - a: Tackle restrictions: Artificial flies and lures
 - b: Creel limit: Two trout over 16 inches
 - c: Species regulation: none
- 2: Colorado River (Gold Medal section) 20 miles
 - a: Tackle restrictions: Artificial flies and lures, except stonefly nymphs are permitted as bait
 - b: Creel limit: One rainbow, one brown
 - c: Species regulation: None
- 3: Frying Pan River (Gold Medal section) 2 miles
 - a: Tackle restrictions: Artificial flies and lures
 - b: Creel limit: Catch and release
 - c: Species regulation: Catch and release
- 4: Gunnison River (Gold Medal and Wild Trout section) 26 miles
 - a: Tackle restrictions: Artificial flies and lures
 - b: Creel limit: Four fish but only one can be over 16 inches. All fish between 12 and 16 inches must be returned immediately.
 - c: Species regulation: None
- 5: South Platte River (Gold medal section) 19.5 miles
 - a: Tackle restrictions: Artificial flies and lures
 - b: Creel limit: Catch and release
 - c: Species regulation: Catch and release

Montana

- 6: Big Hole River 15 miles

- a: Tackle restrictions: Artificial flies and lures
 - b: Creel limit: Three fish under 13 inches, one fish over 22 inches
 - c: Species regulation: None
- 7: Madison River (Quake Lake to McAtee Bridge) approximately 20 miles.
- a: Tackle restrictions: Artificial flies and lures.
 - b: Creel limit: Catch and release.
 - c: Species regulation: Catch and release.
- 8: Madison River (McAtee Bridge to Ennis Lake) Approximately 20 miles.
- a: Tackle restrictions: Sculpins not allowed.
 - b: Creel limit: Five fish with only 1 fish over 18 inches and only 1 fish may be a rainbow and only 1 fish may be a grayling.
 - c: Species regulation: Only 1 fish may be a rainbow and only 1 fish may be a grayling.
- 9: Jefferson River (entire river)
- a: Tackle restrictions: None.
 - b: Creel limit: Five brown trout, only 1 over 18 inches.
 - c: Species regulation: Catch and release only for rainbows.
- 10: Yellowstone (Gardiner to Emigrant Bridge)
- a: Tackle restrictions: Artificial flies and lures.
 - b: Creel limit: Five fish, rainbows or browns. 4 fish under 13 inches. 1 fish over 22 inches.
 - c: Species regulation: Catch and release only for cutthroat.

Idaho

- 11: South Fork of the Snake River (Irwin to Heise) approximately 30 miles
- a: Tackle restrictions: single barbless hook
 - b: Creel limit: Six fish of which 2 may be cutthroat but all cutthroat between 10 and 16 inches must be returned immediately.
 - c: Species regulation: All cutthroat between 0 and 16 inches must be returned immediately.
- 12: Henry's Fork (Harriman State Park section) 8 to 10 miles
- a: Tackle restrictions: Fly fishing only-barbless hooks.
 - b: Creel limit: Three fish under 12 inches, 1 fish over 20 inches.
 - c: Species regulation: None.

- 13: Henry's Fork (Box Canyon section) approximately 4 miles
a: Tackle restrictions: Artificial flies and lures, single barbless hooks.
b: Creel limit: Three fish under 12 inches, 1 fish over 20 inches.

Wyoming

- 14: Snake River (1000 ft below Jackson Lake Dam to Moose) 23.9 miles
a: Tackle restrictions: Artificial flies and lures.
b: Creel limit: Four fish with only 1 fish over 15 inches, all fish between 11 and 15 inches must be returned immediately.
c: Species regulation: None.
- 15: Green River (Kendall Warm Springs downstream to National Forest boundary) 6.0 miles
a: Tackle restrictions: Artificial flies and lures.
b: Creel limit: Two fish with only 1 fish over 20 inches; all trout between 10 and 20 inches must be returned immediately.
c: Species regulation: All trout between 10 and 20 inches must be returned.
- 16: Platte River (Colo/Wyo line to Saratoga) Approximately 55 miles
a: Tackle restrictions: Artificial flies and lures.
b: Creel limit: Six fish with only 1 fish over 16 inches, all fish between 10 and 16 inches must be returned immediately.
c: Species regulation: None

Statements of Goals for Special Reg Waters and Evaluations of Results

Goals:

Colorado

"There are two objectives of catch-and-release management in Colorado. First we want to increase the density of quality size trout (14 inch) in our best streams and then maintain that density at 30 trout/12/acre. Second, we want to maintain an overall catch rate of 0.7 trout/hour throughout the entire angling season." [20]

Montana

"Through use of catch-and-release fishing and slot limits (which allow only fish of

certain sizes to be kept), we have been able to provide for the opportunity to catch, but not necessarily to keep, large trout in these areas. The bulk of our rivers and streams, however, remain open to general fishing with no special restriction on tackle and fish size, thus providing a variety of angling opportunities—from the trophy trout of the Beaverhead River to the pan-sized brookies of our mountain streams.”[21]

“The Department... established a management goal for the Madison which is to provide the opportunity to catch wild trout in the 14-18 inch range. Since this goal could not be attained with the regulations of ten fish or ten pounds and one fish, and the fact that fishermen generally were selective to larger fish, additional restrictions were imposed. A catch and release artificial lure regulation was implemented in 1977 with the objective of reducing fishing mortality as much as possible and in an attempt to increase the population of larger trout.”[22]

Idaho (South Fork of the Snake)

“Protect cutthroat...provide opportunity to catch quality fish...goal is to get fishing to point 20 percent of cutthroat that are caught will be 16 inches or better.”[23]

Wyoming (Green River)

“Maintain a post-season trout population of at least 850 trout/mile and 14.3 lbs./acre...Maintain a post-season trout population with a size structure of 20-25 percent over 10 inches (based on trout over 6 inches)...Maintain a total catch rate of at least 1.0 trout/hour...Maintain an average trout size of 9 inches in the creel...Encourage the harvest of whitefish.”[24]

Results:

Colorado

“Yes, they have been very effective. We have raised the average catch rate from 0.2 to 0.5 trout/hour under an 8 trout/day bag limit to an average of 1.1-1.8 trout/hour, far exceeding the objective of 0.7 trout/hour in virtually every case. We have been able to attain the goal of 30 quality size trout/12/acre on a sustained year to year basis in most instances.”[20]

Montana

“In March 1981, before initiation of the slot limit, [Big Hole River] an estimated 506

brown trout per mile, 13 inches and longer, were found...in a section of the Big Hole. Two years later, 13-inch and longer browns had increased by 33% to 674 per mile. The increase in 18-inch and longer browns during the same period was an astonishing 160% from 40 per mile to 104. The response of rainbow trout has been even better. Thirteen-inch and longer rainbows increased by 79% between fall 1981 and fall 1983, from 251 to 451 per mile. Fifteen-inch and larger rainbows jumped from 89 to 247 per mile, an incredible 178% in two years."

"Between 1977 and 1982 in the catch and release section, [Madison river] the number of 13-inch and larger trout increased 315%."

"Fish populations in the lower Rock Creek area (the three fish, one over 14 inches limit) have responded predictably. Rainbow trout have increased dramatically, by over 270% since the regulations were changes. The number of brown trout has remained virtually unchanged. It is an established fact that browns are not as easy to catch as rainbows; lack of an increase in brown trout numbers suggest anglers were not significantly affecting brown trout populations.:

"Trout populations in the catch and release section of Rock Creek have changed dramatically. The changes have not been exactly what DFWP biologists anticipated, however. The population of cutthroat trout in the catch and release section has increased over 700% since the regulations were initiated. Rainbow trout have not increased at all, suggesting that at least some of the increase in cutthroats came at the expense of rainbows." [25]

Idaho (South Fork of the Snake River)

"In two years since special reg designation, fish population has increased 50 percent, number of cutthroat over 16 inches has increased from 2 percent of population to 8 percent. Fishing pressure has increased 20 to 50 percent." [23]---

Wyoming (Green River)

"Evaluation through 1983 indicates a rapid response in the fishery. Numbers of 6+ inch trout already exceed the highest levels seen between 1975 and 1981. Catch rates are already exceeding 1.0 trout per hour also. We have not yet reached our objective for the percentage of trout exceeding 10 inches, however, percentage of larger trout should increase quickly as soon as they expanding population stabilizes. Admittedly, the good water flows during the past three winters have hastened the fishery's improvement." [24]

Justification:

Colorado

"In Colorado, public acceptance of catch-and-release and limited-kill areas is very high. In 1980, 4,460 anglers were surveyed in eight different areas on three different streams, 1,192 by mailback postcard questionnaire and 3,268 by personal interview. An astonishing 88% favored catch-and-release areas already in existence, 6.2% were opposed to them, and 5.8% had no opinion. Of the 4,460 anglers surveyed, 2,854 (64%) were fishing in an 8 trout/day angling area with terminal tackle restrictions. Thus, despite the fact that the majority of anglers were fishing in a standard regulations area when contacted, they over-whelmingly supported the concept of catch-and-release. Similarly, in 1981, of 2,403 anglers surveyed, 1,769 (73.6%) favored catch-and-release angling areas, 397 (16.5% were opposed, and 237 (9.9%) had no opinion." [20]



Lake Tahoe ▼

This section is based on the reports generated by the Lake Tahoe Visitors Authority in an effort to provide a basic overview and understanding of the tourist economy of Lake Tahoe.

Although the total economic contribution of tourist dollars is quite a bit greater in Lake Tahoe than in Hope Valley, several factors make studying this example worthwhile. First, like Lake Tahoe, Alpine County relies very heavily on tourism and outdoor recreation for its economic base. As this economy develops in Alpine County, some of the economic trends noted here will become more valid. Secondly, visitors to Hope Valley and Lake Tahoe share some important characteristics. These include place or origin (central California and northern Nevada), desire for scenic beauty, access to a variety of outdoor recreation opportunities and a high rate of return. Again, as Alpine County recreation areas develop, visitors patterns may trend towards those described in the following sections.

The reports identify the size, seasonality, market potential, and economic impact of the overnight visitor to the South Lake Tahoe area.

The reports provide a basic framework in which to understand the economy. They may be used as a planning tool by those interested in understanding this dynamic and seasonal economy.

Specifically, the following report include estimates of the number of overnight visitors by month, their economic impact, estimates of state visitor patterns, and the visitor pattern of those from California. In addition, the report provides a trendline comparison of eight South Lake Tahoe economic indicators that assist the reader by providing a context for the 1986 year.

Tourism is South Lake Tahoe's primary means of generating revenues. Thus, the health of the economy is critical to the level of services provided to the local community.

The California Visitor Impact Model provides a step by step set of procedures and guidelines for determining the size, nature and economic impact of a community's visitor trade.

Specific objectives of this report include the following:

1. To define the term "visitor" in a way that is meaningful to the community of South Lake Tahoe.

2. To implement the California Visitor Impact Model in an effort to determine the nature and economic impact of the overnight visitor trade in South Lake Tahoe.
3. To use the California Visitor Impact Model to establish a visitor data base which can be used to develop marketing strategies.

The estimates* contained in this report are based upon a generally conservative methodology and were developed using the best information available at the time of this report's preparation.

*The following estimates were produced through the use of the California Visitor Impact Model, developed by Dirk Wasenaar Ph.D., Professor of Marketing and Quantitative Studies at the School of Business, San Jose State University and prepared for the California Office of Tourism.

Defining a Visitor

There are currently several definitions available for defining a visitor. The two most frequently used definitions include the following:

"100 Miles Definition"

The "100 Miles Definition" suggests that a visitor resides at least 100 miles from South Lake Tahoe. (1)

"50 Miles Definition"

The "50 Miles Definition" suggests that a visitor resides at least 50 miles from South Lake Tahoe. (2)

Note:

(1) Current U.S. Travel Data Center/Bureau of Census definition.

(2) Recommended definition for use in the State of California—"California Visitor Impact Model."

For the purposes of this report a visitor will be defined as someone residing 50 miles or more away from South Lake Tahoe, but excluding:

- a. Persons commuting to and from work.
- b. Persons acting as members of an operating crew of a bus, truck, or plane.
- c. Students traveling between home and school.

Economic Drivers

The economic drivers of the South Lake Tahoe economy are several and change during each season. These economic drivers may be viewed as the primary reason why visitors to visit South Lake Tahoe. They, in effect, "drive" visitors to South Lake Tahoe to fulfil an unmet need. A seasonal breakdown of selected the primary reasons for visitation is as follows:

Primary Reason:

	Fall	Winter	Spring	Summer
Skiing:	33%	50%		
"Get Away":	16%	8%	27%	26%
Rest and Relaxation:	12.5%	6.5%	24%	21%
Meetings:	3%	2.5%	4%	2%
Other:	15%		2%	4%

As is evidenced above, the economic drivers are what is perceived by the visitor to be of significant importance and a strong enough reason to visit South Lake Tahoe.

It should be noted that when these same economic drivers do not meet the expectations the visitor will begin to consider other vacation areas.

ESTIMATED SPENDING DISTRIBUTION OF OVERNIGHT VISITORS TO SOUTH LAKE TAHOE

Economic Sector:	Est. \$ Amount	Est. Pct.
Service Station (1):	\$ 27,226,312	4.5%
Accommodations:	\$122,820,921	20.3%
Shopping:	\$ 47,192,275	7.8%
Gaming:	\$197,300,013	32.6%
Entertainment:	\$ 50,217,421	8.3%
Recreation (2):	\$ 38,721,867	6.4%
Dining:	\$111,325,367	18.4%
Sight-seeing:	\$ 10,285,495	1.7%
Total:	\$605,029,172	100%.

Source: Rosall, Remmen, & Cares, California Visitor Impact Model.

(1) Calif. Dept. of Commerce Estimates

(2) Includes skiing estimates.

Summary

1986 In Retrospect:

In retrospect, the 1986 year was less than expected for South Lake Tahoe. The combined forces of poor winter weather, changes in the National Economy, increased competition from other resort areas, the success of "Expo 86" all contributed to a less than hoped for year for the South Shore economy.

The Winter Season suffered from a disastrous February storm of rain, sleet, and snow from which South Lake Tahoe suffered from gas and electric outages. This unforeseen storm caused many businesses to reduce services and in some cases to shutdown. Thus affecting the number of visitors to the South Shore.

This survey shows the place of origin for Californians visiting South Lake. The following table describes this information.

CALIFORNIA VISITOR PATTERN

	SUMMER	SPRING	WINTER	FALL
Sacramento:	15.6%;	19.0%;	13.1%;	16.5%.
Stockton:	7.7%;	4.8%;	5.3%;	7.7%.
Bay Area:	37.0%;	43.1%;	46.3%;	42.9%.
Los Angeles:	14.2%;	11.1%;	8.3%;	12.7%.
Santa Ana/Orange:	3.6%;	3.4%;	3.6%;	2.9%.
San Diego:	4.1%;	2.9%;	3.6%;	2.9%.
Other California:	17.8%;	15.7%;	18.8%;	13.6%.

Source: Rosall, Remmen, Cares

Looking ahead at 1987:

The less than hoped for 1986 year did serve to crystallize the need for a more competitive South Lake Tahoe.

The Lake Tahoe Visitors Authority, (formed in Mid 1986) has committed to diversifying the South Lake Tahoe customer base in hopes of stimulating the South Shore economy. The LTVA is focusing its resources on the Southern California market. In a cooperative effort with the South Tahoe Gaming Alliance and the South Shore Community, the LTVA is spending an estimated one million plus dollars in

1987 in an effort to bring more overnight visitors from Southern California to South Lake Tahoe. This market diversification is viewed as a start in a long term investment in returning the economy to a more vital state.

Conclusion:

In conclusion, the overnight visitor, the mainstay of the South Shore economy, represents approximately 2 million visitors annually. These overnight visitors have a direct economic impact of approximately 640 million dollars to the South Shore economy.

The "Multiplier Effect" or trickle through is estimated by the California Visitor Impact Model to be about 1 and 1/2 to 2 and 1/2 times in support business.

With this in mind, and the fact that Tourism is the only major industry that fuels the South Shore economy it is imperative that the community as a whole continue its investment in marketing the area.

Tourist Overview ▼ by Seasons

Highlights of the Data: An Overview - Fall

Overall, about 80 percent of the visitors were from California. The Bay Area represented 35 percent of all visitors. Sacramento/Stockton represented 19 percent. Southern California, primarily Los Angeles/Orange County, represented 16 percent. Texas, Washington and Colorado are the largest out-of-state markets, although none are of dominant proportions. Rather, they may indicate areas of potential growth.

Day visitors represented 12 percent of the total, with overnight from California/Nevada at 70 percent of out-of-state overnight visitors representing 18 percent.

Day visitors tended to be older and married, traveling with their spouse, with relatively lower incomes than the average. They are drawn to South Lake Tahoe primarily for gaming and to a somewhat lesser extent casino entertainment. They are also more likely than the average to be here to "get-away." They are far more likely than any other group to travel by bus. They are far more frequent visitors than the average (with almost 70 percent having been in South Lake more than 20 times), and about 80 percent are certain they will return again during the year.

Overnight visitors from California tend to be younger and somewhat more affluent than the day visitors. California overnights have a similar high tendency to be married and to visit with their spouse and/or entire family during the Fall non skiing season. However, a far greater percentage of younger singles, many of whom are students, or professional/technical occupations, characterize this group during the ski season.

The overnight out-of-state visitors are the most affluent group and spend the most dollars per capita per day in South Lake. They have a greater tendency to stay in the casinos than the California overnights. Nevertheless, they are more inclined to indicate their primary reason for coming was the skiing with gaming "another" activity they will participate in during their stay. About 50 percent are first time visitors. A smaller proportion than typical, 22 percent, indicate they definitely will return this year, about 45 percent indicate uncertainty, with about 34 percent certain they will not return.

Gaming is not necessarily the primary reason most people indicate for visiting South Lake Tahoe (17 percent). In comparison, 33 percent state "skiing" and 29 percent state either "rest and relaxation" or to "get away." Frequent visitors mention gaming more often than other visitors as their primary activity.

It is apparent that new visitors and overnights, those who travel longest distances to come, are primarily motivated by the variety of activities and scenic beauty of the area, with gaming and casino entertainment one of those attributes.

South Lake Tahoe's greatest perceived strengths during the Fall period are:

1. Scenery/beauty.
2. Casinos and ski area.
3. Relaxing atmosphere.
4. Shows and entertainment.**
5. A fun place to be.

South Lake Tahoe's greatest perceived weaknesses are:

1. Ease of getting there.
2. Value received for dollar spent.
3. Family orientation.
4. Ease of getting around.
5. Shopping.
6. Shows and entertainment.**

7. Parking availability.
8. Friendly people.

** It is interesting to note that shows and entertainment has both its proponents and its detractors.

Specific ratings tend to reflect the strengths and weaknesses evaluation, with the highest ratings occurring for:

1. Scenery/beauty.
2. Fun place.
3. Ski areas.
4. Relaxing atmosphere.
5. Accommodations.
6. Casinos.

The lowest relative ratings occur for:

1. Shopping.
2. Family orientation.
3. Value received.
4. Ease of getting around.
5. Local visitor information.
6. Ease of getting there.
7. Parking and bus shuttle.

In response to what type of events would encourage you to come to South Lake Tahoe most frequently, entertainment was the dominant factor. Sports and recreation events were also frequently mentioned.

Highlights of the Data: An Overview - Winter

Skiing, not surprisingly, was singled out as a primary motivator by half of all Winter respondents, compared to 33 percent of the Fall. Those who mentioned gambling remained relatively unchanged (14 percent vs 17 percent in Fall), but the numbers who chose "rest and relaxation" or "get away" dropped sharply, from 29 percent combined in Fall to 14.5 percent in Winter. Casino entertainment was the third most popular choice and was particularly strong in central California.

Those who visit Tahoe in the Winter are more inclined to return in Winter, to the

exclusion of the other three seasons, in particular Fall and Spring. Fall visitors, by comparison, were more likely to have a four-season orientation.

Winter visitors gave a significantly higher rating to their overall experience than did Fall visitors, notwithstanding the poor weather conditions that characterized the February/March interview sweeps. Fifty-six percent gave their experience an Excellent rating, versus 46 percent in Fall.

Sales/buyers and secretary/office professions experienced the highest percentage gains, while students and retired showed the sharpest drops.

Winter visitors are a wealthier group than those in the Fall: 52.5 percent have incomes between \$30-75,000, versus 46 percent in Fall. Only 15 percent had incomes of less than \$20,000, against 28 percent in Fall. There was little change in age structure; the percentage of females increased.

Length of stay increased slightly, while number of people per unit went from 3.0 to 3.9. Condominiums, duplexes and cabin lodging all were up. Accommodation ratings overall were also up over Fall.

As discussed earlier, the overnight out-of-state group made up a significantly larger proportion of the overall respondent base. Texas and Washington continue to be strong outside markets, but the East Coast (Florida, New York) was well represented, and Oregon moved up. Colorado, which was the fifth strongest market behind California in the Fall, dropped out of the top ten during winter.

Out-of-state visitors are both the wealthiest and oldest of the visitor groups, typifying what many consider to be the "affluent elderly" (40-60 years of age) segment of the population, certain to draw increasing marketing and economic attention. They spend a week away from home, prefer casino lodging, have a proportionately strong interest in gambling, and give their overall South Lake Tahoe experience higher ratings than any other group.

Day visitor demographics are more similar to the overall visitor base than they were in the Fall, when they were characterized by elderly, retired gamers of limited incomes. Winter day visitors are younger, more affluent, and more inclined to ski. A large percentage originated in the East Bay, a dramatic increase over Fall figures.

Similar demographic changes occurred in the overnight California/Nevada group, although they were not as dramatic. Non-casino lodging was up, people traveled in larger groups, but they did not stay as long.

The concentration of South Lake Tahoe visitors from the Bay Area as a percentage of the total California visitor base went up, while central and southern California percentages declined.

The Bay Area was the only geographic market in which the visitor base was older and less wealthy than the Winter average. There was a dramatic increase in the representation of craft/labor/service and office/secretary occupations. Casino hotels as a share of Bay Area lodging accommodations went down, replaced by cabins and other self-contained units.

Los Angeles produced younger, wealthier visitors, while San Diego visitors were older and wealthier. Gaming as a primary motivator doubled in both markets. Sales/buyers, secretary/office, and females also increased.

Highlights of the Data: An Overview - Spring

The Spring visitor base was characterized by a lower percentage of overnight out-of-state visitors and overnights from California/Nevada than the preceding two seasons. Oregon was the strongest out-of-state market, followed by Texas and Washington.

The high percentage of day visitors reflects a high concentration of out-of-state (non-California/Nevada) tourists, 25 percent of whom came up for the day from Reno.

Spring respondents are the oldest of all to-date research, as wealthy as Winter visitors, and characterized by a high percentage of females.

Sixty-seven percent are married, compared to 56 percent in the two previous seasons. Fifty-nine percent travel with their spouse only or with family.

The Spring visitor base is made up of the highest percentage of first-time visitors of any season, as well as the highest percentage of those who express a 0-25 percent likelihood of returning over the next 12 months.

Over 50 percent visit South Lake Tahoe in the Spring to "get away" or rest and relax compared to 40 percent in Fall. Only 11 percent are motivated primarily by gambling, the lowest of all seasons. Day visitors, however, are much more like to be visiting for gaming or a show than the average.

Only 3 percent of Spring respondents were students; 10 percent were retired, and 21.5 percent were "empty nesters."

Out-of-state visitors are not as wealthy as those in Winter, particularly in the over \$75,000 range, but are significantly older. Over 75 percent are married.

Nineteen percent of out-of-state visitors traveled to South Lake Tahoe primarily to sightsee, a percentage equal to that for "get away." Only 8 percent were in the area primarily to gamble.

Sacramento/Stockton-based visitors made up over 20 percent of all those who traveled from California, continuing to represent strong shoulder season support.

Almost 40 percent of Sacramento-based visitors traveled to South Lake Tahoe for the day only. A high percentage were motivated by gaming and casino entertainment.

Bay Area visitors made up a smaller percentage of the California-based visitor base than they did in the Winter, but represent a similar contribution as those in Fall. The North Bay, however, dropped significantly as a contributor. Those who did visit from North Bay were much older than the average -24 percent were retirees.

Visitors from the East and South Bays continued to represent above average interest in rest/relaxation and "get away"; overall, they have made less visits to South Lake Tahoe than those in previous seasons, and are less likely to return in the next 12 months.

Visitors from West Bay/San Francisco were older, wealthier and more likely to be married than in any other season. They show a stronger interest in gaming and "other recreation" as primary motivators than those from other key California markets, a finding consistent with the phone research.

Rest/relaxation and "get away" continue to be very strong primary motivators for visitors who travel to South Lake Tahoe from Southern California. Like most groups in the Spring visitor base, they are older, wealthier and more likely to be married than past seasons.

As a favorite "activity," gaming continues to represent a strong year-round draw, particularly in the shoulder seasons. Rest/relaxation, shows and sightseeing are also highly favored.

Gaming is also considered one of South Lake Tahoe's greatest assets, but rates a weak second behind scenery/beauty, which is once again an overwhelming favorite.

Parking and "getting there" are rated as the area's two greatest weaknesses. Other needs expressed by respondents include a lack of unique or quality retail outlets, few activities for children, and no scenic bus tours around the Lake. Quality entertainment is considered a strong factor in drawing people more frequently to the area.

South Lake Tahoe continues to rate well against other gaming resorts, although a small percentage continue to favor the more relaxed environment of North Shore. Over 70 percent of respondents considered South Lake Tahoe only in their most recent travel plans. Out-of-state visitors most frequently considered San Francisco as an alternative destination, while Bay Area respondents considered Reno.

Forty percent of those interviewed felt that South Lake Tahoe as a place to vacation has improved over the period of time they have been visiting, while 36 percent said the number of visits they are making to the area have been increasing. The most frequently mentioned incentives for traveling more frequently were travel/accommodation packages. This was particularly true for those who traveled from out-of-state.

Out-of-state visitors continue to spend more money than any other group during their stay. Residents of Los Angeles and Sacramento/Stockton were the highest spending visitors from California, while East Bay was lowest.

Highlights of the Data: An Overview - Summer

Residents of California made up a lower percentage of the overall visitor base than in any other season (67 percent).

The typical Summer visitor is older, wealthier, and much more likely to be married than those in any other season; 54 percent brought their children with them.

The "capture ration" in Summer was almost identical to that in Spring - 47 percent. Reno and San Francisco continue to represent the most frequently mentioned "other" destinations.

The primary reasons that respondents traveled to South Lake Tahoe in the Summer were very similar to those in Spring; "get away" and rest/relaxation were the strongest, followed by gaming and casino entertainment.

Twenty-six percent of all day visitors originated in Sacramento/Stockton; 27 percent were from out-of-state.

Almost one-fourth of all overnight California/Nevada visitors were in South Lake Tahoe to visit friends or because they own their own home or condo.

Out-of-state visitors showed up in numbers similar to those in Winter; eleven different states contributed at least one percent to the total visitor base.

Gaming interest as a primary motivator and secondary activity is weakest in this group compared to the others, while sightseeing is comparatively strongest.

Summer out-of-state respondents are equally likely as those in Spring to spend a significant (over 70 percent) portion of their vacation time in areas other than South Lake Tahoe.

The Bay Area's share of the visitor base dropped significantly to its lowest level of any season; the Los Angeles/Southern California share, by comparison, was its highest.

Sacramento (15.6 percent) remained the single largest California-based metropolitan source of visitors, followed by East Bay (14.2 percent) and Los Angeles (14.2 percent).

With the exception of South Bay respondents, interest in gaming as a primary motivator was highest in Sacramento than in any other market.

Despite the relatively low participation rates in the overall visitor base, Bay Area residents represented the highest capture ratios of any other market; gaming is a weak primary motivator in this market.

Per capita spending levels in Summer fell to their lowest level yet; this was primarily the result of the high numbers of respondents who drove, camped or stayed in R.V.'s.

South Lake Tahoe's single greatest asset continues to be its scenery/beauty by the widest margin yet, while rest/relaxation and sightseeing remain the two most important activities.

The crowding problems that characterize Summer at the Lake were reflected in lower ratings for parking and getting around, which were also singled out as the area's single greatest weakness.

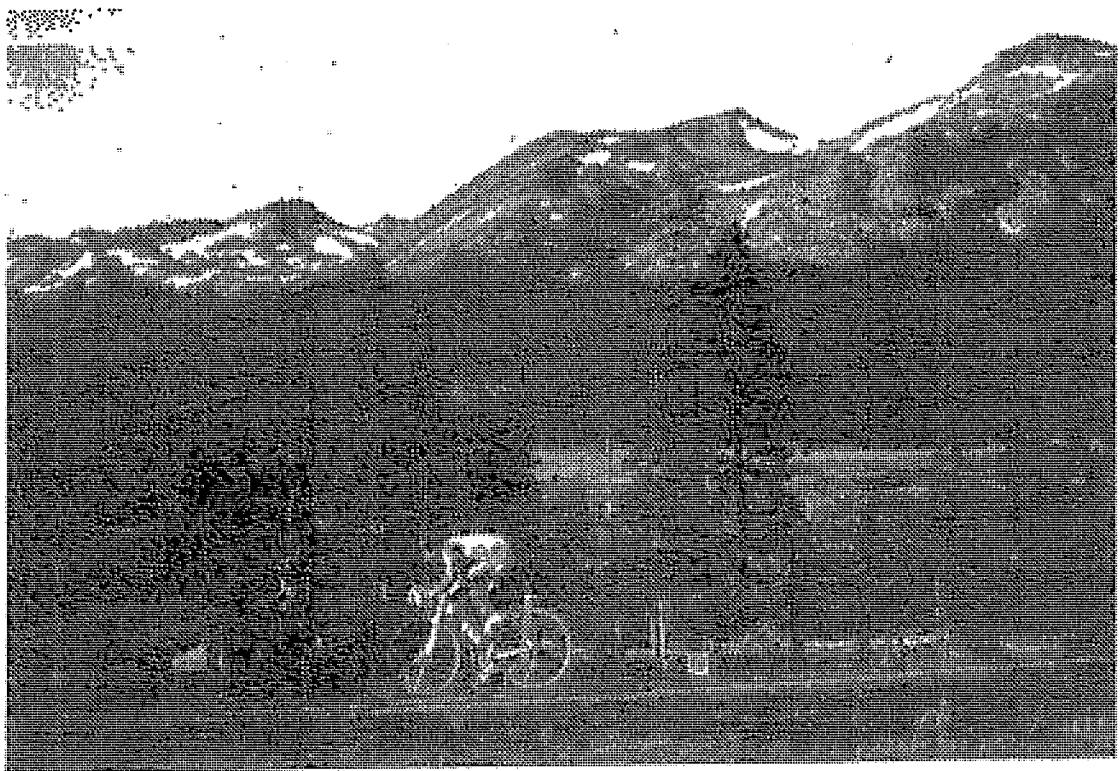
With the exception of South Bay and, less so, Los Angeles, visitors from key

California markets are much more likely to be increasing than decreasing the frequency of their visits to South Lake Tahoe.

Those who feel that the area has declined in quality as a place to vacation are more inclined to be decreasing the frequency of their visits, and vice versa. Twenty-five percent of those who have made more than 20 trips to South Lake Tahoe feel that it has declined in quality during that time.

Over half of all first time visitors were from out-of-state, representing 56 percent of all out-of-state respondents; over half of all first time visitors from California/Nevada were from Los Angeles.

Seventy-four percent of first time visitors from Los Angeles, versus 54 percent in California/Nevada and 47 percent overall, traveled to South Lake Tahoe to "get away" or rest/relax. Almost half express a 0-25 percent likelihood of return within the next 12 months.



THE RECREATION AND LEISURE INDUSTRY'S CONTRIBUTION TO CALIFORNIA'S ECONOMY ▼

Most planners recognize an importance of the leisure and recreation industry to California's economy. In 1983-84, the California Department of Parks and Recreation undertook the task of studying and quantifying that importance. This study addressed such diverse issues as: what are the high growth recreational activities; what percent contribution does recreation contribute to local economies; per-day expenditures by tourists and recreationists; and the effect of public parks and recreation areas on surrounding property values.

This study focuses on California as a whole and thus provides figures of primarily state-wide importance. This can be used by local planners, both public and private, as a comparison point or as a target for future growth.

Highlights

RECREATION AND LEISURE PURSUITS ARE A MAJOR FEATURE OF THE CALIFORNIA LIFESTYLE. MORE IMPORTANTLY, THEY ARE A VITAL ELEMENT OF CALIFORNIA'S ECONOMY.

Californians spent about \$30.2 billion on recreation and leisure pursuits in 1982. This amounted to 11.5% of total California personal consumption expenditures, making recreation and leisure third in personal spending, exceeded only by housing and food. An additional \$2 billion was spent by visitors from out of state who traveled to California for recreation, entertainment, or sightseeing.

Employment in the recreation and leisure industry accounted for one out of every 15 California jobs in 1982. Private-sector employment accounted for 769,406 jobs, while government provided 45,157. According to the 1983 Economic Report of the Governor, the greatest percentage increase in California employment during 1982 occurred in the recreation and amusements service industry.

It is estimated that state taxes generated by recreation and leisure expenditures amounted to \$1.3 billion in 1982, more than 6% of California's revenue.

Revenue to local governments from recreation and leisure expenditures in 1982 exceeded \$640 million, more than 12.6% of all local government revenue.

OUTDOOR RECREATION IS THE DOMINANT FORCE IN CALIFORNIA'S RECREATION AND LEISURE INDUSTRY.

Approximately \$19.2 billion, about 64% of all recreation and leisure expenditure by Californians, was spent in pursuit of predominantly outdoor recreation away from home.

Expenditures for outdoor recreation in California are projected to grow 25% at both government and non-government facilities, and nearly 27% at joint facilities, by the year 2000. This growth will add \$8.1 billion (in 1982 dollars) to California's economy.

GOVERNMENT LANDS AND FACILITIES ARE A CRITICAL COMPONENT OF CALIFORNIA'S RECREATION AND LEISURE INDUSTRY.

About 40% of all recreation and leisure spending, amounting to \$12 billion in 1982, was related to the use of government lands and facilities.

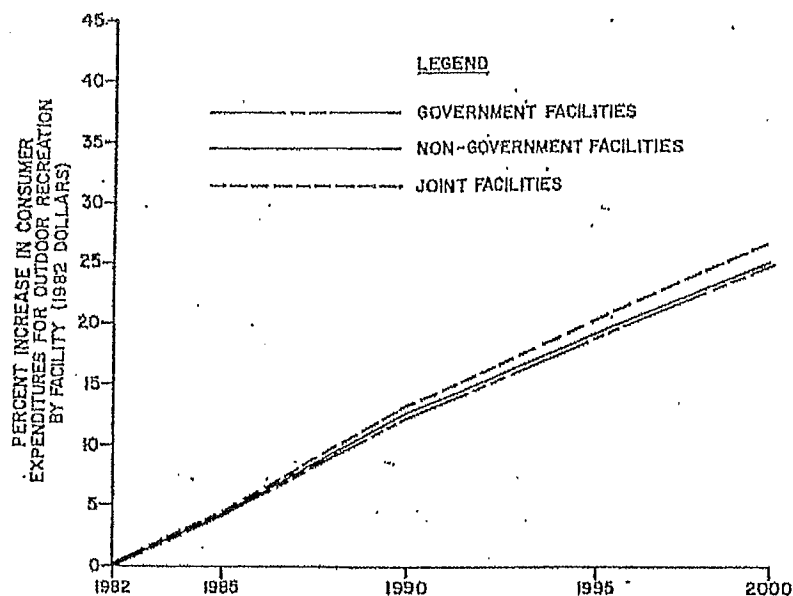
RECREATION AND LEISURE EXPENDITURES

Consumer Expenditures

Nationally, recreation and leisure expenditures have grown from \$58 billion annually in 1965 to \$244 billion in 1981, an increase in inflation-adjusted dollars of 47% (U.S. Department of Commerce). About 13% of these expenditures (\$32.2 billion in 1982) are estimated to have occurred in California, which accounts for slightly over 10% of the nation's population. This includes \$2 billion estimated by the U.S. Travel Data Center to have been spent by out-of-state visitors traveling for recreation, sightseeing, or entertainment. These expenditures, which support the recreation and leisure industry in California, amount to more than 8% of the 1982 gross state product, and account for 11.5% of total California resident consumer spending, exceeded only by housing and food.

Figure 1

Projected Increase in Consumer Spending on Outdoor Recreation by Facility (1982-2000)



Activity Expenditures

Table A provides estimates of average daily participant expenditures for California's more popular away-from-home recreation activities. Total annual expenditure estimates for each activity were determined by multiplying average daily expenditures by total annual participation days for the activity, a figure derived from the Statewide Recreation Needs Analysis study. Annual participation expenditures for these predominantly outdoor recreation activities totaled \$19.2 billion. About half of these expenditures were transportation and travel-related. Non-transportation-related expenditures for several activities were derived from data generated by this study and surveys of trade organizations and recreation establishments throughout the state.

TABLE A

ESTIMATED AWAY FROM HOME RECREATION EXPENDITURES BY CALIFORNIA IN CALIFORNIA FOR 1982

Activity	Average Activity Day Expenditure per person	Total \$ Spent
Bicycling	3.90	461,205,420
Horseback Riding	19.78	366,443,291
Tennis	6.90	323,646,709
Golf	23.89	732,654,220
Bowling	8.91	300,263,080
Pool Swimming	6.56	410,430,533
Picnicking	13.02	972,031,405
Hiking & Backpacking	13.73	733,834,862
Nature Appreciation	12.51	810,777,727
Visiting Scenic Areas	14.56	715,755,186
Crafts & Hobbies	7.89	377,949,463
Camping	29.05	1,442,771,736
OHV	45.03	1,144,666,440
Snow Skiing	49.23	369,016,019
Sports Activities	17.28	3,337,727,040
Boating	33.53	1,275,967,385
Jogging	3.03	664,335,680
Fishing	32.00	1,661,078,080
Hunting	65.00	494,310,700

Location of Activities

Away-from-home recreation and leisure activities can take place at government-owned facilities, private facilities, or those owned jointly by government and the private sector.

The data indicates that about 62% of all away-from-home recreation and leisure expenditures can be attributed to the use of government or joint government and non-government facilities. These government-facility-related expenditures (amounting to nearly \$12 billion in 1982, or about 40% of all recreation and leisure spending) illustrate the importance of public recreation lands and facilities to California's economy.

Referring again to Figure 1, the expenditure ratio of government and non-government facilities is projected to remain about the same to the year 2000, with a slight increase in joint facility expenditures. With this in mind, and considering that expenditures related to participation in recreation and leisure activity at public

facilities currently support about 40% of the recreation and leisure industry and account for 4.6% of California consumer spending, investment in public recreation lands and facilities should be an integral part of state, regional, and local economic development programs. Land acquisition and facility development to accommodate high-expenditure activities projected to grow rapidly will be particularly desirable (Table C).

TABLE C

HIGH EXPENDITURE, RAPID GROWTH RECREATION ACTIVITIES

Activity	Projected Increase in Participation, 1980-2000	Average Expenditure
Golf	53%	\$23.89
Snow Skiing	49%	49.23
Boating	38%	33.53
Visiting Scenic Areas	35%	14.56
Fishing	32%	32.00
Hiking & Backpacking	32%	13.73
Nature Appreciation	31%	12.51

RECREATION AND LEISURE-RELATED REVENUE RETURNS TO STATE AND LOCAL GOVERNMENT

The recreation and leisure industry is an important source of state and local government revenue. State and local tax revenue generated by business firms operating within the industry, personal income tax paid by industry employees, and local property tax revenue generated by public and private recreation facilities provide the greatest contributions. However, significant revenues also accrue from a variety of non-tax sources.

State Revenues

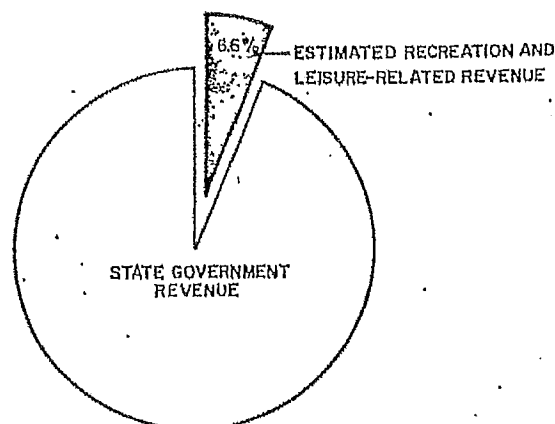
California residents and businesses paid about \$20 billion in state taxes for fiscal 1980-81. It is estimated that about \$1.3 billion of this revenue is attributable to the recreation and leisure industry.

This figure is derived as follows. The California Franchise Tax Board data indicate that about \$220 million was paid in corporate taxes by more than 49,000 recreation and leisure-related business establishments, and \$275.8 million in personal income

tax was paid by industry employees. Estimates based on State Board of Equalization data indicate that an additional \$638.9 million was collected in state sales tax on recreation and leisure-related product sales. Additionally, motor fuel tax related to recreation and leisure activity and travel amounted to about \$197.3 million (see below).

Figure 2

Recreation and Leisure-Related Returns
to California State Government as a
Percentage of Total State Revenue in
Fiscal Year 1980-81



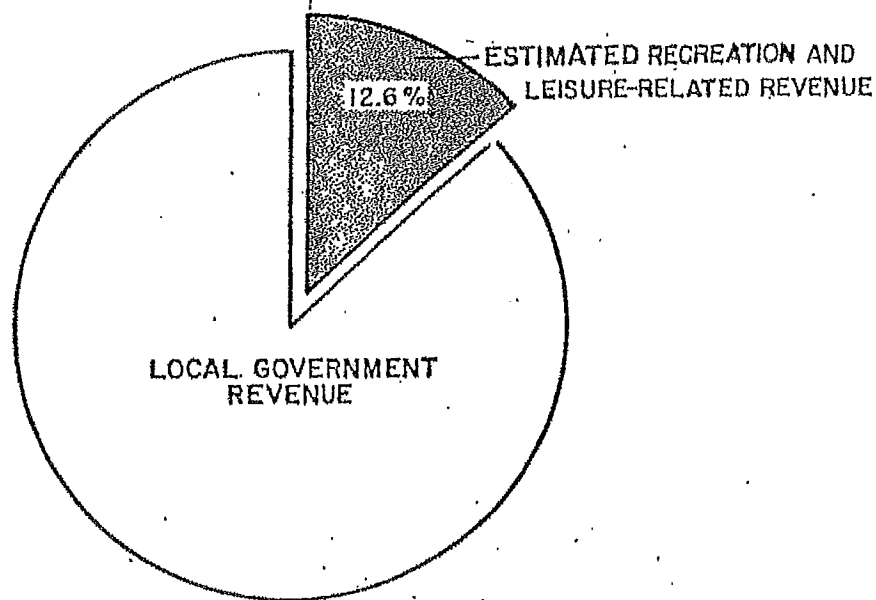
In addition to the taxes just discussed, the state derives an additional \$975.6 million in annual income from licenses and fees associated with recreation and leisure.

Local Revenues

More than \$640 million collected by California's cities, counties, and special districts in fiscal 1980-81 is estimated to have been generated by recreation-related business activity and employment, and public recreation facilities (see below). This is 12.6% of the \$5.1 billion of local revenue for that year.

Figure 3

**Recreation and Leisure-Related Returns
to Local Government as a Percentage of
Total California Local Government
Revenue in Fiscal Year 1980-81**



Recreation and leisure-related property tax revenue, based on an estimation of taxes paid on privately owned recreation lands and taxes resulting from property value enhancement attributed to urban and suburban public parks, is estimated to have been \$360.3 million (56% of total recreation and leisure-related local revenue in 1982).

Local park and recreation use fees accounted for an additional \$147.5 million, or 23% of total local government recreation and leisure-related revenues.

ECONOMIC IMPACT OF OUTDOOR RECREATION IN NEVADA ▼

Nevada State Parks, as part of the Statewide Comprehensive Outdoor Recreation Plan, studied the question of outdoor recreation's contribution to the state's economy. Although completed in late 1980, this study continues to be used by state and local planners to help predict economic impacts. Such information is valuable to Alpine County recreation providers because many visitors originate from Western Nevada cities and towns. The following summary includes the use trends and economic impacts for those recreation activities identified.

I. INTRODUCTION

This study assesses the impact of outdoor recreation on the Nevada economy. Although indoor recreational activities (gambling and other forms of entertainment) are the more widely recognized recreational attractions in Nevada, outdoor recreation also supports a significant share of economic activity in the state.

Recreationists visit Nevada in large numbers to participate in cross-country and downhill skiing, hunting, off-highway vehicle (OHV) driving, fishing, hiking, backpacking, and other outdoor activities.

These visitors provide revenues for income and jobs in the state through purchases in restaurants and groceries, from rental and purchase of sporting equipment and through expenditures for lodging and other goods and services. Studies indicate that many who visit Nevada primarily for outdoor recreation also gamble and participate in other indoor entertainment activities (e.g. Colberg, 1978).

Nevada residents also contribute substantially to the Nevada economy from purchases for outdoor recreation-related sporting goods, recreational vehicles (RV's), sports clothing, and from purchases related to in-state recreational travel. Government expenditures for management (marinas, campgrounds, etc.), and for capital improvements (e.g. tennis courts, swimming pools) to recreational areas also fuel the state's economy, providing outdoor recreation-related jobs in the public sector, as well as income to private contractors and their employees.

A. Economic Impact and the Regional Economy

The process by which recreational activities produce jobs, income and tax revenues in a region has features somewhat different from the way in which activity in other industrial sectors impact a region's economy. In general,

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economic activities may be divided between primary (or basic) activities and secondary activities (also called non-basic, service, or residentiary activities).

Primary industrial sectors of the economy are those that provide income and jobs to a region through exports to other regions. Typically, these activities (e.g., farming, mining, manufacturing) produce goods which are sold outside the region, earning income for employees and profits for owners of the producing firms.

Resident's purchases fuel the secondary sector of the economy, providing revenues for additional jobs, income, and taxes.

There is a fine dividing line between the primary and secondary sectors. Nearly all economic activities overlap the two sectors, producing, at times, some goods and services for export, and some for consumption within the region. To analyze a regional economy, economists usually place industries in one or the other sector, depending on whether the majority of their output is destined for export or for local consumption.

The recreation industry is typical of difficult-to-categorize sectors. Recreational activities may serve local residents as well as tourists. For example, a ski resort may sell its services to a region's residents or to tourists. Tourist skiers bring fresh income into the region, buying lift tickets, equipment, food and lodging. These purchases generate employment and income for the region's residents. The "tourist portion" of the ski resort is a primary sector activity. Resident skiers, on the other hand, recirculate the region's income in their purchase of ski goods and services. The "resident portion" of the ski resort is a secondary sector activity.

Expenditures related to outdoor recreation in Nevada arise from at least five distinct sources: (1) travel expenditures in Nevada by visitors from outside the state, (2) capital expenditures in Nevada for outdoor recreation equipment by these visitors, (3) capital expenditures by Nevada residents for outdoor recreation equipment and clothing, (4) in-state travel expenditures by Nevada residents, and (5) expenditures by federal, state, and local governments for outdoor recreational capital improvements or resource management.

Travel expenses are usually defined to include costs directly related to a specific trip, including transportation expenditures, food and liquor purchases (from groceries, liquor stores, bars, and restaurants), lodging (including camping), and entertainment. Travelers may also spend money for other retail goods, such as clothing, gifts, souvenirs, and sporting equipment.

For the outdoor recreationists, these travel and capital expenses vary widely by type of recreation activity. Campers and backpackers typically make most of their equipment purchases in the region of residence. Groceries may also be purchased at home and transported to the recreational destination. Lodging expenses are often limited to small space or user fees in parks or campgrounds. Purchases by campers or backpackers in the region of

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destination might be limited to single gasoline purchase, a few groceries, and possibly a restaurant visit.

At the other extreme, the downhill skier makes many purchases at the recreation destination, including lift tickets, equipment rental, lodge rentals, and meals. Expenditures may also include the purchase of ski equipment and clothes. The ski lodges themselves, if owned by visitors, represent major capital investment in the region of destination.

II. ECONOMIC IMPACT OF OUTDOOR RECREATION VISITATION TO NEVADA

1. Outdoor Recreation Visitor Expenditures

The amount of money travelers spend while visiting an area is the critical bridge to determining the impact on the destination region's economy. Unfortunately, the existing data on visitor expenditures is limited. Survey data frequently cannot be generalized to other regions. Many studies do not state their assumptions or rely on faulty procedures for determining daily tourist expenditures (see Cahill and Neale, 1979, for further discussion).

Visitor expenditure studies for Nevada, like visitation studies, are generally unreliable. It has been necessary to draw from studies of outdoor recreation expenditures in other states to obtain a feel for how much outdoor recreationists spend on journeys to Nevada.

Probably the leading national survey on the topic is the U. S. Travel Data Center's annual National Travel Expenditure Study (United States Travel Data Center, 1977). The Center, a private Washington, D. C.-based firm, uses a nationwide household survey which it correlates with data from the Bureau of the Census' National Travel Survey (Bever, 1978). The study estimates that all U.S. Travelers spent an average of \$23.07 per person per day on journeys of 100 miles or more in 1976. Visitors to Nevada spent an average of \$35.98 per day, among the highest for any state (U.S. Travel Data Center, 1977). The high cost of trips to Nevada undoubtedly reflects large expenditures for gambling and related activities.

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Table 1

Expenditures per Person per Day
by Outdoor Recreation Travelers in the
United States, 1976 (1988, adjusted for inflation)

Expenditure Category	Expenditures Per Person Per Day, 1976
Transportation	\$ 5.86 (12.25)
Lodging	4.04 (8.48)
Food	10.44 (22.18)
Entertainment	2.07 (4.32)
Incidentals	3.60 (7.42)
Total	\$ 26.01 (54.65)

Note: For travel of 200 miles or greater, round trip.

Source: U.S. Travel Data Center, 1976 National Travel Expenditure Studies, 1977.

The study calculated that outdoor recreationists traveling 100 miles or more in the U.S. spent an average of \$26.01 per person per day in 1976, a figure larger than the average for all travelers in the U.S. but smaller than the average for all visitors to Nevada. These figures are broken down by expenditure category in Table 1.

Using past surveys and updating expenditure amounts to 1979 prices, this study has estimated 1979 average expenditures per person per day for outdoor recreationists in Nevada. These estimates are displayed in Table 2, Estimated Daily Expenditures of Resident and Non-Resident Outdoor Recreationists in Nevada by Primary Outdoor Activity, 1979.

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Table 2

Estimated Daily Expenditures of Resident and
Non-Resident Outdoor Recreationists in
Nevada by Primary Outdoor Activity, 1979

Primary Activity	Expenditures Per Person Per Day, 1979 (1988, adjusted for inflation)	
	Residents	Non-Residents
Camping, backpacking	\$12 (\$20)	\$16 (\$27)
Hunting	\$35 (\$58)	\$60 (\$99)
Downhill Skiing	\$25 (\$41)	\$55 (\$95)
Outdoor Recreation-		
Overall Average	N/A	\$40 (\$76)

Note: Figures represent average expenditures per person per day for each activity. For non-residents, some expenditures are made outside Nevada. Estimates are updated from earlier studies using the United States Consumer Price Index for retail goods and the Gasoline Price Index to estimate increases in transportation costs.

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III. FUTURE TRENDS IN OUTDOOR RECREATION IN NEVADA

The future of outdoor recreation and its impact on the economy of Nevada may best be examined first by looking at factors affecting future nationwide trends and then at variations which are likely to affect Nevada individually.

For national trends, it may be informative to look at recent trends in factors that caused the sharp increase in outdoor recreation participation between 1965 and 1977.

(1) Increase in leisure time - leisure time for Americans should continue to increase as the work week gets shorter, allowing greater participation in outdoor recreation.

(2) Women joining the labor force - this trend should continue, giving women greater individual incomes, allowing for larger participation in outdoor recreation.

(3) Decline of baby boom offspring - the bulge in the curve of 25-35 year persons caused by the post-war baby boom is receding, reducing the number of persons in the age bracket considered to be the prime purchasing age for outdoor recreation goods and services.

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(4) Increased options for elderly - increase in their relative share of income should continue to increase recreational demand among the elderly.

(5) The physical fitness movement - Americans are expected to continue their interest in personal health and physical fitness through outdoor recreational activity.

For Nevada, the outdoor recreation future is probably not as bleak as one might suppose from considering the effects of gasoline prices on travel patterns of Californians, major contributors to outdoor recreation participation in Nevada. First, the population of Nevada continues to grow rapidly. This trend will have a positive effect on resident outdoor activity and purchases. Moreover, newcomers to Nevada tend to be young, and more active outdoor recreation participants. Second, although California's population is not growing at previous rates, there are a large number of persons of child-bearing age in that state. The number of babies born in California reached an all-time high in 1979, indicating that there will be a growing future demand for outdoor recreation activity near to Nevada's borders. Third, California's outdoor recreation opportunities are becoming overcrowded. Nevada is a logical choice to receive a portion of overflow demand.

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SORENSENS ▼

Throughout this study, questions about the economic impacts of increased recreation were considered. How much could the County expect to benefit financially from such increased use? Other case studies in this section reflect research that identifies how much money tourists and recreationists spend in other areas. Based on this kind of information, it is obvious that increased visitation will result in increased revenue to the County. However, this information shows only a general trend; it cannot show specific increases.

To give a better sense of what the County can expect, this section provides a case study looking at actual and projected tax increases from an Alpine County business. Sorensens Resort was chosen for this case study for several reasons. First, Sorensens stands to gain the most directly from increased access to the lands under USFS acquisition consideration. Secondly, John and Patty Brissenden have owned and operated this resort for six years, providing a good historical tax record. And thirdly, they have completed a comprehensive master plan for the resort's future. This allows a realistic tax projection based on planned improvements.

This case study shows a marked increase in tax revenue produced by a resort completely dependent on recreation and tourism. Other businesses in the county may benefit from increased recreation in different ways, yet this example clearly shows some benefit will be felt.

In 1981, Sorensens Resort consisted of 20 cabins rented on a monthly basis and a small restaurant. The resort at that time was rundown and operated inefficiently. In 1982, John and Patty Brissenden purchased the 165 acres and began to renovate and plan for the future. In March of 1987, the Sorensens Report Expansion Master Plan and resulting EIS were completed. By that year, all the existing structures had been renovated and the resort was operating as a year-round resort offering a wide range of recreational activities.

Sorensens Resort currently includes 23 cabins, an owner's residence and a guest duplex. The small restaurant serves resort guests and others, though it is not open for all meals. Also in the restaurant, guide books, artwork, wine and other gift items are available.

The resort offers conference facilities for small groups and many organized recreational activities. These include guided nature walks, astronomy and art lessons, and cross-country ski rental and lessons. Also, the owners will arrange special events for guests. This includes weddings, llama pack trips and equestrian rides at Kirkwood Stables.

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The future of the resort shows ambitious plans. The EIS provides a description at buildout, in approximately 15 years. It states:

It is planned that Sorensen's will be a destination resort featuring accommodations for conferences, seminars and workshops. The facilities will include bed and breakfast and timeshare lodging as well as a sauna and spa on the premises. The resort will sponsor year round outdoor activities centered on the resort as well as surrounding areas.

Specific facilities expansion includes:

Cabins. Twenty existing cabins will be renovated and remain on the lower benchlands near Highway 88, with some increase in density on the side of the creek. (All renovation is completed, 1988)

Twenty proposed housekeeping cabins will have one bedroom with kitchen and bathroom facilities with wood exteriors. They will be located behind and to the east of the existing Norway House on two smaller benches that afford some views of the meadows and will be tucked into the hillside and screened with existing vegetation.

Fifteen larger housekeeping cabins or vacation timeshare cabins will be sited around a small lake above the existing resort area. These cabins will consist of 2 or 3 bedrooms, living room, kitchen and bath facilities and the present design concept is a log or wood exterior to blend with the existing landscape.

Bed and Breakfast Lodge. The lodge will consist of 18 rooms, approximately 16 of which will be European style with a common bath at the end of the hall and the remainder will be private suites. The lower floor will consist of a restaurant facility with a small lounge area, dining area which will seat approximately 50 to 75 people and could double as a conference room for guests. The manager's quarters and gift shop will also be housed on this floor.

Other Living Units. Two hostel cabins will be located in close proximity to the lodge and will sleep 18-20 people each, dormitory style. These units will also serve as conference rooms.

Not included in this description, the resort may also offer mountain bike rentals and expand the cross-country ski operation. The latter currently provides some groomed trails, and ski rentals and lessons. The expansion could include many more km of groomed trails, and ski and clothing retail.

John and Patty Brissenden have seen not only their resort and plans grow, their tax contribution to Alpine County has grown also. The following table shows a 205% increase in property tax as they have renovated the existing structures. As more improvements are added, this could increase as much as 12,094%. Also, with the additional rooms and retail opportunities planned, their TOT and sales tax contributions rise.

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The following record shows the actual increase in tax revenue generated by Sorensens between 1981 and 1987 as well as that projected for 2002 (planned buildout for the resort).

	Property Tax	Sales Tax	TOT (Bed Tax)
1981(1)	\$ 2,400	Unknown	\$ 1,754
1987(2)	\$ 4,932 (+205%)	\$ 624	\$ 16,790 (+957%)
1988(3)	\$ 7,432 (+150%)	\$ 1,000* (+160%)	\$ 22,330 (+132%)*
2002(4)	\$63,833*(+858%)	\$10,470*(+104%)	\$110,000 (+492%)*

Total \$ collected by Alpine County from Sorensens resort:

1981: \$ 4,154 (plus amount of sales tax generated)
1987: \$ 22,346
1988: \$ 30,762
2002: \$184,303*

- (1) The year before the Brissenden's purchase. See above for a facility description.
- (2) Facilities: All original structures restored and area operated as a resort with wide variety of recreational activities available year-round.
- (3) Facilities: Owner's house added, also three new cabins built and original owner's unit renovated as a guest duplex.
- (4) Facilities: Buildout. See above.

*Projections. All projections for this comparison should be considered conservative. No attempt was made to account for increased building costs as the resort develops, increased resort prices, inflation, or changes in the various tax rates. The latter may change in the future as Alpine County's TOT rate is several percentage points below other California counties with similar tourist-based economies.

A factor that could offset this tax contribution would involve increased need for county services. In this case, however, the 1987 EIS did not identify any public service needs that project mitigations could not address.

Needs to be reviewed

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Conclusion:

This example shows the long-term economic benefits of public recreation and tourism to Alpine County. Other benefits produced by the success of businesses such as Sorensens include: the increased value of nearby private land; heightened awareness of Hope Valley as a destination recreation area; and the possibility of currently vacant land to develop and provide recreational amenities.

Needs to be reviewed

Hope Valley
Economic and Recreation Study

Final ▼ April 1989.

▲Economic
Summary

Economics Summary ▼

This section is a summary of the employment potential, and the economics of the proposed land purchase. These figures are the best estimate that could be made at this time, as collected from the participants in this study.

Employment

As recreation is seasonal, few of the private sector groups hire anyone full-time. The figures are what the participants considered to be "year-round, full-time equivalents". For example, Caples Lake Resort employs almost 15 people at their peak season (August). This works out to be 5 full-time equivalents.

The projected employment figures are based on the owner/manager's vision of their resort. All the public groups such as the USFS refused to predict future staffing levels because that is totally dependent on legislative whim. The estimates appear to be low if the resorts develop as envisioned. With an economic slow-down or some other development inhibitory, these estimates will be high.

EMPLOYMENT

Recreation/Support Services Provider	Current	1998
USFS*	.4	.4
CA State Parks	10	10
CA Fish and Game	.5	.5
Kirkwood		
Kirkwood Stables**	1	5
Kirkwood Nordic Center**		
Sorensens	4	10
Caples Lake Resort	5	8
Tahoe Winter Sports**	.5	.5
Woodfords Inn	2 (family members)	3
Woodfords Station	2 (family members)	2
Total	25.4	39.4

* Includes only Toiyabe Forest, no information gathered for the El Dorado Forest portion of the study area.

** These businesses are seasonal only.

Needs to be reviewed

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Land Purchase

The Hope Valley has become a major nonurbanized recreation resource adjacent to the Lake Tahoe Basin in California and Nevada. While the Lake Tahoe Basin still remains the major recreation destination in the Sierras Hope Valley has become a destination for low intensity recreation including hiking, fishing, cross country skiing, snowmobiling, and camping. In addition, there is one destination resort, Sorensons, and at opposite ends of the Valley area Kirkwood ski area, and the towns of Woodfords and Markleeville. Adjacent to Markleeville is the Grover Hot Springs a favorite day use and camping area. Hope Valley lacks significant commercial services and public utilities which has delayed its growth as an intensive recreational center. Recently, the area has become the subject of intensive debate about the potential for further development. Its proximity to the Lake Tahoe Basin has resulted in pressure to intensify development activity.

The Trust for Public Land has purchased options on larger tracts of land within the study area and has identified a number of potential options for subsequent conveyance of the optioned lands. In addition, the voters of California recently passed Proposition 70 which provides bond funds for open space acquisition, local recreation funds, historic preservation, and fisheries and state park development. Included within the \$81.3 million allotted to the California Wildlife Conservation Board is \$4 million to purchase land within the Hope Valley. Alpine County is also included as the recipient of \$100,000 in automatic grants. The Proposition includes \$11 million for historic preservation, and \$5 million for trail development for the entire State. These funds must be applied for and the County would need to compete with other counties in the State.

The Trust for Public Land has purchased options on two properties known as the Dressler and the Helms property. The Dressler property includes approximately 4,000 acres, and the Helms property under option includes approximately 11,000 acres. Acquisition of these properties and subsequent conveyance to a public agency would result in the reduction in property tax collections by Alpine county.

The historical taxable assessed valuation of the Dressler property is \$298,000, estimated property tax proceeds are \$2,983 annually. The Helms property is currently assessed at \$3,234,710 and the estimated property tax collections are \$32,347 annually. The historical taxes received by the county were approximately \$36,000.00. The new assessment, as of 1988, of these properties is approximately \$70,000.00.

Conveyance to a public agency could result in the loss of up to \$70,000.00 to the County in property taxes annually. In 1984-85 secured and unsecured property taxes totalled \$845,000. There is a period of approximately One to Three years before the total impact of the reduction will be recovered by the

Needs to be reviewed

90

combination of private and public funds. The impact of this reduction can be offset by additional development of recreation opportunities within the study area or by additional development within other areas of the County. This additional development of recreation opportunities will be tied to the proposed purchase. The proposed acquisition would necessitate revisions to the current County General Plan. These revisions must incorporate measures to offset the impact of the acquisition including recreational, commercial and residential development.

The Forest Service currently returns 25% of revenues generated on properties included in acquisitions to the county. Additional revenue would accrue to the county from these lands upon use for increased recreational or resource activity. In 1987, Alpine county received \$13,470 from county lands within the Toiyabe National Forest. The current Forest Service Plan envisions reconstruction of the Hope Valley Campground, promotion of continued grazing activity, retention of natural conditions, and within 20 years construction of the 120 unit Faith Valley campground. At this time the Forest Service was unable to give a figure of revenues that would be generated by the proposed purchase.

Assessed Taxes

Helms	\$32,347.00
Dressler	2,983.00
Total	\$35,330.00 (Historical)
Total	approx. \$70,000.00 (Current)

Proposed Land Exchanges

<u>Parcel</u>	<u>Assessed Value</u>
Woodfords 80 acres	220,000.00
Shay Creek	195,000.00
Kirkwood 20 acres	140,000.00
(Buildout	4,500,000.00)

The privatizing of the Shay summerhome area which includes 35 dwellings, with an assessed value of the land is \$195,000, will bring in an undetermined tax increase as the property is reassessed since the residents own all the improvements including structures and the water system.

Needs to be reviewed

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As the Economic Case Studies in the previous section showed, if the current developed recreation facilities continue to expand (i.e. Sorensens Resort) their taxes within 3 years will be approximately \$78,221.00. This amount alone will off-set the impact of the reduction to the county tax base. Assuming that the other developed recreation facilities will continue to expand at near or same rates, Alpine County will have traded a short term wind-fall with a more stable long range economic plan. Public lands are a critical component of California's recreation and leisure industry, about 40% of all recreation and leisure spending, amounting to \$12 Billion in 1982, was related to the use of public lands.

Summary of the Proposed Land Purchase

ALPINE COUNTY TAX SCHEDULE THRU 3/20/91

Produced: 3/01/89

The Helms Property	\$46,987
The Dressler Property	\$ 5,395
The Orvis Property	\$ 6,783
	\$59,165

Note: The Helms value is based on an average of 2 years of taxes at Total \$70,000 and 3 years of the historical rate of \$32,948.

<u>Project</u>	<u>Est. Close Date</u>	<u>Tax Value</u>	<u>Paymnts to Co.</u>	<u>Form of Credit</u>	<u>Net gain or Loss</u>	<u>Cum Total</u>
Horsethief Canyon Phase 1	closed	\$2,461*				
Burnside Lake	closed	\$2,694*				
Hope Villy North	closed	\$0	\$8,270	WCB in-lieu pmt		
Dangberg Camp	closed	\$12,052*	\$18,875	WCB in-lieu pmt		
Horsethief Canyon Phase 2	closed	\$398*				
W of Pickett Peak	closed	\$101				
E of Calpine Mine	closed	\$191				
Burnside Mine	closed	\$195				
NW of Pickett Peak	closed	\$31				

Needs to be reviewed

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<u>Project</u>	<u>Est. Close Date</u>	<u>Tax Value</u>	<u>Paymnts to Co.</u>	<u>Form of Credit</u>	<u>Net Gain or Loss</u>	<u>Cum Total</u>
Burnside Lake	closed	\$87				
Sub-total closed projects		\$18,210	\$27,145		\$8,935	\$8,905
Orvis	3/31/89	\$3,497	\$10,710	WCB in-lieu pmt		
Fredericksburg Canyon	4/15/89	\$1,090*				
Deep Canyon	5/15/89	\$168	\$2,091	Shay Creek Exchange		
Little Indian Valley	6/30/89	\$238	\$714	Kirkwood exchange		
Vaquero Camp	6/30/89	\$1,876*				
Monitor Pass	6/30/89	\$2,089*				
Sub-total by	12/10/89	\$8,958	\$13,515		\$4,557	\$13,462
Carson Pass	12/31/89	\$3,287				
Clover Valley	1/31/90	\$422				
Big Indian Valley	1/31/90	\$377				
Armstrong Pass	6/30/90	\$2,129*				
Poison Flat	6/30/90	\$1,337*				
Bagley Villy Phase 1	6/30/90	\$1,505*	\$1,530	w/150k BLM exchange		
Bagley Villy Phase 2	6/30/90	\$6,024*				
Von Schmidt	6/30/90	\$494*				
Hope Valley	6/30/90	\$12,786*				
Sub-total by	12/10/90	\$28,361	\$1,530		(\$26,831)	(\$13,369)
Faith Valley	3/20/91	\$499				

Needs to be reviewed

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<u>Project</u>	<u>Est. Close Date</u>	<u>Tax Value</u>	<u>Paymnts to Co.</u>	<u>Form of Credit</u>	<u>Net Gain or Loss</u>	<u>Cum Total</u>
Sawmill Creek	3/20/91	\$210				
Red Lake Creek	3/20/91	\$2,418				
N of Red Lake	3/20/91	\$472				
E of Crater Lake	3/20/91	\$20				
E of Alpine Mine	3/20/91	\$17				
Sub-total by	12/10/91	\$3,636	\$0		(\$3,636)	(\$17,005)
Total by	12/10/91	\$59,165				

* Helm's tax values are based on the 3/2 average and are close approximations.

Within the study area of Hope Valley the focus is on recreational opportunities development. Three public entities may become involved in management of the acquired lands depending upon the method acquisition, the United States Forest Service, California Department of Fish and Game, and the California State Parks system. If Federal funding is received as is currently being solicited, management would most likely be by the Forest Service as part of the Toiyabe National Forest. If acquisition occurs using funds from Proposition 70 through the California Wildlife Conservation Board the California Department of Fish and Game could obtain management responsibility over 25-50% of the Hope Valley purchase. The Department of Fish and Game plans on developing a cooperative recreation plan with the USFS for management of these lands. The primary concern of Fish and Game is to lessen the impact of cattle grazing upon the fishery habitat. Upon a determination of the appropriate level of grazing activity for the entire valley by both entities each entity would administer their own land separately.

In summary, plans for any of the potential management agencies interested in the Hope Valley acquisition are vague at this point. The lack of these plans will delay implementation of any increased recreational opportunities. The County will suffer the loss of tax revenues for at least 1-3 years while management alternatives are assessed. Dispersed recreation activity will most likely be the focus of management alternatives. Fees generated from these alternatives cannot be predicted due to the lack of implementation plans.

Needs to be reviewed

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It is this study's recommendation that the Alpine County become actively involved in area planning with a focus on recreation as a source of revenue. And that they seek funding from Proposition 70 to help with their planning needs for these recreation areas. Absence of fee based recreational uses will result in a continuation of revenue losses by the county from acquisition. These losses can only be minimized by early attention to recreational opportunities. Proposition 70 contains funding which could be applied for by the county but long term revenues can only be guaranteed by the implementation of recreational and resource master plans.

Needs to be reviewed

Hope Valley Economic and Recreation Study

Final ▼ April 1989

▲ Appendix

References
Interviews

Needs to be reviewed

Hope Valley Economic and Recreation Study

Final ▼ April 1989

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Needs to be reviewed

99

▲ Interviews

United States Forest Service

Jim Nelson
Neil Botts
Marcia Joseph
Milt Kauffman
Chuck Lowerie

California State Parks

Bob Macomber
Gary Howard
John Scull
Ross Henry

Nevada State Parks

Jim Najima

California Fish & Game

Jim Messersmith
Pat O'Brien

Alpine County

Leonard Turnbeaugh

Alpine County Chamber of Commerce

Dodie Halverson

Needs to be reviewed

100

Private Sector

Woodfords:
Sorensens:

Grace
John & Patti Brissenden
Mike Lenoy

Caples Lake Resort:
Tahoe Winter Sports:
Kirkwood Stables:
Kirkwood Associates:
Sierra Ski Touring:
Husky Express:

Joe Voss
Ari Makinen
Jim A. Hagen
John Wagnon
Dave Beck
Dotty Dennis

Needs to be reviewed

101

Alpengroup ❄

Design & Planning Related Disciplines for Alpine Environments

Project Team

For

Economic and Recreation Study
For Hope Valley

Philip Caterino - Principal Planner

Sue Irelan - Senior Planner

Susan Lindstrom - Cultural Resources

Jerald Misfelt - Biophysical

James Dana - Planner/Economics

Michael Capp - Project Analyst

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RESOLUTION OF THE BOARD OF SUPERVISORS,
COUNTY OF ALPINE, STATE OF CALIFORNIA,
SUPPORTING CHANGING SHAY CREEK FROM
FEDERAL OWNERSHIP TO PRIVATE OWNERSHIP

RESOLUTION NO. 88-026

WHEREAS, Alpine County values the open space, historic, recreational and scenic beauty of Hope Valley; and

WHEREAS, the Trust for Public Land has acted in a manner to purchase lands in Hope Valley for preservation and public access; and

WHEREAS, over 90% of Alpine County is already federally or state owned and the loss of property taxes to the general fund will be significant as these lands are purchased and transferred into public ownership; and


WHEREAS, in working with the County of Alpine, Trust for Public Land has agreed to work on certain conditions and projects which will help to alleviate the tax loss by transferring Shay Creek Forest Service lands near Markleeville into private ownership to relieve the tax loss in Hope Valley by putting homes in Shay Creek on the local property tax rolls; and

WHEREAS, the United States Forest Service, Trust for Public Land, Alpine County, and the residents of Shay Creek are in unanimous agreement about the transfer; and


WHEREAS, all land transfers regarding the Forest Service are currently in litigation and require an Act of Congress for exemption;

NOW, THEREFORE, BE IT RESOLVED that the Alpine County Board of Supervisors unanimously requests an Act of Congress to exempt Shay Creek from the litigation in order to proceed with the transfer of Shay Creek into private ownership.


AYES : Supervisors Jardine, Freeman, Jung, Gansberg and Chairman Bennett
NOES : None
ABSENT: None


JOHN BENNETT, CHAIRMAN OF THE
ALPINE COUNTY BOARD OF
SUPERVISORS, STATE OF CALIFORNIA

ATTEST:


KAREN KERBAUGH, COUNTY CLERK
AND EX-OFFICIO CLERK OF THE
BOARD OF SUPERVISORS
By Mary R. Martinez, Deputy Clerk

APPROVED AS TO FORM:


HENRY G. MURDOCH, COUNTY COUNSEL



Tracking Number: (2018-017)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Ben Wolfe III

Address:

Telephone number:

Email address:

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: pursuant to the authority vested by sections 200, 205, 265, 313, 5508 and 5509 of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 265, 313, 399, 5508 and 5509 of said Code

3. Overview (Required) - Summarize the proposed changes to regulations:

Section 27.65 Fillet of Fish on Vessels (b)(10) Ocean whitefish: Fillets must be a minimum of 6 and one half inches in length and shall bear the entire skin intact.

Delete minimum fillet size so this section reads: Fillets shall bear the entire skin intact.

4. Rationale (Required) - Describe the problem and the reason for the proposed change:

Section 28.58 Ocean Whitefish does not specify a minimum size for Ocean Whitefish. There is no reason to have a minimum fillet size on a fish for which there is no minimum size specified.

Since any size Ocean Whitefish can be legally kept then any size fillet should be allowed.

SECTION II: Optional Information

1. **Date of Petition:** 11/21/2018

2. **Category of Proposed Change**

- ☒ Sport Fishing
☐ Commercial Fishing
☐ Hunting
☐ Other, please specify: [Click here to enter text.](#)

3. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

- ☒ Amend Title 14 Section(s): Section 27.65 Fillet of Fish on Vessels (b)(10) Ocean whitefish.
☐ Add New Title 14 Section(s): [Click here to enter text.](#)
☐ Repeal Title 14 Section(s): [Click here to enter text.](#)

4. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [Click here to enter text.](#)

Or ☒ Not applicable.

5. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: [Click here to enter text.](#)

6. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: [Click here to enter text.](#)

7. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: [Click here to enter text.](#)

8. **Forms:** If applicable, list any forms to be created, amended or repealed:

[Click here to enter text.](#)

SECTION 3: FGC Staff Only

Date received:

FGC staff action:

- ☐ Accept - complete
☐ Reject - incomplete
☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

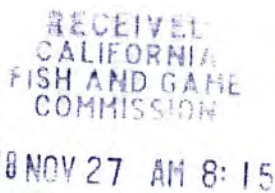
Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC
☐ Denied - same as petition _____

Tracking Number

- ☐ Granted for consideration of regulation change



RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION

October 4, 2018

2018 OCT 10 AM 10:01

Brad Burkholder
Environmental Program Manager
California Department of Fish and Wildlife
1812 9th Street
Sacramento California



Dear Mr. Burkholder,

We are writing to you today three years into a Private Lands Management (PLM) plan for Roosevelt elk on Alexandre Dairy located in Crescent City California which we implemented to help reduce elk population numbers. Our dairy farm has participated in the PLM program since 2016 with the plan's adoption by the California Fish and Game Commission. We write to you today to plead for the States assistance in helping to properly manage Roosevelt Elk populations on Alexandre Dairy lands and lands adjacent to the dairy by increasing the level of harvest under the Dairy's PLM.

The Dairy supports approximately 2,700 milking and dry cows plus an additional 1,100 other dairy heifers which utilize pasture approximately 10-12 months out of the year depending on weather and livestock age classes. The Dairy also supports a pastured poultry program that feeds approximately 60,000 organic laying hens, producing approximately 160,000 eggs a week for export out of Del Norte County. Our goal has always been to work with nature and not against it, however it has become increasingly obvious that our efforts to help alleviate the continuous pressure by Roosevelt Elk on Dairy lands has not been effective at reducing numbers even with our participation in the PLM, SHARE Program and Northwestern Hunt.

We are pasture based organic dairy farmers who rely on our pastures to support silage and grazing programs all year around. Roosevelt elk have increased so dramatically since their first appearance on the Dairy in 2010, that they are now having a significant impact on our forages.

Year	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008
Population	262	254	195	147	136	97	65	53	43	0	0

The reproductive success rate of Roosevelt elk on Dairy lands is high. The Dairy believes with the high forage quality it produces, lack of predation, and low herd mortality that future growth of the herd cannot be checked soon enough. Overwinter survival appears increasing based on observations by Department biologists. Overall body condition of the elk is very healthy. Cows are weighing in over 1,000 pounds and mature bulls harvested are


Alexandre EcoDairy Farms
8371 Lower Lake Road
Crescent City, California 9551

commonly however 1,400 pounds. Organic grasses within the pasture are likely the reason for the overall herd health as it appears to be of preference year around in the herd's diet. Indications of heavy browse and other undue range damage by elk has been a factor as the population of the herd has increased rapidly since 2010. There has been a significant decrease in high quantity forage available for the Dairy's milk cows during the winter months, as both the Dairy's livestock and elk compete for forage on the same pastures. It is estimated that the average cow elk is consuming approximately 25 pounds of dry matter a day, and the mature bulls approximately 35 pounds of dry matter per day.

The loss of forage is not the only issue the Dairy is faced with. Tree mortality has been very high. Large pines, Sitka spruce and other coniferous species have been killed during the rut when bulls sharp their horns. Fencing we utilize to control dairy cow grazing is constantly being fixed. Our lead herdsman is repairing 4-5 sections per week throughout the year. This is a significant issue for a pasture based dairy like Alexandre who's entire grazing program is based on a Pasture Promise to our customers and effects 10 grazing groups of cows.

We have worked cooperatively with State Biologist Carrington Hillson to help record what we are seeing and allow State biologist access to our lands 24/7. However, data has not currently helped to elevate our growing problem. We do know that 50% of the Del Norte groups reside on Alexandre Dairy. We feel our local biologists are dedicated to assisting before we are overrun. We strongly believe without a change in the Departments management practices in the near future that the Dairy will not experience any relief from the expanding number of Roosevelt elk.

Sincerely,



Blake Alexandre
Alexandre EcoDairy Farms
707-487-1000

Cc: Senator Mike McGuire
President Eric Sklar, California Fish and Game Commission
Deputy Director Stafford Lehr
Chairman Chris Howard, Del Norte County

From: Anita Youabian
Sent: Thursday, November 8, 2018 9:19 PM
To: FGC
Subject: Please Don't Miss Opportunity to End Driftnet Fishery & Protect Ocean Wildlife

California Fish and Game Commission

RE: Please Don't Miss Opportunity to End Driftnet Fishery & Protect Ocean Wildlife

Dear ,

Dear CA Department of Fish & Wildlife, and CA Fish & Game Commission,

I am writing to express my support for California to take all possible actions to end the driftnet fishery happening off our state's coast. For too long, this fishery has been allowed indiscriminately kill ocean wildlife, including endangered species.

Improvements to the fishery have not made the fishery acceptable. Driftnets are still curtains of death. With the advancement of deep-set buoy gear, regulators have a golden opportunity to end the driftnet fishery. I encourage California to do everything it can to stop the slaughter from driftnets.

Like many people, I was disappointed when federal regulators withdrew protections for some of the species most affected by driftnets. I want California to protect the environment, not abuse it. California has a chance now to continue its role of being an environmental leader. Please take action to end the driftnet fishery - California needs to live up to its reputation as a good environmental steward.

Thank you.

Sincerely,
Miss. Anita Youabian



GREENFIRE
LAW, PC

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION

2018 NOV 26 PM 1:00

RACHEL S. DOUGHTY
2550 Ninth Street, Suite 204B
BERKELEY, CA 94710
PHONE: 510.900-9502
EMAIL: rdoughty@greenfirelaw.com
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November 20, 2018

Ms. Melissa Miller-Henson, Acting Executive Director
California Fish & Game Commission
1416 Ninth Street, Room 1320
P.O. Box 944209
Sacramento, CA. 94244-2090
fgc@fgc.ca.gov

Ms. Leslie MacNair, Regional Manager
California Department of Fish and Wildlife
Region 6, Inland Deserts Region
3602 Inland Empire Blvd, Suite C-220
Ontario, CA 91764
AskRegion6@wildlife.ca.gov

**RE: Petition to the California Fish & Game Commission and California
Department of Fish and Wildlife for investigation of and enforcement against
Nestlé Waters North America, Inc. regarding potential violations of
California Fish & Game Code § 1602**

Dear Director Miller-Henson and Regional Manager MacNair,

This law firm represents the interests of the Story of Stuff Project, a global non-profit organization headquartered in Berkeley, California. On behalf of the Story of Stuff Project, we formally request an investigation into Nestlé Waters North America, Inc. ("Nestlé") for potential violations of California Fish & Game Code section 1602 ("Section 1602") resulting from its extraction of water from the Strawberry Creek Watershed within the San Bernardino National Forest.

1. About the Story of Stuff Project

The Story of Stuff Project has been actively involved in environmental sustainability and resource conservation efforts since its founding in 2008. The Project has more than 30,000 members in California, 800 of whom live in San Bernardino County near the San Bernardino National Forest, which is managed by the U.S. Forest Service. The Project is deeply troubled by Nestlé's continuing diversion and extraction of water from the Strawberry Creek Watershed



within the San Bernardino National Forest to support its for-profit water bottling operation.

2. Section 1602: Lake and Streambed Alteration Agreements

As you know, Section 1602 requires Nestlé to obtain a Lake and Streambed Alteration Agreement (“LSA”) if its ongoing diversion of water resources from the Strawberry Creek Watershed does any of the following:

- Substantially diverts or obstructs the natural flow of any river, stream, or lake;
- Substantially changes the bed, channel, or bank of any river, stream, or lake;
- Uses material from any river, stream, or lake; or
- Deposits or disposes of debris, waste, or other materials containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

(See Cal. Fish & Game Code, § 1602.) In order to assess whether an LSA is required in any instance, Section 1602 requires an entity, like Nestlé, to notify the California Department of Fish & Wildlife (“CDFW”) prior to commencing any activity that may cause the impacts identified above. The notification requirement applies to *any* river, stream, or lake, including those that are dry for periods of time (ephemeral/episodic) as well as those that flow year-round (perennial). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a water body. Therefore, if Nestlé’s diversion of water from the Strawberry Creek Watershed causes alterations to any river, stream, or lake, then CDFW has authority to impose conditions on the project to conserve existing fish and wildlife resources. (*Id.*)

3. Nestlé’s Operations in the Strawberry Creek Watershed

Nestlé’s expansive operation consists of water collection tunnels, horizontal wells, water transmission pipelines, and associated infrastructure within the Strawberry Creek Watershed within the San Bernardino National Forest. Nestlé’s infrastructure was most recently authorized by a special use permit, which expired in the 1980s. On June 27, 2018, the Forest Service authorized Nestlé’s continued occupancy and use of improved water development facilities by approving Nestlé’s application for a new special use permit. I am attaching a copy of the Forest Service’s Decision Memo regarding the Special Use Permit (SUP) for your reference.

In order to approve Nestlé’s SUP, the Forest Service assessed its obligations under the National Environmental Policy Act (NEPA) which requires consultation with CDFW in those areas which are germane to its statutory responsibilities. For your convenience, I am attaching a copy of CDFW’s May 2, 2016, consultation letter to the Forest Service (CDFW Comment). The CDFW comment encouraged Nestlé to “contact CDFW as soon as possible to determine if an LSA may be required for this project” because “the project includes facilities and appurtenances that have been constructed within the bed, bank, or channel of a stream.” (See CDFW Comment, p. 6.) The comment pointed out that Forest Service issuance of a special use permit would not preclude CDFW’s exercise of jurisdiction under Fish & Game Code section 1600, *et seq.*, “should the project anticipate impacts to any streams.” (*Id.*)

Among other concerns about potential impacts, the CDFW comment expressed concern “with the lack of analysis of impacts to biological resources in the proposal and the deferral of analysis to a later date.” (CDFW Comment, p. 2.) Noting that the project implicates several of CDFW’s statutory responsibilities, including review of areas within its jurisdiction under the California Environmental Quality Act (CEQA), the CDFW comment recommended concurrent analysis under NEPA and CEQA (*Id.*, p. 4.) However, the Forest Service conducted no detailed environmental review and based its project decision on a categorical exclusion from NEPA.

In addition to CDFW’s observations and concerns, former Forest Service biologist Steve Loe submitted a public comment during the scoping process that identifies several potential impacts to the Strawberry Creek Watershed’s fish and wildlife resources. Mr. Loe is a representative of the Southern California Native Freshwater Fauna Working Group. In addition to his public comment, on May 2, 2016, Mr. Loe submitted a declaration under oath in federal court in which he identified several measures Nestlé could take to mitigate impacts to fish and wildlife resources in the San Bernardino Forest. Mr. Loe has also charged that Nestlé’s actions result in substantial reduction in flow of Strawberry Creek. I attached Mr. Loe’s comment letter and declaration for your reference.

Despite the evidence of need, as of July 2018, CDFW staff confirmed that Nestlé has neither responded to CDFW’s request to contact it to determine whether an LSA was required for its work in the Strawberry Creek Watershed, nor submitted notification of its intention to alter a lake or streambed as required by Section 1602. This inaction is despite the fact that between 1947 and 2015, Nestlé reported extractions from the springs in the San Bernardino National Forest averaging 192 acre-feet per year. Nestlé’s failure to engage CDFW regarding the necessity of an LSA was no doubt intentional, but investigation is needed to confirm whether, as the Forest Service indicates “water extraction is reducing surface flow in Strawberry Creek.” (FS Decision Memo, p. 8.)

4. Impact to Trust Resources

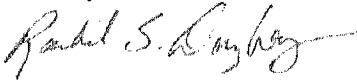
Notably, as the Forest Service worked through its decision-making process regarding the SUP, the California State Water Resources Control Board staff issued its “Report of Investigation and Staff Findings of Unauthorized Diversion Regarding Complaint Against Nestlé Waters North America, Strawberry Creek, San Bernardino County” (ROI) on December 20, 2017. I am attaching a copy of the ROI for your convenience. The ROI concedes that Nestlé’s use of water from the Strawberry Creek Watershed “could be unreasonable if it injures public trust resources, such as instream habitat for certain species, in such a way that it outweighs the beneficial use.” (ROI, 31.) Yet in a glaring omission, the ROI declines to provide substantive analysis addressing Nestlé’s injury to public trust resources. (ROI, 31.)

The public trust doctrine requires more than acknowledgment and deferred analysis. It is “an affirmation of the duty of the state to protect the people’s common heritage of streams, lakes, marshlands and tidelands, surrendering that right of protection only in rare cases when the abandonment of that right is consistent with the purposes of the trust.” (*Environmental Law Foundation v. State Water Resources Control Board* (2018) 26 Cal.App.5th 844, 857 (quoting *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, 441).) Notwithstanding

complementary public trust duties relating to areas within the State Board's responsibilities, CDFW is the state agency best positioned to determine whether Nestlé's operations will have a substantial impact on wildlife trust resources in the Strawberry Creek Watershed and must investigate Nestlé's operation to determine whether Nestlé is operating without an LSA in violation of Section 1602.

The Project is ready to assist CDFW in its pursuit of an investigation into Nestlé's violation of Section 1602, as well as the related issues noted above. If you have any questions, please do not hesitate to contact me. We look forward to working with you.

Sincerely,



Rachel S. Doughty
Greenfire Law, PC

Enclosures:

1. San Bernardino National Forest Decision Memo, dated June 27, 2018
2. CDFW Consultation Letter, dated May 2, 2016
3. California State Water Resources Control Board, Report of Investigation, dated December 20, 2017
4. Declaration of Steve Loe, dated May 4, 2016
5. Southern California Native Freshwater Fauna Working Group Comment Letter, dated May 1, 2016
6. The Story of Stuff Project Comment Letter, dated May 1, 2016



DECISION MEMO
NESTLÉ WATERS NORTH AMERICA INC.
SPECIAL USE PERMIT
U.S. FOREST SERVICE
STRAWBERRY CREEK
FRONT COUNTRY RANGER DISTRICT
SAN BERNARDINO NATIONAL FOREST
SAN BERNARDINO COUNTY, CALIFORNIA

BACKGROUND

Nestlé Waters North America (Nestlé) owns and operates water collection tunnels, horizontal wells, water transmission pipelines and associated improvements on the San Bernardino National Forest. These developments, commonly referred to as the Arrowhead Springs Permit, have been authorized since 1929, with the latest permit issued in 1978. Nestlé has been operating and maintaining the improvements under the terms and conditions of the 1978 permit. These developments are located within the Strawberry Creek watershed, which is tributary to East Twin Creek, which is tributary to the Santa Ana River. The permit area is shown in Figure 1.

PURPOSE AND NEED FOR ACTION

There is a need to respond to a request to authorize the continued occupancy and use of the existing water development facilities, water transmission pipelines, electronic telemetry equipment, helicopter landing areas, and access trails on National Forest System (NFS) lands. The Forest Service purpose is to authorize the existing facilities under a current Forest Service permit that is consistent with state and federal law, regulations, and the San Bernardino National Forest Land Management Plan (LMP).

Nestlé's project purpose is to continue to operate and maintain the existing system to supply bottled drinking water for retail sale. Nestlé is responsible for the safe and reliable operation of their water system under a variety of federal and state laws, and would operate the system on NFS lands according to the terms of the permit.



DECISION

As District Ranger I have the delegated authority to approve special uses for terms that do not exceed 5 years. I have reviewed the project record (including public comments, specialist reports, and consultation with other agencies) and I have decided to approve the continued occupancy and use of NFS lands for the extraction and transmission of water using existing improvements, subject to resource mitigation measures designed to ensure compliance with the LMP. The initial permit term will be three (3) years, with discretionary annual permits for an additional two (2) years. The analysis summarized in this Decision Memo is based on a maximum permit term of five (5) years. In addition to approving the continued use of the existing improvements, Nestlé will conduct hydrologic and riparian area studies and modify operations under an Adaptive Management Plan (AMP) as necessary. The AMP would identify whether incremental changes to the mitigation measures are necessary to reduce effects on National Forest resources.

My decision to approve the continued use and occupancy of existing facilities with conditions is based on the agency objective to authorize and manage special uses of NFS lands in a manner which mitigates natural resources and public health and safety concerns, consistent with the LMP and all other relevant law. The resource mitigation measures, are designed to ensure that the impact to natural resources will be minimal, may improve resource conditions when compared to the existing condition. These resource mitigation measures protect and do not infringe upon water rights for developed spring water held by Nestlé under California state water law, as described by a recent report from the California Water Resources Control Board staff. The AMP provides the permittee with operational flexibility in how those resource measures will be addressed. A complete discussion of water rights associated with this authorization is found on pages 21 to 22 of this decision memo. As described further in this decision, including the analysis of the potential for extraordinary circumstances as supported by the specialist reports, the impacts from the authorized activities, including any adjustments (resource mitigation measures) that may be necessary, will not result in extraordinary circumstances. While the AMP provides operational flexibility for meeting resource mitigation measures, implementing the AMP will not result in increased impacts from approved activities or cause extraordinary circumstances to occur. My decision is consistent with the LMP and meets the present and future needs of the American people.

Based on comments from the public I have made changes and clarifications to the proposed action and the changes are incorporated in the description below and displayed in italics to differentiate information added since scoping.

The right-of-way occupies approximately 4.5 acres of NFS land. This use of National Forest System land is authorized under the authority granted to the Secretary of Agriculture by several laws, including the Federal Land Policy and Management Act of 1976 and the Organic Act of 1897. The authorized activities are further described in the following sections.

The following existing improvements will be authorized:

- 2 water collection tunnels
- 10 horizontal wells located within 4 concrete vaults
- 5 electronic monitoring telemetry sites and associated equipment
- 4 helicopter landing areas

- 5.7 miles of access trails (4.5 miles of trail are along the water transmission lines)
- 4.5 miles of 4" steel water transmission pipe and associated valves
 - 2.75 miles of above ground pipeline
 - 1.75 miles of buried pipeline (along Forest road 1N24)
- 20 pipeline support bridges

The permit would also continue to authorize administrative use and maintenance of Forest Road 1N24 on a shared basis.

The working area is the area needed for temporary use when routine maintenance work is conducted on the existing improvements. This working area is calculated based on set distances from approved facilities, and is used to identify the area that may be used if work is needed during the term of the permit. Those working areas are described in Table 1.

Table 1. Working Areas.

Improvement	Working Area
Vault Structures	5' around structure
Above ground pipeline	2.5' each side
Buried pipeline and road 1N24	10' each side
Trails	3' each side
Helicopter landing areas	30' radius circle

Operation of the system – This decision approves the continued operation of the current system subject to the terms and conditions of the new permit, including the adaptive management plan requirements. *No expansion of the well system is authorized.* The system is operated to collect water on a year-round basis. Water infiltrates under the influence of gravity into the collection tunnels or horizontal wells and is transported through pipes to storage tanks on private land. Pipeline pressure is regulated through a series of valves located along the pipeline. There is no storage of water on National Forest System lands.

Electronic devices are used to monitor conditions at the vaults. The information is sent via radio signals to a company owned facility on private lands. The power for the devices is provided by solar panels with battery backup.

Maintenance of the system – This decision approves the continued maintenance of the existing system subject to the terms and conditions of the new permit. *Maintenance does not include expansion or change to the water system components, but does include replacement or repair of facilities "in kind."* The system is maintained based on periodic inspections by Nestlé. Every piece of equipment is inspected at least annually. The maintenance work includes:

Well and pipeline sanitizing – collection facilities are sanitized annually or more frequently as indicated by weekly tests. Collection areas are treated with a 200 parts-per-million solution of chlorine. Treated water is dechlorinated with Sodium thiosulfate and discharged through the pipeline system on private property. The pipeline system as a whole is sanitized by adding chlorine at the collection points and running that chlorinated water through the pipeline system to a release point on private land. All water released in conjunction with routine maintenance is regulated under National Pollution Discharge Elimination System permit CA #G998001, issued by the Santa Ana Regional Water Quality Control Board.

Horizontal well cleaning – the horizontal wells are cleaned by brushing and water jetting the full length of each boring screen. The wells are typically cleaned once every 10 years.

Equipment maintenance/replacement – all equipment including valves, sensors, and telemetry equipment is inspected monthly for proper operation, and maintained as needed. Maintenance could include cleaning and exercising valves, replacing parts within valves, and replacing defective components as needed. Isopropyl alcohol is used to disinfect any serviced components that are part of the water system.

Pipeline repair – Any sections of pipeline that are damaged or broken by falling rocks, trees or other debris are repaired as soon as possible, typically as emergency work. For the above ground pipeline, the damaged section of pipeline is cut out and a new section is welded in place, with pipe supports replaced as needed. For the buried pipeline located along 1N24, a backhoe will be used to expose the broken section of pipe. Materials will be flown to remote repair sites using helicopters. Equipment powered by generators or gas motors could be used to perform the work, along with common hand tools.

Vegetation management – vegetation is cleared 5 feet around vaults and 2.5 feet around the pipeline using motorized equipment and hand tools on an as-needed basis. Slash is lopped and scattered to minimize fuel loading or concentrations. Under the new permit work would be prohibited during the Limited Operating Periods described in the Resource Mitigation Measures. *No use of herbicides is permitted as part of this authorization.*

Monitoring Stations – *The new permit will require monitoring of resource conditions in locations downstream from the authorized facilities. Some monitoring sites will include some instrumentation such as streamflow stage recorders but all sites will include simple markers for established plots and cross sections.*

The Hydrologic and Riparian studies described below will require clearing of helispots in the East Twin Creek drainage to provide access for monitoring. Up to three helispots (TC 1 through 3) within Section 36, Township 2 North Range 4 West (refer to the June 14, 2017 map in the project records) may be developed. Helispots would be cleared of brush in a 20' by 20' area, however no trees would be removed. Brush would be cleared along foot trail access routes from the helispots to East Twin Creek monitoring locations. Up to 12 additional helicopter flights may be needed to support monitoring.

Access – This decision approves the continued use and maintenance of designated access trails (with a tread width of 50" or less), designated helicopter landing areas, and use of Forest road 1N24. Maintenance crews will access work sites by using one of the authorized access points and then traveling cross-country or along the pipeline to reach the work site. Helicopter access is the most common access method used to reach the improvements, and typically 32 helicopter flights to the existing helicopter landing areas are required on an annual basis for routine inspections and maintenance. Helicopter flights for pipeline repair and emergency work would be on an as-needed basis.

Trails are not regularly maintained, allowing vegetation to encroach on the trail. When the trail is needed for access, motorized equipment and hand tools are used to maintain foot access. Helicopter landing areas are maintained as needed to prevent vegetation encroachment using motorized equipment and hand tools.

A minor amount of brushing will be required to access monitoring stations and established plots along Strawberry Creek and in East Twin Creek. Access is typically gained by foot from Forest Road 1N24, or from established helicopter landing areas.

Emergency Work – Work on the system may be required on an emergency basis and emergency repair to pipelines and structures are conditionally authorized under this new permit. The permit holder will be required to notify and request approval from the Forest Service of any emergency work as soon as possible. The holder will be required to utilize previously approved temporary work areas to the extent such use is possible.

Resource Mitigation – Permit Sections V and VIII contain standard and supplemental provisions for resource mitigation that cover compliance with environmental laws, and protection of water quality, esthetics, and threatened, endangered and sensitive species habitat. These sections of the permit also include requirements that Nestlé will follow if there is an unanticipated discovery of archeological or paleontological resources, or human remains, funerary objects, sacred objects, or objects of cultural patrimony. Supplemental standard clauses are also included to require a Fire Control Plan and an Invasive Plant Species Prevention and Control Plan. The Operating Plan required by permit section III C will include implementation details of how Nestlé will comply with the permit terms and the required resource mitigation measures. *Nestlé will submit the Operating Plan within 60 days of permit issuance and implement the Operating Plan within 30 days of Forest Service approval.* Resource mitigation measures developed by the Forest Service in accordance with the Federal Land Planning and Management Act (FLPMA) and the LMP during the development of the proposed action and in response to scoping and environmental review include:

- The appropriate site-specific National Best Management Practices (BMPs) for the protection of water quality (USDA USFS, FS-990a, April 2012) will be applied to the operation and maintenance of the pipeline, helispots, trails, roads, etc. such as those BMPs in the Facilities and Nonrecreation Special Uses Management Activities, Operations in Aquatic Ecosystems, Water diversions and conveyances, and Road Management Activities categories.
- Maintain a Limited Operating Period (LOP) for the protection of least Bell's vireo (March 15 through September 15) and southwestern willow flycatcher (May 1 to August 31), both federally listed species, during the breeding season for any disturbance related activities within ¼ mile of suitable habitat.
- Maintain a limited operating period (LOP) prohibiting activities within approximately .25 miles of a California spotted owl nest site (US Forest Service sensitive species), or activity center where nest site is unknown, during the breeding season (February 1 through August 15), unless surveys confirm that the owls are not nesting.
- *Nestlé will install suitable shut-off valves or other flow control devices to ensure that water will not be extracted in excess of the holders ability to store or transport water without waste or spillage from local storage. This requirement will be implemented within 30 days of Forest Service approval of the Operating Plans.*
- *Maintain minimum flows in two locations as described in the Adaptive Management Plan as follows:*
 - *Lower spring complex (10, 11, 12) - 20 gallons per minute (gpm) in the drainage area A tributary of Strawberry Creek immediately above the confluence of*

drainage area A and B as defined in URS 2002. Drainage area A is the watershed influenced by the water extraction.

- Borehole complex 1, 1A, and 8 – 6.25 gpm as measured at water right A6108.
- Install, supply water to, and maintain two wildlife “drinkers”, one in the vicinity of tunnels 2 and 3, and the other near the well 7 complex. Plans for these features will be submitted to the authorized officer for approval prior to installation.
- Continue the addition of water (irrigation) to support success of native special status vegetation and provide for wildlife habitat linkages if determined that less than 70% of expected aquatic life forms and communities are present based on riparian studies.
- Implement actions identified in the AMP, such as maintaining surface water flow to support macroinvertebrate populations and riparian vegetation, and determining if benthic macroinvertebrate (providing base of food chain to riparian dependent wildlife resources) diversity and abundance supported by base flows measured in East Twin Creek control watershed are not maintained at the 70% level by the 6.25 gpm and 20 gpm initial minimum flows in the diversion subwatershed
- Implement actions identified in the AMP, such as the direction to conduct a paired watershed study to assess the riparian health of East Twin Creek compared to the subwatershed of Strawberry Creek where the extraction points are located. Multiple paired study locations may be used to look at different parts of the watershed. Define current riparian/stream health in each watershed at all comparison study reaches to determine if native vegetation is vigorous, healthy and diverse in age, structure, cover and composition on <75% of the riparian/wetland areas in the diversion subwatershed where extraction is taking place compared to the East Twin Creek control area.
- Trash shall be removed daily during all on-site activities for the protection of wildlife.
- Provide an annual Project Aviation Safety Plan to the SBNF Unit Aviation Officer (UAO) as part of the Annual Operating Plan for approval. The Plan should include: i) Aircraft company/pilot contact information, ii) Radio Frequencies, iii) Schedule of proposed flights, iv) Base of operations and proposed flight routes in/out of watersheds, v) Emergency protocol for mishap.
 - Provide Notification to Permit Administrator and UAO two weeks prior to any flight in order to: i) Determine if Limited Operating Period (LOP) is needed for nesting/ breeding bird season for flycatcher/vireo if determined to be present during the permit period, ii) Avoid any concerns with other flights in area – de-conflict airspace if needed, ii) Provide FICC/dispatch with information to track flight if needed during fire season.
 - Communicate with FICC/dispatch the day of any flight to ensure positive radio communication with dispatch over assigned frequency at beginning of day/flights into area and to close out last flight/exit from area at end of day.
- The authorized officer will approve final locations for any helispots and access routes developed for monitoring in East Twin Creek. Pre-work resource surveys will be conducted if required by the authorized officer.
- Special status plants and wildlife species:
 - If occurrences of FS Sensitive or Federally listed plant or wildlife species are found at any time within the project area, they will be reported to the Forest Service immediately. New protection measures may be developed with input from

appropriate specialists, and USFWS (if federally listed species are found). Protection measures will be implemented by the project proponent for all activities that may affect the identified occurrences.

- Invasive Plant Species Management
 - All off-road equipment will be cleaned **prior to entering NFS land**. The cleaning measures must be practical, verifiable, and not cause other unacceptable environmental problems. Depending on the nature of the debris, the equipment may be cleaned using water or mechanical methods (brushing, scraping, prying), compressed air, high-pressure water, or steam. This includes wheels, tires, buckets, stabilizers, undercarriages and bumpers.
 - All gravel, fill, erosion control or other materials are required to be weed-free and subject to review and approval by the Forest Service line officer with input from appropriate resource specialists.
 - Use only weed-free equipment, mulches, and seed sources. Salvage topsoil from project area for use in onsite revegetation, unless contaminated with weeds. All activities that require seeding or planting must utilize locally collected native seed sources when possible. Plant and seed material should be collected from or near the project area, from within the same watershed, and at a similar elevation when possible. This requirement is consistent with the USFS Region 5 policy that directs the use of native plant material for revegetation and restoration for maintaining “the overall national goal of conserving the biodiversity, health, productivity, and sustainable use of forest, rangeland, and aquatic ecosystems.” Seed mixes must be approved by a Forest Service botanist.
 - Minimize the amount of ground and vegetation disturbance during construction and maintenance.
 - A weed management plan will be prepared in cooperation with the Forest Service for survey, prevention, reporting, controlling and monitoring weed populations in the project area. The plan will be included in the Adaptive Management Plan.
 - *Take action as described in the weed management plan if the cover, quantity or extent of current infestations are increasing, or new invasive species are identified.*

Hydrologic and Riparian Studies – Under the new permit, Nestlé will conduct hydrologic and riparian studies to better understand the relationship between water withdrawals, surface flows, and riparian habitat in order to ensure that water withdrawals under state law are also consistent with the LMP standards. The initial studies provided by the permittee suggest that water extraction is reducing surface flow in Strawberry Creek. The effect of this flow reduction has not been thoroughly studied. The permittee will study comparison sites in adjacent unmanaged drainages to determine what conditions would exist in Strawberry Creek without water extraction in the upper watershed. This approach is typically referred to as a “paired basin” study. This study will also be used to support the Adaptive Management Plan.

The permittee will consult with the Forest Service in the development of the study plan, and will submit a draft study plan to the Forest Service for approval within 30 days of permit issuance. The permittee will implement the plan within 30 days of Forest Service approval. The study period is expected to last for a minimum of three years. The Forest Service has determined that three years is a reasonable term to complete the studies and ensure that adequate information is

available to consider a longer-term permit with appropriate terms and conditions. I recognize that additional time (up to two years) may be needed for the studies, so my decision provides for discretionary annual permits for two (2) additional years. The resource mitigation measures for the permit will provide adequate protection and ensure effects are beneath the extraordinary circumstances threshold while the studies are completed.

The study plan will incorporate the use of "test flows" to determine the response of the streams to reduction in water extractions. These "test flows" may involve suspending extraction for set time periods to evaluate any changes in streamflow. The study plan will also include an analysis of the full hydrograph and evaluate the change in the annual hydrograph from project operations. The studies will include isotope studies/chemical analysis of the extracted water to determine water source and other characteristics.

Adaptive Management Plan (AMP) – The permittee will implement an Adaptive Management Plan that addresses resource mitigation needs, and are consistent with San Bernardino National Forest LMP standards as required by the National Forest Management Act (NFMA). Adaptive management provides an implementation tool that incorporates an "implement-monitor-adapt" strategy that provides flexibility to respond to monitoring information that indicates that desired conditions are not being met. If monitoring demonstrates that the intended effects are not being achieved through the initial management action, the action can be modified using one or more of the adaptive management actions to achieve the intended effects. Each component of the Adaptive Management Plan would include:

- 1) A Forest Plan objective (standard, requirement, handbook)
- 2) A monitoring scheme to assess if the objective is being met
- 3) Trigger point(s) where the Forest Plan objective is not being met
- 4) Action(s) to meet Forest Plan objective(s)
- 5) Monitoring to assess success of mitigation and restoration

The Adaptive Management Plan outline is attached to this decision as Appendix 1. The permittee will develop the implementing details of the Adaptive Management Plan using the outline in consultation with the Forest Service and will submit the detailed Final AMP to the Forest Service for approval within 30 days of permit issuance, unless the authorized officer extends the time for submission. *The permittee will implement the plan within 30 days of Forest Service approval.* The Final Adaptive Management Plan will be active for the term of the permit, and may be amended based on the results of the paired basin studies described above.

So long as monitoring indicates that the environmental effects of the adaptive management approach do not exceed the scope of those anticipated in this decision, and the actions serve to move the project toward the intended effects, implementation continues using the "implement-monitor-adapt" cycle without the need for new or supplemental NEPA review. If any changes are proposed that are outside the scope of this decision, the provisions of Forest Service Handbook 1909.15 Section 18 would apply.

DECISION CATEGORICALLY EXCLUDED FROM ADDITIONAL DOCUMENTATION

For the reasons summarized in the following section, this action is categorically excluded from documentation in an environmental impact statement (EIS) or an environmental assessment (EA). The decision fits an identified category and no extraordinary circumstances are present which would require further analysis in an EA or EIS.

Applicable Category

This decision on the permit application fits within the category of actions is identified in agency procedures as "Issuance of a new special use authorization for a new term to replace an existing or expired special use authorization when the only changes are administrative, there are not changes to the authorized facilities or increases in the scope or intensity of authorized activities, and the applicant or holder is in full compliance with the terms and conditions of the special use authorization" (36 CFR 220.6(e)(15)). This category of action(s) is applicable because my decision to approve the issuance of a new permit replaces an existing or expired permit, specifically Nestlé's 1978 permit for the same facilities. Nestlé is in full compliance with their existing permit.

The new permit would not change any of the authorized facilities nor would it increase the scope or intensity of Nestlé's authorized water extraction activities. The additional monitoring is necessary to determine compliance with current law, policy, the LMP, and permit conditions, and the additional monitoring of helicopter landing areas are temporary and have minimum impacts. I am adding additional resource mitigation measures to ensure that the permit complies with the Land Management Plan as required by the National Forest Management Act. The Land Management Plan post-dates Nestlé's 1978 permit. I'm also correcting and updating the administrative use codes, and the number of occupied acres due to more accurate mapping. The terms and conditions of the new permit reflect those that have become standard since Nestlé was last issued a permit. These administrative changes are necessary to ensure the new permit is consistent with current law, regulation, policy and direction.

The category identified as "Approval, modification, or continuation of minor special uses of NFS lands that require less than five contiguous acres of land" (36 CFR 220.6(e)(3)) would also apply to this action. This category includes actions such as approving utility right-of-ways and approving the continued use of land where the use has not changed since authorized and no change in the physical environment or facilities are proposed. The existing facilities would not be expanded or changed, and the area occupies less than five contiguous acres.

Finding of No Extraordinary Circumstances

I find that there are no extraordinary circumstances that would warrant further analysis and documentation in an EA or EIS. This conclusion is based on implementation of the required resource mitigation measures as supported by the Adaptive Management Plan. The resource mitigation measures are designed to provide for consistency with the LMP. Implementation of the Adaptive Management Plan will allow for operational adjustments along the way to ensure the permitted actions remain consistent with the resource mitigation measures that prevent extraordinary circumstances. While the method used to achieve those resource conditions may

vary as described by the Adaptive Management Plan, meeting those resource conditions removes uncertainty as to the expected outcome.

I took into account the resource conditions identified in agency procedures that should be considered in determining whether extraordinary circumstances might exist:

1. There are no extraordinary circumstances associated with federally listed threatened or endangered species or designated critical habitat, species proposed for federal listing or proposed critical habitat, or Forest Service sensitive species based on the biological analysis for the proposed permit.

Federally listed wildlife species - Protocol surveys for species were conducted in suitable habitat in and around the project area. There were no detection of any federally listed species in the project area during these surveys. The Wildlife Biological Assessment documents the following determinations:

A *No Effect (NE)* determination has been made for the implementation of the issuance of a permit for up to 5 years for the conveyance of water across NFS lands for the following species:

Coastal California gnatcatcher, Western yellow-billed cuckoo, Santa Ana sucker, San Bernardino kangaroo rat

A *May Affect – Not Likely to Adversely Affect (NLAA)* determination has been made for the implementation of a permit for up to 5 years for the conveyance of water across NFS lands for the **California condor** due to possible disturbance from helicopter operations on condor that may be foraging in the project area in the next 5 year period.

A *May Affect – Not Likely to Adversely Affect (NLAA) with Beneficial Effect (BE)* determination has been made for the implementation of a permit up to 5 years for the conveyance of water across NFS lands, including implementation of the Adaptive Management Plan and resource mitigation measures for minimum flow requirements, for the following species:

Mountain yellow-legged frog, Arroyo toad, California red-legged frog, Southwestern willow flycatcher, least Bell's vireo

Endangered Species Act Section 7 consultation was completed June 27, 2017 with the US Fish and Wildlife Service, with a Letter of Concurrence on the determination calls for threatened and endangered species.

Forest Service sensitive wildlife species - Surveys for species were conducted in suitable habitat in and around the project area. There were detections of two-striped garter snake and willow flycatcher (migrant); both are Forest Service sensitive species. The wildlife Biological Evaluation documents the following determinations for Forest Service wildlife sensitive species:

The proposed permit will have no direct or indirect impacts (NI) for the following sensitive species:

Arrowhead blue butterfly, northern goshawk, Townsend's big-eared bat, San Gabriel Mountains elfin butterfly, bald eagle, white-eared pocket mouse, San Gabriel Mountains – Nelson's desert big horn sheep, arroyo chub, Western pond turtle, gray vireo, Orange-throated whiptail snake, three-lined boa, San Bernardino flying squirrel, Fringed myotis bat, pallid bat, California spotted owl, Willow flycatcher migrant

The proposed permit will have *May Impact Individuals or Habitat – Beneficial Impacts (MIIH-BI)* at spring sites 1, 2, 3, 4, 8 and the FS spring site for the following species (or habitat) due to the increase in surface water at these sites required by the new permit:

Large-blotched Ensatina salamander, San Gabriel Mountains slender salamander, Yellow-blotched Ensatina salamandersouthern, California legless lizard

The proposed permit will have *May Impact Individuals or Habitat – Beneficial Impacts (MIIH-BI)* for the following species at spring sites 10, 11, and 12 and associated riparian habitat on the main stem of Strawberry Creek due to the required minimum flows:

Willow flycatcher (migrant), two-striped garter snake, Santa Ana speckled dace

Federally listed plant species - The Botany Biological Assessment (as documented in the Botany Report) documents the determination that there are no currently-listed threatened or endangered plant species known to occur within the project area. There is also no suitable habitat for any Threatened and Endangered plant species that has been identified or any designated Critical Habitat for plants within the project area. The proposed reissuance of the existing permit will not affect any federally listed plant species.

Forest Service sensitive plant species - A search of existing records and project related field surveys conducted from 2015-2017 found no occurrences of FS Sensitive plant species within the project area, however for the species listed in the table below there are known occurrences of some found nearby and/or suitable habitat for some may be present within the project area.

The resource mitigation measures require that additional plant surveys be completed in the project area, as well as the paired watershed and if special status plants are found, other measures will be implemented. Therefore the determination detailed in the Botany Biological Evaluation (as documented in the Botany Report) is that due to the design criteria (resource mitigation measures), the proposed reissuance of the existing permit may affect individuals (if present but undetected), but is not likely to result in a trend toward Federal listing or loss of viability for any FS Sensitive plant species as listed in the following summary table:

Summary of Effects Determinations for TES Species

Common Name	Occurrence Information ¹	Determinations ²
Threatened & Endangered Plants		
<i>Berberis nevadensis</i> (E)	H/U	NA
<i>Brodiaea filifolia</i> (T)	Y/U	NA
<i>Dodecahema leptoceras</i> (E)	P/U	NA
Forest Service Sensitive Plants		
<i>Calochortus palmeri</i> var. <i>palmeri</i>	Y	MAI
<i>Castilleja lasiorhyncha</i>	Y/U	MAI
<i>Chorizanthe parryi</i> var. <i>parryi</i>	Y/U	MAI
<i>Imperata brevifolia</i>	Y/U	NA
<i>Lilium parryi</i>	P	MAI
<i>Monardella macrantha</i> subsp. <i>hallii</i>	P	MAI
<i>Plagiobothrys collinus</i> var. <i>ursinus</i>	P	MAI
<i>Schoenus nigricans</i>	Y/U	NA
<i>Sidalcea hickmanii</i> subsp. <i>parishii</i>	P	MAI
<i>Sidalcea malviflora</i> subsp. <i>dolosa</i>	P	MAI
<i>Sidothea caryophylloides</i>	P	MAI
<i>Symphotrichum defoliatum</i>	H/U	MAI
¹ Occurrence Codes: Y = Species is known to occur in or near the project area. P = Occurrence of the species is possible; suitable habitat exists (or could exist with restored hydrology) and it is within the known distribution of the species. H = Historic record. U = Unlikely to be present in project area due to lack of appropriate habitat N = Outside known distribution/range of the species. ² Determination Codes: NA = No effect expected NLAA = not likely to adversely affect for T/E species; MAI = may affect individuals but not likely to lead to a trend to Federal listing for Sensitive species.		

- There are no extraordinary circumstances associated with flood plains, wetlands, or municipal watersheds. The Surface Water Hydrology Report and the Geo-Sciences Specialist Report (available in the project record) describe the effects of issuing the proposed permit on watershed resources.

Based on this analysis, the overall watershed condition for the East Twin Creek watershed (which includes Strawberry Creek) is currently "Impaired Function". Studies completed by Nestlé and validated by Forest Service field work have demonstrated that the current water extraction is drying up surface water resources (springs and streams) that would have normally been perennial water resources. This extraction of water under the existing permit is not in accordance with the subsequent adoption of Standard 46 of the Forest LMP.

Surface water diversions and groundwater extractions, including wells and spring developments may only be authorized when it is demonstrated by the user, and/or agreed to by the Forest Service, that the water extracted is excess to the current and reasonably foreseeable future needs of forest resources as required by the LMP. Implementation of resource mitigation measures will allow for Nestlé's water extraction activities consistent with applicable state water rights and the LMP. Overall these changes will move the

watershed condition up one level to "Functioning At-Risk" as described further in the Specialists' reports. This change in watershed condition is consistent with LMP direction and will help move the watershed towards the desired condition.

3. There are no extraordinary circumstances associated with congressionally designated areas such as wilderness, wilderness study areas, or national recreation areas. There are no wilderness areas, wilderness study areas, or national recreation areas in the permit area.
4. There are no extraordinary circumstances associated with inventoried roadless areas or potential wilderness areas. The permit is partially located within the City Creek Roadless Area. Roadless areas are managed under the requirements of the 2001 Roadless Area Conservation Rule (36 CFR 294 Subpart B, 2001). The purpose of the rule is to provide, within the context of multiple use management, lasting protection for inventoried roadless areas within the National Forest System. That is accomplished by the prohibition on road construction and timber cutting, sale, or removal.

As described in the Roadless Area Report (available in the project records), the authorized activities and improvements will not change the existing roadless character of the area. No roads (either constructed, reconstructed, or maintained) are proposed under the new permit. There is no timber cutting or sale associated with the new permit. The new permit will be consistent with the Roadless Area Conservation Rule.

5. There are no extraordinary circumstances associated with research natural areas. There are no research natural areas in the permit area.
6. There are no extraordinary circumstances associated with American Indians and Alaska Native religious or cultural sites. There are no religious or cultural sites present.
7. There are no extraordinary circumstances associated with Archaeological sites, or historic properties or areas. The Heritage Program Manager has documented by memo (available in the project records) that this undertaking may be treated as a Screened Undertaking (Regional PA 2013), which has no or little potential to cause effects to historic properties if they are present in an Area of Potential Effects.

This project complies with Section 106 of the National Historic Preservation Act of 1966, as amended in accordance with provisions of the Programmatic Agreement among the U.S.D.A. Forest Service, Pacific Southwest Region (Region 5), the California State Historic Preservation Officer, the Nevada State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Processes for Compliance with Section 106 of the National Historic Preservation Act for Management of Historic Properties by the National Forest of the Pacific Southwest Region (Regional PA 2013).

Standard permit conditions (Section V, conditions D and E) describe the requirements for protecting any discoveries of cultural resources.

In addition to considering the resource conditions listed in the Forest Service regulations, I considered impacts on LMP land use zones/desired conditions; general wildlife species and habitat connections; fire management; and air quality and noise impacts as requested by public comments received in response to the proposed action. None of these additional areas of concern present circumstances that require further analysis in an EA or EIS. I have included a brief

summary of those resource concerns in the Public Involvement section of this decision, and further information is located in the project record.

PUBLIC INVOLVEMENT

This action was originally listed as a proposal in the San Bernardino National Forest Schedule of Proposed Actions on January 1, 2016, and updated periodically during the analysis. I began the public scoping process for the proposed Nestlé Waters Special Use Permit on March 18, 2016. Letters were sent to over 2,000 individuals, groups, agencies, tribes, local governments, elected officials and media contacts, including land owners adjacent to the project area. Information about the project was, and continues to be, delivered over the internet through the project webpage at:

<http://go.usa.gov/cGyXH> (please note - this URL is case sensitive)

A public meeting was held on April 14, 2016 at the San Bernardino National Forest Supervisors Office in San Bernardino California. Over 100 people attended the meeting. The scoping comment period ended on Monday, May 2, 2016.

For this project, comments were accepted by email, mail, at the public meeting, and on the project web page. Over 40,000 comments were received during the scoping period (including over 3,800 duplicate submittals). The majority of individual comments (39,895) came through email, 360 comments were submitted through the project web portal, and 22 written comments were received at the public meetings. With the exception of material with offensive language, all of the comment documents are available on the web in the public reading room at the following web address:

<https://cara.ecosystem-management.org/Public/ReadingRoom?Project=48530>

Of these comments, about 30,000 were form letters, 4,200 were expanded form letters (a form letter with expanded text) and close to 1,700 were unique comment letters or emails. All of the unique letters, form letters, and expanded form letters were reviewed as part of the scoping process, and over 5,300 comments were recorded. Those comments were grouped and then categorized as either outside the scope of the analysis or within the scope of the analysis. A full description of the process is included in the Scoping Report that is part of the project record.

I incorporated several changes and clarifications to the Forest Service proposed action based on those comments and suggestions. These changes and clarifications to the proposed action include:

- No use of herbicides will be authorized (clarification)
- No expansion of the system will be authorized (clarification)
- The discussion of maintenance activities has been expanded (clarification)
- Several resource mitigation measures were added, including measures to reduce water diversions in excess of storage capacity, require minimum flows, protect wildlife, require coordination of helicopter flights, and to prevent the spread of invasive species (change).
- A discussion of the standard clauses for noxious species control plans and fire control plans was added (clarification).

- Incorporate the use of “test flows” as part of the riparian studies to determine the response of the streams to reduction in water extractions. These “test flows” may involve suspending extraction for set time periods to evaluate any changes in streamflow (change).
- Include an analysis of the full hydrograph and evaluate the change in the annual hydrograph from project operations (change).
- Include Isotope studies/chemical analysis to determine the source of water and connections between the springs and surface water (change).

These changes and clarifications are incorporated in my decision and are displayed in italics as indicated above.

I appreciate the public interest in this project and I wanted to provide further clarification on key concerns brought forward during scoping. In particular, many commenters asked for: specific analysis to be completed; questions to be answered, and alternative actions to be taken. The following section provides a summary of my consideration of the concerns expressed during the scoping comment period.

Resource analysis suggested during scoping – Commenters suggested several resource areas that should be included in the analysis of the project effects. Those resource topics and my consideration of them are presented in the following section.

Land Management Plan Land Use Zones and Place Desired Conditions - The upper portion of the proposed permit area is in a Developed Area Interface (DAI) land use zone, the lower wells and the majority of the above ground pipeline is in a Back Country Non-Motorized (BCNM) land use zone, while the balance of the above ground pipeline and the buried pipeline is within the Back Country (BC) land use zone. A map of the permit area compared to land use zones is available in the project record.

Non-Recreation special uses (low intensity land use) are listed as suitable uses (LMP Table 2.4.3) in the DAI and BC land use zones, and allowed by exception in the BCNM land use zone.

I am approving continued occupancy and use by exception in the BCNM land use zone. Roaded access in this land use zone is not authorized by the new permit and motorized access is provided by helicopter by exception (LMP Table 2.4.2). The LMP states that access to authorized facilities and private land may occur by exception when there are existing rights to such access. Nestlé’s use is of long-standing and precedes the adoption of the LMP standards. The activities and improvements authorized under the new permit will have minimal effect on the character of this zone and I have concluded that approving the continued use in this area by exception is consistent with the LMP direction.

The permit area is located within the San Bernardino Front Country Place. The desired condition for the area is to maintain a natural appearing landscape while managing vegetation to provide fire protection for adjacent urban communities, recreation areas and wildlife habitat. Habitat conditions for threatened, endangered, and sensitive species are improving over time. Heritage properties and Native American gathering areas are identified and protected. The program emphasis is on community protection from wildland fire and conservation of habitat for

threatened, endangered, and sensitive species, such as the southwestern willow flycatcher, mountain yellow-legged frog and speckled dace.

I have concluded that the resource mitigation requirements included in project design and reflected in permit terms and conditions, and the resulting effects of the authorized activities and improvements, are consistent with the direction for the San Bernardino Front Country Place.

Wildlife – As documented in the Wildlife Specialist Report (located in the project record), the new permit would not change the function of existing wildlife habitat connection corridors and would not create an impassible barrier to wildlife movement across the landscape. The new permit would not adversely impact migratory land birds or their habitats through implementation of the required resource mitigation measures. Issuing the new permit would not change the risk for the introduction of non-native terrestrial or aquatic wildlife species.

Fire and Fire Risk – As documented in the Fire and Fuels Specialist Report (located in the project record), the new permit would not present a significant impact on the San Bernardino National Forest Fire Management Program. Local fire managers are accustomed to mitigating for the presence of infrastructure that goes with fire suppression operations in an urban environment.

The public raised a concern during scoping that water extraction may alter the riparian ecosystem such that fuels, species composition, and microclimate become similar to uplands, diminishing their value in fire control as firefighter safety zones and suppression control lines. The biological reports address the nature of the vegetation within the riparian zones. The Wildfire Specialist Report considered the use of riparian areas as suppression control lines and fire fighter safety zones.

The Strawberry Creek drainage is located within a south facing watershed along the San Bernardino front country. The stream channels are steep and located within narrow canyons. Historical fire data running back to the early 1900's was analyzed for the specific drainages identified in either the proposed action or reference study area and the fire perimeters were found to have shown little regard to the watershed boundaries or stream channels. Several large fires, including the Old Fire of 2003, have burned across the entire slope. Under no circumstances were the final fire perimeter boundaries established in drainages.

Fire managers in Southern California typically look to prominent ridge systems for both direct and indirect firefighting efforts that include aerial attack supported by heavy equipment and line personnel on the ground. Drainages along south aspects are avoided and would never be considered safe areas for personnel to take shelter from an advancing fire. Based on these factors, the new permit would have no effect on the ability to suppress fires in the affected watersheds, nor would it diminish fire fighter safety.

Noise – The new permit would authorize the continued access to the permit area by helicopter. Approximately 32 flights per year are typically conducted in support of operation and maintenance activities, with additional flights needed to support monitoring. The public raised a concern regarding the noise related to use of helicopters. The Forest Service does not have requirements or LMP standards related to noise. San Bernardino County ordinances exempt temporary operation between 7 a.m. and 7 p.m., except for Sundays and Federal Holidays, from

the County regulations. The permittee is required to comply with local regulations, and would have to operate within the timeframes outlined by County regulations.

Air Quality - Maintenance of the existing facilities authorized by the new permit would generate emissions from helicopter use to transport staff to the remote site. As documented in the Air Resource Specialist Report (located in the project record), the total emissions of criteria pollutants from the operations authorized by the new permit are less than the federal general conformity de minimis threshold emission rates. Therefore, the general conformity requirements do not apply, and the decision to approve continued occupancy and use of the existing water development facilities, water transmission pipelines, electronic telemetry equipment, helicopter landing areas, and access trails on National Forest System (NFS) lands complies with the Federal Clean Air Act. The total emissions of criteria pollutants from the operations authorized by the new permit would be less than South Coast Air Quality Management District's significance thresholds and therefore complies with local rules and regulations.

Additional Questions Raised During Scoping – Many of the comments received were presented as questions regarding a broad range of topics, including questions about how the analysis would be conducted and how the decision would be made. The questions and my responses are presented in the following section.

Questions related to the general use of Science/Baseline for analysis – Many of the commenters questioned whether the proposed action relies on the use of a credible scientific approach for the required resource surveys and the Adaptive Management Plan. They also questioned the role of the permittee (Nestlé) in completing resource studies as required by the new permit. Concerns raised by the public include:

- Lack of study plan details
- Need for unbiased studies
- Need to define baseline

Forest Service Response - My decision incorporates both clarification and changes to the hydrologic studies and adaptive management plan. Although Nestlé will complete the studies, a burden that typically falls to permittees, the qualifications of the scientists and resource specialists completing the work will be reviewed and approved by Forest Service staff. In all cases the results of the studies will be independently reviewed by staff before being accepted as completed work.

Baseline is a concept that helps evaluate environmental effects from a specific condition or point in time. In this case, baseline for the environmental analysis is the current condition as it exists today, while recognizing that this baseline condition is influenced by the past and present water extraction that is authorized under the existing permit. Using the current condition as the baseline does not imply that the existing condition is producing acceptable environmental effects or is consistent with the LMP. The analysis of effects in the specialist reports for each resource area discloses the changes to baseline that will result from implementing the new permit. The specialist reports are included in the project record.

Questions about the Decision Process – Some commenters raised questions about the application of the NEPA definition of “significantly” found at 40 CFR 1508.27. Other commenters suggested that the proposed restrictions are arbitrary and capricious, questioning the

jurisdiction of the Forest Service to regulate water diversions and challenging the applicability of the Land Management Plan to the operations.

Forest Service Response - My decision and the process I used to support my decision are consistent with the Forest Service NEPA regulations found at 36 CFR Part 220, and Forest Service directives found in the Forest Service manual (FSM 1950) and Forest Service handbook (FSH 1909.15). My decision to issue a special use permit qualifies under the categorical exclusion regulations as discussed above. I have documented my finding that the degree of the effects on the listed resources did not result in extraordinary circumstances. The record also reflects the need for, and benefit of, the resource mitigation measures to comply with LMP standards which apply to this decision. The question regarding the jurisdiction of the Forest Service is addressed below.

Questions about roles and authorities – There was widespread concern about the relationship between the Forest Service and Nestlé, particularly as it relates to the role of the permittee in conducting resource studies used in the AMP. Many commenters suggested stronger roles for other agencies, or suggested an independent review of the proposed action.

Forest Service Response - While the Forest Service special use regulations allow applicants/permittees to complete studies related to the impacts of their proposed use, I am responsible for ensuring that the Forest Service completes an independent review of the submitted material. Forest Service staff reviewed the studies provided by Nestlé, and if the studies met Forest Service standards they were referenced in the appropriate specialist reports. Staff has also spent time in the field to spot check the survey work submitted by Nestlé, and to support their own independent assessment of the environmental effects. Staff has also coordinated with other agencies, and hosted an interagency field trip early in the review process and completed the necessary regulatory consultation and/or compliance. That is the role of the Forest Service as the land management agency, and my decision is consistent with that responsibility. It is not a responsibility that can be assigned to an independent review group.

Questions about consistency with law, regulation, and policy – Numerous comments were related to the consistency of the proposed action with law, regulation, and policy. Specific comments included questions whether:

- The existing permit issued to a corporation that was dissolved through merger in 1987 was valid
- The Forest Service followed policy when it accepted the application
- The Forest Service followed policy when it changed the scope of the proposed permit without consulting Nestlé
- The Forest Service properly applied the special use screening criteria
- The proposed action is consistent with the Organic Act requirements for the use of water on the National Forest (16 USC 481)
- The Forest Service analysis should be limited to the impacts of the right-of-way, and whether the impacts of water extraction related to any impacts from the right-of-way and subject to mitigation requirements imposed by the Forest Service.
- Nestlé water rights are valid existing rights exempt from the requirements of the National Forest Management Act (NFMA) or the Federal Land Management Policy Act (FLPMA)
- The proposed action must be consistent with the LMP standards

- Nestlé needs other federal or state permits
- The proposal violates other federal, state, or local plans

Forest Service Response - I appreciate the level of interest and focus on management of the San Bernardino National Forest represented by these questions. I certainly agree with many of the comments. My decision must be consistent with existing law, regulation, and policy. My decision addresses those questions in the section that discusses findings required by other laws. Rather than repeat that discussion here, I will emphasize that the Forest Service has both the authority and obligation to regulate the occupancy and use of National Forest System lands in a manner that is consistent with all applicable laws, regulations, and policy. That authority includes the ability to impose terms and conditions needed to comply with applicable law, regulation, and policy, and I believe the terms and conditions that I have adopted are within my authority and will meet my statutory obligations.

Questions regarding the use of water – Several commenters pointed out that the existing 1978 permit incorrectly categorizes the use of water as irrigation.

Forest Service Response – The comment is correct. This will be corrected in the new permit. The use will be categorized under the Forest Service special use manual direction (FSM 2720) as having a primary use code of 915; which applies to water transmission lines smaller than 12", and a secondary use of 931, which applies to wells.

Questions regarding "Spring Water" – Several commenters suggested that the designation of "Spring water" by Nestlé is not consistent with the federal Food and Drug Administration (FDA) regulations found at 21 CFR 165.110.

Forest Service Response – This is not an area within my jurisdiction, but permittees are required to comply with all applicable laws and regulations. I contacted the FDA and passed along the public concern. The FDA reviewed the information that was supplied by the Forest Service as well as what was in their own records and was able to affirm that several of the tunnels and bore holes meet the standards in the FDA regulations. They did not have sufficient information to determine the status for several other bore holes, but did not conclude that there was any violation of the regulations. I directed Nestlé to work with the FDA to resolve any outstanding questions and Nestlé provided additional information regarding these other bore holes to the FDA. In a letter dated August 21, 2017, FDA concluded that the remaining bore holes in question could be "labeled as "spring water" as long as the current conditions are as you (Nestlé) have described (i.e., the water flows from the bore hole using the same natural forces that cause the spring to flow to the natural orifice) and all other applicable provisions of the bottled water standard are met." Nestlé is in compliance with the existing permit on that basis.

This question is not related to a potential environmental impact, and does not change the expected effects of implementing the new permit, nor would any actions that the FDA may take alter or increase the environmental effects of the new permit. There is no potential that any change in the resolution of this question would lead to extraordinary circumstances.

Questions about continued use – Many commenters felt that allowing continued use during the analysis is inconsistent with the NEPA regulations that limit actions taken during the analysis.

Forest Service Response - Allowing use under an existing permit is not inconsistent with the NEPA regulation at 40 CFR 1506.1, which applies to limitations on actions taken on a proposal

during the NEPA process. Nestlé has an existing permit that allows them to occupy and use National Forest System land, and may continue to operate and maintain their improvements as the new permit is evaluated.

Questions about consistency with state water rights law – Questions were raised regarding the California state water rights held by Nestlé. Specific comments include questions whether:

- Nestlé has a valid state water right, and their use is consistent with the California water codes
- Regulating water extraction exceeds Forest Service jurisdiction in conflict with California water rights law

Forest Service Response – I recognize that the state of California regulates water rights through the State Water Resources Control Board (SWRCB). The SWRCB staff offered to assist the Forest Service in our review, and the Forest Supervisor accepted their offer in May of 2016.

The SWRCB, Division of Water Rights also received several water rights complaints against Nestlé starting on April 20, 2015, including a complaint that Nestlé was diverting water without a valid state water right. The SWRCB released their Report of Investigation (“investigation” or “report”) on December 20, 2017. The full report with attachments is available online at:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/enforcement/complaints/nestle.html

The SWRCB staff concluded that:

- **Nestlé is diverting water without a basis of right** – the investigation concluded that a significant portion of the water currently diverted by Nestlé appears to be diverted without a valid basis of right, after examining a variety of water rights claims put forward by Nestlé and finding them flawed.
- **Nestlé’s claim to a pre-1914 water right is not valid** – Nestlé’s claims of senior water rights that originate from an 1865 possessory claim by David Noble Smith is limited to riparian uses and is not valid for Nestlé’s current appropriative diversion and use of water from the San Bernardino National Forest.
- **The Del Rosa judgment did not award water rights** - Nestlé claims to have pre-1914 water rights originating from its predecessor, which was awarded access to water from the upper reaches of the Strawberry Canyon Watershed under the Del Rosa Judgment. The judgement was a stipulated settlement agreement between private parties resulting from a judicial proceeding, and could not supersede requirements to comply with the 1913 Water Commission Act, which established the exclusive means of appropriating water in California through a comprehensive permitted scheme.
- **Nestlé may be able to claim a pre-1914 water right to Indian Springs** – the investigation concluded that Nestlé may have an appropriative right to 26 acre-feet (8.5 million gallons) of water per year from Indian Springs, which is a spring located on the national forest but in a different tributary from the current water system. Nestlé has never claimed this right, but the staff report concluded that it could be applied to the current

operation. The state assumed that this water right was used as part of Nestlé's water diversions.

- **Nestlé may be appropriating ground water** – the investigation concluded that Nestlé is withdrawing percolating groundwater from several horizontal wells. California does not grant the SWRCB permitting authority over groundwater, so Nestlé's diversion of groundwater may continue with permission of the overlying landowner.

Corrective Actions: the staff report identified several recommended actions that Nestlé would have to complete to be in compliance with state law, including:

- **Immediately cease any unauthorized diversions**
- **Within 30 days** file notices for both the authorized and unauthorized diversions
- **Within 60 days** submit an interim compliance plan for review and approval by the SWRCB
- **Within 90 days** submit an investigation and monitoring plan for SWRCB approval
- **Within 18 months** submit a final report and compliance plan, including a model for determining how diversions impact surface flows

Other recommendations: the staff report recommended that no action be taken on the claims of injury to public trust resources pending the implementation of the Forest Service special use process and adaptive management plan.

The staff recommendations are prospective and they indicated Nestlé's claim of water rights was reasonable if mistaken. Under these circumstances Nestlé is in compliance with the terms of their existing permit so long as they comply with the lawful orders of the SWRCB. This same standard applies to the permit approved in this decision.

As with any area where jurisdiction is shared with another agency, the Forest Service authority to regulate occupancy and use is independent of the SWRCB. Nestlé is subject to this shared jurisdiction, and will be required to follow any final direction from the state, as well as the conditions of their Forest Service permit. There is nothing in the SWRCB staff recommendations that would require the Forest Service to reduce or alter the resource mitigation measures outlined in this decision or allow for an increase in the environmental impact of the authorized actions that would result in extraordinary circumstances.

There is overlap with the SWRCB requirement for an investigation and monitoring plan and the Forest Service required hydrologic studies and Adaptive Management Plan. I will ensure that Forest Service staff coordinates with the SWRCB to the extent possible so that the studies are conducted in an efficient manner that is consistent with LMP standards and the permit requirements. Nestlé is currently conducting monitoring as part of the current permit, and that monitoring will continue under the new permit. Nestlé will need written Forest Service approval for any additional monitoring on the National Forest and must secure that approval prior to conducting any additional monitoring work on the Forest.

Nothing in my decision requires transfer of any state water right from Nestlé to the United States. Surface water in California is a public resource that is regulated by the State Water Resources Control Board, which determines the basis for Nestlé's right to use water. With full recognition of those rights, the San Bernardino National Forest Land Management Plan allows

for water extraction from National Forest System lands, but does require that permitted uses protect forest resources and operate in compliance with all applicable laws and regulations.

The Forest Service controls the use of the National Forest System lands. If a water rights holder wants to install and maintain infrastructure to access water on the National Forest, they must obtain a land-use authorization from the Forest Service and follow any terms and conditions included. If the Land Management Plan requirements can be met, and the applicant has a valid state water right, then the access and infrastructure that facilitates water extraction can be authorized.

Questions about the public involvement process – Several commenters suggested that public involvement should have included a different approach, including:

- Public field trips
- Meetings with technical work groups
- A public meeting format where agency official made a presentation and took questions from the audience
- A public meeting format where the audience could make verbal comments on the record

Forest Service Response - I used an approach that included direct mail notification to over 2,000 contacts, including property owners within the affected watershed, and held a public meeting where the public could discuss the project directly with Forest Service staff. The Forest Public Affairs Officer responded to numerous media requests, and the permit review has been widely covered in both the local and national news. I chose not to hold public field trips due to safety concerns. The permit area is located in steep, rugged terrain that is accessed by foot. Parking in the vicinity is limited and along a busy state highway with narrow road shoulders. Given those constraints it would not be practical to offer a public field trip under those conditions. I would note, as reported in the media, that small groups of interested public have accessed the site. There are no forest orders or other limits on public access to the area.

I also did not see the need to hold technical workshops. The staff that I have assigned to the project are qualified, experienced and capable of providing me with technical analysis and professional advice. Those same staff were available to discuss the project directly with the public during our public meeting. I find the informal public meeting setting more productive, efficient, and less confrontational than the suggested hearing format. People that attended the public meeting could and did submit written comments, and staff had material available to facilitate that process.

Alternative actions - I also evaluated a number of alternative actions suggested during scoping. I incorporated several changes and clarifications to the Forest Service proposed action based on public comments and suggestions (see pages 15 and 16). I have briefly summarized my considerations of these alternative actions.

Suspend Operations while studies are conducted - Many commenters who generally oppose the new permit as proposed by the Forest Service requested I consider suspending all Nestlé's operations while studies are completed. Under this approach, the Forest Service would not authorize the extraction of water while studies were being completed on Strawberry Creek, however the improvements would be authorized and Nestlé would be allowed to maintain the improvements for eventual use. Further, there would be no need for a paired basin study or adaptive management plan as all required studies would be conducted within the affected

watershed. Under this alternative action it is likely that operations would be suspended for three to five years to allow for adequate study time.

Forest Service Response - Nestlé's operations on the National Forest are of long-standing, and have been permitted since 1929. Nestlé's operations have been consistent with prevailing Forest Service law, regulation and policy through the intervening decades. Nestle has undergone multiple permit renewals prior to the current review. In such circumstances, suspending operations to study the effects of issuing a new permit for an existing use is not necessary in the judgment of the Forest Service as long as the permittee is operating consistent with the terms and conditions of the existing authorization, as is the case here. There is no compelling evidence before the agency that suspension of the permitted activities is necessary to determine terms and conditions of a new permit for the activity that will adequately protect the federal resources.

Issue a 1 year or 10-year Permit - Several commenters suggested issuing shorter term permits. Another commenter suggested a 10-year permit would be appropriate. Forest Service regulations (36 CFR 251.56(b)(1)) require, in part, that "The duration shall be no longer than the authorized officer determines to be necessary to accomplish the purpose of the authorization and to be reasonable in light of all circumstances concerning the use...". Forest Service policy (at Forest Service Manual section 2703.3) states "Limit the use to the minimum area and period of time required to accommodate the use."

Forest Service Response - In this case the Forest Service has selected a three (3) year initial term in light of all circumstances concerning the use as an appropriate length of time to accommodate the use and associated studies, with a provision for discretionary annual permits for an additional two (2) years. The Forest Service has determined that three years is a reasonable term to complete the studies and ensure that adequate information is available to consider a longer-term permit with appropriate terms and conditions while recognizing that additional time may be needed to complete the studies prior to the expiration of the initial three-year permit. The resource mitigation measures for the 5 year timeframe will ensure effects are beneath the extraordinary circumstances threshold while the studies are completed. A short term permit would not allow enough time to complete meaningful studies. While extending the term may be more advantageous to the permittee, it does little to ensure that the operations and water extraction are conducted in a manner that protects national forest resources within the shortest amount of time.

Implement Voluntary Measures - Nestlé proposed a voluntarily Adaptive Management Plan during scoping and offered a detailed plan as an alternative action to the Forest Service proposed Adaptive Management Plan. Under this proposed approach, implementation of the Adaptive Management Plan would be discretionary on the permittees part. Under such a voluntary approach, the Forest Service would have no regulatory recourse if the permittee were to change its commitment to the plan.

Nestlé submitted an unsolicited "Final Draft Adaptive Management Plan" (Final Draft AMP) to the Forest Service on December 20, 2017. According to Nestlé, this Final Draft AMP is based on their proposed AMP submitted on May 2, 2016. Nestlé stated that this latest version of their Draft AMP reflects communications with the USFS on the appropriate elements of an AMP.

The proposed alternative Adaptive Management Plan would study the same objectives as the Forest Service proposed plan, but the triggers and actions for riparian area objectives would be

different. Triggers for streamflow would be based on the Palmer drought index as a trigger for reduction in water extraction. Reductions would be implemented by reducing extraction using a fixed percentage of the extracted flow. Under the original proposed Adaptive Management Plan submitted in 2016, water extraction would be reduced, potentially up to 50% in extreme drought conditions. Under the December 2017 Final Draft AMP, the proposed reductions in extraction have been modified so that the range is now potentially up to 30% decrease in extreme drought, or 40% if photo monitoring shows a 30% loss of riparian canopy from the prior year.

Forest Service Response - FLPMA requires that "Each right-of-way shall contain (a) terms and conditions which will (i) carry out the purposes of this Act and rules and regulations issued thereunder; (ii) minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment...", and Forest Service regulations (36 CFR 251.56(a)(1)) require that "Each special use authorization must contain: (i) Terms and conditions which will: (A) Carry out the purposes of applicable statutes and rules and regulations issued thereunder; (B) Minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment;...". Voluntary adoption of a plan to protect riparian resources is not consistent with the requirement that each permit must contain such conditions. Voluntary measures are not reasonable when the regulatory structure requires mandatory conditions.

Further, the proposed alternative Adaptive Management Plan and the updated Final Draft AMP are inconsistent with the Land Management Plan (LMP) and FLPMA requirements and therefore do not meet the Purpose and Need for this Forest Service action. LMP Standard 46 requires that water extraction will only be authorized when the user demonstrates that the water extracted is excess to the needs of National Forest resources. Under the LMP standards, if the riparian resource needs are met, any water in excess of that need is available for extraction. While the alternative approach would reduce extraction by 10%, 20%, 30%, or 40% there is no mechanism proposed to assure that the various levels of reduction will provide adequately for riparian resources. In addition, the approach proposed does not provide a measurable basis for a starting point from which flows would be reduced. While this approach provides for a greater degree of certainty for water extraction operations, it does not satisfy the LMP requirements. This alternative AMP was not considered further because it is not consistent with the LMP.

Reissue a New Permit Under the Same Terms as the 1978 Permit—One comment suggested that the Forest Service should evaluate an alternative action that would issue a permit for a 10 year term that does not contain permit terms that differ from the existing 1978 permit. More specifically, the comment suggested that the Forest Service should evaluate a new permit that does not include conditions that would restrict the extraction of water from National Forest System lands.

Forest Service Response - New permits must use the most current standard form, and from an administrative standpoint it would not be feasible to issue a new permit based on the old permit form, which is now obsolete. In addition, as explained in the purpose and need section, any new permit issued must comply with Forest Service law, regulation, policy, and LMP standards, all of which have changed since Nestlé was last issued a permit. The LMP, first adopted in 1989 and revised in 2005, places an increased focus on balancing development with environmental protection, and imposes specific direction for protecting watershed function. The 1978 permit, which was issued 11 years prior to the first LMP, does not include conditions that reflect this management direction.

When a permit does not provide for renewal, as is the case here, the decision to reauthorize the use is discretionary. Consistent with Forest Service regulations (36 CFR 251.64), the authorized officer may modify the terms, conditions, and special stipulations to reflect new requirements in current land use plans. The proposal to maintain terms and conditions from the expired permit does not meet the project purpose and need, which includes the need to respond to a request to authorize a permit that is consistent with state and federal law, regulation, policy, and with the San Bernardino National Forest LMP.

Actions outside the scope of the analysis - A few comments suggested actions that are outside the scope of this analysis, including reducing plastic waste, changing the diversion to the lower watershed, and evaluating the area for wild and scenic designation.

Several comments suggested an alternative action that reduces plastic waste. According to those comments, Nestlé may produce up to 13 billion bottles of water from the water extracted from the San Bernardino National Forest. The proposed alternative action presumes that many of these bottles end up as waste and or litter. No specific reduction is proposed.

There is no question that reducing waste and recycling plastic bottles is an important societal issue. California has an extensive recycling program that includes producers, distributors, recycling facilities, along with a redemption program. Nestlé must participate in this program as a producer. Developing an alternative action that goes beyond the existing framework is beyond the scope of this analysis and outside of Forest Service jurisdiction.

Several commenters suggested moving the extraction point to the lower end of the Strawberry Creek / East Twin Creek watershed. This alternative action is based on the premise that extracting water in the lower watershed would have less impact on Strawberry Creek surface water flows within the National Forest. One comment suggested that Nestlé relocate to another location with more plentiful supply of water such as headwaters of the Mississippi river.

As this is an existing use of long-standing, the decision framework is whether or not I will approve continued use and occupancy and authorize a new permit for the existing facilities at the request of the permittee, and if so what conditions apply. My decision does not include a need to find a new location for the facilities if I chose not to approve the continued use of NFS lands. It would be up to Nestlé to determine if they wanted to pursue a new permit for a different location. Therefore, an alternative action to relocate the facilities is outside the scope of this analysis.

One comment suggested an alternative action that would consider and evaluate Wild and Scenic River eligibility for Strawberry Creek. Wild and Scenic River eligibility was evaluated as part of the LMP revision in 2005. As described in Appendix E of the LMP Final Environmental Impact Statement, free flowing streams with outstandingly remarkable characteristics were evaluated. Strawberry Creek did not make the eligible rivers list. Since this alternative action was already considered in the LMP, it is outside the scope of this analysis.

CONSULTATION WITH OTHER GOVERNMENT AGENCIES

The March 18, 2016 scoping notice was distributed to federal, state, and local agencies. Written replies were received from the US Environmental Protection Agency, the US Fish and Wildlife Service, the State Water Resources Control Board (SWRCB), the Santa Ana Regional Water Quality Control Board, the California Department of Fish and Wildlife, and San Bernardino County. Copies of the correspondence are available in the project record.

The SWRCB is conducting their own investigation into the water rights held by Nestlé, and the Forest Service has worked directly with the SWRCB staff on that matter, including participation in a June 15, 2016 site visit. As I've described earlier in the decision, the SWRCB staff issued their Report of Investigation on December 20, 2017. Although the SWRCB staff has made numerous recommendations in their report, the SWRCB has not taken formal action. The Forest Service will continue to work with the SWRCB as requested.

The Forest Service is also working directly with the US Fish and Wildlife Service (FWS) and the California Department of Fish and Wildlife (CDFW). I have incorporated the FWS suggestion that our watershed studies measure the isotopes in the water to help determine travel time and source locations. I have consulted with the FWS as required by Section 7 of the Endangered Species Act, requesting informal consultation for the findings documented in the Wildlife Biological Assessment. The FWS concurred with the findings by letter of June 27, 2017.

As discussed above, the Forest Service corresponded with the FDA to relay public concerns relating to Nestlé's labeling of its bottled water.

TRIBAL CONSULTATION

The Forest Service initiated government to government consultation with the San Manuel Band of Mission Indians by letter of January 23, 2016. The Front Country District Ranger and Forest Tribal Liaison met with tribal leaders and staff in August of 2016 to discuss the proposed permit in more detail. Government to Government consultation is on-going.

OTHER PERMITS REQUIRED

Nestlé, as the permittee, is subject to the jurisdiction of other federal agencies, as well as state and local agency requirements. Nestlé must comply with federal and state drinking water standards, follow state and local requirements for their wells, hold a valid state water right, and comply with any Regional Water Quality Control Board discharge requirements. The California Department of Fish and Wildlife may also require permits related to stream alteration.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

The findings related to the Endangered Species Act, the National Historic Preservation Act, the Migratory Bird Treaty Act, the Clean Water Act, and the Clean Air Act were addressed in my evaluation of extraordinary circumstances or in response to resource topics suggested by the public during scoping. I also considered the following laws, regulations and policy as they relate to my decision.

The Organic Act

The Organic Act established the forest reserves and continues to provide the basic authority for the management of those lands. Part of the act states that "All waters within the boundaries of national forests may be used for domestic, mining, milling, or irrigation purposes, under the laws of the State wherein such national forests are situated, or under the laws of the United States and the rules and regulations established thereunder." (16 USC 481). The State of California Water Resources Control Board regulates water rights and beneficial uses of water within the state. The Santa Ana Regional Water Quality Control Board (a subdivision of the SWRCB) has identified beneficial uses for the Santa Ana watershed, including the use of surface waters of

Strawberry Creek as “Municipal and Domestic Supply” (MUN), which are waters that are used for community, military, municipal or individual water supply systems. These uses may include, but are not limited to, drinking water supply. Based on my review of the basin plan, I have concluded that the authorized use of the water is consistent with the requirements of the Organic Act.

Multiple-Use Sustained-Yield Act (MUSYA)

The MUSYA provides that:

“It is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes.”(16 USC 528)

My decision is consistent with the purposes for which the San Bernardino National Forest was established. The resource mitigation measures include provisions for the protection of watershed, wildlife, and fish (aquatic) resources.

The Federal Land Policy and Management Act (FLPMA)

Under FLPMA, the Secretary of Agriculture has authority to issue rights-of-way for:

“...reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water...”(43 USC 1761)

Provided:

“Each right-of-way shall contain--

(a) terms and conditions which will (i) carry out the purposes of this Act and rules and regulations issued thereunder; (ii) minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment; (iii) require compliance with applicable air and water quality standards established by or pursuant to applicable Federal or State law; and (iv) require compliance with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards...”(43 USC 1765).

My decision adopts resource mitigation measures, terms, and conditions that will protect the environment and require compliance with applicable federal, state, and local laws. My decision is consistent with the requirements of FLPMA.

The National Forest Management Act (NFMA)

The NFMA provides the statutory direction for the development of Land and Resource Management Plans (commonly called Land Management Plans). It also requires that:

“Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans.” (16 USC 1604(i))

The current LMP was adopted by the Regional Forester on April 3, 2006. The Record of Decision that adopted the LMP required that re-issuance of existing authorizations be treated as new decisions, which must be consistent with the new direction described in the revised LMP. The various specialist reports include an evaluation of the consistency with the San Bernardino National Forest LMP requirements, and based on that analysis my decision is consistent with LMP direction. Two standards in particular were important to my decision. Those standards are:

- **S45:** All construction, reconstruction, operation and maintenance of tunnels on National Forest System lands shall use practices that minimize adverse effects on groundwater aquifers and their surface expressions.
- **S46:** Surface water diversions and groundwater extractions, including wells and spring developments will only be authorized when it is demonstrated by the user, and/or agreed to by the Forest Service, that the water extracted is excess to the current and reasonably foreseeable future needs of forest resources.
 - Consideration of beneficial uses, existing water rights, and the absence of other available water sources will be part of the water extraction application.
 - Approved extractions and diversions will provide for long-term protection and reasonable use of surface water and groundwater resources.
 - Feasibility and sustainability assessments should be appropriately scaled to the magnitude of the extraction or diversion proposed.

Based on the record and the analysis provided by staff, I have concluded that minimum flows are required to meet the current and foreseeable needs of forest resources during the term of the new permit. The paired basin study and adaptive management plan provide practices to adjust those minimum flows during the permit term to ensure that resource mitigation measures are met, which then ensure that the degree of potential adverse effects on the surface expression of the water associated with Nestlé's tunnels and horizontal wells are minimized.

Executive Order 13112 of February 3, 1999

This order directs federal agencies to prevent the introduction of invasive species, detect and respond rapidly to and control such species, not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species unless the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.

I have adopted standard permit conditions that address the requirements of this Executive Order, and have adopted additional resource mitigation measures that provide additional detail as to how invasive species will be detected and controlled. My decision to authorize this use is consistent with this Executive Order.

Executive Order 13790 of April 25, 2017

The "Promoting Agriculture and Rural Prosperity in America" executive order establishes policy that states:

"A reliable, safe, and affordable food, fiber, and forestry supply is critical to America's

national security, stability, and prosperity. It is in the national interest to promote American agriculture and protect the rural communities where food, fiber, forestry, and many of our renewable fuels are cultivated. It is further in the national interest to ensure that regulatory burdens do not unnecessarily encumber agricultural production, harm rural communities, constrain economic growth, hamper job creation, or increase the cost of food for Americans and our customers around the world.”

The order also creates a Task Force and includes direction for that Task Force to “identify legislative, regulatory, and policy changes to promote in rural America agriculture, economic development, job growth, infrastructure improvements, technological innovation, energy security, and quality of life.” Among the changes that the Task Force is directed to consider are “changes that would... ensure that water users’ private property rights are not encumbered when they attempt to secure permits to operate on public lands...”

The executive order is a prospective approach creating a Task Force to consider possible changes on many topics, including any changes that might be warranted to avoid encumbrance of water users’ private property rights in federal permitting. The order does not change applicable current law, regulation, or Forest Service policy, nor does it “impair or otherwise affect” the authority granted by law to executive departments or agencies or the heads thereof.

My decision is consistent with current law, regulation, and policy, which includes requirements for measures for the protection of fish and wildlife resources, and when necessary, measures to comply with Land Management Plans. My decision does not attempt to encumber, expand, or determine the scope of, any private property rights Nestlé may have in association with their water use. As discussed above, my decision leaves any issue concerning the extent of Nestlé’s water rights to the state agency who has that authority--the SWRCB.

Executive Order 13807 of August 15, 2017

The “Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects” executive order applies to Federal review of certain infrastructure projects. Policy established by the order includes direction to find more efficient and effective ways to develop infrastructure without sacrificing environmental, health and safety, transparency, and other concerns. The order further establishes a definition for an “infrastructure project” and provides process enhancements to achieve the policies expressed in the order.

The order does not apply to my decision because the decision is not authorizing an infrastructure project. The Nestlé wells, pipelines, and other support facilities in question already exist and no new pipelines or other improvements are authorized. In addition, Nestlé’s water extraction and transport operations are for purposes of its private commercial bottling operations and are not an infrastructure project “designed to provide or support services to the general public.” My decision also is consistent with the spirit of the order in that it involves a single federal agency decision utilizing a categorical exclusion with conditions based on the agency objective to authorize and manage special uses of National Forest System lands in a manner which protects natural resources and public health and safety and is consistent with the Land Management Plan.

Special Use Regulations and Policy

Forest Service regulations for special uses found at Title 36 of the Code of Federal Regulations (CFR) Part 251 Subpart B apply to the analysis and decision, as well as Special Use policy in the Forest Service Manual section 2700.

Nestlé's predecessor requested a new permit in 1987. That request was accepted as an application for a new permit, and is being processed under the current regulations. Those regulations at 36 CFR § 251.64 provide:

(a) When a special use authorization provides for renewal, the authorized officer shall renew it where such renewal is authorized by law, if the project or facility is still being used for the purpose(s) previously authorized and is being operated and maintained in accordance with all the provisions of the authorization. In making such renewal, the authorized officer may modify the terms, conditions, and special stipulations to reflect any new requirements imposed by current Federal and State land use plans, laws, regulations or other management decisions. Special uses may be reauthorized upon expiration so long as such use remains consistent with the decision that approved the expiring special use or group of uses. If significant new information or circumstances have developed, appropriate environmental analysis must accompany the decision to reauthorize the special use.

(b) When a special use authorization does not provide for renewal, it is discretionary with the authorized officer, upon request from the holder and prior to its expiration, whether or not the authorization shall be renewed. A renewal pursuant to this section shall comply with the same provisions contained in paragraph (a) of this section.

The 1978 permit does not provide for renewal, however the paragraph (b) requirements incorporate the provisions of paragraph (a), including the provision for modifying the terms consistent with new land use plans, and the requirement to conduct appropriate environmental analysis. Consistent with that direction, I have adopted terms and conditions that reflect new requirements imposed by Forest Service regulations and the LMP. I have completed an environmental analysis as documented in this Decision Memo. The new permit itself reflects the latest version of the standard Forest Service special use permit (FS-2700-4), and includes numerous standard administrative conditions as well as project specific terms. My decision is consistent with this regulation.

My decision is also consistent with the terms of the existing permit clause 23, which states in part "a new permit to occupy and use the same National Forest land may be granted provided the permittee will comply with the then existing laws and regulations governing the occupancy and use of National Forest lands..."

Water Uses and Development Policy

Forest Service Water Uses and Development policy in the Forest Service Manual 2540 provides additional direction for privately held water rights and special use authorizations for water developments. Section 2541.34 states, in part:

"The establishment of a water right on National Forest System land does not limit the Regional Forester's authority to regulate land use and occupancy, nor to prevent injury to

property of the United States. Although a permittee may make beneficial use of water on National Forest System land, the Regional Forester retains the authority to determine management actions needed to comply with rules and regulations for land use and occupancy.”

Section 2541.35 directs:

“Special-use authorizations that involve water storage, transmission, or diversion facilities on National Forest System lands (FSM 2729) authorize occupancy of the land only for the specific development purpose. In no case does the United States necessarily relinquish any water right it may have, or waive the right to use such water. Include stipulations in the authorizing documents to ensure the quantities of water needed to fulfill purposes of the National Forest and for environmental needs will be maintained instream. Clearly inform the permittee that the authorization does not confer any legal right to the use of the water, nor does it provide a basis for acquiring such a right as against the United States (FSM 2782 and 2783.12).”

My decision, which includes resource mitigation measures, is consistent with this policy direction. The Forest Service has developed standard permit terms that further implement this direction, and standard permit clause D-25 will be included in the new permit.

REFERENCE MATERIAL

All documents referenced in this Decision Memo, such as the various reports and assessments, are available on-line through the project webpage at:

<http://go.usa.gov/cGyXH> (please note - this URL is case sensitive)

ADMINISTRATIVE REVIEW (APPEAL) OPPORTUNITIES

This decision is not subject to the 36 CFR Part 218 Project-Level Pre-decisional Administrative Review Process. The Forest Service no longer offers notice, comment and appeal opportunities for categorically excluded projects pursuant to 36 CFR Part 215, which were replaced by the 218 rule.

My decision is not subject to appeal under the 36 CFR Part 214 Post-decisional Administrative Review Process For Occupancy Or Use Of National Forest System Lands And Resources regulations as specified in 36 CFR § 214.4(c). Specifically my decision to issue a new permit is not a decision to modify, suspend, or revoke a special use authorization. The existing special use permit does not provide for renewal and will terminate according to its terms once the new permit is executed or the implementation process described below is complete.

IMPLEMENTATION

This decision to authorize the continued use, subject to terms and conditions that implement the LMP, concludes the Forest Service review of Nestlé’s application for a new permit. The new permit will become effective when signed by both the applicant and me (as the authorized officer). The permit must be signed by Nestlé and returned to me within 60 days of its receipt by Nestlé, unless I extend that time. Refusal by Nestlé to sign and accept a special use authorization within the time allowed, and before its final approval and signature by an authorized officer,



shall terminate an application and constitute denial of the requested use and occupancy (36 CFR 251.62).

CONTACT

For additional information concerning this decision, contact: Tasha Hernandez, Forest Planner, at nestle_decision_sbnf@fs.fed.us.

JUN 27 2018

Joseph Rechsteiner

Date

District Ranger

San Bernardino National Forest

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THE STORY OF
STUFF
PROJECT

May 1, 2016

Stiv Wilson
Campaigns Director
The Story of Stuff Project
Stiv@storyofstuff.org
503.913.7381

Front Country Ranger District Office
1209 Lytle Creek Road
Lytle Creek,
CA 92358
Attn: Nestle Waters

Re: Nestlé Waters North America Inc. Special Use Permit #48530

Dear US Forest Service:

I respectfully submit the following comments regarding Nestle Waters North America Inc. Special Use Permit #48530 on behalf of The Story of Stuff Project, a California registered 501c3 that works on issues of waste and public resources, representing over one million concerned citizens, globally. The Story of Stuff Project reaches over 100 million people, annually.

For almost three decades, The United States citizen taxpayers have been subsidizing a foreign corporation's occupation of public lands, severely diminishing the health and recreational value of our publicly owned National Forest System. Since the expiration of the permit, Nestle has drawn nearly 1.8 billion gallons of water from public lands according to San Bernardino Municipal Water District records¹ including during a time of prolonged drought. As such, The Story of Stuff Project, The Center for Biological Diversity, and Courage Campaign filed suit in federal court, demanding that Nestle's SUP be subject to review, and as such, given proper scrutiny as required by the National Environmental Policy Act and several other relevant federal statutes.

The Forest Service should conduct an independent, publicly transparent, and incredibly stringent Environmental Impact Statement, paid for but not conducted by Nestle, to determine the impacts to our publicly owned lands, as massive amounts of water are being taken. No other SUP is even near the size of Nestle's take. The proposed Adaptive Management Plan, made public several weeks ago Forest Supervisor Jody Noiron, allows Nestle's operation to continue unabated, which is unacceptable. This is illogical for a number of reasons. For one, in order to determine whether the water Nestle extracts is surplus to the needs of the forest, which is the only criteria by which Nestle would be

continued to occupy lands with water extraction infrastructure, The Forest Service must immediately halt Nestle's extraction in order to determine natural, baseline flows in Strawberry Creek. On April 4th at 17:30 Pacific Daylight Time, according to USGS's publicly viewable stream gaugeⁱⁱ, Strawberry Creek recorded the lowest flow ever for Strawberry Creek; flowing at less than 10% of a 94 year mean, which undoubtedly is disastrous to our public lands and the animals and plants legally protected in these areas.

Subsidizing Waste

Over the past decade, The National Parks Service has actively worked to ban the sale of bottled water within the park system, given the tremendous amount of waste that bottled water products create, both in the waste stream and accounting for litter in the parks themselves. Grand Canyon National Park was the first park to ban water, and since then, at least 17 other parks have followed suit. According to Los Angeles based Container Recycling Institute, the average package size for bottled water is 16.9 ounces in plastic bottles. This translates to The Forest Service subsidizing over 13.68 billion plastic bottles entering the waste stream, where only half were recovered for recycling. What's ironic, given the fact that Nestle is the largest water bottler in the world, it's likely that at least some of the plastic bottles littered in the Grand Canyon National Park originated from San Bernardino National Forest and Nestle's operation there. Beyond the irony, it's clear that The National Parks system, though managed differently than National Forests, has taken a stance against bottled water for its inherent wastefulness.

The Forest Service has not only indirectly subsidized an incomprehensible amount of waste as a result of allowing Nestle to occupy public lands, it has also indirectly contributed to greenhouse gas emissions associated with bottled water production to the tune of 675,000 tons of carbon dioxide, roughly equivalent to the emissions of 112,000 cars, annuallyⁱⁱⁱ.

Though Nestle has argued that they own a valid water right, public records show that The Forest Service has not done its due diligence with regard to determining whether Nestle owns a valid water right in the first place.^{iv}

In addition to comments made here, The Story of Stuff Project is submitting an additional comments of over 280,000 concerned taxpayers regarding The Forest Service's mismanagement of public resources. We hope that given the tremendous amount of citizen outrage associated with Nestle's operation in San Bernardino National Forest, The Forest Service will amend their SUP review to ensure that no more damage will be done to our public lands, nor will The Forest Service continue to subsidize the tremendous waste the extraction creates.

Respectfully submitted,

A handwritten signature in black ink, appearing to be a stylized name, possibly "J. Smith" or similar, written in a cursive or semi-cursive style.

Stiv J. Wilson
Campaigns Director
The Story of Stuff Project

ⁱ <http://www.sbcity.org/civicax/filebank/blobdload.aspx?BlobID=3722>

ⁱⁱ http://nwis.waterdata.usgs.gov/ca/nwis/uv?cb_00060=on&cb_00065=on&format=gif_default&site_no=11058500&period=4&begin_date=2015-07-13&end_date=2015-08-12

ⁱⁱⁱ <http://pacinst.org/publication/bottled-water-and-energy-a-fact-sheet/>

^{iv} [file:///Users/agentstiv/Downloads/2015-10-13%20-%20Dkt%20001%20-%20COMPLAINT%20\(1\).pdf](file:///Users/agentstiv/Downloads/2015-10-13%20-%20Dkt%20001%20-%20COMPLAINT%20(1).pdf)

paragraphs: 32, 33, 37, 38, 39, 44, 45, 53.



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

DEC 20 2017

CERTIFIED MAIL

In Reply Refer to:
VV: INV 8217

Larry Lawrence
Natural Resources Manager
Nestlé Waters North America, Inc.
5772 Jurupa Street
Ontario, CA 91761

CERTIFIED NO. 7003 1680 0000 2962 1098

Rita Maguire, Esq.
Maguire, Pearce & Storey, PLLC
2999 North 44th Street, Suite 650
Phoenix, AZ 85018

CERTIFIED NO. 7003 1680 0000 2962 1104

Dear Mr. Lawrence and Ms. Maguire:

REPORT OF INVESTIGATION AND STAFF FINDINGS OF UNAUTHORIZED DIVERSION REGARDING COMPLAINT AGAINST NESTLÉ WATERS NORTH AMERICA, STRAWBERRY CREEK, SAN BERNARDINO COUNTY

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) received several water rights complaints against Nestlé Waters North America (Nestlé or NWNA), starting on April 20, 2015. The complaint allegations included diversion of water without a valid basis of right, unreasonable use of water, injury to public trust resources, and incorrect or missing reporting, all regarding Nestlé's diversion of water from springs at the headwaters of Strawberry Creek in the San Bernardino National Forest (SBNF) for bottling under the Arrowhead label. Many of the complainants emphasized their concerns about the impacts of Nestlé's diversions during California's recent historic drought. Nestlé reports diversions under 11 groundwater records under the State Water Board's Groundwater Recordation Program. Over the period from 1947 to 2015, Nestlé's reported extractions from the springs in the SBNF have averaged 192 acre-feet, or 62.6 million gallons, per year. Nestlé claims several bases of right for the diversion and use of water from the Strawberry Creek Watershed.

Division staff completed their investigation into the allegations. The attached Report of Investigation (ROI) includes Division staff's analysis, conclusions, and recommendations as they pertain to Nestlé's diversion and use of water. Conclusions and recommendations from the ROI are summarized below.

FELICIA MARCUS, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

The ROI can additionally be found at the following web address:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/enforcement/complaints/nestle.html.

Based on the Report of Investigation and as described in more detail below, NWN's current operations do not appear to be supported by rights to the diversion or use of water exceeding 26 acre-feet per annum (AFA) and, accordingly, any diversions in excess of that amount may be unauthorized. NWN must limit its appropriative diversion and use of water to 26 AFA unless it has evidence of valid water rights to water within the permitting authority of the State Water Board and/or evidence documenting the extent of additional water claimed to be percolating groundwater, as any diversion or use without a valid basis of right is a trespass subject to enforcement actions in accordance with the Water Code.

Based on review of available information, Division staff has concluded the following:

- Nestlé's claim to a pre-1914 water right that originates from an 1865 possessory claim by David Noble Smith is limited to riparian uses and is not valid for Nestlé's current appropriative diversion and use of water from the San Bernardino National Forest;
- Nestlé could claim up to 26 AFA for appropriative diversions from Indian Springs, including developed water, under a pre-1914 basis of right identified by Division staff based on 1912 plans to bottle water in Los Angeles;
- Nestlé likely has an appropriative groundwater claim to an unknown amount of developed percolating groundwater that would not have contributed to surface flow in a natural channel elsewhere in the watershed;
- While Nestlé may be able to claim a valid basis of right to some water in Strawberry Canyon, a significant portion of the water currently diverted by Nestlé appears to be diverted without a valid basis of right;
- The Del Rosa Judgment recognized that Nestlé's predecessors had a right to the diversion and use of water from Strawberry Canyon as against a prior water right claimant;
 - The diversion and use of water under the right recognized in the Del Rosa Judgment would have required a permit insofar as it was not based on an appropriation initiated before 1914 or diverted under a claim for groundwater that is not within the State Water Board's permitting authority;
 - Nestlé may be able to seek an exemption from the Declaration of Fully Appropriated Streams (see, e.g., Orders WR 2000-12 and WRO-2002-0006);
- At this time, there is insufficient information to determine if Nestlé's diversion injures public trust resources in such a way that it outweighs the beneficial use.

RECOMMENDATIONS

Division staff recommends that Nestlé immediately cease any unauthorized diversions.

Additionally, Division staff recommends Nestlé take the following actions:

- Within 30 days, for any diversion not subject to a notice filed under Part 5 of the Water Code, submit to the Division an initial Statement pursuant to Water Code § 5101 for:
 - (1) unauthorized diversions; and
 - (2) diversions under any valid pre-1914 claim of right
- A Supplemental Statement must be filed annually for any diversion not subject to a notice filed under Part 5 of Division 2 of the Water Code (i.e., the Groundwater Recordation Program);
- Update ownership of Groundwater Recordations. If annual diversions of groundwater not within the permitting authority of the State Water Board from Strawberry Canyon fall below 25 AFA, reporting under the Groundwater Recordation Program for diversions of groundwater is no longer required.
- Within 60 days, submit an interim compliance plan for Division review and approval to ensure that diversions do not exceed those allowable under any valid bases of right;
- Within 90 days, submit an investigation and monitoring plan for Division review and approval. The investigation and monitoring plan should include:
 - (1) Investigation and monitoring to determine the portion of developed water, if any, that is not tributary to flow in any natural channel and can therefore be diverted without authorization from the State Water Board; and
 - (2) Monitoring of diurnal, seasonal, and other flow variations using industry standard equipment and methods for measuring flow;
- Within 18 months, submit a final report and compliance plan for Division review and approval. The final report should:
 - (1) Determine the amount of water to be diverted that will not be within the permitting authority of the State Water Board;
 - (2) Include a detailed explanation of methods;
 - (3) Include a model for determining how diversions impact or do not impact surface flows, and provide a sufficiently detailed description of the model to allow Division staff to evaluate the model; and
 - (4) Include a final compliance plan.

- For its current operations in the SBNF, if Nestlé wishes to divert water subject to the permitting authority of the State Water Board, i.e., in excess of the 26 AFA for which it likely has a valid pre-1914 claim, it must apply for and receive a water right permit before diverting or using water. While the Santa Ana River is a fully appropriated stream system, Nestlé may seek an exception and choose to apply for a post-1914 water right permit. The application will not be accepted unless Nestlé can demonstrate that there is water available for appropriation.

Other Division staff recommendations:

- Take no further action on the allegations of unreasonable use and injury to public trust resources at this time. If future hydrologic and riparian studies indicate that Nestlé's diversion of water injures public trust resources in a way that cannot be mitigated by implementation of the adaptive management plan in development as part of the US Forest Service Special Use Permit process, the Division should revisit this issue.

Please note that the State Water Board has the authority to initiate enforcement action at its discretion for alleged unauthorized diversion or use of water or alleged waste or unreasonable use of water. Therefore, you should take all necessary actions to ensure that your diversion is authorized, up to and including ceasing unauthorized diversions and/or use.

If any of the parties disagree with the conclusions and recommendations contained in the report, **please submit written supporting evidence within 30 days from the date of receipt of this letter.** Unless compelling evidence is provided to counter the information contained in the enclosed report, Division staff will forward its recommendation to the Assistant Deputy Director for appropriate action.

Thank you for your cooperation and prompt response to the complaint. If you have any questions, please contact me at (916) 323-9407 or via email at Victor.Vasquez@Waterboards.ca.gov. Written correspondence should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Victor Vasquez, P.O. Box 2000, Sacramento, CA 95812-2000. A copy of this letter will be provided to the complainants and involved parties.

Sincerely,

ORIGINAL SIGNED BY:

Victor Vasquez, Senior WRCE
Sacramento Valley Enforcement Unit
Division of Water Rights

Enclosure: Report of Investigation

cc: (continued on next page)

Larry Lawrence
Rita Maguire, Esq.

- 5 -

DEC 20 2017

cc: (w/out enclosures)

League of Women Voters
of the San Bernardino Area
PO Box 3394
San Bernardino, CA 92413

San Bernardino County
Department of Public Works, Environmental
Management Division
Attention: Nancy Sansonetti, AICP, Senior Planner
825 East Third Street, Room 123
San Bernardino, CA 92415

ec: (w/out enclosures)

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*Attorneys for Plaintiffs Story of Stuff
and Courage Campaign*

CENTER FOR BIOLOGICAL
DIVERSITY et al.,

Plaintiffs,

vs.

UNITED STATES FOREST SERVICE,
et al.,

Defendants.

) Case No. 5:15-cv-02098-JGB-DTB

)
) **DECLARATION OF STEVE LOE**
) **(SECOND) RE: REMEDIES**

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

I, Steve Loe, declare as follows:

1. The facts set forth in this declaration are based upon my personal knowledge and professional experience. If called as a witness, I could and would testify to these facts.

2. I am a professional wildlife and fisheries biologist. I have worked on and studied Strawberry Creek and its fish and wildlife since the early 1980s as a United States Forest Service ("Forest Service") biologist, as a volunteer with the California Department of Fish and Wildlife, and as an independent biologist. I actively and regularly monitor and study the Strawberry Creek ecosystem.

3. As an expert for the San Bernardino National Forest (first as a Forest Service employee, and then as a paid consultant), I represented the Forest Service as lead biologist in biological/hydrological discussions and negotiations with the

1 Los Angeles Metropolitan Water District ("LAMWD") on the Arrowhead-Inland
2 Feeder Tunnel Project ("Tunnel Project"). The Inland Feeder is a 44-mile long
3 high capacity water conveyance system that connects the California State Water
4 Project to the Colorado River Aqueduct and Diamond Valley Lake. The
5 Metropolitan Water District of Southern California designed the system to increase
6 Southern California's water supply reliability in the face of future weather pattern
7 uncertainties, while minimizing the impact on the San Francisco Bay/Sacramento-
8 San Joaquin River Delta environment in Northern California. The Arrowhead East
9 Tunnel travels across lower Strawberry Canyon and required a special use permit
10 from the San Bernardino National Forest. The Forest Service required substantial
11 redesign to make the tunnel nearly waterproof to prevent groundwater inflow (loss
12 from the Forest) as part of the final project. This was the largest tunnel on any
13 National Forest in the country. I was the lead biologist for the Forest Service and
14 the more than decade-long project included the protection of Strawberry Creek
15 from any tunnel impacts.

16 4. As a professional biologist I am heavily involved in species protection
17 and restoration in southern California. I am a founding member of the Southern
18 California Freshwater Fauna Working Group ("Freshwater Working Group"). This
19 is a group of professional fish and wildlife biologists from dozens of agencies and
20 academic institutions, as well as independent biologists that work together to
21 protect and restore native freshwater fauna in southern California. Protection of
22 Strawberry Creek and its Santa Ana speckled dace and other riparian and aquatic
23 species has been a focus of this group for many years. For over two years this
24 group has been petitioning the Forest Service to protect Strawberry Creek from the
25 Nestlé water removal during the extreme drought we are currently experiencing.

1 5. In 2004, I was awarded the National Forest Service's Jack Adams
2 Award for sustained and dedicated service on behalf of fish and wildlife resources
3 on the National Forest System lands. Each year, the person that best exemplifies
4 the character of Jack Adams in the entire Forest Service is awarded this honor.

5 **Impact of Water Removal**

6 6. Based on over ten years of intensive study and monitoring of the
7 Tunnel Project, the Forest Service and LAMWD learned what the impacts of
8 groundwater withdrawal were on streams, seeps, springs and riparian areas in the
9 San Bernardino National Forest. Drawing from my experience and the data
10 generated in studying the Tunnel Project, it is clear that Nestlé's removal of up to
11 over 500 acre feet (162 million gallons) of water each year from the Strawberry
12 Creek headwaters is having a significant detrimental impact to that watershed.

13 7. Independent of Nestlé's water removal, the Strawberry Creek
14 Watershed is experiencing a prolonged and extreme drought. According to San
15 Bernardino County Flood Control measurements, the Strawberry Creek Watershed
16 has received approximately 60 percent of average precipitation for this water year,
17 based on readings of rain gauges in and around the Strawberry Creek
18 Watershed.¹ Based upon my experience on the Tunnel Project during the past
19 five years, the region has never received rainfall of the amount and duration that
20 produces significant recharge of aquifers in these mountains. My opinion of the
21 likely effect of the drought on groundwater recharge in the Strawberry Creek area
22 is supported by observation of local aquifers throughout Southern California,

23
24
25
26 ¹ SAN BERNARDINO COUNTY FLOOD CONTROL, RAINFALL TOTALS,
27 <http://www.sbcounty.gov/dpw/pwg/alert/index.html> (last visited May 3, 2016).
28 DECLARATION OF STEVE LOE RE REMEDIES
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1 which are reaching lowest levels recorded and continuing to drop.² The situation is
2 so dire that fish are being rescued from some local streams because of drying.

3 8. Continued removal of groundwater by Nestlé during this drought is a
4 severe threat to the Strawberry Creek Watershed, the San Bernardino National
5 Forest, and adjacent communities. In addition to five years of below-average
6 precipitation, the rainfall pattern has contributed to groundwater depletion as the
7 region has not received the type of winter rains that result in significant
8 groundwater recharge. In my professional opinion, the cumulative effect of
9 Nestlé's removal of groundwater with the drought is likely severely depleting
10 groundwater stores.

11 9. Nestlé has reported taking between 25 and 130 million gallons of
12 water annually from the Strawberry Creek Watershed. In my professional opinion,
13 removal of this amount of water from the Strawberry Creek Watershed is
14 immediately detrimental and protection of the resources is unsustainable over any
15 period of time.

16 10. The United States Geological Service stream gauge showed in-flow
17 measures of Strawberry Creek at the lowest level in 93 years (the extent of
18 recorded measurement) for some days last summer.³ The summer of 2016 is

20 ² Charlie Frye, *Strawberry Creek Area Water Levels*,
21 [http://landscapeteam.maps.arcgis.com/apps/Viewer/index.html?appid=f51db12000](http://landscapeteam.maps.arcgis.com/apps/Viewer/index.html?appid=f51db12000a24b11823d652211e6fff7)
22 [a24b11823d652211e6fff7](http://landscapeteam.maps.arcgis.com/apps/Viewer/index.html?appid=f51db12000a24b11823d652211e6fff7) (last visited May 3, 2016).

23 ³ United States Geological Service, National Water Information System: Web
24 Interface, *USGS 11058500 E Twin C NR Arrowhead Springs CA* (May 3, 2016,
25 1:23 P.M.) USGS Streamgauge (East Twin/Strawberry Creek combined flows,
26 [http://nwis.waterdata.usgs.gov/ca/nwis/uv?cb_00060=on&cb_00065=on&format=](http://nwis.waterdata.usgs.gov/ca/nwis/uv?cb_00060=on&cb_00065=on&format=gif_default&site_no=11058500&period=15&begin_date=2016-03-04&end_date=2016-03-24)
27 [gif_default&site_no=11058500&period=15&begin_date=2016-03-](http://nwis.waterdata.usgs.gov/ca/nwis/uv?cb_00060=on&cb_00065=on&format=gif_default&site_no=11058500&period=15&begin_date=2016-03-04&end_date=2016-03-24)
28 [04&end_date=2016-03-24](http://nwis.waterdata.usgs.gov/ca/nwis/uv?cb_00060=on&cb_00065=on&format=gif_default&site_no=11058500&period=15&begin_date=2016-03-04&end_date=2016-03-24).

1 predicted to be dryer than the exceptional summer of 2015, and if the predicted La
2 Niña materializes, conditions could be drier than normal for several years.⁴
3 Lacking significant recharge this winter and spring (2015-2016) of the
4 groundwater that is the source of most summer flow in Strawberry Creek, it is
5 likely that Summer 2016 will have the lowest flows in recorded measurement, and
6 in all likelihood the lowest flows in recorded history due to the combined effect of
7 the severe drought and unsustainable diversion by Nestlé over the course of the
8 five year drought. This could result in the complete drying of large reaches of the
9 Creek. In addition, the few remaining untapped springs in the Strawberry Creek
10 Watershed will likely lose surface expression for the first time in recorded history
11 due to the excessive removal of groundwater.

12 11. The portions of the Watershed able to support riparian vegetation will
13 significantly shrink as the watershed continues to dewater, and this will adversely
14 affect many wildlife and plant species.

15 **Species**

16 12. Presently I am working with the California Department of Fish and
17 Wildlife and the United States Fish and Wildlife Service as well as local water
18 agencies to restore native fish and other species where they have been extirpated.
19 The Strawberry Creek Watershed is a very important stream and has been a

21 ⁴ Kurtis Alexander, *Dry La Nina period likely to follow El Niño*, S.F CHRONICLE
22 (April 22, 2016), <http://www.sfchronicle.com/bayarea/article/Dry-La-Ni-a-period-likely-to-follow-El-Ni-o-7294795.php>; Piper Dixon, *NOAA predicts La Niña for next winter, big snow for PNW*, TETON GRAVITY RESEARCH (April 20, 2016),
23 <http://www.tetongravity.com/story/news/noaa-predicts-la-nina-for-next-winter>;
24 Eric Holthaus, *We Already Know 2016 Will Be the Warmest Year on Record – and It's Only April*, SLATE (April 20, 2016),
25 http://www.slate.com/blogs/the_slatest/2016/04/20/record_temperatures_again_in_march.html.
26

1 priority for restoration, but only if more natural flows can be assured. With more
2 natural flows Strawberry Creek would support significantly improved habitat for
3 the threatened, endangered, and sensitive species that already use the Watershed.
4 Species that have been extirpated from this portion of the creek due to unnatural
5 water removal such as the Santa Ana speckled dace (and, potentially, mountain
6 yellow-legged frog) would be able to be restored. The amount of riparian habitat
7 and surface water available for hundreds of species would increase significantly.
8 Areas that are unnaturally dewatered would recover and become lush, productive
9 habitat again.

10 13. The critical impact of water diversion during this drought is creating
11 imminent danger to the Strawberry Creek Watershed. I anticipate that the
12 following effects on wildlife may be felt in the Summer 2016:⁵

- 13 a. Drying of springs in the Strawberry Creek Watershed which can result
14 in the total loss of some invertebrate species such as springsnails that
15 evolved at that spring system. Due to the remoteness of the stream and
16 springs, species that have never been found or described could be lost
17 forever.
- 18 b. Wildlife species that are dependent on riparian habitat and surface or
19 near surface moisture will lose a significant portion of their suitable
20 habitat. This includes least Bell's vireo and southwestern willow
21 flycatcher,⁶ both endangered species, and the southern rubber boa, a

22
23 ⁵ See generally, United States Forest Service, *Southern California National Forest*
24 *Animal Species Accounts*, http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprd3832681.pdf (last visited May 3, 2016).

25
26 ⁶ UNITED STATES FISH AND WILDLIFE SERVICE, CARLSBAD OFFICE, APPX. B TO
27 HABITAT CONSERVATION PLAN FOR L.A. DEPT. OF WATER & POWER (2015),
28 *available at*:
DECLARATION OF STEVE LOE RE REMEDIES
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1 California Threatened species. Drying of the stream mid- to late-
2 summer could result in the loss of any nesting that has started for the
3 two endangered bird species. Southern rubber boa could be severely
4 affected by drying of their summer and winter hiding and hibernating
5 areas deep in fractures and cracks in bedrock and outcrops near the
6 wells and tunnels. Use of the surface by boas in the summer would be
7 difficult as the area unnaturally dries from excessive groundwater
8 removal.

- 9 c. Wildlife species that require surface flows such as frogs, toads, and
10 the two-striped garter snake, a Forest Service Sensitive Species, will
11 be significantly affected. Breeding of tree frogs and western toads that
12 starts before the stream dries could fail as the stream recedes. Losing
13 reproduction of these species for a year or multiple years is a
14 significant impact. Two-striped garter snake can only survive in this
15 area with surface water to support prey like the frogs and toads.
- 16 d. California-listed Threatened southern rubber boa uses rock outcrops
17 and their fissures and cracks in rock to find moisture and temperature
18 conditions to survive hot summers and cold winters.⁷ Reducing the
19

20 https://www.fws.gov/carlsbad/HCPs/LADWP/Appendix_B_Species_Habitat_Suitability_Analysis_Models_SW_Willow_Flycatcher_Survey_Results.pdf.

22 ⁷ Stephen A. Loe, *Habitat management guide for southern rubber boa (Charina*
23 *bottae umbratica) on the San Bernardino National Forest*. Prepared for the U.S.
24 Dept. of Ag. San Bernardino National Forest (1985); Robert H. Goodman, Mark R.
25 Jennings, Glenn R. Stewart, *Sensitive Species of Snakes, Frogs, and Salamanders*
26 *in Southern California Conifer Forest Areas: Status and Management*, in
27 PLANNING FOR BIODIVERSITY: BRINGING RESEARCH AND MANAGEMENT TOGETHER
(2015), available at: <http://www.treesearch.fs.fed.us/pubs/27022>;

1 moisture in southern rubber boa habitat has always been considered a
2 significant impact when biologists are judging project effects. The
3 trough of depression in the aquifer caused by continued removal of
4 groundwater through Nestlé's diversion tunnels and horizontal wells
5 is undoubtedly having an increasingly damaging and growing impact
6 on the southern rubber boa.

- 7 e. California spotted owl which needs cool, moist canyons to summer
8 and successfully breed in this predominately chaparral environment
9 will be adversely affected as the canyon dries.⁸ They are not able to
10

11 Santa Ana Watershed Association, *Sensitive Species of the Santa Ana Watershed*
12 *Southern Rubber Boa (Charina umbratica)* (Jan. 20, 2010), [http://sawatershed.org/](http://sawatershed.org/sites/default/files/posters/SouthernRubberBoaFactSheet.pdf)
13 [sites/default/files/posters/SouthernRubberBoaFactSheet.pdf](http://sawatershed.org/sites/default/files/posters/SouthernRubberBoaFactSheet.pdf); IUCN Red List of
14 Threatened Species Entry for *Charina bottae* (Rubber Boa, Southern Rubber Boa),
available at <http://www.iucnredlist.org/details/62228/0> (last visited May 3, 2016).

15 ⁸ See Rachelle Meyer, *Strix occidentalis*, in *Fire Effects Information System*;
16 UNITED STATES FOREST SERVICE, ROCKY MOUNTAIN RESEARCH STATION, FIRE
17 SCIENCES LABORATORY (2007), available at: [http://www.fs.fed.us/database/feis/](http://www.fs.fed.us/database/feis/animals/bird/stoc/all.html)
18 [animals/bird/stoc/all.html](http://www.fs.fed.us/database/feis/animals/bird/stoc/all.html); Cameron W. Barrows, *Roost site selection by spotted*
19 *owls: An adaptation to heat stress*, in *The Condor*, vol. 83, no. 4, COOPER
20 ORNITHOLOGICAL SOCIETY (1981), available at:
21 http://www.jstor.org/stable/1367496?seq=1#page_scan_tab_contents. Gordon I.
22 Gould, Jr., *Habitat requirements of the spotted owl in California*, in. *Wildlife*
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24 available at: <http://www.tws-west.org/transactions/Gould.pdf>; Cameron Barrows
25 and Katherine Barrows, *Roost Characteristics and Behavioral Thermoregulation*
26 *in the Spotted Owl*, in *Western Birds* vol. 9, no. 1, UNIVERSITY OF CALIFORNIA
27 (1978), available at [http://angelo.berkeley.edu/wp-](http://angelo.berkeley.edu/wp-content/uploads/Barrows_WesternBirds1978.pdf)
28 [content/uploads/Barrows_WesternBirds1978.pdf](http://angelo.berkeley.edu/wp-content/uploads/Barrows_WesternBirds1978.pdf); United States Fish & Wildlife
Service, *Habitat Suitability Index Models: Spotted Owl*, in *Biological Report*
82(10.113), DEPARTMENT OF THE INTERIOR (1985), available at
<http://www.nwrc.usgs.gov/wdb/pub/hsi/hsi-113.pdf>.

1 tolerate high temperatures. The loss of live oak, bigcone Douglas- fir,
2 and riparian cover is occurring and will increase due to the drying
3 conditions and this will make this watershed unsuitable for owls.

4 Every bit of moisture in the watershed is critical due to the stressed
5 condition of the water dependent vegetation. Humidity is important in
6 cooling habitats during the summer months providing cooler
7 conditions for the birds.

8 14. The California Department of Fish and Wildlife ("Department") and
9 U.S. Fish and Wildlife Service ("Service") are aware of the situation in Strawberry
10 Creek. Now that the Forest Service is beginning a new NEPA process, it will need
11 to prepare a Biological Assessment/Biological Evaluation and provide it to the
12 Service as part of consultation under the Federal Endangered Species Act. The
13 Service will later render a Biological Opinion regarding impacts to federally listed
14 species. The Department requires that projects which take state protected species
15 also obtain a take permit under California law, and the project proponent is
16 responsible for obtaining that permit. The Forest Service does not formally consult
17 with Department, but has a memorandum of understanding that it will cooperate in
18 considering projects that affect state protected species. There is little doubt that
19 take of some protected species could occur with the current conditions, Nestlé's
20 water removal, and extreme drying in the summer.


21 **Fire Suppression**

22 15. Riparian areas that are unnaturally dry due to water removal do not
23 have the fire suppression benefits of well-watered riparian areas. The susceptibility
24 of the Strawberry Creek Drainage and surrounding lands and structures to wildfire
25 will be increased by the continued drying of the watershed. Healthy, well-watered
26 riparian areas are beneficial in reducing the spread and intensity of wildfires,

1 aiding in the ability to fight fire, and reducing damage from wildfire.⁹ Since several
2 communities sit directly above the Strawberry headwaters, this poses a threat to the
3 community as the canyon dries from the drought and groundwater removal.

4 16. Strawberry Creek is a regionally significant riparian area. It has an
5 East-West orientation while other nearby waterways are oriented North-South.
6 This lateral orientation could help seriously reduce the threat and spread of fire up
7 the mountain from the foothills above San Bernardino.

8
9 I declare under penalty of perjury that the foregoing is true and correct and
10 was executed this 4th day of May, 2016, at Yucaipa, California.

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12 
13 Steve Loe
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24 ⁹ J. Boone Kauffman, *Workshop on the Multiple Influences of Riparian/Stream*
25 *Ecosystems on Fires in Western Forest Landscapes Summary Report*, presented to
26 Rocky Mountain Forest and Range Experiment Station, Stream Systems
27 Technology Center (2001), available at: [http://www.stream.fs.fed.us/publications/](http://www.stream.fs.fed.us/publications/PDFs/Riparian%20Fire%20Final.pdf)
28 [PDFs/Riparian%20Fire%20Final.pdf](http://www.stream.fs.fed.us/publications/PDFs/Riparian%20Fire%20Final.pdf).



State of California - Natural Resources Agency
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Inland Deserts Region
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EDMUND G. BROWN, Jr., Governor
CHARLTON H. BONHAM, Director



May 2, 2016

Front Country Ranger District
1209 Lytle Creek Road
Lytle Creek, CA 92358
Attn: Nestle Waters

Subject: Nestle Waters Special Use Permit
File Code 1950; 2720

Dear US Forest Service, Front Country Ranger District:

The Department of Fish and Wildlife (CDFW) appreciates the opportunity to comment on the San Bernardino National Forest's proposed issuance of a 5-year special use permit to Nestle Waters to authorize continued occupancy of and use of National Forest Service lands for the extraction and transmission of water using existing improvements. Pursuant to The Guidelines for the Implementation of CEQA (Cal. Code Regs., tit. 14, § 15000 *et seq.*; hereafter CEQA Guidelines), CDFW has reviewed the scoping materials distributed on the project and offers comments and recommendations on those activities involved in the project that are within CDFW's area of expertise and germane to its statutory responsibilities, and/or which are required to be approved by CDFW (CEQA Guidelines, §§ 15086, 15096 & 15204).

CEQA ROLE

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (i.e., biological resources). CDFW is a Trustee Agency with responsibility under CEQA for commenting on projects that could affect biological resources. As a Trustee Agency, CDFW is responsible for providing, as available, biological expertise to review and comment upon environmental documents and impacts arising from project activities (CEQA Guidelines, § 15386; Fish & G. Code, § 1802).

CDFW may also act as a Responsible Agency based on its discretionary authority regarding project activities that impact streams and lakes (Fish & G. Code, §§ 1600 – 1616), or result in the "take" of any species listed as candidate, threatened, or endangered pursuant to the California Endangered Species Act (CESA; Fish & G. Code, § 2050 *et seq.*).

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations presented below to assist the San Bernardino National Forest (SBNF) in adequately identifying and/or mitigating the project's significant, or potentially significant, impacts on biological resources.

CDFW Specific Comments

Authorized improvements, and operations and maintenance

The proposed action will permit facilities and appurtenances associated with Nestle Water's current operations as well as maintenance of the system and the associated Forest Service access road 1N24. CDFW recommends that the SBNF evaluate, at a minimum: impacts associated with the operation and maintenance of the project, including but not limited to: the water collection tunnels, horizontal wells, concrete vaults, pipes and delivery systems; vegetation removal and/or trimming; road/trail maintenance; installation of BMPs to reduce erosion; restoration of habitat where equipment/vehicles have departed from designated roads, trails and staging areas; spill prevention and containment measures; and long-term trash removal.

Impacts to Biological Resources

CDFW is concerned with the lack of analysis of impacts to biological resources in the proposal and the deferral of this analysis to a later date. The proposal states that initial studies conducted by Nestle suggest that water extraction is reducing surface flow in Strawberry Creek, but that the effect of this flow reduction has not been thoroughly studied. Further, CDFW does not agree a "paired basin" study is the appropriate method to determine the conditions that would exist if there was no extraction in Strawberry Creek. Due to the volume of water and the placement of the extraction at the headwaters, a site specific study is justified. CDFW requests the NEPA process include a study to adequately assess and identify the impacts of the extraction within Strawberry Creek.

Also, although some information on wildlife and botany was supplied with the proposal, no specific information about this data was provided. For example, the proposal fails to provide information on the source of the data, how it was collected, when it was collected, etc. CDFW is concerned that species list is not comprehensive and excludes a number of species that are known to occur in the project area.

Where a project could affect the hydrologic regime of a watershed, the necessary elements to successfully maintain the downstream biological diversity needs to be identified to facilitate sound management decisions. Based on CDFW's review of the proposal, this information is not currently available. Instead, the proposal states that water extraction will continue during the period when such baseline data is collected. CDFW is concerned by this proposed approach, and recommends that a baseline study

be completed to identify the environmental impacts and effects since the expiration of the previously issued permit.

CDFW recommends that the NEPA document require the following:

1. A thorough assessment of the quantity of water extracted in the water collection tunnels, horizontal wells, and concrete vaults, with a focus on seasonal fluctuations.
2. A thorough assessment of the habitat, species, and life history criteria specific to the project area and downstream.
3. A *recent* and thorough assessment of the flora and fauna within, adjacent to, and downstream of the project area, with particular emphasis on identifying endangered, threatened, and sensitive species and sensitive habitats. The assessment should rely on protocol surveys. Use of species databases (for example, CDFW's California Natural Diversity Database, and those maintained by the US Forest Service) may provide current information on any previously reported sensitive species and habitat, in the vicinity of the proposed project. However, please note that these databases are not exhaustive in terms of the data they house, nor are they absence databases. CDFW recommends that they be consulted as a starting point in gathering information about the *potential presence* of species within the general area of the project site.
4. Identification of minimum instream flows necessary to maintain the health and perpetuation of aquatic resources and associated habitat in Strawberry Creek.
5. Quantification of the loss of biological resources and impacts to biological resources that may occur as a result of reduced surface flow in Strawberry Creek and downstream. The analysis should contain a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. Project impacts should be analyzed relative to their effects on offsite habitats. Specifically, this should include nearby streams located downstream of the project, public lands, open space, mitigation sites, adjacent natural habitats, and riparian ecosystems.
6. A specific proposal to reduce water extraction to restore surface flow within Strawberry Creek to allow for maintenance of any existing riparian and aquatic habitat, fish, and wildlife resources
7. A specific proposal to reduce water extraction to provide minimum flows in Strawberry Creek for maintenance of any existing riparian and aquatic habitat, fish, and wildlife resources.
8. A detailed mitigation plan to replace lost plant, fish, and/or wildlife resources. This plan must include a survey which quantifies the loss of resources that will occur as a result of this project. It must also specify measures that will be taken to offset impacts to resources and outline specific mitigation and monitoring programs.

CDFW recommends that the NEPA document prepared for this project contain sufficient, specific, and current biological information on the existing habitat and species at the project site; measures to minimize and avoid sensitive biological resources and important biological areas; and mitigation measures to offset the loss of native flora and fauna.

Based on CDFW's review of proposal, the project includes facilities and appurtenances that have been constructed within the bed, bank, or channel of a stream. As maintenance of these areas is included in the proposal, the project has the potential to impact areas within CDFW's jurisdiction under section 1600 *et seq.* of the Fish and Game Code. CDFW recommends that Nestle Waters consult with CDFW as soon as possible to determine if a Lake or Streambed Alteration Agreement may be required for operations and maintenance activities. Additional information on CDFW's Lake and Streambed Alteration Program is found later in this letter.

CDFW General Comments

California Environmental Quality Act (CEQA)

As defined by CEQA Guidelines Section 21065, a "project" is "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following: (a) An activity directly undertaken by any public agency...(c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies." Based on information included in the scoping materials the project may require approval from local, state, and federal agencies due to the potential of these activities to have both direct and indirect changes on the environment. For these reasons, the activities proposed in the special use permit may be considered "projects" under CEQA; thus CEQA may need to be addressed by Nestle Waters.

CDFW acknowledges that Nestle Waters is not required to address CEQA concurrently with NEPA however CDFW strongly recommends they do so in order to maintain coordination between state and federal agencies and to avoid delays in the CEQA process and any permitting processes.

Please note that as a Responsible Agency, CDFW must rely on the CEQA document prepared by the Lead Agency in order to prepare and issue a Lake or Streambed Alteration Agreement and/or Incidental Take Permit (ITP) for the project. If the CEQA document for this project fails to identify all project impacts and adequately mitigate those impacts, the project proponent may be required to reinitiate the CEQA process at their expense, or fund another CEQA process under the direction of CDFW to ensure that all project impacts are identified and adequately mitigated.

California Endangered Species Act (CESA)

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to the CESA. CDFW recommends that a CESA ITP be obtained if the project has the potential to result in "take" of State-listed CESA species, either through construction or over the life of the project. CESA ITPs are issued to conserve, protect, enhance, and restore State-listed CESA species and their habitats. Revisions to the California Fish and Game Code, effective January 1998, require that CDFW issue a separate CEQA document for the issuance of a CESA ITP unless the project CEQA document addresses all project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of a CESA permit.

Fully Protected Species

Several of the species having the potential to occur within or adjacent to the project area, including, but not limited to: American peregrine falcon (*Falco peregrinus anatum*), bald eagle (*Haliaeetus leucocephalus*), and golden eagle (*Aquila chrysaetos*), are fully protected species under the Fish and Game Code. Fully protected species may not be taken or possessed at any time. Project activities should be designed to completely avoid any fully protected species that have the potential to be present within or adjacent to the project area.

CDFW recommends that the environmental document fully analyze potential adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends that the environmental document include an analysis of how appropriate avoidance, minimization and mitigation measures will reduce indirect impacts to fully protected species.

Nesting Birds and Migratory Bird Treaty Act

Please note that it is the project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Migratory non-game native bird species are protected by international treaty under the federal Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 *et seq.*). In addition, sections 3503, 3503.5, and 3513 of the Fish and Game Code (FGC) also afford protective measures as follows: Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by FGC or any regulation made pursuant thereto; Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by FGC or any regulation adopted pursuant thereto; and Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the MBTA or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA.

CDFW recommends that the NEPA document include the results of avian surveys, as well as specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur.

Wildlife Movement and Connectivity

The project area supports significant biological resources and contains habitat connections and supports movement across the broader landscape, sustaining both transitory and permanent wildlife populations. Onsite features, which contribute to habitat connectivity, should be evaluated and maintained. Aspects of the project could create physical barriers to wildlife movement from direct or indirect project-related activities. Indirect impacts from noise, dust, and increased human activity may displace wildlife in the general area. A discussion of both direct and indirect impacts to wildlife movement and connectivity should be included in the NEPA document.

Lake and Streambed Alteration Program

For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream or use material from a streambed, the project applicant (or "entity") must provide written notification to CDFW pursuant to Section 1602 of the Fish and Game Code. Based on this notification and other information, CDFW then determines whether a Lake and Streambed Alteration (LSA) Agreement is required. CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if necessary, the environmental document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <http://www.dfg.ca.gov/habcon/1600/forms.html>.

As previously mentioned, the project includes facilities and appurtenances that have been constructed within the bed, bank, or channel of a stream. Based on this information CDFW encourages Nestle Waters to contact CDFW as soon as possible to determine if an LSA may be required for this project. Please note that although the proposed project occurs on the San Bernardino National Forest (SBNF) and the SBNF may be issuing a special use permit for this project, it does not preclude CDFW's jurisdiction under section 1600 *et seq.* of the Fish and Game Code, should the project anticipate impacts to any streams.

The following information will be required for the processing of a Notification of Lake or Streambed Alteration and CDFW recommends incorporating this information into the CEQA document to avoid subsequent documentation and project delays. Please note that failure to include this analysis in the project's environmental document could preclude CDFW from relying on the Lead Agency's analysis to issue an LSA Agreement.

without CDFW first conducting its own, separate Lead Agency subsequent or supplemental analysis for the project:

- 1) Delineation of lakes, streams, and associated habitat that will be temporarily and/or permanently impacted by the proposed project (include an estimate of impact to each habitat type);
- 2) Discussion of avoidance and minimization measures to reduce project impacts; and,
- 3) Discussion of potential mitigation measures required to reduce the project impacts to a level of insignificance. Please refer to section 15370 of the CEQA Guidelines for the definition of mitigation.

Further Coordination

CDFW appreciates the opportunity to comment on the proposed special use permit for Nestle Waters (Project Code 1950; 2720). If you should have any questions pertaining to the comments provided in this letter, please contact Jeff Brandt at (909) 987-7161, or at jeff.brandt@wildlife.ca.gov.

Sincerely,



Leslie MacNair
Regional Manager

For

cc: State Clearinghouse, Sacramento

Date submitted (UTC): 5/1/2016 4:21:05 PM
First name: Steve
Last name: Loe
Organization: Southern California Native Freshwater Fauna Working Group
Title: Co-Coordinator and Strawberry Permit Lead
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Comments:

Southern California Native Freshwater Fauna Working Group

May 2, 2016
Jody Noiron, Forest Supervisor
San Bernardino National Forest
602 S. Tippecanoe Ave.
San Bernardino, CA 92408

Re: Input to Scoping for Nestle Permit NEPA in Strawberry Creek
Dear Ms. Noiron:

We are a group of citizens and scientists who are dedicated to the protection and restoration of the Southern California native freshwater fauna. Our group has members from the general public and from many government agencies, universities and conservation groups.

We are extremely concerned about the on-going historic and potentially long-term drought and the effects of a long-expired permit on Strawberry Creek (San Bernardino Mountains, Santa Ana Watershed) and associated resources. We are also concerned that the Forest Service permit for the spring development and removal of water by Nestle expired a long time ago, but they continue to remove all the water they can draw from the headwater aquifer for bottled water. Conditions have changed greatly since the permits were issued. We now know much more about groundwater/surface water relationships, the habitat, and riparian/aquatic species use in this area as a result of all the work done by the Forest Service and Metropolitan Water District (MWD) on the Arrowhead Tunnel project. We now know the stream is very important to many imperiled species.

Our group has been concerned about the health of Strawberry Creek for many years. Strawberry Creek supported Santa Ana speckled dace (*Rhinichthys osculus* ssp.) for thousands of years; the dace were only recently extirpated. This was in part we believe because of a drying climate and the unnatural removal of so much water from the headwaters. The Santa Ana speckled dace is a California Species of Special Concern (SSC) and has been a focus of effort for our group, the Forest Service and the Dept. of Fish and Wildlife. California Department of Fish and Wildlife has designated certain species as SSC because declining population levels, limited ranges, and/or continuing threats have made them vulnerable to extinction. This fish is designated as Sensitive by the U.S. Forest Service and Threatened by American Fisheries Society. Restoring Santa Ana speckled dace to Strawberry Creek and East Twin has been a priority for all the cooperators.

Many of our members have worked in Strawberry Creek. The stream is severely impacted by the removal of up to 500 acre feet per year in high rainfall years and an average of 200 acre feet per year. This is a huge amount of water for a stream like Strawberry Creek when it is taken from the headwaters. Removal of water in the summer months results in large areas of the stream being dewatered. With this severe drought, even the areas that have not dried for thousands of years could dry up. Even the combined flow of West and East Twin and Strawberry Creek is almost non-existent in recent summers due to the severe drought and groundwater removal.

We are concerned about the health of the watershed for all other species that are dependent upon surface water, moist conditions and water within reach of roots for native perennial plants. We are seeing some loss of riparian plants due to lack of water on the margins of the stream in areas we have been able to visit. Strawberry

Creek has been identified as a priority for reintroduction of Santa Ana speckled dace and as having potential for future mountain yellow-legged frog (*Rana muscosa*) reintroduction. We are concerned about the potential loss of two-striped garter snake from the watershed and believe the unnatural drying of the watershed is adversely affecting tree frogs, toads, and salamanders. We are also concerned about the adverse effects of water withdrawal on other riparian dependent species known to use the area such as least Bell's vireo and southwestern willow flycatcher. Strawberry Creek is an extremely valuable resource in maintaining southern California's biological diversity. This is a priority in the Forest Plan and a priority of our group. Please explain how this proposal complies with the Forest Plan and laws and regulations regarding Threatened and Endangered Species, wetland and riparian protection, maintenance of stream flows, and the public trust. We were a part of the groups and individuals who wanted to meet with the Forest Service and Nestle in September of 2014 regarding the stream and the expired permit, and were very disappointed that the Forest Service and Nestle were not willing to meet at that time. Changes in water withdrawal were needed then and still need to be made immediately to protect the stream this next summer and in perpetuity. Please don't put off a decision to stop water removal. It needs to be done now to let the stream recover.

With the continued severe drought and almost no rain in the highest rainfall months of the year, Strawberry Creek is in big trouble. This summer is looking like it might be even dryer than last year when some day's flows were the lowest ever recorded for that date. Please consider not removing any water from the Strawberry Creek wells and tunnels until the drought is over, the permit is brought up to date and includes measures that will protect the ecosystem. We have members who have knowledge of Strawberry Creek and groundwater/surface water relationships that are willing to volunteer to help find management solutions and design studies to help determine what is in excess to National Forest needs.

We have reviewed the Forest Service proposed action and adaptive management plan. The proposed action is to continue to allow Nestle to take all the water they can while studying the issue for 5 years. Nestle is to hire and manage consultants and the Forest Service is to monitor the consultants and approve their work as we understand it. Since Strawberry can't recover or function naturally while Nestle is taking water, the proposal is to study East Twin to see how a natural stream would act. If problems with water removal are proven by Nestle's contractors, then the permit could be modified under an adaptive management strategy to try to create a more natural stream in Strawberry. A request for a field trip so people could see the resource has been denied by the Forest Service.

We have major concerns with this proposal.

1. There is so much variability in the geology, topography and vegetation, aspect and other factors that using another watershed is a problem and will not give an accurate picture of what Strawberry would do if water removal was stopped. Only by seeing how the stream, springs and riparian areas will function outside the drought and without artificial withdrawal can you determine the amount of water that is in excess of National Forest needs and thus available to Nestle.

2. If the consultants work directly for Nestle, they will have a very difficult time being independent and making conclusions and determinations that might not favor the client. It is best for everyone concerned that any consultants work for and take direction from the Forest Service as the managers and protectors of the public lands. Nestle can and should be involved, but not in control in any manner. Nestle has told us in our initial meeting in 2014 that they are not in favor of restoring populations of Santa Ana speckled dace or mountain yellow-legged frog to Strawberry Creek. With such a different philosophy and mandate than the Forest Service they cannot be expected to be unbiased. One example of this is the speckled dace evaluation they did for Perrier/Nestle in the early 2000's. They concluded that there would be more habitat and better habitat with the more natural flows, but that it was insignificant because the biomass of dace lost by water removal is minor and not significant. Using biomass as the measure shows the difference in missions. The study, if done and directed by the Forest Service would have evaluated things like summer survival, drought survival, wildfire survival with reduced flows, connectivity of suitable habitat with increased flows, long term survival etc., etc.. Not just how much biomass would be lost.

3. There must be some other alternatives considered than allowing them to continue unlimited water removal. One alternative has to be not renewing the permit, which is a very likely scenario when considering how the Forest manages its land under today's laws and mandates. No way would the Forest Service give a permit for taking groundwater from the headwaters of a stream that was occupied by numerous threatened and endangered species. Front Country perennial streams are very important to maintaining the diversity of the flora and fauna and the Forest Service would not even consider such a proposal today.

An alternative that removes groundwater from springs at the bottom of the watershed with horizontal wells as currently practiced in the top of the watershed would be much more environmentally sound and easy to manage for protection of the watershed. There are some springs as shown on topo maps at the furthest

downstream National Forest property. The temporary disturbance to install wells and infrastructure would be minor compared to dewatering the watershed in perpetuity as is currently planned. This lower area is some of the best Santa Ana speckled dace habitat and also supports southwestern willow flycatcher and least Bell's vireo. By removing water down at the bottom of the watershed, the existing USGS Twin Creek stream gage would be ideal to use for monitoring. As long as the stream was flowing adequately at the stream gage, the ecosystem of the entire watershed would be protected from the taking of water. The 40th Street crossing in North San Bernardino would also be a good and easy spot to monitor flows and set trigger points for the lower end. This would be a huge difference from the current practice of removal all the groundwater possible above 5000 feet and cumulatively dewater the watershed all the way to the bottom. Please consider and analyze this alternative if believe you are forced to provide water to Nestle.

4. Use caution if you use the studies done in the early 2000's. They were commissioned and managed by Nestle in part to give them the non-significant reports they thought they needed to renew their permit without a lot of constraints. The Forest Service and Fish and Game biologists that reviewed the reports had serious problems with the methods and conclusions. The same findings even though questionable would have been considered significant by the Forest Service ID team and Fish and Game using what we now know about stream flows, dace, springs, southern rubber boas, two-striped garter snake, mountain yellow-legged frogs, least Bell's vireo, and southwestern willow flycatchers. There is no excess water in southern California streams except during floods.

5. Based on field work completed last summer, we believe that dace were more widely distributed historically in the watershed than was documented in recent years. We believe their distribution included more and longer reaches than were occupied in recent years up until 2004. As part of your analysis, we would request that you do a habitat assessment of the entirety of Strawberry Creek to determine where flows, gradient and substrate would be suitable dace reintroduction. Since you will be looking at East Twin Creek, we request that you survey the habitat in both drainages for suitability for both dace and mountain yellow-legged frog. Being able to do this for Strawberry will require letting the watershed recover with no removal of groundwater.

6. We would appreciate a field trip to see the lower canyon. Several of our members that have worked in Strawberry Creek for many years as Forest Service and Fish and Game biologists, contractors, and volunteers are suffering from various ailments that make it impossible for them to walk into the site from the long distances required. We also have new members that would like to see Strawberry during this drought to better understand the resources at stake. There is a good access road into the confluence of Strawberry and East Twin that we have used for years. This would be a good place to look at the stream as many of our members have been there in the past. The Forest Service has administrative access and the fact that Campus Crusade has a FS water permit should make them cooperative. If the Forest Service cannot provide access, should we ask Fish and Wildlife about organizing a field trip? We would be happy to help with logistics.

7. We have heard and seen the claims of Nestle that they own the water they are taking. The State owns the water. Some of our members have been looking into the water rights claims and it seems that Nestle is and has been running a bluff. They have no California surface rights with a point of diversion in upper Strawberry. All they have are horizontal wells and tunnels on National Forest and they report the amount of groundwater taken from the wells as groundwater. It is groundwater and the Forest Service has control of how much water can be removed that is in excess to National Forest needs and for maintaining favorable conditions of flow. The Forest Service has reserve rights even for groundwater. Nestle is using the Forest to produce water under FS permit and that permit is all the rights they have. If their wells collapsed, they would have no State rights to take any surface water. They would be dependent on landowner giving them the right to drill new groundwater wells. Please really investigate the state water rights justification given to the Forest Service by Nestle's attorney. We have, and there are many, many holes in their justification. Please don't trust them without really checking out all of their claimed connections and past company relationships. They do not have State water rights that predate the FS as they claim.

Please call Steve Loe at b6 or Jonathan Baskin at b6 if we can help. This permit is extremely important to our shared mission.

Sincerely,

Steve Loe, Certified Wildlife Biologist, TWS
Co-coordinator and Strawberry Creek

Permit Lead, SCNFFWG

Jonathan N. Baskin, Ph.D.
Co-Coordinator, SCNFFWG
Emeritus Professor of Biological Sciences
California State Polytechnic University Pomona
Pomona, CA 91768

Cc:
Southern California Native Freshwater Fauna Working Group

RECEIVED
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COMMISSION

2018 OCT -5 PM 12:30

Alpine Biomass Collaborative

04 October 2018

California Fish and Wildlife Commission
Attn: Valerie Termini, Executive Director
PO Box 944209
Sacramento, CA 94224-2090

Re: Request to Remove the Hope Valley Unit from the Lands Pass Program

Dear Ms. Termini,

The Alpine Biomass Collaborative (ABC) is requesting the removal of Hope Valley in Alpine County from the Lands Pass Program. The ABC's mission statement is "Unifying partners to promote forest and watershed health, and local economic development". The area is largely unfenced and has been used by the public for decades, well before its acquisition by the California Department of Fish and Wildlife (CDFW).

Members of the public cross these lands to access public land in and around Hope Valley and have done so for decades prior to it being acquired by CDFW. There isn't and has not been any significant fencing nor signage to indicate that now this access is prohibited without paying a fee. Land ownership in the Hope Valley is a mixture of US Forest Service, private, and CDFW. It is not possible for a visitor to know which lands are which. Furthermore the boundaries are not adequately signed, and whether it is correct or not, the public assumes that it is public land and has used it as such for decades. The public arrives and even if they are willing to pay a fee, there is not an easy reliable way to do so as cell phone coverage is unreliable in this area.

We understand that CDFW stated at an Alpine County Board of Supervisors' meeting that statewide, CDFW expects to receive about \$53,000/year in revenue for all the recently added "fee areas" in the state. This is a trivial amount statewide and an unnecessary revenue stream for CDFW that discourages the public from experiencing the benefits of outdoor recreation.

Unifying partners to promote forest and watershed health, and local economic development.

We join the Alpine County Board of Supervisors, the Alpine County Chamber of Commerce, and the Alpine Watershed Group among others in requesting that the Hope Valley Unit be exempt from the Lands Pass requirement.

Thank you for your consideration.

Respectfully submitted



David Griffith
Markleeville, CA
2018.10.03 09:14:27 -07'00'

Alpine Biomass Collaborative

Per: David Griffith, Chair

cc Alpine County Board of Supervisors



RURAL COUNTY REPRESENTATIVES
OF CALIFORNIA

RECEIVED
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FISH AND GAME
COMMISSION

2018 NOV 26 PM 1:00

November 20, 2018

Ms. Valerie Termini
Executive Director
California Fish & Game Commission
P.O. Box 944209
Sacramento, CA 94244

RE: Hope Valley Wildlife Area Land Pass Program

Dear Ms. Termini:

On behalf of the Rural County Representatives of California (RCRC), I am writing in support of the Alpine County Board of Supervisors' petition to request removal of the Hope Valley Wildlife Area (Hope Valley) from the Land Pass Program (Program). RCRC is an association of thirty-six rural California counties, and the RCRC Board of Directors is comprised of elected supervisors from each of those member counties.

Hope Valley is known for its beautiful scenery and rich history of land use and recreation. For decades, the local community and tourists alike have enjoyed access without fees. Since the acquisition by the California Department of Fish & Wildlife (CDFW), it has become increasingly difficult for visitors to decipher which lands are subject to the Program and which are not, since the boundaries are surrounded by other public lands. Further frustrating enjoyment of their experience, even when a visitor is willing to pay a fee in accordance with the Program, there is no reliable payment method due to unreliable telecommunications coverage.

The economy of Alpine County relies heavily on tourism. Hope Valley is among the reason many visitors go to Alpine County and we believe it should be available to all. The rich heritage of Hope Valley is a place to share, not a place to charge a fee to visit, especially when it is unclear where the boundaries lie and there is no ability for visitors to pay the use-fee.

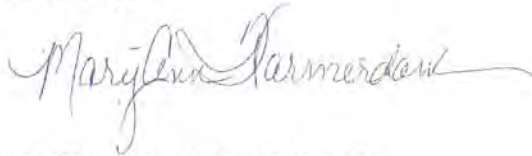
1215 K Street, Suite 1650, Sacramento, CA 95814 | www.rcrcnet.org | 916.447.4806 | Fax: 916.448.3154

ALPINE AMADOR BUTTE CALAVERAS COLUSA DEL NORTE EL DORADO GLENN HUMBOLDT IMPERIAL INYO LAKE LASSEN MADERA MARIPOSA MENDOCINO MERCED
MODOC MONO NAPA NEVADA PLACER PLUMAS SAN BENITO SAN LUIS OBISPO SHASTA SIERRA SISKIYOU SONOMA SUTTER TEHAMA TRINITY TULARE TUOLUMNE YOLO YUBA

Ms. Valarie Termini
Hope Valley Wildlife Area Land Pass Program
November 20, 2018
Page 2

For these reasons, we join the Alpine County Board of Supervisors in requesting that Hope Valley be exempt from the Lands Pass requirement. If you should have any questions, please contact me at (916) 447-4806 or mwarmerdam@rcrcnet.org.

Sincerely,

A handwritten signature in cursive script, reading "Mary-Ann Warmerdam".

MARY-ANN WARMERDAM
Senior Legislative Advocate

cc: Susan LaGrande, Deputy Director, Office of Legislative Affairs, CDFW
Members of the Alpine County Board of Supervisors

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COMMISSION

Pacific Asset Capital Willow Glen LLC

7171 Alvarado Blvd. Suite 203

La Mesa, CA 91942

(619) 283-0588

2018 OCT -9 AM 10:00

October 5, 2018

Fish and Game Commission
1416 Ninth Street, Room 1320
Sacramento, CA 95814

Attention: John Laird
Secretary of Natural Resource Agency

CC: California Department of Fish and Wildlife
Melissa Miller-Henson
Acting Executive Director

Reference: Petition for Regulatory Change
California Fish and Game Commission
Tracking Number 2018-012

Dear Mr. Laird:

We have submitted a revised petition request for consideration by the Commission which would create the opportunity for a land donation to the Department of Fish and Game consisting of our 24.6 acre parcel on the Sweetwater River in San Diego. If adopted, other properties in the State could also potentially be restored as native habitat at no cost to the State. A copy of the petition is attached.

The site was submitted to the Army Corp of Engineers (ACE) as a mitigation site starting in February 2012, the ACE had approved the project and it went to public notice in November 2013. At the time we were informed it would take 3-5 years to get the Bank Enabling Instrument to sell mitigation credits. The project was later abandoned because of the time frame and a declining economic market for the sale of mitigation credits.

The site was offered for sale with a land conservation real estate broker, and no offers were received on the property in 4 years. A new proposal was given to the ACE in April, 2017 that we would donate the land to the US Fish and Wildlife (USFWS) as part of their San Diego National Wildlife Refuge (SDNWF), provided we were allowed to temporarily mine sand, replant the property with native, noninvasive species, and create an endowment fund for maintenance of the site in perpetuity. The property had been in the sphere of influence for the SDNWR, but was

removed earlier in the decade because of it was adjacent to the California Department of Fish and Wildlife's McGinty Mountain Ecological Reserve. ACE and USFWS suggested we contact the California Department of Fish and Wildlife (CDFW). We met with Fish and Game Commissioner Pete Silva on September 25, 2017 to explain our idea of mining sand and donating land to the CDFW and sent him supporting material. CDFW then said they could not accept a donation of land that was going to have sand mining because Title 14, Section 550 regulations did not allow for sand mining.

We then approached the staffs of Assembly Member Randy Voepel and State Senator Joel Anderson, in whose Districts the property is located, about introducing a bill to change the regulations on mining sand on CDFW property. After researching the request, Senator Anderson staff advised we approach the Fish and Game Commission to get the regulation amended to allow sand mining on CDFW property.

This Regulatory Change will impact both the Department of Fish and Game and the Department of Conservation, as hundreds of acres of land currently privately held along California rivers and streams could be mined for sand with the provision that the land owner would reclaim the land by planting with native species (riparian forest), maintain the plantings for 5 years, and establish an endowment fund for the maintenance of the property in perpetuity at no cost to the State of California, as reviewed by the Water Conservation Board, and approved by the Fish and Game Commission provided the State of California, Department of Conservation, Division of Mines and Geology has classified the property as MRZ 2, under the provision of The Surface Mining and Reclamation Act (SMARA) of 1975.

This regulatory change presents an opportunity to create prime wildlife land with endowment funds for maintenance. At the same time it would allow millions of tons of sand to be used as was the intent of the SMARA while saving the citizens of California millions of dollars due to decreasing the cost of aggregate material and creating additional riparian land for conservation as a no-cost byproduct.

Sincerely,

A handwritten signature in blue ink, reading "Daniel J. Dallenbach". The signature is fluid and cursive, with the first name "Daniel" and last name "Dallenbach" clearly legible.

Pacific Asset Capital Willow Glen LLC

Daniel J. Dallenbach, President of Managing Member, Pacific Asset Capital, Inc.

CC: California Department of Fish and Wildlife
Melissa Miller-Henson, Acting Executive Director
Charlton "Chuck" Bonham, Director

Ed Pert, Region 5 Manager

CC: California Department of Conservation
David Bunn, Director

CC: California Geological Survey
John Parrish, State Geologist

CC: California Wildlife Conservation Board
John Donnelly, Executive Director
Peter Perrine, Assistant Executive Director
John Walsh, Acquisitions Manager
Elizabeth Hubert, Restoration and Development Manager

CC: California State Mining and Geology Board
Jeffrey Schmidt, Executive Officer



Tracking Number: (_____)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov.
Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. **Person or organization requesting the change (Required)**
Name of primary contact person: Dan Dallenbach, David Rice
Address: 7171 Alvarado Road, # 203. La Mesa, CA 91942
Telephone number: (619) 283-0588
Email address: dan_christina@pacificassetcapital.com
2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: Pursuant to the authority vested by Section 108 of the Fish and Game Code and to implement, interpret, or make changes, and per Section 662, Title 14, California Code of Regulations (CCR), and per Section 207 of the Fish and Game Code that the regulations per Section 550 Title 14, California Code of Regulation, General Regulations for Public Use on all Departments of Fish and Wildlife Lands, (g) Protection of Resources, add new subsection 550 (g) (5) Allow the mining of sand in 8 acre increments on land owned by the Department of Fish and Wildlife or land contiguous to be donated to the Department of Fish and Wildlife, with the provision that the land owner donor, could mine the sand provided the land owner would reclaim the land by planting with native species (riparian forest), maintain the plantings for 5 years, and establish an endowment fund for the maintenance of the property in perpetuity at no cost to the State of California, as reviewed by the California Wildlife Conservation Board, and approved by the California Fish and Game Commission, provided the State of California, Department of Conservation, Division of Mines and Geology has classified the property as MRZ 2, under the provision of The Surface Mining and Reclamation Act of 1975.
3. **Overview (Required)** - Summarize the proposed changes to regulations: Allow the mining of sand in 8 acre increments on land owned by the Department of Fish and Wildlife or land contiguous donated to the Department of Fish and Game with the provision that the land owner donor could mine the sand, the land owner would then reclaim the land by importing material, finish grading the area, planting with native species (riparian forest and upland buffers), maintain the plantings for 5 years, and



establish an endowment fund for the maintenance of the property in perpetuity provided the State Geologist had classified the property MRZ-2 for sand mining in the Special Reports for the Mineral Land Classification. This project would allow the Department of Fish and Wildlife to receive a donation of property that has been replanted with native species and provide an endowment fund to maintain the property, so residents could enjoy the use of the property without requiring tax funds each year for maintenance, and at no cost to the State of California for acquisition and development. Additionally, the property may be possibly be used to offset mitigation requirements for other state agencies at no cost to the State of California.

- 4. Rationale (Required) - Describe the problem and the reason for the proposed change:** The Surface Mining and Reclamation Act of 1975 (SMARA) mandated the initiation by the State Geologist of a mineral land classification in order to help identify and protect mineral resources in areas within the State subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board (SMGB) after receiving classifications from the State Geologist, to designate lands containing mineral deposits if regional or statewide significance. Construction aggregate was selected by the SMGB to be the initial commodity targeted for classification because of its importance to society, its unique economic characteristics, and the imminent threat that continuing urbanization poses to that resource. In 1980, at the request of SMGB, SMARA was amended to provide for the classification of non-urban areas subject to land-use threats incompatible with mining. The California Mineral Land Classification System has four major divisions, "MRZ-2 Areas of Identified Mineral Resource Significance," "MRZ-3 Areas of Undetermined Mineral Resources Significance," "MRZ-4 Areas of Unknown Mineral Resource Significance," and "MRZ-1 Areas of No Mineral Resource Significance;" wherein lands classified MRZ-2 are areas that contain identified mineral resources. The proposed pilot project for the sand mining would be in the County of San Diego on 24.64 acre property at 2695 Willow Glen Drive, El Cajon, California owned by Pacific Asset Capital Willow Glen LLC (APN # 518-030-30-00), which would generate 24 acres of native plantings, 5 year maintenance period, an approximately \$1.0 million endowment fund, and the Department of Fish and Wildlife 61.6 acre property (APN # 518-030-17-00), which were originally one parcel that was mined for sand in the 1960's, but were separated in the 1990's so San Diego Gas and Electric could donate the 61.6 acres to the Department of Fish and Wildlife for mitigation land. Our estimates indicate that the 61.6 acres belonging to the Department of Fish and Wildlife as part of the McGinty Mountain Ecological Reserve would generate up to \$18 million of funding for the Department of Fish and Wildlife after paying for planting, maintaining for 5 years, and fund a \$2.8 million endowment fund. MRZ 2 for sand mining in Special Report 153-1982 Mineral Land Classification: Aggregate Materials in the Western San Diego County Production-Consumption Region prepared by California Department of Conservation, Division of Mines and Geology in accordance with the Surface Mining and Reclamation Act of 1972. Attached is a vicinity map, aerial plan of the two properties, and a picture of a similar project in Lakeside, California where sand was mined 40 feet below the water table in the San Diego River, material imported to bring the river to the finish grade desired, planted with native species for the riparian forest and upland buffer with a trail for pedestrian use completed in 2016 .

SECTION II: Optional Information

- 5. Date of Petition: September 20, 2018**



6. **Category of Proposed Change**

- ☐ Sport Fishing
- ☐ Commercial Fishing
- ☐ Hunting
- ☒ Other, please specify: Acquisition and development of properties for Department of Fish and Wildlife

7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

- ☐ Amend Title 14 Section(s):
- ☒ Add New Title 14 Section(s): 550 (g) (5)
- ☐ Repeal Title 14 Section(s): *Click here to enter text.*

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition 2018-012**
Or ☐ Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: *Click here to enter text.*

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Upon acceptance of petition, Applicant will submit to the Fish and Game Commission at their monthly scheduled meeting, a SUMMARY with Figures and Attachments (600 pages) for consideration by the Fish and Game Commission for a land donation in the Sweetwater River in San Diego County to be reviewed by the Wildlife Conservation Board .

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Would generate \$ 18 million in revenue for Department of Fish and Wildlife, create 10 – 15 jobs for 10 years, and reduce the air pollution since trucks hauling sand from Imperial, Riverside, San Bernardino Counties, and Mexico would be reduced.

12. **Forms:** If applicable, list any forms to be created, amended or repealed:
Economic and Fiscal Impact Statement (Regulations and Orders) STD 399 to be created

SECTION 3: FGC Staff Only

Date received: *Click here to enter text.*

FGC staff action:

- ☐ Accept - complete
- ☐ Reject - incomplete
- ☐ Reject - outside scope of FGC authority



State of California – Fish and Game Commission

PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE

FGC 1 (NEW 10/23/14) Page 4 of 4

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC
- ☐ Denied - same as petition _____
- ☐ Granted for consideration of regulation change

Tracking Number

From: patricia mc pherson
Sent: Wednesday, November 7, 2018 1:26 PM
To: FGC; Bochco, Dayna@Coastal; Luevano, Mary@Coastal; Turnbull-Sanders, Effie@Coastal; Brownsey, Donne@Coastal; Aminzadeh, Sara@Coastal; Vargas, Mark@Coastal; Peskin, Aaron@Coastal; Sundberg, Ryan@Coastal; Groom, Carole@Coastal; Howell, Erik@Coastal; Uranga, Roberto@Coastal; Padilla, Stephen@Coastal; Ainsworth, John@Coastal; Willis, Andrew@Coastal; Revell, Mandy@Coastal
Subject: Fwd: CDFW & RESTORING FRESHWATER BALLONA WETLANDS
Attachments: San Jacinto wetlands...water piping.pdf

Hello Fish and Game Board Members and California Coastal Commissioners and staff,
Please review the following information regarding Ballona Wetlands Ecological Reserve.
Thankyou for your consideration,
Patricia McPherson, GC



RESTORING FRESHWATER BALLONA WETLANDS

CDFW USING RECLAIMED FRESHWATER

To: Director, California Department of Fish & Wildlife; LA REGIONAL WATER QUALITY CONTROL BOARD; State Water Quality Control Board; USACE; COUNCIL DISTRICT 11-Mike Bonin; LA County Board of Supervisors; California Coastal Commission; US FISH & WILDLIFE SERVICE; California State Lands Commission; ELECTED

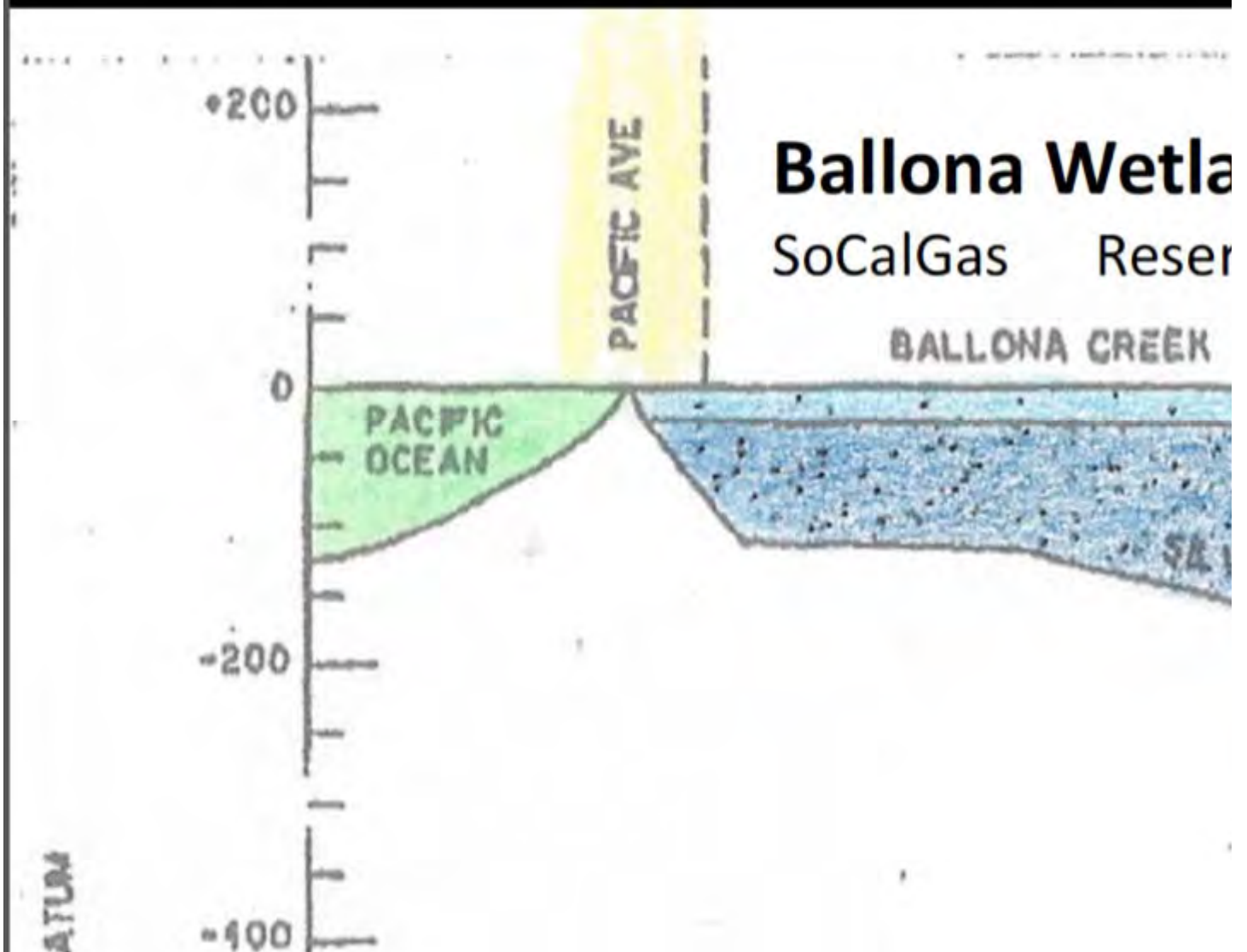
(YOUTUBE Videos discussing freshwater restoration for Ballona Wetlands by Tribal Administrator and Litigator; Tongva Ancestral Territorial

Tribal Nation (TATTN) JohnTommy Rosas.)

<https://www.google.com/search?q=TATTN+BALLONA+FRESHWATER+&ie=utf-8&oe=utf-8&client=firefox-b-1>

<https://www.youtube.com/watch?v=cKoeT7oUMPY>

No Aquitard is known to exist between the Pacific Ocean and the Ballona Wetlands. Hydraulic continuity between the Pacific Ocean and the Ballona Wetlands is known to exist under most of the Plant Site. (*The Silverado Aquifer is the major aquifer in the area.)



The Playa Vista EIR mitigation measures cited in the EIR & Vesting Tract Agreements, commit the development to cleansing groundwaters and runoff water to be reused to recharge the underlying freshwater aquifers.

Currently, this water is, instead, predominantly being pumped, drained and thrown away into the Sanitary Sewer System and/or sent into the CLOSED SYSTEM that is Playa Vista's flood control catch basin aka, Freshwater Marsh System (System) .

The flood control System has liners of both HDPE and Clay Layers that prevent groundwater recharge. Hence, the water is instead part of a closed system that simply sends the water out into the Ballona Channel.

Conversely, and as part of Best Management Practices, EIR adherence, and a host of Groundwater Protection Acts alongside other laws such as Porter-Cologne; it would benefit the predominantly freshwater, seasonal Ballona Wetlands to receive the freshwater that Playa Vista currently throws away and starves Ballona from its migration throughout Ballona.

The following 1990 example of San Jacinto Wildlife Area in Riverside County, is just one example of the California Dept. of Fish & Game working in concert with the Water Municipalities, agencies, the public and developers such as the Playa Vista developers.

The difference at Ballona is that the freshwater is already there, not having to be purchased. It is instead, a matter of stopping the throw-away of the precious groundwater, rainwater and runoff. Stopping the illegal drainage of Ballona via Grassroots Coalition's lawsuit against CDFW and Playa Capital LLC was a start of undoing the throw-away of Ballona's precious resources.

<https://www.wildlife.ca.gov/Lands/Places-to-Visit/San-Jacinto-WA>

San Jacinto Wildlife Area



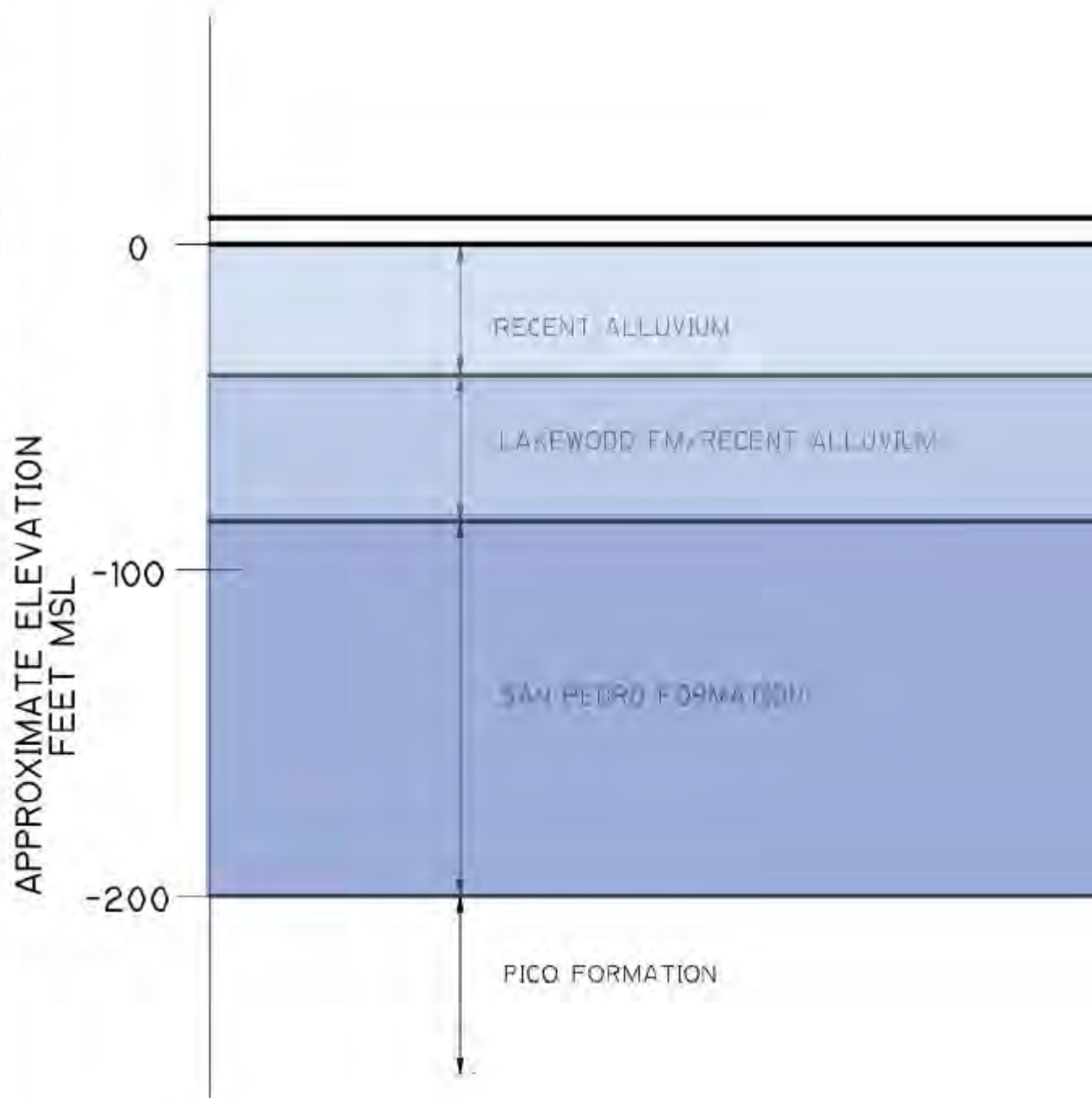
Description

San Jacinto Wildlife Area is approximately 19,000 acres, with 9,000 acres of restored wetlands. It is the first state wildlife area to utilize reclaimed water to enhance its wetlands. Improvements are ongoing. Waterfowl, wading birds, and quail are a few of the many animals found here. Surrounding land users are primarily agricultural, principally dry land wheat farming and dairy operations. The 150-acre Double Bar "S" Horse Ranch represents the only substantial in-holding. Read more about [San Jacinto Wildlife Area Habitats \(PDF\)](#).

The public has paid out over \$140 million for Ballona Wetland's restoration. The Proposition Agreements and bond funds used to both acquire and restore Ballona, cited minimal restoration needs per the costs assigned and included funding for further acquisition of adjacent open land. The acquisition funds could be used to acquire additional corridors of Ballona, including the current Tule Wetland area, purchased by Toyota for approximately \$600,000 in 2008.

Restoration of Ballona must include actual restoration, namely restoration as a predominantly freshwater, seasonal wetland—one of the rarest of California coastal wetlands today. Ballona Wetlands Ecological Reserve was provided the highest, most protective status that exists via the California Department of Fish & Wildlife (Game)—an Ecological Reserve.


[BALLONA WETLANDS ECOLOGICAL RESERVE](#)



It is time for agencies and all stakeholders to partake in remedies that will restore Ballona's freshwater, protect Ballona now and, do no further harm to Ballona.

The attached news stories and CDFG/ Municipal Water District collaboration is an example of protecting and enhancing a wildlife area through reuse of freshwater. At Ballona, the freshwater already exists onsite but is being diverted and otherwise thrown away, diminishing Ballona as habitat. This water is already legally dedicated to Ballona and must be returned and allow for Ballona to restore itself.

Plans of cleansing the waters flowing down Ballona Channel are already in motion. This freshwater can ultimately also be used for Ballona's recharge and replenishment.



LOSS....DOES IT MAT
WHAT CAN BE LOST WITHO

These questions have only been asked by the public
attention paid to the massive elimination of speci
Predetermined Plan of the state is

BALLONA IS HOME TO a myriad of rare and endangered species and plant life. For visuals of Ballona Wetlands, see Jonathan Coffin's Ballona Wetlands photography-

<https://www.flickr.com/photos/stonebird/2389712523>

Thankyou for your support of Ballona's freshwater history and continuance,
Patricia McPherson, Grassroots Coalition



Ballona ponding with the freshwaters of seasonal rains.
Pickleweed and grasses dominate the vegetation.

patricia mc pherson

EMWD Background Information

SAN JACINTO WILDLIFE AREA

Reclaimed Water for
California Department of Fish and Game supplied by
Eastern Municipal Water District

Wildlife and urban development can benefit from each other. As an example, the proximity of an expanding population in western Riverside county enables enough water reclamation from sewage to support a variety of wildlife in upland, grassland, riparian and even wetlands habitats.

More than 200 bird species, about 50 species of mammals, reptiles and amphibians, and 300 plant species could benefit from a dependable, inexpensive, high-quality water supply that meets standards by the California Regional Water Quality Control Board (Santa Ana Region), and the County and State health departments.

The reclaimed water is produced at Eastern Municipal Water District's Hemet/San Jacinto Regional Water Reclamation Facility and is normally used for agriculture and for other purposes except directly into the domestic drinking supply.

Delivery of reclaimed water at the wildlife area in January 1990 culminates three and a half years of cooperation among EMWD, the California Department of Fish and Game and the Wildlife Conservation Board in funding and constructing a 10-mile gravity pipeline from San Jacinto to Lakeview's 4,850-acre wildlife area east of Lake Perris. Project costs topped \$5.3 million, with EMWD paying nearly 80 percent. DF&G has a 25-year contract to annually purchase up to 4,500 acre-feet of reclaimed water,

initially at \$10 an acre-foot. In comparison, EMWD supplies fresh water to its retail customers at more than \$300 an acre-foot. Rights for 6.5 million gallons/day (20 acre-feet/day) in the wildlife area are reserved during the nine months from September 1 through May 31 during the life of the project. If additional water is needed at other times and supplies are available, arrangements are possible.

From EMWD's viewpoint, the seasonal requirements of the wildlife area are ideal because large temporary storage ponds at treatment plants are required when agriculture takes advantage of occasional rainfall or lets land remain fallow for winter seasons. But that is also the time when wildlife--particularly migratory birds--could benefit most from an increased feeding, nesting and roosting habitat in the Pacific Flyway.

A project of this scope and location also helps mitigate for wildlife losses from construction of the State Water Project in Southern California. The terminal reservoir of that project--Lake Perris--is located westerly of the wildlife area.

Reclaimed water can be used beneficially throughout EMWD's 534-square mile service area, including Moreno Valley, Perris, Sun City, Murrieta Hot Springs, Temecula, Winchester, Hemet and San Jacinto. Most common uses are for golf courses, agriculture and large landscaped areas. In addition to supplying about half the fresh water used in an area larger than the city of Los Angeles, EMWD operates five regional water reclamation facilities, with a total capacity of some 27 million gallons a

day. The Hemet/San Jacinto reclamation facility is presently the largest, with 11 million gallons a day capacity.

Other reclaimed water customers of what is known as the Lakeview Effluent Pipeline include dairies, farmers and duck clubs. The route leaves the EMWD facility on Sanderson Avenue in a 42-inch pipeline north of Cottonwood Avenue, west to Warren Road, north to the Ramona Expressway, westerly to Bridge Street, north to near the San Jacinto River crossing, and then west in a 36-inch line to the wildlife area. The first-year quota is 1,500 acre-feet and will increase by 300 acre-feet a year to an annual maximum of 4,500 acre-feet.

Once on site, water will normally fill a storage reservoir near the north end of the wildlife area. From there, about 300 acres above the flood plain, including 100 acres of green feed for geese and other waterfowl can be irrigated. An on-site distribution line can also take water directly from the main EMWD pipeline or the storage reservoir west across Davis Road, where it will irrigate habitat for upland wildlife on about 1,000 acres of floodplain grasslands. About seven miles of pipelines extend water throughout the 4,850 area.

Two sportsmens' organizations have also contributed significantly to this project. In 1987, Ducks Unlimited constructed a mile-long levee at a cost of \$94,000, to impound the 130-acre reclaimed water storage reservoir. In 1988, Ducks Unlimited and Southern California Ducks both donated funds to construct waterfowl nesting islands within the reservoir site,

and three additional levees to divide the reservoir into manageable units.

Until the pipeline was completed, DF&G relied on groundwater for 45 acres of ponds; by June 1990, ponding with reclaimed water will be possible on 225 acres. As the system develops, wetlands may expand to 600 acres or more, distributed throughout about 2,000 acres comprising the relatively flat portions of the wildlife area.

This increase in wetlands is consistent with the state's Fish and Game Commission Wetlands Policy and Senate Concurrent Resolution 28 (January 1, 1983) encouraging 50 percent greater wetlands habitat acreage statewide by the year 2000. Federal policy also encourages the expansion of wetlands.

EMWD continues to investigate other beneficial uses for reclaimed water with the federal Bureau of Reclamation, other government agencies, private individuals, business and industry for the eventual disposition of 200 million gallons a day. Every gallon recycled locally increases self-sufficiency by permitting regional and local water agencies to use more costly fresh water from underground or imported from hundreds of miles away for higher priority domestic uses.

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January 8, 1990

stats.sjw



The Press-Enterprise

Dry ponds now wetlands

By JENNIE CLAYTON
The Press-Enterprise

A month ago four ponds at the San Jacinto Wildlife Area were just dry depressions in the ground. Yesterday morning naturalist Becky Christensen escorted about a dozen people to the area, now a "wetland" home for waterfowl.

No, the area wasn't visited by a monsoon.

It's wet because Eastern Municipal Water District is pumping 5,000 gallons of reclaimed sewage water per minute into the ponds.

"If you live in Hemet or San Jacinto, you may have known this water at one time," Christensen said.

The water is clean enough to irrigate crops for animal feed or to fill duck ponds, but not drinkable.

As an example of how quickly the change to wetlands can happen, Christensen said water was turned on about 3 p.m. Friday through a 24-inch pipeline to one of the ponds. About a third of the pond was flooded for yesterday's walk and dozens of coots, a duck-like bird with a white bill, and other waterfowl were making use of it.

The California Department of Fish and Game, which owns and manages the 4,700-acre wildlife area near Lakeview, recently purchased additional acreage for the storage of reclaimed water. The wildlife area is the first in the state to use reclaimed water to enhance its wetlands.

Walks through the wildlife area will be open to the public at 9 a.m. on the first and third Saturdays of the month through April. Area entrance fee is \$2.25 per person, or an

(See WETLANDS, Page B-2)

Wetlands . . .

(From Page B-1)

annual pass is available for \$11.

In addition to the wetlands walk, the department offers a walk through the rocky hills of Coyote Pass in the Bernasconi Hills.

The water district will initially provide 1,500-acre feet of water per year of reclaimed water to the refuge. That amount will increase by 300-acre feet per year until the maximum of 4,500-acre feet per year is reached, according to Peter Odencrans, water district spokesman.

An acre-foot is 325,851 gallons of water or the amount that can meet the needs of a family of four for a year.

The water district has agreed to provide reclaimed water to the

wildlife area for 25 years so duck pond operations can be expanded.

The cost of developing wetlands was prohibitive without low-cost water. On the other hand, the water district needs a large consumer of reclaimed water for the winter months when agricultural usage is low, Odencrans said.

"We could never do what we're doing with well water," Christensen said.

The San Jacinto Valley was once a blend of wetlands and grasslands, lost when agricultural use and flood control development took place in the 1800s. The replacement of the wetland area will be a partial compensation for that loss, Christensen said.

"The money we collected today (from entrance fees) will help put a wetland back where a wetland was and that makes a lot of sense to me."

Wildlife area plans for more animals, people

By GAIL WESSON
The Press-Enterprise

The state Department of Fish and Game wants to lure more wildlife to the San Jacinto Wildlife Area and at the same time provide recreation opportunities for hunters, fishermen and nature lovers.

Proposals to improve wildlife habitats and expand recreation uses are contained in a five-year management plan that is scheduled for review at a public meeting Wednesday. The meeting is set for 7:30 p.m. at the Moreno Valley Public Library at 25480 Alessandro Boulevard.

Later the plan will be reviewed by the state Fish and Game Commission before a final version would be approved by the department's director.

The 4,669-acre wildlife area is northeast of Lake Perris and north of the Ramona Expressway on both sides of Davis Road. It is

intended to preserve habitats from urban encroachment.

State and local water agencies purchased land to create the wildlife area in 1981, to compensate for the nearly 9,000 acres taken to build the California Aqueduct. Additional public and private money has been used to purchase more land.

The wildlife area is home to 223 plant species, 217 migratory or resident bird species, 24 mammal species and an estimated 38 amphibian and reptile species, according to the management plan. About 1,000 acres of alluvial slope grasslands have been identified as suitable habitat for the endangered Stephens' kangaroo rat, which has been found in the area.

Money from sales of state hunting and fishing licenses and day use fees collected from visitors to other wildlife areas help finance preservation of the area. Collection of day use fees started last year and the money will be used to improve wildlife habitats and provide visitors with educa-

tional programs and hiking trails, the plan states.

Improving habitats and increasing recreation opportunities would rely on completion of a 10-mile pipeline that would deliver treated sewage water from Eastern Municipal Water District's Hemet-San Jacinto treatment plant to fill a series of ponds and shallow wetlands at the wildlife area. Water delivery is expected to start in September.

For part of the year, the wildlife area has 1,800 acres designated for upland game hunting. Game includes mourning doves, quail and rabbits.

The management plan recommends that consideration be given to expanding the hunting area into the Bernasconi Hills; introducing wild-trapped chukars, a game bird, into the Bernasconi Hills; and increasing the population of ring-necked pheasants and establishing a hunting safety program for young people.

Seasonal hunting for waterfowl in the wildlife area is allowed Wednesday and Sunday

mornings by reservation for three groups each day. The plan recommends increasing the number of groups allowed as the waterfowl habitat is increased.

The plan also recommends investigating the possibility of allowing other recreational activities, including sport fishing and frogging.

The wildlife area has five ponds and marsh areas totaling 45 acres. Sport hunting and conservation groups have helped finance and construct levees that will retain water for shallow wetland areas.

The plan proposes a phased expansion of wetland areas and the planting of grassland areas in feed, such as barley, to attract more birds.

Earlier, the U.S. Air Force was concerned that enlarging the wetlands would attract more migrating birds and increase the number of bird strikes by military aircraft. An agreement was reached with the state to phase in the wetlands and monitor any problems.

Press Enterprise
Southwest Edition
2/25/89

From: afa@mcn.org
Sent: Friday, October 19, 2018 1:20 PM
To: Office of the Secretary CNRA; Wildlife DIRECTOR; FGC; Cornman, Ari@FGC

Friday

FYI - See link below, some encouraging news from Arkansas. One wonders how many of these Arkansas turtles end up in California markets, or released into local waters....

x
Eric Mills, coordinator
ACTION FOR ANIMALS

https://na01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.biologicaldiversity.org%2Fnews%2Fpress_releases%2F2018%2Farkansas-turtles-10-18-2018.php&data=02%7C01%7Cfgc%40fgc.ca.gov%7C07003cb60ae3457e0e9308d63600370e%7C4b633c25efbf40069f1507442ba7aa0b%7C0%7C0%7C636755771883244868&sdata=btDzu1wTPeGTeZjRu%2F50mdZHA3zORI%2BVEqBAYD7h%2Fflk%3D&reserved=0

From: afa@mcn.org
Sent: Sunday, October 28, 2018 12:12 PM
To: Office of the Secretary CNRA; Wildlife DIRECTOR; FGC; Cornman, Ari@FGC
Subject: [Fwd: INVASIVES: NEW ZEALAND MUD SNAILS]

Sunday - Today's SAN FRANCISCO CHRONICLE.

As if invasive bullfrogs, turtles and quagga mussels weren't enough...

x
Eric Mills, coordinator
ACTION FOR ANIMALS
Oakland

----- Original Message -----

Subject: INVASIVES: NEW ZEALAND MUD SNAILS
From: afa@mcn.org
Date: Sun, October 28, 2018 12:04 pm
To: afa@mcn.org

<https://na01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.sfchronicle.com%2Fscience%2Farticle%2FDestructive-snails-are-invading-Bay-Area-waters-13340955.php&data=02%7C01%7Cfgc%40fgc.ca.gov%7C9ffde429ee2a441c070108d63d094848%7C4b633c25efbf40069f1507442ba7aa0b%7C0%7C0%7C636763507417786077&data=3z%2FTpcCaRgGFVSGS8EJoRCv9SaHL168IHtnBW7pXac4%3D&reserved=0>

From: afa@mcn.org
Sent: Sunday, November 25, 2018 1:08 PM
To: Office of the Secretary CNRA; Wildlife DIRECTOR; FGC; Cornman, Ari@FGC
Subject: [Fwd: CLIMATE CHANGE - article by Bill McKibbon, 11/26/18 THE NEW YORKER]

Sunday

Here's a sobering article on climate change by Bill McKibbon ("The End of Nature"), in this week's THE NEW YORKER magazine. Gives credence to E.O.

Wilson's claim that we, as a species, are "innately dysfunctional."

Please disperse accordingly.

Season's Greetings,

Eric Mills, coordinator
ACTION FOR ANIMALS

----- Original Message -----

Subject: CLIMATE CHANGE - article by Bill McKibbon, 11/26/18 THE NEW YORKER
From: afa@mcn.org
Date: Sun, November 25, 2018 11:33 am
To: afa@mcn.org

<https://na01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.newyorker.com%2Fmagazine%2F2018%2F11%2F26%2Fhow-extreme-weather-is-shrinking-the-planet&data=02%7C01%7Cfgc%40fgc.ca.gov%7Cd0085d655caa481d518908d6531a0b4d%7C4b633c25efbf40069f1507442ba7aa0b%7C0%7C0%7C636787768668869547&sdata=D711yzwukFNtAWHGxcsT9KgsCyd%2FPzITy0Mv07cfz6o%3D&reserved=0>

RECEIVED
CALIFORNIA
2018 JUL 30 PM 1:30

Memorandum

Date: July 25, 2018

To: Valerie Termini
Executive Director
Fish and Wildlife Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for the August 22-23, 2018 Fish and Game Commission Meeting
Re: Sections 107, 174 and 176, Title 14, California Code of Regulations,
Broadbill Swordfish; Permit to Use Gill Nets or Trammel Nets for Commercial
Purposes; and, Trawl Fishing Activity Records**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publication of notice of its intent to consider amending existing regulations for federally managed fisheries with state logbook requirements (Sections 107, 174 and 176, Title 14, CCR).

An Initial Statement of Reasons is attached, which proposes regulatory changes to repeal logbook requirements for federally managed groundfish trawl and highly migratory species harpoon and drift gill net fisheries. This will allow for adoption at the December 2018 Commission meeting. The Department's opinion is that the rulemaking is not a project subject to CEQA.

If you have any questions regarding this item, please contact Dr. Craig Shuman, Marine Regional Manager, Marine Region, at (916) 445-6459. The public notice for this rulemaking should identify Senior Environmental Specialist, Traci Larinto as the Department's point of contact. Ms. Larinto can be reached at (562) 355-7061 or Traci.Larinto@Wildlife.ca.gov.

Attachment

ec: Stafford Lehr, Deputy Director
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Stafford.Lehr@wildlife.ca.gov

Craig Shuman, D. Env., Regional Manager
Marine Region (Region 7)
Craig.Shuman@wildlife.ca.gov

Valerie Termini, Executive Director
Fish and Game Commission
July 25, 2018
Page 2

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STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 107; Section 174; and Section 176
Title 14, California Code of Regulations
Re: Commercial Logbooks
Broadbill Swordfish Harpoon; Gill and Trammel Net Fisheries; and
Trawl Fisheries

I. Date of Initial Statement of Reasons: June 28, 2018

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: August 22, 2018
 Location: Fortuna, CA

(b) Adoption Hearing: Date: December 12, 2018
 Location: Oceanside, CA

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

It is necessary to amend sections 107, 174 and 176, Title 14, California Code of Regulations (CCR) in order to eliminate the use of California forms by the affected fisheries in favor of Federal forms. The National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries) either has or is in process of developing federal logs that will more accurately reflect the catch and discard in federally managed fisheries for highly migratory species (HMS, as described in Section 1.49); and groundfish (as described in Section 1.91).

Currently, the state's Swordfish Harpoon Log (DFG 107), used by HMS fishermen targeting swordfish, does not provide additional detail that is not already collected on state landing receipts, and is not used for state or federal management. Additionally, the state's General Gill/Trammel Net Fishing Log (DFG 174) does not record discard information needed for managing bycatch in the federal HMS large mesh drift gill net fishery. The state's Trawl Trip Log (DFG 176) does not record needed discard information of federal groundfish species necessary for catch accounting under the federal Trawl Individual Quota (TIQ) program.

Background

The Pacific Fishery Management Council (Council) coordinates west coast management of recreational and commercial HMS and groundfish fisheries in the federal fishery management zone (3 to 200 miles offshore) off Washington, Oregon and California. At present, the HMS harpoon and drift gill net and groundfish TIQ fisheries use state logs to record fishing activity. However, changing fishery management needs require that additional information be collected and that logs be submitted in a more timely manner than

current regulations require. The state's harpoon log is not used in federal fisheries management.

NOAA Fisheries develops regulations to manage federal fisheries based on management measures adopted by the Council. Currently, NOAA Fisheries is in the process of developing new federal logbook requirements for both the federal HMS harpoon and drift gillnet fisheries and the federal groundfish TIQ fishery. One requirement may include use of a federally established electronic logbook, or at minimum, new federal requirements on what information must be required in a logbook, and when and how that information shall be recorded. These logs would include information on discarded fish and bycatch needed for management that are not required by regulations governing the state logs. Additionally, for the TIQ fishery there is an interest in making a logbook for these permittees to use regardless of what gear they are actually fishing (e.g., a single TIQ log that can be used for both trawl and fixed gear, because gear switching is allowed under TIQ).

The Council is adopting the use of electronic monitoring (EM) to replace 100 percent observer coverage in the TIQ fishery, and is considering EM for the HMS drift gill net fishery, as a way to reduce costs to observer coverage and address unobservable vessels. In general, EM replaces observers with onboard cameras to record all fishing activity, including species discarded at sea. In some cases, EM is (or may be in the future) used when vessels are prosecuting fishing activities under a federal Exempted Fishing Permit (EFP). Vessel captains operating under federal EFPs for groundfish are required to fill out the state log for kept fish and an additional federal log to record fish discarded at sea and to submit copies these logs within 24 hours of landing to NOAA Fisheries. The EM recordings are reviewed and both kept and discarded species are identified and enumerated to verify the information on both the logs.

Currently, the state logs are required to be submitted monthly. For the TIQ fishery, however, it is necessary to submit log data more frequently to ensure individual limits are not exceeded. Additionally, both the General Gill/Trammel Net Fishing Log and the Trawl Trip Log lack the necessary discard information for managing the HMS drift gill net and the TIQ fisheries, respectively. Thus, the Council is considering the need to develop electronic logs for both fisheries so that log effort data, including discards, can be transmitted at the end of a fishing trip under EM.

AMEND SECTION 107

Subsection 107(c) would be deleted eliminating the need for state logs recording swordfishing activities, and subsections (d)-(h) would be renumbered and other minor editorial changes made.

Under current regulations, subsection 107(c), all state swordfish harpoon permittees are required to complete a State Swordfish Harpoon Log (DFG 107). The information required on this log is specifically related to fish behavior and catch success and does not include bycatch information. The log does not provide location information beyond fishing block that is included on landing receipts. Current federal regulation (CFR 660.708) requires completion of either a state or federal log for all federal HMS fishing activity, including harpoon.

APPENDIX A:

The form Swordfish Harpoon Log, DFG 107 (10/90) is deleted from Appendix A, Title 14, CCR.

AMEND SECTION 174

Subsection 174(f) would be amended to exempt fishermen from the state log requirement: (1) targeting highly migratory species, and (2) using large mesh (greater than 14 inch) drift gill nets.

Under current regulations, subsection 174(f), all state general gill/trammel net permittees are required to complete a state Gill and Trammel Net Fishing Log (DFG 174). This includes state drift gill net permittees who are also required to have a general gill/trammel net permit. Active drift gill net permittees target federally-managed HMS swordfish and sharks using large mesh (greater than 14 inches) as defined in Fish and Game Code Section 8573. Current federal regulation (CFR 660.708) requires completion of either a state or federal log for all federal highly migratory species fishing activity, including drift gill net.

Currently, state drift gill net permittees targeting HMS species under federal permit are required to carry an observer upon request. Fisheries observers are deployed under the authority of the Marine Mammal Protection Act, the Endangered Species Act (ESA), and the Magnuson-Stevens Fishery and Conservation Management Act. This accurately documents the incidental take of sea turtles, marine mammals, and seabirds. Either a new federal log or EM will be developed to ensure that adequate information on bycatch, including ESA and strategic stocks species, and discard data are submitted to fishery managers to track bycatch.

AMEND SECTION 176

Section 176 requires all trawl fishermen to fill out a Trawl Trip Log (DFG 176), but does not specify which fisheries, thus some fishermen targeting invertebrates fill out the Trawl Trip Log (DFG 176) while other fill out the Shrimp/Prawn Trawl Log (DFG 120). To clarify the logbook requirement for each state managed fishery and to eliminate any potential redundancy between state and federal regulations for the groundfish trawl fishery, Section 176, Title 14, CCR, would be amended with the following additions:

- The first paragraph of Section 176 is deleted and rewritten as Subsection 176(a) and would require completion of the Trawl Trip Log (DFG 176) by these fisheries:
 - subsection (a)(1) all California halibut bottom trawl permittees.
 - subsection (a)(2) any finfish trawl fisheries without a specific permit to complete the Trawl Trip Log (DFG 176).
- Subsection (b) exempts federal TIQ permittees targeting federal groundfish from the state trawl log requirement.
- Subsection 176(c) would require completion of the Shrimp/Prawn Trawl Log (DFG 120) by these fisheries:

- subsection (c)(1) all golden/ridgeback prawn trawl, northern pink shrimp trawl, subsection (c)(2) all sea cucumber and southern pink shrimp permittees.
- trawl permittees.
- subsection (c)(3) any invertebrate trawl fishery without a specific permit.

Current regulations, Section 176, require that all trawl vessel operators fill out a state Trawl Trip Log (DFG 176). Additionally, current federal regulation (CFR 660.13) requires that federal groundfish TIQ permittees complete a state trawl log.

The federal groundfish TIQ program was implemented in 2011, changing from fishery-wide quotas for each species or species complex to individual quotas for each permitted vessel. In order to account for all catch (kept and discarded) TIQ vessels have been required to carry an onboard observer at all times to collect discard information (species and weights) and shoreside catch monitors are required for first receivers to collect kept fish information (species and weights) during the offload process. Information collected by observers and catch monitors is used to debit the vessel quota accounts of TIQ vessels, usually within 48 hours, so that vessel operators know how many quota pounds they have available to catch.

The Council is adopting EM for the groundfish TIQ fishery. NOAA Fisheries is developing regulations that would require vessel captains to fill out a state or federal trawl log that identifies and quantifies both the species kept and released. However, the state's Trawl Trip Log (DFG 176) does not include discard information. The EM recordings would then be used to verify the logbook information.

Additionally, there is a need for real time data collection of catch as well as discards so that TIQ quota accounts can be updated within 48 hours. Waiting for a paper log to be submitted and entered into a database could result in TIQ vessels exceeding their individual quotas, given that the timing of logbook submission varies by state (California requires that they be submitted monthly). As a condition of their federal EFP, vessels using EM photograph their completed state paper log and supplemental federal discard log at the end of each fishing trip and submit it electronically within 48 hours of offload so the data can be entered and bycatch debited from their TIQ account. As a long-term solution, a federal electronic logbook for TIQ permittees is being considered by the Council. The added benefit to this federal electronic log would be the ability to capture TIQ vessel effort when switching to fixed gear (trap/pots or longline), which is currently allowed. However, neither California nor Washington have a fixed gear log requirement (Oregon does). Once this federal electronic log is implemented there will no longer be a need for TIQ fishermen to fill out a state Trawl Trip Log.

(b) Goals and Benefits of the Regulation:

The regulation would eliminate an unnecessary burden on fishery participants to provide information that is unnecessary for State management. It would reduce printing, mailing, and data analysis costs to the Department.

(c) Authority and Reference Sections from Fish and Game Code for Regulation:

Section 107

Authority cited: Sections 1050, 7857, 7892, 8026 and 8394, Fish and Game Code.

Reference: Sections: 1050, 7857, 7892, 8026, 8394, 8394.5, and 8577, Fish and Game Code.

Section 174

Authority cited: Sections 1050, 8026, 8681 and 8682, Fish and Game Code. Reference: Sections 1050, 1700, 7852.2, 8026, 8568, 8573, 8680, 8681, 8682 and 8683, Fish and Game Code.

Section 176

Authority cited: Section Sections 1050, 8026, and 8841, Fish and Game Code. Reference: Section Sections 1050, 8026, and 8841, Fish and Game Code.

- (d) Specific Technology or Equipment Required by Regulatory Change: None.
- (e) Identification of Reports or Documents Supporting Regulation Change: None.
- (f) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are being held prior to the notice publication.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

- (b) No Change Alternative:

Section 107

If the regulations are not changed, harpoon permittees will continue to submit the State Swordfish Harpoon Log (DFG 107). This will continue to require printing, mailing, data processing, and data analysis costs by the state and no management information will be obtained that is not already available on landing receipts, and potentially duplicate a federal log requirement when implemented.

Section 174

If the regulations are not changed large mesh drift gill net permittees will continue to fill out the state Gill and Trammel Net Fishing Log (DFG 174) and there will be insufficient data to track fishing effort and the bycatch of ESA-listed, MMPA-protected, and other species. This will require continued printing and mailing costs by the state and potentially duplicate a federal log requirement when implemented.

Section 176

If the regulations are not changed, federal TIQ fishermen will continue to fill out the state Trawl Trip Log. This will require continued mailing costs by the state and potentially duplicate a federal log requirement when implemented. These logs are required to be

submitted monthly, creating a significant time lag between when fishing occurs and the activity showing up in the state and federal data systems, which could result in federal permittees exceeding their individual quota allotments. Additionally, the Trawl Trip Log does not collect the needed discard information for EM. Amending this log to include the discard information required for EM is not sufficient due to the time lag.

Finally, if the regulations are not changed, there will continue to be confusion regarding which log to fill out for California halibut trawl, sea cucumber trawl activity, and other trawl activity that does not require a specific permit. Since the Trawl Trip Log (DFG 176) and the Shrimp/Prawn Trawl Log (DFG 120) do not capture the same information, having fishermen use both logs results in incomplete data for fisheries management and makes it difficult to track compliance.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no impact on the environment.

VI. Impact of Regulatory Action:

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 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 will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This rulemaking proposes to increase clarity and efficiency by removing the state logbook requirement for various state and federal fisheries.

(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 Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed regulatory action would remove the requirement to submit state logbooks for certain fisheries under federal management. This should reduce

fishery participant confusion about which logs to submit and eliminate duplicative effort increasing efficiency for fishermen.

The Commission does not anticipate any benefits to the health and welfare of California residents, worker safety, or the environment.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

The Department would realize a savings of about \$30,000 annually in printing and mailing costs as well as time-savings for existing personnel.

(e) 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, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment:

The proposed regulatory action would remove the requirement to submit state logbooks for certain fisheries under federal management. This should reduce fishery participant confusion about which logs to submit and eliminate duplicative effort increasing efficiency for fishermen. The Department expects to also save personnel time responding to data requests, and on mailing, and printing costs.

Table 1. CDFW Annual Costs Savings.

Fiscal Year	2018/19	2019/20	2020/21
Time-Savings	\$24,278	\$24,715	\$25,061
Mailing	\$3,132	\$3,188	\$3,233
Printing	\$2,100	\$2,138	\$2,168
Total Cost-Savings	\$29,510	\$30,041	\$30,461

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The proposed action will not have an effect on the creation or elimination of jobs because this rulemaking proposes to increase clarity and efficiency by removing the state logbook requirement for various state and federal fisheries.

- (b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The proposed action will not have an effect on the creation or elimination of existing businesses within the state because this rulemaking proposes to increase clarity and efficiency by removing the state logbook requirement for various state and federal fisheries.

- (c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The proposed action will not have an effect on the expansion of businesses currently doing business within the state because this rulemaking proposes to increase clarity and efficiency by removing the state logbook requirement for various state and federal fisheries.

- (d) Benefits of the Regulation to the Health and Welfare of California Residents:

The proposed regulatory action is not anticipated to benefit the health and welfare of California residents.

- (e) Benefits of the Regulation to Worker Safety:

The proposed regulatory action is not anticipated to benefit worker safety.

- (f) Benefits of the Regulation to the State's Environment:

The proposed regulatory action is not anticipated to benefit the state's environment.

- (g) Other Benefits of the Regulation:

The regulation would eliminate an unnecessary burden on fishery participants to provide information that is unnecessary for State management. It would reduce printing, mailing, and data analysis costs to the Department.

Informative Digest/Policy Statement Overview

It is necessary to amend sections 107, 174 and 176, Title 14, California Code of Regulations (CCR) in order to eliminate the use of California forms by the affected fisheries in favor of federal forms. The National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries) either has or is in process of developing federal logs that will more accurately reflect the catch and discard in federally managed fisheries for highly migratory species (HMS) and groundfish under the federal Trawl Individual Quota (TIQ) program.

Under current regulations (subsection 107(c), Title 14, CCR) all State swordfish harpoon permittees are required to complete a State Swordfish Harpoon Log (DFG 107). The information required on this log is specifically related to fish behavior and catch success and does not include bycatch information. The log does not provide location information beyond fishing block that is included on landing receipts. Current federal regulation (CFR 660.708) requires completion of either a state or federal log for all federal HMS fishing activity.

Additionally, under current regulations (subsection 174(f), Title 14, CCR) all state general gill/trammel net permittees are required to complete a State Gill and Trammel Net Fishing Log (DFG 174). This includes State large mesh drift gill net permittees, as described in Fish and Game Code Section 8573, who are also required to have a general gill/trammel net permit. Current federal regulation (CFR 660.708) requires completion of either a state or federal log for all federal highly migratory species (HMS) fishing activity, including drift gill net. These permittees are required to carry a federal observer upon request to accurately document the incidental take of sea turtles, marine mammals, and seabirds. The State's General Gill/Trammel Net Fishing Log (DFG 174) does not record discard information for federal Endangered Species Act (ESA)-listed species needed for managing the federal HMS large mesh drift gill net fishery.

Current regulations (Section 176, Title 14, CCR) require that all trawl vessel operators fill out a State Trawl Trip Log (DFG 176). Additionally, current federal regulation (CFR 660.13) requires that federal groundfish TIQ permittees complete a state trawl log. The Pacific Fishery Management Council is adopting electronic monitoring for the groundfish TIQ fishery. Additionally, there is a need for real time data collection of catch as well as discards so that TIQ quota accounts can be updated within 48 hours. Waiting for a paper log to be submitted and entered into a database could result in TIQ vessels exceeding their individual quotas, given that the timing of logbook submission varies by state (California requires that they be submitted monthly). The State's Trawl Trip Log (DFG 176) does not record needed discard information of federal groundfish species necessary for catch accounting under the federal Trawl Individual Quota (TIQ) program.

AMEND SECTION 107

Subsection 107(c) would be deleted eliminating the need for State logs recording swordfishing activities, and subsections (d)-(h) would be renumbered and Form Swordfish Harpoon Log, DFG 107 (10/90) is deleted from Appendix A.

AMEND SECTION 174

Subsection 174(f) would be amended to exempt fishermen from the State log requirement: (1) targeting highly migratory species, and (2) using large mesh (greater than 14 inch) drift gill nets.

AMEND SECTION 176

Section 176, Title 14, CCR, requires all trawl fishermen to fill out a Trawl Trip Log (DFG 176), but does not specify which fisheries, thus some fishermen targeting invertebrates fill out the Trawl Trip Log (DFG 176) while other fill out the Shrimp/Prawn Trawl Log (DFG 120). To clarify the logbook requirement for each State managed fishery and to eliminate any potential redundancy between State and federal regulations for the groundfish trawl fishery, Section 176, Title 14, CCR, would be amended as follows:

- The first paragraph of Section 176 is deleted and rewritten as Subsection 176(a) and would require completion of the Trawl Trip Log (DFG 176) by these fisheries:
 - subsection (a)(1) all California halibut bottom trawl permittees.
 - subsection (a)(2) any finfish trawl fisheries without a specific permit to complete the Trawl Trip Log (DFG 176).
- Subsection (b) exempts federal TIQ permittees targeting federal groundfish from the state trawl log requirement.
- Subsection 176(c) would require completion of the Shrimp/Prawn Trawl Log (DFG 120) by these fisheries:
 - subsection (c)(1) all golden/ridgeback prawn trawl, northern pink shrimp trawl, and southern pink shrimp permittees.
 - subsection (c)(2) all sea cucumber trawl permittees.
 - subsection (c)(3) any invertebrate trawl fishery without a specific permit.

Benefit of the Regulations

Currently, the permittees in these fisheries complete multiple forms for both the State and federal governments. The State forms do not provide additional information that is necessary for managing the fisheries and, in some cases, will be replaced by more comprehensive electronic monitoring and logbooks. By eliminating the need for State forms and relying on the improved reporting on federal forms, and potentially the electronic forms, the fishery benefits from less paperwork and the State benefits from a better and more useful format for information gathering. The State also benefits from a reduction in staff time and expenses surrounding printing, processing, and maintaining these unnecessary forms.

Consistency with State Regulations

Department staff has conducted a review of the California Code of Regulations and determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has the statutory authority to amend regulations pertaining to the logbooks used by these fisheries.

REGULATORY TEXT

Section 107, Title 14, CCR, is amended as follows:

§ 107. Broadbill Swordfish.

. . . [No changes to subsections (a) through (b)]

~~(c) Records. Pursuant to Section 190 of these regulations, each permittee shall complete and submit an accurate record of all swordfishing activities on a form (Swordfish Harpoon Log, DFG 107 (10/89) see Appendix A) provided by the department.~~

~~(d)~~ (c) Conditions of Permit. Provisions of the Fish and Game Code relating to commercial fish except as modified by the provisions of these regulations, shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction or control.

~~(e)~~ (d) Cost of Permit. See ~~section~~ Section 8394.5 of the Fish and Game Code.

~~(f)~~ (e) Methods of Take.

(1) Swordfish may be taken only with hand-held hook and line or handthrust harpoon.

(2) Aircraft may be used to directly assist a permittee or any person in the taking of any species of fish while operating under a swordfish permit.

Only aircraft with current FAA registration which are registered with the department pursuant to Section 7892, Fish and Game Code, and aircraft pilots licensed pursuant to Section 7850, Fish and Game Code, may conduct flights for permittees. Such aircraft shall display the letters "SW" on the underside of each wing in block Roman alphabet at least 24 inches high x 3 inches wide, black in color and on a white background.

~~(g)~~ (f) Notification Procedure. The department shall notify permittees if the director, pursuant to ~~section~~ Section 8577 of the Fish and Game Code, closes the swordfish harpoon fishery or any area where the fishery is conducted. The department shall notify permittees by mail and by public announcement on VHF/Channel 16 between 0800 hours and 1000 hours during normal business days. Radio transmissions shall commence 48 hours prior to the effective date of a closure and shall continue for 24 hours after the effective date of such action. It shall be the responsibility of the permittee to daily monitor the named radio channel during the specified hours.

~~(h)~~ (g) Revocation of Permits. Any permit may be revoked and canceled by the commission upon breach or violation of any fish and game law or regulation or violation of the terms or conditions of the permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

Note: Authority cited: Sections 1050, 7857, 7892, 8026 and 8394, Fish and Game Code. Reference: Sections: 1050, 7857, 7892, 8026, 8394, 8394.5, and 8577, Fish and Game Code.

REGULATORY TEXT

Section 174, Title 14, CCR, is amended to read:

§ 174. Permit to Use Gill Nets or Trammel Nets for Commercial Purposes.

. . . *[No changes to subsections (a) through (e)]*

(f) Records. Pursuant to ~~section~~ Section 190 each permittee shall complete and submit ~~an accurate a~~ fishing activity record of all gill net and trammel net fishing activities on a ~~form-logbook~~ (Gill and Trammel Net Log, (DFG 174 (10/89), see Appendix A) provided by the department.

(1) Any permittee targeting highly migratory species, as described in Section 1.49, and using drift gill net gear with a minimum 14-inch or greater mesh size, as described in Fish and Game Code Section 8573, is exempt from the logbook requirement.

. . . *[No changes to subsections (g) through (i)]*

Note: Authority cited: Sections 1050, 8026, 8681 and 8682, Fish and Game Code. Reference: Sections 1050, 1700, 7852.2, 8026, 8568, 8573, 8680, 8681, 8682 and 8683, Fish and Game Code.

REGULATORY TEXT

Section 176, Title 14, CCR, is amended to read:

§ 176. Trawl Fishing Activity Records.

~~Pursuant to Section 190 of these regulations, the master or his designee of any vessel operating any trawl net in the public waters under the jurisdiction of the state, or taking fish by such net without the state and bringing them into the state, shall complete and submit an accurate record of fishing activities on a form (Trawl Trip Log, DFG 176 (10/89), see Appendix A) provided by the department.~~

(a) Pursuant to Section 190, the owner and operator of a commercial fishing vessel or the holder of a commercial fishing license or permit participating in the following fisheries, shall keep and submit a complete and accurate record of fishing activities on the form Trawl Trip Log, DFG 176 (10/89), see Appendix A) provided by the department:

(1) California halibut bottom trawl permittees;

(2) Any trawl activity targeting finfish not described above; and,

(b) Federal groundfish trawl limited entry permittees are exempt from the log requirement in (a) when operating under a federal groundfish trawl permit and targeting federal groundfish as described in Section 1.91.

(c) Pursuant to Section 190, the owner and operator of a commercial fishing vessel or the holder of a commercial fishing license or permit participating in the following fisheries, shall keep and submit a complete and accurate record of fishing activities on the form Shrimp/Prawn Trawl Log (DFG 120 (10/89), see Appendix A) provided by the department:

(1) Pursuant to Section 120, golden and ridgeback prawn trawl permittees and northern or southern pink shrimp trawl permittees;

(2) Sea cucumber trawl permittees; and

(3) Any trawl activity targeting invertebrates not described above.

Note: Authority cited: ~~Section~~ Sections 1050, 8026, and 8841, Fish and Game Code. Reference: ~~Section~~ Sections 1050, 8026, and 8841, Fish and Game Code.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

Instructions and Code Citations:

SAM Section 6601-6616**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON Margaret Duncan margaret.duncan	EMAIL ADDRESS @wildlife.ca.gov	TELEPHONE NUMBER 916-653-4676
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend §107, §174, and §176, Title 14, CCR, Re: Commercial Logbooks			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

Fishermen will no longer be required to complete state logbooks.*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total
businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide
☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with
other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____
- a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- d. Describe other economic costs that may occur: _____
2. If multiple industries are impacted, enter the share of total costs for each industry: _____
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ _____
4. Will this regulation directly impact housing costs? ☐ YES ☐ NO
- If YES, enter the annual dollar cost per housing unit: \$ _____
- Number of units: _____
5. Are there comparable Federal regulations? ☐ YES ☐ NO
- Explain the need for State regulation given the existence or absence of Federal regulations: _____
- Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____
2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?
- Explain: _____
3. What are the total statewide benefits from this regulation over its lifetime? \$ _____
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____
- _____
- _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NO

Explain: _____

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.**California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.*1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ YES ☒ NO*If YES, complete E2. and E3**If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☒ NO*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____
Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____
Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

Instructions and Code Citations:

SAM Section 6601-6616**FISCAL IMPACT STATEMENT (CONTINUED)****B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☒ 2. Savings in the current State Fiscal Year. (Approximate)\$ 30,000☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☒ 4. Other. Explain CDFW anticipates ongoing time-savings, mailing, and printing costs savings.**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE



DATE

7/9/18*The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

AGENCY SECRETARY



DATE

9/6/18*Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.*

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

STD399 CALCULATIONS WORKSHEET

Amend Subsections (c) through (h) of Section 107;
Subsection (f) of Section 174; and
Section 176, Title 14, California Code of Regulations

Re: Broadbill Swordfish; Permit to Use Gill Nets or
Trammel Nets for Commercial Purposes; and,
Trawl Fishing Activity Records

Fiscal Impact Statement

Section B. Fiscal Effect on State Government

Question 2. Savings in the current State Fiscal Year.

(FY 2018/19) Approximately \$30,000 with the reduction in personnel time (that is re-assigned to other core duties), mailing, and printing costs.

Question 4. Other. Explain

The proposed regulatory action would remove the requirement to submit state logbooks for certain fisheries under federal management. The Department expects to save personnel time responding to data requests, and on mailing, and printing costs. The total cost-savings are estimated to be \$29,510 in the first fiscal year and the price-adjusted savings estimates are \$30,041 and \$30,461 in the following two fiscal years, as shown below in Table 1.

Table 1. CDFW Annual Costs Savings.

Fiscal Year	2018/19	2019/20	2020/21
Time-Savings	\$24,278	\$24,715	\$25,061
Mailing	\$3,132	\$3,188	\$3,233
Printing	\$2,100	\$2,138	\$2,168
Total Cost-Savings	\$29,510	\$30,041	\$30,461

California Fish and Game Commission

Staff Report on Staff Time Allocation and Activities

December 3, 2018

Commission staff time is a tangible and invaluable asset. Especially since the Commission's staff is so small, where and how staff members spend their time is important. This report identifies where Commission staff allocated time to general activity categories (see table; sample tasks for each general category begin on page 2) and specific activities during Oct and Nov 2018.

The general allocation table summarizes time across all staff classifications, though some classifications require a greater emphasis on certain task categories than others. For example, advisors can spend 30% or more of their time on special projects due to committee project assignments, while regulatory analysts spend up to 70% of their time on regulatory program tasks.

General Allocation

Task Category	October Staff Time	November Staff Time
Regulatory Program	13%	12%
Non-Regulatory Program	2%	3%
Commission/Committee Meetings	29%	23%
Legal Matters	5%	4%
External Affairs	6%	5%
Special Projects	8%	7%
Administration	22%	23%
Leave Time	15%	19%
Unfilled Positions	8%	11%
Total Staff Time ¹	108%	107%

¹ Total staff time is greater than 100% due to overtime

Activities for October 2018

- Finished preparations for and conducted three publicly-noticed meetings (October 16 Tribal Committee, October 17 Fish and Game Commission and October 25 Shellfish Aquaculture Best Management Practices)
- Began preparations for November Marine Resources Committee meeting
- Participated in MPA Statewide Leadership Team meeting
- Participated in interagency coordination meeting on aquaculture in Tomales Bay

- Participated in Sea Grant State Fellows host placement workshops and selection activities
- Participated in MPA Statewide Leadership Team work plan development meetings
- Participated in DFW leadership team and Operations Committee meetings
- Participated in specialized fiscal and budget training
- Participated in interagency working group to address chronic wasting disease

Activities for November 2018

- Conducted one publicly-noticed meeting (November 14 Marine Resources Committee)
- Began preparations for December Fish and Game Commission meeting and January Wildlife Committee Meeting
- Continued participation in Sea Grant State Fellows host placement workshops and selection
- Participated in aquaculture coordination and development meeting with staff from DFW and Governor's Office of Business and Economic Development
- Participated in DFW leadership team and Operations Committee meetings
- Participated in joint regulatory quarterly coordination meeting with DFW Regulations Unit
- Participated in interagency working group to address chronic wasting disease
- Participated in fishing communities' coordination meetings with DFW and California Ocean Science Trust
- Coordinated with DFW staff on experimental box crab permit process
- Received training on new website template with specialized software

General Allocation Categories with Sample Tasks

Regulatory Program

- | | |
|---|--|
| <ul style="list-style-type: none"> • Coordination meetings with DFW to develop timetables and notices • Prepare and file notices, re-notices, and initial and final statements of reasons • Prepare administrative records | <ul style="list-style-type: none"> • Track and respond to public comments • Consult, research and respond to inquiries from the Office of Administrative Law |
|---|--|

Non-Regulatory Program

- | | |
|--|---|
| <ul style="list-style-type: none"> • Process and analyze non-regulatory requests • Develop, review and amend Commission policies | <ul style="list-style-type: none"> • Research and review adaptive management practices • Review and process California Endangered Species Act petitions |
|--|---|

Commission/Committee Meetings and Support

- | | |
|---|---|
| <ul style="list-style-type: none"> • Research and compile subject-specific information | <ul style="list-style-type: none"> • Review and develop policies |
|---|---|

- Develop and distribute meeting agendas and materials
- Agenda and debrief meetings
- Prepare meeting summaries, audio files and voting records
- Research and secure meeting venues
- Develop and distribute after-meeting memos/letters

Legal Matters

- Respond to Public Records Act requests
- Process appeals and accusations
- Process requests for permit transfers

External Affairs

- Engage and educate legislators, monitor legislation
- Maintain state, federal and tribal government relations
- Correspondence: Respond to public inquiries

Special Projects

- Predator Policy Workgroup
- Fishing from piers and jetties
- Coastal fishing communities
- Fisheries Bycatch Workgroup
- Streamline routine regulatory actions

Administration

- Staff training and professional development
- Correspondence
- Purchases and payments
- Contract management

Leave Time

- Holidays
- Sick leave
- Vacation or annual leave

Unfilled

- Seasonal Clerk

- Make travel arrangements for staff and commissioners
- Conduct onsite meeting management
- Process submitted meeting materials
- Provide commissioner support (expense claims, office hours, etc.)
- Process and analyze regulatory petitions

- Process kelp and state water bottom leases
- Litigation
- Prepare administrative records

- DFW partnership, including joint development of management plans and concepts
- Website maintenance

- Strategic planning
- Aquaculture Best Management Practices

- Personnel management
- Budget development and tracking
- Health and safety oversight
- Internal processes and procedures
- Document archival

- Jury duty
- Bereavement
- Professional development

- Legal/Regulatory Clerk

Organizational Enhancement

Awarded to employees who have successfully improved an existing process, or who initiate and/or lead efforts for organizational improvements or collaborative relationships that enhance CDFW's efficiency, effectiveness, or quality.

Team Award Recipient: Fish and Game Commission Staff

Contribution: The Fish and Game Commission has jurisdiction over nearly every living thing in California other than people, agriculture, and domestic animals. The Commission promulgates more regulations than most other state agencies and does so with just a small number of staff. Specifically, the Commission is formally vested with authority to regulate the take, possession, and conservation of birds, mammals, fish, amphibians, and reptiles from the Oregon border to the Mexican border, and from the Nevada border to three miles into the Pacific Ocean. Additionally, the Commission holds the mantle of being the oldest wildlife organization in the entire United States. Commission staff work with the public, CDFW staff, Commissioners, elected officials, other state and federal agencies, native American tribes, and countless others who call, petition, or visit looking for information.

Several Commission staff have been with the Commission for over 10 years - some even 20 or more - and their dedication to the mission and purpose of both the Commission and CDFW is clear and inspiring. Staff routinely look for ways to improve the regulations process to make it more effective, and they maintain collaborative relationships with stakeholders which enhance both FGC's and CDFW's efficiency, effectiveness, and quality of work. At the end of the day, their hard work improves our relationships with the public. In fact, during a recent Commissioner's Senate confirmation hearing, groups that often oppose one another on issues in front of the Commission all joined together in saying how this Commission is the most well-run and efficient Commission they have ever worked with.

CALIFORNIA LEGISLATURE
2017–18 REGULAR SESSION

SENATE JOURNAL

IN RECESS

Senate Chamber, Sacramento
Monday, October 1, 2018



COMMUNICATIONS AND PETITIONS

The following letters were ordered printed in the Journal:

August 28, 2018

Mr. Daniel Alvarez
Secretary of the Senate

Dear Mr. Alvarez: The Legislative Analyst's Office has posted on our website our office's fiscal analysis of the proposed memorandum of understanding between the Governor and Bargaining Unit 9. This analysis was only released in an online version (<https://lao.ca.gov/Publications/Report/3880>). This analysis is required to be submitted to the Legislature pursuant to Section 19829.5 of the Government Code. On August 22, 2018, the Department of Human Resources transmitted to the Legislature the agreement and the administration's estimate of the agreement's fiscal effects.

Sincerely,
MAC TAYLOR
Legislative Analyst

August 28, 2018

Mr. Daniel Alvarez
Secretary of the Senate

Dear Mr. Alvarez: The Legislative Analyst's Office has posted on our website our office's fiscal analysis of the proposed memorandum of understanding between the Governor and Bargaining Unit 10. This analysis was only released in an online version (<https://lao.ca.gov/Publications/Report/3881>). This analysis is required to be submitted to the Legislature pursuant to Section 19829.5 of the Government Code. On August 24, 2018, the Department of Human Resources transmitted to the Legislature the agreement and the administration's estimate of the agreement's fiscal effects.

Sincerely,
MAC TAYLOR
Legislative Analyst



REPORTS OF STANDING COMMITTEES**Committee on Rules**

Senate Chamber, September 4, 2018

Madam President: The Committee on Rules has examined:

SCR 83	SCR 87	SCR 101	SCR 139
SCR 151	SCR 156	SCR 161	

And reports the same have been correctly enrolled and presented to the Secretary of State on the 4th day of September, 2018, at 3 p.m.

ATKINS, Chair

Senate Chamber, September 5, 2018

Madam President: The Committee on Rules has examined:

SB 399	SB 759	SB 819	SB 830
SB 833	SB 834	SB 896	SB 933
SB 978	SB 981	SB 987	SB 989
SB 1005	SB 1019	SB 1021	SB 1035
SB 1055	SB 1104	SB 1106	SB 1108
SB 1110	SB 1119	SB 1124	SB 1126
SB 1127	SB 1144	SB 1145	SB 1152

And reports the same have been correctly enrolled and presented to the Governor on the 5th day of September, 2018, at 3:30 p.m.

ATKINS, Chair

Senate Chamber, September 6, 2018

Madam President: The Committee on Rules has examined:

SB 183	SB 215	SB 221	SB 224
SB 237	SB 261	SB 273	SB 327
SB 343	SB 354	SB 501	SB 700
SB 720	SB 746	SB 824	SB 861
SB 917	SB 937	SB 957	SB 964
SB 998	SB 1000	SB 1013	SB 1014
SB 1016	SB 1054	SB 1072	SB 1085
SB 1100	SB 1129	SB 1147	SB 1187
SB 1194	SB 1196	SB 1223	SB 1227
SB 1239	SB 1251	SB 1263	SB 1265
SB 1281	SB 1283	SB 1288	SB 1403
SB 1477			

And reports the same have been correctly enrolled and presented to the Governor on the 6th day of September, 2018, at 4 p.m.

ATKINS, Chair



Senate Chamber, September 7, 2018

Madam President: The Committee on Rules has examined:

SB 100	SB 1391	SB 1393
SB 1421	SB 1437	

And reports the same have been correctly enrolled and presented to the Governor on the 7th day of September, 2018, at 4 p.m.

ATKINS, Chair

Senate Chamber, September 10, 2018

Madam President: The Committee on Rules has examined:

SB 320	SB 816	SB 826	SB 828
SB 835	SB 836	SB 846	SB 862
SB 867	SB 869	SB 873	SB 875
SB 876	SB 877	SB 878	SB 879
SB 881	SB 905	SB 960	SB 966
SB 968	SB 970	SB 973	SB 1017
SB 1041	SB 1045	SB 1050	SB 1071
SB 1083	SB 1087	SB 1097	SB 1115
SB 1123	SB 1131	SB 1138	SB 1148
SB 1156	SB 1164	SB 1177	SB 1287
SB 1293	SB 1301	SB 1309	SB 1312
SB 1320	SB 1328	SB 1361	SB 1367
SB 1375	SB 1376	SB 1387	SB 1397
SB 1406	SB 1415	SB 1416	SB 1424
SB 1440	SB 1482	SB 1491	SB 1493

And reports the same have been correctly enrolled and presented to the Governor on the 10th day of September, 2018, at 4 p.m.

ATKINS, Chair

MESSAGES FROM THE GOVERNOR

Signing Messages

Governor's Office, State Capitol

September 10, 2018

To the Members of the California State Senate:

Senate Bill 100 continues California's leadership in advancing clean energy and climate protection by increasing the current Renewables Portfolio Standard target from 50 to 60 percent by 2030, and setting a goal to meet 100 percent of the state's retail electricity supply with zero-carbon resources by December 31, 2045.

SB 100 sends a clear signal to markets to expand clean energy generation. The next step is to integrate these goals into our existing clean energy efforts, including the Integrated Resource Planning process, which will ensure that Californians continue to have safe, reliable, and affordable electricity.



To get to 100 percent clean energy in a manner that ensures reliability and reduces cost, we must use a variety of strategies. Energy storage, increased efficiency and adjusting energy use to the time of day when we have the most power will all help with the transition. Additionally, we must join our neighbors in a power system that integrates utilities across the West. A regionalized electric grid would enhance California's low-carbon grid by allowing us to share renewable resources with our neighboring states, while reducing costs and increasing resiliency of our grid. By doing so, we could improve reliability, reduce climate pollution and enable better integration of wind, solar, and other clean energy technologies throughout the region.

Let's not forget, our electricity sector is responsible for only 16 percent of California's current carbon emissions. To truly stop global warming, cleaning up our electricity grid is not enough. We must transition to carbon neutrality and that will not be easy. It will require large investments across all sectors—energy, transportation, industrial, commercial and residential buildings, agriculture, and various forms of sequestration, including natural and working lands.

California is committed to doing whatever is necessary to meet the existential threat of climate change. This bill, and others I will sign this week, help us go in that direction. But have no illusions, California and the rest of the world have miles to go before we achieve zero-carbon emissions.

Sincerely,

EDMUND G. BROWN JR., Governor

Veto Messages

Governor's Office, State Capitol
September 10, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1451** without my signature.

This bill adopts mandatory minimum penalties against retailers who sell cannabis to underaged individuals, including revocation of a license for a third violation occurring at the same location within 36 months.

As currently written, this bill restricts the Bureau of Cannabis Control's (Bureau) regulatory discretion and limits its ability to carryout enforcement actions based on the pertinent facts of a violation. This bill is not necessary. The Bureau already has the authority to revoke, suspend, and assess fines if a licensee sells to a minor.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Receipt of Bills

I acknowledge receipt this 10th day of September, 2018 at 2:07 p.m., of the following Senate Bill without the Governor's signature, together with a statement of his objections thereto, signed by the Governor, delivered to me personally by Nathan Bentham:

SB 1451

BERNADETTE MCNULTY
Acting Secretary of the Senate

Governor's Appointments

Governor's Office, State Capitol
September 10, 2018

To the Senate of the State of California:

I have the honor to transmit to you herewith the following appointments heretofore made by me to offices which by law are to be filled by the Governor. These appointments are subject to Senate confirmation and consent. I hereby nominate these appointees to you and request your confirmation and consent.

Sincerely,

EDMUND G. BROWN JR., Governor

KIMBERLY A. SEIBEL, has been appointed associate director of the Reception Centers Institutions at the California Department of Corrections and Rehabilitation, where she has been acting associate director since 2018. Seibel was warden at Deuel Vocational Institution from 2016 to 2018 and at Chuckawalla Valley State Prison from 2015 to 2016. She served in several positions at Richard J. Donovan Correctional Facility from 1999 to 2015, including chief deputy warden, associate warden, captain, lieutenant, and sergeant. Seibel was a correctional officer at California Correctional Institution, Tehachapi from 1994 to 1999, and an office assistant at California State Prison, Sacramento from 1993 to 1994. Appointed 08/27/2018. Effective 08/29/2018.

Associate Director, Reception Centers Institutions, California Department of Corrections and Rehabilitation, vice, Brian Duffy, retired, 03/14/2018. Term ending at the pleasure of the Governor.

CONNIE K. CHAN, has been appointed to the California Fair Employment and Housing Council. Chan will begin working as a deputy city attorney at the Los Angeles City Attorney's Office, Affirmative Litigation Division in August, 2018. She was an associate at Altshuler Berzon LLP from 2012 to 2018. Chan served as a law clerk at the U.S. District Court, Northern District of California from 2011 to 2012 and at the U.S. Court of Appeals, Ninth Circuit from 2010 to 2011. She earned a Juris Doctor degree from Yale Law School. Appointed 08/08/2018. Effective 08/16/2018.

Member, California Fair Employment and Housing Council, vice, Mark Harris, withdrawn from the Senate 01/24/2018. Term ending 01/01/2021.



KEELY BOSLER, has been appointed as the Director of the Department of Finance. She has served as Cabinet Secretary in the Office of the Governor since 2016. She served as chief deputy director for budget at the Department of Finance from 2013 to 2016. Bosler was staff director for the California State Senate Budget and Fiscal Review Committee from 2010 to 2013, where she was a consultant from 2004 to 2009. She served as associate director for fiscal services at the California Department of Corrections and Rehabilitation's Budget Management Branch from 2009 to 2010, and as a fiscal and policy analyst at the California Legislative Analyst's Office from 2000 to 2004. She earned a Master of Science degree in applied economics from Cornell University. Appointed 08/21/2018. Effective 08/21/2018.

Director, Department of Finance, vice, Michael Cohen, resigned, 08/20/2018. Term ending at the pleasure of the Governor.

ADRIA L. JENKINS-JONES, has been appointed chief deputy director of the California Department of Human Resources, where she has served as chief of the Selection Division since 2015. She served in several positions at the Department of Finance from 1993 to 2015, including chief of human resources, associate personnel analyst, executive assistant, chief of recruitment and selection, associate personnel analyst/staff service analyst, and examination technician. Appointed 08/31/2018. Effective 08/31/2018.

Chief Deputy Director, California Department of Human Resources, vice, Katrina Hagen, re-assigned 09/30/2017. Term ending at the pleasure of the Governor.

Above appointments referred to the Committee on Rules.

REPORTS OF STANDING COMMITTEES

Committee on Rules

Senate Chamber, September 11, 2018

Madam President: The Committee on Rules has examined:

SCR 99	SCR 110	SCR 111	SCR 114
SCR 132	SCR 148	SCR 149	SCR 153
SCR 154	SCR 158	SCR 159	SCR 160
SCR 163	SCR 164	SCR 165	SCR 166
SJR 14	SJR 22		

And reports the same have been correctly enrolled and presented to the Secretary of State on the 11th day of September, 2018, at 2 p.m.

ATKINS, Chair

Senate Chamber, September 11, 2018

Madam President: The Committee on Rules has examined:

SB 25	SB 46	SB 274	SB 275
SB 349	SB 439	SB 452	SB 532
SB 577	SB 668	SB 695	SB 726
SB 782	SB 822	SB 823	SB 829
SB 838	SB 894	SB 918	SB 939
SB 958	SB 961	SB 967	SB 1001
SB 1008	SB 1029	SB 1078	SB 1086
SB 1128	SB 1130		

And reports the same have been correctly enrolled and presented to the Governor on the 11th day of September, 2018, at 4 p.m.

ATKINS, Chair

Senate Chamber, September 12, 2018

Madam President: The Committee on Rules has examined:

SCR 115	SCR 133	SCR 157
SJR 29	SJR 30	

And reports the same have been correctly enrolled and presented to the Secretary of State on the 12th day of September, 2018, at 2 p.m.

ATKINS, Chair

Senate Chamber, September 12, 2018

Madam President: The Committee on Rules has examined:

SB 134	SB 152	SB 212	SB 244
SB 328	SB 419	SB 465	SB 502
SB 519	SB 539	SB 607	SB 635
SB 656	SB 707	SB 715	SB 765
SB 774	SB 790	SB 821	SB 895
SB 901	SB 906	SB 923	SB 955
SB 1004	SB 1007	SB 1012	SB 1036
SB 1051	SB 1109	SB 1121	SB 1125
SB 1151	SB 1155	SB 1163	SB 1172
SB 1181	SB 1191	SB 1200	SB 1205
SB 1215	SB 1226	SB 1228	SB 1235
SB 1249	SB 1250	SB 1260	SB 1272
SB 1292	SB 1294	SB 1300	SB 1303
SB 1305	SB 1310	SB 1321	SB 1333
SB 1335	SB 1338	SB 1339	SB 1343
SB 1346	SB 1348	SB 1358	SB 1369



SB 1374	SB 1402	SB 1409	SB 1412
SB 1413	SB 1422	SB 1442	SB 1446
SB 1447	SB 1448	SB 1449	SB 1455
SB 1459	SB 1465	SB 1474	SB 1480
SB 1481	SB 1483	SB 1484	SB 1487
SB 1504			

And reports the same have been correctly enrolled and presented to the Governor on the 12th day of September, 2018, at 5 p.m.

ATKINS, Chair

MESSAGES FROM THE GOVERNOR

Veto Messages

Governor's Office, State Capitol
September 14, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 531** without my signature.

This bill adds port districts that are not a department, division, or a subdivision of a city or county to the list of political subdivisions permitted to declare a local emergency under the California Emergency Services Act.

Allowing port districts to declare a local emergency without involving their neighboring cities and counties runs counter to the system of mutual aid which is dependent upon local cooperation. By facilitating the efficient flow of resources and information, local cooperation during an emergency allows the state to determine the proper allocation of emergency support. This bill will disrupt the state's ability to evaluate such resource requests—to the possible detriment of those who need help.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Receipt of Bills

I acknowledge receipt this 14th day of September, 2018 at 4:15 p.m., of the following Senate Bill without the Governor's signature, together with a statement of his objections thereto, signed by the Governor, delivered to me personally by Nathan Bentham:

SB 531

MATHEW BURNS
Acting Secretary of the Senate



Signing Messages

Governor's Office, State Capitol
September 17, 2018

To the Members of the California State Senate:

I am signing the following bills:

Assembly Bill 2629

Assembly Bill 3061

Assembly Bill 3139

Senate Bill 519

These bills authorize the Department of Transportation to lease properties in different cities for one dollar a month, if they are used to provide homeless services.

It is important to remember that these properties were never meant to be places for people to live and are generally not suitable for those purposes. The cities outlined in these bills wish to erect temporary shelters on these properties, as emergency measures. Accordingly, I am directing the Department of Transportation, the Department of Housing and Community Development, and the Office of the State Fire Marshal to work in collaboration with these local governments to ensure, through lease agreements, that emergency housing for the homeless is safe, that fire and life safety standards are met, and that such habitations are temporary, not permanent.

Sincerely,

EDMUND G. BROWN JR., Governor

Veto Messages

Governor's Office, State Capitol
September 18, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 947** without my signature.

This bill would require the State Superintendent of Public Instruction to convene a workgroup to develop best practices and recommendations for instruction in digital citizenship and media literacy.

The subject matter of this bill is more properly the responsibility of local school districts. Moreover, the topics covered here are already contained in our state's English Language and Social Science Frameworks or in the K–12 Model Library Standards.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 18, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1303** without my signature.

This bill requires certain counties to establish a medical examiner's office in lieu of a sheriff coroner office. In cases where the sheriff-coroner has a potential conflict of interest, this bill requires death investigations to be referred to another county that uses a medical examiner model of investigation.

Counties have several options when delivering coroner services to the public. This decision is best left to the discretion of local elected officials who are in the best position to determine how their county offices are organized.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Receipt of Bills

I acknowledge receipt this 18th day of September, 2018 at 4:02 p.m., of the following Senate Bills without the Governor's signature, together with statements of his objections thereto, signed by the Governor, delivered to me personally by Nathan Bentham:

SB 947

SB 1303

MATHEW BURNS
Acting Secretary of the Senate

Governor's Office, State Capitol
September 20, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 328** without my signature.

This bill would prohibit middle and high schools from starting earlier than 8:30 in the morning, unless in a rural area.

This is a one-size-fits-all approach that is opposed by teachers and school boards. Several schools have already moved to later start times. Others prefer beginning the school day earlier. These are the types of decisions best handled in the local community.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 20, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1424** without my signature.

This bill directs the Attorney General to establish an advisory group to study the problem of the spread of false information through Internet-based social media platforms.

As evidenced by the numerous studies by academic and policy groups on the spread of false information, the creation of a statutory advisory group to examine this issue is not necessary.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Receipt of Bills

I acknowledge receipt this 20th day of September, 2018 at 1:20 p.m., of the following Senate Bills without the Governor's signature, together with statements of his objections thereto, signed by the Governor, delivered to me personally by Nathan Bentham:

SB 328

SB 1424

BERNADETTE MCNULTY
Acting Secretary of the Senate

Governor's Office, State Capitol
September 21, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 819** without my signature.

This bill confirms existing rules for the California Public Utilities Commission to allow electric and gas corporations to recover costs from ratepayers and prohibits the recovery of fines and penalties.

I recently signed SB 901, which, among other things, establishes specific cost recovery rules for catastrophic wildfire damages incurred by electric corporations and ensures neither electric corporations nor gas corporations can recover fines and penalties from ratepayers.

This bill is inconsistent with SB 901.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 21, 2018

To the Members of the California State Senate:

I am returning the following bills without my signature:

AB 1873

AB 2058

AB 2135

SB 987

SB 1455

Each of these bills requires significant information technology programming at the Department of Motor Vehicles.

Reducing wait times in field offices and addressing the urgent needs of customers is the top priority. The programming required to implement these bills will delay the department's ability to fully modernize its aging information technology systems. While these bills may have merit, it would be prudent for the Legislature to pause on additional mandates while the department works to complete programming for prior legislative mandates and system upgrades designed to reduce transaction times and improve customer service.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 21, 2018

To the Members of the California State Senate:

I am returning the following bills without my signature:

AB 1873

AB 2058

AB 2135

SB 987

SB 1455

Each of these bills requires significant information technology programming at the Department of Motor Vehicles.

Reducing wait times in field offices and addressing the urgent needs of customers is the top priority. The programming required to implement these bills will delay the department's ability to fully modernize its aging information technology systems. While these bills may have merit, it would be prudent for the Legislature to pause on additional mandates while the department works to complete programming for prior legislative mandates and system upgrades designed to reduce transaction times and improve customer service.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Receipt of Bills

I acknowledge receipt this 21st day of September, 2018 at 3:08 p.m., of the following Senate Bills without the Governor's signature, together with statements of his objections thereto, signed by the Governor, delivered to me personally by Nathan Bentham:

SB 819

SB 987

SB 1455

MATHEW BURNS

Acting Secretary of the Senate

Governor's Office, State Capitol
September 23, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 899** without my signature.

Consistent with current law, this measure seeks to preclude a physician from using race, gender, or national origin as a basis for apportionment. I am vetoing this bill for many of the same reasons that I returned a similar measure in 2011—Assembly Bill 1155.

This bill is unnecessary as it would not change existing law and may disturb settled court decisions, which already provide protection from the inappropriate application of the apportionment statutes. Additionally, the proposed wording of the amended statute may create ambiguities in the law, resulting in increased litigation, costs for employers and confusion for injured workers and their representatives.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 23, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 933** without my signature.

This bill establishes a competitive grant program for visual and performing arts programs in public schools.

Nurturing creativity is certainly one of the most important responsibilities of teachers and local schools. But under our philosophy of local control, this is a matter best handled by individuals at the school level, not at state headquarters.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 23, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 968** without my signature. The bill would prescribe a minimum mental health counselor-to-student ratio at all the campuses of the California State University system, and request the University of California to implement the same ratio on its campuses.

Investing greater resources in student mental health is an understandable goal. Such investments, however, should be actively considered and made within the budget process. Moreover, specific ratios should remain within the purview of the boards or with local campuses, rather than dictated by the state.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Receipt of Bills

I acknowledge receipt this 23rd day of September, 2018 at 11:18 a.m., of the following Senate Bills without the Governor's signature, together with statements of his objections thereto, signed by the Governor, delivered to me personally by Nathan Bentham:

SB 899

SB 933

SB 968

MATHEW BURNS

Acting Secretary of the Senate

Governor's Appointments

Governor's Office, State Capitol
September 26, 2018

To the Senate of the State of California:

I have the honor to transmit to you herewith the following appointment heretofore made by me to offices which by law are to be filled by the Governor. This appointment is subject to Senate confirmation and consent. I hereby nominate this appointee to you and request your confirmation and consent.

Sincerely,

EDMUND G. BROWN JR., Governor

SONIA T. DELEN, has been appointed to the State Bar of California Board of Trustees. Delen has been a senior vice president at Bank of America Merrill Lynch since 2002, where she has held several positions since 1994, including principal, vice president, and assistant vice president. She was a project administrator at GATX Leasing and Capital Corporation from 1986 to 1994, and an account executive assistant at Ketchum Advertising from 1984 to 1986. Appointed 09/06/2018. Effective 09/10/2018.

Member, State Bar of California Board of Trustees, vice, Stacie Spector, resigned 07/31/2018. Term ending 09/01/2022.

Above appointment referred to the Committee on Rules.



Veto Messages

Governor's Office, State Capitol
September 26, 2018

To the Members of the California State Senate:

I am returning the following bills without my signature.

AB 180

SB 275

SB 707

Each of these bills requires the Department of Health Care Services to establish a stakeholder process to deliberate and advise the department on an issue with Medi-Cal.

Not every problem with Medi-Cal needs or deserves a public stakeholder process. The department regularly collaborates with stakeholders including interested organizations, experts, partners and colleagues. I am confident it will continue to do so.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 26, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 354** without my signature.

This bill requires local schools, upon a parent's request, to translate a student's individualized education program (IEP) and other related documents prepared as part of their special education services in the native language of the parent within 30 days of the IEP meeting.

I cannot support this bill. Current law requires that non-English speaking parents understand their child's IEP, and in fact gives parents the right to have an interpreter present at their child's IEP meetings. To the extent that this is not sufficient, I think the remedy is best handled at the local school district.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 26, 2018

To the Members of the California State Senate:

I am returning the following bills without my signature.

AB 180

SB 275

SB 707

Each of these bills requires the Department of Health Care Services to establish a stakeholder process to deliberate and advise the department on an issue with Medi-Cal.

Not every problem with Medi-Cal needs or deserves a public stakeholder process. The department regularly collaborates with stakeholders including interested organizations, experts, partners and colleagues. I am confident it will continue to do so.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 26, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1416** without my signature.

This bill allows, until January 1, 2024, cities and counties to recover fines related to nuisance abatement through liens and special assessments.

I vetoed a similar bill in 2011 because I was concerned that allowing local governments to collect fines by assessing them against an owner's property reduced important due process protections. My thoughts on the matter have not changed.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Receipt of Bills

I acknowledge receipt this 26th day of September, 2018 at 4:52 p.m., of the following Senate Bills without the Governor's signature, together with statements of his objections thereto, signed by the Governor, delivered to me personally by Nathan Bentham:

SB 275

SB 354

SB 707

SB 1416

MATHEW BURNS

Acting Secretary of the Senate



Governor's Office, State Capitol
September 27, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 174** without my signature.

This bill would open up all boards and commissions to non-citizens. I believe existing law—which requires citizenship for these forms of public service—is the better path.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 27, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 349** without my signature.

This bill would protect individuals against civil arrest of any kind while attending a judicial proceeding in a courthouse.

I support the underlying intent of this measure, but I am concerned that it may have unintended consequences. Last year I signed SB 54 (De León), a provision of which tasked the Attorney General with publishing model policies limiting assistance with immigration enforcement to the fullest extent possible at courthouses and other public facilities to ensure that they remain safe and accessible to all California residents, regardless of immigration status. I believe the prudent path is to allow for that guidance to be released before enacting new laws in this area.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 27, 2018

To the Members of the California State Senate:

I am returning the following five bills without my signature:

AB 2043

AB 2342

AB 2593

SB 1125

SB 1148

Each of these bills require significant, ongoing general fund commitments. As such, I believe they should be considered as part of the budget process.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 27, 2018

To the Members of the California State Senate:

I am returning the following five bills without my signature:

AB 2043

AB 2342

AB 2593

SB 1125

SB 1148

Each of these bills require significant, ongoing general fund commitments. As such, I believe they should be considered as part of the budget process.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Receipt of Bills

I acknowledge receipt this 27th day of September, 2018 at 3:07 p.m., of the following Senate Bills without the Governor's signature, together with statements of his objections thereto, signed by the Governor, delivered to me personally by Nathan Bentham:

SB 174

SB 349

SB 1125

SB 1148

MATHEW BURNS

Acting Secretary of the Senate

Signing Messages

Governor's Office, State Capitol
September 27, 2018

To the Members of the California State Senate:

I am signing **Senate Bill 700**, which refines the Self-Generation Incentive Program (SIP) and extends its sunset date to 2024.

This incentive program has served an important role in the deployment of distributed energy systems. Recently, the program has focused on transforming the energy storage market.

The California Public Utilities Commission should continue to administer this program to benefit all ratepayers, including disadvantaged communities, and should only collect what is needed to achieve the purposes of the bill.

Sincerely,

EDMUND G. BROWN JR., Governor



Governor's Office, State Capitol
September 27, 2018

To the Members of the California State Senate:

I am signing **Senate Bill 1194**, which would prohibit places of lodging and transportation common carriers from disclosing the name or identifying customer information to third parties except to California peace officers or in response to a court issued subpoena, warrant, or order.

This bill protects every Californian's privacy rights, and as such is an important measure worthy of signature. However, the manner in which it is drafted could inadvertently impede administrative investigations that seek to enforce certain important state interests, including public health, consumer protection and anti-discrimination policies.

The author and legislative committees of appropriate jurisdiction have committed to passing cleanup legislation addressing these concerns early in 2019. With that commitment I am able to sign this measure.

Sincerely,

EDMUND G. BROWN JR., Governor

Veto Messages

Governor's Office, State Capitol
September 28, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 221** without my signature.

This bill would prohibit the sale of firearms and ammunition at the District Agricultural Association 1A, commonly known as the Cow Palace.

This bill has been vetoed twice over the last ten years, once by myself, and once by Governor Schwarzenegger.

The decision on what kind of shows occur at the Cow Palace rests with the local board of directors which, incidentally, represents a broad cross section of the community. They are in the best position to make these decisions.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 28, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 905** without my signature.

This bill would authorize nine California cities to extend the hours businesses can serve alcohol from 2 a.m. to 4 a.m.

Without question, these two extra hours will result in more drinking. The businesses and cities in support of this bill see that as a good source of revenue. The California Highway Patrol, however, strongly believes that this increased drinking will lead to more drunk driving.

California's laws regulating late night drinking have been on the books since 1913. I believe we have enough mischief from midnight to 2 without adding two more hours of mayhem.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 28, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1005** without my signature.

This bill would require that compensation provided by the California Victims Compensation Board for relocation expenses include pet deposits and additional rent if the victim has a pet.

The Board currently provides compensation for these purposes. Other specific costs that are included within compensable relocation expenses are not individually enumerated in the authorizing statute. I don't see any need to do so now.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 28, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1127** without my signature.

This bill permits local schools to adopt policies regarding the use of medical marijuana by students on school grounds.

This bill is overly broad as it applies to all students instead of limited cases where a doctor recommends medical marijuana for a student in order to prevent or reduce the effects of a seizure. Generally, I remain concerned about the exposure of marijuana on youth and am dubious of its use for youth for all ailments. This bill goes too far—further than some research has—to allow use of medical marijuana for youth. I think we should pause before going much further down this path.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 28, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1177** without my signature.

This bill prohibits any person from purchasing more than one long-gun per month.

I vetoed a substantially similar bill in 2016, and my views have not changed.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 28, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1301** without my signature.

This bill requires state agencies involved in permitting dam safety and flood mitigation projects to provide project applicants quarterly supplemental consultation to those applicants who agree to pay the costs of the consultation.

Under this measure, state agencies must prioritize their limited resources on projects that have applicants willing to pay a "supplemental consultation" fee. Consequently, these agencies may be required to fast-track work on permits for minor projects at the expense of other projects that directly impact the public's health and safety.

This bill attempts to address a perceived shortfall in funding and staffing at the permitting agencies. The proper balance of state agency resources is deliberated in the annual budget process. I suggest the author propose this issue during next year's budget discussion.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Receipt of Bills

I acknowledge receipt this 28th day of September, 2018 at 2:21 p.m., of the following Senate Bills without the Governor's signature, together with statements of his objections thereto, signed by the Governor, delivered to me personally by Nathan Bentham:

SB 221
SB 1127

SB 905
SB 1177

SB 1005
SB 1301

MATHEW BURNS
Acting Secretary of the Senate

Governor's Office, State Capitol
September 29, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 399** without my signature.

This bill would revise qualification standards for providers of behavioral health treatment for individuals with autism.

Standards for autism providers were updated last year. I'm not inclined to revise them again.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 29, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 539** without my signature.

This bill would increase the amount of tax credit that taxpayers can claim when paying into the College Access Tax Credit Fund, as well as increase the total aggregate amount of credits that can be claimed.

This measure started as a bold idea but because of adverse changes in the federal tax law, it now confuses an already complicated scheme and could invite intervention by the Internal Revenue Service.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 29, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 774** without my signature.

This bill would create a research program within the California State University system that focuses on studying firefighting in the wildland-urban interface.

This is a well-intentioned and important proposal, but as a General Fund expenditure, it should be considered during the budget process.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 29, 2018

To the Members of the California State Senate:

I am returning the following bills without my signature:

Assembly Bill 1097

Senate Bill 835

Senate Bill 836

These bills prohibit smoking in state parks, on state beaches, and at any picnic area on a state beach and require the Department of Parks and Recreation to post signs to notify the public of the smoking ban.

I have vetoed similar measures in each of the last two years. Third time is not always a charm. My opinion on the matter has not changed. We have many rules telling us what we can't do and these are wide open spaces.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 29, 2018

To the Members of the California State Senate:

I am returning the following bills without my signature:

Assembly Bill 1097

Senate Bill 835

Senate Bill 836

These bills prohibit smoking in state parks, on state beaches, and at any picnic area on a state beach and require the Department of Parks and Recreation to post signs to notify the public of the smoking ban.

I have vetoed similar measures in each of the last two years. Third time is not always a charm. My opinion on the matter has not changed. We have many rules telling us what we can't do and these are wide open spaces.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 29, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 906** without my signature.

This bill requires the Department of Health Care Services to establish a certificate program for peer support specialists in Medi-Cal.

Currently, peer support specialists are used as providers in Medi-Cal without a state certificate. This bill imposes a costly new program which will permit some of these individuals to continue providing services but shut others out. I urge the stakeholders and the department to improve upon the existing framework while allowing all peer support specialists to continue to work.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 29, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 926** without my signature.

This bill defines certain good cause exemptions for CalWORKs and CalFresh recipients who could otherwise be sanctioned for failing to work.

This bill is unnecessary because existing law provides county welfare departments with broad authority to grant good cause exemptions from work requirements to ensure recipients are not unjustly penalized.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 29, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1019** without my signature.

This bill would require the Mental Health Services Oversight and Accountability Commission to allocate at least half of its triage grant funds to local education and mental health partnerships.

The bill as written would limit the Commission's authority to exercise its judgment in the distribution of these grants. I believe the better practice would be to leave this matter to the Commission.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Receipt of Bills

I acknowledge receipt this 29th day of September, 2018 at 2:07 p.m., of the following Senate Bills without the Governor's signature, together with statements of his objections thereto, signed by the Governor, delivered to me personally by Nathan Bentham:

SB 399	SB 539	SB 774	SB 835
SB 836	SB 906	SB 926	SB 1019

BERNADETTE MCNULTY
Acting Secretary of the Senate



Signing Messages

Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am signing **Senate Bill 212** which establishes a program for the collection and disposal of home-generated pharmaceutical drugs and sharps waste.

While this bill is an important step forward towards managing household generated medical waste, last minute amendments created ambiguity that might impact the effectiveness of this program.

Therefore, I urge the Legislature to provide continuous oversight to ensure that the Department of Resources, Recycling and Recovery has the appropriate enforcement tools to ensure compliance and that the program offers the level of collection the author envisioned.

Sincerely,

EDMUND G. BROWN JR., Governor

Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am signing **Senate Bill 826** which requires a publicly held corporation, whose principal executive offices are located in California, to have a representative number of women on its board of directors.

There have been numerous objections to this bill and serious legal concerns have been raised. I don't minimize the potential flaws that indeed may prove fatal to its ultimate implementation. Nevertheless, recent events in Washington, D.C.—and beyond—make it crystal clear that many are not getting the message.

As far back as 1886, and before women were even allowed to vote, corporations have been considered persons within the meaning of the Fourteenth Amendment. *Santa Clara County v. Southern Pacific Railroad Company*, 118 U.S. 394 (1886).

Given all the special privileges that corporations have enjoyed for so long, it's high time corporate boards include the people who constitute more than half the "persons" in America.

Sincerely,

EDMUND G. BROWN JR., Governor



Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am signing **Senate Bill 1391**, which would prohibit the prosecution of 14 and 15 year olds as adults.

This is a difficult bill. By definition, any 14 or 15 year old that a District Attorney seeks to prosecute as an adult has been accused of very serious crimes. The opposition of certain crime victims and their families to this measure is intense. I have carefully listened to that opposition and it has weighed on me.

I have also studied the case examples, research and data, as well as the legislative history and specific statutes relevant to this bill. All of these factors were important to consider in making the decision to sign this bill, as well as the stark racial and geographic disparity in how young men and women are treated who have committed similar crimes.

Additionally, in reviewing this bill I have considered the fact that young people adjudicated in juvenile court can be held beyond their original sentence if necessary. Welfare and Institutions code sections 1800 and 1800.5 allow either the Director of the Division of Juvenile Justice, or the Board of Juvenile Hearings, to petition for extended incarceration if a youth is deemed truly dangerous. This mechanism exists under current law, and has been used in the past when circumstances have warranted. It will continue to be used when needed, and there are no time limits prescribed in statute.

There is a fundamental principle at stake here: whether we want a society which at least attempts to reform the youngest offenders before consigning them to adult prisons where their likelihood of becoming a lifelong criminal is so much higher.

My view is that we should continue to work toward a more just system that respects victims, protects public safety, holds youth accountable, and also seeks a path of redemption and reformation wherever possible.

Sincerely,

EDMUND G. BROWN JR., Governor



Veto Messages

Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 320** without my signature.

This bill requires every student health center at University of California and California State University campuses to offer medication abortions beginning January 1, 2022.

Access to reproductive health services, including abortion, is a long-protected right in California. According to a study sponsored by supporters of this legislation, the average distance to abortion providers in campus communities varies from five to seven miles, not an unreasonable distance.

Because the services required by this bill are widely available off-campus, this bill is not necessary.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 452** without my signature.

This bill makes various changes to the Beverage Container Recycling Program, which include adjustments to handling fees, processing payments, and convenience zones.

SB 452 is inconsistent with the Administration's principles for reforming and modernizing this program, which was created in 1986. Any legislation to update these statutes should balance three different components: fiscal sustainability, improved collection and incentives for innovative recycling.

This bill does not accomplish any of these goals.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 607** without my signature.

This bill would permanently eliminate the authority to suspend or recommend for expulsion a student in grades 4–5 who willfully disrupts school activities or defies the authority of school officials, and prohibits—until July 1, 2023—the suspension of a student in grades 6–8 for that same misconduct. These prohibitions would apply to charter schools.

Teachers and principals are on the front lines educating our children and are in the best position to make decisions about order and discipline in the classroom. That's why I vetoed a similar bill in 2012. In addition, I just approved \$15 million in the 2018 Budget Act to help local schools improve their disciplinary practices. Let's give educators a chance to invest that money wisely before issuing any further directives from the state.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 656** without my signature.

This bill would amend and significantly expand—retroactively—the pension benefits of the Judges' Retirement System II, a program that has been in effect since 1994.

The costs associated with this bill are large and unbudgeted. In addition, the proposed retroactive benefits are contrary to the explicit provisions of the Public Employees Pensions Reform Act of 2013.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 715** without my signature.

This bill requires the California Air Resources Board to exempt off-road diesel vehicles owned or operated by state-registered nonprofit apprenticeship training programs from any regulation that reduces emissions of diesel particulate matter, oxides of nitrogen, and other criteria pollutants.

This exemption could cause a shortfall in mandated air pollution emissions reductions, which may require us to revise our State Implementation Plan to remain in compliance with the federal Clean Air Act. Working with the federal administration to revise our State Implementation Plan in a time of pressing air quality challenges is difficult and unwise. As such, I direct the Board to work with the author and sponsors of this bill on an administrative solution that minimizes adverse impacts on apprenticeship programs, yet also protects air quality.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 829** without my signature.

This bill authorizes retailers to offer free cannabis or cannabis goods to medicinal patients who have a physician's recommendation.

This bill contains provisions that conflict with the strict standards contained in the voter approved Control, Regulate, and Tax Adult Use of Marijuana Act. Providing free cannabis to a person with only a doctor's recommendation undermines these rules and the intent of the voters. For this reason, I cannot sign this bill.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 937** without my signature.

This bill requires employers to provide a space that meets specified standards for employees with a desire to express breast milk in private.

I have signed AB 1976 which furthers the state's ongoing efforts to support working mothers and their families. Therefore, this bill is not necessary.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1124** without my signature.

This bill would establish a retiree's permanent right to incorrectly calculated pension benefits in cases where an error resulted in paying the retiree higher pension benefits than allowed by law.

I share the author's view that a pension must be correctly calculated according to the law in the first instance so that retirees never find themselves on the hook for overpayments. Clearly, remedies are needed to correct such situations.

But I'm concerned that this bill's broad provisions could be easily abused to circumvent limitations in law intended to protect the government—and ultimately taxpayers—from pension spiking. Indeed, in the case of an error, this bill would effectively perpetuate that error for the rest of a member's life, at substantial taxpayer expense.

Before changing the law in the way that this bill does, I encourage the Legislature to develop policies to prevent such errors in the first place. Such policies might include requiring CalPERS to review and approve any proposals for pensionable compensation in a memorandum of understanding before the memorandum is finalized. Then, if errors still occurred after CalPERS's review, the penalties and ongoing costs in this bill might be warranted.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1128** without my signature.

This bill makes several changes to the elections process for homeowner associations within common interest developments.

California has over 50,000 common interest developments varying in purpose and size. Each one has governing documents that are tailored specifically for that individual community. This bill takes a once-size-fits-all approach, but not all homeowner associations are alike.

If changes to an election process are needed, they should be resolved by the members of that specific community.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Receipt of Bills

I acknowledge receipt this 30th day of September, 2018 at 8:03 p.m., of the following Senate Bills without the Governor's signature, together with statements of his objections thereto, signed by the Governor, delivered to me personally by Nathan Bentham:

SB 320	SB 452	SB 607
SB 656	SB 715	SB 829
SB 937	SB 1124	SB 1128

BERNADETTE MCNULTY
Acting Secretary of the Senate

Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1156** without my signature.

This bill attempts to prohibit the questionable practice of financially interested entities providing premium assistance payments to patients for the purpose of obtaining higher fees for medical services.

I believe, however, that this bill goes too far as it would permit health plans and insurers to refuse premium assistance payments and to choose which patients they will cover. I encourage all stakeholders to continue to work together to find a more narrowly tailored solution that ensures patients' access to coverage.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1223** without my signature.

This bill would require the Department of Industrial Relations to convene an advisory committee to recommend minimum standards for a harassment and discrimination prevention policy and training program specific to the construction industry, and to provide a report to the Legislature with recommendations for implementation.

The Department of Fair Employment and Housing is charged with enforcing the provisions of the Fair Employment and Housing Act, including those pertaining to preventing and remedying sexual harassment and discrimination. That Department is also charged with enforcing the state's sexual harassment training requirements. As such, this proposal would be better placed at the Department of Fair Employment and Housing and not with the Labor Commissioner.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1265** without my signature.

This bill makes several changes to the elections process for homeowner associations within common interest developments.

California has over 50,000 common interest developments varying in purpose and size. Each one has governing documents that are tailored specifically for that individual community. This bill takes a one-size-fits-all approach, but not all homeowner associations are alike.

If changes to an election process are needed, they should be resolved by the members of that specific community.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1288** without my signature.

This bill requires the Department of Public Health to issue a specific penalty for violating nurse-to-patient ratio requirements.

California hospitals are regularly inspected to assure patient safety and quality of care. When violations are found, penalties are imposed based on an overall assessment of the severity and duration of the violations, including for any failure to meet the required staffing ratio.

Nurse-to-patient ratios are a vital part of the state's regulatory scheme. Hospitals, however, are best evaluated in a comprehensive manner and I am reluctant to start singling out specific violations for a separate penalty.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1415** without my signature.

This bill would require local building and fire inspectors to inspect all private warehouses located within their jurisdiction at least once every five years.

Local officials can already decide what and when to inspect. Some jurisdictions, such as the City of Sacramento, have established a program to monitor vacant buildings. The City of Oakland has a program to conduct frequent inspections of commercial buildings.

Local governments have a better understanding of the type of local inspections needed in their communities. Let's leave these decisions to the sound discretion of local governments.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.



Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1449** without my signature.

This bill would require the testing of all sexual assault forensic evidence kits within a specified period of time.

The state budget that I signed this year includes a one-time total of \$7.5 million General Fund to test rape kits—\$1 million to begin conducting an audit of untested kits and \$6.5 million to help test the existing known backlog.

While I fully support the goal of this bill, I believe that we should allow for the completion of the audit mandated by AB 3118 (Chiu)—which I am signing today—as well as for the Department of Justice to further reduce the existing backlog using the recently approved significant funding increase. I would like to allow time for this year's legislative actions to take effect so we can gauge the appropriate next steps and budget accordingly.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1487** without my signature.

This bill establishes the Iconic African Species Protection Act, prohibiting the possession of dead specimens of several African animal species within California.

SB 1487 imposes a state civil penalty for activities expressly authorized by the U.S. Endangered Species Act.

Even though I share the sentiments of the author, this bill, if enacted, would be unenforceable.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Receipt of Bills

I acknowledge receipt this 30th day of September, 2018 at 8:05 p.m., of the following Senate Bills without the Governor's signature, together with statements of his objections thereto, signed by the Governor, delivered to me personally by Nathan Bentham:

SB 1156	SB 1223	SB 1265	SB 1288
SB 1415	SB 1449	SB 1487	

BERNADETTE MCNULTY
Acting Secretary of the Senate



Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1272** without my signature.

This bill creates the Tax Recovery and Criminal Enforcement Tax Force within the Department of Justice to combat underground economic activities.

I am sympathetic to rooting out businesses that engage in unfair competition and mistreatment of workers. This is an area of great interest to me, and one which I have worked on as Attorney General and as Governor.

This bill, however, codifies a task force that is already operational via MOU and establishes a permanent program within the Department of Justice with an ill-defined and potentially unlimited scope of operations. I am reluctant to do this without additional and more detailed scrutiny through the budget process.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Governor's Office, State Capitol
September 30, 2018

To the Members of the California State Senate:

I am returning **Senate Bill 1427** without my signature.

This bill would add veterans and military personnel as a protected class under the Fair Employment and Housing Act. It also prohibits landlords and property owners from refusing to accept federal Veterans Affairs Supportive Housing vouchers as a source of income for payment of rent.

We should support our veterans and military personnel, but this bill goes too far. Specifically, it forces landlords and property owners to take part in what has always been a voluntary federal program with numerous requirements. These include registration with a local housing authority, participation in training, property inspections and modification of leases to conform with federal standards.

I don't believe a mandate to comply with all these requirements is warranted.

Sincerely,

EDMUND G. BROWN JR., Governor

Above bill ordered to unfinished business.

Receipt of Bills

I acknowledge receipt this 30th day of September, 2018 at 8:06 p.m., of the following Senate Bills without the Governor's signature, together with statements of his objections thereto, signed by the Governor, delivered to me personally by Nathan Bentham:

SB 1272

SB 1427

BERNADETTE MCNULTY
Acting Secretary of the Senate



Governor's Appointment Withdrawals

Governor's Office, State Capitol
October 1, 2018

To the Senate of the State of California:

I hereby respectfully withdraw from consideration, effective close of business October 1, 2018, the nomination of the following appointee heretofore submitted and now before your honorable body for confirmation.

Jason C. Lopez

Director, Division of Administrative
Services, Department of Corrections and
Rehabilitations

Sincerely,

EDMUND G. BROWN JR., Governor

Above withdrawal transmitted to the Committee on Rules.

NEVA MARIE PARKER, Minute Clerk

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CALIFORNIA LEGISLATURE

AT SACRAMENTO

2017–18 REGULAR SESSION

SUPPLEMENTAL RECESS

ASSEMBLY FILE

GOVERNOR'S VETOES



HON. ANTHONY RENDON
Speaker

HON. KEVIN MULLIN
Speaker pro Tempore

HON. IAN C. CALDERON
Majority Leader

HON. LAURA FRIEDMAN
Assistant Speaker pro Tempore

HON. BRIAN DAHLE
Republican Leader

E. DOTSON WILSON
Chief Clerk

CRESTON WHITING–CASEY
Daily File Clerk

ALICIA M. EARNEST
Assistant Daily File Clerk

PUBLISHED

THURSDAY, OCTOBER 4, 2018

(Note: Vetoes in this Publication are from Sept. 1 — Sept. 30, 2018)

(Please report any errors or omissions in this publication to the Daily File Clerk;
Phone 319–2358)

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UNFINISHED BUSINESS

Governor's Vetoes	5
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Joint Rule 58.5

The Legislature may consider a Governor's veto for only 60 days, not counting days when the Legislature is in joint recess.

Legislative Information is Available on the Internet

California State Assembly Web site:
assembly.ca.gov

The following legislative information Web site is maintained by the Legislative Data Center:
leginfo.legislature.ca.gov

Assembly Chief Clerk Web site:
clerk.assembly.ca.gov

UNFINISHED BUSINESS

GOVERNOR'S VETOES

1

A.B. No. 183—Lackey.

An act relating to public employees.

2018

Aug. 24—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 6—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 183 without my signature.

This bill requires state agencies that operate two or more shifts per day to develop, by January 1, 2019, policies for supervisory employees around shift assignments, vacations, and overtime.

This bill, however well-intentioned, would require a policy that is unduly rigid and not reflective of the different circumstances in various state offices and departments. In essence, it would limit the sound discretion of management to make necessary personnel assignments.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

2

A.B. No. 2573—Low.

An act relating to alcoholic beverages.

2018

Aug. 27—Enrolled and presented to the Governor at 3 p.m.

Sep. 6—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2573 without my signature.

This bill allows a beer manufacturer to give up to five cases of glassware to an on-sale retail licensee.

Allowing beer manufacturers to give items of value to on-sale retail licensees could unduly influence such retailers to purchase those manufacturers' products. I also worry that this law creates an economic disadvantage for small beer manufactures who might not be able to provide free glassware in the same manner as the larger manufacturers.

Sincerely,

Edmund G. Brown Jr.

THURSDAY, OCTOBER 4, 2018

7

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

3

A.B. No. 2397—Oberholte.

An act relating to administrative actions.

2018

Aug. 30—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 7—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2397 without my signature.

This bill would mandate that the Departments of Aging, Health Care Services, Public Health, Social Services and the Emergency Medical Services Authority, share information regarding adverse administrative actions against licensees, facilities or providers.

This bill is unnecessary because the information called for is already being shared as authorized under current law.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

4

A.B. No. 2552—Berman.

An act relating to elections.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 7—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2552 without my signature.

This bill requires certain ballot instructions and the Secretary of State to establish a ballot design advisory committee.

In recent years, California's ballot and ballot pamphlet have become a hodgepodge of confusing, excessive and often redundant words and explanations. The Secretary of State -- with or without a committee -- should fix this festering problem. A bill is not necessary.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

5

A.B. No. 697—Fong.

An act relating to vehicles.

2018

Sep. 4—Enrolled and presented to the Governor at 3 p.m.

Sep. 10—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 697 without my signature.

This bill exempts privately owned emergency ambulances from tolls when engaged in an urgent or emergency response.

Under existing law, the exemption sought by this bill can be granted by toll facility authorities and no evidence has been presented to show why the state should now step in.

Sincerely,

Edmund G. Brown, Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

6

A.B. No. 2028—Rodriguez.
An act relating to prisons.

2018

- Sep. 4—Enrolled and presented to the Governor at 3 p.m.
Sep. 10—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2028 without my signature.

This bill requires the California Department of Corrections and Rehabilitation to conduct a security inspection and audit of all state correctional institutions, address any deficiencies found, and prepare a confidential report to the Legislature detailing the findings of the inspection.

The Office of Audits and Court Compliance is tasked with conducting security audits, which began in July 2017. The Department anticipates that all 35 of its institutions will have undergone the first round of security audits by October 27, 2019, and will continue to be audited regularly thereafter.

Given that these audits are ongoing, I see no reason to create a duplicative legislative mandate. If the Legislature desires additional information or updates on this process, direct briefings, as well as updates through the annual budget process are the appropriate venue.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

7

A.B. No. 2275—Arambula.

An act relating to Medi-Cal.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 10—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2275 without my signature.

This bill would require the Department of Health Care Services to establish a quality assessment and performance improvement program for Medi-Cal managed care plans.

The department, however, is required by federal law to have an external organization conduct periodic quality reviews of its managed care program. The department also requires extensive plan-specific quality improvement projects.

Adopting these statutory requirements will duplicate current efforts while adding significant costs to Medi-Cal.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

8

A.B. No. 2853—Medina.

An act relating to local government.

2018

Aug. 29—Enrolled and presented to the Governor at 4 p.m.

Sep. 10—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2853 without my signature.

This bill requires local governments that provide economic subsidies of \$100,000 or more for warehouse distribution centers to publically report on information such as employee wage rates, independent contractor rates, and the value of employee benefit packages for each job classification created by the subsidy.

There is value in taxpayers knowing whether economic development incentives ultimately benefit their community. That is why I signed legislation in 2013 that required local agencies to provide information about the expected and actual impacts of approved economic development subsidies.

This bill, however, significantly expands current law and goes too far by adding reporting rules that will be overly burdensome to a single industry. It may actually hinder efforts to improve business opportunities in local communities, which is an outcome no one desires.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

9

A.B. No. 3178—Rubio.

An act relating to solid waste.

2018

Aug. 29—Enrolled and presented to the Governor at 4 p.m.

Sep. 10—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 3178 without my signature.

This bill would require the Department of Resources Recycling and Recovery (Department) to consider market factors when evaluating a jurisdiction's compliance with waste diversion and recycling mandates.

Current statute and regulations already require the Department to consider market conditions when reviewing a local jurisdiction's compliance with recycling laws. As such, this bill is not necessary. I encourage the Legislature to work with the Department to focus on increasing California's infrastructure and development of domestic markets.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

10

A.B. No. 1715—Quirk-Silva et al.

An act relating to economic development, and making an appropriation therefor.

2018

Sep. 4—Enrolled and presented to the Governor at 3 p.m.

Sep. 11—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1715 without my signature.

This bill establishes a process for the Governor's Office of Business and Economic Development to accept proposals from public and private entities that are interested in collaborating with the state to operate an international trade and investment office in a foreign country.

Nothing prohibits any public or private entity from submitting a letter of interest for establishing an international trade and investment office in a foreign nation. I am not convinced the legislatively mandated process sought by this bill to establish trade offices will improve the state's ability to pursue successful partnerships with other countries.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

11

A.B. No. 2790—Irwin.

An act relating to veterans.

2018

Aug. 27—Enrolled and presented to the Governor at 3 p.m.

Sep. 11—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2790 without my signature.

This bill would create an Office of Internal Audits at the California Department of Veterans Affairs, led by a chief auditor, to conduct programmatic and financial reviews, as well as investigate allegations of employee misconduct.

The bill will result in significant ongoing costs to the General Fund. Additional spending to support new programs, including the creation of an internal audits unit within the Department, must be considered through the annual budget process.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

12

A.B. No. 2152—Weber.

An act relating to CalFresh.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 14—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2152 without my signature.

This bill would require the Department of Social Services to develop a hunger screening tool to assist in the determination of whether CalFresh recipients may be exempted from time limitations on benefits.

CalFresh is a federally-funded nutrition benefit program which includes work requirements and exemptions prescribed by federal rules. Instead of codifying state policies in this program, I urge the department and counties to continue to work together to ensure those facing extreme hunger have access to these benefits.

Sincerely,

Edmund G. Brown Jr.

THURSDAY, OCTOBER 4, 2018

17

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

13

A.B. No. 2656—Chen.

An act relating to vehicles.

2018

Aug. 24—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 14—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2656 without my signature.

This bill requires towing and storage facilities to accept a debit card as a form of payment and allows licensed repossessioners to collect vehicles from these facilities.

Current law allows a registered owner, a legal owner or an owner's agent to claim an impounded vehicle. It is unclear to me why licensed repossessioners should be added to this list.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

14

A.B. No. 2734—Frazier.

An act relating to transportation.

2018

Aug. 20—Enrolled and presented to the Governor at 3 p.m.

Sep. 14—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2734 without my signature.

This bill removes the California Transportation Commission from the California Transportation Agency and establishes the Commission as an independent entity in state government.

I signed legislation in 2012 that affirmed the Commission's independent authority to perform its duties and no evidence has been presented which would suggest a need to now change the existing framework.

Sincerely,

Edmund G. Brown, Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

15

A.B. No. 1534—Nazarian.

An act relating to health care coverage.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 17—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1534 without my signature.

This bill would require health plans and insurers to accept doctors who specialize in HIV as primary care providers.

Existing law allows specialists to serve as primary care providers when patients require continuing care from a particular specialist. It's not necessary to call out this particular specialty in statute.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

16

A.B. No. 1918—Eduardo Garcia et al.

An act relating to outdoor recreation.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 17—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1918 without my signature.

This bill establishes the Office of Sustainable Outdoor Recreation within the California Natural Resources Agency to support the outdoor recreation economy.

The activities identified in this bill are important, but a new bureaucracy is not needed to accomplish the goal. Over the last few years the Department of Parks and Recreation has worked towards enhancing recreational opportunities throughout the state. In fact, Parks California, a support organization to the Department of Parks and Recreation, was recently created to promote outdoor recreation and is engaging in activities similar to those called for in this bill.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

17

A.B. No. 2143—Caballero et al.

An act relating to mental health.

2018

Aug. 28—Enrolled and presented to the Governor at 3 p.m.

Sep. 17—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2143 without my signature.

This bill would expand eligibility for educational loan reimbursement grants, through the Licensed Mental Health Provider Education Program, to mental health providers who further their education to become physician assistants or nurse practitioners in mental health facilities.

Physician assistants and nurse practitioners are already eligible for educational loan repayment grants under the state's Advanced Healthcare Loan Repayment Program. Unfortunately, the loan repayment fund referenced in this bill lacks the necessary funding to pay for the hundreds of applications it currently receives. Adding more applicants as this bill requires just compounds the problem.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

18

A.B. No. 2240—Grayson.
An act relating to courts.

2018

Aug. 30—Enrolled and presented to the Governor at 4:30 p.m.
Sep. 17—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2240 without my signature.

This bill would exempt probation, parole and correctional officers from jury service in criminal trials.

Jury service is a fundamental obligation of citizenship. I am not inclined to expand the list of those exempt simply because of their occupation.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

19

A.B. No. 1947—Low.

An act relating to elections.

2018

Aug. 28—Enrolled and presented to the Governor at 3 p.m.

Sep. 18—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1947 without my signature.

This bill prohibits paying circulators to collect signatures on an initiative, referendum, or recall petition on a per-signature basis.

As I stated in my veto message to an almost identical bill --SB 168 of 2011-- "per-signature payment is often the most cost-effective method for collecting the hundreds of thousands of signatures needed to qualify a ballot measure. Eliminating this option will drive up the cost of circulating ballot measures, thereby further favoring the wealthiest interests."

While I understand the potential abuses of the current per-signature payment system, my perspective has not changed since 2011.

I cannot sign this bill.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

20

A.B. No. 2245—Berman et al.

An act relating to elections.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 18—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2245 without my signature.

This bill requires county elections officials to provide the Secretary of State with information on persons who have pre-registered to vote, prohibits the information from being disclosed to any person, and requires the Secretary of State to compile a statewide list by various political subdivisions.

The Secretary of State already provides pre-registered voter data by county and nothing prohibits the breakdown of the data into further political subdivisions. Moreover, it is common practice for county election officials to keep pre-registered voter data confidential. Therefore this bill is unnecessary.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

21

A.B. No. 2258—Caballero et al.

An act relating to local government.

2018

Sep. 10—Enrolled and presented to the Governor at 3:30 p.m.

Sep. 18—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2258 without my signature.

Subject to an appropriation in the annual Budget Act, this bill requires the Strategic Growth Council to establish and administer a grant program to fund various activities performed by Local Agency Formation Commissions.

This new spending proposal should be evaluated in the annual budget process where it can be weighed together with the state's other spending priorities.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

22

A.B. No. 2528—Bloom et al.

An act relating to climate change.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 18—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2528 without my signature.

This bill would add three sectors - land use and community development, climate justice, and parks, recreation and California culture - to the Safeguarding California Plan (Plan), the state's climate adaptation strategy. The bill would also require the Biodiversity and Habitat sector of the Plan to include habitat resilience areas.

While well intentioned, this bill is unduly restrictive in its definitions. The bill requires too narrow a focus for the broad mandate that the Safeguarding California Plan envisions.

As we continue to evaluate the impacts of climate change across all sectors, it is important for state agencies to be able to identify priorities based on in-depth assessment of climate risks and adaptation needs pertaining to all ecosystems.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

23

A.B. No. 2614—Carrillo et al.

An act relating to outdoor experiences.

2018

Sep. 7—Enrolled and presented to the Governor at 2:30 p.m.

Sep. 18—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2614 without my signature.

This bill requires the California Natural Resources Agency to implement a program to increase participation in outdoor recreational activities, especially for people living in disadvantaged communities.

Under current law, several departments within the California Natural Resources Agency administer programs that expand outdoor recreation. Moreover, the 2018 Budget Act sets aside \$277 million for grants to local government and nonprofits to accomplish the same goal.

I agree that these outdoor programs are very important, but these are best targeted and most beneficial when done at the local level. Finally, it would be prudent to see how the recreational grant program unfolds before adding the new state role required by this bill.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

24

A.B. No. 3088—Chu.

An act relating to health facilities.

2018

Sep. 7—Enrolled and presented to the Governor at 2:30 p.m.

Sep. 18—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 3088 without my signature.

This bill requires all Continuing Care Retirement Communities to obtain an actuarial study every five years.

These communities, which combine housing with long term health care services and supports, have a wide range of ownership interests, business models and facilities. An actuarial study may be one indication of financial viability, but the Department of Social Services uses a variety of methods to monitor the long term fiscal health of these communities.

Instead of mandating an actuarial study be done by every Continuing Care Retirement Community, the department will continue to work with residents and management to determine appropriate means to measure fiscal viability.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

25

A.B. No. 3218—Arambula.

An act relating to state parks.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 18—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 3218 without my signature.

The bill requires the Department of Parks and Recreation to manage the land owned by the San Joaquin River Conservancy as an extension of Millerton Lake State Recreational Area.

This bill will not lead to the author's desired outcome. Regardless of whether the state entity manages the land or not, creating true public access to the San Joaquin River and the 5,900 acres adjacent to it can only be achieved if money is available and if private landowners are willing to sell. This bill, unfortunately, does not change this.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

26

A.B. No. 1529—Thurmond et al.
An act relating to drinking water.

2018

- Sep. 4—Enrolled and presented to the Governor at 3 p.m.
Sep. 19—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1529 without my signature.

This bill would require local water suppliers to accept current certifications issued for people who inspect cross-connection and backflow prevention devices, which protect drinking water supplies from contamination, if the certifications meet regulatory requirements that were in effect January 1, 2016. Additionally, once the State Water Resources Control Board adopts new standards for cross-connection control and backflow prevention - which they are expected to do by January 1, 2020 - water suppliers would be required to accept certifications that meet these new certification standards.

This bill is unnecessary and limits a water supplier's ability to protect public health and safety. The Water Board is in the process of developing new cross-connection and backflow prevention standards, which will provide consistent direction on the issue. Furthermore, the proposed regulations will preserve water suppliers' discretion to require standards that are more rigorous.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

27

A.B. No. 1863—Jones-Sawyer et al.

An act relating to taxation, to take effect immediately, tax levy.

2018

Aug. 27—Enrolled and presented to the Governor at 3 p.m.

Sep. 19—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1863 without my signature.

This bill would allow licensed commercial cannabis businesses to deduct their business expenses under the state's personal income tax law, effective beginning tax year 2018.

The bill seeks to apply equal state tax treatment to licensed cannabis businesses in this state, regardless of whether they organize under the personal income tax or corporate income tax law. Given the cost to the General Fund, this proposal is best evaluated as part of the budget process.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

28

A.B. No. 2299—Chu.

An act relating to Medi-Cal.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 19—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2299 without my signature.

This bill would require the Department of Health Care Services to ensure all written health education and informational materials provided by Medi-Cal managed care plans to their beneficiaries are translated at or below the sixth grade reading level.

I signed legislation last year to codify the Affordable Care Act's language access provisions into state law. Furthermore, the department requires its plans to provide written materials in an easily understood and readily accessible format. Current law and contractual practice are sufficient to compel plans to make these important health care documents understandable for Medi-Cal beneficiaries.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

29

A.B. No. 2317—Eggman et al.

An act relating to employment.

2018

Aug. 30—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 19—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2317 without my signature.

This bill would extend whistleblower protections afforded to employees to patients' rights advocates regardless of whether they are an employee, an independent contractor, or a business entity.

While I am supportive of the larger policy goal of this bill, to protect the work of patient rights advocates, this is not the appropriate framework. The bill would expand the Labor Commissioner's jurisdiction beyond the typical employer-employee relationship into larger contract disputes between independent contractors and local governments. I do not believe such a broad change in law is warranted when there is limited evidence of a problem.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

30

A.B. No. 2838—Low.

An act relating to gambling.

2018

Sep. 7—Enrolled and presented to the Governor at 2:30 p.m.

Sep. 19—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2838 without my signature.

This bill establishes a 60-day limit to the existing requirement for the Department of Justice to review and comment on any proposed amendment to a local gambling ordinance relating to cardrooms, before the ordinance is adopted by the local jurisdiction.

While the bill is intended to reduce the time for the Department to respond to local jurisdictions on proposed amendments to local gambling ordinances, the Department's average response time is 30 days. This bill is a solution in search of a problem -- not needed.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

31

A.B. No. 3135—Frazier.

An act relating to streets and highways.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 19—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 3135 without my signature.

This bill requires the annual Governor's budget, each year for the next five years, to include funding and position authority for additional California Highway Patrol officers. The bill also requires the first priority for Motor Vehicle Account revenues to be the administration and enforcement of laws regulating the use, operation, or registration of vehicles used on streets and highways, including the enforcement of traffic and vehicle laws.

This bill mandates a specific proposal be included in the annual Governor's Budget, which limits the next Governor's discretion in setting forth priorities in this area. Given the bill's ongoing fiscal impact, the annual budget process is the appropriate venue to evaluate this issue.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

32

A.B. No. 310—Medina et al.

An act relating to community colleges.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 20—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 310 without my signature.

As I stated in the veto of AB 2069 of 2016, the state recognizes the many contributions part-time faculty make in students' lives. Over the last few years, we increased funding for the part-time faculty office hours program by several millions of dollars in ongoing funding and \$50 million in one-time funds just a few months ago.

We've also created more opportunities for part-time faculty to become full-time faculty with additional investments totaling over \$100 million.

A reporting mandate on top of all this investment is unnecessary.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

33

A.B. No. 1996—Lackey et al.
An act relating to cannabis.

2018

Aug. 28—Enrolled and presented to the Governor at 3 p.m.
Sep. 20—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1996 without my signature.

This bill renames the California Marijuana Research Program as the California Cannabis Research Program and expands the areas of research that can be undertaken. The bill also prohibits the money appropriated to the Cannabis Research Program from the Cannabis Tax Fund to pay for the provisions of this bill.

This bill contains provisions that directly conflict with the Control, Regulate, and Tax Adult Use of Marijuana Act, which the voters approved in November 2016. For this reason, I cannot support this measure.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

34

A.B. No. 2168—Thurmond.

An act relating to special education.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 20—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2168 without my signature.

This bill establishes the Special Education Teacher Grant program for the purpose of retaining and mentoring special education teachers.

While I support the need to retain and support special education teachers, I cannot support this bill. The 2018 Budget Act includes \$50 million Proposition 98 General Fund for the Local Solutions Grant Program for schools to develop and implement new, or expand existing, locally identified solutions that recruit, support and retain special education teachers.

Nothing in the grant language prohibits schools from providing mentors for special education teachers.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

35

A.B. No. 2691—Jones-Sawyer.
An act relating to pupil health.

2018

- Sep. 5—Enrolled and presented to the Governor at 3 p.m.
Sep. 20—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2691 without my signature.

This bill would establish the "Trauma-Informed Schools Initiative" within the Department of Education at state headquarters "to address the impact of ACEs on the educational outcomes of California pupils".

It's a no brainer that our schools should be sensitive to the unique and diverse characteristics of all students. With that goal in mind, I have signed dozens of bills that have sought to ensure that all our students are free from discrimination, bullying, or any other form of disrespect.

While this bill is intended to do good, I am alarmed by the amount of jargon it creates and the inevitable labeling it will encourage. The issues here are best handled by local schools -- and in plain English.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

36

A.B. No. 11—McCarty et al.
An act relating to Medi-Cal.

2018

- Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.
Sep. 21—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 11 without my signature.

This bill would require developmental screening of children from birth to age three in Medi-Cal and impose annual reporting requirements to assess managed care plan compliance.

The Medi-Cal State Plan already requires providers to screen children for developmental delays according to the schedule recommended by the American Academy of Pediatrics. Codifying this requirement and producing another costly report is not necessary.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

37

A.B. No. 558—Quirk-Silva.

An act relating to vehicular air pollution.

2018

Sep. 4—Enrolled and presented to the Governor at 3 p.m.

Sep. 21—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 558 without my signature.

This bill requires the California Air Resources Board to develop policy recommendations to maximize the use of E85, a fuel blend of 85 percent ethanol and 15 percent gasoline, in flex fuel vehicles that operate in the state.

California has recognized the potential benefits of E85 and has adopted the Low Carbon Fuel Standard to support E85 and other fuels that reduce the use of petroleum.

Earlier this month, I issued executive order B-55-18, directing the state to achieve carbon neutrality by 2045 and net negative greenhouse gas emissions after that. In order to meet this ambitious goal and truly decarbonize California's transportation sector, our state agencies must focus on emerging markets for the cleanest vehicles and fuels possible.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

38

A.B. No. 1873—Obernolte et al.

An act relating to driver's licenses.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 21—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning the following bills without my signature:

AB 1873

AB 2058

AB 2135

SB 987

SB 1455

Each of these bills requires significant information technology programming at the Department of Motor Vehicles.

Reducing wait times in field offices and addressing the urgent needs of customers is the top priority. The programming required to implement these bills will delay the department's ability to fully modernize its aging information technology systems. While these bills may have merit, it would be prudent for the Legislature to pause on additional mandates while the department works to complete programming for prior legislative mandates and system upgrades designed to reduce transaction times and improve customer service.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

39

A.B. No. 2005—Santiago.

An act relating to child abuse reporting.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 21—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2005 without my signature.

This bill would authorize a law enforcement agency to forward a report of child abuse or neglect to the Department of Justice for inclusion in the Child Abuse Central Index (CACI).

In 2011 I signed AB 717 (Ammiano), which was intended to update the procedures governing the index as well as establish due process protections for individuals added to the database. At that time, the ability of law enforcement to submit cases to the index was eliminated, in part to eliminate redundancies and reduce costs.

I am not fundamentally opposed to once again granting law enforcement the authority to submit cases to the index, however this bill does so in a manner that would undoubtedly lead to inconsistent application across and within counties. I encourage the proponents to work with the relevant stakeholders, including the Department of Social Services and Department of Justice, to further refine this proposal for future consideration.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

40

A.B. No. 2058—Chau.

An act relating to driving under the influence.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 21—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning the following bills without my signature:

AB 1873

AB 2058

AB 2135

SB 987

SB 1455

Each of these bills requires significant information technology programming at the Department of Motor Vehicles.

Reducing wait times in field offices and addressing the urgent needs of customers is the top priority. The programming required to implement these bills will delay the department's ability to fully modernize its aging information technology systems. While these bills may have merit, it would be prudent for the Legislature to pause on additional mandates while the department works to complete programming for prior legislative mandates and system upgrades designed to reduce transaction times and improve customer service.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

41

A.B. No. 2135—Acosta et al.

An act relating to license plates.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 21—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning the following bills without my signature:

AB 1873

AB 2058

AB 2135

SB 987

SB 1455

Each of these bills requires significant information technology programming at the Department of Motor Vehicles.

Reducing wait times in field offices and addressing the urgent needs of customers is the top priority. The programming required to implement these bills will delay the department's ability to fully modernize its aging information technology systems. While these bills may have merit, it would be prudent for the Legislature to pause on additional mandates while the department works to complete programming for prior legislative mandates and system upgrades designed to reduce transaction times and improve customer service.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

42

A.B. No. 2346—Quirk.

An act relating to public utilities.

2018

Sep. 12—Enrolled and presented to the Governor at 12 p.m.

Sep. 21—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2346 without my signature.

This bill directs the California Public Utilities Commission to authorize memorandum accounts for electric corporations to track costs related to wildfires occurring after January 1, 2015. The bill also specifies the types of costs that can be tracked in the accounts.

I recently signed SB 901, which, among other things, establishes rules for tracking and recovering costs for both wildfire mitigation activities and damages resulting from catastrophic wildfires.

This bill is inconsistent with SB 901.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

43

A.B. No. 2427—Wood et al.
An act relating to Medi-Cal.

2018

- Sep. 5—Enrolled and presented to the Governor at 3 p.m.
Sep. 21—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2427 without my signature.

This bill would require Medi-Cal managed care plan contracts to include a provision allowing the Department of Health Care Services to terminate the contract if the Attorney General determines that the plan engaged in anticompetitive conduct, or if the department determines the plan has a pattern of not complying with medical loss ratio requirements.

This bill is unnecessary as the department has sufficient statutory and contractual authority to deal with inappropriate or illegal conduct by plans.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

44

A.B. No. 2994—Holden.

An act relating to building standards.

2018

Sep. 7—Enrolled and presented to the Governor at 2:30 p.m.

Sep. 21—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2994 without my signature.

This bill requires the Division of the State Architect to develop and propose to the California Building Standards Commission, updated standards on the required number of ambulatory accessible stalls in public restrooms.

California's existing accessibility standards exceed the federal requirements and are often regarded as a national model. This bill requires the State Architect to review the existing standards, and regardless of the outcome, provide additional ones. I don't think that's warranted.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

45

A.B. No. 3086—Kiley.

An act relating to pupil attendance.

2018

Aug. 29—Enrolled and presented to the Governor at 4 p.m.

Sep. 21—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 3086 without my signature.

This bill prohibits a school district of residence from denying the transfer out of the district for students who are homeless, in foster care, or victims of bullying. The bill requires the district of enrollment to provide transportation to these transfer students and admit all students until the school district is at maximum capacity.

It is unclear what problem this bill is trying to solve and whether there is a statewide issue requiring a solution. There are already many other existing school choice options available to parents. This bill will only further complicate an already complicated array of statutes without evidence that parents need or will utilize this option.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR’S VETOES—Continued

46

A.B. No. 1165—Caballero.

An act relating to agriculture.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 22—Vetoed by Governor. Consideration of Governor’s veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor’s veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1165 without my signature.

This bill establishes the Agricultural Sustainability Council for the purpose of eliminating regulatory overlap and inconsistency.

I agree with the author’s objective, but believe this bill is not warranted. The Department of Food and Agriculture Secretary, using her existing authority, can meet with other state agencies and identify how to improve regulatory coordination and efficiency.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

47

A.B. No. 1247—Nazarian.

An act relating to professions and vocations.

2018

Sep. 10—Enrolled and presented to the Governor at 3:30 p.m.

Sep. 22—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1247 without my signature.

This bill would require professional fiduciary license applicants to complete at least one hour of LGBTQ education prior to licensure and require all licensed professional fiduciaries to complete at least one hour of LGBTQ continuing education every three years.

While I understand and support cultural competence, I do not believe the mandated continuing education requirements of this bill are warranted.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

48

A.B. No. 2122—Reyes et al.
An act relating to Medi-Cal.

2018

- Sep. 10—Enrolled and presented to the Governor at 3:30 p.m.
- Sep. 22—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2122 without my signature.

This bill would set statewide goals for blood lead level screening tests for children in Medi-Cal and require the Department of Health Care Services to ensure these goals are met.

Lead exposure in children is a serious health concern and I share the author's desire to increase the number of Medi-Cal children who are screened. The department, however, already requires in its contracts with managed care plans and providers that children receive screenings in accordance with federal and state regulations. Updated and more thorough data on periodic screening tests is being developed with the Department of Public Health to assist in tracking compliance.

I believe the department should continue its current efforts working with managed care plans, health care providers and public health officials to determine what additional policies and practices may be necessary to improve screening rates.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

49

A.B. No. 2314—Ting et al.

An act relating to domestic workers.

2018

Aug. 28—Enrolled and presented to the Governor at 3 p.m.

Sep. 22—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2314 without my signature.

This bill would create a Domestic Work Enforcement Pilot Program in an effort to provide resources, education and training regarding labor standards in the domestic work industry for both employees and employers.

The author of this measure added a provision to the 2018–19 Budget Act that requires the Division of Labor Standards Enforcement to provide a report, by July 1, 2019, on the labor enforcement actions that have been taken by the Division to date, what barriers exist that may prevent greater enforcement, and to provide recommendations on improving employer compliance through outreach and education. Given the wide variety of domestic work and the sparse information available, I believe the legislature should wait for the findings of this report, and then conduct thorough and thoughtful hearings on how families can take care of their loved ones in a fair and affordable manner.

Keeping a family member out of a nursing home and in a place where they have lived for years is a profoundly moral and social good. I urge the legislature to tread carefully when adding more enforcement rules or costly mandates on ordinary families trying to do their best for their infirmed or aging loved ones.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

50

A.B. No. 2749—Bonta.

An act relating to state government.

2018

Sep. 7—Enrolled and presented to the Governor at 2:30 p.m.

Sep. 22—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2749 without my signature.

This bill requires all state agencies to certify that their Internet web sites are mobile-friendly.

I signed Assembly Bill 434 into law last year which requires all state agency websites to meet specified accessibility standards, including mobile accessibility.

While I support the author's intent to ensure state websites are both accessible and mobile-friendly, this bill is unnecessary.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

51

A.B. No. 3179—Salas et al.

An act relating to state government.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 22—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 3179 without my signature.

This bill would require state agencies to provide access to bilingual employees and translated materials for non-English speakers if those individuals constitute 3% of the population served.

This bill has a potential cost of \$77 million a year and is more properly considered as part of the budget process.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

52

A.B. No. 427—Muratsuchi et al.
An act relating to aerospace.

2018

- Sep. 4—Enrolled and presented to the Governor at 3 p.m.
Sep. 23—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 427 without my signature.

This bill enacts the California Aerospace and Aviation Act of 2018, which establishes the California Aerospace and Aviation Commission within the Governor's Office of Business and Economic Development.

While the value of the aviation and aerospace industry is critical to the economy of this state, this bill would create a new bureaucracy that replicates many of the things the state is already doing. I think the goals of this bill can be easily handled under current law by the Governor's Office of Business and Economic Development.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

53

A.B. No. 479—Gonzalez Fletcher et al.
An act relating to workers' compensation.

2018

Aug. 24—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 23—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 479 without my signature.

This bill would require physicians to consider a specific list of impairments when determining a worker's disability for the purposes of workers' compensation when that worker suffers from breast cancer. This proposal is similar to three previous measures that I have vetoed, Assembly Bill 570 in 2017, Assembly Bill 1643 in 2016 and Assembly 305 in 2015.

This bill and its predecessors have repeatedly singled out specific conditions and proposed a special set of rules that apply to them. This would result in an even more complex workers' compensation system that would essentially be "disease by statute," which would ultimately burden injured workers seeking quick resolution to their claims.

Policy questions about the adequacy of the State's workers' compensation system are best addressed through empirically based research and analysis. Therefore, I am directing the Division of Workers' Compensation Administrative Director, in consultation with the Commission on Health and Safety and Workers' Compensation, to contract with an outside independent research organization to undertake an evidenced based evaluation of the issue. Specifically, the Administrative Director should review the following:

1. Do the standards for determining impairment due to occupational injury or illness accurately reflect the level of impairment caused by industrial cancer?
2. Study and compare the differences between the fifth and sixth editions of the American Medical Association Guides with respect to determining impairment resulting from industrial cancer.
3. Do the standards for determining impairment resulting from industrial cancer exhibit bias based on immutable characteristics such as gender, race or ethnicity?

Every stakeholder in the workers' compensation system, but specifically the injured workers directly

MEASURE CONTINUED ON THE FOLLOWING PAGE

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

A.B. No. 479—Gonzalez Fletcher et al.—continued

affected, has a vested interest in a comprehensive response to the issues raised by this series of bills. I am directing the Administrative Director to report on these questions by March 1, 2020 in order to inform the Legislature and key stakeholders on how best to address the important issues raised by this bill.

Sincerely,

Edmund G. Brown Jr.

54

A.B. No. 553—Daly.

An act relating to workers' compensation.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 23—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 553 without my signature.

This bill requires the Department of Industrial Relations to completely disburse \$120 million annually from the Workers' Compensation Return to Work Fund to eligible injured workers.

The Return-to-Work Program began in 2015 and is relatively new. I am concerned this measure proposes sweeping revisions to the Return-to-Work program that are premature. The Program's funds will likely be spent in full in the coming fiscal year. Let's see the progress of that effort before making additional changes to the Program.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

55

A.B. No. 767—Quirk-Silva.

An act relating to economic development.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 23—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 767 without my signature.

This bill codifies the Information Technology unit within the Governor's Office of Business and Economic Development and authorizes two positions in statute for this purpose.

This bill is unnecessary given the 2018 Budget Act included funding for staff positions to perform activities substantially similar to those prescribed in this measure. The annual budget process is the best venue to evaluate the resources and staff needed for various state programs such as the one contemplated by this proposal.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

56

A.B. No. 1697—Committee on Insurance (Assembly Members Daly (Chair)) et al.
An act relating to workers' compensation.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 23—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1697 without my signature.

This bill requires the Department of Industrial Relations to establish an anti-fraud unit within the Division of Workers' Compensation and requires the unit to develop data analytic processes to identify sources and the magnitude of fraudulent activity.

The work required by this measure is already underway. Additionally, the bill would require the Department to reveal sensitive details about its enforcement practices. This will compromise the state's efforts to combat workers' compensation fraud, a result that nobody wants.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

57

A.B. No. 2384—Arambula.

An act relating to medication-assisted treatment.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 23—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2384 without my signature.

This bill requires health plans to cover at least one version of each drug used in medication-assisted treatment for opioid disorders and restricts health plans' ability to manage the utilization of these drugs.

While the drugs specified in this bill are useful to treat opioid addiction, I'm not willing to eliminate requirements that may be in the best interest of patients.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

58

A.B. No. 2496—Gonzalez Fletcher et al.

An act relating to employment, and making an appropriation therefor.

2018

Sep. 4—Enrolled and presented to the Governor at 3 p.m.

Sep. 23—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2496 without my signature.

This bill would establish in statute the presumption that persons who perform services for janitorial employers are employees rather than independent contractors.

I share the Author's concern about protecting the most vulnerable workers as well as the general concern about providing clarity regarding worker classification. The California Supreme Court recently issued a significant decision establishing a new test to determine whether a worker is properly classified as an employee or an independent contractor, *Dynamex Operations West, Inc. v. Superior Court* (2018) 4 Cal.5th 903. The Administration and the Legislature are still reviewing this decision and any statutory changes to such tests would be premature.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

59

A.B. No. 180—Wood et al.

An act relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 26—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning the following bills without my signature.

AB 180

SB 275

SB 707

Each of these bills requires the Department of Health Care Services to establish a stakeholder process to deliberate and advise the department on an issue with Medi-Cal.

Not every problem with Medi-Cal needs or deserves a public stakeholder process. The department regularly collaborates with stakeholders including interested organizations, experts, partners and colleagues. I am confident it will continue to do so.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

60

A.B. No. 900—Gonzalez Fletcher et al.

An act relating to crime victims, and making an appropriation therefor.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 26—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 900 without my signature.

This bill would authorize the California Victim Compensation Board to provide compensation to human trafficking victims in the amount equal to the loss of income or support incurred as a direct result of a victim's loss of liberty during the crime.

While I appreciate the author's intent, this bill fundamentally changes the nature of the Board's system for compensating victims, and places an unsustainable burden on the Restitution Fund which is already imbalanced. The proposed compensation is more akin to restitution, which expands the program beyond its intended purpose, and beyond the scope of other states' programs.

For the past three years the state budget has provided a line item to support services for human trafficking victims ranging up to \$10 million. Any future expansion in scope of services for these victims should not rely on an already over-committed funding source.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

61

A.B. No. 1927—Bonta et al.
An act relating to firearms.

2018

Aug. 30—Enrolled and presented to the Governor at 4:30 p.m.
Sep. 26—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1927 without my signature.

This bill would require the Department of Justice to study options, and recommend and approach, to developing a system whereby an individual can opt to prevent themselves from buying a firearm.

While this is an interesting area of inquiry, I do not believe that we need to mandate an additional study of this type.

The Department of Justice is currently implementing a number of large scale changes to our gun laws, and I think that any information regarding a system for self-exclusion from gun purchases can be obtained through existing means. The Legislature's standing committees, as well as California's Violence Prevention Research Center are existing avenues through which this inquiry can be conducted.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

62

A.B. No. 2026—Lackey.

An act relating to vehicle sales.

2018

Aug. 28—Enrolled and presented to the Governor at 3 p.m.

Sep. 26—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2026 without my signature.

This bill requires a person licensed by the Department of Motor Vehicles as a salesperson for a used car dealer to complete an education program prior to being hired and every three years thereafter.

While it is obviously important that used car salespersons understand relevant laws and regulations, this bill is unnecessary.

Car dealers are already required to be knowledgeable of applicable laws and to see to it that their sales staff follow the rules. Additionally, I am not a fan of mandating pre-packaged, four-hour continuing education courses which will never substitute for effective supervision.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

63

A.B. No. 2298—Chau.

An act relating to family law.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 26—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2298 without my signature.

This bill modifies disclosure requirements for assisted reproduction agreements.

Although well-intentioned, this bill is an example of my oft-repeated maxim that not every problem deserves a law. The fact-specific situation at issue is quite unique, and while certainly difficult for the parties involved, has already been dealt with appropriately. Additional legislation is not needed.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR’S VETOES—Continued

64

A.B. No. 2477—Rubio et al.

An act relating to student support services.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 26—Vetoed by Governor. Consideration of Governor’s veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor’s veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2477 without my signature.

The bill requires campuses of the California State University, and requests campuses of the University of California, to designate a staff member, known as a “Dream Resource Liaison,” who is knowledgeable about financial aid and academic opportunities for undocumented students, and also encourages the creation of resource centers for these students.

As I stated in the veto of AB 2009 of 2016, all of our higher education institutions ought to be well-versed in the rights and opportunities available to undocumented students. I further called on our system higher education leaders to ensure that relevant campus personnel can ably fulfill these duties.

UC and CSU have complied by either creating designated physical spaces on campus called Dream Resource Centers, or provided such information through existing student support programs. This bill is not necessary.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

65

A.B. No. 2547—McCarty.

An act relating to teachers.

2018

Sep. 7—Enrolled and presented to the Governor at 2:30 p.m.

Sep. 26—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2547 without my signature.

This bill requires the Commission on Teacher Credentialing to collect specified data to evaluate the Teacher Residency Grant Program and Local Solutions Grant Program and determine each program's effectiveness at recruiting and training teachers.

The Commission is already required to conduct an evaluation of both programs and provide a report to the state Legislature and Department of Finance by December 1, 2023. I am confident that successful practices will be shared within the education community.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

66

A.B. No. 2602—McCarty.

An act relating to homeless youth.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 26—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2602 without my signature.

This bill requires the Office of Emergency Services to enter into a grant award agreement to fund a homeless youth emergency service project in Sacramento County that must begin operating by October 1, 2019.

The bill directs the Office to establish the project but does not provide funding for its operation. Services to the state's homeless youth are important, but mandating this project without a funding source would be unwise. This project should be carefully evaluated during the annual budget process.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

67

A.B. No. 2888—Ting et al.
An act relating to firearms.

2018

- Sep. 6—Enrolled and presented to the Governor at 3 p.m.
Sep. 26—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2888 without my signature.

This bill would authorize an employer, coworker, employee of a secondary or postsecondary school that the person has attended in the last six months, to file a petition for a gun violence restraining order against an individual.

All of the persons named in this bill can seek a gun violence restraining order today under existing law by simply working through law enforcement or the immediate family of the concerning individual. I think law enforcement professionals and those closest to a family member are best situated to make these especially consequential decisions.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

68

A.B. No. 354—Calderon.

An act relating to housing investors.

2018

Sep. 10—Enrolled and presented to the Governor at 3:30 p.m.

Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 354 without my signature.

This bill requires institutional investors that own more than one hundred single-family homes to register with the Department of Business Oversight by July 1, 2019 and for the Department to collect information about renters and private sales.

This bill is beyond the expertise and jurisdiction of the Department of Business Oversight. Even if the Department collected all the information about institutional investors, the number of renters living in the investor owned properties and private sales to existing tenants, collecting the data would not stop the purchase of these homes by private investors.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

69

A.B. No. 514—Salas.

An act relating to sex offenders.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 514 without my signature.

This bill requires the State Department of Social Services to notify child day care facilities when a person with specified convictions requiring sex offender registration moves to a new residence within 1,000 feet of the facility.

The Department of Social Services currently informs new licensed child care providers about the sex offender registry website and encourages them to access it. This bill would create a new overlapping process that provides information that is already quickly and easily accessible on the internet.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

70

A.B. No. 1116—Grayson et al.

An act relating to emergency services.

2018

Aug. 28—Enrolled and presented to the Governor at 3 p.m.

Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1116 without my signature.

This bill creates a pilot peer support program for state correctional and parole officers, firefighters, paramedics, emergency medical technicians, and dispatchers.

I appreciate the author's sincere attempt to address the occupational stress experienced by some of our bravest public servants. However, I believe that the scope of confidentiality afforded under this bill is too broad and fails to strike the right balance between fostering collegial trust and concealing information necessary to ensure safe and healthy workplaces.

Further, peer support programs are already in place for many public safety personnel, making this narrow pilot program largely duplicative and potentially in conflict with existing programs. I would recommend that instead of new statutory provisions, the sponsors and author work with the affected agencies to improve existing programs.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

71

A.B. No. 1801—Nazarian.

An act relating to newborns.

2018

Sep. 4—Enrolled and presented to the Governor at 3 p.m.

Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1801 without my signature.

This bill would require the Department of Health Care Services to establish a 13-member Commission to identify public educational resources for, and examine research and data relating to, Cytomegalovirus, a non-genetic virus which causes birth defects.

Researching, educating and testing for diseases in newborns is the function of the Department of Public Health's Newborn Screening program. I encourage the author to work with this department to review and assess this disease rather than create a new governmental body in a different department.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

72

A.B. No. 1865—Lackey et al.

An act relating to guide, signal, and service dogs, and making an appropriation therefor.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1865 without my signature.

This bill would expand the definition of a guide, signal or service dog for purposes of charging certain crimes. It would also make the owner of a dog that is injured or killed due to a criminal act eligible for victim compensation regardless of whether the dog was performing its duties at the time.

In 2016 I vetoed AB 1824 (Chang), which, like this bill, would have expanded the scope of certain crimes against guide dogs, and would allow for victims compensation in those instances. That bill also lowered the standard for convicting an individual who causes injury or death to such a dog.

While this bill does not lower the standard for conviction, it nonetheless expands the scope of several crimes without commensurate evidence that this is needed. Moreover, the existing provisions allowing compensation for crimes against service dogs have been in place for over three years and have not resulted in a single eligible claim. No claim has been denied because a dog was not in the performance of its duties at the time of a crime-the subject matter of this bill.

Accordingly I don't believe the proposed changes are warranted.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

73

A.B. No. 1882—Cervantes et al.
An act relating to crimes.

2018

- Sep. 6—Enrolled and presented to the Governor at 3 p.m.
Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1882 without my signature.

This bill adds human trafficking to the list of offenses for which it is a crime to contact or communicate with a minor for the purposes of committing a crime involving the minor.

While well intentioned, this bill is not necessary. A myriad of statutes provide punishment for commercial sex acts, as well as using, paying or employing minors to commit commercial sex acts. Additionally, anyone who contacts or communicates-or attempts to contact or communicate-with a minor with the intent to commit a sex offense, including human trafficking, is liable to be prosecuted with an attempt to commit any number of felonies.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

74

A.B. No. 1945—Eduardo Garcia et al.
An act relating to greenhouse gases.

2018

- Sep. 10—Enrolled and presented to the Governor at 3:30 p.m.
- Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1945 without my signature.

This bill creates requirements that would apply to a broad range of climate change competitive grant programs, including criteria to prioritize certain communities and projects over others.

The general goals of this bill have merit but would be better achieved through the budget process.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

75

A.B. No. 2043—Arambula et al.
An act relating to foster youth.

2018

- Sep. 6—Enrolled and presented to the Governor at 3 p.m.
Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning the following five bills without my signature:

AB 2043
AB 2342
AB 2593
SB 1125
SB 1148

Each of these bills require significant, ongoing general fund commitments. As such, I believe they should be considered as part of the budget process.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

76

A.B. No. 2294—Obernolte.

An act relating to child custody.

2018

Aug. 20—Enrolled and presented to the Governor at 3 p.m.

Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2294 without my signature.

This bill requires a court holding a child custody proceeding to request an investigation by a child welfare services agency if the court determines that it cannot protect the child from child abuse.

There is not an identified problem with existing law. Currently, the family court can request an investigation by the local child welfare agency when there are allegations of child abuse. This bill could potentially have the unintended consequence of delaying appropriate referrals of child abuse if a court believes it must first make the findings described in the bill prior to requesting an investigation.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

77

A.B. No. 2342—Burke et al.
An act relating to cancer.

2018

- Sep. 12—Enrolled and presented to the Governor at 12 p.m.
Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning the following six bills without my signature:

AB 2043
AB 2342
AB 2593
SB 320
SB 1125
SB 1148

Each of these bills require significant, ongoing general fund commitments. As such, I commend these policies to the budget process where they may be prioritized along with other spending proposals and which begins again on January 3rd.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

78

A.B. No. 2474—Quirk.

An act relating to hazardous waste.

2018

Sep. 7—Enrolled and presented to the Governor at 2:30 p.m.

Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2474 without my signature.

This bill authorizes the Department of Toxic Substance Control to evaluate alternative methods from its standard bioassay procedure when determining if a product is hazardous waste.

The Department currently has the authority to establish alternative methods of testing a product's toxicity to aquatic life. Despite this, it has not exercised this option because such tests are too expensive. The Department has a structural deficit and I am not inclined to sign legislation that creates additional cost pressures.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

79

A.B. No. 2588—Chu.

An act relating to manufactured housing.

2018

Aug. 24—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2588 without my signature.

This bill requires a mobilehome park owner to post annually an emergency preparedness plan in the park and to have the Department of Housing and Community Development provide translation services for the plan.

This is a matter best addressed by local governments in collaboration with the mobilehome park owners. This partnership would allow for the tailoring of each emergency plan to reflect the unique topography, climate, and conditions of each individual community.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

80

A.B. No. 2593—Grayson et al.

An act relating to air ambulance services.

2018

Sep. 7—Enrolled and presented to the Governor at 2:30 p.m.

Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning the following six bills without my signature:

AB 2043

AB 2342

AB 2593

SB 320

SB 1125

SB 1148

Each of these bills require significant, ongoing general fund commitments. As such, I commend these policies to the budget process where they may be prioritized along with other spending proposals and which begins again on January 3rd.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

81

A.B. No. 2963—Kalra et al.

An act relating to employment.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning AB 2963 without my signature.

This bill would increase reporting of worker lead exposure by the California Department of Public Health and require the Division of Occupational Safety and Health to undertake an investigation within three working days. It would also require the Division to make the information on resulting fines and citations publicly available.

I agree with the author that lead exposure is an important public health issue and should be taken seriously. In this case, the Department of Public Health already works collaboratively with employers to reduce worker exposure to lead and refers employers to the Division for enforcement, if needed, on a case-by-case basis. This bill would erode that collaborative approach, and require the Division to take immediate enforcement action upon referral.

The Division is in the process of revising and updating the regulations that establish a permissible lead exposure level for workers and the level at which immediate intervention is needed. I believe we should wait for that work to conclude.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

82

A.B. No. 3131—Gloria et al.

An act relating to military equipment.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 3131 without my signature.

This bill establishes requirements that must be met before a law enforcement agency may take a number of specified actions related to the acquisition and use of "military" equipment.

The list of equipment contemplated by this bill is overbroad-broader than that covered by now-repealed Executive Order 13688 which was the basis for AB 36 (Campos) in 2015, which I also vetoed. The current list not only includes items that are clearly "militaristic in style," but many that are commonly used by law enforcement and do not merit additional barriers to their acquisition.

In my view this bill creates an unnecessary bureaucratic hurdle without commensurate public benefit, and I cannot sign it.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

83

A.B. No. 3188—Thurmond.

An act relating to school accountability.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 27—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 3188 without my signature.

This bill requires all local schools to report on their student population that meets both the requirements for entrance to the University of California and the California State University, which include A-G requirements and career-technical education sequences.

Local schools already have the flexibility to report this data in their Local Control Accountability Plan and a number are already doing so.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

84

A.B. No. 1903—Gonzalez Fletcher.
An act relating to firearms.

2018

Aug. 20—Enrolled and presented to the Governor at 3 p.m.
Sep. 28—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1903 without my signature.

This bill would, for purposes of a voluntary firearms buyback program, prohibit a local government from dispensing a gift card whose issuer holds a firearms dealer's license.

I understand the author's intent, but I do not believe local firearm buyback programs need to be micromanaged to this degree.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

85

A.B. No. 1951—O'Donnell et al.

An act relating to pupil assessments.

2018

Sep. 10—Enrolled and presented to the Governor at 3:30 p.m.

Sep. 28—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1951 without my signature.

This bill requires the Superintendent of Public Instruction to approve one or more nationally recognized high school assessments that a local school may administer in lieu of the state-administered high school summative assessment, commencing with the 2019–20 school year.

Since 2010, California has eliminated standardized testing in grades 9 and 10 and the high school exit exam. While I applaud the author's efforts to improve student access to college and reduce "testing fatigue" in grade 11, I am not convinced that replacing the state's high school assessment with the Scholastic Aptitude Test or American College Test achieves that goal.

Our K-12 system and our public universities are now discussing the possible future use of California's grade 11 state assessment for college admission purposes. This is a better approach to improving access to college for under-represented students and reducing "testing fatigue".

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR’S VETOES—Continued

86

A.B. No. 2050—Caballero.

An act relating to small system water authorities.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 28—Vetoed by Governor. Consideration of Governor’s veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor’s veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2050 without my signature.

This bill establishes the Small System Water Authority Act of 2018, which authorizes the creation of small system water authorities to operate small public water systems that can’t afford to serve safe drinking water.

While I appreciate the author’s intent, this bill creates an expensive, bureaucratic process and does not address the most significant problem with providing safe drinking water - a stable funding source to pay for ongoing operations and maintenance costs.

My administration remains committed to a comprehensive solution to address safe drinking water issues based on shared responsibility between water users and water providers that will not result in ongoing costs to the General Fund. I urge the Legislature and stakeholders to work towards a stable funding solution in 2019.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

87

A.B. No. 2060—Eduardo Garcia et al.

An act relating to water.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 28—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2060 without my signature.

This bill would require the State Water Resources Control Board to provide advance payment of grant awards to a nonprofit organization or disadvantage community grantee, upon request, if the grantee demonstrates a need and if other specified criteria are met. These provisions would apply to wastewater and drinking water projects.

I appreciate the author's intent to help nonprofit organizations and disadvantaged communities meet cash-flow needs when managing projects. In recent years, however, the State Water Board has established other means for grantees or address cash-flow problems. For example, the State Water Board facilitates payment of invoices, including paying additional fees to the State Controller for expedited processing. Additionally, when a grantee obtains a bridge loan to access funds before completion of a project, the State Water Board will reimburse the grantee for interest costs.

As such, the additional financial risks and administrative costs associated with advanced payments, as proposed in AB 2060, are unwarranted.

Sincerely,

Edmund G. Brown, Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

88

A.B. No. 2064—Gloria et al.
An act relating to water.

2018

- Sep. 6—Enrolled and presented to the Governor at 3 p.m.
Sep. 28—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2064 without my signature.

This bill would expand the existing advanced payment provisions for grants awarded through the Integrated Regional Water Management Act.

To date, the Department of Water Resources has advanced approximately \$8.7 million for seven grants from Proposition 84 funds and five grants from Proposition 1 funds.

Notwithstanding the merits of this bill, the additional financial risk and administrative costs associated with the advanced payment process, as proposed in this bill, are unwarranted.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

89

A.B. No. 2163—Grayson.

An act relating to excavation.

2018

Aug. 27—Enrolled and presented to the Governor at 3 p.m.

Sep. 28—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2163 without my signature.

This bill requires the Department of Technology to provide Geographic Information Systems data to Regional Notification Centers for the purposes of California's "Call Before You Dig" program.

The Department does not own this data and must pay a subscription for its access. Unfortunately this bill does not allow for the Department to recoup its costs from the Centers. I recommend the author work with the Department and make the necessary changes in future legislation.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

90

A.B. No. 2305—Rodriguez.

An act relating to public employment.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 28—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning the following bills without my signature.

AB 2305

AB 2886

AB 3034

These bills expand the Public Employment Relations Board's jurisdiction to cover labor disputes involving several local public agencies.

Over the years, the Legislature has expanded the Board's jurisdiction, but the necessary funding for the increased workload has not kept pace. This has resulted in significant backlogs at the Board - both labor and employers have complained about this problem. This Administration has recently increased the Board's funding to help correct this problem. The Board's jurisdiction should not be expanded again until the Board's ability to handle its previously expanded caseload is established.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

91

A.B. No. 2362—Rubio et al.

An act relating to public health.

2018

Aug. 24—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 28—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2362 without my signature.

This bill establishes health and safety standards for vehicles used by shelters, humane societies, or rescue groups to transport animals.

Creating standards to ensure that animals are safely transported is a noble goal. This bill, however, as currently drafted contains terms that are too vague. I urge the author to come back with clear guidance next year.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

92

A.B. No. 2538—Rubio et al.

An act relating to water quality.

2018

Sep. 10—Enrolled and presented to the Governor at 3:30 p.m.

Sep. 28—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2538 without my signature.

This bill would require the State Water Resources Control Board to establish financial capability assessment guidelines for Municipal Separate Storm Sewer System permittees by July 1, 2019.

The State Water Board is currently working on guidelines to assist local agencies in estimating and tracking the cost of compliance with their stormwater permits. Additionally, the State Water Board and Regional Water Boards work with permittees to create customized compliance schedules and offer grants and loans.

Municipal finances are diverse and a generic financial analysis, as this bill suggests, will not meaningfully advance our understanding of the ability of municipalities to meet stormwater permitting requirements.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

93

A.B. No. 2596—Cooley et al.

An act relating to economic development.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 28—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2596 without my signature.

This bill would require the Governor's Office of Business and Economic Development, or GO-Biz, to lead the preparation of a California Economic Development Strategic Plan.

Since its inception, GO-Biz has expanded direct foreign investment, created opportunities for small businesses, identified incentives for growth, and helped resolve barriers for businesses navigating the government. These successes are due, in part, to the ability of GO-Biz to nimbly respond to rapidly changing economic factors including unpredictable federal decisions, natural disasters and more. I don't believe an ongoing costly study and report will provide any additional benefit to these efforts.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

94

A.B. No. 2652—Quirk.

An act relating to telecommunications.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 28—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2652 without my signature.

This bill would require the California Public Utilities Commission to revise and adopt specific rules pertaining to enrollment and recertification of California LifeLine Program participants.

The Commission currently has an open proceeding on the Lifeline Program with a goal of developing reforms to reduce burdens on individuals who want to enroll in the Program. This process is public, deliberative and is the best venue to address necessary Program adjustments.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

95

A.B. No. 2681—Nazarian et al.

An act relating to seismic safety.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 28—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2681 without my signature.

This bill requires local building departments in seismically active areas to submit an inventory of potentially vulnerable buildings to the Office of Emergency Services by January 1, 2021 and requires the Office to develop a statewide inventory of those buildings by January 1, 2023.

I agree with the author's goal to mitigate the effects of a large-scale earthquake. I am concerned, however, that this bill will not provide the greatest value for the significant investment this enterprise requires.

A more suitable approach is to develop a partnership between the state, local governments and building owners to develop a plan to cost effectively identify collapse prone buildings and a realistic timetable to develop an inventory.

Therefore, I will ask the California Seismic Safety Commission and other seismic experts to provide recommendations that identify an achievable path toward improving the safety of earthquake-vulnerable buildings.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

96

A.B. No. 2886—Daly.

An act relating to public employment.

2018

Aug. 27—Enrolled and presented to the Governor at 3 p.m.

Sep. 28—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning the following bills without my signature.

AB 2305

AB 2886

AB 3034

These bills expand the Public Employment Relations Board's jurisdiction to cover labor disputes involving several local public agencies.

Over the years, the Legislature has expanded the Board's jurisdiction, but the necessary funding for the increased workload has not kept pace. This has resulted in significant backlogs at the Board - both labor and employers have complained about this problem. This Administration has recently increased the Board's funding to help correct this problem. The Board's jurisdiction should not be expanded again until the Board's ability to handle its previously expanded caseload is established.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

97

A.B. No. 3034—Low.

An act relating to public transit.

2018

Sep. 12—Enrolled and presented to the Governor at 12 p.m.

Sep. 28—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning the following bills without my signature.

AB 2305

AB 2886

AB 3034

These bills expand the Public Employment Relations Board's jurisdiction to cover labor disputes involving several local public agencies.

Over the years, the Legislature has expanded the Board's jurisdiction, but the necessary funding for the increased workload has not kept pace. This has resulted in significant backlogs at the Board - both labor and employers have complained about this problem. This Administration has recently increased the Board's funding to help correct this problem. The Board's jurisdiction should not be expanded again until the Board's ability to handle its previously expanded caseload is established.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

98

A.B. No. 3145—Salas.

An act relating to state employees, and making an appropriation therefor.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 28—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 3145 without my signature.

This bill allows state supervisors and managers to receive paid family leave benefits by enrolling into the state Disability Insurance program.

The Department of Human Resources is developing a plan to offer paid family leave benefits to state managers and supervisors by July 1, 2019. This effort will not have the significant administrative costs of this bill and is therefore a better way to provide this benefit.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

99

A.B. No. 724—Choi et al.

An act relating to intercountry adoption.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 29—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 724 without my signature.

This bill would establish a new re-adoption process for foreign-born adopted children and require parents to complete this process to have their children recognized by the state.

This measure is well-intentioned but goes too far because it requires a private adoption agency to proceed with the re-adoption process if the parents do not. I believe that parents who adopt foreign-born children can and will make their own decisions with respect to their child.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

100

A.B. No. 1097—Levine et al.

An act relating to state beaches and parks.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 29—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning the following bills without my signature:

Assembly Bill 1097

Senate Bill 835

Senate Bill 836

These bills prohibit smoking in state parks, on state beaches, and at any picnic area on a state beach and require the Department of Parks and Recreation to post signs to notify the public of the smoking ban.

I have vetoed similar measures in each of the last two years. Third time is not always a charm. My opinion on the matter has not changed. We have many rules telling us what we can't do and these are wide open spaces.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

101

A.B. No. 1437—Patterson et al.
An act relating to care facilities.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 29—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1437 without my signature.

This bill would create a new process to centralize criminal record clearances for employees of an owner of multiple licensed residential facilities.

The Department of Social Services has two simple processes for transferring employee criminal record clearances among facilities run by the same owner, one of which is nearly identical to this bill. A third process is unnecessary.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

102

A.B. No. 1921—Maienschein et al.
An act relating to CalWORKs.

2018

- Sep. 6—Enrolled and presented to the Governor at 3 p.m.
Sep. 29—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning the following Assembly Bills without my signature:

AB 1921
AB 1992
AB 2111

Each of these bills would make changes to the CalWORKs program that result in significant, ongoing funding commitments. As such, I believe they should be considered as part of the budget process when all funding commitments are considered and prioritized.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

103

A.B. No. 1992—Chu.

An act relating to CalWORKs.

2018

Sep. 4—Enrolled and presented to the Governor at 3 p.m.

Sep. 29—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning the following Assembly Bills without my signature:

AB 1921

AB 1992

AB 2111

Each of these bills would make changes to the CalWORKs program that result in significant, ongoing funding commitments. As such, I believe they should be considered as part of the budget process when all funding commitments are considered and prioritized.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

104

A.B. No. 2054—Gonzalez Fletcher et al.

An act relating to state parks, and declaring the urgency thereof, to take effect immediately.

2018

Sep. 12—Enrolled and presented to the Governor at 12 p.m.

Sep. 29—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2054 without my signature.

This bill would make it unlawful for any person to use the state park reservation system to buy reservations and resell them without approval from the Department of Parks and Recreation.

When the Department first launched its online reservation system, it did not anticipate that internet bots would buy reservations in bulk and resell them at higher prices. Since the launch, the Department has added software to prevent internet bots from accessing reservations and staff continually monitors the site for unusual activity. I do not believe a new crime is needed for a problem that has been solved.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

105

A.B. No. 2111—Quirk.

An act relating to public social services.

2018

Sep. 10—Enrolled and presented to the Governor at 3:30 p.m.

Sep. 29—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning the following Assembly Bills without my signature:

AB 1921

AB 1992

AB 2111

Each of these bills would make changes to the CalWORKs program that result in significant, ongoing funding commitments. As such, I believe they should be considered as part of the budget process when all funding commitments are considered and prioritized.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

106

A.B. No. 2233—Kalra et al.

An act relating to Medi-Cal.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 29—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2233 without my signature.

This bill would require a significant expansion of the Assisted Living Waiver program in Medi-Cal.

This program was expanded in this year's budget. Any further changes should be considered in next year's budget.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

107

A.B. No. 2352—Low.

An act relating to elections.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 29—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning AB 2352 without my signature.

This bill requires county election officials to document reportable events and submit information regarding those events to the Secretary of State for review and guidance.

Each election approximately 400 reportable events are referred to the Secretary of State, for guidance and review. Given the current workload, I don't think the state should mandate the additional reporting called for in this bill.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

108

A.B. No. 2360—Rodriguez.

An act relating to pupil nutrition.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 29—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2360 without my signature.

This bill requires the California Department of Education to collaborate with the Department of Food and Agriculture to develop "best practices" to facilitate partnerships between school districts and food banks that increase pupil access to healthy foods when school is not in session.

Healthy foods for kids is obviously a good idea, but schools can already easily establish relationships with local food banks -- without state guidance.

Given the fact that local school districts are governed by democratically elected trustees, it is important and utterly appropriate for the state to limit its intervention only to those situations that cannot be handled by local authorities.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

109

A.B. No. 2531—Gallagher.
An act relating to courts.

2018

Sep. 7—Enrolled and presented to the Governor at 2:30 p.m.

Sep. 29—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning AB 2531 without my signature.

This bill would require the Court Reporters Board of California to identify a certification process and adopt standards for operators of computer-aided transcription systems.

I understand the importance of ensuring the deaf and hard of hearing have equal access to our judicial system. The burdens imposed on the Board by this bill, without authority for proper enforcement or funding, would make it difficult to achieve the author's stated goal. Also, I don't believe there has been sufficient evidence provided to warrant a new certification process for these operators.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

110

A.B. No. 2872—Carrillo.

An act relating to in-home supportive services.

2018

Sep. 7—Enrolled and presented to the Governor at 2:30 p.m.

Sep. 29—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2872 without my signature.

This bill would establish a peer-to-peer training course for In-Home Supportive Services providers and require those providers who conduct the training to be compensated.

This bill is unnecessary because IHHS providers are currently required to attend a training program that covers virtually the same subjects listed in this bill.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

111

A.B. No. 2980—Gipson.

An act relating to cannabis.

2018

Sep. 7—Enrolled and presented to the Governor at 2:30 p.m.

Sep. 29—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2980 without my signature.

This bill changes the definition of premises within the Medicinal and Adult-Use Cannabis Regulation and Safety Act to allow multiple cannabis licensees to share common use areas, such as breakrooms and lobbies.

The licensing authorities are in the process of finalizing the cannabis regulations. Instead of changing the definitions in statute, it would be more appropriate for the licensing entities to address this in their regulations.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

112

A.B. No. 3085—Calderon.

An act relating to public social services.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 29—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 3085 without my signature.

This bill would establish a new grant program at the Department of Community Services and Development to fund local employment programs for homeless individuals.

This year's budget includes approximately \$5 billion in funding related to housing and homelessness including \$500 million to local governments. Additional funding through a new homelessness grant program should be contemplated in next year's budget process.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

113

A.B. No. 60—Santiago.

An act relating to child care and development services.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 60 without my signature.

This bill would require certain information to be automatically shared between county welfare departments and local child care contractors to facilitate an effortless transition of families between child care programs. This is a good goal, as any interruption in child care coverage for a family can be devastating, particularly for working parents in the CalWORKS program.

However, this bill impacts an entitlement program and the changes contemplated in this bill have the potential to cost the state \$50 million a year and is more properly considered as part of the budget process.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

114

A.B. No. 186—Eggman et al.

An act relating to controlled substances.

2018

Sep. 4—Enrolled and presented to the Governor at 3 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 186 without my signature.

This bill authorizes the City and County of San Francisco to approve "overdose prevention programs," including the establishment of centers where illegal drugs can be injected under sanitary conditions.

The supporters of this bill believe these "injection centers" will have positive impacts, including the reduction of deaths, disease and infections resulting from drug use. Other authorities-including law enforcement, drug court judges and some who provide rehabilitative treatment-strongly disagree that the "harm reduction" approach envisioned by AB 186 is beneficial.

After great reflection, I conclude that the disadvantages of this bill far outweigh the possible benefits.

Fundamentally, I do not believe that enabling illegal drug use in government sponsored injection centers-with no corresponding requirement that the user undergo treatment-will reduce drug addiction.

In addition, although this bill creates immunity under state law, it can't create such immunity under federal law. In fact, the United States Attorney General has already threatened prosecution and it would be irresponsible to expose local officials and health care professionals to potential federal criminal charges.

Our paramount goal must be to reduce the use of illegal drugs and opioids that daily enslaves human beings and wreaks havoc in our communities. California has never had enough drug treatment programs and does not have enough now. Residential, outpatient and case management-all are needed, voluntarily undertaken or coercively imposed by our courts. Both incentives and sanctions are needed. One without the other is futile.

There is no silver bullet, quick fix or piecemeal approach that will work. A comprehensive effort at the state and local level is required. Fortunately, under the Affordable Care Act, California now has federal money to support a much expanded system of care for the addicted. That's the route we should follow:

MEASURE CONTINUED ON THE FOLLOWING PAGE

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

A.B. No. 186—Eggman et al.—continued

involving many parties and many elements in a thoroughly integrated undertaking.

I repeat, enabling illegal and destructive drug use will never work. The community must have the authority and the laws to require compassionate but effective and mandatory treatment. AB 186 is all carrot and no stick.

Sincerely,

Edmund G. Brown Jr.

115

A.B. No. 1080—Gonzalez Fletcher.

An act relating to public contracts.

2018

Sep. 10—Enrolled and presented to the Governor at 3:30 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1080 without my signature.

This bill would provide a bid preference to a bidder providing health care coverage to employees.

While I appreciate the author's intent to promote access to health care, I am concerned about the impact on small businesses competing for state contracts. Furthermore, a new bid preference for public works and other services may ultimately result in the state paying more for contracts.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

116

A.B. No. 1231—Weber.

An act relating to public postsecondary education.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning AB 1231 without my signature.

This bill would require support staff of the California State University system to receive five percent annual merit salary increases, based on satisfactory performance.

While the bill is laudable in its goals of trying to raise wages and create salary progression for support staff at the CSU, most of whom are within lower paid classifications, collective bargaining should be the tool to effectuate such changes.

I do believe, however, that the CSU should undertake a diligent examination of pay disparities and opportunities for upward mobility for its lowest wage workers.

As I stated in a message to the University of California last year, "As the UC prides itself on being an agent of social mobility for students, it might follow that UC could similarly be an agent of social mobility for lower-wage workers at its campuses." I believe that CSU can and should strive to do the same.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

117

A.B. No. 1511—Low et al.

An act relating to sentencing, and declaring the urgency thereof, to take effect immediately.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1511 without my signature.

This bill re-enacts and re-casts a previous enhancement for excessive takings which was allowed to sunset on January 1, 2018.

Penal Code Section 12022.6 was enacted in 1977, and in 1990, AB 3087 added a sunset provision, repealing the statute as of July 1, 1992. That sunset date has been extended several times since then, first in 1992 (AB 939) extending the date to 1998, then in 1997 (AB 293) extending the date by 10 years, to 2008. In 2007, via AB 1705, the Legislature again extended the sunset 10 more years to 2018. The statute was not further extended at that time, and Penal Code Section 12022.6 was therefore repealed on January 1, 2018.

AB 1511 now seeks to re-enact this repealed enhancement, but omits any sunset provision similar to those that have been included with this statute since 1990. I see no reason to now permanently re-enact a repealed sentencing enhancement without corresponding evidence that it was effective in deterring crime. As I have said before, California has over 5,000 criminal provisions covering almost every conceivable form of human misbehavior. We can effectively manage our criminal justice system without 5,001.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

118

A.B. No. 1597—Nazarian et al.

An act relating to public employee retirement systems.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1597 without my signature.

This bill, which only goes into effect if the Federal Government imposes sanctions on Turkey, would require our pension funds to sell all bonds or investment vehicles issued by the Turkish government.

The horror of the Armenian Genocide is something no Californian should ever forget. To that end, our school curriculum requires the study of the Armenian Genocide and this year I proclaimed April 24, 2018, as "Day of Remembrance of the Armenian Genocide". In addition, the state extended the statutory deadline for genocide victims or their heirs to seek legal redress.

While this subject is profoundly important, the bill as written is mostly symbolic. Moreover, I am reluctant to force yet another disinvestment measure on our already stressed pension systems.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

119

A.B. No. 1857—Nazarian et al.

An act relating to building standards.

2018

Sep. 4—Enrolled and presented to the Governor at 3 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1857 without my signature.

This bill requires the California Building Standards Commission to convene a working group to evaluate the creation of a new standard to minimize structural building damage from earthquakes.

The National Institute of Standards and Technology is in the initial stages of developing an immediate occupancy standard for buildings following a natural disaster. This federal agency is consulting engineers, scientist, and other experts to understand the changes needed to ensure that a building can be used immediately after a natural disaster.

Instead of duplicating this federal process at the state level, it would be wise to allow the Institute to finish its work.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

120

A.B. No. 1867—Reyes.

An act relating to sexual harassment.

2018

Aug. 24—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1867 without my signature.

This bill requires an employer of 50 or more employees to maintain records of complaints alleging sexual harassment for at least five years after the last day of employment of the complainant or alleged harasser, whichever is later.

This bill, under certain circumstances, could lead to the retention of records for decades. It would also require complaints alleging sexual harassment to be maintained for the same length of time regardless of the result of the investigative process, meaning even unfounded complaints would need to be maintained.

For these reasons, and because current law already requires personnel records --including records of complaints-- be maintained for suitable periods of time, the time expansion of this bill is unwarranted.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

121

A.B. No. 1870—Reyes et al.

An act relating to employment.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1870 without my signature.

This bill extends the deadline to file a complaint with the Department of Fair Employment and Housing from one year to three years for the employment provisions of the Fair Employment and Housing Act.

Employees who have experienced harassment or discrimination in the workplace should have every opportunity to have their complaints investigated. I believe, however, that the current filing deadline--which has been in place since 1963--not only encourages prompt resolution while memories and evidence are fresh, but also ensures that unwelcome behavior is promptly reported and halted.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

122

A.B. No. 1909—Nazarian.

An act relating to in-home supportive services.

2018

Aug. 24—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1909 without my signature.

This bill would require the Department of Social Services to translate all written documents and materials for providers in the in-home supportive services (IHHS) program.

Materials in this program are translated by counties with the assistance of the department. I believe current arrangements are working reasonably well and should be continued.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

123

A.B. No. 1916—Cooper et al.
An act relating to civil service.

2018

Aug. 27—Enrolled and presented to the Governor at 3 p.m.
Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1916 without my signature.

This bill requires an evaluation and biennial report by the California Department of Human Resources on gender and ethnic pay disparities for all civil service classifications where there is an underrepresentation of women and minorities.

The information called for by this bill is currently provided by the Department of Human Resources and the State Controller's office. I think it is reasonably complete and provides a basis for sound legislative review.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

124

A.B. No. 1939—Steinorth et al.

An act relating to crime victims, and making an appropriation therefor.

2018

Sep. 6—Enrolled and presented to the Governor at 3 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 1939 without my signature.

This bill would require that compensation provided by the California Victims Compensation Board for relocation expenses include the costs of temporary housing for a victim's pet for a maximum of three days at a cost of under \$40 per day.

While this bill is well intended, a victim staying in a domestic violence shelter or other temporary housing situation will likely need much more assistance than this bill provides. It would be more appropriate to seek a different funding source which can provide a more comprehensive benefit that would truly complement the services that are now available.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

125

A.B. No. 2079—Gonzalez Fletcher et al.
An act relating to employment.

2018

- Sep. 10—Enrolled and presented to the Governor at 3:30 p.m.
Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2079 without my signature.

This bill would make numerous changes to the Property Service Worker Protection Act established by AB 1978 (Gonzalez, Ch.373, Stats. of 2016). The Labor Commissioner just recently finished implementing the initial registration requirement and is in the process of promulgating regulations to create the sexual harassment and violence prevention training program required by the Act.

The Author and sponsors of this measure were ahead of their time when they created this program, the first of its kind in the country, two years ago. The Labor Commissioner is still in the early stages of ensuring that this program is successful and lives up to its promise of protecting janitorial workers. We should allow full implementation of this program before proposing significant changes.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

126

A.B. No. 2107—Reyes.

An act relating to new motor vehicles.

2018

Sep. 10—Enrolled and presented to the Governor at 3:30 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2107 without my signature.

This bill modifies the statutory framework governing the relationship between new car dealers and manufacturers, including establishing a complex formula to determine the rate manufacturers will reimburse dealers for warranty and recall repairs.

Under current law, manufacturers are required to reimburse dealers for warranty and recall repairs at a "reasonable" rate negotiated between the two parties. This framework appears to be working reasonably well and I see no reason to adopt the rather complicated formula authorized in this bill--with perhaps unintended consequences.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

127

A.B. No. 2153—Thurmond et al.
An act relating to teachers.

2018

- Sep. 6—Enrolled and presented to the Governor at 3 p.m.
Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2153 without my signature.

This bill requires local schools to provide annual in-service training on available community and school site resources for lesbian, gay, bisexual, transgender, queer (LGBTQ) students to teachers and supporting staff of grades 7-12 students.

I signed AB 827 (O'Donnell) in 2015, which required the Department of Education, as part of its compliance monitoring, to assess whether local schools have provided information to certificated staff serving of grades 7-12 on school site and community resources for LGBTQ students. Current law also requires the Department to monitor local schools to ensure the adoptions of policies prohibiting discrimination, harassment, intimidation, and bullying on the basis of sexual orientation, gender, gender identity, or gender expression.

If local schools find that more training or resources on this topic is needed, they have the flexibility to use their resources as they see best.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

128

A.B. No. 2255—Lackey.

An act relating to cannabis.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2255 without my signature.

This bill would authorize law enforcement agencies to issue citations for administrative violations of the Medical and Adult-Use Cannabis Regulation and Safety Act.

This bill is premature. The enforcement of the Act rests with the Bureau of Cannabis Control. It is their job to develop appropriate regulations--which they are currently doing--in partnership with California Highway Patrol and other law enforcement entities.

If a new law is needed, I am confident the Bureau of Cannabis Control will work with the Legislature to make the necessary changes.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

129

A.B. No. 2361—Weber et al.

An act relating to postsecondary education.

2018

Aug. 30—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2361 without my signature.

This bill would require vendors to provide, and the Regents of the University of California to collect and report on, information about outsourcing contracts, including the wages, employee classifications and nature of work being provided by the vendor.

I have vetoed similar bills three times before because of what I view as unreasonable interference into university management on this topic. While I support the goal of the author to increase transparency into the possible pay disparities between university employees and contracted workers, I believe this bill goes too far and could potentially limit the UC's appropriate contracting.

Since my veto last year, the University has reviewed their contracting practices and have taken appropriate steps to improve transparency and reduce pay disparities.

I have no doubt that there is more work to be done and I encourage the Office of the President and the Regents to move forward on the remaining recommendations from the auditor. To that end, I urge the Regents to promptly turn their attention to this matter.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

130

A.B. No. 2447—Reyes et al.
An act relating to land use.

2018

- Sep. 10—Enrolled and presented to the Governor at 3:30 p.m.
Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2447 without my signature.

This bill would expand notice and public meeting requirements under the California Environmental Quality Act for certain industrial projects in or near disadvantaged communities.

Land use is quintessentially a local matter. I believe the notice and meeting requirements, as outlined in this bill, are too prescriptive. Disadvantaged communities are entitled to clear and adequate notice, but zones of notice and the definition of projects subject to the requirements should be flexibly defined to reflect the vast diversity of our state.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

131

A.B. No. 2534—Limón et al.

An act relating to public resources.

2018

Sep. 10—Enrolled and presented to the Governor at 3:30 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2534 without my signature.

This bill would create the Hollister Ranch Subaccount within the Land Bank Fund to support establishing public access to the beaches at Hollister Ranch

While well intentioned, this bill relies on the implementation of a coastal access program adopted in 1982. Although this program could have been completed over three decades ago, it was not and it is now outdated.

Before raising any money, as envisioned in this bill, the relevant state agencies should be required to work together to craft a sensible and fiscally responsible plan.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

132

A.B. No. 2689—Gray.

An act relating to the Political Reform Act of 1974.

2018

Aug. 24—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2689 without my signature.

This bill prohibits a Governor's appointee, who is subject to confirmation, from making certain campaign contributions.

The prohibitions in this bill may make sense, but so would many others-including banning contributions from anyone who seeks to influence legislation.

There is no question that the current system is flawed, but this piece-meal approach is not the answer. My point is, before the Legislature starts down this road, they should consider where it leads.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

133

A.B. No. 2713—Rodriguez.

An act relating to public employment.

2018

Aug. 27—Enrolled and presented to the Governor at 3 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2713 without my signature.

This bill requires, by January 1, 2020, the California Department of Human Resources and the Department of Fair Employment and Housing to create and make public an annual report on sexual harassment complaints in state departments.

This bill definitely covers an important topic but current management practices are taking the necessary steps to assure a suitable work environment.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

134

A.B. No. 2720—Waldron.

An act relating to juveniles, making an appropriation therefor.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2720 without my signature.

This bill—contingent upon future passage of a constitutional amendment—allows counties to use any unexpended Juvenile Reentry Grant allocation to provide rehabilitative services for reentry youth who have been discharged from the jurisdiction of the juvenile court within the prior two years.

The 2011 Public Safety Realignment funding that this bill seeks to repurpose is constitutionally protected. While the proponents may well have creative and positive ideas for improving re-entry services for system-involved youth, these decisions under current law rest with local authorities and cannot be changed without a constitutional amendment.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

135

A.B. No. 2732—Gonzalez Fletcher et al.

An act relating to employment.

2018

Sep. 12—Enrolled and presented to the Governor at 12 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning AB 2732 without my signature.

This bill makes it unlawful - punishable by civil and criminal penalties - for an employer to knowingly destroy, conceal, remove, confiscate, or possess any immigration-related documents for human trafficking or any coercive labor practice. The bill also requires employers to provide a written "Worker's Bill of Rights" to every employee in the State of California.

Labor trafficking is a problem in our state and the provision of this bill that prohibits employers from withholding immigration documents from workers is very appropriate.

However, there is additional language that requires every single employer to provide to every single employee - millions in the state-- a new and detailed list of rights related to labor trafficking. This goes too far. The vast majority of California employers have nothing to do with labor trafficking, so this mandate as applied to them is burdensome and unwarranted.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

136

A.B. No. 2772—Medina et al.

An act relating to pupil instruction.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2772 without my signature.

This bill establishes a three-year grant program for school districts that require ethnic studies in order to graduate.

School districts already can, and are, requiring ethnic studies for graduation. While I recognize the value of these courses, I am reluctant to encourage yet another graduation requirement, especially when students are already overburdened by multiple tests and endless hours of homework.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

137

A.B. No. 2819—Holden.

An act relating to employment.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2819 without my signature.

This bill requests the Ralph J. Bunche Center for African American Studies at the University of California, Los Angeles, to conduct a ten-year study on the diversity of the board of directors and employees of United States high technology companies.

This year's Budget provides the Center \$1.8 million dollars in funding. I understand the Center will use some of that appropriation to study diversity in the high technology industry. Before committing to a ten-year study, which will require additional UC funding in the future, let's see the initial results of the Center's research and make informed decisions from those findings.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

138

A.B. No. 2908—Berman et al.

An act relating to tire recycling.

2018

Sep. 5—Enrolled and presented to the Governor at 3 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 2908 without my signature.

This bill would authorize the Department of Resources Recycling and Recovery to establish an incentive program to encourage manufacturing of new products made from waste tires.

Since 1990, the Department has used grants to increase tire recycling. The Department has recently decided that incentive payments are a more effective way to promote such recycling. While this bill creates an incentive payment program, it also requires fifty percent of the payments to go to local governments for paving projects. This limits the Department's ability to respond to innovation in this area.

Because I do believe there is merit to this policy and I am directing the Department of Resources Recycling and Recovery to recommend an incentive program in this area as part of the budget.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

139

A.B. No. 3080—Gonzalez Fletcher et al.
An act relating to employment.

2018

Aug. 27—Enrolled and presented to the Governor at 3 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.
Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 3080 without my signature.

This bill prohibits an applicant for employment or employee from being required to waive his or her right to a judicial forum as a condition of employment or continued employment.

In my veto message of a similar bill in 2015, I referred to recent court decisions that invalidated state policies which unduly impeded arbitration. I also wanted to see how future United States Supreme Court decisions developed before endorsing a broad ban on mandatory arbitration agreements.

The direction from the Supreme Court since my earlier veto has been clear - states must follow the Federal Arbitration Act and the Supreme Court's interpretation of the Act. *DIRECTV, Inc. v. Imburgia*, 136 S. Ct. 463, 468 (2015).

This bill is based on a theory that the Act only governs the enforcement and not the initial formation of arbitration agreements and therefore California is free to prevent mandatory arbitration agreements from being formed at the outset. The Supreme Court has made it explicit this approach is impermissible. In 2017 Justice Kagan, an appointee of President Obama, writing on behalf of a near-unanimous Supreme Court, clearly rejected the assertion that the Federal Arbitration Act has no application to contract formation issues:

"By its terms, . . . the Act cares not only about the "enforce[ment]" of arbitration agreements, but also about their initial "valid[ity]"—that is, about what it takes to enter into them. Or said otherwise: A rule selectively finding arbitration contracts invalid because improperly formed fares no better under the Act than a rule selectively refusing to enforce those agreements once properly made. Precedent confirms that point."

Kindred Nursing Centers Ltd. Partnership v. Clark, 137 S. Ct. 1421, 1428 (2017).

Since this bill plainly violates federal law, I cannot sign this measure.

MEASURE CONTINUED ON THE FOLLOWING PAGE

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

A.B. No. 3080—Gonzalez Fletcher et al.—continued

Sincerely,

Edmund G. Brown Jr.

140

A.B. No. 3081—Gonzalez Fletcher et al.

An act relating to employment.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 3081 without my signature.

This bill creates a new, ill-defined standard of joint liability between labor contractors and client employers, prohibits both entities from retaliating against an employee who has filed a harassment claim, and establishes a 30-day notice requirement before certain workers can file a civil action against a client employer.

Most of the provisions in this bill are contained in current law and are therefore unnecessary. To the extent there are new provisions, they are confusing.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

141

A.B. No. 3115—Gipson et al.

An act relating to community paramedicine.

2018

Sep. 12—Enrolled and presented to the Governor at 12 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 3115 without my signature.

This bill would permit local emergency medical services agencies to develop community paramedicine programs under prescribed state rules.

Through the health workforce pilot project started in 2014, local community paramedicine programs are using paramedics to assist in the transportation and care of patients in settings other than an emergency room. While this bill has the good intention of making the pilot project permanent, it restricts the types of facilities to which patients can be transported. It also limits the discretion of local governments to design and manage their projects in the way they think best.

I support these innovative local efforts and believe they should be expanded but without the restrictions contained in this bill. To achieve that, I am directing the continuation of the existing pilot project and encouraging all of the interested parties to work together to make this program permanent.

Sincerely,

Edmund G. Brown Jr.

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

142

A.B. No. 3120—Gonzalez Fletcher.

An act relating to childhood sexual assault.

2018

Sep. 11—Enrolled and presented to the Governor at 4:30 p.m.

Sep. 30—Vetoed by Governor. Consideration of Governor's veto pending.

Legislature has 60 calendar days, not including periods of joint recess, to consider Governor's veto (J.R. 58.5). Shall this bill become a law notwithstanding the objections of the Governor?

To the Members of the California State Assembly:

I am returning Assembly Bill 3120 without my signature.

This bill makes amendments to the statute of limitations relating to claims of childhood sexual abuse.

In 2013 I vetoed a substantially similar bill, SB 131 (Beall). My views have not changed. As I said then:

Statutes of limitation reach back to Roman law and were specifically enshrined in the English common law by the Limitations Act of 1623. Ever since, and in every state, including California, various limits have been imposed on the time when lawsuits may still be initiated. Even though valid and profoundly important claims are at stake, all jurisdictions have seen fit to bar actions after a lapse of years.

The reason for such a universal practice is one of fairness. There comes a time when an individual or organization should be secure in the reasonable expectation that past acts are indeed in the past and not subject to further lawsuits. With the passage of time, evidence may be lost or disposed of, memories fade and witnesses move away or die.

Over the years, California's laws regarding time limits for childhood sexual abuse cases have been amended many times. The changes have affected not only how long a person has to make a claim, but also who may be sued for the sexual abuse. The issue of who is subject to liability is an important distinction as the law in this area has always and rightfully imposed longer periods of liability for an actual perpetrator of sexual abuse than for an organization that employed that perpetrator. This makes sense as third parties are in a very different position than perpetrators with respect to both evidence and memories.

For claims against a perpetrator of abuse, the current law is that a claimant must sue within eight years of attaining the age of majority (i.e. age 26) or "within three years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual abuse, whichever period expires later..." However, for claims against a third party - e.g. an organization that employed the perpetrator of the abuse - the general rule since 1998 was

MEASURE CONTINUED ON THE FOLLOWING PAGE

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

A.B. No. 3120—Gonzalez Fletcher.—continued

that a claimant must sue before he or she turns 26. A later discovered psychological injury - no matter how compelling - could not be brought against a third party by a person older than 26.

When a number of high profile sex abuse scandals in both public and private institutions came to light, many felt that the third party limitation rule described above was too harsh and that claimants over 26 should be able to recover damages for later discovered injuries from certain, more culpable entities.

In 2002, the California Legislature weighed the competing considerations on this issue and enacted SB 1779, which did the following: (1) It identified for the first time a new subcategory of third party defendants which no longer would have the protection of the age 26 cutoff for claims. Going forward these defendants - entities who knew or should have known of the sexual abuse and failed to take action - now could be sued within three years of the date of discovery of a claim. (2) Looking backwards, SB 1779 also revived for one year only (2003) all claims that had previously lapsed because of the statute of limitation. This very unusual "one year revival" of lapsed claims allowed victims relief but also set a defined cut-off time for these lapsed claims.

In reliance on the clear language and intent of this statute, the private third party defendants covered by this bill took actions to resolve these legacy claims of victims older than 26. Over 1,000 claims were filed against the Catholic Church alone, some involving alleged abuse as far back as the 1930s. By 2007, the Catholic Church in California had paid out more than \$1.2 billion to settle the claims filed during this one year revival period. Other private and non-profit employers were sued and paid out as well.

For the public third parties covered by this bill, however, a very different result occurred. There is no doubt that in 2002, when SB 1779 was enacted, it was intended to apply to both public and private entities. Indeed, it would be unreasonable, if not shocking, for the Legislature to intentionally discriminate against one set of victims, e.g. those whose abusers happened to be employed by a public instead of a private entity. However, due to a drafting error, the California Supreme Court held in 2007 that SB 1779 did not actually apply to public or governmental agencies. So, unlike private institutions, public schools and government entities were shielded from the one year revival of lapsed claims. As a result, the similarly situated victims of these entities were not accorded the remedies of SB 1779.

In 2008, the Legislature addressed this unfair distinction between victims of public as opposed to private institutions. Note, however, that the bill enacted, SB 640, did not restore equity between these two sets of victims. Instead of subjecting public/governmental entities to all of the provisions of the 2002 law, the Legislature only allowed victims of public institutions to sue under the new rules prospectively-from 2009 forward-and provided no "one year revival" period.

In passing this 2008 law, I can't believe the legislature decided that victims of abuse by a public entity are somehow less deserving than those who suffered abuse by a private entity. The children assaulted by Jerry Sandusky at Penn State or the teachers at Miramonte Elementary School in Los Angeles are no less worthy because of the nature of the institution they attended. Rather, I believe that legislators, in good faith, weighed the merits of such claims against the equities of allowing claims to be brought against third parties years after the abuse occurred. The Legislature concluded that fairness required that certain claims

MEASURE CONTINUED ON THE FOLLOWING PAGE

UNFINISHED BUSINESS—Continued

GOVERNOR'S VETOES—Continued

A.B. No. 3120—Gonzalez Fletcher.—continued

should be allowed, but only going forward.

The bill now before me, AB 3120, is broader than SB 131, does not fully address the inequity between state defendants and others, and provides a longer revival period for otherwise barred claims. For these reasons, as well as those previously enumerated in the veto message referenced above, I cannot sign this bill.

Sincerely,

Edmund G. Brown Jr.

Commissioners
Eric Sklar, President
Saint Helena
Anthony C. Williams, Vice President
Huntington Beach
Jacque Hostler-Carmesin, Member
McKinleyville
Russell E. Burns, Member
Napa
Peter S. Silva, Member
Jamul

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Fish and Game Commission



*Wildlife Heritage and Conservation
Since 1870*

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November 8, 2018

The Honorable John Thune
Chairman
U.S. Senate Committee on Commerce,
Science, and Transportation
512 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Bill Nelson
Ranking Member
U.S. Senate Committee on Commerce,
Science, and Transportation
512 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Thune and Ranking Member Nelson:

On behalf of the California Fish and Game Commission (Commission), I write to express our support for S. 2773, the Driftnet Modernization and Bycatch Reduction Act; this legislation is complementary and consistent with recent legislation signed into law by Governor Jerry Brown that will transition away from the use of large-mesh drift gillnets offshore California. As you may be aware, the drift gillnet fishery is managed at the federal level by the Pacific Fishery Management Council (PFMC); however, a state-issued drift gillnet permit is also required to participate in the fishery in California, which will soon be phased out.

S. 2773 highlights two key areas for the California drift gillnet fishery: (1) a transition away from large-scale, drift gillnet fishing and (2) making federal grant funds available to affected fishermen. We request the U.S. Senate Committee on Commerce, Science, and Transportation continue to support this bipartisan and thoughtful legislation by reporting it to the floor and supporting approval by the Senate.

In September 2015, PFMC expressed its intent to change management of the California drift gillnet swordfish fishery using tools available under the Magnuson-Stevens Fishery Conservation and Management Act; PFMC's intent was to create a new framework to address bycatch concerns in the fishery, including hard caps on protected species. However, in June 2017, the National Marine Fisheries Service (NMFS) withdrew a proposed rule implementing hard caps, the primary purpose of which would have been to create transparency, accountability measures, and incentives for best practices within the fishery. The Commission unanimously supported implementation of hard caps and increased monitoring in the drift gillnet fishery, and strongly disagreed with NMFS' withdrawal of the proposed rule.

Honorable John Thune and Honorable Bill Nelson

November 8, 2018

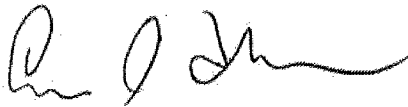
Page 2 of 2

In recent years, PFMC has been actively engaged in evaluating alternative gear, including deep-set buoy gear; PFMC is in the process of authorizing deep-set buoy gear, which would help open additional access for California fishermen to fish for swordfish with minimal bycatch.

Sustainable coastal fishing communities are a priority to the Commission and to Californians. In support of our coastal fishing communities, the Commission supports authorization of deep-set buoy gear as an alternate method of catching swordfish with minimal bycatch. Further, S. 2773 will make drift gillnet fishermen eligible to receive federal grant money and provide fishery participants with additional resources to transition to more sustainable and selective gear, such as deep-set buoy gear.

Thank you for your work on this important issue.

Sincerely,



Eric Sklar
President

cc: Members, U.S. Senate Committee on Commerce, Science, and Transportation
Honorable Dianne Feinstein, Member, U.S. Senate
Honorable Kamala D. Harris, Member, U.S. Senate
Dr. Fern Gibbons, Policy Director for Surface Transportation, U.S. Senate
Committee on Commerce, Science, and Transportation
Jeffrey H. Lewis, Counsel, U.S. Senate Committee on Commerce, Science, and
Transportation
Lauren Linsmayer, Knauss Sea Grant Fellow, U.S. Senate Committee on
Commerce, Science, and Transportation
Brendan Dailey, Legislative Aide for Honorable Shelley Moore Capito, U.S. Senate
Neal McMillin, Legislative Assistant for Honorable Roger Wicker, U.S. Senate
Ann Robertson, Legislative Assistant for Honorable Lisa Murkowski, U.S. Senate
Lora D. Snyder, Professional Staff, U.S. House of Representatives Committee on
Natural Resources
John Laird, Secretary, California Natural Resources Agency
Charlton Bonham, Director, California Department of Fish and Wildlife
Craig Shuman, Marine Region Manager, California Department of Fish and Wildlife

California Fish and Game Commission
Tribal Committee (TC) Work Plan: Topics and Timeline for Items Referred to TC from the Commission
Updated November 30, 2018

Topic	Type	Goal(s)	2018	2019		
			Oct	Feb	Jun	Oct
			Fresno	Sacramento	Redding	San Diego
Special Projects						
Co-management	TC Workgroup	Develop a vision statement	X/R			
Co-management	TC Workgroup	Develop a definition		X	X	X
Regulatory/Legislative						
Statewide sport fishing revisions for 2020	DFW Project	Vetting and recommendation		X	X/R	
Commercial kelp and algae harvest management	DFW Project	Vetting and recommendation	X	X	X	X
Discuss operating principles/practices and add TC to FCG meeting procedures	FGC	Vetting and recommendations for changes to existing FGC meeting procedures (Section 665, Title 14)	X	X	X/R	
Emerging/Developing Management Issues						
FGC climate policy	FGC Policy	During development of a policy for FGC, make recommendations and provide guidance				
Coastal fishing communities	MRC Project	Updates and guidance	X	X	X	
Management Plans						
Elk, sheep, deer, antelope, trout, abalone	DFW Projects	Regular updates at each meeting until complete; identify tribal concerns	X	X	X	X
Informational Topics						
Cross-pollination with MRC and WRC	FGC Committee Coordination	Identify tribal concerns and common themes that overlap between WRC and MRC	X	X	X	X
Annual tribal planning meeting follow-up	FGC Policy	(1) Share anticipated regulatory and policy topics, (2) identify tribal priorities, (3) develop collaborative interests, and (4) contribute to planning logistics for next annual meeting.		X	X	X
Tribal participation in the Marine Protected Areas Statewide Leadership Team and implementation of leadership team work plan	OPC Project	Updates upon request		X		
Safeguarding California Plan (climate adaptation strategy)	OPC Project	Updates upon request				
Proposition 64 (Control, Regulate and Tax Adult Use of Marijuana Act) implementation	DFW/LED Project	Updates upon request	X			
FGC regulatory timetable	FGC	Regular updates at each meeting	X	X	X	X

FGC = California Fish and Game Commission MRC = FGC's Marine Resources Committee

DFW = California Department of Fish and Wildlife LED = DFW's Law Enforcement Division

X = Discussion Scheduled R = Recommendation developed and moved to FGC

WRC = FGC's Wildlife Resources Committee

OPC = California Ocean Protection Council

California Fish and Game Commission
Vision Statement on Co-Management
Adopted October 17, 2018

The vision of tribes, the California Fish and Game Commission, and the California Department of Fish and Wildlife is to engage in a collaborative effort between sovereigns to jointly achieve and implement mutually agreed upon and compatible governance and management objectives to ensure the health and sustainable use of fish and wildlife.

Marine Resources Committee (MRC) 2018-2019 Work Plan
Scheduled Topics and Timeline for
Items Referred to MRC from California Fish and Game Commission
Updated November 28, 2018

Topic	Category	2018	2019		
		NOV	MAR	JUL	NOV
		Sacramento	Pacific Grove	San Clemente	Sacramento
Planning Documents					
MLMA Master Plan for Fisheries - Implementation Updates	Master Plan Implementation	X		X	X
Abalone FMP / ARMP Update	FMP	X			
Aquaculture Programmatic Environmental Impact Report (PEIR)	Programmatic Plan	X	X/R		
Regulations					
Sport Fishing	Annual Rulemaking		X		
Aquaculture Lease Best Management Practices (BMP) Plan Requirements	DFW-FGC Project/ Rulemaking	X/R	X/R		
Kelp & Algae Commercial Harvest	DFW Project/ Rulemaking		X		
Emerging/Developing Management Issues					
Aquaculture State Water Bottom Leases: Existing and future lease considerations	Lease Management Review				
Special Projects					
California's Coastal Fishing Communities	MRC project	X	X/R		
Informational / External Topics of Interest					
Marine Debris and Plastic Pollution (updates upon request)	Informational				
BOEM Offshore Wind Energy Project (updates upon request)	Informational				
Lobster Advisory Committee lessons learned report - presentation by Heal the Bay	Informational	X			

KEY: X Discussion scheduled X/R Recommendation developed and moved to FGC

Commissioners
Eric Sklar, President
Saint Helena

Anthony C. Williams, Vice President
Huntington Beach

Jacque Hostler-Carmesin, Member
McKinleyville

Russell E. Burns, Member
Napa

Peter S. Silva, Member
Jamul

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Fish and Game Commission



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Since 1870

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MARINE RESOURCES COMMITTEE

Committee Co-Chairs: Commissioner Sklar and Commissioner Silva

November 14, 2018 Meeting Summary

Following is a summary of the Marine Resources Committee (MRC) meeting as prepared by staff. An audio recording of the full meeting may be accessed online at www.fgc.ca.gov/meetings.

Call to order

The meeting was called to order at 9:05 a.m. by Commissioner Silva at the Natural Resources Building, Redwood Room, 1416 Ninth Street, Sacramento, CA. Commissioner Silva gave welcoming remarks.

Susan Ashcraft introduced California Fish and Game Commission (Commission) staff and California Department of Fish and Wildlife (Department) staff, and outlined the meeting procedures and guidelines, noting that MRC is a non-decision-making body that provides recommendations to the Commission. She reminded participants that the meeting was being audio-recorded and that the recording will be posted to the Commission website. The following individuals were in attendance:

Committee Co-Chairs

Eric Sklar	Present
Peter Silva	Present

Commission Staff

Melissa Miller-Henson	Acting Executive Director
Susan Ashcraft	Marine Advisor
Craig Castleton	Regulatory Analyst
Sergey Kinchak	Staff Services Analyst
Leslie Hart	Sea Grant State Fellow

Department Staff

Randy Lovell	Statewide Aquaculture Coordinator
Craig Shuman	Marine Region Manager
Mike Stefanak	Assistant Chief, Law Enforcement Division
Bob Puccinelli	Captain, Law Enforcement Division
Joanna Grebel	Senior Environmental Scientist Supervisor, Marine Region
Debbie Aseltine-Neilson	Senior Environmental Scientist Specialist, Marine Region

Invited Speakers

Jenn Eckerle
Jocelyn Enevoldsen

Deputy Director, California Ocean Protection Council (OPC)
Coastal Resources Coordinator, Heal the Bay

1. Approve agenda and order of items

The MRC approved the agenda and order of items.

2. Public comment for items not on the agenda

A commenter expressed a preference for MRC meetings to be video taped. President Sklar noted that committee meetings are audio taped and the audio is posted to the Commission website.

A commenter highlighted wind energy development in federal waters as an emerging issue and hopes that the Commission can help ensure integrity of the commercial fishing location data used for the project. Craig Shuman responded that the Department is actively engaged with Bureau of Ocean Energy Management, and that they are working towards improving spatial accuracy of data streams.

One commenter highlighted that Dungeness crab season begins the next day and hopes for a great harvest.

3. Staff and agency updates

(A) OPC

Jenn Eckerle provided updates on current OPC activities of interest including funding of several programs and projects associated with aquaculture, fisheries, and fishing communities, including Fish 2.0; highlighted that OPC approved the MPA monitoring action plan and the ocean acidification action plan; and noted a current call for proposals for restoration projects.

(B) Department

Marine Region: Craig Shuman provided an update on new advances made toward reducing whale entanglement, including new regulations for surface gear in trap fisheries, and passage of SB1309, authorizing a lost gear recovery program and risk assessment mitigation program. Three members of the public asked clarifying questions or commented.

Law Enforcement Division: Bob Puccinelli provided an update on recent enforcement actions in the marine environment. Comments and questions focused on poaching crab from commercial traps and if the level and location of abalone poaching had expanded since the fishery closed.

Commissioner Sklar requested that enforcement review its available information on recent abalone poaching statewide. Bob Puccinelli agreed to provide an update at the next MRC meeting.

(C) Other

California State Lands Commission (SLC): Susan Ashcraft noted that SLC staff were unable to attend but wished to highlight its San Diego Ocean Planning Partnership with the Port of San Diego. A report about the preliminary assessment phase of the collaborative pilot project will be discussed on December 3 (SLC meeting) and December 11, 2018 (Port of San Diego Board of Port Commissioners meeting).

Commission: Susan Ashcraft gave an update on the commercial box crab experimental gear permit (EGP) process scheduled for consideration at the December 2018 Commission meeting, and the number of statements of interest received from commercial trap fishermen.

4. California coastal fishing communities project

Susan Ashcraft and Leslie Hart gave a joint staff update and summarized public feedback received on the coastal fishing communities project staff report, presented to MRC in July, which synthesized input from seven coastal fishing communities meetings. Fourteen comment letters/emails with over 75 unique comments were received during the public comment period held from July 17 to September 24, 2018. The comments offer valuable feedback on both the content of the report, by suggesting edits and additions, and the potential recommendations within the report. Several organizations have offered to support staff in an effort to help enhance and strengthen the value of the report contents, through developing a more thorough report.

In addition to written comments, staff has engaged in multiple conversations with fishing organizations, environmental non-governmental organizations, state and federal agencies, and academics, resulting in several potential collaborations emerging to support both the Commission's goals and those of fishing communities. One such collaborative working group includes California Ocean Science Trust, FGC staff, and DFW staff engaged in the Pacific Fishery Management Council's Fishery Ecosystem Plan "Climate and Communities" Initiative, which is exploring synergies between state and federal community efforts to support California, and has obtained approval for a \$50,000 grant for a related workshop with experts and fishing representatives. Funding will become available at the beginning of 2019.

Staff highlighted a joint comment letter submitted by five fishery associations and representatives which urged MRC to hold off discussing "next steps and possible recommendations" until the March 2019 MRC meeting. The extra time would help ensure that the public input could be integrated into a more detailed report and help refine and analyze the next steps and possible recommendations.

Public Discussion

A robust and thoughtful discussion focused on the comments received on the staff report and initial recommendations as presented by staff. The discussion touched on several subjects:

- Resilient coastal fishing communities will need opportunities and flexibility during challenging times to support food supply and economic situations. This may involve embracing experimental fishing opportunities that will bring fish to the dock.

- OPC expressed interest in supporting the Commission by exploring ideas of what fishing communities need in terms of investment.
- Concern about the Commission's view on tradeoffs between precaution versus investment.
- Engagement with Commission staff has been stellar, and fishing representatives are looking forward to assisting with the final report.
- In addition to including recommendations in the synthesis report, also include legislative authorities for achieving the recommendations.
- It is important to reassess the limited entry policy, and there is a need to balance biological and socioeconomic opportunity.

Based on public discussion and staff recommendation, MRC developed a recommendation.

MRC Recommendation

MRC recommends that staff (a) revise the Jul 2018 *Staff Report on California Coastal Fishing Communities Meetings* based on submitted public feedback; (b) develop a more comprehensive report in collaboration with stakeholders that provides more detailed background and an analysis of options for FGC action, including an overall strategy for coastal fishing communities and possible port-specific ideas; and (c) schedule a discussion for potential MRC recommendation at the March 2019 meeting.

5. Red Abalone Fishery Management Plan (FMP)

Joanna Grebel gave a presentation on the next steps and possible pathways the Department could take to respond to the peer review recommendations, as requested by the Commission in October. The Department agrees with peer review recommendations and supports integration of both strategies to reduce scientific uncertainty and utilize the best available science. Joanna introduced a timeline, which envisions a process to model the management strategies between 2019 and 2020, to inform a re-drafting of the FMP in Summer 2020. Craig Shuman noted that the public has expressed interest in a new *de minimis* fishing opportunity given the current fishery conditions and closure. Craig emphasized that this is a departure from the FMP goals for open access, requested that MRC consider a change to the goals to allow for modeling of a *de minimis* fishery, and noted that the *de minimis* scenario would need to be defined for modeling.

Public Discussion

The discussion highlighted the desire of abalone divers (1) to be more formally engaged in the management strategy integration process; (2) to explore *de minimis* opportunities despite their preference to ultimately reopen the open access fishery; and (3) to integrate citizen science and data collection into management. Stakeholders expressed that having a facilitator/mediator during the integration of both strategies would be valuable to support constructive dialogue and completion of the work on the timeline.

MRC requested that the Department consider a way to engage with divers earlier in the upcoming processes to be transparent and to create a greater opportunity for public involvement. While the process will take time, they hope for a shorter modeling timeframe than outlined. MRC confirmed an interest in exploring a *de minimis* fishery as an option, and urged the Department to clarify at the December 2019 meeting what would be asked of

modelers. MRC would like to see the FMP kept on the MRC agenda through the upcoming process, following the update provided to FGC in December 2019.

MRC Recommendation

MRC recommends (1) to support addressing peer review recommendations to integrate aspects of both draft management strategies based on a modeling approach developed by the Department and including engagement with abalone divers and other stakeholders; (2) to revise FMP goals to allow for a de minimis fishery option; (3) triggers for the de minimis fishery option be developed in consultation with stakeholders; and (4) requesting that the Department develop a proposed process and timeline which accounts for active public and MRC engagement.

MRC also recommends that the Red Abalone FMP be kept on the MRC work plan through the upcoming process.

6. Shellfish aquaculture best management practices (BMPs)

Leslie Hart provided an update on the outcomes from a public meeting held in Santa Rosa on October 25, 2018. The purpose of the meeting was to review the proposed requirements/options to address issues within BMPs plans for state water bottom leases, and to have a public discussion and receive input. The proposal included requirements for BMPs to (1) minimize waste generation through prevention, maintenance of gear, and recovery of lost gear; (2) minimize impacts to living marine resources including sensitive and protected species and their habitats including biogenic habitats such as eelgrass for example; (3) prevent the spread of disease or invasive species for biosecurity; and (4) have accountability including BMP commitment, compliance, documentation, and verification. There were approximately 25 public meeting attendees including aquaculturists, community members, academics, and agency staff who provided oral comments with different perspectives on the BMP requirements proposal developed by staff. There were many excellent suggestions that were made for revisions within the proposed BMPs requirements. However, there were some areas of divergence of stakeholder comments regarding the proposed requirements such as settling on an effective way to minimize waste degradation. Several commenters at the public meeting, and in writing requested additional time to provide input on the staff-developed requirements language.

Public Discussion

Participants agreed that they want BMPs that are effective, efficient, and prohibitive of real harm to the marine environment. Some participants expressed concerns over how litter debris control requirements are currently different among departments, and would like them to be streamlined and consistent. Participants emphasized that random annual inspections are a very important part of the BMPs proposed requirements in terms of accountability even though DFW lacks funding. Requests were also noted for a longer comment period for the BMP proposed requirements in the future.

Following discussion, MRC identified a recommendation for the next steps in development.

MRC Recommendation

MRC recommends that staff revise the draft proposed requirements for state water bottom lease BMP plans based on public input received; provide opportunity for public review of the

revised draft proposed requirements; and schedule for MRC review and possible recommendation in March 2019.

7. Offshore marine aquaculture

Randy Lovell provided a Department overview of a programmatic environmental impact report (PEIR) that will evaluate a proposed regulatory framework governing future offshore marine aquaculture in California. The PEIR for offshore aquaculture includes finfish, shellfish, and algae. The draft PEIR is anticipated to be released for public comment by spring 2019, with preparation of a final PEIR and submission to the Commission for possible certification to follow.

Public Discussion

Overall, support was expressed for this project as there is a need for premium seafood products. However, there were requests for data on the demand of seafood exceeding supply to ensure that the PEIR process protects the wild fisheries. Also, one fisherman expressed a concern about offshore aquaculture farms causing contamination of natural fisheries. Craig Shuman highlighted that the completion of the PEIR will be the start of the offshore marine aquaculture conversation as sustainable financing will be needed and marine spatial planning must be considered.

President Sklar expressed that MRC and the Commission are committed to using equitable science in making decisions and will take public opinions and legislative requirements into consideration.

No action was taken by MRC.

8. Marine Life Management Act master plan

Susan Ashcraft highlighted that the Commission adopted the *2018 Master Plan for Fisheries: A Guide for Implementation of the Marine Life Management Act* (Master Plan) in June 2018. In response to public comments and discussion on Master Plan implementation planning and transparency, the Commission referred this topic to MRC and requested it become a standing agenda item. This meeting was the second discussion of implementation since Commission adoption.

Debbie Aseltine-Neilson, Senior Environmental Specialist for the Master Plan implementation and climate change and fisheries, discussed several next steps for implementing the Master Plan. Assessments for the ecological risk assessment are anticipated to be completed in early 2019, and this timeline is contingent on the availability of the Department's invertebrate staff. A draft of the implementation work plan is anticipated for receipt by spring 2019.

Public Discussion

The discussion revolved around ensuring the Department has enough resources to complete the necessary work for the implementation plan and prioritization. President Sklar noted that the Commission is in support of the Master Plan implementation process and offered that the Commission can assist in the next budget cycle with obtaining the necessary resources. The Department highlighted the need to allocate staff time to create risk assessments for finfish and invertebrates.

No action was taken by MRC.

9. Lobster Advisory Committee stakeholder report

Jocelyn Enevoldsen provided a presentation on Heal the Bay's report evaluating lessons learned from the Department's Lobster Advisory Committee (LAC) process derived from stakeholder surveys. The findings of the report highlighted nine key lessons learned that could be applied to inform future fishery management plan stakeholder engagement processes as the updated Marine Life Management Act Master Plan is implemented. A key takeaway from the report is that the LAC model worked well as it enabled stakeholder inclusivity and understanding between stakeholders, it cultivated respect, and built relationships. Jocelyn also indicated where the survey suggested there was room for improvement for future Department-established stakeholder groups.

Public Discussion

MRC agreed that accomplishing lessons learned is valuable. Craig Shuman encouraged Heal the Bay to work with the Department on surveys of this nature in the future. President Sklar inquired about what the preferences of different interest groups are within the LAC, and Jocelyn agreed that determining preferences of different interest groups is a possibility.

MRC Recommendation

MRC recommends that DFW and FGC staff provide FGC with an overview of the discussion held on the Department's Lobster Advisory Committee stakeholder lessons learned report, and applications for future stakeholder processes, at the February 2019 meeting.

10. Future agenda items

(A) Review work plan agenda topics and timeline

Susan Ashcraft reviewed the updated work plan and highlighted potential agenda topics for the March 2019 MRC meeting.

(B) Potential new agenda topics for Commission consideration

No new topics were identified.

MRC adjourned at approximately 2:15 p.m.



2018 JUL 30 PM 1:30

Memorandum

Date: July 26, 2018

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

A handwritten signature in blue ink, appearing to read "C. Bonham", written over the printed name.

Subject: Agenda Item for the August 22-23, 2018 Fish and Game Commission Meeting re: Recreational and Commercial Fishing Regulations for Federal Groundfish and Associated Species for Consistency with Federal Rules for 2019 and 2020

At its June 7-12, 2018 meeting, the Pacific Fishery Management Council recommended changes to annual catch limits and recreational fishing regulations for federally managed groundfish species for the 2019-2020 management cycle. In addition, attainment of commercial harvest limits for cabezon and greenling have been low and trip limits need to be adjusted accordingly.

In order to have conforming State regulations in place before fishing begins in 2019, the Department of Fish and Wildlife (Department) requests the Fish and Game Commission authorize publication of notice of its intent to consider amendment of its recreational and commercial fishing regulations for federally managed groundfish species at its August 22-23, 2018 meeting.

The Department's Initial Statement of Reasons is attached, which proposes regulatory changes needed to align state regulations with the range of federal regulations expected to be in effect for 2019 and 2020 and to increase fishing opportunity while staying within harvest limits. The changes result in modifications to recreational season lengths, depth restrictions, and bag limits for federally managed groundfish and state-managed species, which associate with federal groundfish. The changes also result in modifications to Total Allowable Catch levels as well as increases to commercial trip limits for cabezon and greenling.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Regional Manager of the Marine Region, at (916) 445-6459. The public notice should identify Environmental Scientist, Laura Ryley as the Department's point of contact for this rulemaking. Ms. Ryley can be reached at (831) 649-7142 or at Laura.Ryley@wildlife.ca.gov.

Valerie Termini, Executive Director
Fish and Game Commission
July 20, 2018
Page 2

Attachment

cc: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

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Marine Region (Region 7)
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STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Sections 27.30,
27.35, 27.40, 27.45, 27.50, 28.27, 28.55, 52.10 and 150.16

Title 14, California Code of Regulations

Re: Recreational and Commercial Fishing Regulations for Federal Groundfish and Associated Species for Consistency with Federal Rules for 2019 and 2020

- I. Date of Initial Statement of Reasons: June 18, 2018
- II. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: August 22, 2018
Location: Fortuna, CA
 - (b) Discussion Hearing Date: October 17, 2018
Location: Fresno, CA
 - (c) Adoption Hearing: Date: December 12, 2018
Location: Oceanside, CA
- III. Description of Regulatory Action:
 - (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Biennially, the Pacific Fishery Management Council (PFMC) reviews the status of west coast groundfish populations. As part of that process, it recommends groundfish fisheries harvest limits and regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Pacific Coast Groundfish Fishery Management Plan (FGFMP). These recommendations coordinate west coast management of recreational and commercial groundfish fisheries in the Exclusive Economic Zone (EEZ) (three to 200 miles offshore) off Washington, Oregon and California. These recommendations are subsequently implemented as federal fishing regulations by the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries).

Under California law (California Fish and Game Code sections 200, 205, 7071, and 8587.1), the California Fish and Game Commission (Commission) adopts and/or automatically conforms regulations for the recreational and nearshore commercial groundfish fisheries in State waters zero to three miles from shore. Regulatory authority for most nearshore stocks is shared jointly between State and federal governments under the FGFMP and the Nearshore Fishery Management Plan (NFMP). Management of federal groundfish and associated species is based on PFMC-established federal annual catch limits (ACL); in the NFMP these state management limits are called total allowable catch (TAC). ACLs and TACs serve the same purpose of setting a limit on catch. Federal regulations establish management measures for most

nearshore stocks, but defer to State rules on commercial trip limits for cabezon and greenling.

Title 14 regulations specify statewide TACs and commercial trip limits for cabezon and greenlings of the genus *Hexagrammos* (Sections 52.10, 150.16). Until recently, TACs specified in Title 14 have been lower than the ACLs established in federal regulations. Starting in 2019, the federal ACL for cabezon will be lower than the State TAC creating an inconsistency between State and federally established harvest limits.

The California Department of Fish and Wildlife (Department) actively manages cabezon and greenlings to stay within the TAC and recreational and commercial allocations. Although recent attainment of commercial allocations for cabezon and greenling have been low, trip limits have not been adjusted accordingly. Trip limit increases will benefit businesses that rely on commercial groundfish fishing.

It is important to have consistent State and federal regulations establishing harvest limits, season dates, depth constraints and other management measures, and also important that the State and federal regulations be effective concurrently. Consistency of rules in adjacent waters allows for uniformity of enforcement, minimizes confusion which promotes compliance, and allows for a comprehensive approach to resource management. Consistency with federal regulations is also necessary to maintain State authority over its recreational groundfish fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation and Management Act [16 USC §1856 (b)(1)].

On June 12, 2018, the PFMC recommended changes for annual catch limits and recreational groundfish fishing in California for 2019 and 2020, which are expected to go into effect on or around January 1, 2019.

Present Regulations

Recreational

Existing law authorizes the recreational take of groundfish subject to regulations set forth by federal and State authorities. Current regulations establish season lengths, depth constraints, methods of take, as well as size, bag and possession limits within the five groundfish management areas for all federal groundfish and associated species [sections 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.54, 28.55, and 28.56 Title 14, CCR].

Species or Species Groups Which May be Taken or Possessed

Present regulations allow anglers to take and possess federally-managed groundfish species as defined in Section 1.91 when the fishing season is open. Regulations also establish that California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*, which are State-managed species known to associate with federal groundfish, can be taken and possessed only when the season is open to recreational groundfish fishing.

Season Length and Depth Constraints

Current regulations specify seasons and depth constraints for the five groundfish management areas in ocean waters off California. These regulations serve as management tools that are adjusted biennially to ensure that mortality of both

overfished and non-overfished stocks remain within allowable limits. The current seasons and depth constraints were designed to maximize harvest of healthy stocks while staying within allowable limits for overfished species.

The Northern and Mendocino Management Areas have an eight month season with a depth constraint of 30 fathoms and 20 fathoms (respectively) from May to October and no depth constraint during November and December. The San Francisco Management Area has an eight and a half month season, with a depth constraint of 40 fathoms. The Central Management Area has a nine month season, with a depth constraint of 50 fathoms. The Southern Management Area has the least restrictive regulations, with a 10 month season and a depth constraint of 60 fathoms. The Cowcod Conservation Areas provide discrete depth limits within the Southern Management Area.

Bag Limits

Present regulations establish bag limits which vary by species or species groups and are designed to keep harvest within allowable limits.

Commercial

Current regulations establish total allowable catches, allocations, and trip limits for federal groundfish and associated species [sections 52.10, 150.16, Title 14, CCR].

Total Allowable Catch and Allocations

Current state regulations describe TACs for California sheephead, cabezon, and greenling. TACs include a precautionary reduction to reflect uncertainty about the status of each stock when the NFMP was adopted, which was consistent with PFMC actions at that time for nearshore rockfish. The PFMC has since amended its framework for setting harvest limits to meet new requirements of the Magnuson-Stevens Fishery Conservation and Management Act and to be consistent with National Standard guidelines. The revised guidelines introduced and/or defined new fishery management concepts that are designed to better account for scientific and management uncertainty and to prevent overfishing which now makes additional precautionary reductions to federal ACLs redundant and unnecessary.

Trip Limits

Current regulations establish cumulative two-month trip limits for cabezon and greenlings statewide. Cumulative trip limits for cabezon range from 100 pounds to 500 pounds per two-months; greenling ranges from 150 pounds to 200 pounds. Trip limits were designed to spread allowable catches through the open season to the extent possible to prevent early attainment of annual limits.

Proposed Regulations

The Department is proposing the following regulatory changes to be consistent with PFMC recommendations for federal groundfish regulations in 2019 and 2020. Other changes are proposed to increase commercial trip limits for cabezon and greenling and simplify regulations.

This approach will allow the Commission to adopt State recreational groundfish regulations to timely conform to those taking effect in federal ocean waters in January 2019.

Recreational

The proposed regulatory changes increase the season length in the San Francisco Management Area by two weeks as a result of increases in allowable take of yelloweye rockfish (Figure 1). This would align the season start dates for the San Francisco and Central Management Areas.

The latest rebuilding analysis for yelloweye rockfish, completed in December 2017, indicated the stock is rebuilding 47 years faster than estimated in 2011. Due to the estimated acceleration in the rebuilding progress of the stock, harvest limits have increased. The proposed change in San Francisco Management Area season length is not expected to have any effect on the rebuilding process of this stock or the time needed to rebuild.

The California scorpionfish season length is proposed to increase in four of the five management areas (Mendocino, San Francisco, Central, and Southern) as a result of changes in allowable take of California scorpionfish.

Total mortality of California scorpionfish has been below the annual catch limit in recent years. In addition, the most recent stock assessment indicated that California scorpionfish is healthy and the harvest limit doubled compared to previous years. This optimistic outlook on stock status coupled with lower mortality in recent years suggests that the length of the California scorpionfish season can be increased by removing the September 1 to December 31 closure in the Mendocino, San Francisco, Central, and Southern Management Areas.

The depth restrictions in the Southern Management Area and the Cowcod Conservation Area (CCA) are proposed to be changed from 60 to 75 fathoms and 20 to 40 fathoms, respectively (Figure 1) as a result of changes in allowable take levels.

Cowcod was last assessed in 2013. At that time, it was rebuilding much quicker than anticipated and is expected to be rebuilt by 2020. Recent mortality has been far below annual catch limits and the harvest limit was increased compared to previous years. The proposed changes to depth restrictions in the Southern Management Area and CCA are not expected to have any effect on the rebuilding progress of this stock or the time needed to rebuild.

Management Area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Northern	Closed				May 1 – Oct 31 <30fm						All Depth	
Mendocino	Closed				May 1 – Oct 31 <20fm						All Depth	
San Francisco	Closed			Apr 1 – Dec 31 <40 fm								
Central	Closed			Apr 1 – Dec 31 <50 fm								
Southern	Closed		Mar 1 – Dec 31 <75 fm									
CCA	Closed		Mar 1 – Dec 31 <40 fm									

Figure 1. California recreational groundfish season structure in 2019 and 2020 as recommended by the PFMC in June 2018.

The proposed regulations increase the bag limit for canary rockfish from one fish to two fish in all management areas. The proposed increase can be accommodated within the

harvest guideline.

The proposed regulations decrease the bag limit for lingcod from two to one fish in the Mendocino, San Francisco, Central, and Southern Management Areas. A lower bag limit is needed to keep catches within allowable limits.

Commercial

The proposed regulatory changes eliminate numerical values for cabezon and greenling TACs. Although federal ACLs have changed over time, TACs have not been updated accordingly. Given that the numerical values no longer reflect best available information, and in some instances are more liberal than federal ACLs, referencing ACLs in federal regulation is appropriate.

The proposed changes also eliminate references to recreational and commercial allocations from Section 52.10. These numerical values are redundant and duplicative of allocations described in Section 52.05(d), Title 14. Removing references to numerical values for TACs and allocations from Section 52.10 will decrease workload for future rulemakings that arise from changes to federal ACLs.

The proposed regulations also increase commercial trip limits for cabezon and greenling (Figure 2). Both stocks have been under-harvested in recent years. Offering a modest increase can be accommodated under federal harvest limits, will set the limits the same for each two month period for consistency, and will uphold the Department's obligation under the NFMP.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Cabezon	500 lb/ 2 months		500 lb/ 2 months		500 lb/ 2 months		500 lb/ 2 months		500 lb/ 2 months		500 lb/ 2 months	
Greenling	250 lb/ 2 months		250 lb/ 2 months		250 lb/ 2 months		250 lb/ 2 months		250 lb/ 2 months		250 lb/ 2 months	

Figure 2. Proposed commercial trip limits in pounds per individual two month period for cabezon and greenling statewide.

Update to Authority and Reference Citations Based on Recent Legislation

Senate Bill 1473 (Stats. 2016, Ch. 546) made organizational changes to the Fish and Game Code that became effective January 1, 2017. The changes included moving the Commission's exemptions from specified Administrative Procedure Act time frames from Section 202 to Section 265 of the Fish and Game Code, and moving the Commission's effective period procedures from Section 220 to Section 275 of the Fish and Game Code. In accordance with these changes to the Fish and Game Code, sections 202 and 220 are removed from, and sections 265 and 275 are added to, the authority and reference citations for this rulemaking.

(b) Goals and Benefits of the Regulation:

It is the policy of this State to encourage the conservation, sustainable use, and where feasible, restoration of California's marine living resources for the benefit of all citizens of the State (Section 7050, Fish and Game Code). Benefits of the proposed continuation of the reasonable and sustainable management of groundfish resources and the protection of listed and special status species. Adoption of scientifically-based

seasons, depth restrictions, recreational bag limits, and commercial trip limits provide for the maintenance of sufficient populations of groundfish to ensure their continued existence.

(c) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 205, 265, 275, 702, 7071 and 8587.1, Fish and Game Code.

Reference: Sections 200, 205, 240, 265, 275, 1802, 7071 and 8585.5, Fish and Game Code; Title 50, Code of Federal Regulations, Part 660, Subpart G.

(d) Specific Technology or Equipment Required by Regulatory Change: None.

(e) Identification of Reports or Documents Supporting Regulation Change:

Pacific Coast Groundfish Fishery 2019-2020 Harvest Specifications and Management Measures https://www.pcouncil.org/wp-content/uploads/2018/06/E4_Supp_REVISEDAtt2_2019-20_GFSpexEA_E-Only_June2018BB.pdf

Pacific Coast Groundfish Fishery Management Plan for the California, Oregon, and Washington Groundfish Fishery. August 2016. Pacific Fishery Management Council. http://www.pcouncil.org/wp-content/uploads/2017/03/GF_FMP_FinalThruA27-Aug2016.pdf

Nearshore Fishery Management Plan. Adopted October 25, 2002. Department of Fish and Game. <http://www.dfg.ca.gov/marine/nfmp/index.asp>

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

Pacific Fishery Management Council meetings where the proposed regulations for the 2019 and 2020 recreational groundfish and associated species were discussed:

- September 11-18, 2017, Boise, ID
- November 14-20, 2017, Costa Mesa, CA
- March 8-14, 2018, Sonoma, CA
- April 5-11, 2018, Portland, OR
- June 7-13, 2018, Spokane, WA

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(c) No Change Alternative:

Under the No Change Alternative, State law would be inconsistent with federal law. Inconsistency in regulations will create confusion among the public and may result in

laws that are difficult to enforce. Additional opportunity expected to come with the federal regulation changes effective in January 2019 would not be realized.

It is critical to have consistent State and federal regulations establishing harvest limits, season dates, depth constraints and other management measures, and also critical that the State and federal regulations be effective concurrently. Consistency with federal regulations is also necessary to maintain State authority over its recreational and nearshore commercial groundfish fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation and Management Act [16 USC §1856 (b)(1)].

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

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 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 will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Department anticipates increased opportunities for the recreational and commercial groundfish fishery in 2019-2020 compared to 2018.

(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 Commission does not anticipate any significant impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California.

The Commission anticipates benefits to the health and welfare of California residents. Participation in sport fisheries opportunities fosters conservation through education and appreciation of California's wildlife.

The Commission does not anticipate any benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California's sport and commercial fishing resources.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

None

(e) 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, Government Code:

None

(h) Effect on Housing Costs:

None

VII. Economic Impact Assessment

Recreational

Recreational groundfish fisheries are broadly sub-divided between private anglers and commercial passenger fishing vessels. The economic impact of regulatory changes for recreational fisheries may be estimated by tracking the resulting changes in fishing effort, angler trips and length of stay in the fishery areas. Distance traveled affects gas and other travel expenditures. Daytrips and overnight trips involve different levels of spending for gas, food, and accommodations at area businesses as well as different levels of sales tax impacts. Direct expenditures ripple through the economy, as receiving businesses buy intermediate goods from suppliers that then spend that revenue again. Business spending on wages is received by workers who then spend that income, some of which goes to local businesses. Recreational fisheries spending, thus multiplies throughout the economy with the indirect and induced effects of the initial direct expenditure.

The adoption of scientifically-based regulations provides for the maintenance of sufficient populations of groundfish to ensure their continued existence and future groundfish sport fishing opportunities that in turn support the fishery economy. In a 2015 Fisheries Economics

Report by NOAA Fisheries, all marine recreational anglers trip-related and equipment expenditures sum to approximately \$1.5 billion in California. Coupled with the indirect and induced effects of this \$1.5 billion direct revenue contribution, the total realized economic benefit to California is estimated at \$3.6 billion in total economic output annually. This corresponds with about \$800 million in total wages to Californians, which affects about 16,500 jobs in the State, annually. While the precise share of these expenditures attributed solely to groundfish anglers is not known, we do know that the groundfish fishery constitutes a large share of the State's recreational angler activity.

The proposed regulations will modify State recreational groundfish regulations to conform to federal rules. Currently, State regulations for groundfish provide for: season lengths, depth restrictions, size limits, bag limits, and retention allowances. In adopting these conforming regulations, the State relies on information provided in PFMC documents which includes analysis of impacts to California (https://www.pcouncil.org/wp-content/uploads/2018/06/E4_Supp_REVISEDAtt2_2019-20_GFSpexEA_E-Only_June2018BB.pdf).

For public notice purposes to facilitate Commission discussion, the Department is proposing regulatory changes to encompass the range of federal groundfish regulations that are expected to be in effect for 2019 and 2020. The proposed regulatory changes increase the sub-bag limit for canary rockfish from one to two fish, and decrease the bag limit for lingcod south of 40° 10' N. latitude from two to one fish.

The proposed regulatory changes change the depth restrictions in the Southern Management Area from 60 to 75 fathoms and change the depth restriction in the western Cowcod Conservation Area (CCA) from 20 to 40 fathoms.

The proposed regulations increase the season length in the San Francisco Management Area by two weeks. In addition, proposed regulations increase the season length for California scorpionfish in four of the management areas (Mendocino, San Francisco, Central, and Southern) by removing the September 1 to December 31 closure.

The range of estimated impact on angler trips by management area and the percent increase from the status quo is presented in Table 1. The economic impacts may be close to status quo however; some increased revenues are expected, providing economic benefit to the greater community.

Table 1. Estimated Impact on Angler Trips by Management Area.

Management Area	Impact on Angler Trips	Percent Increase over Status Quo
Northern	Status Quo	Status Quo
Mendocino	Status Quo	Status Quo
San Francisco	Status Quo + 1,375 Trips	Increase of 2%
Central	Status Quo	Status Quo
Southern	Status Quo	Status Quo*

*A 15 fathom increase in depth is being considered. Economic effects of this depth increase and the increase inside the Cowcod Conservation Area cannot be quantified.

Sport fishing business owners, boat owners, tackle store owners, boat manufacturers, vendors of food, bait, fuel and lodging, and others that provide goods or services to those that recreationally pursue groundfish off California may be positively affected to some degree from increases to business that may result under the range of proposed regulations. However, anticipated impacts may vary by geographic location. Additionally, economic impacts to these same businesses may result from a number of factors unrelated to the proposed changes to groundfish fishing regulations, including weather, fuel prices, and success rates in other marine recreational fisheries such as salmon and albacore.

Commercial

The economic impact of regulatory changes for commercial fisheries may be estimated by tracking the resulting changes in fishing effort, amount landed, price paid per pound, and employment generated through the catch or processing of the fish. Fishing effort affects fuel, and other trip expenditures. Landings and price paid per pound affect employment and income. Direct expenditures related to commercial fishing as well as business spending on wages received by workers ripple through the economy, some of which goes to local businesses. Commercial fisheries spending, thus multiplies throughout the economy with the indirect and induced effects of the initial direct expenditure.

In a 2015 Fisheries Economics Report by NOAA Fisheries, about \$1.3 million in total commercial fishing landings revenue generated about \$750 million in sales throughout the state marine economy. The state marine economy includes several marine-related industries: commercial harvesters, seafood processors and dealers, seafood wholesalers and distributors, and retail seafood sales. Commercial fishing landings revenue also generates about \$300 million in total wages to Californians, which affects about 9,000 jobs in the State, annually. While the precise share of these expenditures attributed solely to nearshore groundfish fishermen is not known, the nearshore groundfish fishery plays an important role in the economy of several California communities.

The proposed regulations increase commercial trip limits for cabezon and greenling. Commercial fishing industry businesses and coastal communities may realize positive benefits from increased greenling and cabezon bimonthly trip limits and catches, and a decrease in regulatory discarding; however the extent of anticipated impacts are speculative. Economic impacts to these same businesses may result from a number of factors unrelated to the proposed changes to groundfish fishing regulations that are described in the recreational section above.

Effects of the regulation on the creation or elimination of jobs within the State

The cumulative effects of the changes statewide are estimated to be neutral to job elimination and potentially positive to job creation in California. No significant changes in fishing effort and fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

Effects of the regulation on the creation of new businesses or the elimination of existing businesses within the State

The cumulative effects of the changes statewide are expected to be neutral to business elimination and potentially positive to the creation of businesses in California. No significant

changes in fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

Effects of the regulation on the expansion of businesses currently doing business within the State

The cumulative effects of the changes statewide are expected to be neutral to positive to the expansion of businesses currently doing business in California. No significant changes in fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

Benefits of the regulation to the health and welfare of California residents

Providing increased fishing opportunities for groundfish encourages recreation, which can have a positive impact on the health and welfare of California residents. Groundfish taken in the sport and commercial fishery and later consumed may have positive human health benefits due to their concentration of omega III fatty acids.

Benefits of the regulation to worker safety

The proposed regulations are not anticipated to impact worker safety conditions.

Benefits of the regulation to the State's environment

It is the policy of this State to encourage the conservation, sustainable use, and where feasible, restoration of California's marine living resources for the benefit of all citizens of the State (Section 7050, Fish and Game Code). Benefits of the proposed management actions include increased fishing opportunity, along with the continuation of the reasonable and sustainable management of groundfish resources and the protection of listed and special status species. Adoption of scientifically-based seasons, depth restrictions, recreational bag limits, and commercial trip limits provide for the maintenance of sufficient populations of groundfish to ensure their continued existence.

Concurrence with Federal Law.

The PPMC reviews the status of groundfish regulations biennially. As part of that process, it recommends regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Pacific Coast Groundfish Fishery Management Plan. These recommendations coordinate management of recreational and commercial groundfish in the EEZ (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. These recommendations are subsequently implemented as ocean fishing regulations by NOAA Fisheries.

California's sport fishing regulations need to conform to, or be more restrictive than, federal regulations to ensure that biological and fishery allocation goals are not exceeded.

Informative Digest/Policy Statement Overview

Biennially, the Pacific Fishery Management Council (PFMC) reviews the status of west coast groundfish populations. As part of that process, it recommends groundfish fisheries harvest limits and regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Pacific Coast Groundfish Fishery Management Plan (FGFMP).

These recommendations coordinate west coast management of recreational and commercial groundfish fisheries in the Exclusive Economic Zone (EEZ) (three to 200 miles offshore) off Washington, Oregon and California. These recommendations are subsequently implemented as federal fishing regulations by the National Oceanic and Atmospheric Administration National Marine Fisheries Service NOAA Fisheries.

Regulatory authority for most nearshore stocks is shared jointly between State and federal governments. For consistency, the California Fish and Game Commission (Commission) routinely adopts regulations to bring State law into conformance with federal law for groundfish and other federally-managed species. Nearshore stocks are managed based on both PFMC-established federal annual catch limits (ACL), and Commission-established total allowable catch (TAC) values. ACLs and TACs serve the same purpose of setting a limit on catch.

Current regulations establish recreational season lengths, depth constraints, methods of take, and size, bag and possession limits within the five groundfish management areas for all federal groundfish and associated species.

Current State regulations also provide for a statewide TAC for cabezon and greenlings of the genus *Hexagrammos* along with allocation of these TACs between the recreational and commercial fishery sectors, and commercial trip limits for cabezon and greenling. Until recently, TACs specified in Title 14 have been lower than the ACLs established in federal regulations. Starting in 2019, the federal ACL for cabezon will be lower than the State TAC.

Modest increases to trip limits can be accommodated under federal ACLs since commercial cabezon and greenling landings have fallen below ACLs in recent years.

Summary of Proposed Amendments

The Department of Fish and Wildlife (Department) is proposing the following regulatory changes to be consistent with PFMC recommendations for federal groundfish regulations in 2019 and 2020. This approach will allow the Commission to adopt State recreational groundfish regulations to timely conform to those taking effect in federal ocean waters in January 2019.

The proposed regulatory changes will implement the following changes:

1. Increase the allowable depth for the recreational groundfish fishery from 60 to 75 fathoms in the Southern Management Area and from 20 to 40 fathoms in the Cowcod Conservation Area;
2. Increase the recreational season length for groundfish in the San Francisco Management Area by two weeks;
3. Increase the recreational season length for California scorpionfish by removing the September 1 to December 31 closure in the Mendocino, San Francisco, Central and Southern Management Areas;
4. Increase the recreational bag limit for canary rockfish from one to two fish statewide;
5. Decrease the recreational bag limit for lingcod from two to one fish in Mendocino, San Francisco, Central, and Southern Management Areas;

6. Replace language referencing numerical values for cabezon and greenling total allowable catch limits with references to federal annual catch limits in federal regulation;
7. Eliminate language referencing allocation limits for cabezon and greenling from Section 52.10; and
8. Increase commercial trip limits to 500 pounds for cabezon and 250 pounds for greenling.

The benefits of the proposed regulations are consistency with federal law, sustainable management of groundfish resources and promotion of businesses that rely on recreational and commercial groundfish fishing.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt fishing regulations (Fish and Game Code, sections 200, 205 and 265). The proposed regulations are consistent with regulations for fishing in marine protected areas (Section 632, Title 14, CCR), with Nearshore Fishery Management Plan regulations (Sections 52.00 through 52.10, Title 14, CCR) and with general fishing regulations in Chapters 1 and 4 of Subdivision 1 of Division 1, Title 14, CCR. Commission staff has searched the California Code of Regulations and has found no other State regulations related to the take of groundfish.

Update to Authority and Reference Citations Based on Recent Legislation

Senate Bill 1473 (Stats. 2016, Ch. 546) made organizational changes to the Fish and Game Code that became effective January 1, 2017. The changes included moving the Commission's exemptions from specified Administrative Procedure Act time frames from Section 202 to Section 265 of the Fish and Game Code, and moving the Commission's effective period procedures from Section 220 to Section 275 of the Fish and Game Code. In accordance with these changes to the Fish and Game Code, sections 202 and 220 are removed from, and sections 265 and 275 are added to, the authority and reference citations for this rulemaking.

Regulatory Language

Amend Section 27.30, Title 14, CCR, as follows:

§ 27.30. Mendocino Groundfish Management Area.

This Section applies to take and possession of federally-managed groundfish species as defined in Section 1.91, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Mendocino Groundfish Management Area means ocean waters between 40° 00' N. lat. (near Cape Mendocino, Humboldt County) and 38° 57.50' N. lat. (at Point Arena, Mendocino County).

(b) Seasons and depth constraints ~~(except as provided in subsection (c) below):~~

(1) January 1 through April 30: Closed.

(2) May 1 through October 31: Take of all species is prohibited seaward of 20 fathoms in depth as described by general depth contour lines along the mainland coast and along islands and offshore seamounts.

(3) November 1 through December 31: Open for all species with no depth restrictions.

~~(c) California scorpionfish.~~

~~(1) May 1 through August 31: Take is prohibited seaward of 20 fathoms in depth as described by general depth contour lines along the mainland coast and along islands and offshore seamounts.~~

~~(2) September 1 through December 31: Closed.~~

Note: Authority cited: Sections 200, 205, 265 and 702, Fish and Game Code.

Reference: Sections 200, 205, 265, 1802 and 7071, Fish and Game Code; 50 CFR Part 660, Subpart G.

Amend Section 27.35, Title 14, CCR, as follows:

§ 27.35. San Francisco Groundfish Management Area.

This Section applies to take and possession of federally-managed groundfish species as defined in Section 1.91, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The San Francisco Groundfish Management Area means ocean waters between 38° 57.50' N. lat. (at Point Arena, Mendocino County) and 37° 11' N. lat. (at Pigeon Point, San Mateo County).

(b) Seasons and depth constraints (except as provided in subsection (c) below):

(1) January 1 through ~~April 14~~March 31: Closed.

(2) April 15 through December 31: Take of all species is prohibited seaward of a line approximating the 40-fathom depth contour along the mainland coast and along islands and offshore seamounts. The 40-fathom depth contour is defined by straight lines connecting the set of 40-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G).

~~(c) Special exceptions to subsection (b) above:~~

~~(1)(c)~~ Leopard shark may be taken or possessed in Drake's Bay, Bolinas Bay, Tomales Bay, Bodega Harbor, and San Francisco Bay year-round.

~~(2) California scorpionfish.~~

~~(A) April 15 through August 31: Take is prohibited seaward of a line approximating the 40-fathom depth contour along the mainland coast and along islands and offshore seamounts. The 40-fathom depth contour is defined by straight lines connecting the set of 40-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G).~~

~~(B) September 1 through December 31: Closed.~~

Note: Authority cited: Sections 200, 205, 265 and 702, Fish and Game Code.

Reference: Sections 200, 205, 265, 1802 and 7071, Fish and Game Code; 50 CFR Part 660, Subpart G.

Amend Section 27.40, Title 14, CCR, as follows:

§ 27.40. Central Groundfish Management Area.

This Section applies to take and possession of federally-managed groundfish species as defined in Section 1.91, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Central Groundfish Management Area means ocean waters between 37° 11' N. lat. (at Pigeon Point, San Mateo County) and 34° 27' N. lat. (at Point Conception, Santa Barbara County).

(b) Seasons and depth constraints (except as provided in subsection (c) below):

(1) January 1 through March 31: Closed.

(2) April 1 through December 31: Take of all species is prohibited seaward of a line approximating the 50-fathom depth contour along the mainland coast and along islands and offshore seamounts. The 50-fathom depth contour is defined by straight lines connecting the set of 50-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G).

~~(c) Special exceptions to subsection (b) above:~~

~~(1)(c)~~ Leopard shark may be taken or possessed in Elkhorn Slough year-round.

~~(2) California scorpionfish.~~

~~(A) April 1 through August 31: Take is prohibited seaward of a line approximating the 50-fathom depth contour along the mainland coast and along islands and offshore~~

~~seamounts. The 50-fathom depth contour is defined by straight lines connecting the set of 50-fathom waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G).~~
~~(B) September 1 through December 31: Closed.~~

Note: Authority cited: Sections 200, 205 and 265, Fish and Game Code. Reference: Sections 200, 205, 265, 1802 and 7071, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Amend Section 27.45, Title 14, CCR, as follows:

§ 27.45. Southern Groundfish Management Area.

This Section applies to take and possession of federally-managed groundfish species as defined in Section 1.91, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Southern Groundfish Management Area means ocean waters between 34° 27' N. lat. (at Point Conception, Santa Barbara County) and the U.S./Mexico border. The Cowcod Conservation Areas are special closure areas within the Southern Groundfish Management Area.

(b) Seasons and depth constraints (except as provided in subsection (c) below):

(1) January 1 through the last day in February: Closed, except take of California scorpionfish is prohibited seaward of a line approximating the 75-fathom depth contour, defined by connecting the appropriate waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G).

(2) March 1 through December 31: Take of all species is prohibited seaward of a line approximating the ~~60~~75-fathom depth contour along the mainland coast and along islands and offshore seamounts. The ~~60~~75-fathom depth contour is defined by straight lines connecting the set of ~~60~~75-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G).

(c) Special exceptions to subsection (b) above:

(1) Regulations that apply to the Cowcod Conservation Areas are specified in Section 27.50.

(2) Leopard shark may be taken or possessed in Newport Bay, Alamitos Bay, Mission Bay, and San Diego Bay year-round.

~~(3) California scorpionfish.~~

~~(A) January 1 through August 31: Take is prohibited seaward of a line approximating the 60-fathom depth contour along the mainland coast and along islands and offshore seamounts. The 60-fathom depth contour is defined by straight lines connecting the set of 60-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G).~~

~~(B) September 1 through December 31: Closed.~~

Note: Authority cited: Sections 200, 205 and 265, Fish and Game Code. Reference: Sections 200, 205, 265, 1802 and 7071, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Amend Section 27.50, Title 14, CCR, as follows:

This Section applies to take and possession of federally-managed groundfish species as defined in Section 1.91, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Cowcod Conservation Areas are defined as ocean waters off southern California within each of the following two areas:

Area 1 is an area south of Point Conception that is bound by straight lines connecting the following points in the order listed:

33° 50' N. lat., 119° 30' W. long.;
33° 50' N. lat., 118° 50' W. long.;
32° 20' N. lat., 118° 50' W. long.;
32° 20' N. lat., 119° 37' W. long.;
33° 00' N. lat., 119° 37' W. long.;
33° 00' N. lat., 119° 53' W. long.;
33° 33' N. lat., 119° 53' W. long.;
33° 33' N. lat., 119° 30' W. long.; and
33° 50' N. lat., 119° 30' W. long.

Area 2 is a smaller area west of San Diego that is bound by straight lines connecting the following points in the order listed:

32° 42' N. lat., 118° 02' W. long.;
32° 42' N. lat., 117° 50' W. long.;
32° 36' 42" N. lat., 117° 50' W. long.;
32° 30' N. lat., 117° 53' 30" W. long.;
32° 30' N. lat., 118° 02' W. long.; and
32° 42' N. lat., 118° 02' W. long.

(b) Seasons and depth constraints (except as provided in subsection (c) below):

(1) January 1 through the last day in February: ~~Closed.~~ except take of California scorpionfish is prohibited seaward of a line approximating the 40-fathom depth contour along islands and offshore seamounts, defined by connecting the appropriate waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G).

(2) March 1 through December 31: ~~Open for only the~~ Take of species or species groups listed in (A) through (G) below is prohibited seaward of a line approximating the 40 fathom depth contour along islands and offshore seamounts. The 40 fathom depth contour is defined by straight lines connecting the set of 40 fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G). ~~and only in waters shallower than 20 fathoms in depth as described by general depth contour lines.~~

(A) Nearshore rockfish, as defined in subsection 1.91(a)(1)

- (B) Cabezon
- (C) Greenlings of the genus *Hexagrammos*
- (D) California sheephead
- (E) Ocean whitefish
- (F) Lingcod
- (G) Shelf rockfish, as defined in subsection 1.91(a)(3), except bronzespotted rockfish, cowcod, and yelloweye rockfish which may not be taken or possessed within the Cowcod Conservation Areas.

(c) Special exceptions to subsection (b) above:

~~(1) California scorpionfish.~~

~~(A) January 1 through August 31: Take is prohibited seaward of 20 fathoms in depth, as described by general depth contour lines along the mainland coast and along islands and offshore seamounts.~~

~~(B) September 1 through December 31: Closed.~~

~~(21)~~ Notwithstanding subsection 27.20(b)(1)(C), when angling from shore (includes beaches, banks, piers, jetties, breakwaters, docks, and other man-made structures connected to the shore), only the species identified in (b)(2) above and California scorpionfish may be taken or possessed year-round. No vessel or watercraft (motorized or non-motorized) may be used to assist in taking or possessing these species while angling from shore under this provision.

~~(32)~~ Notwithstanding subsection 27.20(b)(1)(D), when diving or spearfishing, as authorized in Section 28.90, only the species identified in (b)(2) above and California scorpionfish may be taken or possessed year-round. Except for spearfishing gear, all other types of fishing gear are prohibited to be aboard the vessel or watercraft (motorized or non-motorized) while spearfishing for the purpose of taking or possessing these species under this provision.

Note: Authority cited: Sections 200, 205 and 265, Fish and Game Code. Reference: Sections 200, 205, 265, 1802 and 7071, Fish and Game Code; 50 CFR Part 660, Subpart G.

Amend Section 28.27, Title 14, CCR, as follows:

§ 28.27. Lingcod.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

- (1) Northern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.25.
- (2) Mendocino Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.30.
- (3) San Francisco Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.35.

- (4) Central Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.40.
- (5) Southern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.45.
- (6) Cowcod Conservation Areas: Open and closed dates and depth constraints as defined by Section 27.50.
- (b) Limit is authorized as follows: ~~Two~~.
- (1) Northern Groundfish Management Area: Two
- (2) Mendocino Groundfish Management Area: One
- (3) San Francisco Groundfish Management Area: One
- (4) Central Groundfish Management Area: One
- (5) Southern Groundfish Management Area: One
- (c) Minimum size: 22 inches total length.
- (d) Method of take: When angling, gear is restricted to not more than two hooks and one line. For purposes of this section, a hook is a single hook, or double or treble hook with multiple points connected to a common shank.
- (e) Fishing rules for lingcod may be changed during the year or in-season by the department under the authority of subsection 27.20(e). See subsection 27.20(f) for additional information.
- Note: Authority cited: Sections 200, 205, ~~220~~275, 265, 702 and 8587.1, Fish and Game Code. Reference: Sections 200, 205, 265 and 1802, Fish and Game Code; 50 CFR Part 660, Subpart G.

Amend Section 28.55, Title 14, CCR, as follows:

§ 28.55. Rockfish (*Sebastes*).

- (a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:
- (1) Northern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.25.
- (2) Mendocino Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.30.
- (3) San Francisco Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.35.
- (4) Central Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.40.
- (5) Southern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.45.
- (6) Cowcod Conservation Areas: Open and closed dates and depths constraints as defined by Section 27.50. Only Nearshore Rockfish, and Shelf Rockfish, as defined in

subsections 1.91(a)(1) and 1.91(a)(3), may be taken and possessed, except as provided below in subsection (b)(1).

(b) Limit: Ten, within the Rockfish, Cabezon, and Greenling complex (RCG complex, as defined in Section 1.91) limit of 10 fish, in any combination of species, except as provided below.

(1) The limit on bronzespotted rockfish, cowcod, and yelloweye rockfish is zero. These species shall not be taken or possessed as part of the RCG limit.

(2) The limit on canary rockfish is ~~one~~two fish, within the RCG bag limit.

(3) The limit on black rockfish is three fish, within the RCG limit.

(4) In the Cowcod Conservation Areas (see Section 27.50), the limit on slope rockfish, as defined in subsection 1.91(a)(4), is zero. These species shall not be taken or possessed as part of the RCG limit in the Cowcod Conservation Areas.

(c) Size limit: None.

(d) Method of take: When angling, gear is restricted to not more than two hooks and one line. For purposes of this section, a hook is a single hook, or a double or treble hook with multiple points connected to a common shank.

(e) Fishing rules for rockfish may be changed during the year or in-season by the department under the authority of subsection 27.20(e). See subsection 27.20(f) for additional information.

Note: Authority cited: Sections 200, 205, 265, 702, 7071 and 8587.1, Fish and Game Code. Reference: Sections 200, 205, 265, 1802, 7071 and 8585.5, Fish and Game Code; 50 CFR Part 660, Subpart G.

Amend Section 52.10, Title 14, CCR, as follows:

§ 52.10. Take of Sheephead, Cabezon and Greenling.

(a) Total Allowable Catches (TACs) and Allocations. Based on total allowable catches specified for each calendar year, catch may not exceed the following amounts:

(1) California sheephead. The statewide allowable catch of sheephead is 205,500 pounds, allocated as follows:

(A) The commercial fishery is allocated 75,200 pounds.

(B) The recreational fishery is allocated 130,300 pounds.

(2) Cabezon. ~~The total statewide allowable catch of cabezon is 326,200 pounds, allocated as follows:~~ The statewide total allowable catch will not exceed the amount specified in 50 CFR Part 660, Subpart C.

~~(A) The commercial fishery is allocated 127,200 pounds.~~

~~(B) The recreational fishery is allocated 199,000 pounds.~~

(3) Greenlings of the genus Hexagrammos. ~~The total statewide allowable catch of greenlings is 121,900 pounds, allocated as follows:~~ The statewide total allowable catch will not exceed the amount specified in 50 CFR Part 660, Subpart C.

~~(A) The commercial fishery shall be managed not to exceed, 55,400 pounds, the remaining amount after subtracting the recreational allocation from the TAC. The~~

~~commercial fishery shall be closed or modified in-season pursuant to the rules in section 52.10(b) through 52.10(d).~~

~~(B) The recreational fishery is allocated 66,500 pounds.~~

(b) Mechanism for Fishery Closures. The department will estimate from the current trends in catch and using the best available scientific information the time at which any commercial or recreational fishery allocation or total allowable catch for sheephead, cabezon, or greenlings specified in subsection (a) will be reached. The department will close the fishery at the time the allocation or total allowable catch is reached or is projected to be reached prior to the end of the calendar year.

(c) The department shall give the public and the commission no less than 10 days notice of any recreational fishery closure pursuant to this Section via a department news release.

(d) The department shall give holders of nearshore fishery permits no less than 10 days notice of any commercial fishery closure pursuant to this Section via a notification letter sent to the permittee's address on file with the department. The department shall give the public and the commission no less than 10 days notice of any commercial fishery closure pursuant to this Section via a department news release.

Note: Authority cited: Sections 200, ~~202265~~, 702, 7071 and 8587.1, Fish and Game Code. Reference: Sections 97, 205, 1802, 7056, 7071, 8585.5, 8586, 8587 and 8587.1, Fish and Game Code.

Amend Section 150.16, Title 14, CCR, as follows:

§ 150.16. Commercial Take of Nearshore Fishes.

(a) Notwithstanding Section 8588(b) of the Fish and Game Code, minimum size limits (total length) are as follows:

(1) black-and-yellow rockfish (<i>Sebastes chrysomelas</i>)	10 in.
(2) cabezon (<i>Scorpaenichthys marmoratus</i>)	15 in.
(3) California scorpionfish or sculpin (<i>Scorpaena guttata</i>)	10 in.
(4) California sheephead (<i>Semicossyphus pulcher</i>)	13 in.
(5) China rockfish (<i>Sebastes nebulosus</i>)	12 in.
(6) gopher rockfish (<i>Sebastes carnatus</i>)	10 in.
(7) grass rockfish (<i>Sebastes rastrelliger</i>)	12 in.

(8) greenlings of the genus <i>Hexagrammos</i> (<i>Hexagrammos</i> spp.)	12 in.
(9) kelp rockfish (<i>Sebastes atrovirens</i>)	10 in.

(b) Species of nearshore fish stocks as defined in Section 1.90, Title 14, CCR, must be sorted by species prior to weighing and the weight reported separately on the Fish and Game receipt.

(c) Any nearshore fish listed under this section that are taken in a nearshore fishery shall be measured immediately upon being brought aboard the vessel and released immediately if not in compliance with the size limits specified.

(d) Regulations adopted to modify the minimum size limits or to specify maximum size limits shall be based on the best available scientific information and adopted pursuant to the Administrative Procedure Act following public notice and not less than one public hearing.

(e) Cumulative trip limits for sheephead, cabezon, greenlings of the genus *Hexagrammos*, California scorpionfish, and subgroups of rockfish.

(1) A cumulative trip limit is the total number of pounds of a species or a species group that may be taken and retained, possessed, or landed by an individual commercial licensee in a cumulative trip limit period without a limit on the number of landings or trips.

(2) Cumulative trip limit periods start at 0001 hours local time, end at 2400 hours local time, and are in two month periods as follows:

(A) January 1 through the last day of February,

(B) March 1-April 30,

(C) May 1-June 30,

(D) July 1-August 31,

(E) September 1-October 31,

(F) November 1-December 31.

(3) Landings toward a cumulative trip limit value for a defined cumulative trip limit period provided in this subsection are summed by an individual's California commercial license number listed on fish receipts submitted to the department pursuant to Section 8043, Fish and Game Code.

(4) Any person landing species for which there is a cumulative trip limit established pursuant to this Section shall keep in their immediate possession copies of any and all reports of landings required by state laws or regulations throughout the cumulative limit period during which a landing occurred and for 15 days thereafter.

(5) Cumulative trip limit values noticed in the Federal Register by the National Marine Fisheries Service for the cumulative trip limit periods for shallow nearshore rockfish, deeper nearshore rockfish, and California scorpionfish apply to each individual California commercial licensee in addition to the federally-defined vessel-based limits. Landings are summed by an individual's California commercial license number listed on fish receipts submitted to the department pursuant to Section 8043, Fish and Game Code.

(6) Cumulative trip limits for sheephead, cabezon and greenlings.

(A) The cumulative trip limit per individual per two-month limit period when fishing is allowed pursuant to Section 150.06, Title 14, CCR, is as follows:

	<i>Sheephead</i>	<i>Cabazon</i>	<i>Greenlings</i>
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January-February	2,000 pounds	300 <u>500</u> pounds	150 <u>250</u> pounds
March-April	2,000 pounds	400 <u>500</u> pounds	150 <u>250</u> pounds
May-June	2,400 pounds	500 pounds	200 <u>250</u> pounds
July-August	2,400 pounds	500 pounds	200 <u>250</u> pounds
September-October	2,400 pounds	500 pounds	200 <u>250</u> pounds
November-December	2,400 pounds	300 <u>500</u> pounds	150 <u>250</u> pounds

(B) The department will evaluate year-to-date catch levels against total allowable catch limits defined in Section 52.10. Based on these data, when the department determines that cumulative trip limits defined in this Section need significant adjustment upward or downward (by 50 percent or more) in order to spread the allowable catches through the open season to the extent possible and prevent early attainment of the annual total allowable commercial catch, the cumulative trip limits defined in this Section may become inoperative and may be replaced with alternative limits as determined by the department. The department may perform these in-season analyses between May and September of each year; and provide notification of changes by October 15 of each year, as described in subsection (e)(6)(C).

(C) The department shall give ~~holders of nearshore fishery permits~~nearshore fishery permittees no less than 10 days notice of any cumulative trip limit change pursuant to this Section via a notification letter sent to the permittee's address on file with the department.

(D) When allocations, total allowable catches or other catch limits defined in Section 52.10 are reached, and action to close the fishery is taken pursuant to Section 52.10 subsection (b), cumulative trip limits defined in this Section become inoperative.

(f) All other trip limits (including daily, weekly and cumulative trip limits) established for commercial rockfish, a subgroup of rockfish, or California scorpionfish noticed in the Federal Register by the National Marine Fisheries Service shall apply in state waters within the geographic boundary areas defined in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660. See also Section 189, Title 14, California Code of Regulations for additional requirements regarding fishing for federal groundfish in state waters.

Note: Authority cited: Sections 702, 7071, 8587.1 and 8588, Fish and Game Code.

Reference: Sections 97, 205, 1802, 8585.5, 8586, 8587, 8587.1 and 8588, Fish and Game Code.

Groundfish Fishery: Proposed Changes for 2019-2020



Photo Credit: M. Parker



California Fish and Game Commission Meeting

December 12, 2018 • Oceanside, CA

California Department of Fish and Wildlife

Background

- Pacific Fishery Management Council's biennial process completed in June 2018
 - Changes in management driven by new stock assessment information
- Changes to federal regulations effective January 2019 in federal waters
- FGC typically takes conforming regulatory action for state waters

Increased Recreational Opportunities

- Two additional weeks in San Francisco Management Area for boat based fishing
- Deeper allowable fishing depths in Southern Management Area and Cowcod Conservation Areas
- Year-round fishery in Southern Management Area for California Scorpionfish
- Two fish sub bag limit for canary rockfish

Reduced Recreational Opportunities

- Reduce lingcod bag limit from two to one in the Mendocino, San Francisco, Central, and Southern Management Areas
 - Recent lingcod stock assessment for area south of Cape Mendocino less optimistic
- Other Alternatives Considered:
 - Shorter season length was not supported by industry representatives
 - Increasing the size limit did not result in enough catch savings

Public Comment Received

- 13 comments received by November 29
- All comments oppose reduction to recreational lingcod bag limit south of Cape Mendocino

Proposed Commercial Changes

- Increases to commercial trip limits
 - Cabezon: 500 lb each open 2-month period
 - Greenling: 250 lb each open 2-month period

Department Recommendations

- Adopt proposed changes to Title 14, §27.30 et al including:
 - Changes to recreational:
 - Season lengths
 - Depth constraints
 - Bag limits
 - Changes to commercial trip limits

Thank You



Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: N/A

From: (Public Agency): CA Fish and Game Commission
1416 Ninth Street, Room Room 1320
Sacramento, CA 95814

(Address)

Project Title: Amend Sections 27.30 et. al, Title 14, CCR, Re: Groundfish Regulations

Project Applicant: N/A

Project Location - Specific:

Statewide

Project Location - City: N/A Project Location - County: N/A

Description of Nature, Purpose and Beneficiaries of Project:

Recreational and commercial groundfish fisheries are managed through a cooperative system of State and federal management agencies. The Fish and Game Commission has taken concurrent action to conform State regulations to federal regulations to ensure consistency with both State and federal laws.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

Exempt Status: (check one):

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: Cal. Code Regs., tit. 14, §§ 15307, 15308
- ☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

See attached.

Lead Agency

Contact Person: Valerie Termini

Area Code/Telephone/Extension: (916) 653-4899

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

Signature: _____ Date: _____ Title: Executive Director

☒ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

June 21, 2018

ATTACHMENT TO NOTICE OF EXEMPTION
Adoption of Recreational and Commercial Groundfish Regulations

The California Fish and Game Commission (Commission) has taken final action under the Fish and Game Code and the Administrative Procedure Act (APA) with respect to the project approved on December 12, 2018. In taking its final action for the purposes of the California Environmental Quality Act (CEQA, Pub. Resources Code, § 21000 *et seq.*), the Commission adopted the regulations relying on the categorical exemption for "Actions by Regulatory Agencies for Protection of Natural Resources" contained in CEQA Guidelines section 15307, and the categorical exemption for "Actions by Regulatory Agencies for Protection of the Environment" contained in CEQA Guidelines section 15308. (Cal. Code Regs., tit. 14, §§ 15307, 15308)

Categorical Exemptions to Protect Natural Resources and the Environment

In adopting the groundfish fishing regulations to conform to federal regulations developed by the Pacific Fishery Management Council, and adopted by the National Marine Fisheries Service, the Commission relied for purposes of CEQA on the Class 7 and 8 categorical exemptions. In general, both exemptions apply to agency actions to protect natural resources and the environment. The regulations define annual fishing seasons, harvest limits, depth restrictions, daily bag limits and specify methods of take for alignment with enacted federal regulations. The federal regulations are developed with the dual purpose of maintaining optimum yield while at the same time preventing overfishing and conserving the resource. State conformance with federal regulations is also necessary to avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). Because these regulations are intended to protect the sustainability of the fishery as a natural resource, Commission adoption of these regulations is an activity that is the proper subject of CEQA's Class 7 and 8 categorical exemptions.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON Margaret Duncan margaret.duncan	EMAIL ADDRESS @wildlife.ca.gov	TELEPHONE NUMBER 916 653-4676
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Recreational & Commercial Fishing Regulations for Federal Groundfish & Associated Species 2019/2020			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

No cost impacts for conformance to Fed. rules (with increased opportunities)***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.******If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *(If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c))*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total
businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide
☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with
other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____
- a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ _____

4. Will this regulation directly impact housing costs? ☐ YES ☐ NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☐ NO

Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?

☐ YES☐ NO

Explain: _____

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.**California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.*1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ YES ☒ NO*If YES, complete E2. and E3**If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES☒ NO*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

ECONOMIC AND FISCAL IMPACT STATEMENTSAM Section 6601, 6616**(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____
Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____
Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

Instructions and Code Citations:

SAM Section 6601-6616**FISCAL IMPACT STATEMENT (CONTINUED)****B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER'S SIGNATURE



DATE

7/8/18

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

8/27/2018

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

From: jake
Sent: Thursday, October 18, 2018 11:14 AM
To: FGC <FGC@fgc.ca.gov>
Subject: Ling Cod Limit

I'm writing in response to a possible ling cod limit reduction for recreational take, as mentioned during the Fish and Game commission meeting on October 17th 2018.

- a I do not support a reduction in ling cod limits for divers.
- b Sound, unbiased scientific evidence that supports a necessary reduction in take should always be a precursor to such discussions and implementation of regulation. I think this evidence should also be presented to the public in a transparent way, and followed with a public forum.
- c In my experience as an avid diver, I have seen no shortage of ling cod over the past 5 years. Given
- d drastically lower number of fish taken via spearfishing vs rod and reel, and commercial, I would expect divers would continue to have a separate set of regulations.

Reducing the ability to enjoy fishing further, will in turn reduce the revenue for the state, reduce revenue from industry, shrink the DFW as an effective department, and shrink the purse for conservation efforts and enforcement.

I do not support a reduction in ling cod limits for divers without strong, undisputed scientific reasoning.

All the best,

From: Jeremy Liem

Sent: Friday, October 19, 2018 10:53 AM

To: FGC <FGC@fgc.ca.gov>

Subject: Reducing the Lingcod Daily Bag Limit Violates the CA APA

- b
- a I oppose reducing the limit of lingcod take. There is no factual or scientific basis to support the reduction, and making such a change without a legitimate basis is illegal. We have a 40% surplus stock of lingcod and the population is growing at the current take limits. Reducing lingcod bag limits when
- c stocks are improving and when the surplus levels do not trigger reduction is “arbitrary, capricious, [and] without rational basis” in violation of the California Administrative Procedures Act and Yamaha Corp. if America v. State Bd. of Equalization.

Jeremy T. Liem, Esq

Partner

Pipal Spurzem & Liem LLP

From:

Sent: Friday, October 19, 2018 4:08 PM

To: McKnight, Caroline@Wildlife <Caroline.McKnight@wildlife.ca.gov>

Subject: FW: CA Lingcod

Caroline,

I'm writing on behalf of the nine Charter Boats we represent through our Sportfishing Center, Fish Emeryville. Located in the heart of the San Francisco Bay Area, we take thousands of anglers annually on Rockfish and Lingcod fishing trips along the Central California Coast and out to the Farallon Islands. Our fishing vessel owners, as well as boat and office staff rely heavily on groundfish trips, which is the single largest fishery we participate in. It is the lifeblood of our harbor.

- a We are deeply concerned about the proposal to reduce lingcod retention to a single fish in the 2019/20 management cycle. A reduction to one Lingcod will have far reaching impacts to our vessel owners and anglers. Less opportunity to retain fish makes a
- b traditional bottom fish trip less attractive and translates into fewer days on the water and a reduction in income to many of the businesses we have relationships with. It also places additional pressure on other species such as Salmon, Halibut, Striped Bass as anglers search for alternative opportunities, before simply not fishing.

Below I have listed the series of fishing alternatives Lingcod have been a part of in the last 15 years. I should remind you that just 2 years ago the Department approached California fishing stakeholders seeking comment to modify the Lingcod limit to 3 fish, a proposal we universally fought against and successfully won.

2004	2 fish*	24, in-season increase to 1 fish, 30"min*
2005-10	2 fish	24"
2011-14	2 fish	22"
2016	3 fish	22"
2017-18	2 fish	22"

- As you can see, Lingcod regulations have been subject to a multitude of regulation
- c variance. Our industry and resource benefits from regulation certainty. It improves compliance and creates angler confidence in his resource managers.

We also ask that you consider the impact the recent surge in king salmon action, and the reduction of rockfish trips that occurs when salmon action grows. We urge you to

d maintain status quo in the Central CA lingcod fish regulations, with some consideration given to a reduction to one lingcod in April/May OR November/December.

Thank you,

Andy Guiliano

Fish Emeryville

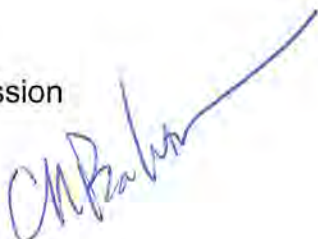
Memorandum

2018 JUL 30 PM 1:30

Date: July 26, 2018

To: Valerie Termini
Executive Director
Fish and Wildlife Commission

From: Charlton H. Bonham
Director



Subject: **Agenda Item for the August 22-23, 2018 Fish and Game Commission Meeting - Initial Statement of Reasons to Amend Section 29.15 Re: Red Abalone Regulations**

At its June 20th meeting, the Fish and Game Commission (Commission) authorized notice of its intent to amend regulations for the recreational abalone fishery to extend the fishery closure sunset date an additional two years from April 1, 2019 to April 1, 2021. Authorization of this request will allow for possible adoption at the December 12, 2018 Commission meeting.

The Department of Fish and Wildlife (Department) is submitting the attached Initial Statement of Reasons (ISOR) with a single regulatory option to extend the closure sunset date as described above.

The Department recommends the extension of the closure for the recreational abalone fishery. This recommendation is consistent with the ARMP and reflects the evidence that the abalone resource and current environmental conditions remain unchanged since adoption of the closure late last year.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Marine Regional Manager at (916) 445-6459.

Attachment

ec: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Craig Shuman, D. Env., Regional Manager
Marine Region
Craig.Shuman@wildlife.ca.gov

Valerie Termini, Executive Director
Fish and Game Commission
July 19, 2018
Page 2

Sonke Mastrup, Program Manager
Marine Region
Sonke.Mastrup@wildlife.ca.gov

Tom Mason, Senior Environmental
Scientist (Supervisor)
Marine Region
Tom.Mason@wildlife.ca.gov

Robert Puccinelli, Captain
Law Enforcement Division
Robert.Puccinelli@wildlife.ca.gov

Mike Stefanak, Assistant Chief
Law Enforcement Division
Mike.Stefanak@Wildlife.ca.gov

Joe Milton, Senior Staff Counsel
Office of General Counsel
Joe.Milton@wildlife.ca.gov

Michelle Selmon, Program Manager
Regulations Unit
Michelle.Selmon@Wildlife.ca.gov

Karen Mitchell, Senior Environmental
Scientist (Specialist)
Regulations Unit
Karen.Mitchell@wildlife.ca.gov

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 29.15
Title 14, California Code of Regulations
Re: Recreational Take of Red Abalone

I. Date of Initial Statement of Reasons: June 27, 2018

II. Dates and Locations of Scheduled Hearings

- | | | |
|-------------------------|-----------|-------------------|
| (a) Notice Hearing: | Date: | August 22, 2018 |
| | Location: | Fortuna, CA |
| (b) Discussion Hearing: | Date: | October 17, 2018 |
| | Location: | Fresno, CA |
| (c) Adoption Hearing: | Date: | December 12, 2018 |
| | Location: | Oceanside, CA |

III. Description of Regulatory Action

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Background Information

Red abalone is a resource currently managed by the California Department of Fish and Wildlife (Department) under the Abalone Recovery and Management Plan (ARMP), adopted by the Fish and Game Commission (Commission) in 2005. The Commission is the decision-making body that regulates the recreational take of abalone (sections 200 and 205, Fish and Game Code).

A fishery management plan (FMP) for red abalone is under development by the Department to guide future management actions for the northern California recreational fishery, separate from the ARMP. It is anticipated that the Commission will discuss this document at its October 2018 meeting and potentially consider its adoption in February 2019. Once a FMP for red abalone is adopted, the FMP will guide the future management of the red abalone fishery.

In September 2017, the Department identified wide-sweeping changes in density, occurrence, depth distribution, size and health of red abalone as well as the kelp upon which it depends for food (Commission 2017). In addition, the Department found that the average density of red abalone populations has declined below the ARMP fishery closure trigger of 0.30 abalone/m², indicating that the stock could no longer support a fishery. In response to the Department findings of a dramatic fishery wide decline of red abalone populations from severe starvation conditions, the Commission adopted regulations to

close the recreational abalone fishery consistent with the ARMP in December 2017. The Commission also adopted a sunset provision for the closure based on significant public comments received during the rulemaking process to address concerns of fishery closure for an indeterminate period. The fishery would re-open on April 1, 2019, or upon adoption of a red abalone FMP and the guidance it provides for fishery reopening, whichever comes first. The regulations closing the recreational abalone fishery became effective on March 29, 2018.

Current Regulations

Current recreational abalone fishing regulations in Section 29.15, Title 14, California Code of Regulations (CCR) specify: open areas, season, hours, daily limits, special gear provisions, measuring devices, abalone report card requirements, and minimum size limit. Subsection 29.15(i) closes all ocean waters to the take of abalone beginning on April 1, 2018. This regulation is only in effect until April 1, 2019; if the regulations are not amended to delete or extend that date (subsection 29.15(j)), the fishery will re-open on April 1, 2019, which will allow for the recreational take of abalone in open fishing areas during the open season (subsections 29.15(a), (b), and (c)).

Since the closure of the recreational fishery, the Department has found no meaningful changes in the abalone resource conditions described in the September 2017 ISOR. The Department received documented reports from the public of dead and dying abalone washed ashore at various locations in Sonoma and Mendocino counties over the 2017/18 winter and spring seasons. This information suggests that abalone continue to be weak and die due to current environmental conditions and thus no substantial positive changes since last year. The Department concludes that re-opening the fishery at this time would be inconsistent with the ARMP and would be detrimental to the recovery of the red abalone populations.

Proposed Amendment

The Commission is proposing to amend subsection 29.15(j) to extend the closure of the abalone fishery beyond the current April 1, 2019 sunset date. This proposal extends the sunset date for another two years, until April 1, 2021. Effective dates for take and possession contained in subsections 29.15 (a), (b) and (c) of the abalone fishing regulations would be updated as well to reflect the proposed change.

This proposal allows for consideration of a fishery re-opening prior to reaching full recovery (i.e., re-opening the fishery before density standards are fully realized under the ARMP or a red abalone FMP upon adoption by the Commission). The Department recommends, however, consideration of the management triggers in the ARMP (or a Red Abalone FMP once adopted by the Commission) to determine whether re-opening the fishery to recreational harvesting is warranted.

This proposed regulatory change is necessary to facilitate recovery of the red abalone population while the preparation of the Red Abalone FMP is currently underway.

(b) Goals and Benefits of the Regulation:

The policy of this State is “to ensure the conservation, sustainable use, and, where feasible, restoration of California’s marine living resources for the benefit of all the citizens of the State” (Fish and Game Code section 7050(b)). The proposed regulation changes are intended to facilitate the red abalone population’s recovery from the multi-year poor environmental conditions and massive losses of red abalone fishery stock.

The proposed extension of the red abalone fishery closure will benefit the valuable red abalone resource by protecting it from fishing mortality during the current poor environmental conditions. Further conserving the red abalone resource now will allow it the opportunity to rebuild and be sustainable for the future.

(c) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 205, 260, 265, 399, 5520, 5521, and 7149.8, Fish and Game Code.

Reference: Sections 200, 205, 265, 275, 5520, 5521, 7145 and 7149.8, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change:

None.

(e) Identification of Reports or Documents Supporting Regulation Change:

California Department of Fish and Wildlife. 2005. Abalone Recovery and Management Plan. <https://www.wildlife.ca.gov/Conservation/Marine/ARMP>.

Fish and Game Commission. (Commission 2017). Initial Statement of Reasons for Regulatory Action to Amend Section 29.15, Title 14, California Code of Regulations, Re: Abalone Regulations. http://www.fgc.ca.gov/regulations/2017/29_15isor.pdf.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

June 20, 2018. Sacramento, California. The Department briefed the Commission on the status of the Red Abalone FMP and discussed potential changes to abalone regulations to amend the fishery closure sunset date.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change:

Limited Fishery: A limited recreational abalone fishery (i.e., varying the degree in which the fishery is re-opened to allow for some fishing opportunity) was considered and rejected. This option is not deemed viable at this time because the Department has found no meaningful changes in three red abalone resource conditions: fishing grounds, health, and

reproduction. No other alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative:

Without the proposed regulatory change, the recreational red abalone fishery will re-open on April 1, 2019, and recreational abalone fishing regulations will revert to those that existed before the 2016 emergency rulemaking. Evidence exists that levels of take prior to the emergency rulemaking will be unsustainable under current environmental and stock health conditions. The no change alternative is not consistent with established ARMP triggers and management measures.

(c) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures needed.

VI. Impact of Regulatory Action

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 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 will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the regulatory action is not likely to significantly increase compliance costs, may or may not significantly impact fishery activity, and only applies to a fishery that is unique to the state of California.

(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 Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California

The Commission anticipates no impacts on the creation or elimination of jobs within the state; no impact on the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California; generalized benefits to the health and welfare of California residents; no effects on worker safety; and benefits to the State's environment. The proposed action is designed to ensure the sustainability and quality of the fishery, promoting participation, fishing activity, and economic activity.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

No new costs or savings to State agencies. However, the proposed abalone fishery closure would result in the continued reduction in abalone report card sales with revenue deficits to the California Department of Fish and Wildlife of about \$533,375 for the 2019-20 and 2020-21 fiscal years based on the typical sales of 25,100 at \$21.25 per card. Federal funding to the state would not be impacted by this proposed change in recreational abalone fishing regulations.

(e) 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, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

Without the proposed changes, the recreational abalone fishery will re-open on April 1, 2019. Amendments to the fishery closure provision for red abalone are to preserve the sustainability of the resource and, thus, the long-term viability of the fishery that should continue to draw economic benefit to coastal communities in the fishery area. An economic impact analysis (Commission 2017) evaluated the effect of a full fishery closure as well as options for a limited fishery. The economic impact associated with an extended closure of the fishery is expected to remain more or less the same as the full fishery closure option evaluated in the 2017 ISOR.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Commission anticipates no negative impacts on the creation or elimination of jobs within the state. Since the closure of the abalone fishery on April 1, 2018, no changes in employment is anticipated in direct relation to the proposed changes. The proposed action is designed to ensure the sustainability and quality of the fishery, promoting participation, fishing activity, and economic activity.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The Commission does not anticipate the impact of continued closure of the red abalone fishery to be a principle impetus for the creation of new businesses or the elimination of existing businesses within the state. Since the closure of the abalone fishery on April 1, 2018, no change is anticipated in direct relation to the creation of new businesses or the elimination of existing businesses within the state from the proposed action. Extending the fishery closure is only proposed to preserve the sustainability of the abalone resource and, thus, the long-term viability of the fishery that may then continue to support fishery related businesses.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Commission does not anticipate the impact of continued closure of the red abalone fishery to have a significant impact on the expansion of businesses currently doing business within the state. Extending the fishery closure is only proposed to preserve the sustainability of the resource and, thus, the long-term viability of the fishery that may then continue to support fishery-related businesses.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission anticipates generalized benefits to the health and welfare of California residents through the sustainable management of the red abalone fishery.

(e) Benefits of the Regulation to Worker Safety: None.

(f) Benefits of the Regulation to the State's Environment:

The Commission anticipates benefits to the State's environment. It is the policy of this State to ensure "the conservation, sustainable use, and, where feasible, restoration of California's marine living resources for the benefit of all the citizens of the State" (Fish and Game Code sections 1700, 7050(b)).

(g) Other Benefits of the Regulation: None.

Informative Digest/Policy Statement Overview

Red abalone is a resource currently managed by the California Department of Fish and Wildlife (Department) under the Abalone Recovery and Management Plan (ARMP). The Fish and Game Commission (Commission) is the decision-making body that regulates the recreational take of abalone (sections 200 and 205, Fish and Game Code).

In September 2017, the Department identified wide-sweeping changes in density, occurrence, depth distribution, size and health of red abalone as well as the kelp upon which it depends for food. In addition, the Department found that the average density of red abalone populations has declined below the ARMP fishery closure trigger (0.30 abalone/m²), indicating that the stock could no longer support a fishery. In December 2017, the Commission adopted regulations to close the abalone fishery consistent with the ARMP and Department findings. The Commission also adopted a sunset provision for the closure; the fishery would re-open on April 1, 2019, or upon adoption of a Red Abalone Fishery Management Plan (FMP) and the guidance it provides for fishery reopening, whichever comes first. The regulations closing the recreational abalone fishery became effective on March 29, 2018.

Current recreational abalone fishing regulations in Section 29.15, Title 14, California Code of Regulations (CCR) specify: open areas, season, hours, daily limits, special gear provisions, measuring devices, abalone report card requirements, and minimum size limit. Subsection 29.15(i) closes all ocean waters to the take of abalone beginning on April 1, 2018. This regulation is only in effect until April 1, 2019; if the regulations are not amended to delete or extend that date (subsection 29.15(j)), the fishery will re-open on April 1, 2019, which will allow for the recreational take of abalone in open fishing areas during the open season (subsections 29.15(a), (b), and (c)).

Since the closure of the recreational fishery, the Department has found no meaningful changes in the abalone resource conditions. The limited data the Department has from public reports of dead or dying abalone washing ashore during this past winter and spring corroborates the findings of no meaningful positive changes. Department concludes that re-opening the fishery at this time would be inconsistent with the ARMP and detrimental to the recovery of the fishery. The Commission is proposing to amend subsection 29.15(j) to extend the closure of the abalone fishery for another two years, until April 1, 2021. Effective dates for take and possession contained in subsections 29.15 (a), (b) and (c) of the abalone fishing regulations would be updated as well to reflect the proposed change. The action is necessary to facilitate recovery of the red abalone population while the preparation of the Red Abalone FMP is currently underway.

Benefits of the Regulations

The proposed extension of the red abalone fishery closure will benefit the valuable red abalone resource by protecting it from fishing mortality during the current poor environmental conditions. Further conserving the red abalone resource now will allow it the opportunity to rebuild and be sustainable for the future.

Consistency and Compatibility with Existing Regulations

The Legislature has delegated authority to the Commission to promulgate recreational fishing regulations (Fish and Game Code, sections 200, 205, and 265); no other state agency has the

authority to promulgate such regulations. The Commission has conducted a search of Title 14, CCR and determined that the proposed regulation is neither inconsistent nor incompatible with existing State regulations and that the proposed regulations are consistent with other recreational fishing regulations and marine protected area regulations in Title 14, CCR.

Proposed Regulatory Language

Section 29.15, Title 14, CCR, is amended to read:

§ 29.15. Abalone

(a) Effective April 1, ~~2019~~2021: Open Area: Except in the area described in subsection (a)(1) below, abalone may only be taken north of a line drawn due west magnetic from the center of the mouth of San Francisco Bay. No abalone may be taken, landed, or possessed if landed south of this line.

(1) No Abalone may be taken in the Fort Ross area bounded by the mean high tide line and a line drawn due south true from 38°30.63' N, 123°14.98' W (the northern point of Fort Ross Cove) and a line drawn due west true from 38° 29.45' N, 123°11.72' W (Jewel Gulch, south boundary Fort Ross State Park).

(b) Effective April 1, ~~2019~~2021: Open Season and Hours:

(1) Open Season: Abalone may be taken only during the months of April, May, June, August, September, October and November.

(2) Open Hours: Abalone may be taken only from 8:00 AM to one-half hour after sunset.

(c) Effective April 1, ~~2019~~2021: Bag Limit and Yearly Trip Limit: Three red abalone, *Haliotis rufescens*, may be taken per day. No more than three abalone may be possessed at any time. No other species of abalone may be taken or possessed. Each person taking abalone shall stop detaching abalone when the limit of three is reached. No person shall take more than 18 abalone during a calendar year. In the Open Area as defined in subsections 29.15(a) and 29.15(a)(1) above, not more than 9 abalone of the yearly trip limit may be taken south of the boundary between Sonoma and Mendocino Counties.

(d) Minimum Abalone Size: All red abalone must be seven inches or greater measured along the longest shell diameter. All legal size abalone detached must be retained. No undersized abalone may be brought ashore or aboard any boat, placed in any type of receiver, kept on the person, or retained in any person's possession or under his control. Undersize abalone must be replaced immediately to the same surface of the rock from which detached. Abalones brought ashore shall be in such a condition that the size can be determined.

(e) Special Gear Provisions: The use of SCUBA gear or surface supplied air to take abalone is prohibited. Abalone may not be taken or possessed aboard any boat, vessel, or floating device in the water containing SCUBA or surface supplied air. Abalone may be taken only by hand or by devices commonly known as abalone irons. Abalone irons must be less than 36 inches long, straight or with a curve having a radius of not less than 18 inches, and must not be less than 3/4 inch wide nor less than 1/16 inch thick. All edges must be rounded and free of sharp edges. Knives, screwdrivers and sharp instruments are prohibited.

(f) Measuring Device. Every person while taking abalone shall carry a fixed caliper measuring gauge capable of accurately measuring seven inches. The measuring device shall have fixed opposing arms of sufficient length to measure the abalone by placing the gauge over the shell.

(g) Abalone Possession and Transportation:

Abalones shall not be removed from their shell, except when being prepared for immediate consumption.

(1) Individuals taking abalone shall maintain separate possession of their abalone. Abalone may not be commingled in a float tube, dive board, dive bag, or any other container or device,

- until properly tagged. Only after abalones are properly tagged, as described in Section 29.16(b), Title 14, CCR, may they be commingled with other abalone taken by another person.
- (h) Report Card Required: Any person fishing for or taking abalone shall have in their possession a nontransferable Abalone Report Card issued by the department and shall adhere to all reporting and tagging requirements for abalone defined in Sections 1.74 and 29.16, Title 14, CCR.
- (i) Effective April 1, 2018: All ocean waters are closed to the take of abalone. Abalone may not be taken or possessed. The following exceptions are for abalone in possession prior to April 1, 2018:
- (1) Minimum Abalone Size: All red abalone must be seven inches or greater measured along the longest shell diameter.
- (2) Abalone Possession and Transportation: It shall be unlawful to possess any untagged abalone or any abalone that have been removed from their shell, except when they are being prepared for immediate consumption.
- (j) This subsection and subsection (i) shall remain in effect only until April 1, ~~2019~~2021, and as of that date are repealed, unless a later enacted amendment deletes or extends that date.

Note: Authority cited: Sections 200, 205, 260, 265, 399, 5520, 5521 and 7149.8, Fish and Game Code. Reference: Sections 200, 205, 265, 275, 5520, 5521, 7145 and 7149.8, Fish and Game Code.

STAFF SUMMARY FOR AUGUST 22-23, 2018**12. RED ABALONE****Today's Item****Information** ☐**Action** ☒

Consider authorizing publication of notice of intent to amend regulations to extend the fishery closure sunset date for the recreational red abalone fishery.

Summary of Previous/Future Actions

- | | |
|---------------------------------|---------------------------------|
| • Today's notice hearing | Aug 22-23, 2018; Fortuna |
| • Discussion hearing | Oct 17-18, 2018; Fresno |
| • Adoption hearing | Dec 12-13, 2018; Oceanside |

Background

In Sep 2017, DFW identified sweeping changes in density, occurrence, depth distribution, size and health of red abalone as well as the kelp upon which it depends for food. In addition, DFW found that the average density of red abalone populations has declined below the Abalone Recovery and Management Plan (ARMP) fishery closure trigger of 0.30 abalone per square meter, indicating that the stock could no longer support a fishery.

In response to the DFW findings of a dramatic fishery-wide decline of red abalone populations from severe starvation conditions, in Dec 2017 FGC adopted regulations to close the recreational abalone fishery consistent with the ARMP. FGC also adopted a sunset provision for the closure based on significant public comments received during the rulemaking process to address concerns about having a fishery closure for an indeterminate period. Under existing regulations, the fishery would re-open on Apr 1, 2019, or upon adoption of a red abalone fishery management plan (FMP) and the guidance it provides for fishery reopening, whichever comes first.

The regulations closing the recreational abalone fishery became effective on Mar 29, 2018. If the existing regulations are not amended to delete or extend the sunset date (subsection 29.15(j)), the fishery will re-open on Apr 1, 2019, which will allow for the recreational take of abalone in open fishing areas during the open season (subsections 29.15(a), (b), and (c)).

Since the closure of the recreational fishery, DFW has found no meaningful changes in the abalone resource conditions described in the Sep 2017 initial statement of reasons. DFW received documented reports from the public of dead and dying abalone washed ashore at various locations in Sonoma and Mendocino counties over the 2017/18 winter and spring seasons. This information suggests that abalone continue to be weak and die due to current environmental conditions and, thus, there are no substantial positive population changes since last year. DFW concludes that re-opening the fishery at this time would be inconsistent with the ARMP and would be detrimental to the recovery of red abalone populations.

Proposed Amendment

DFW proposes to extend the closure of the abalone fishery beyond the current Apr 1, 2019 sunset date for another two years, until Apr 1, 2021. Effective dates for take and possession

STAFF SUMMARY FOR AUGUST 22-23, 2018

contained in the abalone fishing regulations would be updated as well to reflect the proposed change.

DFW's proposal allows for consideration of a fishery re-opening prior to reaching full recovery (i.e., re-opening the fishery before density standards are fully realized under the ARMP or a red abalone FMP upon adoption by FGC). DFW recommends, however, considering the management triggers in the ARMP or a red abalone FMP once adopted by FGC to determine whether re-opening the fishery to recreational harvesting is warranted. The proposed regulation change is necessary to facilitate recovery of the red abalone population while preparation of the red abalone FMP is currently underway.

Public Comments (N/A)**Recommendation**

FGC staff: Authorize publication of the notice as recommended by DFW.

DFW: Authorize publication of the notice as detailed in the draft initial statement of reasons (ISOR).

Exhibits

1. DFW memo, received Jul 30, 2018
2. Draft ISOR

Motion/Direction

Moved by _____ and seconded by _____ that the Fish and Game Commission authorizes publication of a notice of its intent to amend Section 29.15, related to recreational red abalone fishing regulations.

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk
County of: N/A

From: (Public Agency): CA Fish and Game Commission
1416 Ninth Street, Room 1320
Sacramento, CA 95814

(Address)

Project Title: Amend § 29.15, Title 14, CCR, Abalone take reduction due bad environmental conditions

Project Applicant: N/A

Project Location - Specific:

Statewide

Project Location - City: N/A

Project Location - County: N/A

Description of Nature, Purpose and Beneficiaries of Project:

A combination of environmental and biological stressors has greatly reduce abalone populations due to starvation conditions. In 2016, the Commission took emergency action to reduce the annual take limit and close the season in April and November. This project will continue the emergency regulations protection.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

Exempt Status: (check one):

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: Cal. Code Regs., tit. 14, §§ 15307, 15308
- ☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

See attached.

Lead Agency
Contact Person: Melissa Miller-Henson Area Code/Telephone/Extension: (916) 653-4899

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

Signature: _____ Date: 12/12/2018 Title: Acting Executive Director

☒ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

December 12, 2018

**ATTACHMENT TO NOTICE OF EXEMPTION
Adoption of Red Abalone Take Reduction
Due to Harmful Environmental Conditions**

The California Fish and Game Commission (Commission) has taken final action under the Fish and Game Code and the Administrative Procedure Act (APA) with respect to the proposed project on December 12, 2018. In taking its final action for the purposes of the California Environmental Quality Act (CEQA, Pub. Resources Code, § 21000 *et seq.*), the Commission adopted the regulations relying on the categorical exemption for "Actions by Regulatory Agencies for Protection of Natural Resources" contained in CEQA Guidelines section 15307, and the categorical exemption for "Actions by Regulatory Agencies for Protection of the Environment" contained in CEQA Guidelines section 15308. (Cal. Code Regs., tit. 14, §§ 15307, 15308.)

Categorical Exemptions to Protect Natural Resources and the Environment

In adopting the sport fishing regulations for red abalone take reduction due to harmful environmental conditions, the Commission relied for purposes of CEQA on the Class 7 and 8 categorical exemptions. In general, both exemptions apply to agency actions to protect natural resources and the environment. The regulations define annual fishing seasons and daily and yearly bag limits. A combination of unprecedented environmental and biological stressors began to take their toll on abalone populations, including warmer-than-normal waters and decreasing food resources, leading to starvation conditions. The Department of Fish and Wildlife (Department) has identified wide-sweeping changes in the density, occurrence, size and health of red abalone and the kelp upon which it depends for food. Because these regulations are intended to protect the sustainability of the fishery as a natural resource, Commission adoption of these regulations is an activity that is the proper subject of CEQA's Class 7 and 8 categorical exemptions.

December 12, 2018

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**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON Melissa Miller-Henson melissa.miller-henson@fgc.ca.gov	EMAIL ADDRESS -henson@fgc.ca.gov	TELEPHONE NUMBER 916-653-6184
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amendments to Section 29.15. Title 14, CCR, Re: Abalone Regulations			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input checked="" type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input checked="" type="checkbox"/> c. Impacts jobs or occupations | <input checked="" type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below): |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*2. The Fish and Game Commission estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☒ Between \$25 and \$50 million
- ☐ Over \$50 million *(If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c))*

3. Enter the total number of businesses impacted: 100-200Describe the types of businesses (Include nonprofits): Recreat'l services, sports equip. sales/rent, retail, food/accommodations, auto/fuelEnter the number or percentage of total businesses impacted that are small businesses: ~ 80%4. Enter the number of businesses that will be created: 0 eliminated: 0Explain: Continued reduced spending by about 25K abalone fishers not enough to cause the creation/elimination of businesses5. Indicate the geographic extent of impacts: ☐ Statewide☒ Local or regional (List areas): Sonoma, Marin, Mendocino, Humboldt, Del Norte6. Enter the number of jobs created: 0 and eliminated: none anticipatedDescribe the types of jobs or occupations impacted: Retail clerks, food service, hotel/motel/campground staff

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ YES☒ NO

If YES, explain briefly:

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 26.7M
- a. Initial costs for a small business: \$ 21K revenue loss Annual ongoing costs: \$ 0 Years: 1
- b. Initial costs for a typical business: \$ 21-42K revenue loss Annual ongoing costs: \$ 0 Years: 1
- c. Initial costs for an individual: \$ 0 Annual ongoing costs: \$ 0 Years: 1
- d. Describe other economic costs that may occur: Initial costs to businesses are estimated with the abalone fishing trip direct expenditure (\$18.6 M per season). Total statewide dollar costs include the direct, indirect, and induced costs (\$26.7 M) from an IMPLAN model.
2. If multiple industries are impacted, enter the share of total costs for each industry: Share of revenue losses: 29% Food and Retail/Wholesale; 27% Lodging and Accommodations; 20% Auto Service/Fuel; 18% Sporting Equipment Sales/Rent/Lease; 6% Boat Maintenance.
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ N/A
4. Will this regulation directly impact housing costs? ☐ YES ☒ NO
If YES, enter the annual dollar cost per housing unit: \$ _____
Number of units: _____
5. Are there comparable Federal regulations? ☐ YES ☒ NO
Explain the need for State regulation given the existence or absence of Federal regulations: Recreat'l abalone is exclusively state-managed fishery
Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: Regulating the recreational abalone fishery during this environmentally challenging time to result in long-term benefits to sport fishers and businesses by maintaining a sustainable north coast abalone fishery and future harvest opportunities. Benefits include improved health of the overall marine ecosystem, thereby supporting other commercially and recreationally important fisheries in the north coast.
2. Are the benefits the result of: ☐ specific statutory requirements, or ☒ goals developed by the agency based on broad statutory authority?
Explain: Fish and Game Commission statutory authority
3. What are the total statewide benefits from this regulation over its lifetime? \$ uncertain sustainability
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: N/A

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: Option 1: Full fishery closure;
Option 2: Limited re-opening of abalone fishery; Option 3: No change would permit the lapse of emergency closure and re-opening to 2016 regulatory conditions.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ restoration Cost: \$ 26.7MAlternative 1: Benefit: \$ limited Cost: \$ 6.7-13.4MAlternative 2: Benefit: \$ limited Cost: \$ overfish risk

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:

Benefits of proposed reg. is to restore abalone and the futureviability of fishery. Benefits with opening are limited due to poor conditions of fishery. Total costs include multiplier.

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?

☐ YES☒ NOExplain: Specific prescriptive regulations are more fairly enforced in the recreational abalone fishery.**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.**California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.*1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO*If YES, complete E2. and E3**If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES☒ NO*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____

- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☐ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☒ 6. Other. Explain The number of abalone fishers' visits and local spending will remain similar to previous closure, which may result in lower than
usual levels of local sales & transient occupancy tax revenue to local governments on the north coast.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☒ 4. Other. Explain Continued CDFW loss of abalone report card sales revenue. Since the fishery will remain completely closed, the Department of Fish and Wildlife would expect a deficit of approximately \$533K in annual report cards sales.**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

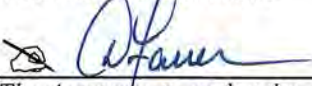
\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE



DATE

8/8/18

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

**STATE OF CALIFORNIA
FISH AND GAME COMMISSION
STD. 399 CALCULATIONS WORKSHEET**

Amend Section 29.15,
Title 14, California Code of Regulations
Re: Abalone Regulations

**Economic Impact Statement
Methods and Data Sources:**

- 2012 - 2017 Abalone cardholder telephone survey (~1,870 subjects) results were used in the qualitative assessment of potential impacts. Questions about Abalone activities: trips, expenditures, overnight stays, abalone take, household income, point of origin, destinations, boat use, age, overall quality of experience (CDFW Marine Branch).
- 2014 – 2018 License sales numbers, Abalone cardholder zip code of origin (CDFW License & Revenue Branch)
- (IMPLAN) Multipliers derived for Sonoma, Marin, Mendocino, Humboldt, and Del Norte counties for the total economic impact analysis of the 2017 regulatory options.
- (IMPLAN) Businesses impacted: 29% Food & Retail/Wholesale; 27% Lodging & Accommodations; 20% Auto Service/Fuel; 18% Sporting Equipment Sales/Rent/Lease; 6% Boat Maintenance.
- Reported Total Economic Impact = Direct + Indirect + Induced Effects.
 - I. Direct Effect = Visitor spending
 - II. Indirect Effect = Inter-Business spending of visitor spending
 - III. Induced Effect = Employee spending from additional business spending

Job impacts are estimated with a ratio of 13.4 jobs per \$1M output, (derived from IMPLAN). Projections are relative to employment levels associated with recreational abalone harvest and business activities calculated from annual averages from 2014 through 2018.

Quantification Issues:

Predicting Visitor Spending Response to Regulatory Change

Recreational fishing spending does not necessarily change in step with changes in bag

limits. Participants may make the same number of visits, fewer visits, fewer overnight stays, and/or shorter lengths of stay to harvest fewer abalones. Effort may increase or transfer to the pursuit of different species or entirely out of fishing towards other recreational pursuits in the area.

Travel costs and related expenditures can approximate what sport fishers are willing to pay in order to access and enjoy the pursuit of abalone resources. Abalone has no like-substitutes and cannot be pursued in many areas outside of the Northern California coast. Proposed regulatory options that would place limits on take may be enough to induce some to not undergo the direct and incidental costs involved in abalone fishing. However, for some, the consumer surplus (the value in excess of the dollar value of the abalone, fuel, food, lodging and other costs) could be high enough to continue to participate in the sport fishery activity. Consequently, expenditure information alone may underestimate the true value, monetary and non-monetary, of the resource to sport fishery participants.

While quantitative estimates can give a sense of the magnitude of economic effect, reasoned predictions that are informed by field observation, survey data, public comment, and years of experience in fisheries management provide the nuance. Many variables affect potential recreational fishing effort in addition to seasons, bag limits and possession limits. As such, the choices of people may be swayed by any number of factors unrelated to fish and game regulations. The quality of the targeted resource, gas prices, the timing of low tides, weather conditions, and competing recreational options are just some of the possible influences that may introduce uncertainty in quantifying the economic effects of regulatory options.

Fiscal Impact Statement

A. Fiscal Effect on Local Government

6. Other

Potential for a continuation of some reduction in local sales tax and transient occupancy tax revenue to local governments in the north coast fishery areas.

Tax Revenue Impact Projections Methods

Sales Tax

The proposed abalone regulatory action was evaluated as to what extent it would impact visits to each fishery area and length of stay to each area. The activities involve participant expenditures in the retail, food and accommodations, automotive service and fuel, sporting equipment sales/rent/lease, and recreational services sectors. Direct expenditures generate local sales and transient occupancy taxes for the fishery area local governments. The California State Board of Equalization reports local sales tax rates for the areas under evaluation. Local sales tax rates in Sonoma, Marin, Mendocino, Humboldt, and Del Norte counties range from 1.5% to 2.5%. The continued

reduced spending due to reduced numbers of visits and reductions in the length of stay could continue to result in sales tax revenue losses that range from \$66,750 to \$133,500 or \$200,250 to \$267,000 over the season.

Transient Occupancy Tax (TOT)

Abalone fishers' survey responses reveal that those who travel a greater distance to the fishery area are more likely to choose to stay overnight in the area. Those fishers who live in the closest proximity to harvest sites and those who harvest in the earliest hours of the day show a lower likelihood of staying overnight. Overnight stays are often at private campgrounds, motels and hotels, all of which collect TOTs. County treasurer tax collectors report the county transient occupancy taxes. TOT rates in Sonoma, Marin, Mendocino, Humboldt and Del Norte counties range from 9% to 10%. The projected continued loss in overnight stays range from 1,000 to 10,000 nights, which could result in the continued loss in local TOT revenues to local governments from \$7,600 to \$76,000 over the season.

B. Fiscal Effect on State Government

4. Other

No new costs or savings anticipated for State agencies. The California Department of Fish and Wildlife program costs will remain unchanged, while there will be no abalone report card sales with the extension of the abalone fishery closure. CDFW will incur an estimated \$533,375 revenue deficit from the loss of the average sales of 25,100 cards at the 2018 fee amount of \$21.25.

Department of Fish and Wildlife (DFW) Revenue Impact Projections Methods

Changes in Abalone Report Card Sales

Estimates of card sales losses or gains are based on DFW License and Revenue Branch sport fishing license volume and revenue historical records. Surveys of the abalone fishing community, fishers and businesses also inform these estimates.

A continued closure would result in the continued drop in abalone report card sales (25,100 cards at \$21.25 each) with revenue losses of about \$533,375 for the 2019-20 fiscal year. Abalone report card sales revenue deficits are anticipated for the duration of the proposed closure through the 2020-21 fiscal year as shown in Table 1.

Table 1: Projected Revenue Loss

Fiscal Year	Projected Report Card Revenue Loss
2019-20	\$533,375
2020-21	\$533,375

Memorandum

RECEIVED
CALIFORNIA
FISH AND WILDLIFE
COMMISSION
2018 NOV 14 A 2:31

Date: November 9, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Submission of Initial Statement of Reasons to Add Section 29.06, Title 14, Recreational take of Purple Sea Urchin**

The Fish and Game Commission (Commission) authorized publication of its intent to add Section 29.06 of Title 14 of the California Code of Regulations (CCR) regarding the recreational take of purple sea urchins, at its October meeting. The proposed regulation includes the following:

- Increase the daily recreational take limit to 40 gallons
- Apply the take allowance to waters off Sonoma, Mendocino, and Humboldt counties
- Include an option to extend the take allowance to Include waters off Del Norte county
- Exempt all recreationally taken purple sea urchin from possession limit

Transmittal of the attached Initial Statement of Reasons (ISOR) to the Commission will allow for the publication of the ISOR prior to the scheduled discussion hearing in December.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Marine Regional Manager at (916) 445-6459. The public notice for this rulemaking should identify Environmental Scientist, Anthony Shiao as the Department's point of contact. His contact information is (805) 560-6056 or Anthony.Shiao@Wildlife.ca.gov.

ec: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Craig Shuman, D. Env., Regional Manager
Marine Region
Craig.Shuman@Wildlife.ca.gov

Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission
November 9, 2018
Page 2 of 2

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STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Add Section 29.06
Title 14, California Code of Regulations
Re: Purple Sea Urchin

I. Date of Initial Statement of Reasons: November 5, 2018

II. Dates and Locations of Scheduled Hearings

- | | | |
|-------------------------|-----------|-------------------|
| (a) Notice Hearing: | Date: | October 17, 2018 |
| | Location: | Fresno, CA |
| (b) Discussion Hearing: | Date: | December 12, 2018 |
| | Location: | Oceanside, CA |
| (c) Adoption Hearing: | Date: | February 7, 2019 |
| | Location: | Sacramento, CA |

III. Description of Regulatory Action

- a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The addition of Section 29.06 increases the recreational take of purple sea urchin. This is one of several actions taken by the Department that is necessary to protect the historic and valuable ocean habitat on the northern California coast. Unchecked, the purple sea urchin has impacted the recovery of kelp beds off the coast of northern California, thus causing the ensuing decline of abalone and other important marine life dependent on this unique ecosystem.

Background

Severe environmental conditions over the past several years have caused a collapse of the bull kelp (*Nereocystis luetkeana*) forest in the waters of the northern California coastline. The combination of unprecedented environmental and biological stressors has led to severe impact on marine life that inhabit kelp forest, including widespread starvation and death of abalone (*Haliotis spp.*). In 2016 and 2017, more than 25 percent of abalones assessed (> 6,000 abalone per year) in nine creel surveys at key fished sites in Sonoma, Mendocino, and Humboldt counties had shrunken foot muscle due to starvation. Starved abalones have increased chance of mortality and severely reduced fecundity.

The Fish and Game Commission (Commission) voted to close the red abalone fishery for the 2018 season in December 2017. Since then, the poor condition of the kelp forests has continued to persist. In August 2018, after considering stakeholder input, the Commission agreed to consider extending the closure.

Recovery of the abalone fishery will not be possible without the prompt recovery of the bull kelp forests and the return of sufficient food to support abalone survival and reproduction.

Kelp recovery has been severely limited (<10% remaining in Sonoma and Mendocino counties) in part due to the proliferation of purple sea urchins (*Strongylocentrotus purpuratus*). Unlike abalone, sea urchins are generally resilient to food shortage and can survive longer without food, and grazing pressure from surviving sea urchins may prevent kelp recovery even as ocean condition rebounds. The urchin population boom is further exacerbated by the absence of important predatory sea stars (*Pisaster spp.*), which were severely impacted by the sudden onset of the disease sea star wasting syndrome in 2013. Sea stars have since been recovering at a very slow pace, providing only marginal if any top-down control on purple sea urchin.

The red abalone population has not recovered as of 2018, which indicates a similar lack of recovery for the kelp forests. Red abalone density has dropped from 0.2 abalone m⁻² in 2017 to 0.08 abalone m⁻² in 2018 at the Department's Fort Ross index survey site. Density has remained mostly unchanged at the Department's Van Damme survey site (2017 – 0.14 abalone m⁻²; 2018 – 0.16 abalone m⁻²).

Emergency Rule 29.11 Implemented

The default recreational take limit for all marine invertebrates is 35 individuals (Section 29.05, Title 14, California Code of Regulations (CCR)), and is well below levels that would impact current purple urchin population abundances. Commission thus adopted Section 29.11, Title 14, CCR, effective May 10, 2018, as an emergency rule to significantly increase the recreational daily bag limit for purple sea urchin to 20 gallons and exempts the species from any recreational possession limit. The new limits only apply to purple sea urchins taken while skin or SCUBA diving off the coast of Sonoma and Mendocino Counties.

The higher take limit of 20 gallons was adopted to catalyze a growing recreational interest in harvesting purple sea urchins along the northern California coast to reduce destructive grazing pressure in urchin barrens, supporting recovery of the kelp forest ecosystem.

As an emergency rule, Section 29.11, readopted in October 2018, is due to sunset on February 7, 2019. The Commission anticipates that recreational interest in purple sea urchins will increase, and a standard rulemaking is necessary to continue to allow the higher take limit. Furthermore, bull kelp, the dominant kelp in northern California, is an annual species. Any restoration attempt would yield observable results only after it has been conducted for over a year. As such, both the goal of supporting a growing recreational interest and the goal of restoring habitat require the new regulation Section 29.06 for at least the next two or more years.

Department staff has collaborated with other stakeholders in three successful coordinated recreational harvest events in 2018 since the emergency rule was first

adopted. Each restoration event attracted 75-100 divers and collected 60,000-80,000 purple urchins at each two-day event respectively. Conversations with stakeholders suggest that generally 4-6 such events could be held each year.

Option 1: New Take Limit for Humboldt, Mendocino, and Sonoma Counties

Proposed Regulation

This regulatory proposal would add Section 29.06, Title 14, CCR. The new regulation would provide for a daily recreational bag limit of 40 gallons of purple sea urchins while diving off waters of Humboldt, Mendocino and Sonoma counties. The proposal would exempt all recreational possession for recreationally taken purple sea urchin.

Rationale

Adding Section 29.06 through standard rulemaking would ensure that interests in the recreational take of purple sea urchin in northern California continues to develop. The regulations would promote the continued involvement of recreational divers in efforts to restore the severely impacted kelp forest ecosystems in northern California.

The proposed regulatory package is part of a larger strategy of controlling the purple sea urchin population in northern California. It was determined through dives conducted in 2018 that when coordinated in conjunction with other tools, such as incentivizing commercial sea urchin divers to target purple sea urchins, the higher bag limit of 40 gallon will contribute to reduction efforts without adversely affecting the long-term health of the purple sea urchin population.

The original emergency rule applied only to the coasts of Sonoma and Mendocino counties because these two counties constitute the core range of the northern California red abalone fishery and suffered the most bull kelp loss. Observations of abalone body condition during abalone creel surveys (2016 and 2017) as well as recent reports from recreational divers in Humboldt County suggest that purple urchins may be affecting that region as well. The continued deterioration in the north coast has prompted the Department to recommend extending the higher take limit to the coast off Humboldt County.

The proposed regulation retains the condition that only urchins taken while skin or SCUBA diving qualify under the higher limit. This is to ensure that foot traffic does not increase in the intertidal zone, where other marine life are vulnerable to being trampled on. The proposed regulation also retains the exemption from possession limit, facilitating the transportation of a large amount of purple sea urchins as may be harvested during coordinated events.

Option 2: New Take Limit for Del Norte, Humboldt, Mendocino, and Sonoma Counties

Proposed Regulation

This regulatory proposal under this option is the same as Option 1, except that the new recreational bag limit will also be extended to purple sea urchins taken off the coast of Del Norte County.

Rationale

The northward trend of the deteriorating kelp condition suggests that the higher recreational take limit and possession limit exemption may be warranted in Del Norte County as well.

(b) Goals and Benefits of the Regulation:

The proposed regulation would add a recreational bag limit for purple sea urchin and exempts such take from any possession limit so long as the urchins are taken while skin or SCUBA diving in Sonoma, Mendocino, and Humboldt Counties, as well as potentially Del Norte County. The regulation is necessary to both maintain a developing recreational interest in purple sea urchin as well as help reduce grazing pressure in a vulnerable ecosystem.

(c) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200 and 205, Fish and Game Code.

Reference: Sections 200 and 205, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None

(e) Identification of Reports or Documents Supporting Regulation Change:

Fish and Game Commission. (Commission 2017). Initial Statement of Reasons for Regulatory Action to Amend Section 29.15, Title 14, California Code of Regulations, Re: Abalone Regulations.
<http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=161274>

Fish and Game Commission. (Commission 2018). Initial Statement of Reasons for Regulatory Action to Amend Section 29.15, Title 14, California Code of Regulations, Re: Abalone Regulations.
<http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=161271>.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

April 2018 Commission Meeting, Ventura, CA

August 2018 Commission Meeting, Fortuna, CA

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change:

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative:

Without regulatory change, the current Section 29.11 will eventually sunset. The daily recreational bag limit for purple sea urchin would default back to 35 sea urchins per person per day. The default bag limit would be too low to encourage recreational divers to go to northern California to seek purple sea urchins, and the take of urchins would be too low to support kelp forest recovery.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action

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 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 will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Option 1: New Take Limit for Humboldt, Mendocino, and Sonoma Counties, and Option 2: New Take Limit for Del Norte, Humboldt, Mendocino, and Sonoma Counties would both create permanent incentives for more tourists to travel to coastal northern California and help stimulate local economy.

(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 Commission does not anticipate any impact on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California because the proposed regulation is not likely to substantially increase or decrease recreational fishing opportunities within California. The proposed regulation, (both Option 1 and Option 2) is expected to increase interests in recreational diving in northern California that previously did not exist, which may provide a small increase in

economic stimulus to local economies.

The Commission anticipates benefits to the health and welfare of California residents (from both Option 1 and Option 2) through the vigorous activity required to pursue purple sea urchin. The Commission does not anticipate any benefits to worker safety because the proposed regulation will not affect existing working conditions. The Commission anticipates some benefit (from both Option 1 or Option 2) to the state's environment through the restoration of kelp forest habitats to foster and support a diverse balance of species.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action (for both Option 1 and Option 2).

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) 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, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Commission does not anticipate impacts on the creation or elimination of jobs within the state because the proposed action (Option 1: New Take Limit for Humboldt, Mendocino, and Sonoma Counties, and Option 2: New Take Limit for Del Norte, Humboldt, Mendocino, and Sonoma Counties) is anticipated to provide a partial substitute for the economic stimulus formerly brought by the recreational abalone fishery that has been closed due to low population density counts. Whether the purple sea urchin fishery will attract as many repeat participants as abalone is not known yet, but the purple sea urchin fishery activity is not anticipated to induce substantial, long-term changes in the demand for labor.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The Commission does not anticipate any new businesses, or elimination of existing businesses, because the proposed regulation (both Option 1 and

Option 2) is not likely to substantially increase or decrease recreational fishing opportunities within California.

- (c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Commission does not anticipate any effects from this action (both Option 1 and Option 2) to be substantial enough to induce the expansion of businesses currently doing business in the state.

- (d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission anticipates benefits to the health and welfare of California residents (from both Option 1 and Option 2) through the vigorous activity required to pursue purple sea urchin.

- (e) Benefits of the Regulation to Worker Safety:

The Commission does not anticipate any benefits to worker safety because the proposed regulation (both Option 1 and Option 2) does not affect existing working conditions.

- (f) Benefits of the Regulation to the State's Environment:

The Commission anticipates some benefit (from both Option 1 or Option 2) to the state's environment through the restoration of kelp forest habitats to foster and support a diverse balance of species.

- (g) Other Benefits of the Regulation: None.

Informative Digest/Policy Statement Overview

The addition of Section 29.06 increases the recreational take of purple sea urchin to 40 gallons. This is one of several actions taken by the Department that is necessary to protect the historic and valuable ocean habitat on the northern California coast. The recent increase in population of the purple sea urchin has led to significant losses of ocean habitat. Unchecked, the purple sea urchin has decimated kelp beds leading to the decline of abalone and other important marine life dependent on this unique ecosystem.

As an emergency rule, Section 29.11 increased recreational take of purple sea urchin to 20 gallons. This provision is due to sunset on February 7, 2019. In order to maintain recreational interest in purple sea urchins, to the end that will benefit kelp and abalone recovery, a standard rulemaking is necessary to allow a higher take limit.

Furthermore, bull kelp, the dominant kelp in northern California, is an annual species. Any restoration attempt would yield observable results only after it has been conducted for a year or more. As such, both the goal of supporting a growing recreational interest and the goal of restoring habitat require the new regulation 29.06 for at least the next two or more years.

The addition of Section 29.06 extends the higher take limit to Humboldt, Mendocino, Sonoma, and possibly Del Norte counties.

Benefits of the Regulations

The regulation would maintain a developing recreational interest in purple sea urchin as well as help reduce grazing pressure in a vulnerable ecosystem.

Consistency and Compatibility with Existing Regulations

The proposed regulations are consistent with Section 29.05, Title 14, CCR. Commission staff has searched the CCR and found no other regulations that address the recreational take of purple sea urchin and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt regulations necessary to regulate the recreational take of fish, including purple sea urchins (FGC Section 205). No other state agency has the authority to regulate the recreational take of purple sea urchin.

Proposed Regulatory Language

Option 1:

Section 29.06, Title 14, CCR, is added to read:

§29.06. Purple Sea Urchin.

(a) Except as provided in this section, the daily bag limit for purple sea urchin is 35 individuals

(b) The daily bag limit for purple sea urchin is forty (40) gallons when taken while skin or SCUBA diving in ocean waters of the following counties: Humboldt, Mendocino, and Sonoma

(c) There is no possession limit for purple sea urchin

Note: Authority cited: Section 200 and 205, Fish and Game Code. Reference: Section 200 and 205, Fish and Game Code.

Option 2: Adds Del Norte County

Section 29.06, Title 14, CCR, is added to read:

§29.06. Purple Sea Urchin.

(a) Except as provided in this section, the daily bag limit for purple sea urchin is 35 individuals

(b) The daily bag limit for purple sea urchin is forty (40) gallons when taken while skin or SCUBA diving in ocean waters of the following counties: Del Norte, Humboldt, Mendocino, and Sonoma

(c) There is no possession limit for purple sea urchin

Note: Authority cited: Section 200 and 205, Fish and Game Code. Reference: Section 200 and 205, Fish and Game Code.

STAFF SUMMARY FOR OCTOBER 17, 2018

6. RECREATIONAL TAKE OF PURPLE SEA URCHIN (REGULAR RULEMAKING)**Today's Item**Information ☐Action ☒

Consider authorizing publication of notice of intent to add Section 29.06 for the recreational take of purple sea urchin.

Summary of Previous/Future Actions

- | | |
|---------------------------------|------------------------------|
| • MRC vetting | Mar 6, 2018; MRC, Santa Rosa |
| • Adopted emergency regulations | Apr 18-19, 2018; Ventura |
| • Today's notice hearing | Oct 17, 2018; Fresno |
| • Discussion hearing | Dec 12-13, 2018; Oceanside |
| • Adoption hearing | Feb 6-7, 2019; Redding |

Background

On Apr 18, 2018, FGC took emergency action to increase the recreational take limit of purple sea urchin to 20 gallons per day in Sonoma and Mendocino counties, to address the population growth's severe negative impact to bull kelp forests and red abalone (see agenda item 18, this meeting).

Following the emergency action, DFW has not observed any significant improvement to bull kelp and red abalone, and reports that northern California kelp forests continue to decline. Because of severe ecosystem decline, the maximum duration of the emergency regulation is insufficient to ensure that DFW and stakeholders can conduct adequate research to inform management decisions, necessitating this regular rulemaking.

The proposed regulation would add a new section (29.06), and modify the provisions of the emergency regulation in three ways:

1. Increase the daily recreational take limit to 40 gallons;
2. Apply the take allowance to waters off Humboldt County in addition to Sonoma and Mendocino counties; and
3. Include an option to extend the take allowance to waters off Del Norte County.

Based on information collected from recreational harvesting efforts in 2018, doubling the bag limit from the emergency regulation is not expected to affect the long-term sustainability of the purple sea urchin population and is expected to create more lasting benefits to the northern California kelp forest ecosystem. DFW recommends extending the coverage of the higher recreational take limit to Humboldt County to support bull kelp beds in three counties.

Finally, the regulation would maintain a developing recreational interest in purple sea urchin and help reduce the effects of an overpopulated species to a vulnerable ecosystem.

Significant Public Comments (N/A)

STAFF SUMMARY FOR OCTOBER 17, 2018

Recommendation

FGC staff: Authorize publication of the notice as recommended by DFW.

DFW: Authorize publication of the notice as proposed.

Exhibits

1. DFW memo, received Oct 4, 2018

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to add Section 29.06 related to the recreational take of purple sea urchin as proposed, including an option to include Del Norte County.

OR

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to add Section 29.06 related to the recreational take of purple sea urchin as proposed, without an option to include Del Norte County.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

SAM Section 6601-6616**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON Margaret Duncan margaret.duncan	EMAIL ADDRESS @wildlife.ca.gov	TELEPHONE NUMBER 916-653-4676
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Add section 29.06, Title 14, CCR, Re: Purple Sea Urchin			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

No costs anticipated to comply.

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*2. The Fish and Game Commission estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☒ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: 0

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: 0 eliminated: 0Explain: Proposed permanent increased limit on recreational take of purple sea urchins would not impact businesses.5. Indicate the geographic extent of impacts: ☐ Statewide
☒ Local or regional (List areas): Del Norte, Humboldt, Mendocino, Sonoma counties6. Enter the number of jobs created: 0 and eliminated: 0

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? ☐ YES ☒ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 0
- a. Initial costs for a small business: \$ N/A Annual ongoing costs: \$ N/A Years: _____
- b. Initial costs for a typical business: \$ N/A Annual ongoing costs: \$ N/A Years: _____
- c. Initial costs for an individual: \$ 0 Annual ongoing costs: \$ 0 Years: 1
- d. Describe other economic costs that may occur: Proposed increase in bag limit for recreational purple sea urchin take affects only individuals with no change in compliance costs and no commercial uses allowed.
2. If multiple industries are impacted, enter the share of total costs for each industry: N/A
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ N/A
4. Will this regulation directly impact housing costs? ☐ YES ☒ NO
If YES, enter the annual dollar cost per housing unit: \$ _____
Number of units: _____
5. Are there comparable Federal regulations? ☐ YES ☒ NO
Explain the need for State regulation given the existence or absence of Federal regulations: Purple sea urchins are within state waters
Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents may benefit from health and welfare of California residents, worker safety and the State's environment: _____
the vigorous exercise required to pursue purple sea urchin. Worker safety is not affected by the proposed action. Benefits to the State's environment are anticipated through the restoration of kelp forest habitats to foster and support a diverse balance of species.
2. Are the benefits the result of: ☐ specific statutory requirements, or ☒ goals developed by the agency based on broad statutory authority?
Explain: FGC code section 200 provides the "Commission's Power To Regulate Taking of Fish & Game"
3. What are the total statewide benefits from this regulation over its lifetime? \$ potential habitat restoration
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: N/A

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: 1) No change alternative would result in return to a lower (35 purple sea urchin) bag limit (after the sunset of the emergency regulation that had increased the bag limit to 20 gallons).

ECONOMIC AND FISCAL IMPACT STATEMENT (REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____

- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

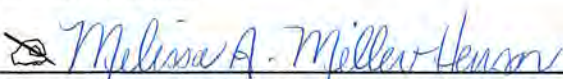


DATE

11/13/18

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

11/13/18

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

 Reply |   Delete Junk |  ...





(No subject)

JL

Jeff Libarle <

@

.com>

 Reply | 

Tue 11/27, 12:02 PM

FGC 

To Whom it Concerns, Just want to thank you guys for extending the ab moratorium and opening up the purple urchin take. I was just in Elk and noticed some bull kelp mounds on the beach. More than I've seen in a while. I hope it's not too late for the abalone. Thanks, Jeff PS I think the more you encourage organized outings in designated areas to harvest purple urchins the quicker the resource might recover. Thanks !

 Reply |   Delete Junk |  ...




Pala Comment Letter about Purple Sea Urchin Rule Change


KB

Kurt Broz <kbroz@palatribe.com>

Tue 11/27, 10:33 AM

FGC 

 Reply | 

PalaReplyLetter_PurpleS... 

174 KB

[Download](#) [Save to OneDrive - California Department of Fish and Wildlife](#)

From: Kurt Broz

Sent: Tuesday, November 27, 2018 10:31 AM

To: 'FGC@dfg.ca.gov' <FGC@dfg.ca.gov>

Subject: Pala Comment Letter about Purple Sea Urchin Rule Change

Please accept this comment letter about the proposed purple sea urchin rule change on behalf of the Pala Band of Mission Indians.

Sincerely,

Mr. Kurt Broz
Natural Resources Specialist
Pala Band of Mission Indians
(760) 891-3550



PALA ENVIRONMENTAL DEPARTMENT

PALA BAND OF MISSION INDIANS

PMB 50, 35008 Pala Temecula Road | Pala, CA 92059

Phone 760-891-3510 | Fax 760-742-3189

<http://ped.palatribes.com>

RE: Purple Sea Urchin Recreational Take Proposed Rule Change Section 29.06 Title 14

To Whom It May Concern:

The Pala Band of Mission Indians has received your letter regarding a proposed rule change for purple sea urchin recreational take. After review by personnel in the Pala Environmental Department, we have determined that this action does not appear to affect Pala's Tribal interests at this time, but we support any action that protects valuable coastal resources. Should the Tribe's position change, or in the event that California Fish and Game further revises these regulations or their implementation, Pala reserves the right to make future comments.

Pala looks forward to continuing to work with the California Fish and Game Commission on protecting cultural and natural resources of importance to the Tribe.

Sincerely,

Shasta Gaughen, PhD
Environmental Director/THPO
Pala Band of Mission Indians

 Reply |   Delete Junk |  ...





Section 29.06, Title 14, CCR, Purple Sea Urchin

BI

Ben Wolfe III <@.net>

Wed 11/21, 09:39 AM

FGC 

 Reply | 

Purple Sea Urchin (DT)

Commisioners,

This proposed regulation should include an exception to Section 1.87 "Waste of Fish" making it legal to waste the 40 gallon daily diver take of purple urchins.

Respectfully,

Ben Wolfe III

Getting too much email from Ben Wolfe III

>? [You can unsubscribe](#)

Memorandum

2018 OCT 10 AM 9:00

Date: October 8, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Submission of Initial Statement of Reasons to Amend Subsection (b) of Section 27.65, Title 14, California Code of Regulations, Re: Filleting of Fish on Vessels; California Sheephead**

The Department of Fish and Wildlife (Department) requests the Fish and Game Commission (Commission) authorize publishing notice of its intent to amend subsection (b) of Section 27.65 of Title 14, California Code of Regulations (CCR), concerning the addition of a California sheephead fillet length regulation. Authorization of the request to publish notice will allow for discussion and possible adoption at the December 12-13, 2018 and February 6-7, 2019 Commission meetings, respectively.

Almost all finfishes with a recreational minimum size limit also have a corresponding fillet length. However, a fillet length regulation for California sheephead has not been created since the implementation of a minimum size limit [Section 28.26(c), Title 14, CCR] in 2001. Since then, recreational anglers and the sport fishing industry, including the Sportfishing Association of California, have been advocating for the implementation of a fillet length regulation permitting California sheephead to be filleted at sea. The Department recommends the establishment of a California sheephead fillet length regulation commensurate with its minimum size limit of 12 inches.

If you have any questions regarding this item, please contact Dr. Craig Shuman, Marine Regional Manager at (916) 445-6459. The public notice for this rulemaking should identify Environmental Scientist, Miranda Haggerty as the Department's point of contact. Her contact information is (562) 342-7162 or Miranda.Haggerty@wildlife.ca.gov.

ec: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Melissa Miller-Henson, Acting Executive Director
Fish and Game Commission
October 8, 2018
Page 2

Craig Shuman, D. Env., Regional Manager
Marine Region
Craig.Shuman@wildlife.ca.gov

Bob Puccinelli, Captain
Law Enforcement Division
Robert.Puccinelli@wildlife.ca.gov

Michelle Selmon, Program Manager
Regulations Unit
Michelle.Selmon@wildlife.ca.gov

Ona Alminas
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Kirsten Ramey, Marine Region
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Miranda.Haggerty@wildlife.ca.gov

Susan Ashcraft, Marine Adviser
Fish and Game Commission
Susan.Ashcraft@fgc.ca.gov

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Subsection (b) of Section 27.65
Title 14, California Code of Regulations
Re: Filleting of Fish on Vessels; California Sheephead

I. Date of Initial Statement of Reasons: October 8, 2018

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: October 17, 2018
Location: Fresno

(b) Discussion Hearing: Date: December 12, 2018
Location: Oceanside

(c) Adoption Hearing: Date: February 7, 2019
Location: Sacramento

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Present Regulations

Section 27.65, Title 14, California Code of Regulations (CCR) defines fillet; lists the fillet requirements for, and specifies those fish that may be filleted on a boat or brought ashore as fillets; and prohibits the filleting, steaking, or chunking of any species with a size limit unless a fillet size is otherwise specified. Section 28.26, Title 14, CCR, specifies the bag limit, size limit, open areas, seasons and depth constraints for the recreational take of California sheephead (*Semicossyphus pulcher*).

Almost all finfishes with a recreational minimum size limit also have a corresponding fillet length. However, a fillet length regulation for California sheephead, a popular recreational fishery in southern California, has not been created since the implementation in 2001 of a minimum size limit of 12 inches (subsection 28.26(c), Title 14, CCR).

Proposed Regulation Changes

The proposed regulation will amend subsection 27.65(b) to add California sheephead to the list of fish that may be filleted, and will specify that fillets must be a minimum of 6 and three-quarter inches in length and bear the entire skin intact. The proposed amendment would list the California sheephead fillet regulation under subsection (b)(12) and the previously listed subsection (b)(12) would be renumbered to subsection (b)(13).

Necessity of Proposed Regulation

Recreational anglers and the sport fishing industry, including the Sportfishing Association of California (SAC), have been requesting a fillet length regulation permitting California sheephead to be filleted at sea. Most recreational anglers prefer to take home fresh fillets, rather than whole fish. In addition, California sheephead are difficult to fillet, so many anglers prefer to have experienced deck hands fillet their fish at sea for them. The proposed regulation would meet angler preferences for transport of cleaned fish.

It is necessary for the entire California sheephead skin to remain intact, since there could be difficulty in species identification if just a patch of skin was left on the fillet. Other species that could be confused with California sheephead by a single patch of skin left on the fillet include red-skinned rockfish species (*Sebastes* sp.), such as vermilion (*S. miniatus*), and canary rockfish (*S. pinniger*).

Potential Impact of Regulation Change

A potential impact of implementing a fillet length regulation is an increase in California sheephead harvest. However, the fishery is managed under a total allowable catch, so any possible increase in harvest will not impact the sustainability of the population. The number of California sheephead that are released because they cannot be filleted at sea is not known. On average, 15 percent of the California sheephead catch is discarded, and although the exact lengths of the discarded catch are not known, the majority are most likely under-sized catch that cannot be retained regardless of the fillet length regulation. Allowing filleting of California sheephead at sea might lower the number of discards by a small percentage. More importantly, a fillet length regulation would allow carcasses to be disposed of at sea after filleting and recycled back into the marine ecosystem, instead of anglers disposing of carcasses at home.

Data Collection and Analysis

Data necessary to support the proposed regulation have been collected through a collaborative effort between SAC and the California Department of Fish and Wildlife (Department). A total of 180 California sheephead were collected on three sampling trips off commercial passenger fishing vessels (CPFVs) over a wide expanse of reefs in Long Beach, Dana Point and San Diego during April 2018. Commercial fish traps were used to assure that only the appropriate sizes of California sheephead were collected, and all other fish could be released alive. Fish sizes ranged from 10-16 inches, with the majority (66 percent) surrounding the current minimum size of 12 inches (11-13 inches). The deckhands working on each CPFV filleted all the fish aboard the vessels while at sea to ensure realistic conditions of how other fishes are currently filleted. In addition, fish were filleted by six individuals with varying experience to account for possible differences in filleting ability. Department biologists measured the total length of the fish and the corresponding left and right fillet to the nearest millimeter.

The data were analyzed by taking the average of the two fillets in a pair, and then determining the relationship between average fillet length and total length of the fish by a regression analysis. This was also done for data collected in a past Department study in 2002-2003 and compared to the current study. Not only was there a very strong relationship between average fillet length and total fish length, but there was no significant

difference between current and past studies despite differences in filleting experience, sampling locations, and time periods (Figure 1).

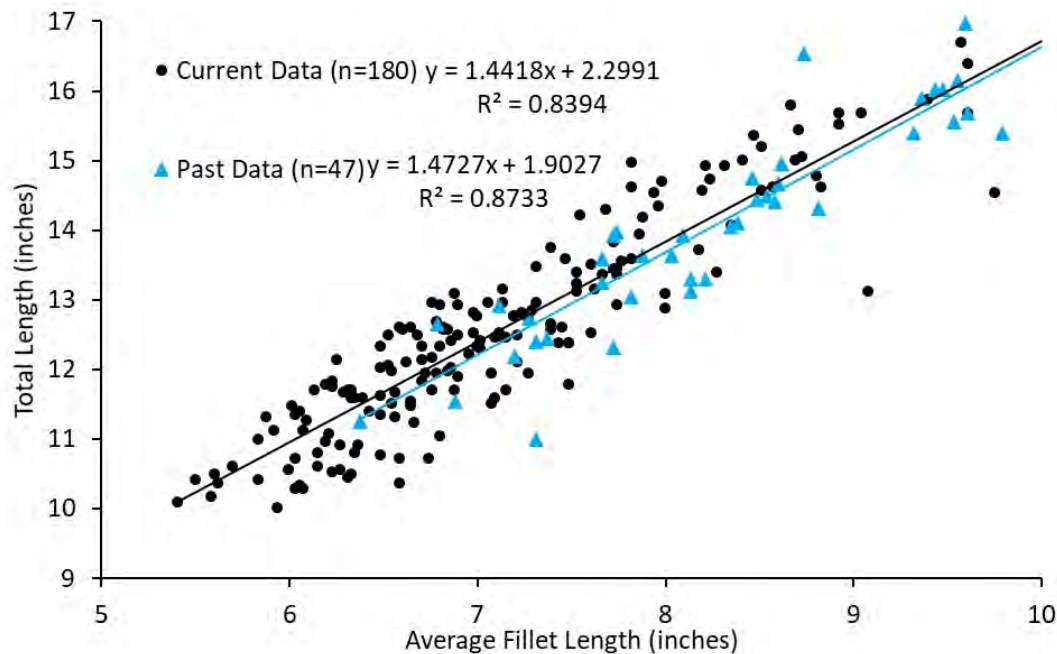


Figure 1. The relationship between average fillet length and total length of California sheephead for the current (black circles) and past (blue triangles) Department studies. The equation of the line and R^2 value for each are listed below the respective legend. The equations shown are measurements of the modeled regression line, where “x” is a coefficient that determines how “y” will increase. “ R^2 ” ranges between 0 and 1, where an R^2 value closer to 1 means a closer relationship that the data fits to the modeled regression line. The “n” values refer to sample size (180 in the current study; 47 in the past study).

From the results of the analysis, the equation of the line from the current data was used to predict the fillet length from a legal-sized 12-inch fish. Plugging 12 inches into the equation of the line predicts a 6.8-inch fillet length with lower and upper 95 percent confidence intervals of 6.66 and 6.92 inches, respectively. This means that from the 180 samples and varying filleting experience of deckhands the Department analyzed, there’s a 95 percent chance that the true mean of the fillet size from the sampled California sheephead population would be between 6.66 and 6.92 inches. Since fillet lengths are easiest to measure at a minimum of quarter inch intervals, the data portray two fillet length possibilities of either rounding down to 6.75 inches or rounding up to 7 inches. To aid in determining which possible fillet length is the most reasonable for a legal California sheephead, the possible fillet lengths were plugged back into the equation of the line to predict the total length with 95 percent confidence intervals (Table 1, Figure 2). The 7-inch fillet length has a predicted total length of over 12 inches (12.39 ± 0.21 inches) which reduces the likelihood of cutting a legal-sized fillet from a sublegal fish, but also might make it challenging to achieve a legal-sized fillet from a legal 12-inch fish. Thus, the recommended fillet length is 6.75 inches, as the predicted total length is the closest to 12 inches (12.03 ± 0.21 inches), which provides an attainable-sized fillet length and should prevent legal-sized fillets to be easily cut from sublegal-sized fish.

Analyzed Fillet Lengths (inches)	Predicted Fish TL (inches)	95% CI
6.5	11.67	11.47-11.88
6.75	12.03	11.83-12.24
7	12.39	12.18-12.6

Table 1. The predicted total lengths (TL) and associated 95 percent confidence intervals (CI) for three fillet length options.

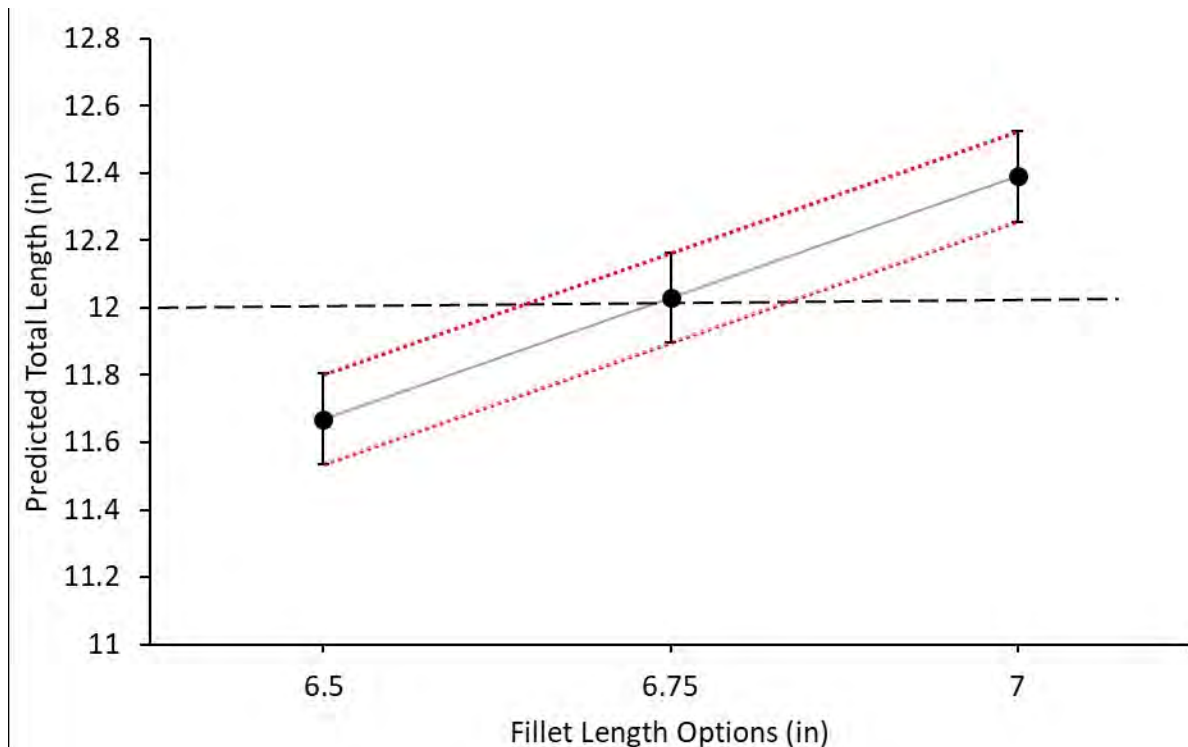


Figure 2. The predicted total length in inches for the fillet length options of 6.5, 6.75, or 7 inches based on the regression results of average fillet length and total length of fish. The red dotted lines represent the upper and lower 95 percent confidence intervals. The dashed black line at 12 inches denotes the current minimum size limit of California sheephead (Section 28.26, Title 14, CCR).

Changes to Authority and Reference Citations

Senate Bill 1473 (Stats. 2016, ch. 546) made organizational changes to the Fish and Game Code that became effective January 1, 2017. In accordance with these changes to the Fish and Game Code, Section 202 is removed from, and Section 265 is added to the authority and reference citations; Section 220 is removed from the reference citations; and Section 240 is removed from, and Section 399 is added to the reference citations.

(b) Goals and Benefits of the Proposed Regulation:

It is the policy of the state ensure the conservation, sustainable use, and where feasible, restoration of California's living marine resources of the benefit of all the citizens of the state. The objective of this policy shall be, among other things, to involve all interested parties in marine living resource management decisions.

The proposed regulation is in response to SAC and the recreational angling community, who have been requesting a fillet length regulation for California sheephead since 2001. As such, the regulation may increase angler satisfaction.

The proposed regulation may benefit the health and welfare of California residents through the increased consumption of nutritious California sheephead, and may benefit the environment through the return of California sheephead carcasses to the sea to be recycled back to the marine ecosystem.

(c) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 205, 265, 313, 5508 and 5509, Fish and Game Code.

Reference: Sections 200, 205, 265, 313, 399, 5508 and 5509, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None.

(e) Identification of Reports or Documents Supporting Regulation Change: None.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

The Department mailed notification letters on July 16, 2018 to tribes that may be impacted or interested in this rulemaking. The Department received responses from two tribes, neither of which expressed concerns on the proposed regulation, or provided any other specific input.

No public meetings are scheduled prior to the notice publication. The 45-day public notice comment period provides adequate time for review of the proposed regulation.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

Two alternatives to the recommended 6.75-inch fillet were analyzed: a slightly smaller (6.5-inch) or larger (7.0-inch) fillet length. A 6.5-inch fillet length was obtained as an alternative by rounding down from the predicted 6.8 inches to the nearest half inch instead of quarter inch interval. A 6.5-inch fillet length has a predicted total length under 12 inches (11.67 ± 0.21 ; Table 1 and Fig. 2), which means a legal-sized fillet could often be cut from a sublegal-sized fish, so this alternative was rejected. The 7.0-inch fillet length alternative would allow an easily identifiable round number and would reduce the likelihood of cutting a legal-sized fillet from a fish under 12 inches. However, it may also make it challenging to achieve a legal-sized fillet from a legal 12-inch fish, since the expected length of a fish from which a 7.0-inch fillet is cut would be 12.39 inches (per Figure 2). Therefore, this alternative was also rejected. Since there are other fishes with a current fillet length to the closest

quarter inch (e.g., 16.75 inches for California halibut), the 6.75-inch fillet length is the Department's recommended size.

(b) No Change Alternative:

The no change alternative would leave existing regulations in place, and not allow for filleting of California sheephead on board vessels. Some deckhands on CPFVs partially fillet California sheephead so fillets remain attached to the carcass, and the angler only has to make one cut to remove them. However, it is possible that the fillet could become detached from the body, resulting in a violation. In addition, the angler would still need to carry home and discard the carcass. The no change alternative would not lead to any increase in angler satisfaction, nor would it allow California sheephead carcasses to be recycled back into the marine ecosystem.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

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 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 will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulation will not increase net compliance costs or impact fishing effort and recreational fishing expenditures for recreational fishing related businesses. While not significant or statewide, CPFV businesses may choose to spend an estimated \$60 - \$110 per year on more plastic bags for the additional fillets and for the maintenance of fillet knives. This equates to \$12,660 - \$23,210 in costs for all CPFVs statewide. This will not affect the ability of California businesses to compete with businesses in other states because these small individual expenditures would increase customer satisfaction and be offset by fillet fee revenue.

(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 Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California because the proposed regulation is not likely to increase or decrease recreational fishing opportunities within California. It is possible that the implementation of the proposed regulation may increase workload for deckhands aboard CPFVs as the number of fish that can be filleted in an angler's catch at the end of the day

will increase. However, it is unlikely that the demand will increase so much that additional jobs will be necessary.

The Commission anticipates benefits to the health and welfare of California residents through the consumption of more California sheephead, a nutritious food.

The Commission does not anticipate any benefits to worker safety.

The Commission anticipates some benefit to the state's environment through the return of California sheephead carcasses to the marine ecosystem after being filleted.

(c) Cost Impacts on a Representative Private Person or Business:

This regulatory action will allow for the option for individuals to choose to pay \$2 - \$3 per fillet, which may amount to as much as \$10 - \$15 per CPFV trip. Individual CPFV businesses may choose to spend an estimated \$60 - \$110 per year on more plastic bags for the additional fillets and for the maintenance of fillet knives.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) 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, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Commission does not anticipate impacts on the creation or elimination of jobs within the state because the proposed action is not likely to cause substantial changes in the catch of California sheephead. There is the possibility that an increase in the total number of fish being filleted could cause an increase in the workload of deckhands. It is unlikely that the demand will increase so much that additional jobs will be necessary.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The Commission does not anticipate the creation of any new businesses, or elimination of existing businesses, because the proposed regulation is not likely to increase or decrease recreational fishing opportunities within California.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Commission does not anticipate any effects substantial enough to induce the expansion of businesses currently doing business in the state. The implementation of a California sheephead fillet length regulation could cause a small increase in fillet fee revenue to CPFV businesses. Depending on the average price of \$2 - \$3 estimated to be charged for filleting California sheephead, a total annual increase in revenue of \$56,000 to \$85,000 may be received amongst all CPFV businesses, or an estimated \$269 - \$403 per CPFV. These estimates are based on the average annual catch of California sheephead from 2013 to 2017, which can fluctuate depending on a variety of environmental, biological and economic factors

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission anticipates benefits to the health and welfare of California residents through the consumption of more California sheephead, a nutritious food.

(e) Benefits of the Regulation to Worker Safety:

The Commission does not anticipate any benefits to worker safety because the proposed regulation does not affect existing working conditions.

(f) Benefits of the Regulation to the State's Environment

The Commission anticipates some benefit to the state's environment through the return of California sheephead carcasses to the marine ecosystem after filleting instead of disposing of carcasses on land.

Informative Digest/Policy Statement Overview

Section 27.65, Title 14, California Code of Regulations (CCR) defines fillet; lists the fillet requirements for, and specifies those fish that may be filleted on a boat or brought ashore as fillets; and prohibits the filleting, steaking, or chunking of any species with a size limit unless a fillet size is otherwise specified. Section 28.26, Title 14, CCR, specifies the bag limit, size limit, open areas, seasons and depth constraints for the recreational take of California sheephead (*Semicossyphus pulcher*).

The proposed regulatory change to subsection 27.65(b), Title 14, CCR, adds a 6.75-inch minimum fillet length, and requires that the entire skin remain intact, allowing legal-sized California sheephead to be filleted on board vessels while at sea and brought ashore as fillets.

In addition, authority and reference citations are proposed to be amended in accordance with recent organizational changes to Fish and Game Code.

The proposed regulation is in response to the Sportfishing Association of California and the recreational angling community that have been requesting a fillet length regulation for California sheephead since 2001. As such, the regulation may increase angler satisfaction. Additionally, the proposed regulation may benefit the health and welfare of California residents through the increased consumption of nutritious California sheephead, and may benefit the environment through the return of California sheephead carcasses to the sea to be recycled back to the marine ecosystem.

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission (Commission) such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the recreational take of fish. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The proposed regulation is consistent with existing state regulations as almost all finfishes with a recreational minimum size limit also have a corresponding fillet length. The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining to the recreational take of California sheephead or to the filleting of fish on board vessels at sea.

Proposed Regulatory Language

Section 27.65, Title 14, CCR, is amended to read:

§27.65. Filleting of Fish on Vessels.

. . . [Subsections (a) and (b) are provided for context only. No changes are proposed]

(a) Definition of Fillet: For the purpose of this section a fillet is the flesh from one side of a fish extending from the head to the tail which has been removed from the body (head, tail and backbone) in a single continuous piece.

(b) Fish That May be Filleted: No person shall fillet on any boat or bring ashore as fillets any fish, except in accordance with the following requirements:

. . . [No changes to subsections (b)(1) through (b)(11)]

(12) California sheephead: Fillets must be a minimum of 6 and three-quarter inches in length and shall bear the entire skin intact.

~~(12)-(13)~~ All other species except those listed in subsection (c) of this section: Each fillet shall bear intact a one-inch square patch of skin. The fillets may be of any size.

. . . [No changes to subsection (c)]

Authority cited: Sections 200, ~~202~~, 205, 265, 313, 5508 and 5509 Fish and Game Code.
Reference: Sections 200, ~~202~~, 205, ~~220, 240, 265~~, 313, 399, 5508 and 5509 Fish and Game Code.



California Sheephead Fillet Length Regulation Proposal



California Fish and Game Commission Meeting
December 12, 2018

Miranda Haggerty (CDFW)
Alayna Siddall (SAC)

Background/ Regulation Need



- CA Sheephead minimum size limit in 2001
 - No corresponding fillet length
- Benefits of fillet length regulation
 - Anglers prefer fillets
 - Carcasses recycled
 - Income for industry
 - Supported by anglers, industry (SAC), CDFW
- Commercial Passenger Fishing Vessel (CPFV) fleet reached out to SAC in 2013 - requested a fillet length for sheephead

California CPFV Fleet



Alayna Siddall

- Strictly recreational fishing
- Approximately 430 vessels statewide, up to 100 ft in length
- Typically 25-60 passengers
- Over 600,000 anglers annually
- Operate up to 2,600 km from port



Gary Graham



Collaboration



- CDFW and SAC developed sampling protocols
- SAC organized sampling trips
 - Point Loma, Dana Point, Long Beach
- Commercial trap fishermen collected sheephead
- CPFV deckhands filleted fish
- CDFW biologists measured fish and fillets

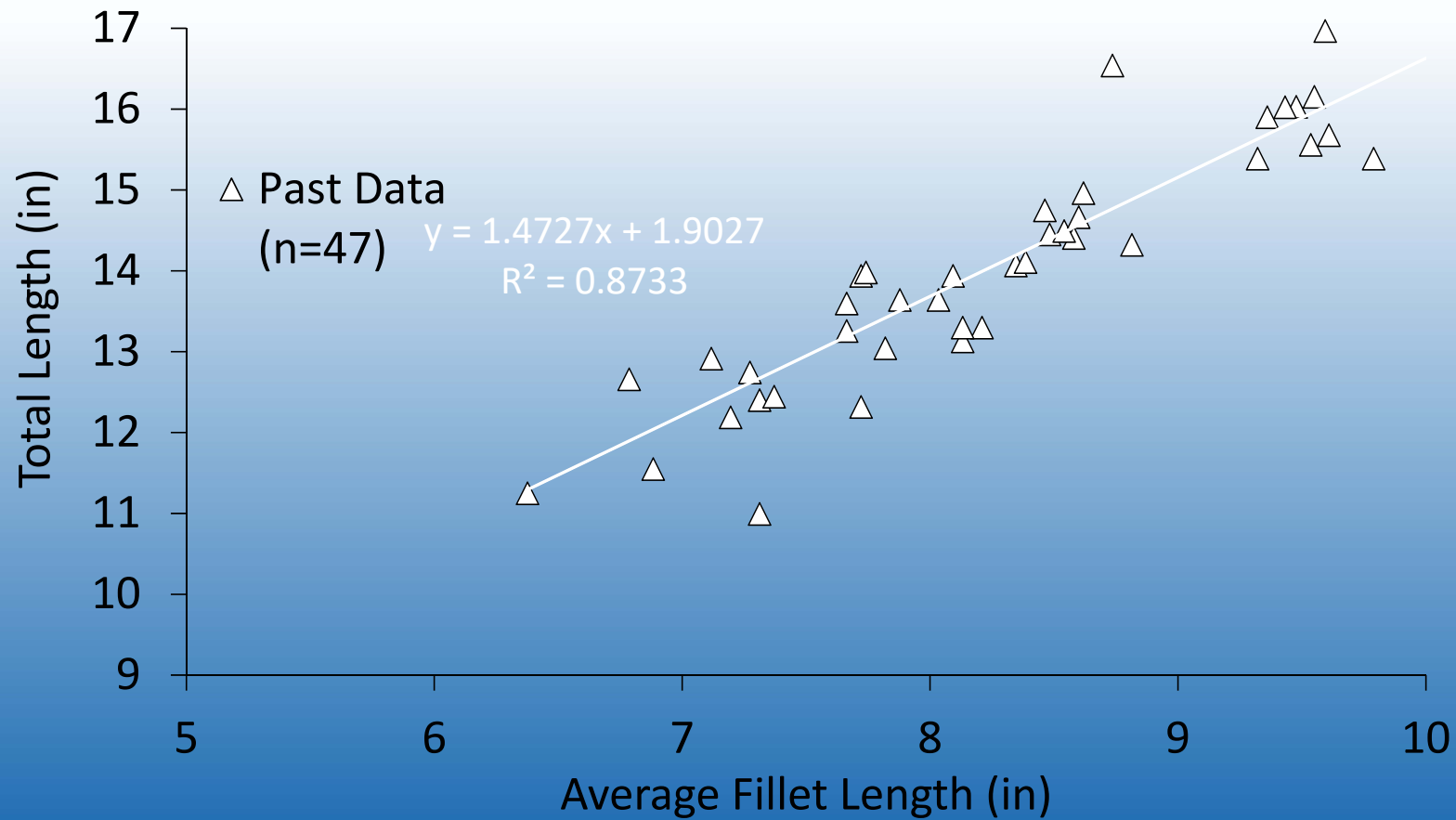


Sample Collections

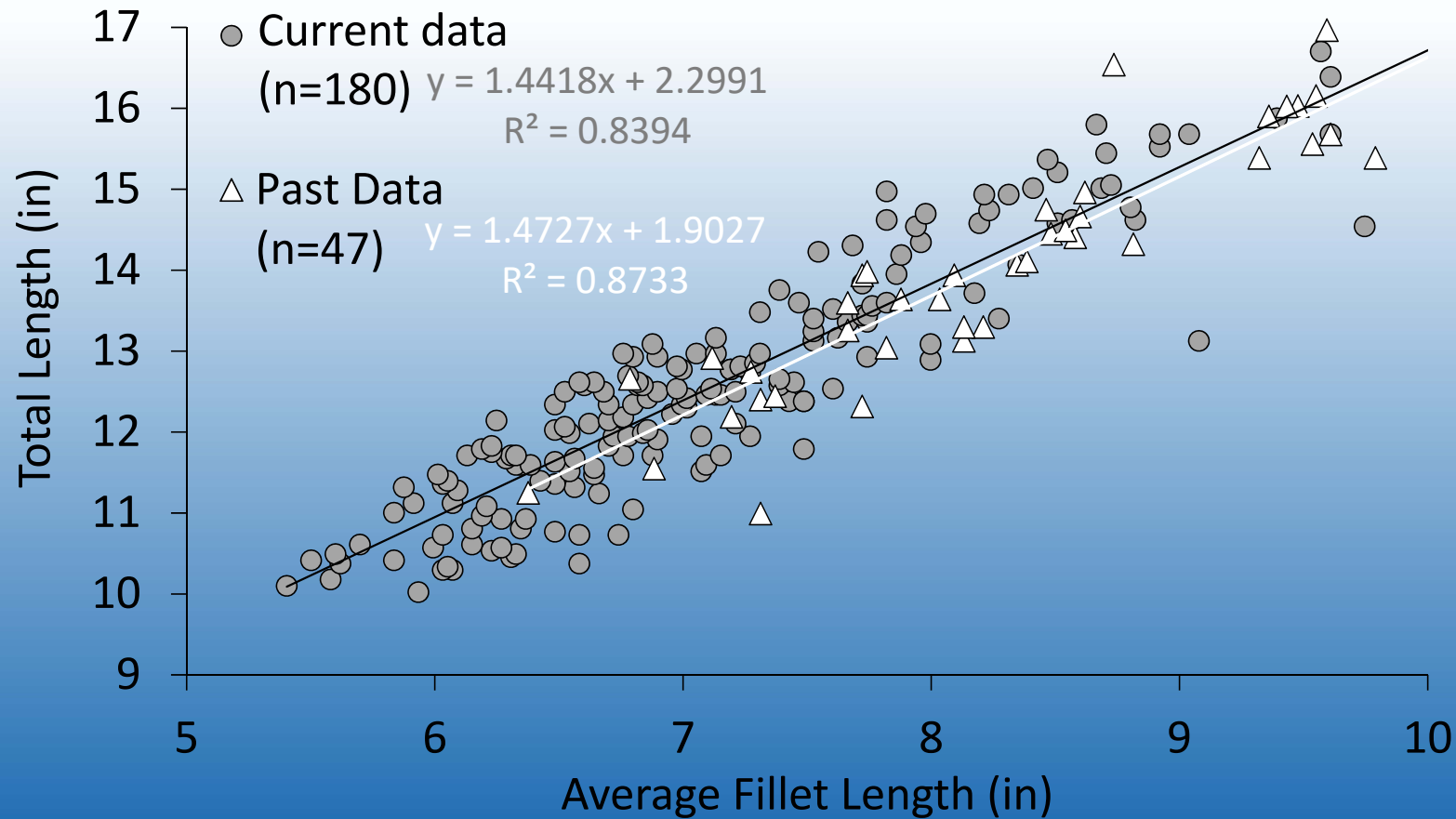
- Collections spread across reefs
 - minimized population impacts
- Realistic filleting conditions
 - CPFV deckhands filleted on moving vessels
- 180 sheephead from 10-16 inches
 - All other sizes released
- Fillets donated to Orange County Food Bank



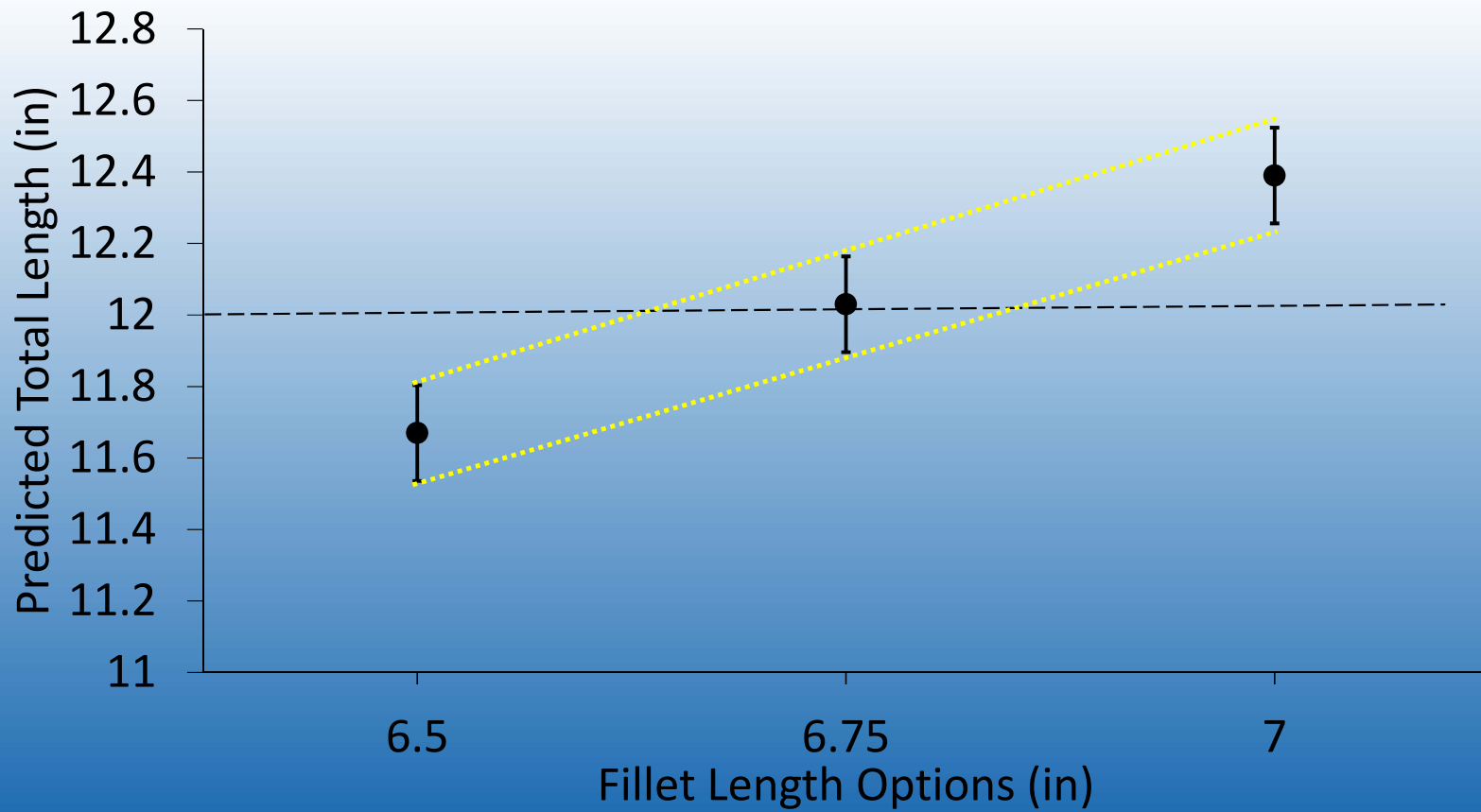
Fillet Length Data



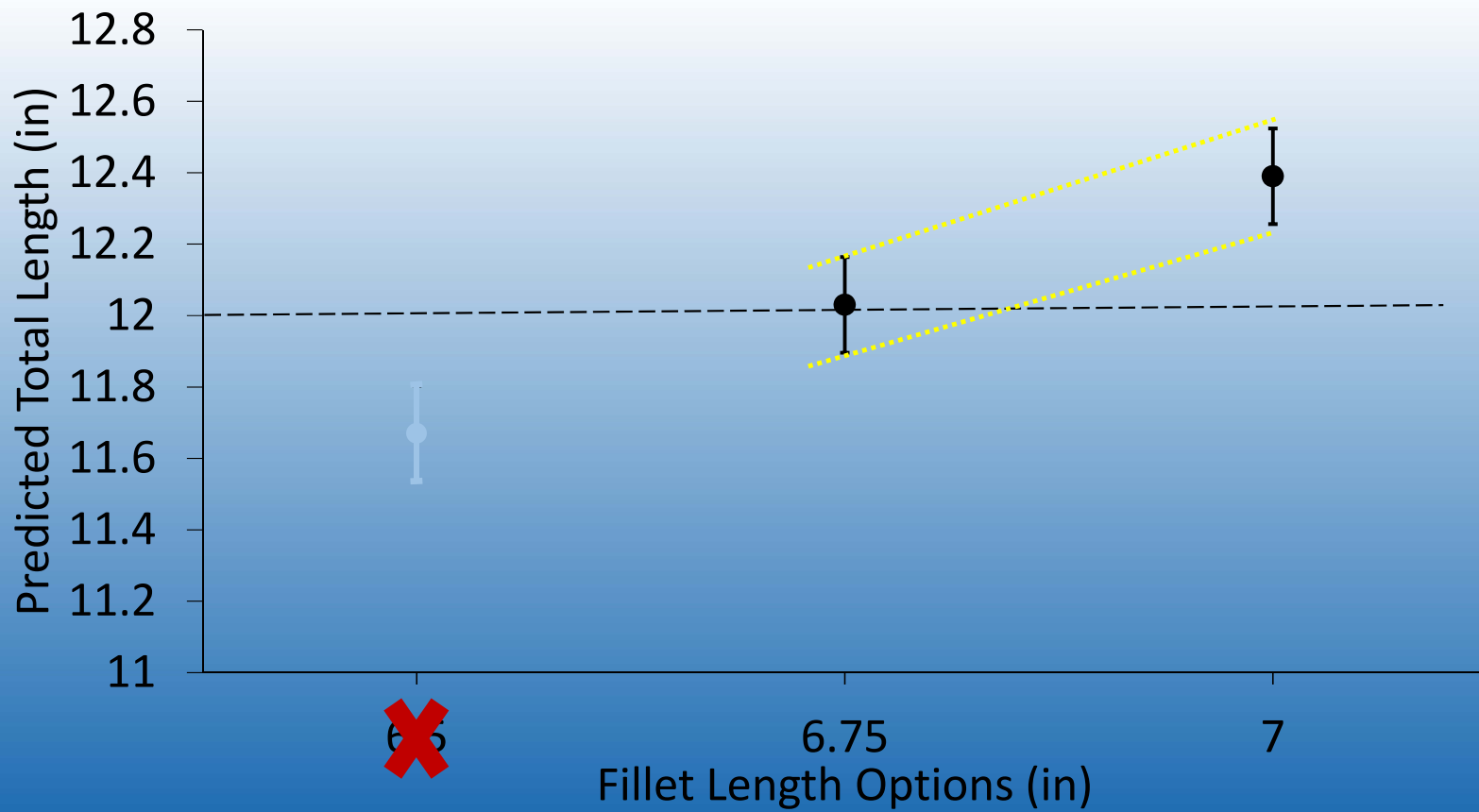
Fillet Length Data



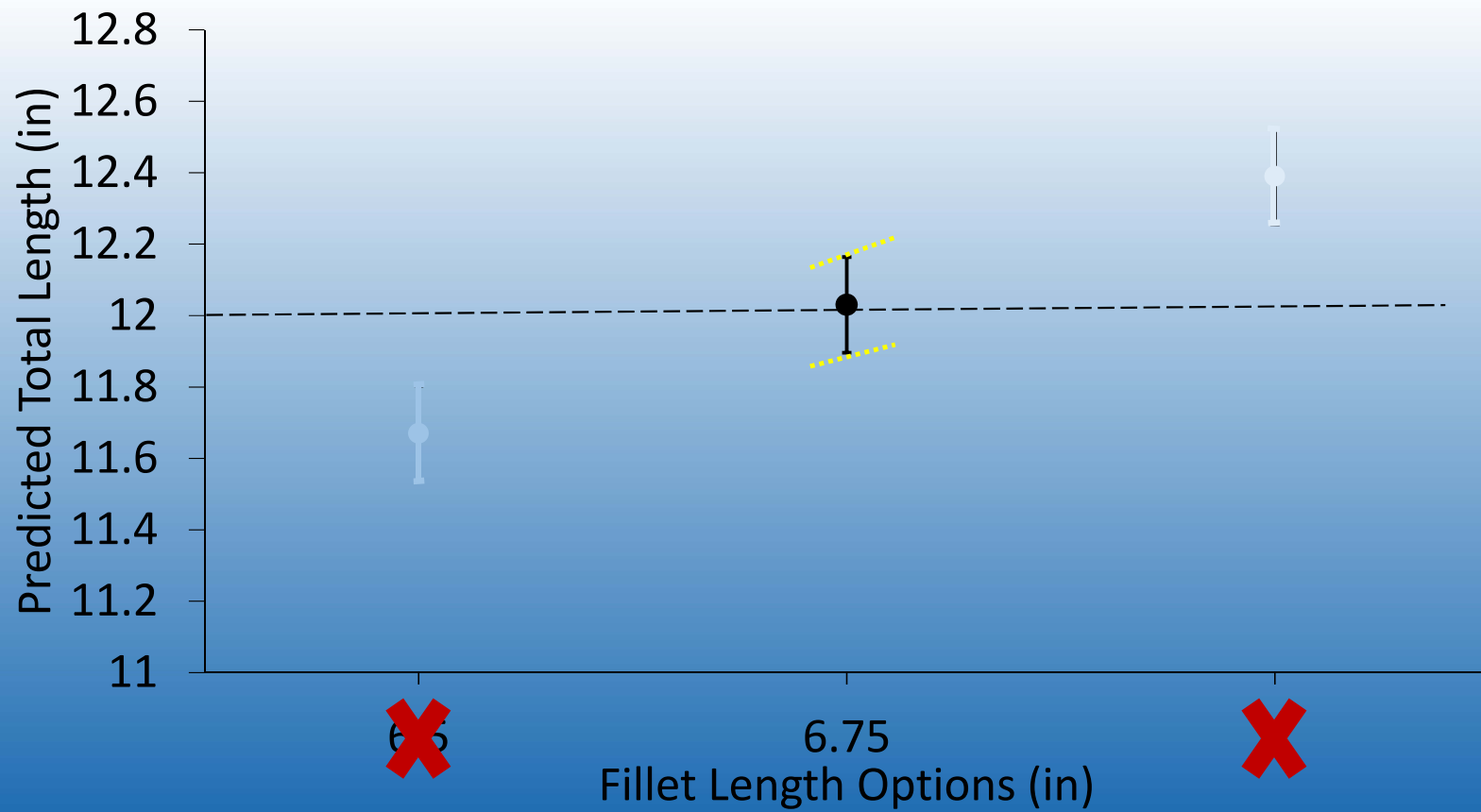
Fillet Length Options



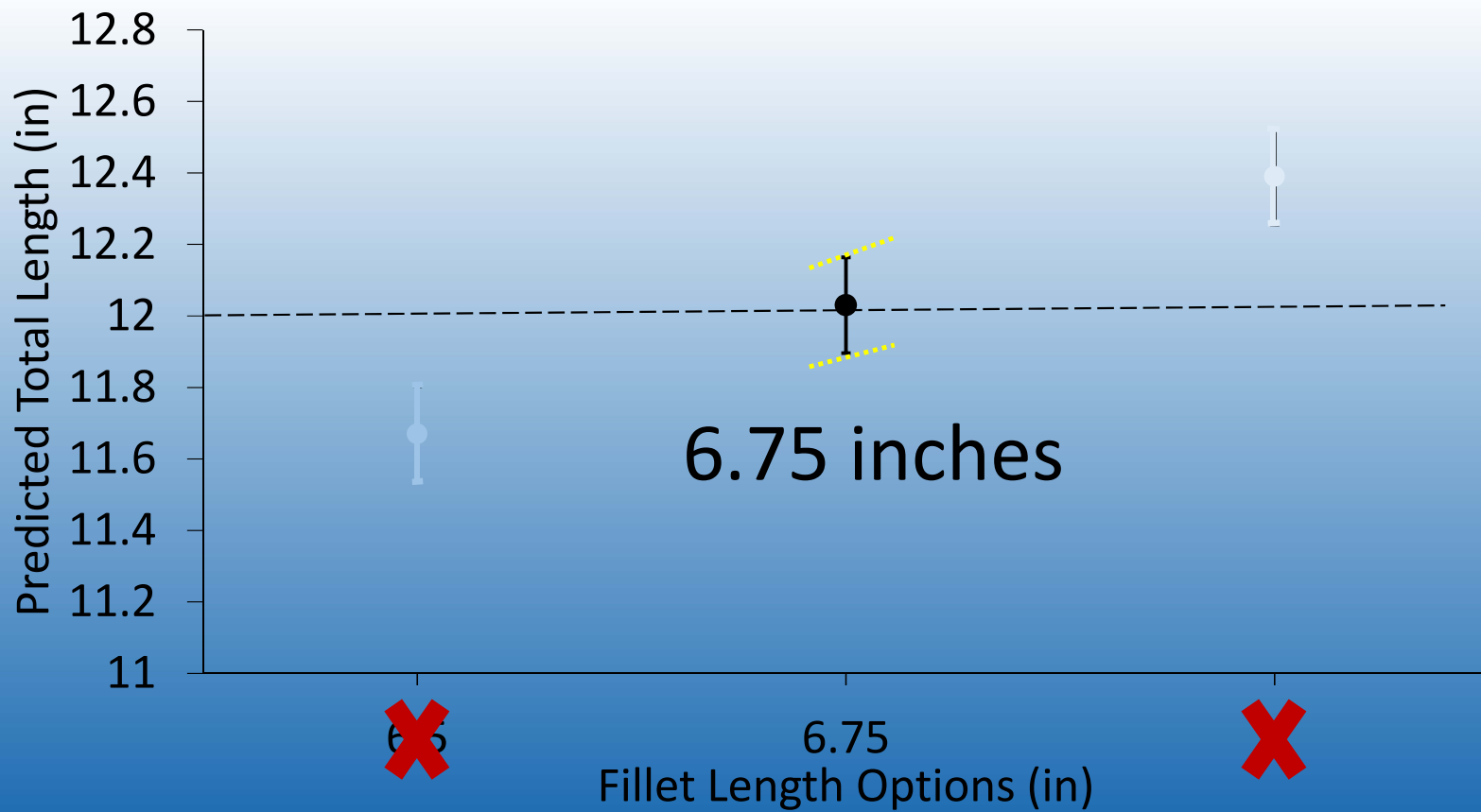
Fillet Length Options



Fillet Length Options



Fillet Length Recommendation



Timeline

Action	Date
Consultations with SAC	November 2016
Protocol Development	April 2017
Data Collection	April – June 2018
Tribal Outreach Letters	July 2018
Notice Hearing	October 17, 2018
Discussion Hearing	December 12, 2018
Adoption Hearing	February 6, 2019
Published in Regulations or Supplement to Regulations Booklet	March 2019

Summary



- Need for fillet length regulation
 - Supported by anglers, industry (SAC), DFW Law Enforcement Division
 - Benefits marine environment
- Fillet length recommendation: 6.75 inches
 - Informed by data
 - Attainable size
- Timeline
 - Meet 2019 Sport Fish Regulations printing



Acknowledgements



- CPFV Fleet
 - San Mateo, El Dorado, Outer Limits
- Commercial trap fishers
 - Craig Jacobs, John Glawson





Thank You



M. Haggerty, CDFW

Miranda Haggerty (CDFW)

Environmental Scientist

562-342-7162

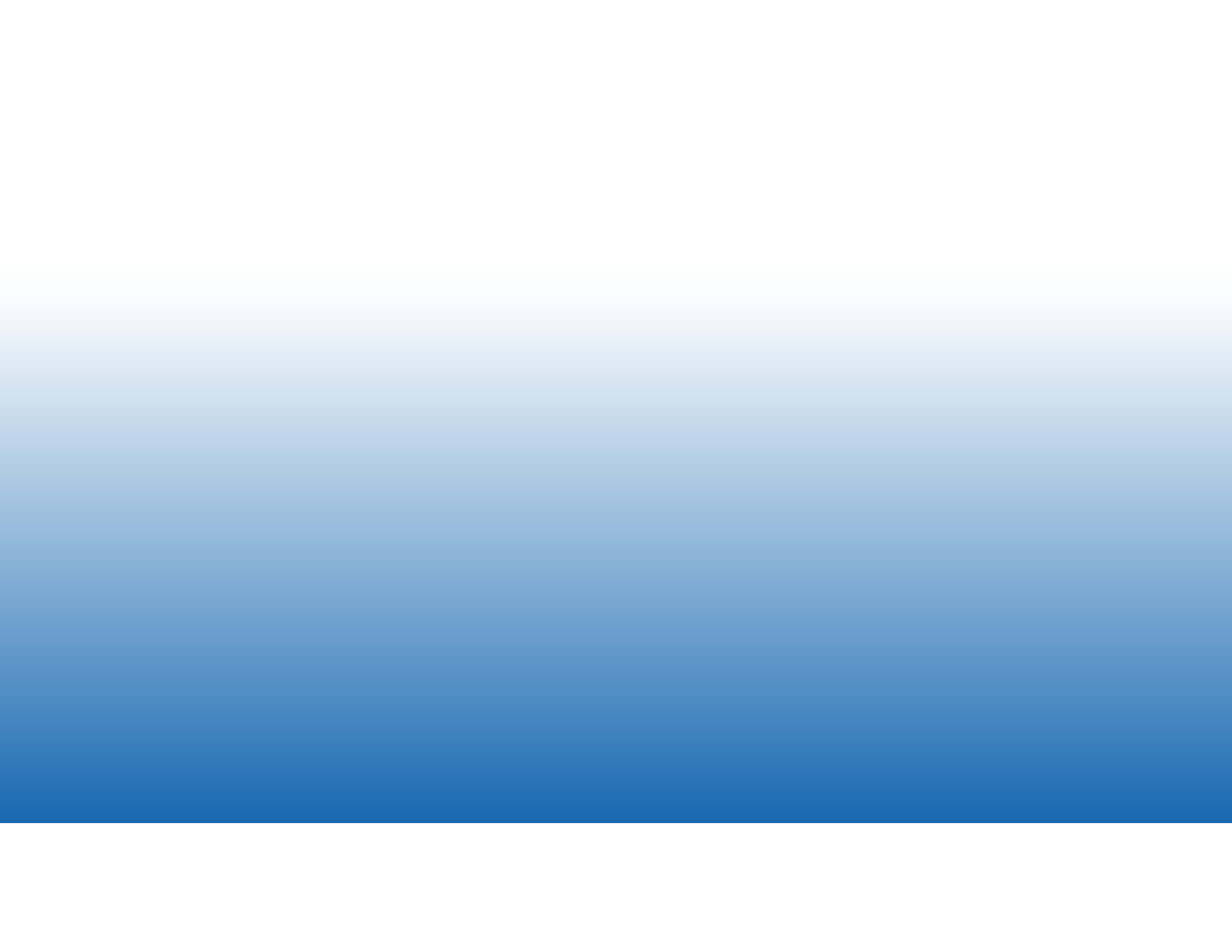
Miranda.Haggerty@wildlife.ca.gov

Alayna Siddall (SAC)

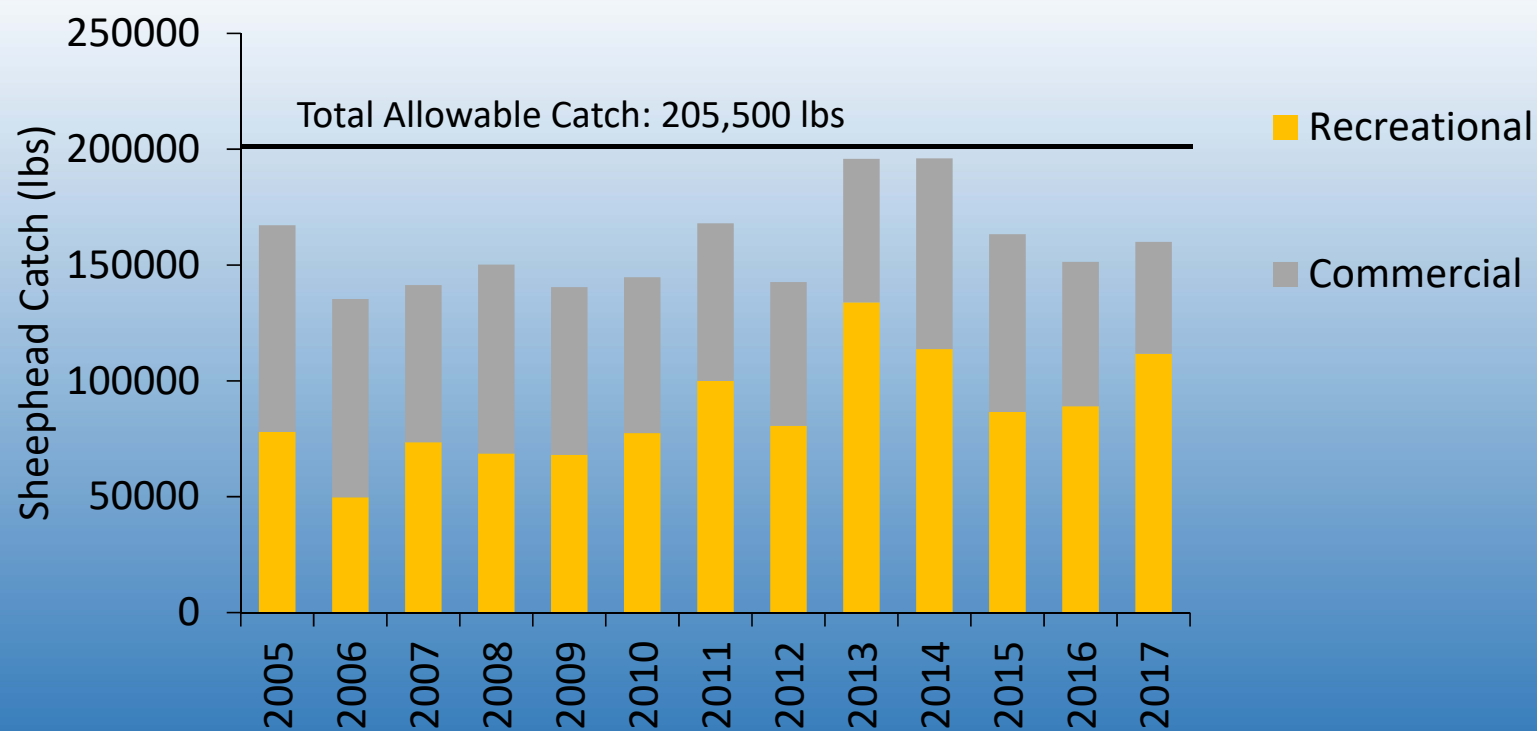
Dir. Science & Communications

619-322 -7421

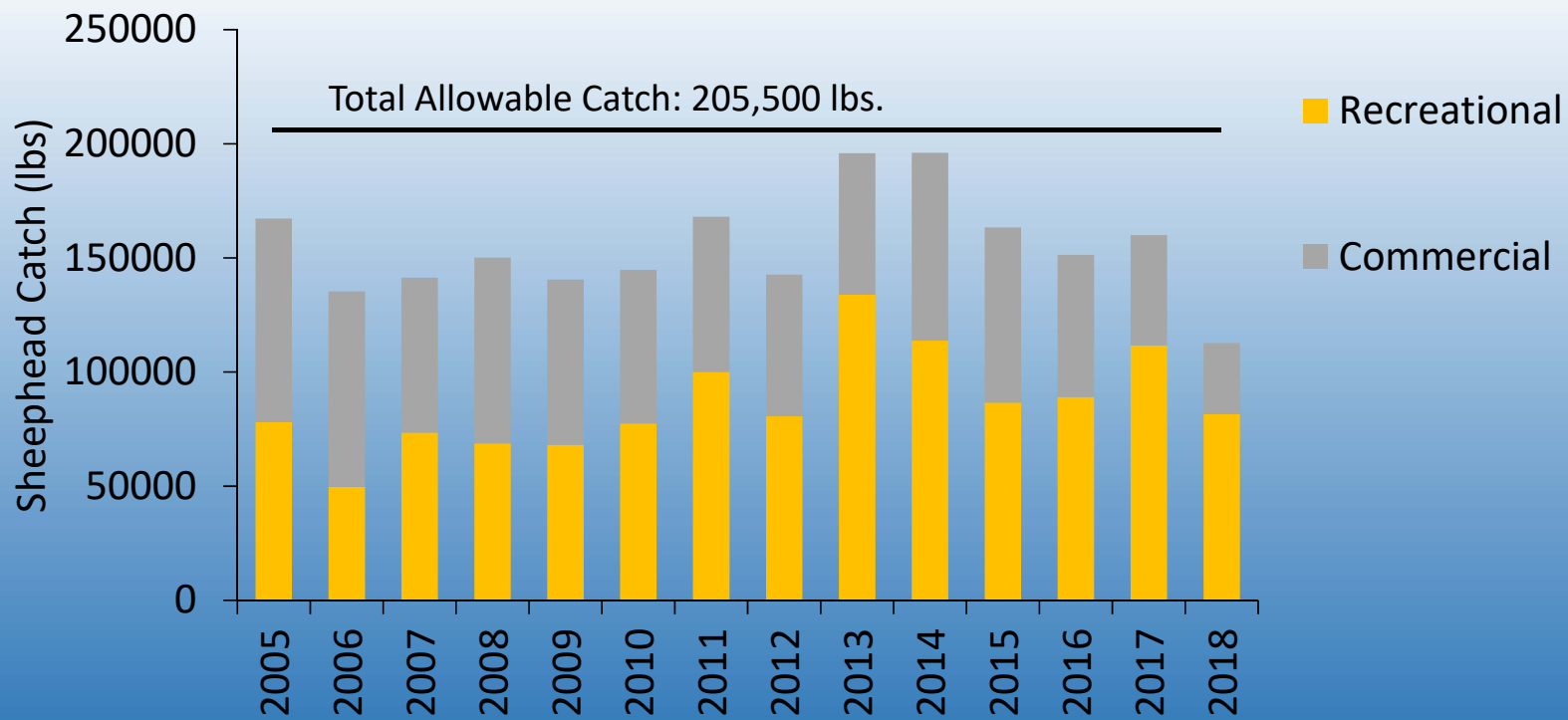
Alaynasiddallsac@gmail.com



Sheephead Landings



Sheephead Landings



Potential Fillet Shrinkage



- Fish fillets may shrink depending upon storage
- Pilot study suggested fillets shrink ~1/4 inch
 - Put on ice
 - Frozen
- Angler's responsibility to ensure their catch remains legal regardless of fillet storage method


Potential Economic Impacts





- Approximately \$2-\$3 charged to fillet a sheephead
 - Maximum \$10-\$15 per angler per trip
 - Total annual revenue per CPFV: \$269-\$403
 - Total annual revenue statewide: \$56,000-\$85,000
- Potential cost to industry: additional plastic bags and fillet knives
 - Estimated \$60-\$110 per CPFV per year
 - Total cost CPFVs statewide: \$12,660-\$23,210

Article on the project on BDOutdoors.com by Gary Graham

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California Sheephead Research Efforts

By Gary Graham - Jun 21, 2018



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STAFF SUMMARY FOR JUNE 20-21, 2018

11. COMMERCIAL NON-CANCER CRAB INCIDENTAL TAKE ALLOWANCES

Today's Item

Information ☐

Action ☒

Authorization to publish notice of intent to adopt regulations for the incidental take of crabs not in the genus *Cancer* in commercial trap fisheries.

Summary of Previous/Future Actions

- | | |
|--|------------------------------------|
| • Approved MRC recommendation for rulemaking | Dec 6-7, 2017; San Diego |
| • Today's notice hearing | Jun 20-21, 2018; Sacramento |
| • Adoption hearing | Oct 17-18, 2018; Fresno |

Background

In recent years, DFW has documented increased landings of species of non-*Cancer* crab, or crabs not in the genus *Cancer* (including brown box crab and California king crab), with an all-time high in 2016. Under current laws, incidental take of non-*Cancer* crabs is permitted in the target trap fisheries for rock crab, Dungeness crab, and lobster, with no limit on amount. In Apr 2018, DFW determined that the harvest of non-*Cancer* crabs is an emerging fishery and, under the Marine Life Management Act, DFW must recommend management measures for FGC's consideration to ensure sustainability (Exhibit 1).

Proposed Regulations

Existing regulations in Section 126, governing the commercial harvest of Tanner crab, another non-*Cancer* crab, would be moved to Section 126.1. New Section 126, would govern the commercial take of non-*Cancer* crabs in trap gear and would define *Cancer* crabs, create landing limits for non-*Cancer* crabs taken incidental to other targeted species in trap gear, and require all crabs be landed prior to use as bait. Possession and landing of species in the Lithodidae family (box and king crabs) would be limited to no more than 25 pounds per species. Sheep crab would be subject to a total allowable catch (TAC) of 95,000 pounds annually. The proposed limits for box and king crab are designed to slow current harvest rates while research is conducted on these species, and to allow development of an experimental gear permit for box crab to investigate the potential for a targeted fishery. The proposed total allowable catch (TAC) for sheep crab is intended to maintain the current harvest level, which has been stable for over 30 years, and prevent potential, future, unsustainable incidental harvest.

Significant Public Comments

San Diego nearshore trap fishermen oppose the landing of sheep crab used as bait (Exhibit 6).

Recommendation

FGC staff: Authorize publication of the notice as recommended by DFW.

DFW: Authorize publication of the notice as detailed in the draft initial statement of reasons (ISOR; Exhibit 3) to limit incidental take of non-*Cancer* crab.

STAFF SUMMARY FOR JUNE 20-21, 2018

Exhibits

1. DFW memo designating non-Cancer crab as emerging fishery, received Apr 6, 2018
2. DFW memo, received Jun 8, 2018
3. Draft ISOR
4. Draft notice of exemption
5. DFW presentation
6. Draft economic and fiscal impact statement with attachment
7. Emails from John E. Law providing a letter from San Diego nearshore trap fishermen regarding the landing of sheep crab used as bait, received Jun 3 and 4, 2018

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend subsection 125.1(c)(3), amend Section 126, and add Section 126.1 related to incidental take of crabs not in the genus *Cancer* in commercial trap fisheries.

STAFF SUMMARY FOR OCTOBER 17, 2018

12. BOX CRAB EXPERIMENTAL GEAR PERMIT**Today's Item****Information** ☒**Action** ☐

Receive and discuss proposed box crab experimental gear permit (EGP) program, participation criteria, and permit conditions.

Summary of Previous/Future Actions

- | | |
|--|---------------------------------|
| • MRC discussed box and king crab landings increase | Nov 9, 2017; MRC, Marina |
| • FGC approved MRC recommendation for incidental take limits and EGP program | Dec 6-7, 2017; San Diego |
| • Notice hearing for incidental take limits | Jun 20-21, 2018; Sacramento |
| • MRC update on EGP program | Jul 17, 2018; MRC, San Clemente |
| • Today's proposed EGP criteria and conditions | Oct 17, 2018; Fresno |
| • Consider approving EGP applications | Dec 12-13, 2018; Oceanside |

Background

In 2017, DFW notified FGC of a rapid increase in landings of box crab and California king crab from different gear types in response to developing market demands. While California Fish and Game Code Section 8284 specifically authorizes incidental take of several marine invertebrates incidental to other target fisheries—such as in the rock crab trap fishery, where incidental take of Kellet's whelk, octopus, and crabs other than of the genus *Cancer* is allowed—no limit on the amount of take is specified.

In addition, several fishermen contacted FGC with requests to authorize targeting the species authorized in Section 8284, either through a regulation change or through an experimental fishery via EGPs. However, little biological information is available about the species or sustainable harvest levels. In Aug 2017, FGC referred the requests to DFW and MRC for review.

Based on presentations and discussion at the Nov 2017 MRC meeting, MRC recommended, and FGC approved, a two-pronged approach in response to the biological concerns and industry interest: setting incidental take limits and developing research plans. The first part, which establishes conservative incidental take commercial trip limits for *Lithodidate* crabs (including box crab and California king crab) and for all other non-*Cancer* crab species (except Tanner crab), is being accomplished through a rulemaking scheduled for adoption at this meeting (see Agenda Item 7). For future research, DFW has been developing an EGP-based collaborative research program to be conducted with commercial trap fishermen willing to meet conditions necessary for the project. DFW has held two meetings with interested industry members to share ideas and get feedback: in May to introduce general project and research design, and in Sep to clarify participation criteria, potential catch allocations, and cost-sharing, including participant contribution. DFW has sought funding sources to offset costs of electronic monitoring equipment and participation in the program.

STAFF SUMMARY FOR OCTOBER 17, 2018

Today, DFW will present an update on the research design, proposed number of EGP participants, EGP participation criteria and permit conditions, and costs (Exhibit 1). Following this meeting, commercial trappers interested in a box crab EGP under defined conditions and cost are asked to submit requests to FGC. DFW, including its Law Enforcement Division, will review the requests and provide recommendations for FGC approval of EGPs in Dec.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Supports DFW recommendation.

DFW: Provide any feedback on the criteria and/or fee for participation in the EGP program, and set a deadline of Nov 1 for interested fishermen to submit an EGP request to FGC, which would provide sufficient time for review by DFW enforcement prior to the Dec FGC meeting.

Exhibits

1. DFW presentation

Motion/Direction (N/A)

Box Crab Experimental Gear Permit Terms & Conditions, Permit Distribution

**Dr. Julia Coates, Environmental Scientist
Fish & Game Commission, Fresno, October 17, 2018**



Andrew Lauermann, Marine Applied Research & Exploration

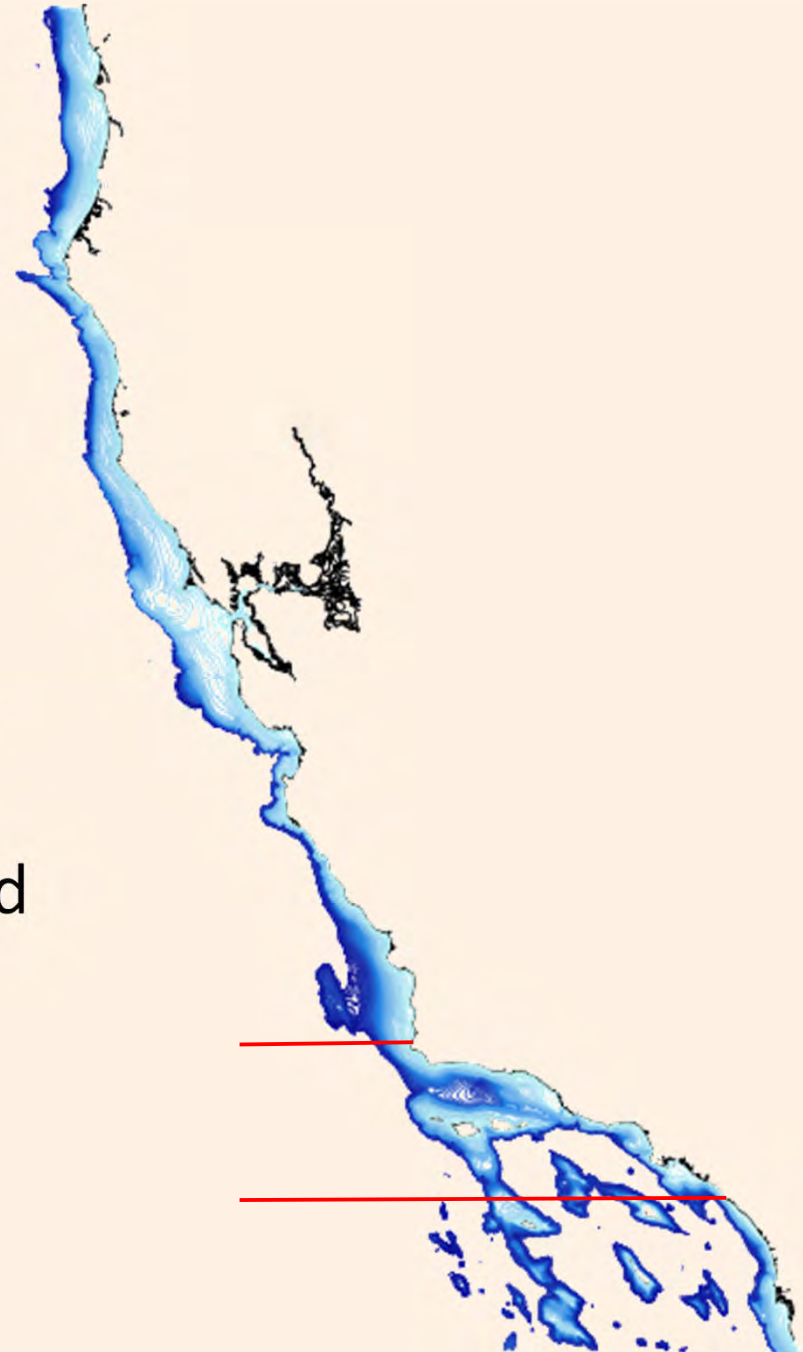
History & Progress

- Landings increases began 2014
- MRC discussions November 2017 & July 2018
- CDFW Director designated all non-Cancer crabs an emerging fishery April 2018
- Constituent meetings April & September 2018
- Regulation change to limit incidental take
 - Notice June 2018
 - Adoption today
- Development status:
Terms & conditions, research, timeline



Proposed Permits

- 8 Permits Total
 - 3 north of Pt Conception
 - 5 south of Pt Conception
- Southern permits distributed across 2-3 regions



Recommended Terms & Conditions

- Observer coverage and installation of electronic monitoring equipment
- Permits valid for 1 year with up to 4 renewals
- Permits associated with vessel with ≤ 2 operators
- Permit fee
- Allowances, with restrictions, for multiple fisheries / trip
- Annual catch limit of 36,000 lbs/permit
- Size limit $\geq 5 \frac{3}{4}$ in
- Service interval ≥ 96 hrs. Exceptions for weather or safety.
- Max 75 traps / permit. Possible additional allocations to meet research needs.



Terms & Conditions Cont.

- Trap design specifications
- Follow best practices for avoiding mammal & turtle entanglement
- Buoy marking requirements
- No pop-ups
- Cooperation with domoic acid testing
- Fishing off San Clemente & San Nicolas Islands may be restricted
- Minimum of 50 fishing days per year
- Participate in all requested research data collection activities



Catch Limit

- SoCal annual limit - 180,000 lbs
- Equal allocation of 36,000 lb for each of 5 SoCal permits
- Additional 36,000 lb for each central/northern permit
- Monthly limit is not required. Must accommodate experimental work & minimum of 50 fishing days.



Andrew Lauermann, Marine Applied Research & Exploration

Catch Limit Approach

- Consider high and low end points of two biomass estimation methods
- Set a conservative catch limit that allows for ~ 50% video review
- Limit may be adaptive in subsequent permit years



www.fisheries.noaa.gov



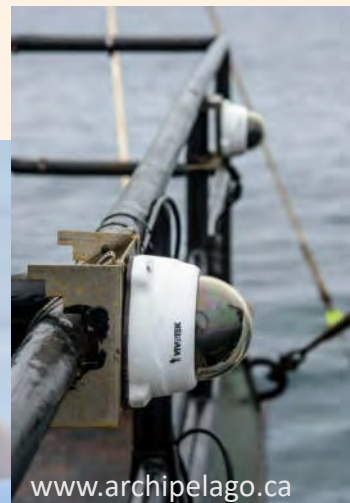
Research, Funding & Collaborations

- Electronic monitoring – Ocean Protection Council (OPC), Pacific States Marine Fisheries Commission (PSMFC)
- Fishing/trap surveys – Fishermen
- Tag-recapture – Sea Grant, NOAA Saltonstall-Kennedy
- Collections & laboratory – Sea Grant, NOAA Saltonstall-Kennedy



Electronic Monitoring

- No cost to fishermen, equipment to be returned to CDFW
- Goals
 - Bycatch
 - Catch (retained & discarded), size, sex
 - Develop automated image analysis software
 - Test two EM systems and human observers - provide guidance for potential broader implementation



Costs

2 years participation

CDFW	\$252,326
Enforcement, Marine Region, License & Revenue Branch, Research Materials, Travel/Meetings	
OPC / PSMFC	\$265,468
Electronic Monitoring Hardware, Salary/Time for Data Analysis, Travel/Meetings	
TOTAL	\$517,794



Costs & Permit Fee

CDFW	
Enforcement, Marine Region, License & Revenue Branch, Research Materials, Travel/Meetings	\$252,326
Subtract Marine Region Salary	- \$156,094
	\$96,232
Subtract contribution by Resource Legacy Fund	- \$25,000
	\$71,232
Divide by 8 permits per year for 2 years	\$4,452



Permit Issuance

- Recommended requirements
 - Current invertebrate trap fishery permit holder
 - Vessel capable of carrying an observer
 - Agree to terms & conditions
 - Satisfactory review of compliance history
- Permit distribution
 - Interested fishermen submit written request to FGC by Nov. 1
 - Qualifications assessed
 - Preferred fishing region to be considered
 - Fishermen to be notified by Dec. 1
 - Request approval of permits at Dec Commission meeting



Next Steps

- Submit permit requests to Commission at fgc@fgc.ca.gov
- Permits finalized at Commission meeting, Dec 12, Oceanside
- If not finalized in December, new statute applies
- Work with permittees to finalize research plans and specific fishing constraints
- Install electronic monitoring equipment and begin fishing early-mid 2019
- Contact: Julia.Coates@wildlife.ca.gov
805-730-1328



**CALIFORNIA FISH AND GAME COMMISSION
STATEMENTS OF INTEREST FOR
BOX CRAB EXPERIMENTAL GEAR PERMIT CONSIDERATION**

#	Name of Applicant	Port of Origin	Target Fishing Area (North or South of Point Conception	Specific Areas in Fishing Region	Corresponding DFW Fishing Study Region
1	Blue, William	Morro Bay	North	Pt Conception to Pt Sur	North of Point Conception
2	Marhsall, Donald	Half Moon Bay	North	Faralon Islands	North of Point Conception
3	Melz, Stephen	Half Moon Bay	North	Faralon Islands	North of Point Conception
4	Ellis, Ronald	Santa Barbara	South	Northern Channel Islands	Point Conception to Point Vicente
5	Grace, Devin	Santa Barbara	South	Northern Channel Islands, SB Coast	Point Conception to Point Vicente
6	Jones, Evan	Ventura	South	Northern Channel Islands, Hueneme Canyon	Point Conception to Point Vicente
7	Liso, Matthew	Santa Barbara	South	Northern Channel Islands, SB Coast, Outer Banks	Point Conception to Point Vicente
8	Lobo, Travis	Santa Barbara	South	Northern Channel Islands, SB Coast	Point Conception to Point Vicente
9	Olsen, Greg	Santa Barbara	South	Santa Barbara Channel, Santa Rosa Island	Point Conception to Point Vicente
10	Voss, Christopher	Santa Barbara	South	Northern Channel Islands	Point Conception to Point Vicente
11	Campbell, Bruce	Oceanside	South	San Clemente, Outer Banks, San Diego coast	South of Point Vicente
12	Major, Daniel	San Diego	South	Southern Channel Islands, Outer Banks	South of Point Vicente
13	Markoff, Christopher	San Diego	South	San Clemente, Outer Banks	South of Point Vicente
14	Slaughter, Shane	San Diego	South	San Nicolas, Outer Banks	South of Point Vicente
15	Voyatzis, Marcos	Newport Beach	South	San Nicolas, Santa Barbara Island, Outer Banks	South of Point Vicente

Draft Recommended Terms & Conditions (to be considered by the Fish and Game Commission)

- Observer coverage
 - Agree to installation of electronic monitoring equipment and access to data collected
 - Agree to and have a vessel capable of carrying human observers and scientists with accommodations equal to those provided to the crew
 - Must allow Department staff to board and observe vessels as requested
 - Current Coast Guard safety decal required
- Permits will be valid for 1 year upon Commission approval with up to 3 years of renewal. Permits may be revoked or modified by the Department at its sole discretion, upon 48-hour written notice to the permittees. Failure to adhere to the terms of the permit or violation of any laws while operating under the permit may result in immediate suspension or denial of renewal request of the box crab experimental gear permit at the discretion of the Department.
- Permits will be associated with a vessel with up to two operators. The primary operator shall be the holder of permits for additional fisheries prosecuted on that vessel and may designate one additional operator. One of the two operators must be present on the vessel during all box crab fishing or possession. Both operators are responsible for meeting permit terms & conditions. The permit must be kept aboard the vessel during all box crab fishing or possession.
- Permit fee (TBD pending evaluation of Department costs)
- Rock crab and Dungeness crab may be retained in box crab traps with appropriate permits for retained species and adherence to all other regulations regarding the take of these species. Participants may fish for box crab and rock crab, Dungeness crab or spot prawn within the same trip. Box crab and lobster may not be targeted within the same trip. King crab caught in box crab traps may be landed subject to Commission-determined limits. The Department will recommend king crab take to be allowed during specific experimental work with adherence to the 25 lb/trip limit during regular box crab fishing. All other species caught in box crab traps shall be returned to the water immediately and not used as bait.
- Annual catch limit of 36,000 lbs/permit
- Participate in all requested research data collection activities including but not limited to:
 - Intensive fishing within a designated area
 - Trap survey monitoring catch per unit effort with varying levels of trap spacing along strings
 - Tag-recapture study
 - Crab collections
 - Logbook data collection
- Only box crab equal to or above 5 ¾ in carapace width may be retained or possessed unless authorized by the Department to retain smaller crab for research purposes.
- Follow assigned service interval to be no less than 96 hours unless otherwise authorized by the Department. Exceptions made for weather or other safety concerns.

- Trap design should be within the following limits: dimensions no larger than 6x6 feet, two round escape ports no smaller than 4 inches in diameter, and mesh 1.5 inches or larger. Escape ports must be in the top or side of the trap. If both are in the side, at least one must be located so that at least one half of the opening is in the upper half of the trap. Traps must include destruct devices to be specified by the Department. The Department may allow and/or request deployment of specific trap designs for research purposes.
- Follow best practices for avoiding mammal & turtle entanglement to be provided by the Department.
- Floats must be marked with an "R" followed by the fisherman's L-number and a tag of Department designated shape & size to be provided by the permittee.
- No pop-ups
- Base allocation of traps is a maximum of 75 per permit. Additional traps may be allocated by the Department if necessary to meet research needs.
- Cooperation with domoic acid testing by providing samples when requested
- Fishing in waters off San Clemente and San Nicolas Islands may be restricted if Naval operations or other conflicts impede the progress of experimental work.
- Minimum of 50 fishing days per year unless permit sharing, or as specified by the Department.

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State of California
Department of Fish and Wildlife

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION

2018 DEC -7 PM 12:05

Memorandum

Date: December 3, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Box Crab Experimental Gear Permit List of Applicants and Permit Terms and Conditions**

As discussed at the October meeting of the California Fish and Game Commission (Commission), members of the commercial fishing fleet have expressed interest in targeting box crab. Since that meeting, fifteen fishermen submitted statements of interest to the Commission for consideration at the upcoming Commission meeting on December 12, 2018, in Oceanside. These statements indicate that the fishermen are interested in experimental gear permits under Fish and Game Code section 8606. A list of the applicants is attached.

A collaborative research program utilizing experimental gear permits will support emerging fisheries as required by the Marine Life Management Act. In conjunction with Commission staff and the fleet, the Department of Fish and Wildlife (Department) worked to develop a potential permitting methodology to address these applications and guide the Commission in its determination of whether or not it would be appropriate to approve the applications. Fish and Game Code section 8606 requires that any permit approved by the Commission be subject to the terms and conditions necessary to ensure the proper utilization and protection of marine resources, and to minimize user group and resource allocation conflicts. This permitting methodology would distribute fishing activity geographically via eight permits across the relevant fishing grounds to promote sustainability and minimize user conflict; the Department suggests that the Commission's decision reflect consideration of this potential permitting methodology.

Additionally, the Commission may wish to evaluate the following factors for each permittee: 1) possession of a current invertebrate trap fishery permit, 2) agreement to all draft permit terms and conditions, and 3) possession of a vessel with the capability to carry an observer. Each of these indicates that they have experience using trap gear and a vessel with the capacity to conduct the required research activities successfully. Based on Department records, each of the applicants has the applicable licenses and has the vessel capacity to meet the factors listed above.

Melissa Miller-Henson, Acting Executive Director
Fish and Game Commission
December 3, 2018
Page 2 of 2

Potential permit terms and conditions are also attached for the Commission's consideration. If approved, these terms and conditions will ensure the proper protection of marine resources, allow the Department to adequately enforce the permits, and aid in a successful research program. All data gathered will help the Department determine if a larger fishery for box crab is appropriate.

If approved at the December 12 Commission meeting, the Department will issue permits before January 1, 2019.

If you have any questions on this item, please contact Dr. Craig Shuman, Regional Manager of the Marine Region, at (916) 445-6459 or Craig.Shuman@wildlife.ca.gov.

Attachments:

- List of applicants
- Potential experimental gear permit terms and conditions

ec: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Craig Shuman, D. Env., Regional Manager
Marine Region
Craig.Shuman@wildlife.ca.gov

Sonke Mastrup, Environmental Program Manager
Marine Region
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Michelle Selmon, Program Manager
Regulations Unit
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Mike Stefanak, Assistant Chief
Law Enforcement Division
Mike.Stefanak@Wildlife.ca.gov

Robert Puccinelli, Captain
Law Enforcement Division
Robert.Puccinelli@wildlife.ca.gov

Tom Mason, Senior Environmental Scientist (Supervisor)
Marine Region
Tom.Mason@wildlife.ca.gov

Melissa Miller-Henson, Acting Executive Director
Fish and Game Commission
December 3, 2018
Page 3 of 2

Julia Coates, Environmental Scientist
Marine Region
Julia.Coates@wildlife.ca.gov

Susan Ashcraft, Marine Advisor
Fish and Game Commission
Susan.Ashcraft@fgc.ca.gov



Rec. 12-4-18

Took H.C. to FGC office

To: Charlton H. Bonham, Director

Date: 11/30/18

Subject: Dec FGC Meeting: Box Crab Experimental Gear Permit Documents

Action:



For Signature



For Approval



For Information



Other:

Sent out 12/16/18

Author: Julia Coates

Title: Environmental Scientist

Region/Branch: Marine Region

Issue Statement:

The Department has developed plans for a collaborative research program utilizing experimental gear permits to study the potential for development of a box crab fishery. The attached Memo details the number of qualified applicants. Draft permit terms and conditions and documents meeting project CEQA requirements are also attached.

Summary of Implications:

Authorization of this memo will allow for presentation of a list of fishermen qualified to be considered for box crab experimental gear permits to the Fish and Game Commission for their selection of permittees in advance of the December 12, 2018 Fish and Game Commission meeting. It will also allow for Commission approval of final permit terms and conditions.

Effects on Existing Law
or Regulation: N/A

Estimated Costs:

\$0.00

Time Factor or
Limitations:

Due to Commission by November 29

Recommended Action:

Approve and sign the eDAR to transmit the attached memorandum and CEQA documents to the Commission for inclusion in the December 2018 meeting materials.

- ☒ Legal Office Review/Signature: Bogdan, Wendy@Wildlife Date: December 3, 2018
- ☒ Enforcement Review/Signature: Bess, David@Wildlife Date: December 4, 2018
- ☒ LRB Review/Signature: Morgan, Joshua@Wildlife Date: December 4, 2018
- ☐ Fisheries Branch Review/Signature: _____ Date: _____
- ☐ Wildlife Branch Review/Signature: _____ Date: _____
- ☐ Marine Region Review/Signature: _____ Date: _____
- ☐ Budgets Branch Review/Signature: _____ Date: _____

Supervisor

Print Name:

Signature: _____

Date:

Title: Select Title or type in Title of Signatory

Region/Branch/Division:

Phone:

Print Name: Craig Shuman

Signature: Shuman, Craig@Wildlife

Date: 11/30/18

Title: Regional Manager

Region/Branch/Division: Marine Region

Phone: 916-445-6459

Print Name: Michelle Selmon

Signature: Selmon, Michelle@Wildlife

Date: 12/4/18

Regulations Unit Manager

Wildlife and Fisheries Division

Phone: 916-632-4674

Print Name: Stafford Lehr

Signature: _____

Date: 12/4/18

Deputy Director

Wildlife and Fisheries Division

Phone: 916-653-4673

Print Name: Melissa Miller-Henson (Acting)

Signature: See email Attached

Date: 12-5-18

Executive Director, Fish and Game Commission

Charlton H. Bonham, Director

Signature: Approved per Signature

Date: _____

M O M 11

Memorandum

2018 DEC -6 AM 8:15

Date: December 3, 2018

To: Melissa Miller-Hensen, Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Box Crab Experimental Gear Permit Program CEQA Overview**

In April 2018, the California Department of Fish and Wildlife (Department) determined that the fishery for non-Cancer crab, which includes box crab, is an "emerging fishery" under the Marine Life Management Act. Fish and Game Code (FGC) Section 7090 requires the Fish and Game Commission (Commission) to encourage, manage, and regulate emerging fisheries. In October 2018, the Commission adopted regulations to limit incidental take of box crab in trap fisheries pursuant to FGC Section 7090(d)(1). As a first step to address the biological concerns and industry interest, the regulations were designed to slow current harvest rates while research is conducted, and to allow development of an experimental gear permit (EGP) for box crab to investigate the potential for a targeted fishery.

The proposed project is to issue EGPs to eight qualified fishermen, allowing development of a collaborative research program to study the brown box crab (*Lopholithodes foraminatus*) and the potential for development of a new target fishery under FGC section 8606. The research program goals will be to determine a sustainable harvest level for box crab, monitor bycatch associated with box crab, and determine potential appropriate fishery management procedures. The purpose of this memo is to describe staff's analysis of use of a categorical exemption under the California Environmental Quality Act (CEQA) for approval of EGPs.

Categorical Exemption for Information Collection

The approval of EGPs for box crab by the Commission is an action subject to CEQA. The review effort by Department staff pursuant to CEQA Guidelines section 15066 lead staff to conclude that the proposed action would fall within the Class 6 categorical exemption (CEQA Guidelines section 15306). This exemption is related to agency actions for information collection. The project is a collaborative research program between the Department, commercial trap fishermen, academics, and NGOs utilizing experimental gear permits to collect biological data and evaluate the potential for a targeted box crab fishery. There is no guarantee of a box crab fishery following the completion of the experimental period. In the Department's view, the Commission's approval of these EGPs is an activity that is the proper subject of CEQA's Class 6 categorical exemption.

No Exceptions to the Categorical Exemptions Apply

As to the exceptions to categorical exemptions set forth in CEQA Guidelines section 15300.2, including the prospect of unusual circumstances and related effects, the Department's review was guided by the California Supreme Court's recent decision in *Berkeley Hillside Preservation v. City of Berkeley*. Staff has reviewed all of the available information possessed by the Department relevant to the issue and does not believe approval of the EGPs poses any unusual circumstances that would constitute an exception to the categorical exemptions set forth above. Compared to the activities that fall within Class 6 generally, which include the given examples of data collection and research activities such as the effort here, there is nothing unusual about the proposed regulations.

In addition, even if there were unusual circumstances, no potentially significant effects on either a project-specific or cumulative bases are expected. The intent of the permits are to allow for a limited use of existing gear types to target box crab under an experimental gear permit program that requires monitoring and research. The minimal number of permits are not expected to have any impact on the environment. Additionally, should the Commission approve the EGPs using the potential permit conditions provided by the Department, those permit conditions will minimize any potential for environmental impacts.

Therefore, in the Department's view, the Commission's reliance on the Class 6 categorical exemption should not be precluded by the exceptions set forth in CEQA Guidelines section 15300.2.

Attachments



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Director's Office
P.O. Box 944209
Sacramento, CA 944209-2090
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



December 12, 2018

ATTACHMENT TO NOTICE OF EXEMPTION Box Crab Experimental Gear Permit Program

The California Fish and Game Commission (Commission) has taken final action under the Fish and Game Code with respect to the Box Crab Experimental Gear Permit Program on December 12, 2018. In taking its final action for the purposes of the California Environmental Quality Act (CEQA, Pub. Resources Code, § 21000 *et seq.*), the Commission approved experimental permits to eight fishermen relying on the categorical exemption for "Information Collection" contained in CEQA Guidelines section 15306. (Cal. Code Regs., tit. 14, § 15306).

Categorical Exemption for Information Collection

The categorical exemption applies to agency actions that consist of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. The project may be for information-gathering purposes, or as part of a study leading to future action which the agency has not yet taken.

This project is a collaborative research program between the California Department of Fish and Wildlife (CDFW), commercial trap fishermen, academics, and NGOs utilizing experimental gear permits to collect biological data and evaluate the potential for a targeted box crab fishery. There is no guarantee of a box crab fishery following the completion of the experimental period. Because the project involves information gathering for possible future consideration by the Commission and will not result in significant disturbances to the box crab resource, Commission adoption of these regulations is an activity that is the proper subject of CEQA's Class 6 categorical exemption.

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: N/A

From: (Public Agency): CA Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

(Address)

Project Title: Box Crab Experimental Gear Permit Program

Project Applicant: California Department of Fish and Wildlife (CDFW)

Project Location - Specific:

Statewide

Project Location - City: N/A

Project Location - County: N/A

Description of Nature, Purpose and Beneficiaries of Project:

The project is a collaborative research program between CDFW, commercial trap fishermen, academics, and NGOs utilizing experimental gear permits to collect biological data and evaluate the potential for a targeted box crab fishery. Because the project involves information gathering for possible future consideration by the Fish and Game Commission, there is no guarantee of a box crab fishery following the completion of the experimental period.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Game

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: § 15306 - Information Collection
- ☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The project is exempt because it will consist of basic data collection, research, and experimental management, and resource evaluation activities and will not result in a serious or major disturbance to an environmental resource. CEQA Guidelines §15306 exempts such a project for information-gathering purposes, or as part of a study leading to future action which the agency has not yet taken.

Lead Agency

Contact Person: Melissa Miller-Hensen

Area Code/Telephone/Extension: (916) 653-4899

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: _____ Date: _____ Title: Acting Executive Director

☐ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

2018 NOV 19 AM 10:05

Memorandum

Date: November 15, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Wildlife Commission
Game

From: Charlton H. Bonham
Director



Subject: **Marine Protected Areas Management Program Updates for 2018**

Overview:

In 2016, the California Fish and Game Commission (Commission) requested the California Department of Fish and Wildlife (Department) to prepare annual updates about the management of California's marine protected areas (MPAs). As the primary managing agency, the Department, along with core partners, developed an MPA Management Program ([Management Program](#)) to manage the MPAs as a statewide network using a collaborative partnership-based approach. The Management Program is composed of four components: 1) outreach and education, 2) research and monitoring, 3) enforcement and compliance, and 4) policy and permitting. This approach is essential to inform adaptive management of the MPA network and to help meet the goals of the Marine Life Protection Act (MLPA). This memo highlights the Department's activities in the Management Program within each of the four program components in 2018.

Outreach and Education:

Efforts continue to focus on increasing public awareness to improve compliance and understanding of California's network of MPAs.

Video, Blogs and Newsletters

- A new MPA film "[Safeguarding an Underwater Wilderness](#)" was developed and released. Our partners at public aquaria, visitor centers, chambers of commerce, ocean outreach events, and more played this video.
- The Department's Marine Management News blog series [Exploring California's Marine Protected Areas](#) continues to receive positive feedback.
 - 6 stories highlighting 10 MPAs were posted January through October 2018
- A new monthly [e-newsletter](#) provides management updates to subscribers including California stakeholders, government agencies, non-profits, international representatives, and more.

- We continue to provide current Management Program updates through our partners' newsletters such as the California's Collaborative Network quarterly [newsletter](#).
- An article on one of California's MPAs was published in the March-April issue of Outdoor California's magazine entitled, [*Crystal Cove: Exploring California's Undersea Wilderness off Orange County's Protected Wild Coast*](#).

Education

In 2018, over 15,600 students participated in the [MPA Parks Online Resources for Teachers and Students \(PORTS\) programs](#), and over 60,000 students have participated since this Department and California Department of Parks and Recreation (Parks) partnership began in 2014. The PORTS program connects resource experts in the field with students in their classrooms.

- Core-curriculum teaches students about California's MPAs. Modules include Año Nuevo State Marine Reserve (SMR), Point Lobos SMR, Crystal Cove State Marine Conservation Area (SMCA), and Pyramid Point SMCA, where students learn about elephant seals, kelp forests, tide pool ecology, and salmon lifecycle, respectively.
- Department funding ended on June 30, 2018 and was replaced by a larger OPC-funded partnership for MPA outreach between the Department, OPC and Parks.

Guidebooks and Brochures

More than 65,600 MPA outreach materials including guidebooks, brochures, posters, logo stickers, and information cards were printed and distributed. A new [poster](#) showcasing species likely to benefit from MPAs and a general [MPA brochure](#) were produced and distributed.

Signage

Department staff reviewed and approved signage development and placement statewide for 11 "You Are Here" signs, 11 "No Fishing" signs, 33 "Interpretive" signs, and four "Harbor" signs (see Attachment 1). Since 2003, our partners at the Resources Legacy Fund (RLF) and the Ocean Protection Council (OPC) have funded, and the California Marine Sanctuary Foundation has coordinated the design and placement of more than 450 informative MPA signs and panels.

Presentations

Department staff made over 25 presentations about the Management Program at various scientific and public venues, including: the California Cooperative Oceanic Fisheries Investigations annual meeting, Commission and Marine Resource Committee meetings, Reef Check California's (RCCA) annual instructor training, Aquarium of the Pacific scientific diver training, and Oregon-California MPA Forum.

Partnerships

The MPA Statewide Team (Leadership Team) and MPA Collaborative Network continue to form the foundation for the Department's partnerships in MPA

management. The Department's Director endorsed and the OPC approved the Leadership Team's Work Plan for fiscal years 2018/19-2020/21. The Work Plan ensures we maintain management momentum, address emerging needs and keep California's MPAs on track to meet the goals of the MLPA.

Our coordination with each of the 14 collaboratives in the MPA Collaborative Network facilitated development of specific coastal county resource needs including the development and installation of regulatory signs, development of maps and Department approved text for local brochures, and materials and information at outreach events.

CDFW, OPC, and the Oregon Department of Fish and Wildlife met to further develop and align criteria for long-term monitoring for program evaluations and to find opportunities for sharing resources and next steps for working together.

Research and Monitoring:

The vehicle for managing research and monitoring activities across California's MPA network is the [MPA Monitoring Program](#), implemented using a two-phased, ecosystem-based approach.

Phase 1: Regional, baseline monitoring

Baseline monitoring established a comprehensive benchmark of ecological, oceanographic, and socioeconomic conditions at or near the time of regional MPA implementation and serves as an important set of data against which future conditions can be measured. Phase 1 concluded in February 2018, with data and results for the North Coast MPAs described in technical reports for each funded project and summarized into a "[State of the Region](#)" report. This information was used to develop an initial [5-year management review](#) regarding regional MPA implementation. All Phase 1 products are available [here](#).

Phase 2: Statewide, long-term monitoring

To guide long-term monitoring, an MPA Monitoring Program Action Plan ([Action Plan](#)) was developed by the Department and OPC and adopted by the Commission and OPC in October 2018. OPC has approved \$9.4 million for long-term monitoring, and a solicitation for proposals and statement of qualifications was released November 1, 2018 for long-term MPA monitoring projects. Projects will be selected based on their alignment with the Action Plan and will begin data collection in 2019 upon OPC's approval at their May 2019 meeting.

Additional Research

- The Department, in partnership with Marine Applied Research and Exploration, completed a [deep-water visual survey](#) off the coast of Anacapa Island using a remotely operated vehicle. This survey yielded valuable information on warty sea cucumber populations both inside and outside MPAs this is being used to inform the management of this commercially valuable species.

- In coordination with Partnership for Interdisciplinary Studies of Coastal Oceans (PISCO) and RCCA, Department divers and research vessels were deployed to assist these programs in implementing state funded MPA monitoring work in the central and south coast regions.
 - A new research vessel, the [R/V Mystinus](#), was deployed this year, and is based out of Monterey. Since its maiden voyage, the R/V Mystinus has been used in collaboration with partners at PISCO and RCCA for a combined 12 field days and over 150 dives to conduct monitoring surveys inside and outside central coast MPAs.
 - The R/V Garibaldi, based out of Long Beach, was also used in collaboration with partners at PISCO and RCCA for over 30 field days and over 530 dives to conduct monitoring surveys inside and outside in southern California MPAs.
- The Department continues to build and maintain working relationships with many of our partner organizations by supporting their field operations to increase the scientific capacity of the MPA Monitoring Program. Staff spent more than 40 days in the field supporting PISCO, RCCA, the Multi-Agency Rocky Intertidal Network, Redwood National and State Parks – Redwood Creek Estuary, Monterey Bay National Marine Sanctuary, National Oceanic and Atmospheric Administration, National Parks Service, Channel Islands National Marine Sanctuary, Scripps Institution of Oceanography, and Vantuna Research Group.

Policy and Permitting:

Regulatory Amendments

As part of the adaptive management framework, the Commission adopted two Department recommended MPA regulatory packages in August 2018: 1) [repeal Rockport Rocks Special Closure](#), and 2) [tribal take in MPAs](#) in four SMCAs (Kashtayit, Naples, Point Dume and Anacapa Island) and boundary modification for Stewarts Point SMCA.

International Union for the Conservation of Nature (IUCN)

In [August 2018](#), 17 California ocean [stakeholders](#) were selected by the IUCN to hold evaluation meetings and site visits to assess how California's MPA network aligns with the IUCN's [Green List program](#). If added, California's MPA network would be the first MPA network in the world added to the green list.

Scientific Collecting Permits (SCP)

SCP applications requesting access to MPAs are now assessed through an ecological decision framework. The framework uses a model to quantify cumulative impacts of research take inside MPAs. This framework also allows the SCP reviewer to make objective, quantitative, and transparent decisions on which research projects to permit inside MPAs. From January through October 2018, 161 SCPs were issued for research within MPAs.

Enforcement and Compliance:

MPA Citations

From January through June 2018, over 11,000 MPA related contacts were made by our Law Enforcement Division (LED) staff, resulting in 396 warnings and 222 citations.

Coordination

- LED staff took part in allied agency MPA enforcement trainings throughout the state
- Management Program staff coordinated with LED to compile, analyze, and interpret LED citation data for the first five years of MPA implementation in the North Coast MPA region, and to clarify MPA regulations to improve MPA compliance

Legislation

On August 24, 2018 [Assembly Bill 2369](#) was signed by Governor Brown, and goes into effect January 1, 2019. This bill increases penalties for commercial fishing operations found violating MPA regulations.

Enforcement Tools

LED continues efforts to improve the enforcement and compliance of wildlife violations through the development of a new electronic records management system. The new system help identify violation hot spots, repeat offenders, and cross county offenders.

Looking Forward:

The Department and its partners continue to work towards achieving the goals and requirements of the MLPA through the Management Program. Significant transitions and next steps include initiation of the long-term monitoring and preparation for the decadal MPA network evaluation in 2022.

These highlights would not be possible without leveraging numerous cooperative partnerships from statewide, regional, and local scales. The Department will continue to provide the Commission with annual MPA highlights to facilitate conversations about the adaptive management of the network.

If you have any questions or need more information, please contact Dr. Craig Shuman, Marine Regional Manager, at (916) 445-6459.

Attachment

ec: Stafford Lehr, Deputy Director
Wildlife and Fisheries Branch
Stafford.Lehr@Wildlife.ca.gov

Melissa Miller-Henson, Acting Executive Director
Fish and Game Commission
November 15, 2018
Page 6

Craig Shuman, D. Env, Region Manager
Marine Region
Craig.Shuman@wildlife.ca.gov

Mike Stefanak, Assistant Chief
Law Enforcement Division
Mike.Stefanak@wildlife.ca.gov

Becky Ota, Program Manager
Marine Region
Becky.Ota@wildlife.ca.gov

Deborah Halberstadt
Deputy Secretary for Ocean and Coastal Matters
Natural Resources Agency
Deborah.Halberstadt@resources.ca.gov

Conserving California's Coastal Treasures

Marine Protected Areas Safeguard Our Ocean's Bounty

A statewide network of Marine Protected Areas (MPAs) safeguards California's rich coastal resources. Located in one of the most spectacular and pristine segments of the California coast, ocean waters near Trinidad are vital to Native American communities and commercial fishing fleets. Today these waters have several layers of protection to ensure that the abundance of marine life continues to provide a way of life for communities nearby.

Trinidad Rancheria

Treasuring Culture, Honoring Tradition

People of Trinidad Rancheria depend on the rich diversity of marine and coastal plants found within tribal lands, and our ancestral territory, as part of our daily lives. From the ocean we harvest salmon, clams and abalone (as food and for the shells used in ceremonial regalia), mussels, seaweed, eels, crab, surf fish, candle fish, and sea salt.

Our Elders share memories of subsistence gathering and prayer activities all along the coast, from Luffenholz beach to Trinidad Harbor and beyond.

Every object or feature within the cultural landscape has importance in our traditional way of life—from the sharp rock in the water known as kwee-ge-rep to remnants of our former village homes. This land and the beings that inhabit it are an integral part of who we are as a people. Without them, we do not exist.

For MPA boundaries, maps, coordinates, and allowed uses, go to: www.wildlife.ca.gov/marine/MPA
Report violations: (866) 334-CALTIP (866) 334-2258

Trinidad Head ASBS
Created to help protect water quality from local and urban runoff.

Reading Rock State Marine Reserve (SMR)
No take, damage, injury, or possession of any living, geological, or cultural marine resource is allowed.

Reading Rock State Marine Conservation Area (SMCA)
Some recreational and/or commercial take of marine resources may be allowed.

Trinidad Coast
Trinidad's majestic sea stacks are part of the California Coastal National Monument including rocks and islands that line the California coast from Oregon to Mexico.

Trinidad Bay is a seasonal fleet of salmon and crab fishermen and many charter fishing operations that offer recreational fishing opportunities.

Trinidad's rocky clefts are home to one of the most diverse seabird colonies in California with booby species and over 100,000 breeding individuals.

MPA—Good for the Ocean, Good for You!

Interpretive Panel

MARINE PROTECTED AREA

SWAMI'S STATE MARINE CONSERVATION AREA

Swami's State Marine Conservation Area (Take Restrictions Apply)

TAKE RESTRICTIONS APPLY
PESCA RESTRINGIDA

CDFW-MPA Mobile

C.C.R. Title 14, Section 632. Report violations to 1-866-334-CALTIP (1-866-334-2258). For more detailed information on regulations, boundaries, coordinates, and definitions, visit: www.wildlife.ca.gov/MPAs

MARINE PROTECTED AREA

NO FISHING OR COLLECTING

C.C.R. TITLE 14, SECTION 632
www.wildlife.ca.gov/MPAs
REPORT VIOLATIONS TO:
1-888-334-CALTIP (2258)

CALIFORNIA MARINE PROTECTED AREAS

You are Here Sign (left)
No Fishing Sign (right)

Conserving California's Coastal Treasures

California's marine protected areas (MPAs) conserve, restore, and improve the health of our ocean, similar to national parks and forests on land. The California MPA network includes MPAs and other protected areas. Each area is unique in its purpose and allowed uses.

Protected areas around Lawson's Landing are:

- Bodega Head, Estero de Linconour, Point Reyes, North Farallon Islands, and Southwest Farallon Island State Marine Reserves (SMR). No take, damage, injury, or possession of any living, geological, or cultural marine resource is allowed.
- Russian River, Bodega Head, Drake Estero, Point Reyes, Duxbury Reef, and Southwest Farallon Island State Marine Conservation Areas (SMCA). Some recreational and/or commercial take of marine resources may be allowed. La toma de algunos recursos marinos, como la pesca y la recolección de conchas, es permitida.
- Russian River, Estero de Linconour, and Estero de San Antonio State Marine Recreational Management Areas (SMRMA). Legal waterfowl hunting is allowed.
- Point Reyes, Bodega Head, Point Reyes Headlands, Douglas Point, Stearns Strand, North Farallon Islands, and Southwest Farallon Island State Marine Reserves (SMR). No take, damage, injury, or possession of any living, geological, or cultural marine resource is allowed.
- Point Reyes, Bodega Head, Drake Estero, Point Reyes, Duxbury Reef, and Southwest Farallon Island State Marine Conservation Areas (SMCA). Some recreational and/or commercial take of marine resources may be allowed. La toma de algunos recursos marinos, como la pesca y la recolección de conchas, es permitida.
- Russian River, Estero de Linconour, and Estero de San Antonio State Marine Recreational Management Areas (SMRMA). Legal waterfowl hunting is allowed.

MPA—Good for the Ocean, Good for You!
Know the Rules Before You Head Out.

For MPA boundaries, maps, coordinates, and allowed uses, go to: www.wildlife.ca.gov/MPAs
MPA related questions? Contact: MPA@wildlife.ca.gov

Lawson's Landing Information: (707) 876-2443
Report Violations: (866) 334-CALTIP (866) 334-2258

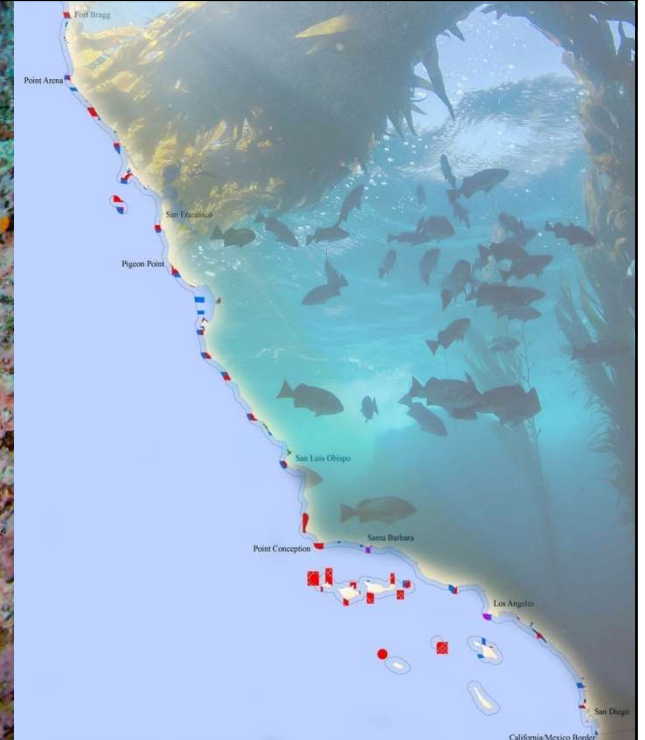
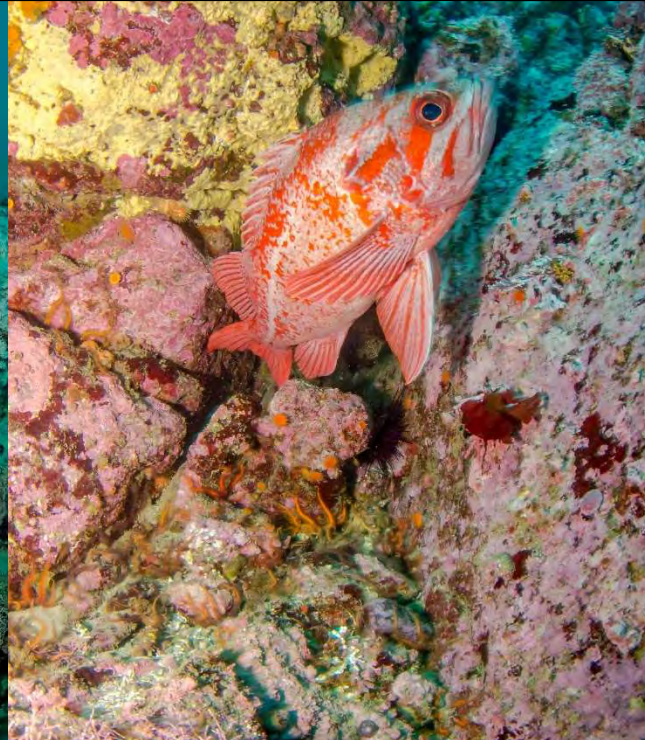
Harbor Panel



Marine Protected Areas Management Program Highlights - 2018



All photo credits: Nick Perkins



Amanda Van Diggelen, Environmental Scientist

California Fish and Game Commission Meeting

December 12-13, 2018

Oceanside, CA



Outline

MPA Management Program

Highlights



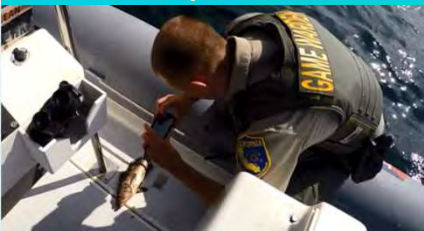
Outreach and Education



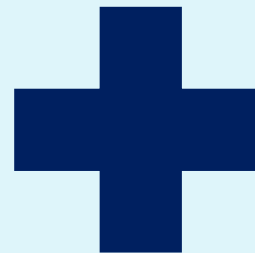
Research and Monitoring



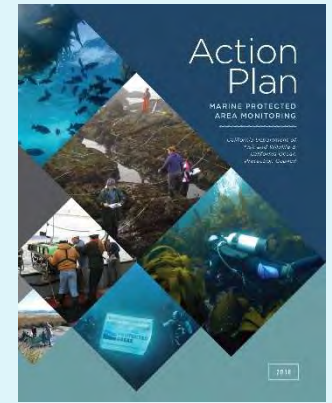
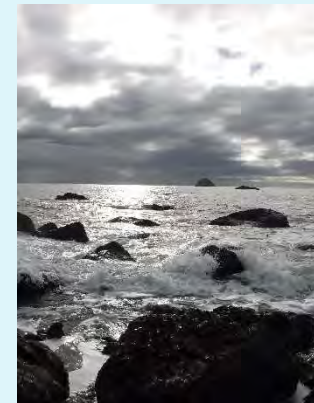
Enforcement and Compliance



Policy and Permitting



Next Steps





MPA Statewide Leadership Team



**OCEAN
PROTECTION
COUNCIL**

Regional Tribal Representation



**COLLABORATIVE
NETWORK**



**NATIONAL MARINE
SANCTUARIES**
WEST COAST REGION



**CALIFORNIA
OCEAN
SCIENCE
TRUST**



RESOURCES LEGACY FUND
Creative Solutions. Lasting Results.



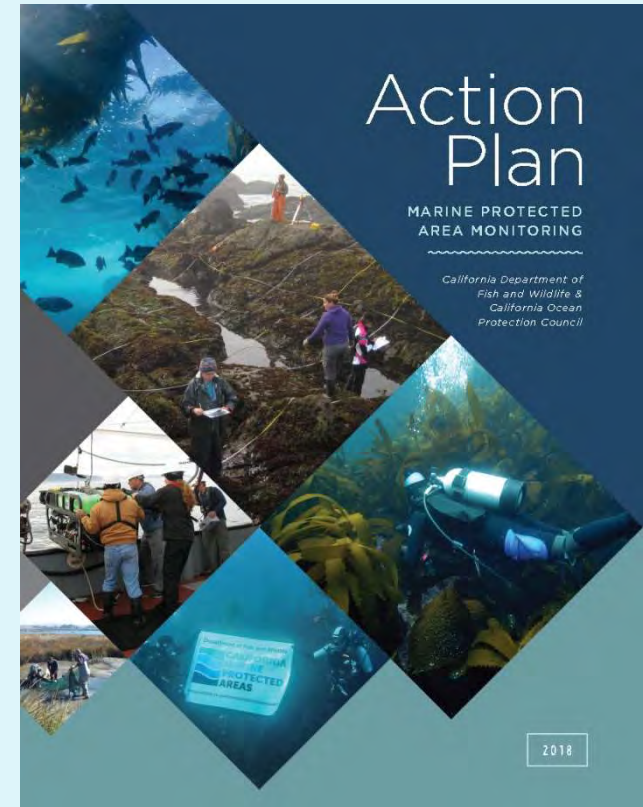
**CALIFORNIA STATE
LANDS
COMMISSION**



MPA Management Program Highlights

Statewide long-term monitoring

- Priority habitats (kelp forest, rocky intertidal, mid-depth rock)
- Upcoming monitoring (May 2019)
 - \$9.5 million
 - Key habitats, indicator species, human uses
 - Traditional Ecological Knowledge

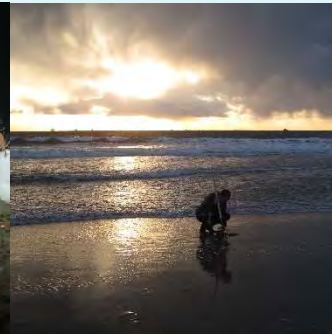




Additional Highlight

International Union for Conservation of Nature (IUCN)

- Working to achieve global protected area management standards





Outreach and Education

Interpretive and regulatory signs

- 59 installed statewide
- 450+ installed to date

Parks Online Resources for Teachers and Students (PORTS)

- 15,600+ students participated

Communicate MPA information

- CNRA open data platform
- Informative MPA videos
- MPA management e-news
- MPA Collaboratives
- Distribute MPA Publications
- Exploring CA MPAs blog series





Research and Monitoring

Phase 1: regional, baseline monitoring

- Completed February 2018

Phase 2: statewide, long-term monitoring

- Guided by Action Plan
- \$9.5 M long-term monitoring funds

Additional Research

- Remotely operated vehicle surveys
- Research vessel collaboration
 - Over 680 kelp forest monitoring scuba dives
- Field operation partnerships
 - 10+ monitoring programs over 40+ field days





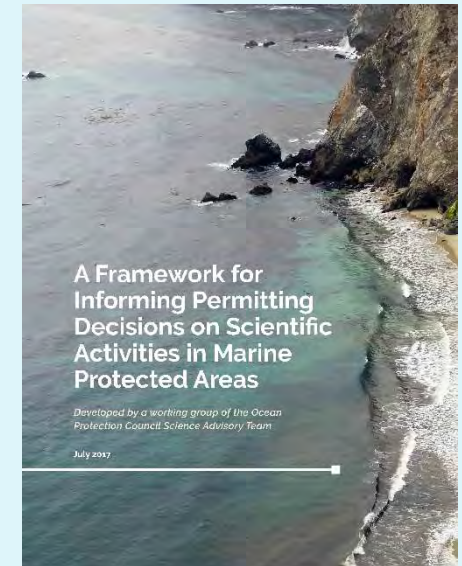
Policy and Permitting

Scientific Collecting Permits (SCPs)

- 161 SCPs issued for research in MPAs
 - 564 SCPs issued from 2014 to 2017
- Journal Publication, June 2018

2018 Regulatory Packages

- Repeal Rockport Rocks Special Closure
- Boundary change, Stewarts Point SMR and SMCA
- Tribal take in MPAs

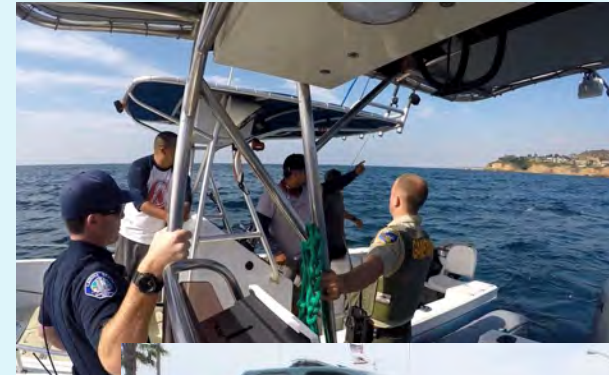




Enforcement and Compliance

Enforcement

- New Fish and Game Code increases penalties for commercial MPA violations
- Over 11,000 MPA related contacts from January to June 2018
 - 396 warnings
 - 222 citations issued



Enforcement Tools

- Developing a records management system





Looking Forward

Statewide Long-term Monitoring

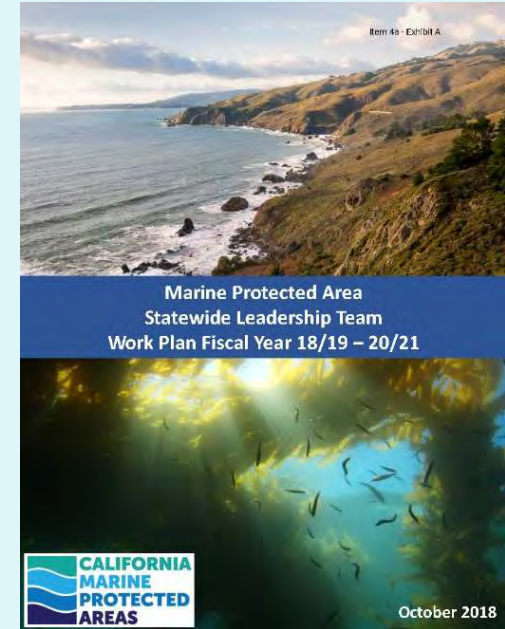
- Begins May 2019
- Guided by MPA Monitoring Action Plan

Partnership Team Workplan

- Approved by Ocean Protection Council
- Outlines MPA Leadership Team priorities

10-year Management Review

- 2022
- Working with Oregon DFW partners





Thank You ♦ Questions?



Amanda Van Diggelen

Amanda.VanDiggelen@wildlife.ca.gov



STAFF SUMMARY FOR AUGUST 16, 2017

17. FISHERIES AUTOMATIC CONFORMANCE PROCESS**Today's Item****Information** ☐**Action** ☒

Adopt proposed regulation for a process to automatically conform state recreational fishing regulations to federal regulations.

Summary of Previous/Future Actions

- | | |
|-----------------------------------|---------------------------------|
| • Notice hearing | Apr 26-27, 2017; Van Nuys |
| • Discussion hearing | Jun 21-22, 2017; Smith River |
| • Today's adoption hearing | Aug 16, 2017; Sacramento |

Background

For species managed under federal fishery management plans or regulation, FGC usually takes concurrent action to conform State recreational regulations to federal regulations adopted by the National Marine Fisheries Services (NMFS); this dual process is redundant and inefficient. The proposed regulation, Section 1.95, Title 14, will establish a process through which State recreational fishing regulations for salmon and Pacific halibut will automatically conform to federal regulations, unless FGC adopts regulations for said species using the regular rulemaking process.

For annual regulations or corrections to annual regulations for salmon and Pacific halibut, the proposed regulation would require, no later than 10 days after federal regulations are published in the Federal Register, that:

- FGC submit amended State regulations to the Office of Administrative Law for publication in the California Code of Regulations, and file the amended State regulations with the Secretary of State;
- DFW issue a news release announcing the Federal Register in which the federal regulations are published and the effective date of the conformed State regulations;
- FGC mail or email the news release to interested parties;
- To the extent practicable, DFW provide information on any changes to the State regulations via public contact, electronic notification, and online and printed publications.

The proposed regulation would also require that an update on the conformed State regulations be included on the agenda of the next regularly-scheduled FGC meeting.

For in-season changes to regulations for salmon and Pacific halibut, the proposed regulation indicates that State regulations shall conform to the applicable federal regulations publicly noticed through the NMFS ocean salmon hotline and NMFS Area 2A Pacific halibut hotline, respectively.

STAFF SUMMARY FOR AUGUST 16, 2017

Significant Public Comments

1. One oral comment in support of the proposed regulation was received at the Jun 22, 2017 FGC meeting.

Recommendation

FGC staff: Adopt the regulation as proposed.

Exhibits

1. DFW memo, received Apr 11, 2017
2. Initial statement of reasons
3. Draft notice of exemption

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts proposed Section 1.95, related to a process to conform State recreational fishing regulations to federal regulations and that the Commission has determined, based on the record, this approval is exempt from the California Environmental Quality Act pursuant to the guidelines in Title 14 sections 15307 and 15308.



FACT SHEET: SALMON

17

SALMON SPECIES

The Council manages Chinook and coho salmon. In odd-numbered years, the Council may manage pink salmon near the Canadian border. Sockeye, chum, and steelhead are rarely caught in the Council's ocean fisheries.

Chinook salmon (*Oncorhynchus tshawytscha*) ("king" or "tyee") are the largest and most highly prized of the Pacific salmon. Like all salmon, Chinook are anadromous, which means they hatch in freshwater streams and rivers, migrate to the ocean for feeding and growth, and return to their natal waters to spawn. Chinook salmon can live up to seven years. They return to their natal waters after 1-5 years in the ocean.

Chinook from Washington, Oregon, and California range widely throughout the Pacific Ocean and the Bering Sea, and as far south as the

U.S. border with Mexico.

Some wild Chinook populations have disappeared from areas where they once flourished, and several "evolutionarily significant units" (distinct populations) have been listed as at risk for extinction under the federal Endangered Species Act.

Coho or "silver" salmon (*Oncorhynchus kisutch*) are found in streams and rivers throughout much of the Pacific Rim. Coho have a life history similar to Chinook. Coho in Council-managed waters typically spend only one year in the ocean. North of central British Columbia, they tend to spend two years in the ocean.

Coho generally use smaller streams and tributaries than Chinook. They are most abundant in coastal areas from central Oregon to southeast Alaska.

MANAGEMENT

Because salmon migrate so far in the ocean, managing ocean salmon fisheries is extremely complex.

Salmon are affected by many factors in the ocean and on land, including ocean and climate conditions, dams, habitat loss, urbanization, agricultural and logging practices, water diversion, and predators (other fish, birds, marine mammals, and humans).

Several different regions and groups are involved in the salmon fishery:

Recreational fisheries take place in the ocean, in Puget Sound, the Strait of Juan de Fuca, and coastal bays, and in freshwater (including Columbia River Buoy 10). The Council manages recreational catches in the ocean but works closely with states on management in other areas.

Commercial fisheries include treaty Indian and non-Indian ocean troll, Puget Sound net, gillnet in Washington coastal bays, non-Indian gillnet in the Lower Columbia river, and treaty Indian gillnet and dipnet (?) in the mid-Columbia river. Again, the Council manages fisheries in Federal (ocean) waters, but works closely with states and tribes on fisheries in other areas.

Tribal Ceremonial and Subsistence fisheries occur in Puget Sound, Washington coastal rivers and bays, Columbia River and tributaries, and in the Klamath and Trinity Rivers. The tribes manage these fisheries in coordination with the Council.

COUNCIL PROCESS

The Council's Salmon Fishery Management Plan guides the management of commercial and recreational salmon fisheries



ADVISORY BODIES:

- ◆ SALMON ADVISORY SUBPANEL
- ◆ SALMON MANAGEMENT TEAM
- ◆ MODEL EVALUATION WORKGROUP
- ◆ HABITAT COMMITTEE

FACT SHEET: SALMON

off the coasts of Washington, Oregon, and California. The Council works with its member states and treaty tribes on salmon management issues.

Management tools such as season length, quotas, and bag limits vary depending on how many salmon are present. There are two central parts of the fishery management plan: *conservation objectives*, which are annual goals for the number of spawners of the major salmon stocks (“spawner escapement goals”), and *allocation provisions* of the harvest among different groups of fishers (commercial, recreational, tribal, various ports, ocean, and inland). The Council must also comply with laws such as the Endangered Species Act.

Every year the Council follows a preseason process to develop recommendations for management of the ocean fisheries (below).

HOW ARE SALMON COUNTED?

Correctly judging the size of salmon populations is a constant challenge. Salmon are affected by many natural and human-caused factors, so their numbers can vary widely. Estimating the effects of changes in ocean conditions and weather on salmon are difficult, but new research into the relationship between ocean environmental factors and salmon abundance show some promise. In addition, genetic stock identification

Date	Salmon management action
January	Salmon Technical Team and Council documents become available. Dates and locations of the two Council meetings, public hearings announced. Detailed schedule published. Salmon Technical Team meets to draft the review of ocean salmon fisheries for the previous year.
February through early March	Salmon Technical Team meets in February to draft preseason report with stock abundance forecasts, harvest and escapement estimates. State and Tribal management meetings take place. Salmon Technical Team reports summarizing the previous salmon season (Review), and projections of expected salmon stock abundance for the coming season (Preseason I) are posted online.
First or second full week of March	Council meeting. Typically, three alternatives are adopted for review at public hearings. These alternatives are initially developed by the Salmon Advisory Subpanel, refined by the Salmon Technical Team, considered along with public comment by the Council. Council also considers any emergency actions needed.
Week following March Council meeting	Public hearings announcement released. Preseason Report II released, outlining Council-adopted alternatives.
Prior to April Council Meeting	Agencies, tribes, and public meet to agree on allowable ocean and inside waters harvest levels north of Cape Falcon. The Council’s ocean fishery operations are refined.
Last week of March and first week of April	General time frame for formal public hearings on the proposed salmon management alternatives.
First or second full week of April	Council meeting. Final management measures recommended to National Marine Fisheries Service for adoption.
First week of May	Final notice of Commerce decision. Final management measures published in Federal Register.

FACT SHEET: SALMON

techniques are being investigated to see if differences in salmon stocks' ocean distribution can be used to improve management and reduce fishing impacts on weaker stocks.

Some of the methods that fisheries scientists use to collect data on salmon populations include weir/dam counts (where migrating fish are blocked and counted, such as at Bonneville Dam on the Columbia River, or with weirs on smaller rivers); carcass and redd (nest) surveys; creel surveys (to assess take in sport fisheries); trapping juvenile fish migrating downstream using rotary screw traps or other methods; snorkel surveys; and electrofishing (using electric current to stun juvenile salmonids, which are then captured with nets).

Coded wire tags have been used for 40 years to mark hatchery salmon and steelhead. This program provides information about ocean distribution patterns, fishery impacts, and survival rates for salmon along the Pacific coast.

ADVISORY BODIES

The Salmon Technical Team (STT) helps the Council by summarizing data from the previous season, estimating the number of salmon in the coming season, and analyzing the effects of the Council's recommendations and amendments. The STT is made up of eight people drawn from state, Federal, and tribal fisheries management agencies, all of whom have technical expertise in salmon management. STT meetings, like all Council advisory body meetings, are open to the public.

The Salmon Advisory Subpanel is made up of 17 members who represent commercial, recreational, and tribal interests, as well as a public representative and a conservation representative. These advisors play a large role in developing the Council's annual salmon management options in March and April.

The Model Evaluation Workgroup (MEW) reviews and modifies models used to predict the effects of harvest on conservation objectives and allocation provisions. The MEW is made up of scientists from state, tribal, and Federal management agencies.

The Habitat Committee tracks habitat issues for the Council. Many (though not all) of these issues involve salmon habitat. For example, the Habitat Committee has developed several Council comment letters on Klamath and Columbia River dam and habitat issues.

HOW TO GET INVOLVED

There are a few ways to get involved in the Federal salmon management process. First, read up on how salmon are managed and become aware of current salmon fishery issues. Listen in on the salmon agenda items during the March and April Council meetings (see our website, www.pccouncil.org, for details). Provide public comment by emailing pfmc.comments@noaa.gov (see the Council website for comment deadlines). Attend a salmon season hearing in a coastal community (usually held in March), or sit in on a Salmon Advisory Subpanel, Salmon Technical Team, or Habitat Committee meeting. If you have time, volunteer to serve on an advisory body.

CHALLENGES IN SALMON MANAGEMENT

Besides counting the fish, challenges include coordinating with international, regional, and local agencies and groups; judging the effects of regional fisheries on salmon stocks; recovering salmon under the Endangered Species Act; dividing the harvest fairly; and restoring freshwater habitat.

Farmed salmon, genetically modified salmon, bycatch, hatcheries, the differences between wild and hatchery salmon, and the role salmon play as forage for predators such as killer whales are other hot topics relating to salmon.

COUNCIL STAFF

Robin Ehlke is the Council staff officer responsible for salmon (robin.ehlke@noaa.gov, 503-820-2280 or toll free 866-806-7204)

Updated August 2017



FACT SHEET:

PACIFIC HALIBUT

22

THE HALIBUT FISHERY

Halibut are one of the most valuable fish species in the northern Pacific. Longlining is the main commercial gear used to target halibut, although there is some allowance for incidental catch in the commercial salmon troll and the primary sablefish fisheries. In 2016, just under 42 million pounds of halibut were removed from the population coastwide from all removals.

Halibut is also a very popular target for sport fishers. Oregon, Washington, and California have catch limits for recreational halibut fishing, as with commercial and tribal halibut fishing. The demand for halibut sport fishing is so high that closed seasons, bag limits, and possession limits, are all used to control the recreational fishery and extend the season as long as possible.

Pacific halibut fishing is an important part of several tribal cultures, and many tribal members participate in commercial, ceremonial and subsistence fisheries. Directed, non-treaty commercial fishing north of Pt. Chehalis, Washington is prohibited in order to allow the tribes to harvest their allocation of halibut.

THE FISH

Pacific halibut (*Hippoglossus stenolepis*) are large flatfish found on the continental shelf from California to the Bering Sea. Halibut have flat, diamond-shaped bodies, can weigh up to 500 pounds, and can grow to eight feet long.

Adult halibut migrate long distances from shallow summer

feeding grounds to deeper winter spawning grounds. Larvae begin life in an upright position with eyes on both sides of their head. When they are about an inch long, the left eye migrates over the snout to the right side of the head, and the color of the left side fades.

When the young fish are about six months old, they settle to the sea floor, where the protective coloring on their “eyed” side effectively camouflages them. Female halibut mature at around 12 years, while males mature at around eight years. Adult fish tend to remain in the same area year after year, except for their migration to deepwater spawning grounds. The oldest halibut on record, both male and female, is 55 years old. Adult halibut are sometimes eaten by marine mammals and sharks, but are rarely preyed upon by other fish.

MANAGEMENT

The U.S. West Coast non-Indian commercial directed halibut fishery uses a derby fishery system of ten-hour seasons and fishing period limits. Total catch is set by the International Pacific Halibut Commission (IPHC), and the Council then allocates that total among the following sectors: treaty Indian commercial and ceremonial & subsistence, sport, commercial non-Indian, directed longline, incidental salmon troll, and incidental longline in the primary sablefish fishery, north of Point Chehalis, Washington.

Each year the IPHC conducts a stock assessment to estimate the abundance of Pacific halibut using commercial fishery data and scientific surveys.

The IPHC uses a decision table to report the results of the annual stock assessment, effectively separating the science from policy. The decision table presents the IPHC Commissioners with a range of coastwide harvest levels, each with estimates of risk in terms of stock and

HOW TO GET INVOLVED

To propose or comment on a change to the Catch Sharing Plan, please submit comments to Robin Ehlke (robin.ehlke@noaa.gov), Pacific halibut staff officer, or to pfmc.comments@noaa.gov; or send a letter to the address below.

WHERE TO FIND REGULATIONS

NMFS Area 2A Halibut Hotline (for sport fishing): 1-800-662-9825, press 5

Commercial catch information from the International Pacific Halibut Commission (<http://tinyurl.com/nznjcd5>)

Sport catch information from the International Pacific Halibut Commission (<http://tinyurl.com/qeoqbni>)

Oregon sport halibut fishery regulations (<http://tinyurl.com/pkv5jzr>)

Washington sport halibut fishery regulations (<http://tinyurl.com/nc69g69>)

California sport halibut fishery regulations (<http://tinyurl.com/yb2x96dm>)

FACT SHEET: HALIBUT

fishery trend and status metrics.

The stock assessment is performed at a coastwide scale, but IPHC sets catch limits based on regulatory areas. Area-specific biomass estimates are derived by dividing up the coastwide estimate using the observed survey catch rates and bottom area, and accounting for hook competition from other species, and the timing of the survey and fishery removals. The Commissioners consider this data and the current harvest policy in determining the final catch targets for each year.

Currently, area-specific harvest rate targets are used to determine how many fish may be caught in a specific area. Area 2A is where halibut fisheries managed by the Pacific Council occur. The harvest rate is 21.5% for Areas 2A-3A (West Coast, British Columbia, Southeast Alaska, Gulf of Alaska), and 16.125% for Areas 3B-4CDE (Alaska peninsula, Aleutian chain, Bering Sea).

These rates are applied to the biomass estimates to generate a “total constant exploitation yield” (TCEY). Non-directed removals (such as recreational, personal use or subsistence removals, commercial fishery wastage, and bycatch in non-target fisheries) are then subtracted from the TCEY. The result is the “fishery constant exploitation yield” (FCEY), which is the amount available for harvest by the directed fisheries. The FCEY is then used by the regulatory agencies in each region to determine allocations and specific quotas.

For more information on how the FCEY is divided off the West Coast (Area 2A), see the Halibut Catch Sharing Plan, below, and How are Halibut Catch Limits Determined? (<http://tinyurl.com/o9rjxs6>) from the IPHC.

Date	Halibut management ac. on
January	International Pacific Halibut Commission sets the total allowable catch.
September Council meeting	Council solicits proposed changes to the Catch Sharing Plan
Between Sept. & Nov. meetings	Council takes comments on proposed changes to Catch Sharing Plan.
November meeting	Council makes final recommendations for changes.

HALIBUT HISTORY

Halibut have been fished for hundreds or thousands of years by native Americans on the West Coast. The U.S. commercial fishery started in 1888, when halibut were first landed in Tacoma, Washington. Many of these fishermen had fished halibut in Norway. Nova Scotians and Newfoundlanders are also found in the West Coast halibut fishery.

Because halibut can be kept for long periods of time without spoiling, they were a popular target. In the 1890s, a fleet of sailing vessels with two-man dories fished for halibut from the West Coast. Large steam-powered vessels soon entered the industry, and by the 1910s it became clear that halibut stocks were suffering from overfishing.

In 1923 the U.S. and Canada signed a convention on halibut, creating what was eventually called the International Pacific Halibut Commission. In 1924 the Commission implemented a three-month winter closure – the first management action to affect halibut.

The convention was revised several times over the years. The most recent change occurred in 1979, when each government was allowed to establish more restrictive regulations. Canada created a limited entry system in 1979 and an individual vessel quota system in 1991. Alaska created an individual fishing quota system in 1995, similar to the Canadian program, except that shares were issued to individuals instead of vessels. Also in 1995, non-tribal commercial fishers in Oregon, Washington, and California had to make a choice: participate in the sport charter industry for halibut, the commercial directed fishery, or the halibut incidental fishery in the salmon troll fishery.

CATCH SHARING PLAN

The Halibut Catch-Sharing dictates how the IPHC and National Marine Fisheries Service will divide the total allowable catch (TAC) for Oregon, Washington, and California halibut fisheries (Area 2A). The total TAC is set each January by the IPHC, which also endorses the Catch Sharing Plan allocations set by the Council. Allocations between some recreational areas are subject to inseason and other changes. For a description of how the halibut harvest is shared, see the 2017 Pacific Halibut Catch Sharing Plan for Area 2A (<http://tinyurl.com/y7lox37y>) which was adopted by the Council and recommended for NMFS implementation.

Updated January 2018

STAFF SUMMARY FOR OCTOBER 17, 2018**11. RED ABALONE FISHERY MANAGEMENT PLAN****Today's Item****Information** ☒**Action** ☐

Receive peer review results for draft red abalone fishery management plan (FMP), discuss peer review results, and discuss next steps.

Summary of Previous/Future Actions

- | | |
|---|-----------------------------|
| • FGC supports red abalone FMP development per MRC recommendation | Oct 8, 2014; Mt. Shasta |
| • DFW updates to MRC on FMP process and timeline | 2015-2017; MRC meetings |
| • Received update on FMP process | Dec 6-7, 2017; San Diego |
| • Discussed FMP scope and content | Apr 18-19, 2018; Ventura |
| • Last update on FMP schedule | Aug 22-23, 2018; Fortuna |
| • Today receive peer review results for draft FMP | Oct 17, 2018; Fresno |

Background

DFW is developing a red abalone FMP for adoption by FGC. Beginning in 2014, DFW provided updates at MRC meetings on the FMP process, progress, and stakeholder input. DFW abalone project staff have also kept FGC and MRC updated on the unprecedented environmental conditions on the north coast and subsequent biological impacts to abalone, and how those are affecting the FMP process and possible provisions.

At FGC's Dec 2017 meeting, DFW provided an overview of its proposed harvest control rule (HCR) for the FMP. In addition, an alternate HCR option was proposed by The Nature Conservancy using survey methods derived from engaging abalone fishermen in citizen science. FGC supported advancing the stakeholder-proposed HCR through a peer review process alongside the DFW-proposed HCR. In addition, FGC directed staff to schedule future FMP updates at FGC meetings rather than MRC meetings due to broad interest in the topic.

In Apr 2018, DFW provided a more detailed overview of the red abalone FMP components, including the management framework, new environmental and abalone condition factors, management responses, a reopening approach, and the DFW HCR-based management strategy. In Jun 2018, the California Ocean Science Trust (OST), with support from the California Ocean Protection Council, began coordinating an external, independent scientific peer review of the draft FMP and both the DFW-developed and The Nature Conservancy's stakeholder-developed HCR-based management strategies. At the Jun 2018 FGC meeting, DFW notified FGC that an extended timeline was necessary to provide time for adequate peer review of both strategies.

On Aug 20, 2018, OST hosted an initial public webinar with the peer review panel, DFW, and The Nature Conservancy. A second public webinar is scheduled to be held on Oct 12, 2018 following release of the peer review report (Exhibit 1).

Today, OST will present the peer review results on the draft red abalone FMP.

STAFF SUMMARY FOR OCTOBER 17, 2018

Significant Public Comments (N/A)

Recommendation

FGC staff: Request that DFW analyze the peer review results, consider possible pathways and timeline for completing the FMP, and schedule follow-up discussion for the Dec 12-13, 2018 FGC meeting.

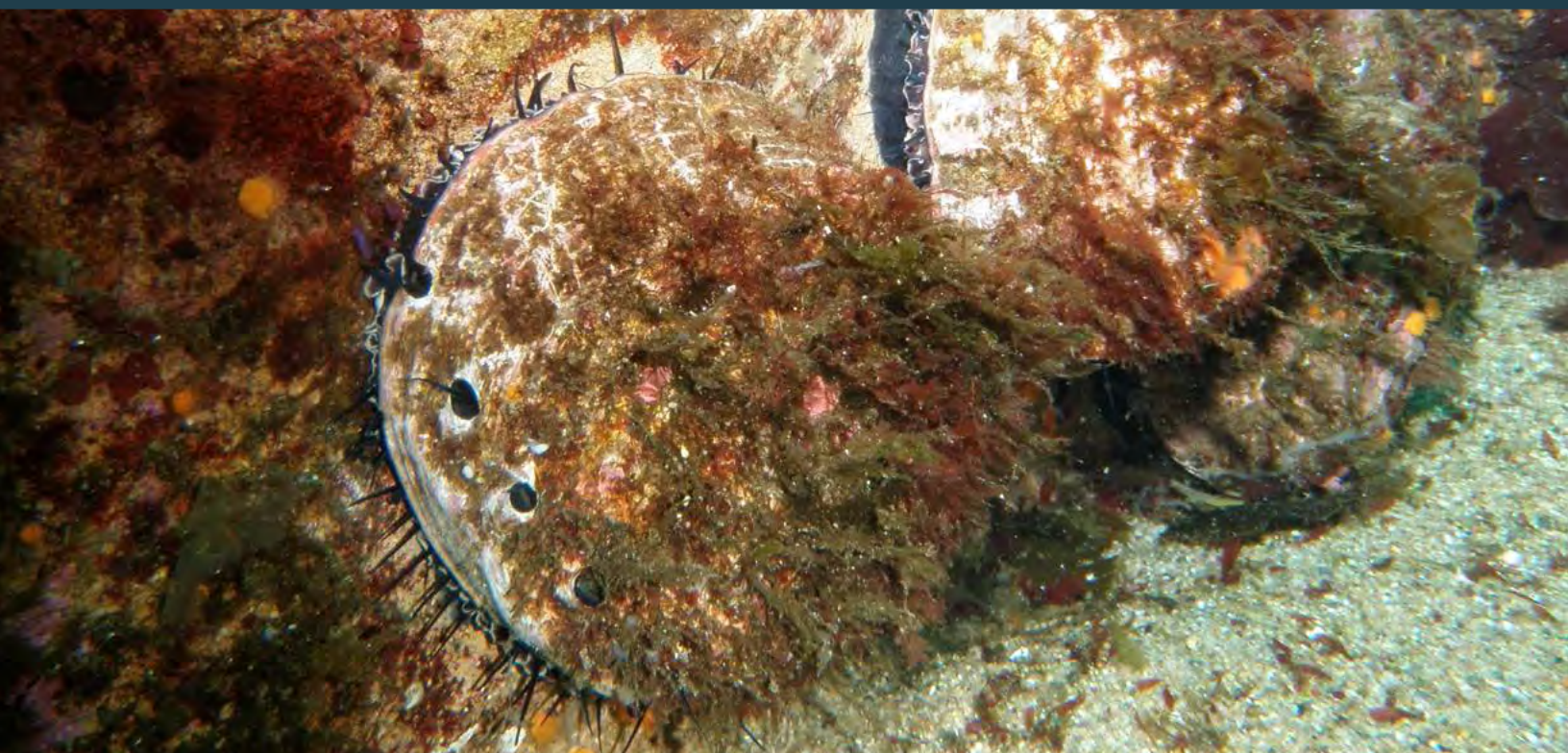
Exhibits

1. OST red abalone FMP peer review report, dated Oct 2018

Motion/Direction (N/A)

Final Report of the Scientific and Technical Review Panel

Scientific Peer Review of Proposed Recreational Red Abalone Management Strategies



Convened by the California Ocean Science Trust

Supported by the California Ocean Protection Council

October 2018



Review Participants

CALIFORNIA OCEAN SCIENCE TRUST

California Ocean Science Trust is a boundary organization. We work across traditional boundaries, bringing together governments, scientists, and citizens to build trust and understanding in ocean and coastal science. We are an independent non-profit organization established by the California Ocean Resources Stewardship Act (CORSAs) of 2000 to support managers and policymakers on the U.S. West Coast with sound science, and empower participation in the decisions that are shaping the future of our oceans. For more information, visit our website at www.oceansciencetrust.org.

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Dr. Yan Jiao

Professor, Department of Fish and Wildlife Conservation, Virginia Polytechnic Institute and State University

Dr. Karina Nielsen

Professor, Director of the Estuary and Ocean Science Center, San Francisco State University; Ocean Protection Council Science Advisory Team

Dr. Brian Tissot

Professor, Director of Humboldt Marine and Coastal Science Institute, Humboldt State University

Dr. Will White

Assistant Professor, Department of Fisheries and Wildlife, Oregon State University

Review Participants continued

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

The mission of the California Department of Fish and Wildlife is to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public.

California Department of Fish and Wildlife (CDFW) staff developed a draft FMP including a proposed management strategy that was included within this peer review scope. CDFW staff were engaged throughout the review process. They delivered presentations to the review panel and supplied additional data, information, and feedback to Ocean Science Trust as necessary throughout the review process.

Sonke Mastrup, Program Manager, California Department of Fish and Wildlife, was the primary management contact for this review.

THE NATURE CONSERVANCY- LED STAKEHOLDER TEAM

The mission of The Nature Conservancy is to conserve the lands and waters on which all life depends. Its vision is a world where the diversity of life thrives, and people act to conserve nature for its own sake and its ability to fulfill our needs and enrich our lives.

The Nature Conservancy (TNC) led a collaborative stakeholder team comprised of TNC staff, academic researchers, and recreational divers that developed an alternative management strategy that was included within the review scope. This team was engaged throughout the review process. The team delivered presentations to the review panel and supplied additional data, information, and feedback to Ocean Science Trust as necessary throughout the review process.

Dr. Alexis Jackson, Fisheries Project Director, The Nature Conservancy, was the primary contact for this review.



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Recommended citation Cope, J., Raimondi, P., Fay, G., Jiao, Y., Nielsen, K., Tissot, B., and White, W. Final report of the scientific and technical review panel: Scientific peer review of proposed recreational red abalone management strategies. California Ocean Science Trust, Oakland, CA. October, 2018.

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Background

In 2005, the Fish and Game Commission (FGC) adopted the Abalone Recovery and Management Plan (ARMP), which governs the management of the recreational red abalone fishery and recovery of southern abalone stocks. The ARMP has two phases of adaptive management: the interim management plan which the fishery is currently managed under, and the long-term management plan. Management changes to the fishery in 2014 marked the beginning of this move to long term management by setting regulations separately for the southern and northern areas of the fishery. The transition to ARMP long-term management provides an opportunity for the California Department of Fish and Wildlife (CDFW) to move management of the recreational red abalone fishery to a fishery management plan (FMP) under the Marine Life Management Act (MLMA).

Thus, it is important for the scientific underpinnings of the draft FMP to undergo external, independent peer review prior to submission to the FGC. This process is one way to provide FGC and stakeholders assurances that FMPs are based upon the best readily available scientific information, as set forth under the MLMA. CDFW drafted an FMP and a proposed management strategy as a part of that plan. The Nature Conservancy (TNC) led a stakeholder proposed management strategy as well. The FGC and CDFW have asked for both the management strategy proposed by CDFW and the stakeholder submitted management strategy, led by TNC, to be included in the peer review. Each of the groups have provided an independently developed management strategy for consideration.

Review Scope

CDFW and FGC's purpose in asking Ocean Science Trust (OST) to conduct a review of the scientific and technical components of both the CDFW and the TNC management strategies to ensure the scientific and technical elements provide a rigorous underpinning for management decisions and regulatory action should they be implemented. Given the unusual circumstance of two proposed management strategies, CDFW sought review input that could illuminate the strengths and weaknesses of each approach to guide next steps. OST is serving as the review coordinating body, and worked with CDFW and TNC to develop a scope of review that focuses on key scientific and technical components of the management strategies where independent scientific assessment would add value.

The central question of this review is:

Are the underlying data and analysis, and application of those in each of the proposed management strategies scientifically sound, reasonable, and appropriate, while also meeting the management goals for the recreational red abalone fishery in northern California as defined by MLMA?

The review will focus on evaluation of the following components of both management strategies:

- Evaluation of the data collection methods that inform management indicators, triggers, and decisions including informing responses to changes in the environment, fishing, or other stressors.
- The scientific rationale for the indicators used and their link to anticipated responses in the abalone population and management decisions.
- The scientific rigor of the proposed quantitative analysis and application of the data and the robustness of the scientific rationale for the proposed management actions it triggers.
- Evaluation of modelling approaches used including model assumptions, analyses, interpretation, and application of the model results to evaluate performance of the harvest control rules against management objectives.
- A general scientific assessment of the proposed methods including application, assumptions, and management implications of uncertainties in the stock status, data streams, and analytical methods within the confines of CDFW capacity and regulatory authority.

For clarity we note that this is not a comprehensive review of the entire FMP. Rather, we are reviewing only the management strategies submitted by TNC and by CDFW. The more detailed reviewer instructions are available online [here](#).

Summary of the Review Process

This review took place from May 2018 - October 2018. Ocean Science Trust implemented a scientific review process that sought to promote objectivity, transparency, candor, efficiency, and scientific rigor. Following a broad solicitation of potential reviewers (coordinated via the Ocean Protection Council Science Advisory Team), a multidisciplinary, seven-member review panel was assembled, representing expertise in fisheries science and management, abalone ecology, and modeling, among other subjects. OST facilitated constructive interactions between reviewers and both author teams through a series of remote meetings, where CDFW and the TNC-led stakeholder teams presented an overview of the science and technical elements under review, and were available to answer reviewers' questions. In addition, OST convened reviewers independently to allow the review panel to candidly discuss the review materials and conduct their assessment. Ocean Science Trust worked with the review panel to assemble and synthesize their written and verbal responses to guiding questions, as well as discussion from remote meetings into this final report. This report is publicly available on the Ocean Science Trust [website](#).

Additionally, OST led a community engagement webinar to answer questions about the peer review process and scope of the peer review. A summary of that meeting and all questions submitted are included in Appendix A.

Project Materials Under Review (both available on the Ocean Science Trust [website](#))

1. CDFW submitted management strategy
2. TNC-led stakeholder submitted management strategy

Review Recommendations

Summary of Main Findings

Both teams submitted very different strategies that represent a tremendous amount of work to find management solutions for a very complicated recreational red abalone fishery where life history traits and uncertain environmental conditions play an active role. Given this, California Department of Fish and Wildlife (CDFW) and the Fish and Game Commission (FGC) have requested, and we recommend, a fisheries management plan (FMP) that can manage under any future environmental scenario and respond to changes in the red abalone population using the best available science. What we discovered during the course of this review was an opportunity to look at the data and strategies holistically to:

1. make recommendations to bolster the scientific rigor of each strategy, and
2. find areas where synergies between the two plans can come together and increase the chances of successfully tracking changes in this population in support of scientifically sound management decisions.

This review cannot provide advice on setting or deciding upon risk thresholds, management measures to accommodate different levels of catch, or determine appropriateness of opening a fishery with low levels of catch. While elements of these types of decisions could be supported by existing or new scientific analyses, they were outside the scope and time frame of this particular review. We have reviewed the scientific elements of all materials under review and made recommendations where further work is needed. Ultimately, we wanted to know under what circumstances a particular indicator or suite of indicators might capture or miss a rapid or slow change in the red abalone population. This is the lens through which we evaluated the materials under review. To put the rest of our review in context, we have summarized our findings about each strategy under review here. We address them simultaneously throughout the rest of the report.

Summary of Findings of Each Management Strategy

CDFW submitted management strategy

This management strategy emphasized the direct measure of biological and ecological conditions of red abalone for both setting catch in an open fishery as well as decisions about when to close and re-open the fishery. It has taken the traditional density approach and combined it with new indicators that are on the forefront of monitoring and predicting changes in the red abalone population (body condition, gonad health, kelp cover, sea surface temperature, etc.; Table 1). These measures make intuitive sense, but can be costly and logistically difficult to obtain. We believe that some subset of these indicators can likely provide the biological component needed to manage this fishery. However, without simulation testing (e.g., in these cases, computer-simulated population dynamics used to test a variety of questions regarding measuring and managing populations) of these indicators and better defined reference points, we cannot recommend which combination of indicators and reference points are most robust to uncertainty in red abalone status. Additionally, we know abalone density to be a preferable way to measure the population status. We also know it to be very labor intensive to collect enough data to make the metric informative at the scale at which it needs to be for making site or county level decisions.

Simulation testing could better establish how current or proposed density monitoring can be used as an informative metric for management decisions, as well as give insight into better ways to formalize the use of metric uncertainty (i.e. high variance) into decision making. Additionally, the density metric currently requires three years to get a complete set of data for all sites, thus increasing the chance that density could change in unsampled years/sites, limiting management responsiveness. We also believe that through simulation testing, CDFW can better understand how to use the new environmental and productivity indicators and find ways for them to better support more robust decision making. We also note that the type of evaluation done in the current strategy is insufficient for performance testing of indicators. Lastly, we want to highlight that we consider the biology of this species to be highly important to understanding the population of red abalone. We believe the other environmental and productivity indicators (especially kelp cover, gonad health, and body condition) need to be further explored, tested and refined. We think that this testing and refinement will lead to more meaningful indicators, that can be collected more quickly, and inform management decisions on a more timely basis, increasing scientific robustness.

TNC-led stakeholder submitted strategy

This management strategy is a more traditional fisheries management approach for managing the fishery when it is open. It applies two relatively data-limited approaches, length based spawning potential ratio (LB-SPR) and catch-MSY, as indicators used to adjust catch. The approach was tested using simulation testing with an operating model approximating red abalone biology and population dynamics. This management strategy has the benefit of relying on tested and refined indicators used in other fisheries that have benefited from simulation testing. It also has the ability to track the general population dynamics with relatively little data, but with one major caveat: neither indicators, nor the operating model, incorporate the needed specificity in low density dynamics of red abalone. Our review found that the model does not explicitly incorporate certain low (e.g. Allee effect) or variable (e.g. body condition) population situations, making it difficult to determine how well this multi-indicator approach will perform at low densities, when disease alters population conditions, or if mortality events impact all lengths equally. There are currently no biological modifications in the interpretation of lengths to detect poor conditioned individuals.

Pairing this multi-indicator approach with other biological indicators that detect metrics such as low density dynamics and/or body condition issues could significantly improve performance. This will likely lead to different additional catch-setting situations to be tested, as well as modifications to the operating model to incorporate more specific low population dynamics conditions so as to better measure option performance. There is also the need to consider what methods and reference points would be used to reopen an already closed fishery.

Summary of Peer Review Recommendation

As written, all strategies contain a high level of uncertainty. All individual indicators and the ways in which they operate under each management strategy need revision in order to reduce uncertainty. Given unpredictable data streams, changing ocean conditions, and unpredictable changes in the ecosystem where red abalone have traditionally thrived, it is advantageous that any plan leverages a suite of available indicators to present the clearest picture of the population status.

We want to emphasize that even though there were two approaches applied, they both come to the same conclusion with respect to the current status of the population. These common findings are ultimately how and why we think they can be integrated in support of better scientific grounding for management of this fishery. We found that both proposals could be strengthened by each other to ensure accurate and timely tracking of the red abalone population, subject to cost constraints. We have reviewed each indicator in and of itself and then made recommendations about how they could combine with other indicators to maximize synergy in this data-limited system.

Recommendation 1: These two management strategies should be integrated to reduce uncertainty and take advantage of the best available science.

We find that while each plan could potentially be altered to operate independently of the other, high levels of uncertainty would remain regarding specific thresholds or triggers for opening or closing the fishery. This level of uncertainty means it is possible the models could result in decisions to fish the population when it should be closed or keeping the fishery closed when it could be open. Luckily, we found that elements of each plan, data streams provided, and thinking from both teams could be combined to form a potentially more cohesive plan and potentially greatly reduce the risk of overfishing and increase management performance. Throughout this report we have made several recommendations to make individual indicators more robust as well as highlight potential areas for integration. While no one can predict the future and there is no risk-free plan, careful consideration and integration of these plans, as well as specifying risk tolerance, can create a scientifically robust plan on which to make sound management decisions.

Recommendation 2: The way to integrate indicators, data streams, and analysis should be tested and analyzed using simulation testing from a normal operating model specified to capture low-density population dynamics specific to red abalone.

For this report we present examples of how to address these needed changes. We did not make specific recommendations about which suite of indicators would be appropriate and their respective reference points. This recommendation will require simulation testing on all indicators which was outside the scope and timeline for this review (see Table 1 for a full set of indicators under review). Simulation testing can help to illuminate the right combination of indicators that may reduce uncertainty below acceptable thresholds by balancing a combination of different data collection methods with various associated cost, risk, and statistical power (see Figure 1). This simulation testing, or modeling analysis, should be stress tested and analysed using computer simulations that are specified to capture low-density population dynamics specific to red abalone.

For this report we have summarized our review into two sections: 1) management strategies for re-opening, and 2) managing under an open fishery. However, these topics are highly interrelated and many recommendations from both sections apply to the other. For example, we talk about using environmental indicators, density, and LB-SPR in the re-opening section. However, we would not recommend applying any of these indicators or plans without implementing the two recommendations above.

WHAT IS NEEDED AND CAN BE AFFORDED?

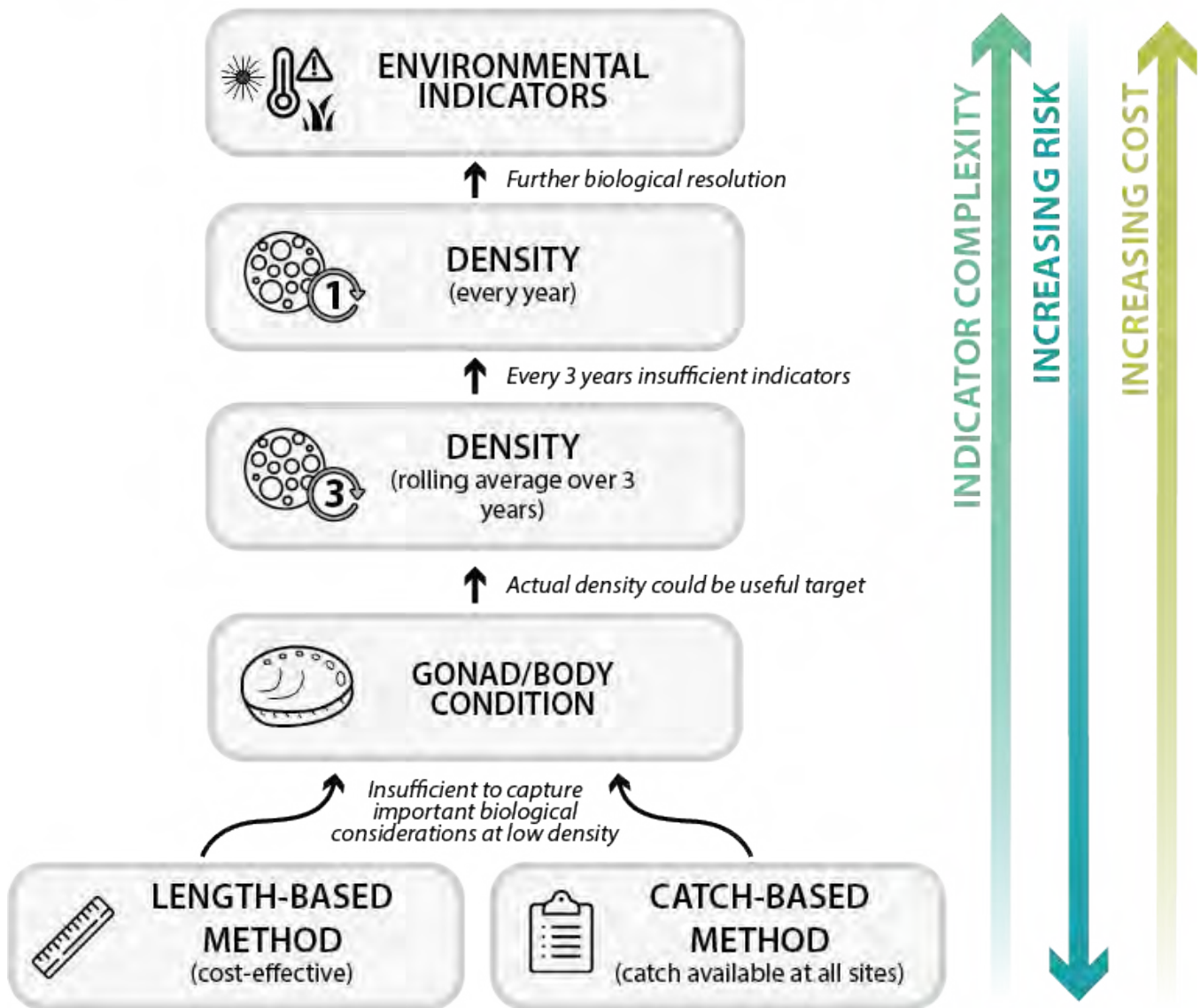


Figure 1. Theoretical flow chart indicating some of the ways in which different indicators can be visualized along the differing scales of complexity, risk, and cost. We selected several of the provided indicators to show the ways in which they compare on these scales, but did not include all provided indicators (see Table 1). Complexity refers to increasing the number of indicators that need to be monitored and reconciled with each other.

Table 1. List of the indicators, associated reference points, rationale or reference point chosen for each management plan. In some cases we indicate that there was no basis provided for the reference point. This simply means a written explanation was not provided in the written report. It does not mean that there is none, or that the indicator is not relevant to the fishery.

Plan Source	Management Phase	Indicator	Reference Point	Basis
CDFW	Catch-setti	Target catch	+/- 25% (no change to catch if within this range)	Wide enough to be insensitive to minor fluctuations (p. 5-12)
		Baseline catch	Catch average from 2002-2006	No large scale impacts to survival and fishery was stable
		Baseline density	0.63/m ²	Average value during baseline years
		Density target	0.5/m ²	Shift in fishery catch dynamics happens below this value (p 5-15)
		Average density limit	0.3/m ²	Above 0.2/m ² (the minimum viable population density s t p. 5-16), limit based on site density to catch (App. B, Fig. 1)
		Site density limit	0.25/m ²	Above 0.2/m ² (the minimum viable population density s t p. 5-16), limit based on site density to catch (App. B, Fig. 1)
		Regional density of deep water abalone	low: 0.2/m ² ; high: 0.4/m ²	Not specified in chapter 5
		Gonad index	<100 for ≥60 abalone that are ≥7"	Not specified in chapter 5
		Body condition	≥15% with shrinkage score >0 (sample size of ≥500 abalone)	Not specified in chapter 5
		Ocean temperature	>15°C at 30 ft. in Mendocino county on any day in the previous calendar year	Not specified in chapter 5
		Kelp abundance	≤30% historic max coverage in either Mendocino or Sonoma county	Not specified in chapter 5
		Sea urchin density	Combined density of red and purple are ≥5 urchins/m ² at any of the index sites	Not specified in chapter 5
	Re-opening	Site density reopening threshold	>0.4/m ²	Set to be 60% above the site closure trigger to buffer against re-closure
		Size frequency	≥40% legal-sized; ≥30% sublegal (with a sample size of ≥500 abalone)	Similar to baseline (2003-2007) condition
		Regional density of deep water abalone	>0.2/m ²	Not specified in chapter 5
		Regional density reopening threshold	>0.45/m ²	Not specified in chapter 5
		Ocean temperature	≥15°C at 30 ft. in Mendocino county on any day in the previous calendar year	Not specified in chapter 5
		Kelp abundance	≤30% historic max coverage in either Mendocino or Sonoma county	Not specified in chapter 5
		Sea urchin density	Combined density of red and purple are ≥5 urchins/m ² at any of the index sites	Not specified in chapter 5
TNC-led	Catch-setti	LB-SPR	SPR/SPR _{MSY} ; high (>1.1); stable (>0.9 & <1.1); low (>0.5 & <0.9); extremely low (<0.5)	Not specified in report
		Catch-MSY	U/U _{MSY} ; U/U _{MSY} levels: high (>1); low (<0.75), stable (>0.75 & <1)	U _{MSY} = r/2 and U is catch in final year/B ₀ ; Levels not specified

I. Managing Under a Closed Fishery

In general, we found that the field sampling may provide some information on stock status, but does not alone give the robust tools needed to make management decisions about re-opening. At the beginning of this review, we received information from both teams with a variety of data streams and indicators which we think will be useful to making a robust plan for consideration of re-opening the red abalone fishery.

Because of the red abalone population decline and the current fishery closure, we believe it is important to first address the current situation of the fishery. The FGC closed the fishery due to evidence of a substantial decline in the population on December 7, 2017. Due to this shift in the population we initially focused on reviewing the data and the plan for re-opening a closed fishery, where provided, as well as all other data and indicators that could be used to inform managing under this closed fishery scenario. CDFW included a re-opening section in their plan providing a basis to make preliminary recommendations. We understand that this change in the abalone population is new and commend both teams for adapting their thinking and plans, where they were able, with available time and resources, to include this new information. Given the current status of the population, we think ensuring the scientific underpinnings of how to reopen the fishery is critical and timely.

1.1 Key recommendation

Recommendation 3: All indicators chosen must be clearly defined, and ideally, all candidate reference points for any indicator should be tested using simulation testing in a closed loop analysis.

Indicators from both plans, regardless of whether they appear in a re-opening context, should be evaluated for their usefulness in making management decisions related to re-opening. We recommend that any threshold or indicator chosen as part of the re-opening plan needs to be fully defined. This includes

- clearly stating the values for, and rationales for, indicator thresholds (which have been set and tested through formal simulation operating models)
- indicating the baseline or comparison of indicator status, whether it be a reference year(s), statistical summary, or data where applicable
- describing and demonstrating threshold detection analysis, including variance, power, etc.
- plans for how and when the data will be collected in support of measuring these thresholds and, where appropriate, back-up plans for when data sets are not available

Selecting reference points based on expert opinion or judgement may also be a viable route when other sources of evidence for setting reference points are not readily available. However, the scientific rationale for the specific reference points chosen needs to be well articulated and supported by multiple experts. Expert judgement may result in greater uncertainty regarding specific reference points. In some cases, setting an arbitrary number may be worse than not including the indicator at all or using a different framework for decision making. In this case, our understanding is that all of the indicators presented are sufficiently well-developed to have the information needed for at least basic testing using a formal operating model of the system, which can include evaluation of implications of data availability. These simulation models can help test and refine the relationship between these indicators and the red abalone population. Thus there should be no need to include indicators that rely on expert judgement alone.

We explore two indicators to demonstrate how to implement the above and the types of questions that should be asked.

- **Example 1- Kelp Cover:** The reference point for kelp cover under re-opening is 30% cover.
 - o How was this reference point chosen? Was it tested using simulation in a formal operating model?Answering these questions will aid in a more clear selection of
 - What the current kelp cover is being compared to (e.g. an average of all past years? The previous year? The whole area covering the fishery? Areas inside and outside of MPAs? Area by county? By site?)?
 - What types of data are acceptable for assessing this metric once established (e.g. kelp bed flovers, dive surveys, visual assessments from land)?
 - What should be done when these data are unavailable?
- **Example 2- LB-SPR:** This indicator was not discussed as part of the re-opening management strategy, however it could be included by setting a threshold level that the indicator would need to achieve (presumably from fishery independent sampling) for setting catch under re-opening. If LB-SPR is evaluated in a formal simulation model, and if selected, managers should assess and clearly address:
 - o How was this reference point chosen? Was it tested using simulation in a formal operating model
 - o How does the threshold value interact with the precision of reference point estimation in terms of assessing risk of re-opening, to both the stock and yield from the fishery?
 - o What does the status of additional (combination of) indicators need to be for LB-SPR to be used as a re-opening indicator?
 - o What should be done when length data are unavailable?

Recommendation 4: A multi-indicator approach, with little to no tiering, where not all indicators need to be met (i.e. not adopting a “one out, all out” approach), may be more flexible and informative given the uncertainty of changing ocean conditions and the response of red abalone to these changes. The structure of this approach and choice about whether to make it sequential (single indicators triggering another single indicator and so on), tiered (groups of indicators that trigger next tiered group of indicators and so on), or simultaneous (all indicators assessed simultaneously) can and should be tested using a formal operating model, thus building in a structure that is not subjective.

Given the uncertainty of data streams, changing ocean conditions, and the way different species and ecosystem features may interact with red abalone populations now and into the future, we recommend a re-opening plan that allows for flexibility and the possibility that red abalone may adapt to some of the “negative” indicators in the future. For example, if moving inshore becomes a way for abalone to find enough food, but kelp cover remains low, would this alone be a reason to keep the fishery closed if all other indicators are positive? Thinking through these types of emergent patterns along with their consequences is essential. We recommend using scenarios such as this to make decisions about how many of the indicators need to be met in order to move to the next tier of data collection or to open the fishery (e.g., the traffic light approach; Caddy 2002). A decision tree framework like the one already proposed could be adapted and a useful way of outlining this process.

Testing these decision points in simulation testing in a formal operating model is one way to provide rationale for these choices. Feasible structures for the sequence or tier structure can be assessed through participatory processes with experts, so as to ensure that the number of simulated possibilities tested is kept to a manageable number. It is impossible to anticipate the full range of possible future scenarios, but simulation testing offers a path to identify strategies that are unlikely to work, and ones that may be robust. Coupled with a detailed rationale for decision points associated with adaptive measures, this ensures a transparent way of continuing engagement. An adaptive FMP would allow for ongoing scientific engagement into the future as new, unanticipated scenarios come into play.

2. Evaluation of Management Strategies for Open Fisheries

As mentioned, GC requested from CDFW an FMP that can manage under any future scenario. Once a fishery has been deemed ready for re-opening, there is a need to have a plan with a strong scientific backing to ensure management decisions can respond quickly to changes in the population, especially given changing ocean conditions and the uncertainty created by them. Ideally, as recommended above, the plans for re-opening and managing after re-opening should mirror each other. This will streamline data collection, analysis, and management decisions.

This review was scoped to look at the scientific underpinnings of the elements provided in the management strategies and other materials provided (all materials available on the Ocean Science Trust [website](#)). While our review can illuminate the risk this may pose in terms of outcomes under different scenarios it cannot and it would not be appropriate for us to make decisions about the appropriate level of risk managers and fishing community members are willing to assume under any given management strategy. We attempted to provide insight about the inherent risk of missing a population change under each management strategy and make recommendations to improve performance should managers determine that the associated risk needs to be reduced. However, it was outside the scope of this review to determine management options for setting risk choosing management measures to accommodate different levels of catch, or to determine the appropriateness of opening a fishery with low or high levels of catch. Should this be of interest in the future, science can help managers and community members understand the risk associated with each of these and potential outcomes for the red abalone population, but it cannot make these value based judgements.

We assessed each indicator individually and holistically to determine how they might perform under different scenarios. Ultimately, we wanted to know under what circumstances a particular indicator or suite of indicators might miss a rapid or slow change in the red abalone population. This is the lens through which we evaluated the materials under review. We have evaluated the scientific elements of both and, when able, provided recommendations for strengthening the different components and the overall management strategies of both. It should be noted that it is outside the scope of this review to provide the best way to fix any weaknesses we may have identified.

We have concerns that even after incorporating the recommendations we provided, these plans individually could still lead to fishing on a population that is not sustainable or result in keeping the fishery closed longer than populations are able to sustain some fishing. Changing ocean conditions, changing dynamics of how red abalone interact with their environment, specifics of data collection and analysis, as well as the inherent attributes of these indicators, are among the factors that limit predictability in management outcomes here, and are not unique to this fishery.

Reviewing these two different approaches is actually fortuitous for red abalone management as it allowed us to see the relative strengths and weakness of each approach more clearly. As a result, our review finds and recommends that a more holistic approach be taken for the red abalone FMP. When looking at all components of the management strategies side by side, they provided a much more robust suite of indicators. Not only that, they seem to connect to each other in unforeseen ways, filling gaps and uncertainties in the other and vice versa. It is outside the scope of our review to provide a new integrated plan. However, we recommended that these plans be evaluated to determine the appropriate ways to integrate these indicators to come up with a comprehensive management strategy. By doing this work, and then evaluating it through a formal simulation operating model, the outcome will be a plan that is scientifically robust, uses a multi-indicator approach, and hopefully reduces the risk of overfishing.

Each of these plans represent core components of what should be included in a scientifically robust management strategy for an open fishery. We see opportunity for them to work together holistically. In isolation, both plans under review have uncertainty that needs to be addressed in order to improve the estimates of population status. Integration of these plans, utilizing simulation testing, is recommended.

Any FMP should use a Management Strategy Evaluation as a member of best practices, including stakeholder engagement. The target catch evaluation is useful for understanding past decisions and outcomes of alternative decisions given previous resource state, but is not a replacement for a formal Management Strategy Evaluation or other formal simulation testing. The current Management Strategy Evaluation could benefit from changes to increase its performance for the plan for which it was developed. For example, M used in the simulation system is based on an estimate from Leaf et al. (2007), and seems inconsistent with the one used in LB-SPR. There would likely need to be changes to the model to incorporate the recommendations in this report. For example, multiple indicators are suggested to be incorporated in the simulation model and management plan tested with the Management Strategy Evaluation framework. However, it is still an good basis for testing and refining a y one or a suite of changes made to the management strategies under review for incorporation into the FMP.

In summary:

- Capitalize on the strengths of the strategies already provided by integrating elements of both into a potentially more robust plan.
- In order to combat the possible loss of data streams, a multi-indicator approach that makes allowances for and explicitly states changes that need to be made when data streams become unavailable for any given indicator is preferred.
- The management plan should explore how the multiple indicators will interact. Does every indicator need to meet thresholds? Is a subset of the indicators meeting reference points enough to make management decisions (e.g. what happens when kelp cover and red abalone density are past the positive threshold, but urchin densities remain high)? Simulation testing can be used to test and describe this robustness.
- The management plan should explore the order of operations for any suite of indicators and how they work together.

2.1 Key recommendations

Recommendation 5: Setting reference points for every indicator is critical. (See also recommendation 3)

All reference points need to be more explicitly defined including information on what they are and how reference points were set (Table 1). There needs to be more justification and better articulation on their contribution to the management plan, how and why they were selected, and their role in making specific management decisions, including fine and coarse tuning. Our strong recommendation is to test these indicators (as described in the above recommendations) in a simulation modeling scenario wherein this uncertainty can be explored and proper thresholds that formalize the way in which you deal with uncertainty can be explored (see also recommendations 8, 9)

We have provided the following examples as guidance for how to implement this recommendation for any indicator chosen to include in the management strategy:

- *Example 1- LB-SPR:* This indicator is used to reflect the exploitation intensity through observed length frequency. However, in cases such as unexpected high mortality across ages and sizes, small sample size, poor gonad or body conditions, and population aggregation etc., this indicator may not be able to detect the correct signal of the population status and exploitation over short time scales, likely greater than one year but less than three-four years. The LB-SPR indicator may make sense at higher population sizes not affected by low-density population dynamics (e.g., Allee effects), but at reduced population sizes, this indicator a) needs to be tested for robustness to these Allee effects and b) would benefit from additional biological indicator(s) that better captures red abalone population dynamics at low population sizes or in instances where lengths are less informative of mature biomass (e.g. poor gonad or body condition).

One solution to test would be extending LB-SPR by using length frequency across multiple years to validate the population results behind the data instead of only using yearly observations separately. LB-SPR may also be used to simulate a “healthy” length frequency target and threshold (e.g., $P(L > L_{\text{sublegal}})$) under alternative conditions so that length distribution can be used as one of the indicators in opening or managing the fishery, which is how it is currently being used in the proposed strategy.

- **Example 2- Kelp Cover:** As it stands there is very little certainty about the thresholds that have been set for this indicator as well as the other productivity and environmental indicators or the ways in which they directly correlate to the red abalone population itself (see Table 1). In theory, kelp cover should indicate the abundance of a favored food resource for red abalone, presumably the availability of drift kelp. The dominant kelp in northern California is *Nereocystis lutea* (bull kelp), an annual species, that can be a responsive indicator of annual ocean conditions impacting kelp populations (waves, warm waters, nutrients, etc.). However, the relationship between kelp cover of *Nereocystis*, drift kelp abundance, and red abalone condition has not been established (nor has the form of the relationship). Thus the basis for any particular threshold in kelp cover is unclear and has a high degree of uncertainty associated with it, given the available evidence.

As a result, it should not be used directly to trigger management decisions. However, given there is a known trophic link between these two species, and between ocean conditions and kelp cover, it may be beneficial to use a conservative kelp cover threshold to trigger inclusion of other indicators (e.g., gonad condition), as is the case in the CDFW management strategy currently. Indicators such as this should be treated as uncertain and therefore there should be flexibility and adaptive capacity should be built into the system to change these indicators as more information becomes available or to bypass them entirely should the red abalone population show other signs of recovery.

Recommendation 6: All indicators should be evaluated alongside each other in formal simulation modeling to set reference points and to test and determine the appropriate suite of indicators.

Both management strategies presented approaches that need to be bolstered in order to reduce uncertainty. We recommend taking a holistic approach and assessing all indicators alongside each other to find the right subset of indicators to reduce uncertainty using a formal operating model, such as a Management Strategy Evaluation. One management strategy under review relied heavily on density while the other under review relied on LB-SPR and exploitation rate estimates. Other indicators were included (e.g. body condition, gonad health, etc.), but we focus on the two prominent ones.

Below we demonstrate the concerns with the two indicators and then show the ways in which these concerns could be alleviated through integration

Prominent indicators as currently used:

- **Density (10 sites):** Length frequency density data are the gold standard for tracking invertebrate populations. The issue is that these data can be highly variable and very time consuming or costly to gather at the level needed to be scientifically meaningful for fisheries management. For this density indicator, as currently implemented, the length of time required to revisit each site (three years) as well as the low levels in the power analysis at anything other than the whole fishery (which takes three years to complete) makes it inadequate for informing annual management decisions, especially when environmental conditions change rapidly. Additionally, this indicator for red abalone varies substantially among local sites surveyed. Gaps in data between years for different sites confounds estimates of change among years with changes in site representation in the data set. As a result, changes in apparent population status between adjacent years (or lack of change) might be incorrect and cause the fishery to either close or re-open when not warranted.
- **LB-SPR (15 sites):** LB-SPR is a traditional fisheries management tool and uses an assumption that changes in the population are related to mortality events, including fishing. Here in California we know that changes in the population can be due to either catch, environmental conditions, or other unidentified mortality sources

such as poaching. Given the life history traits of red abalone, it will not be sensitive enough to recognize changes in the population under changing ocean conditions, when body conditions change and especially when population size is low, and low-density population dynamics prevail. Under plausible scenarios, this indicator could take several years to indicate a change in the population. Pairing this indicator with catch-MSY alone is not sufficient to make up for this potential to allow higher levels of fishing on a population that is in decline. We also have several concerns that the Management Strategy Evaluation that evaluated LB-SPR and catch-MSY did not show any sensitivity to changes in harvest or other events that mimic those such as harmful algal blooms, disease, starvation, etc. We suspect that this is due to the lack of biological indicators and speaks to the need for an analysis of whether or not the LB-SPR metric is able to detect changes in the population at very low densities.

Investigating the right suite of indicators for an integrated management strategy

This should be done through a series of evaluations using a formal operating model such as a Management Strategy Evaluation on all indicators provided in both strategies. While it is outside the scope of this review to find or select all options, here are several for consideration and testing. This should be done for all indicators in Table 1 to determine the right suite of indicators needed to meet management goals:

- We know that density and LB-SPR can be correlated with each other. One concern under LB-SPR is that when density declines to low levels, that LB-SPR is masking Allee effects. It could also be masking other indices of populations such as body condition, etc. that may or may not be linked to density. Density can be used to set a LB-SPR threshold above which we know there is very little chance of Allee effects or other low density effects that are undesirable. Therefore, LB-SPR threshold could be set high enough where we have strong scientific confidence that it is well above the level of density where it stops being able to track changes in the population.
- LB-SPR may also be masking population changes (such as the current one) where the population is in decline. There are two separate issues: 1) a discrete mortality event that affects all size classes would not cause an immediate change in LB-SPR, but would show up in density estimates; 2) an overall increase in mortality due to poor conditions will change LB-SPR (even if it is affecting all size classes equally) but the change may be slow enough to have a lag in detection.
- Density estimates have other deficiencies (see above). Density needs to be paired with indicators that can be collected on an annual basis and with greater statistical power. By pairing biological indicators such as density with body condition and/or gonad size, along with LB-SPR the ability to track changes in the population and detect them earlier is increased. Simulation modeling can and should test how and if these two indicators, LB-SPR and density, track alongside each other. It also relieves the need for density information to be collected at every site on a yearly basis in order to be meaningful (note: we did not test that sampling all 10 sites on a yearly basis would allow for the power needed to make management decisions on a yearly basis at any scale finer than fishery-wide).
- All of these changes should be tested in formal closed loop simulation testing that can help set the specific triggers related to density, LB-SPR, body condition, etc.

Recommendation 7: All indicators need to transparently indicate, and then formalize the way in which they deal with uncertainty.

Each of the indicators (Table 1) presented in both of these management strategies are not measured without error. However, the levels of uncertainty vary across these indicators. This uncertainty needs to be more transparently described in how it is calculated and formally treated in the management procedures. This formalized treatment currently seems to ignore all uncertainty by using a measure of central tendency, avoiding the risk associated with uncertain values. Whether directly measured (e.g., abundance) or estimated (e.g., LB-SPR), each indicator should not assume the median value is the best choice for management use. Any indicator with high amounts of uncertainty that uses the median could wrongfully declare a fishery open or closed, or increase or reduce catches when the opposite should have been done.

Uncertainty can be dealt with in many ways. One common approach is to define a quantile that is below the median value (i.e., 0.5; Ralston et al. 2009). This approach could be considered for any of the indicators in Table 1, and the exact value should be tested for robustness in a simulation testing framework. Other scientific methods for dealing with uncertainty were outlined in the red abalone density estimate peer review (SAC 2014). However it is done, all indicators should have some consideration on how uncertainty is treated and the proposed treatment performance tested under different scenarios.

Recommendation 8: The science underlying setting catch levels needs to be re-evaluated and re-configured

Recommendation 8.1 Consider changing the order of operations or indicators when setting catch.

We recommend that both management strategies, as well as any integrated options, reconsider the order in which indicators are used and the ways in which they connect. Typically, indicators with robust reference points are used to set catch limits. This is important because they are clearly defined and uncertainty has been quantified. Additionally, perceptions of resource status and confidence in advice one comes can sometimes be biased by the order in which operations are done with respect to expected baseline or reference values. Although several orderings of operations may lead to the same outcome in terms of advice, some may be more preferred by relevant stakeholders. Several examples of this include:

- Reversing the order in CDFW approach. Usually catch is set by first using indicators that have robust biological reference points that adjust catch. However, the CDFW approach starts with catch and then uses different indicators to adjust it. This is problematic because the indicators of current status are not the ones being used to determine exploitation levels.
- LB-SPR can provide a relative measure of stock status (e.g., transient LB-SPR). Relative stock status is an input into the catch-MSY method. It is suggested that the estimate of LB-SPR be considered as a prior for the stock status input of the catch-MSY method so as to make the catch estimation more consistent with the length information on stock status. This would avoid having to define decision rules for either LB-SPR or exploitation status, and would directly use the catch-MSY estimates of catch to set the sustainable catch limits. Some thought on the appropriate measure of uncertainty (likely underestimated by LB-SPR) for the prior would still be needed, and could be explored through sensitivity analyses in LB-SPR.
- By implementing recommendations 1 and 3 (above), alongside a formal Management Strategy Evaluation (recommendation number 11 below) on all indicators and their reference points, there can be a more scientifically robust way for determining which indicators work best together and which ones are redundant for providing catch advice.

Recommendation 8.2 The mechanisms for setting catch need to be re-evaluated and perhaps merged.

Both plans presented different mechanisms for setting catch. And again we find that neither is complete in and of itself. Using a baseline catch, as used by CDFW to set current day catch where conditions and population levels are completely different, is likely not going to be useful going into the future. The population may be continuously over or under fished given the adjusted percentage of changes in catch, especially when the uncertainty of the indicators are of high levels. The baseline catch approach is also difficult to use when a population is largely depleted, or when a population is recovering. Under the TNC-led management strategy, catch is set using a combination of LB-SPR and catch-MSY ratcheting down over time. This is problematic because of both the potential delays in tracking declines in the populations and the lack of having clearly demonstrating that this ratcheting down of the catch will not result in fishing on an overfished or decimated population (i.e. it needs to be better demonstrate why there is not a need for a threshold or reference point at which the fishery closes). One option for integration might be that by jointly using density as a reference point together with LB-SPR, to assess stock status, and using catch-MSY for setting catch.

Recommendation 9: Align the re-opening plan to match how the fishery is managed under other management scenarios to streamline data collection, analysis, and the decisions that follow.

This last recommendation should be addressed as time and resources allow. Streamlining the re-opening and the management after re-opening can often be simpler, more transparent, cost effective, and in alignment with fisheries management best practices

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Public Webinar to Discuss the Red Abalone Community's Science-based and Peer Review Process Related Questions

Summary of Key Themes

Recreational Red Abalone Fishery Peer Review

August 20, 2018 | [Webinar Recording](#)

Overview

California Ocean Science Trust (OST), as requested by the California Fish and Game Commission (FGC) and the California Department of Fish and Wildlife (CDFW), coordinated an external, independent peer review to support the design of a recreational red abalone fisheries management plan (FMP). From June-October 2018, a peer review panel evaluated the scientific merits of two proposed management strategies. In an effort to promote open lines of communication and engage in information sharing with members of the red abalone community, OST, in partnership with the peer review co-leads and panelists, convened a public webinar on August 20, 2018 to:

- Learn about and discuss the red abalone community's science-based and research questions;
- Share information regarding the peer review process, including the data and questions that are currently being considered by the reviewers; and
- Build collective understanding of how the peer review aligns with the FMP process, including timelines and additional engagement opportunities.

Prior to the webinar, OST invited red abalone community members to submit their science-based and peer review process questions. More than 50 questions were received prior to August 20. Responses to these questions became the foundation for the webinar discussion and additional questions were also asked during the webinar (see Appendix 1 for complete list of questions received). Over 70 community members participated in the webinar.

The following document provides an overview of the questions asked and discussion topics and ideas that emerged from the webinar. This summary is intended to capture high-level details and key themes, rather than a transcript of the discussion. A full recording of the presentation, along with documents discussed during the webinar, are available on the [Recreational Red Abalone Peer Review webpage](#) on OST website.

Please contact Errin Ramanujam, OST, with any additional questions and comments:
errin.ramanujam@oceansciencetrust.org.

I. Background Information

About Ocean Science Trust

- OST is an independent nonprofit based in Oakland, California. OST is not a government agency, and has no regulatory or management authority. Rather, OST is legislatively mandated to provide independent science to the State of California.
- With the main objective of providing sound, rigorous science to assist managers, policy makers, and community members in decision-making, OST does not advocate for particular policy or regulations. The organization frequently develops and delivers science in close collaboration with academic, federal and state scientists, and community members.

Recreational Red Abalone Fishery

- A primary goal of fishery management under the Marine Life Management Act (MLMA) is to ensure that fishing levels are sustainable and do not result in an overfished stock. This includes the recreational red abalone fishery. While past landings from 2002-2011 appear to be stable, recent declines in subtidal stocks have been recorded and the fishery was closed December 7, 2017.
- Red abalone has several characteristics which make it vulnerable to fishing pressure and environmental fluctuations. Recent declines and concerns about changing ocean conditions have prompted CDFW to develop a Recreational Red Abalone FMP to improve data collection and support timely management response.
- Proposed management strategies to be included in an FMP are required by the MLMA to undergo external, independent peer review prior to submission to the FGC. The peer review process provides CDFW, the FGC, and stakeholders assurances that FMPs are based upon the best readily available scientific information.
- Currently, there are two proposed management strategies being considered for incorporation into a Recreational Red Abalone FMP:
 - A [management strategy proposed by CDFW](#)
 - A [stakeholder submitted management strategy](#), led by The Nature Conservancy (TNC)

Peer Review Process

- As noted in the 'Overview' section of this document, OST, with support from the Ocean Protection Council (OPC), was requested by the FGC and CDFW, to coordinate an external, independent peer review of the two proposed management strategies.
- A scientific peer review panel of seven scientists was selected by the OPC Science Advisory Team (SAT) Executive Committee. The peer reviewers specialize in a range of disciplines including fisheries science, ecology, oceanography, population dynamics, etc.
- The peer reviewers' responsibility is to review the science presented in the two management strategies and evaluate each approach to make sure the management strategy that gets incorporated into the FMP will use the best available science to inform management decisions. All aspects of both proposed strategies were reviewed, including how each will support a robust FMP individually, as well as how the ideas presented across strategies could complement each other.

II. Key Themes Summary of Questions & Responses

The majority of the questions received in advance of the webinar mirrored topics, or ‘bins,’ that reviewers are considering during the peer review process. These included:

- How the peer reviewers are approaching their review of the two plans
- Indicators and changing ocean conditions
 - Productivity indicators
 - Density indicators
 - Reproductive indicators (gonad and body condition)
 - Length-based Spawning Potential Ratio (LB-SPR) & catch maximum sustainable yield (catch-MSY)
 - Environmental indicators
 - Indicators under different scenarios
- Management measure effectiveness

In addition to the questions received prior to the webinar, those who participated in the discussion on August 20 also were invited to share their science-based and process related questions. The following ‘Questions and Responses’ section considers all questions that were asked prior to and during the webinar (see Appendix 1 for a complete list of questions received from members of the red abalone community).

Peer Review Approach to Two Management Strategies

Participants asked how peer reviewers are considering the two management strategies and if they are considering ways to integrate the strategies.

- The peer reviewers are approaching this unique review holistically. They have been tasked with illuminating the scientific strengths and weaknesses of each plan, along with the ability to provide any recommendations for improvements for each management plan or identify clear areas of synergy between the two documents.
- The peer reviewers are identifying areas where both plans could be strengthened by utilizing components of the other plan. In addition, they are also thinking through scientific recommendations about how to strengthen components of each plan independently of the other.

Indicators and Changing Ocean Conditions

Productivity Indicators- Density

Density survey design and methods: Participants asked for clarification on red abalone survey design methods, the differences between the “rapid” assessments and the standard density assessments, whether CDFW changed their density protocol since 2014, and whether changing the survey protocol during the baseline years (2002-2007) or after that period changes the ability to make comparisons between years.

- The peer review is looking into the accuracy and reliability of the density survey estimates as it relates to the CDFW submitted management strategy. This includes investigating the precision with which data are informing management decisions at different spatial scales.
- Peer reviewers discussed how density, when surveyed accurately, can be used as a proxy for nearest-neighbor measurements. This is important for red abalone due to their need to be within a certain short distance of other abalone for successful spawning events.
- The cryptic nature of red abalone has been addressed through survey methods that require thorough counting by divers.

- Standard surveys collect information on habitat as well as numbers, while rapid surveys focus on the numbers.
- Density as an indicator is used differently in the draft management strategy submitted by CDFW than it was previously used. For example, to account for the implementation of marine protected areas (MPAs), CDFW modified baseline density estimates for areas that previously allowed the take of red abalone and now overlap with no-take MPAs.
- Reviewers are also looking into how both rapid and standard density surveys are being used to make management decisions.

Density as an indicator for setting target catch (CDFW proposed management strategy): Participants asked whether the density survey methods, data collection, estimates, and analysis are robust enough to manage the fishery in a timely manner. In particular, participants wanted to know if the way CDFW uses density in their proposed management strategy qualifies as a scientifically and statistically robust indicator.

- The peer reviewers are considering the use and reliability of density estimations provided in both management strategies.
- Typically, density is a good indicator of a healthy red abalone population, but the peer reviewers are reconciling whether the density estimations and the use of their results are scientifically sound as currently described in both management strategies.

Baseline density to set target catch (CDFW proposed management strategy): Participants asked whether the baseline that was established by CDFW using data from 2002-2007 is scientifically accurate and robust.

- Peer reviewers are considering the degree of accuracy needed for the baseline given current and past recorded red abalone landings. The peer review is ascertaining whether the level of resolution and the population that was present in 2002-2007 is the level needed to be considered sustainable.

Density and the TNC-led stakeholder proposed management strategy: Participants asked about the TNC-led stakeholder proposed harvest control rule (HCR) and whether the proposed management strategy incorporates the density-dependence of abalone into any of the strategy's analysis or operating models. If this is not the case, participants were also interested in learning whether not including density-dependent data is scientifically supported given the biological need for abalone to be close to one another for successful reproduction.

- The peer reviewers are looking at this question when reviewing the TNC-led stakeholder proposed management strategy, including determining the need for additional information about red abalone density-dependence at low population levels.
- The panel is also considering how removing density-dependent data from the analysis/models may impact the proposed management strategy, what the implications may be, and if the inclusion of other indicators is warranted.

Density as an indicator under changing ocean conditions: Participants asked how movement of abalone from the deep to nearshore environments affects density estimates and how different size classes are handling food loss.

- The peer reviewers explained that conditions have changed in the last couple of years since the two proposed management strategies were developed.
- While regional environmental conditions have led to the starvation and, due to lack of food, there appears to have been a migration from subtidal to very shallow regions. This movement could be a change due to migration of abalone seeking out food in the intertidal areas.

- Data suggests that all age classes of red abalone seem vulnerable to starvation and there is no size bias for food loss.

Reproductive Indicators (Gonad & Body Condition)

Participants asked about the reproductive indicators included in the CDFW proposed management strategy (e.g., gonad size & body condition) and whether there is a scientifically proven link between body mass index estimates, gonad size, and the potential for abalone to reproduce. Also, participants asked if there is a scientific basis to changing the size limit to greater than seven inches to improve the reproductive capabilities of abalone.

- The peer reviewers explained that in theory, there is a relationship between body size and the number of babies an abalone can produce. This relationship would be dependent on a healthy population of abalone that are located close together.
- If the shell is big, but the body condition is poor, then the animal might not be able to reproduce. Consequently, shell size may not be linked to reproductivity.
- In theory, increasing the take size of red abalone should increase the number of gametes, which should in turn increase the number of babies. But this also assumes that abalone are healthy and located in close proximity to one another.

Length-based Spawning Potential Ratio (LB-SPR) & Catch Maximum Sustainable Yield (catch-MSY) Indicators

Participants asked if the TNC-led HCR and its components, LB-SPR and catch-MSY, are a scientifically sound approach to managing a fishery, if it is affected by the movement of abalone, and whether it would protect against the harvest of depleted populations under unfavorable recruitment or abundance conditions.

- The peer reviewers are considering all of these questions.
- The peer reviewers are looking into how LB-SPR is used in the HCR proposed by the TNC-led stakeholder management strategy. The peer reviewers are investigating how this indicator operates in a fishery with life history traits like red abalone.
- The peer review panel has looked at the TNC HCR simulation results from the Management Strategy Evaluation and is still reviewing how the simulation results may vary under different recruitment results and natural mortality scenarios.
- The peer reviewers are also investigating the TNC HCR and its simulation testing outputs with relation to how the management strategy operates at high and low densities of abalone.

Environmental Indicators

Participants asked if the environmental indicators and triggers set in the CDFW proposed management strategy (kelp canopy, water temperature, and urchin densities) are accurate and scientifically rigorous. In addition, participants asked how red abalone populations inside MPAs, and the role of MPAs more generally, factor into population estimates, the impacts of fishing, and environmental conditions.

- The peer reviewers are considering all of the environmental factors mentioned and how they could be used in a management strategy. Kelp canopy, water temperature, and urchin densities are known to have dramatic impacts on populations and the peer reviewers are investigating the scientific underpinnings of these as indicators in a management strategy.
- The population size in MPAs could be used as a reference point for populations outside of MPAs where the harvest of red abalone is permitted. The peer review panel is considering the best way to use MPAs as a reference point.

- The peer review panel is evaluating the methods proposed for utilizing the environmental indicators and triggers and how they will respond to changing ocean conditions. It is not within the scope of this peer review to consider how CDFW will address future ocean conditions through changes in survey method or in management response.

Indicators Under Different Scenarios

Abalone Recovery & Re-opening: Participants asked how long will it take for red abalone populations to recover, whether using historic density levels to establish criteria for reopening the fishery makes sense considering the long-term impacts of global warming, and if a new reduced criteria should be used to establish a sustainable fishery at a smaller abalone density and catch level. Participants also asked if different elements of reopening under the CDFW proposed management strategy are scientifically sound and robust, including the thresholds for tracking changes in the population and how they are used to make management decisions about reopening.

- Peer reviewers are considering these questions, however it is unlikely the questions will be addressed during the review because more information needs to be gathered to understand what the answers are.
- The idea of allowing very low catch levels is a management question. Science can help managers and community members understand population levels and assess impacts to stock at various levels of take (although this question is outside the scope of this peer review), but the decision to allow access and determine the level of risk to damaging the stock is ultimately a management decision.
- The peer review panel considers reopening to be part of the scope of the review and has asked CDFW and TNC how they could include metrics that take reopening into consideration. The panel is will review any additional information received from CDFW and TNC.

Kelp: Participants asked whether the fishery should be completely closed until kelp beds return.

- Kelp is an indicator in the CDFW proposal, but the peer reviewers noted that the proposed way to assess kelp is based on aerial photographs of the coastline, yet several kelp species are not viewable from the air. The peer reviewers are considering this information to assess if kelp, as proposed, is a scientifically rigorous indicator.

General: Participants asked about priority gaps in research and monitoring and whether CDFW will be able to collect and maintain the information necessary to achieve management targets for the stocks. In addition, there was interest in understanding how both proposed management strategies are taking into account the different habitats in fished areas.

- The peer review panel has not been tasked with identifying priority gaps in research.
- Peer reviewers are considering the habitat and spatial components included in both proposed management strategies.

Management Measure Effectiveness

Participants asked whether the different management measures proposed in both proposed management strategies are effective at regulating catch, viable for dealing with poaching, and consider the possibility of urchin culling for restoration.

- Evaluating management measures, including enforcing poaching and removing urchins, are outside the scope of this review. Participants are encouraged to reach out to Sonke Mastrup, CDFW Environmental

Program Manager, Invertebrate Program, with thoughts and questions. He can be reached at Sonke.Mastrap@wildlife.ca.gov. Participants are also welcome to bring these types of questions to upcoming Fish and Game Commission meetings where the Recreational Red Abalone FMP will be discussed ([schedule here](#)).

Additional Areas of Interest Identified During the Webinar

Participants had additional questions that were not addressed during the webinar. These included questions about monitoring, data sharing, and additional clarifications about current and proposed methodologies. Many of these questions will not be addressed by the peer review. As mentioned above, CDFW encouraged participants to reach out to Sonke Mastrap and/or bring these types of questions to upcoming Fish and Game Commission meetings.

Appendix 1: Community Questions

Peer Review Approach to Two Management Strategies

- How are the peer reviewers thinking about their review of the two management strategies?
- Are the peer reviewers thinking about ways to integrate the plans?
- How will the peer review inform management decisions once completed?

Indicators and Changing Ocean Conditions

Productivity Indicators

Productivity density survey design and methods

- How do the surveys consider the cryptic nature of abalone (e.g. some on top of rocks, others below)? How does this affect the reliability or accuracy of the density survey data?
- What are the differences between the “rapid” assessments and the standard density assessments and are they statistically directly comparable?
- Has CDFW changed their density protocol per the recommendations of the 2014 OST convened peer review? Has this addressed the concerns raised? If so, how scientifically robust and statistically significant are the density surveys the way the CDFW uses them in the current proposed management strategy/plan, both for overall density and for deep water density?
- Has there ever been a change in the protocol for density transects since the baseline data was collected from 2002-2007, and if so, what effects do those changes have on comparisons between the baseline period and subsequent years?
- What is the appropriate level of density data to acquire for it to be useful for making management decisions?
- How are changes in size limited related to nearest neighbor differences?
- How is the density indicator impacted by the population outside the center of the management area?

Using density as an indicator for setting target catch (CDFW plan)

- Are the density survey methodology, data collection, estimates, and analysis robust enough to use to manage the fishery in a timely manner? If not, how much more data would be required to achieve this? How much would it cost to gather this additional information?
- Is the way CDFW uses density in their proposed management strategy a scientifically and statistically significant indicator?
 - Are the more limited site-specific monitoring and control rule provisions sufficient to account for the spatial specificity of abalone population dynamics?

Density Indicators

Density as an indicator for setting target catch (CDFW plan)

- Is the baseline that has been established using data from 2002-2007 scientifically accurate and robust? Is there a scientific basis to continue using it?
 - Is there a chance that this baseline is artificially high due to the extinction of the abalone primary predator, sea otters, before this baseline period began?
 - Does fishing replace otters as the abalone main predator? How does the rate of fishing predation compare with otters?

Density and the TNC-led stakeholder proposal

- Does the TNC-proposed harvest control rule (HCR) incorporate the density-dependence of abalone into any of their analysis or operating models?

- Is the decision to eliminate density-dependent data scientifically supported given the biological need for abalone to be close to neighbors for successful reproduction?

Density as an indicator under changing ocean conditions

- How does the movement of abalone from deep water into nearshore environments impact the density estimates, including CDFW's use of deep water transects as part of that density estimate methodology?
 - Does the movement of abalone out of the deep water refuge change how CDFW thinks about maintaining a sustainable fishery?
 - How does this affect overall densities and their statistical reliability?
- How are the different size classes handling the loss of food? Is the loss of food affecting each size class differently?
- How does the reproductive potential of abalone at different sizes affect the indicator? Do abalone stop reproducing at certain sizes?
- How much do we know about gonad size and body condition as it relates to abalone reproduction?

Reproductive Indicators (Gonad & Body Condition)

Productivity – Reproductive

- For the reproductive indicators utilized by CDFW (e.g., gonad size & body condition), is there a scientifically proven link or relationship between the estimate of body mass index and the abalones ability to reproduce?
 - How about for gonad index?
- Is there a scientific basis to changing the size limit to greater than 7" will improve the reproductive capabilities of abalone?
- Is the overall management target of maintaining 60% egg production appropriate and scientifically well supported?

Length-based Spawning Potential Ratio (lb-SPR) & Catch Maximum Sustainable Yield (MSY) Indicators

- Does the movement of abalone affect the way the TNC HCR works?
- Does the TNC HCR represent a scientifically sound approach to managing a fishery? Would it potentially allow harvest on depleted populations or under unfavorable recruitment or abundance conditions?
- How is MSY determined with length based SPR when the abalone is atrophied and how would that information be applied for viable abalone management measures?

Environmental Indicators

- Are the environmental indicators and triggers set in the CDFW proposed management strategy accurate and scientifically rigorous (eg. kelp canopy, water temperature, and urchin densities)?
- How do the MPAs and populations inside the MPAs factor into the population estimates and the impacts of fishing and environmental conditions? Could population dynamics inside the MPAs bound models?
- Do these environmental indicators or the way they are used allow for changes in survey methods if there are changes in the environment in the future? Is there a public process before these changes in methodologies could occur?
- Will the peer reviewers be assessing each environmental indicator?
- How scientifically viable are the thresholds associated with each indicator? Should there be a range rather than a specified number?

Indicators Under Different Scenarios

Abalone Recovery

- How long will it take for the population to recover? How long will it take for abalone to recover to a density greater than .45/m²?
- Considering the likely, long-term impacts of global warming, is it defensible to use historic density levels to establish criteria for reopening the fishery? Should new, reduced criteria be used to establish a sustainable fishery at a smaller abalone density and catch level?
 - Is it possible to manage the fishery to a much lower level of take and have it be sustainable and/or recover to better levels over time?
 - What additional science/data would be required to assess the risk of reopening the fishery?
 - Are the trade-off considerations between catch reductions and recovery discussed in the TNC report (and elsewhere)? Is this proposed approach well-founded and appropriate? Is 25 years a suitable recovery timeframe?

Abalone Fishery Reopening

- Are the different elements of reopening under the CDFW plan scientifically sound and robust?
 - What is the mechanistic link between the environmental and density (> 0.25 m²) thresholds set by CDFW and the stock status of abalone, and how does the CDFW explicitly define favorable, as they relate to fishery reopening?
 - What is the scientific relevance of the size class distributions as outlined in the plan (i.e. sub-legal sized population of abalones be >30% of the total population and that legal sized abalone have a population >40% of the total)?
 - What research or analyses are available to inform the choice of thresholds for these environmental indicators (under reopening especially) to demonstrate that they are “favorable”?
- Are the thresholds scientifically robust and relevant for tracking changes in the population and making management decisions about reopening?

Kelp

- Should the fishery be completely closed until kelp beds return?

Indicators Under Different Scenarios — General

- Are research and monitoring needs comprehensive to allow CDFW to collect and maintain essential fishery information necessary to achieve management targets for the stock?
- Are there any priority gaps in research and monitoring that should be addressed or included?
- How are both plans taking into account the different habitats in the areas fished. For example, the differences between Humboldt/Del Norte areas vs. Sonoma/Mendocino counties?

Management Measure Effectiveness

- Are the different management measures proposed effective at regulating catch?
- Are the measures and enforcement that CDFW has viable for dealing with poaching of red abalone?
- Will urchin culling in select areas restore the diversity of marine life and act as sanctuaries from urchins to repopulate the coast when conditions improve?

Additional Areas of Interest

- Where does monitoring fit? While monitoring is likely addressed within many of the bins, I wonder if the subjects of data management and data sharing are included in the management plan?
- Concerns expressed that there is limited public trust in how CDFW has considered density in the past.

Terms of Reference

Red Abalone Fishery Management Plan
Management Strategy Scientific Peer
Review Process

2018



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Developed by California Ocean Science Trust on behalf of the California Department of Fish and Wildlife and The Nature Conservancy, 2018. Funding provided by California Ocean Protection Council.

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Appendix: Outline of Example Peer Review Report

1. Introduction

1.1. Management Context

The northern California populations of red abalone support a very popular recreational fishery throughout northern California. While past landings (2002-2011) appear to be stable, recent declines in subtidal stocks have been recorded and the fishery is now closed. Red abalone has several characteristics, which make it vulnerable to fishing pressure and environmental fluctuations.

In 2005, the Fish and Game Commission (FGC) adopted the Abalone Recovery and Management Plan (ARMP), which governs the management of the recreational red abalone fishery and recovery of southern abalone stocks. This plan sets management guidelines and triggers for Total Allowable Catch (TAC) adjustments based on 2 criteria – density and recruitment. The ARMP has two phases of adaptive management: the interim management plan which the fishery is currently managed under, and the long-term management plan. The interim plan manages the northern California fishery as a single unit on a highly precautionary basis. The ARMP objective is to move the fishery into long-term management, where management is locally based, more responsive and adaptive, while maintaining sustainability. Management changes to the fishery in 2014 marked the beginning of this move to long term management conceptually by differing regulations between southern and northern areas of the fishery. The transition to ARMP long-term management provides an opportunity for the California Department of Fish and Wildlife (CDFW) to move management of the recreational red abalone fishery to a fishery management plan (FMP) under the Marine Life Management Act (MLMA).

A primary goal of fishery management under the MLMA is to ensure that fishing levels are sustainable and do not result in an overfished stock. Recent declines and concerns about changing ocean conditions have prompted the need for more information and a quicker management response, which the long-term management under an FMP seeks to provide for this fishery. FMPs assemble information, analyses, and management options that serve as a vehicle for the CDFW to present a coherent package of information, and proposed regulatory and management measures to the FGC. The FMP becomes effective upon adoption by the Commission, following their public process for review and revision.

Thus, it is important for the scientific underpinnings of the draft FMP to undergo external, independent peer review prior to submission to the FGC. This process is one way to provide FGC and stakeholders assurances that FMPs are based upon the best readily available scientific information, as set forth under the MLMA. The FGC and CDFW have asked for both the management strategy proposed by CDFW and a stakeholder submitted management strategy, led by The Nature Conservancy (TNC), to be included in the peer review. Each of the groups have provided an independently developed management strategy for consideration.

1.2. Review Process Goals and Objectives

Ensuring the best use of best available information in fisheries management is an important tenet of the MLMA. The MLMA identifies external scientific review as a key tool to ensure management decisions are based on the best available scientific information. CDFW is committed to incorporating the best available scientific information into fisheries management through a peer review process.

Scientific and technical peer review (review) is widely applied across numerous technical disciplines to assure products are of high quality, reflect solid scholarship, and that the information contained is accurate and based on rigorous, sound scientific methods (OST 2016). In any review, Ocean Science Trust's (OST) intent is to provide an assessment of the work product that is balanced, fairly represents all reviewer evaluations, and provides feedback that is actionable. When building a review process, OST seeks to balance and adhere to six core review principles: scientific rigor, transparency, legitimacy, credibility, salience, and efficiency. These principles ground the review and shape the products that we develop.

As such, the goals and objectives of the FMP review process are to:

1. ensure that the science underpinning the FMP represents the best scientific information available and is appropriately used to inform a harvest control rule;
2. follow a detailed calendar and fulfill explicit responsibilities for all participants to produce required reports and outcomes;
3. provide an independent external scientific and technical review of the agreed upon sections of the red abalone FMP;
4. use review resources effectively and efficiently.

1.3. Review Coordinating Body: Ocean Science Trust

Ocean Science Trust is an independent non-profit organization working across traditional boundaries to bring together governments, scientists, and citizens to build trust and understanding in ocean and coastal science. We empower participation in the decisions that are shaping the future of our oceans. We were established by the California Ocean Resources Stewardship Act (CORSAs) to support managers and policymakers with sound science.

For more information, visit our website at www.oceansciencetrust.org.

Contact information

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2. Peer Review Scope and Process

2.1. Review Request

CDFW and FGC's purpose in asking OST to conduct a review of the scientific and technical components of both the CDFW and the TNC management strategy is to ensure the scientific and technical elements provide a rigorous underpinning for management decisions and regulatory action should they be implemented. Ocean Science Trust is serving as the review coordinating body, and worked with CDFW and TNC to develop a scope of review that focuses on key scientific and technical components of the management strategies where independent scientific assessment would add value (this document). Components subject to review were determined using criteria from OST 2017 ([here](#)).

2.2. Scope of review

CDFW is seeking an independent assessment of the red abalone management strategy developed by CDFW, as well as the stakeholder-submitted management strategy led by TNC.

The central question of this review is:

Are the underlying data and analysis, and application of those in each of the proposed management strategies scientifically sound, reasonable and appropriate while also meeting the management goals for the recreational red abalone fishery in northern California as defined by MLMA?

The review will focus on evaluation of the following components of both management strategies:

- Evaluation of the data collection methods that inform management indicators, triggers, and decisions including informing responses to changes in the environment, fishing, or other stressors.
- What is the scientific rationale for the indicators used and their link to responses in the abalone population?
- Is the proposed quantitative analysis and application of the data scientifically rigorous and is the scientific rationale for the proposed management actions it triggers accurate?
- Evaluation of modelling approach used including model assumptions, analyses, interpretation, and application of the model results to evaluate performance of the harvest control rules against management objectives.

- From a scientific perspective, provide a general assessment of the proposed methodologies including application, assumptions, and management implications of uncertainties in the stock status, data streams, and analytical method within the confines of CDFW capacity and regulatory authority

For clarity we note that this is not a comprehensive review of the entire FMP. Rather, we are reviewing only the management strategies submitted by TNC and by CDFW.

2.3. Process

Review Process Overview

- **Select a review mode.** A review process is selected in consultation with CDFW, Ocean Protection Council, and any other relevant groups (contractors, authors, etc.) by considering complexity, management risk, uncertainty, socioeconomics, level of previous review, and novelty (OST 2016; OST 2017).
- **Assemble review team.** Ocean Science Trust will convene a ~6 member review panel composed of Ocean Protection Council Science Advisory Team members and other experts (see “Assembling a Review Team,” OST 2016 and “assembling a review team” below for additional details).
- **Conduct review via a series of webinars.** Group webinars will allow CDFW and TNC to engage directly with reviewers at the outset to present the inputs, model methods, and application of analyses and provide two-way interaction to provide any additional clarity needed to complete the review. Many of the webinars will allow for independent deliberation and conversation among reviewers. Given the timeline no in person workshop will be convened.
- **Develop and share final report.** Reviewers will contribute to the development of a final report, which will be made available on OST and CDFW webpages.
- **Review process:** A single peer review panel will review both the CDFW management strategy and the stakeholder-submitted management strategy at the same time. CDFW, FGC, TNC, and OPC formally requested OST to conduct the review in this way. There will be one summary report will be submitted which covers both management strategies.

Review Mode: Remote Panel Review

All meetings will take place via remote online meetings (webinars). At the outset of the review, OST will work with CDFW and TNC to develop detailed reviewer instructions that encourage focused scientific feedback throughout the process. Instructions will include directed evaluation questions and may delegate tasks for reviewers based on their individual areas of expertise. This document will be used to guide the development of meeting agendas and track progress throughout the course of the review. For each meeting, advance work will be required of participants (e.g. drafting responses to guiding

questions) in order for all parties to come prepared for meaningful discussions. OST will notify CDFW and TNC of additional requested materials and data immediately throughout the duration of the review.

Webinar 1: Initiation of Review

Ocean Science Trust will host an initial webinar to provide the review committee, CDFW, and TNC an overview of the scope and process, and clarify the roles and responsibilities of each participant. CDFW will also provide a summary of the relevant management context to ensure reviewers understand the role of the review in the larger FMP development process, and how the outputs will be considered. The bulk of the webinar will then focus on a presentation by CDFW and TNC of the scientific and technical components of each management strategy. This webinar is an opportunity to develop a shared understanding of the tasks and allow reviewers to ask CDFW and TNC any clarifying questions about the review materials or request additional materials before they convene independently to conduct their technical assessment.

Webinar 2-3: Reviewers convene with OST to conduct review

Ocean Science Trust will convene approximately two remote two to three-hour webinars with the review committee to conduct an in-depth evaluation of the components identified in the Scope of Review (above). In advance of each webinar, reviewers will be asked to prepare responses to guiding evaluation criteria questions specified in the review instructions. During each webinar, reviewers will discuss their findings and develop conclusions and recommendations within the context of these questions. Additional follow-up phone conversations may be scheduled as needed to complete the review. Outputs from each webinar, as well as reviewer responses to the questions, will guide the development of the final report.

Webinar 4: Final summary report feedback

Ocean Science Trust will host a final 2-hour webinar to gather final feedback and input from the review panel on the summary report. The review panel will be asked to review the draft summary report in advance of this meeting. This final meeting will provide a space for reviewers to voice any suggested edits or clarifications, and a chance to have a final discussion about results before sharing the final report with CDFW and TNC.

Assembling Reviewers

Transparency

Reviewer names will be published on OST's webpage for the review at the outset of the review; however, specific review comments in the final review report will not be attributed to individual reviewers.

Selection of Reviewers

Ocean Science Trust will implement a reviewer selection process to assemble a review committee composed of ~6 external scientific experts. Ocean Science Trust will consult with and solicit reviewer recommendations from CDFW, TNC, the Ocean Protection Council Science Advisory Team (OPC-SAT), as well as OST's own professional network among the academic and research community. Membership may include experts from academia, research institutions, and government agencies as appropriate to deliver balanced feedback and multiple perspectives. Reviewers will be considered based on three key criteria:

Expertise: The reviewer should have demonstrated knowledge, experience, and skills in one or more of the following areas:

- ecology of invertebrates and/or red abalone
- fisheries science and management (e.g. HCR, TAC, management triggers)
- modeling for fisheries management use (e.g. Management Strategy Evaluation)
- invertebrate and/or red abalone population dynamics and indicators specific to understanding the response to environmental, fishing, and other stressors
- sampling and data collection methods for invertebrate and/or red abalone population studies
- statistical analysis methodologies

Objectivity: The reviewer should be independent from the generation of the product under review, free from institutional or ideological bias regarding the issues under review, and able to provide an objective, open-minded, and thoughtful review in the best interest of the review outcome(s). In addition, the reviewer should be comfortable sharing his or her knowledge and perspectives and openly identifying his or her knowledge gaps.

Conflict of Interest: Reviewers will be asked to disclose any potential conflicts of interest to determine if they stand to financially gain from the outcome of the process (i.e. employment and funding). Conflicts will be considered and may exclude a potential reviewer's participation.

Final selection of the review committee panel will be made by the OPC-SAT Executive Committee. Ocean Science Trust will select one member of the review committee to serve as chair to provide leadership among reviewers, help ensure that all members act in accordance with review principles and policies, and promote a set of review outputs that adequately fulfill the charge and accurately reflect the views of all members.

Transparency in the Review Process

Once selected and shared with the CDFW and TNC teams, Ocean Science Trust will publish this terms of reference document to our website. OST will reach out to key communicators to share the website information and alert them to the review. Upon delivery of the final report to CDFW, the report will also be made public on the OST review webpage. OST will then host a webinar with key members of the review team to share results of the review with any interested stakeholders. CDFW and TNC may participate in this webinar at their discretion.

Management Preview and OPC-SAT Endorsement

Ocean Science Trust will share the final summary report with CDFW and TNC for a preview before the review results are published and shared with the public. There will be an opportunity for CDFW and TNC to ask clarifying questions of the review committee and for reviewers to make clarifying edits only, as appropriate. This may occur via email, conference call or short webinar as time allows.

As a product of the OPC-SAT, near-final reports must go through a full OPC-SAT endorsement before public release.

2.4. Review Report (reference appendix template)

Ocean Science Trust will work with reviewers to synthesize reviewer assessments (responses to the review instructions and input during webinars) into a cohesive, concise final written summary report. This review summary will be delivered to CDFW by xxx 2018, and made publically available on OST's website. We acknowledge that reviewers may provide recommendations beyond the given reviewer charge; such recommendations will be honored and represented in the final summary as deemed appropriate by the review panel.

2.5. Timeline

The review will commence May 2018 with the expected delivery of a final summary report to CDFW by August 2018. A timeline of each task is provided below.

	April	May	June	July	Aug	Sept
Receive Draft FMP			June 1			
Terms of Reference Development (April-May)		X				
Develop and Finalize Terms of Reference	X	X				

Assemble Review Team and Develop Guidance for Reviewers (April - May)	X	X				
Develop/put up webpage		X	X			
Solicit, select, and confirm reviewers	X	X				
Schedule webinars		X	X			
Develop Review Instructions	X	X				
Develop webinar agendas		X	X	X	X	
Conduct Review (June-August)						
Distribute TOR, review materials, and Review Instructions to reviewers			X			
Kickoff webinar			X			
Webinar 2			X	X		
Webinar 3				X	X	
Final Webinar					X	
Additional data requests to DFW/TNC			X	X		
Develop outline and draft report, edits from reviewers					X	
Final draft to reviewers					X	
Final edits					X	
Management preview					X	
Final Report to DFW						X
Post final report on OST website						X
Follow-up as appropriate						X

3. Roles and Responsibilities of Peer Review Participants

3.1. Shared Responsibilities

All participating parties share the responsibility in assuring adequate technical and scientific review of the Red Abalone management strategies in accordance with the MLMA.

3.2. Reviewer Responsibilities

The role of the review committee is to conduct a detailed evaluation of the scientific underpinnings of aspects of both the Red Abalone management strategies, where external review will be valuable. The specific responsibilities of the review committee are included in the Review Instructions. The review committee may request additional information, data, and analyses as appropriate to support a comprehensive and useful review.

The review committee chair has, in addition, the responsibility to: 1) provide leadership among reviewers; 2) ensure that review committee participants follow the terms of reference, adhere to the charge for the review, and review instructions and guidelines; and 3) promote review outputs that adequately fulfill the charge and accurately reflect the views of all members.

The review committee is required to make an honest and legitimate attempt to resolve any areas of disagreement during the review process. Occasionally, fundamental differences of opinions may remain between reviewers that cannot be resolved. In such cases, the review committee will document the areas of disagreement in the final summary report.

Selected reviewers should not have financial or personal conflicts of interest with the scientific information, subject matter, or work product under review within the previous year (at minimum), or anticipated. Reviewers should not have contributed or participated in the development of the product or scientific information under review. Review committee members who are federal employees should comply with all applicable federal ethics requirements. Reviewers who are not federal employees will be screened for conflicts of interest.

3.3. CDFW and TNC Team Responsibilities

CDFW and TNC will participate in the review process as follows:

1. Provide all relevant project documents, data, and supporting materials.

- a. Identify and provide all project documents, data, and other information necessary for reviewers to conduct a constructive assessment.
 - b. Work to ensure all related materials are clear and accessible to reviewers in a realistic timeframe and respond to additional requests in a timely manner.
2. Constructively engage with reviewers and OST staff, and respond to data and other information requests in a timely manner.
 - a. Engage in the process and be available to answer questions or present materials to the review committee as necessary.
 - b. Sonke Mastrup (CDFW) and Alexis Jackson (TNC) will serve as the primary contacts during the review process. In order to adhere to review timelines, CDFW and TNC will respond to and provide feedback on requested materials from OST in a reasonable, mutually agreed-upon timeframe.
3. Consider reviewer comments and recommendations. CDFW, FGC, and TNC intend to consider and incorporate reviewer feedback and recommendations into the management strategy for the FMP and supporting materials as appropriate.

3.4. Ocean Science Trust Responsibilities

California Department of Fish and Wildlife, FGC, and TNC have requested OST to serve as the independent appointed entity to design and coordinate all aspects of this scientific and technical review. Ocean Science Trust will design and implement all aspects of the review process to meet management needs, including assemble and guide a committee of expert reviewers, conduct a review process that is on task and on time, schedule and host remote meetings as appropriate, work with reviewers to produce a written final summary report, and encourage candor among reviewers, among other activities. Upon completion of the review, the final report will be delivered to CDFW and TNC and made publicly available on the OST website for all constituents. Throughout, OST will serve as an honest broker and facilitate constructive interactions between CDFW, TNC, and reviewers as needed in order to ensure reviewers provide recommendations that are valuable and actionable, while maintaining the independence of the review process and outputs.

Appendix: Outline of Example Peer Review Report

The following is an example template for a peer review report:

1. Summary of the Peer Review Committee, containing:
 - a. Names and affiliations of committee members
 - b. Topic(s) being reviewed
 - c. List of analyses requested by the Committee, the rationale for each request, and a brief summary the responses to each request

2. Comments on the technical merits and/or deficiencies in the applications of the analyses underpinning the FMP and recommendations for remedies. Comments should address issues such as the following:
 - a. What are the data requirements of the analyses underpinning the FMP?
 - b. What are the situations/stock status for which the analyses are applicable?
 - c. What are the assumptions of the methodology and/or in applying the proposed analyses?
 - d. Are the methodology and application of the analyses correct from a technical perspective?
 - e. How robust are results to departures from the assumptions of the analyses?
 - f. Do the application of the analyses take into account estimates of uncertainty? How comprehensive are those estimates?
 - g. Will the new analyses and application of analyses result in improved stock assessments or management advice?
3. Areas of disagreement regarding panel recommendations:
 - a. Among panel members
 - b. Between the panel and proponents
4. Unresolved problems and major uncertainties (e.g., any issues that could preclude use of the analyses underpinning the FMP)
5. Management, data, or fishery issues raised by the public and other representatives during the panel review
6. Prioritized recommendations for future research and/or data collection



November 29, 2018

California Fish and Game Commission
1416 Ninth Street, room 1320
Sacramento, CA 95814

RE: Abalone Management

Dear President Sklar and Commissioners:

I am encouraged by the Commission's direction and the CDFW's most recent willingness to work with fishermen and TNC to integrate the two sets of abalone Harvest Control Rules (HCRs), as suggested by the peer review panel.

I supported the Commissioners' requests at November Marine Resource Committee meeting for genuine discussions of the HCRs among scientists from the Department, TNC and fishermen. I also agree with the proposal of using an outside facilitator to coordinate, organize, set time-lines, keep records and conduct public outreach during the integration process.

Furthermore, I back the Commissioners' request asking the Department to consider a de-minimis fishery, as part of the integration plan. This small fishery can be used to collect the type of fishery-dependent data recommended by the peer review panel needed to provide more responsive management. Collecting data via fishing also gives fishermen a reason to stay involved so that tradition is not lost. The exact size of the fishery and how we manage a de-minimis fishery is a separate question, but completely answerable.

Sincerely,

Jack Likins
Recreational Abalone Fisherman





State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Director's Office
P.O. Box 944209
Sacramento, CA 942442-2090
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
DECLARATION OF FISHERIES CLOSURE
DUE TO A PUBLIC HEALTH THREAT
CAUSED BY ELEVATED LEVELS OF DOMOIC ACID IN DUNGENESS CRAB
Pursuant to Fish and Game Code Section 5523, I find and declare that

I.

On October 25, 2018, the Director of the Office of Environmental Health Hazard Assessment in consultation with the State Public Health Officer at the California Department of Public Health determined that Dungeness crab in state waters from Patrick's Point, Humboldt County (41° 8.00' N. latitude) north to the California/Oregon border pose a human health risk due to elevated levels of domoic acid and recommended closure of the recreational Dungeness crab fishery in the affected area.

II.

THEREFORE, under the authority granted by Fish and Game Code Section 5523, I am enacting a recreational Dungeness crab fishery closure in state waters from Patrick's Point, Humboldt County (41° 8.00' N. latitude) north to the California/Oregon border. State waters extend three nautical miles beyond outermost islands, reefs and rocks.

The closure will remain in place until I am notified by the public health agencies named above, that a health hazard regarding Dungeness crab no longer exists.

Charlton H. Bonham, Director

Oct. 25, 2018 / 10:05 A.M. PST

Date/Time



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Director's Office
P.O. Box 944209
Sacramento, CA 94244-2090
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
DECLARATION OF FISHERIES DELAY
DUE TO A PUBLIC HEALTH THREAT
CAUSED BY ELEVATED LEVELS OF DOMOIC ACID IN DUNGENESS CRAB
Pursuant to Fish and Game Code Section 5523, I find and declare that

I.

On November 9, 2018, the Director of the Office of Environmental Health Hazard Assessment in consultation with the State Public Health Officer at the California Department of Public Health determined that Dungeness crab in state waters from the southern boundary of Bodega Head State Marine Reserve in Sonoma County (38° 18' N. latitude) north to the Sonoma/Mendocino county line (38° 46.125' N. latitude) pose a human health risk due to elevated levels of domoic acid and recommended to delay opening the commercial Dungeness crab fishery in the affected area.

II.

THEREFORE, under the authority granted by Fish and Game Code Section 5523, I am delaying the opening of the commercial Dungeness crab fishery in state waters from the southern boundary of Bodega Head State Marine Reserve in Sonoma County (38° 18' N. latitude) north to the Sonoma/Mendocino county line (38° 46.125' N. latitude).

The closure will remain in place until I am notified by the public health agencies named above, that a health hazard regarding Dungeness crab no longer exists.

Charlton H. Bonham, Director

11/09/2018, 10:30 a.m. pst

Date/Time



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Director's Office
P.O. Box 944209
Sacramento, CA 94244-2090
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
DECLARATION OF LIFTING FISHERIES CLOSURE
DUE TO A PUBLIC HEALTH THREAT
CAUSED BY ELEVATED LEVELS OF DOMOIC ACID IN DUNGENESS CRAB
Pursuant to Fish and Game Code Section 5523, I find and declare that

I.

On November 9, 2018, the Director of the Office of Environmental Health Hazard Assessment (OEHHAA) in consultation with the State Public Health Officer at the California Department of Public Health (CDPH) determined that Dungeness crab in state waters from the southern boundary of Bodega Head State Marine Reserve in Sonoma County (38° 18' N. latitude) north to the Sonoma/Mendocino county line (38° 46.125' N. latitude) pose a human health risk due to elevated levels of domoic acid and recommended to delay opening the commercial Dungeness crab fishery in this area.

II.

On December 3, 2018, the Director of OEHHAA in consultation with the State Public Health Officer at CDPH determined that Dungeness crab in waters from the southern boundary of Bodega Head State Marine Reserve in Sonoma County (38° 18' N. latitude) north to the Sonoma/Mendocino county line (38° 46.125' N. latitude) no longer pose a significant human health risk due to elevated levels of domoic acid and recommended opening the commercial Dungeness crab fishery in this area.

III.

THEREFORE, under the authority granted by Fish and Game Code Section 5523, I am opening the commercial Dungeness crab fishery in state waters from the southern boundary of Bodega Head State Marine Reserve in Sonoma County (38° 18' N. latitude) north to the Sonoma/Mendocino county line (38° 46.125' N. latitude) at **12:01 a.m. on Saturday, December 8**. Pursuant to subsection 5523(d) of the Fish and Game Code, this opening shall be preceded by an 18-hour gear setting period set to begin at **6:01 a.m. on Friday, December 7**.

Charlton H. Bonham, Director

12/3/18 12:50 pm PST

Date/Time



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Director's Office
P.O. Box 944209
Sacramento, CA 94244-2090
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
DECLARATION OF FISHERIES CLOSURE
DUE TO A PUBLIC HEALTH THREAT
CAUSED BY ELEVATED LEVELS OF DOMOIC ACID IN SPINY LOBSTER
Pursuant to Fish and Game Code Section 5523, I find and declare that

I.

On October 16, 2018, the Director of the Office of Environmental Health Hazard Assessment in consultation with the State Public Health Officer at the California Department of Public Health determined that spiny lobster in state waters off Anacapa Island pose a human health risk due to elevated levels of domoic acid and recommended closure of the commercial spiny lobster fishery in the affected area.

II.

THEREFORE, under the authority granted by Fish and Game Code Section 5523, I am enacting a commercial spiny lobster fishery closure in state waters around Santa Cruz and Anacapa Islands east of 119°30.000'W. longitude, and west of 119°10.000'W. longitude. The commercial take and/or possession of spiny lobster is prohibited in closed waters. State waters extend three nautical miles beyond outermost islands, reefs and rocks.

The closure will remain in place until I am notified by the public health agencies named above, that a health hazard regarding spiny lobster no longer exists.

Charlton H. Bonham, Director

10/16/18 2:38 pm pacific

Date/Time



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Director's Office
P.O. Box 944209
Sacramento, CA 944209-2090
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
DECLARATION OF LIFTING FISHERIES CLOSURES PUT IN PLACE
DUE TO A PUBLIC HEALTH THREAT
CAUSED BY ELEVATED LEVELS OF DOMOIC ACID IN SPINY LOBSTER
Pursuant to Fish and Game Code Section 5523, I find and declare that

I.

On October 16, 2018, the Director of the Office of Environmental Health Hazard Assessment (OEHAA) in consultation with the State Public Health Officer at the California Department of Public Health (CDPH) determined that spiny lobster in state waters off Anacapa Island pose a human health risk due to elevated levels of domoic acid and recommended closure of the commercial spiny lobster fishery in the affected area.

II.

On November 16, 2018, the Director of OEHAA in consultation with the State Public Health Officer at the CDPH determined that spiny lobster in waters around Anacapa Island no longer pose a significant human health risk due to elevated levels of domoic acid and recommended opening the commercial lobster fishery in this area.

III.

THEREFORE, under the authority granted by Fish and Game Code Section 5523, I am opening state waters around Santa Cruz and Anacapa Islands east of 119°30.000'W. longitude, and west of 119°10.000'W. longitude. The commercial spiny lobster fishery is now open statewide.

Charlton H. Bonham, Director

11/16/2018 12:45 pm PST

Date/Time



2018 SEP 19 PM 12:55

Tracking Number: (2018-013)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov.
Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Click here to enter text. **MIKE MCCARKLE SETA**
Address: Click here to enter text
Telephone number: Click here
Email address: Click here to enter text

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Click here to enter text. **Sections 8591, 8841, & 8842 added by petitioner via email on 10/9/2018 (attached)**

3. Overview (Required) - Summarize the proposed changes to regulations: Click here to enter text. **Add - RIDGE BACK PRAWN may only be taken by TRAWL from SUN RISE TO SUNSET AS NOTED on MONTHLY CALENDAR**

4. Rationale (Required) - Describe the problem and the reason for the proposed change: Click here to enter text. **OVER FISHING IS TAKING PLACE by boats fishing 24 hrs. A DAY SOME TIMES UP TO 36 hrs straight. THIS IS TAKING PLACE ON AREAS OF SMALL SHRIMP**

SECTION II: Optional Information

5. Date of Petition: Click here to enter text. **9-14-18**

6. Category of Proposed Change

- ☐ Sport Fishing
☒ Commercial Fishing
☐ Hunting
☐ Other, please specify: Click here to enter text.

By allowing daylight hrs. of fishing this could cut the effort in half, which would save a lot of small shrimp from being taken. Most RB shrimp fishermen support this change



7. **The proposal is to:** (To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)
☒ Amend Title 14 Section(s): ADD TO CURRENT REGS.
☐ Add New Title 14 Section(s): Click here to enter text.
☐ Repeal Title 14 Section(s): Click here to enter text.
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.
Or ☐ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: THE SHRIMP ARE BEING OVERFISHED AND ARE NOT REACHING FULL GROWTH
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Click here to enter text.
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Click here to enter text. NONE
12. **Forms:** If applicable, list any forms to be created, amended or repealed:
Click here to enter text.

SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:

- ☐ Accept - complete
☐ Reject - incomplete
☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC
☐ Denied - same as petition _____
Tracking Number
☐ Granted for consideration of regulation change

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION

2018 SEP 15 1:12:55

From: McCorkle Fishing Enterprises
Sent: Tuesday, October 9, 2018 3:50 PM
To: Ashcraft, Susan@FGC
Cc: FGC
Subject: Re: Ridgeback Prawn Petition to Fish and Game Commission

Susan,

I would like to add to our petition on Ridge back prawn the following code sections, 8591, 884`1 and 8842.

Mike Mccorkle , Southern Ca. Trawlers assn.

On 10/4/2018 7:05 PM, Ashcraft, Susan@FGC wrote:

Dear Mike,

I mentioned in my last email that I would send you a separate message regarding your recently submitted petition to limit the fishing hours for ridgeback prawn fishing from sunrise to sunset. There is some information that needs to be revised before we can accept it as complete and schedule it for receipt by the Commission at their October meeting.

In Section 1 of the petition, there is a part to fill in Authority (Part 2 of Section 1). I noticed that you identified the *regulation* section you wish to change in Title 14, CCR. However, this section requires that you identify the specific law (either in legislatively enacted code or in the state constitution) that would allow the change you request. In other words, the law that authorized the Commission to adopt regulations governing ridgeback prawn in the first place, and authorizes them to make the changes you request. You started at a good point, by looking at the existing regulations. Each regulations section includes a list of laws (or Fish and Game Code sections) that those regulations cite to for authority. You referenced Section 120.3 of Title 14 CCR. That regulation cites **Sections 710.7, 711, 713, 1050, 8591, 8841, and 8842** of the Fish and Game Code. I have provided a link to the Fish and Game Code below.

You can look up the cited sections to identify which one(s) give the Commission authority to make the change you re requesting. Or you could just stop by the Department of Fish and Wildlife office in Santa Barbara, and they have a printed book copy of the whole Fish and Game Code that you can use to review the sections I listed above to identify which apply.

If you want to try doing it online, the link for Fish and Game Code is:

<https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=FGC>

On the right side above the list of code sections there is a drop down menu for "Code" and then you can type in the "Section" number.

Once you decide which sections you'd like to list, please send an email to FGC@fgc.ca.gov (with a cc to me) with the list, and in the email request that we add the list to Section 1 of your petition.

Thanks so much Mike, and just give me a call if you have questions or if you need assistance with completing your petition.

Best regards,

Susan

Susan Ashcraft

Marine Advisor
California Fish and Game Commission
1416 9th Street, Room 1320
Sacramento, CA 95814
Office: (916) 653-1803
Cell: (650) 222-9036

<div>CALIFORNIA FISH AND GAME COMMISSION</div> <div>REQUESTS FOR NON-REGULATORY ACTION 2018 received through October 17, 2018</div> <div>Revised 11-30-18</div> <div>FGC - California Fish and Game Commission DFW - California Department of Fish and Wildlife WRC - Wildlife Resources Committee MRC - Marine Resources Committee</div>						
Date Received	Name of Petitioner	Request category (Marine or Wildlife)	Subject of Request	Short Description	FGC Decision	Staff / DFW Recommendations
10/17/2018	Chris Voss	Marine	Commercial fishery disaster relief	Use money received from Federal disaster relief funding to educate the public on the importance of removing viscera from purchased crab and lobster as an alternative to closure for human health safety.	Receipt: 10/17/2018 Action scheduled: 12/12-13/2018	No action needed. Refer requestor to consult with health agencies (California Department of Public Health and Office of Environmental Health Hazard Assessment) on viability of closure avoidance.
10/17/2018	Guy Grunmeyer, commercial fisherman	Marine	Commercial spot prawn permits	Requests that more commercial spot prawn permits be issued by DFW as fishery is under capacity (in Morro Bay area).	Receipt: 10/17/2018 Action scheduled: 12/12-13/2018	Recommends no action at this time; this request could be considered after review of the restricted access policy and consideration of options through fishing communities recommendations.

OPINION // OPEN FORUM

California seeks plan to protect whales and Dungeness crab fishery

By Charlton H. Bonham

Nov. 27, 2018 | Updated: Nov. 27, 2018 5:37 p.m.



Scientists have developed a video simulation of how whales become entangled in fishing lines, and say the technology could help lead to new and safer gear designs. Researchers say entanglements are a leading cause of right whale deaths.

Photo: Michael Dwyer / Associated Press

Crabs are a big deal in California as one of our oldest and most valuable fisheries. They are often a treasured part of holiday feasts and they supply jobs to coastal communities. Whales are a big deal, literally, as the most majestic, largest animals swimming off our shore. What the California Department of Fish and Wildlife has done in the past several years with our partners to prevent whale entanglements in fishing gear is a big deal, too.

California's ocean waters are home to one of the most productive marine ecosystems in the world, hosting a diverse assemblage of migrating birds, marine mammals, sea turtles, and fish and invertebrate species. Protecting the ocean is a high priority for Californians.

That is why our department is taking actions to protect the whales and our prized crab fishery. The department is working to create a conservation plan that will analyze the effects of crab fishing on whales, identify steps to minimize the risk of whale entanglements in the crab fishing gear, secure funding to implement the plan, and submit it to the federal government for needed approval.

In 2015, there was a disturbing trend of rising rates of whale entanglements: The number of reported entanglements jumped in 2015 and 2016 but then dropped considerably (by some accounts as much as 80 percent between 2016 and 2017). The spike in 2015 and 2016 corresponded with unprecedented changes in ocean conditions as the "warm water blob" increased ocean temperatures and changed the abundance and location of whales' prey (krill and small fish).

The whales chased their prey, which brought them into traditional fishing grounds that had an unusual concentration of crabbing gear due to delays in the fishing season from high domoic acid levels, increasing the risk of whales becoming entangled. Out of concern, the state took action. Even one whale or turtle entanglement is too many.

In 2015, the Department of Fish and Wildlife, in partnership with the California Ocean Protection Council and NOAA Fisheries (an office of the National Oceanic and Atmospheric Administration within the U.S. Department of Commerce), established the California Dungeness Crab Fishing Gear Working Group. Comprising commercial and recreational fishermen, environmental organizations, members of the disentanglement network, marine mammal experts and resource managers, the working group has supported a robust Dungeness crab fishery while working to reduce whale entanglements.

The working group's major initiative is a program to assess the risk of entanglements before, during, and after the Dungeness crab season. Further, the Department of Fish and Wildlife is testing different monitoring strategies so we know where the whales are on a real-time basis in order to avoid conflicts with fishing gear in the same spot. Thanks to the recent passage of [Senate Bill 1309](#), the department now has legal authority to close fishing areas, restrict gear density and require specialized equipment.

SB1309 also formalizes the role of the working group and, for the first time, provides specific legal authority for the Department of Fish and Wildlife to take mandatory steps with the crab-fishing fleet to address entanglements. In addition, the department and our partners have taken these specific actions:

Protecting crabbing and whales

What: Public hearing on reducing whale entanglements and protecting the Dungeness crab fishery

Who: Members of the Legislature's Joint Committee on Fisheries and Aquaculture.

When: 1 to 5 p.m., Wednesday, Nov. 28.

Where: Aquarium of the Bay, Pier 39, San Francisco

To watch online: Go to <http://senate.ca.gov/> (see "Today's Events" tab).

Informing all crabbers that they must check their gear every 96 hours,

Creating a program to retrieve derelict fishing gear from the ocean,

Developing best fishing practices and whale-friendly gear in collaboration with industry

Adopting new rules that limit the number of crab trap buoys and the length of fishing line that can be used, and

Clarifying that everyone must remove their fishing gear at the end of the crab season.

Yet, we can do more.

No one wants whales entangled. Not the Department of Fish and Wildlife, not California's hardworking fleet of crabbers, not environmental organizations. That's why the Department of Fish and Wildlife has notified the federal agency that it will develop and submit a plan under the federal Endangered Species Act. No state agency to our knowledge has taken its commitment to protecting marine mammals this far. We want to think through everything we must do to avoid whale entanglements to get protections in place as the climate changes.

Doing so will allow us to formalize and build upon the actions that the Department of Fish and Wildlife and the working group have already taken. Moreover, Gov. Jerry Brown has allocated new dedicated staff for us and additional \$7.5 million for the Ocean Protection Council to help address this issue.

We see a future with crab still on our holiday menu, where coastal communities are thriving and resilient in the face of climate change and altered ocean conditions, where we can regularly look westward and see magnificent whales and sea turtles swimming in California's marine environment free from the risk of entanglement. We ask for the support of all Californians as we take these steps toward this vision.

Charlton H. Bonham is director of the California Department of Fish and Wildlife.

From: Kelly Sayce <kelly@strategicearth.com>
Sent: Tuesday, October 16, 2018 12:24 PM
To: FGC
Cc: Miller-Henson, Melissa@FGC; Ashcraft, Susan@FGC; Rachelle Fisher
Subject: Dungeness Crab Fishing Gear Working Group: 2018-19 Recommendations
Attachments: Whales_WorkingGroupRecommendationsMemo_October2018_FINAL.pdf

Dear President Sklar,

The California Dungeness Crab Fishing Gear Working Group (Working Group) is pleased to submit the following recommendations to support the state's efforts to reduce the risk of whale entanglements in California Dungeness crab fishing gear (see memo attached).

The Working Group has continued to develop and fine-tune the Risk Assessment and Mitigation Program (RAMP) in anticipation of the 2018-19 fishing season and has developed a number of recommendations to request funding for priority projects to further the data available to inform the RAMP, establish a transparent process to prioritize research and development projects, and strengthen coordination between state and federal agencies, as well as between agencies and other fixed-gear fisheries.

The Working Group looks forward to continuing to engage with the California Fish and Game Commission, California Department of Fish and Wildlife, Ocean Protection Council, Joint Committee on Fisheries and Aquaculture (the Legislature), Pacific States Marine Fisheries Commission, Dungeness Crab Task Force, and others to inform Working Group discussions and share Working Group outputs. The Working Group welcomes the opportunity to have direct communications at any time about the RAMP and continues to be committed to providing the state with recommendations to support thriving whale populations along the West Coast and a thriving and profitable Dungeness crab fishery.

Information about the Working Group and its activities, including summaries, memos, members list, background materials, and other resources are available at <http://www.opc.ca.gov/whale-entanglement-working-group>. Please do not hesitate to contact Kelly Sayce at 310-738-2665 or kelly@strategicearth.com with any questions about the Working Group and its efforts.

All our best,
Kelly Sayce and Rachelle Fisher
Working Group Administrative Team

--

Kelly Sayce, MAS
Principal
Strategic Earth Consulting

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Los Angeles, CA 90035
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CALIFORNIA DUNGENESS CRAB FISHING GEAR WORKING GROUP

RECOMMENDATIONS MEMO

TO: California Ocean Protection Council, Deborah Halberstadt, Executive Director
California Department of Fish and Wildlife, Charlton Bonham, Director
California Fish and Game Commission, Eric Sklar, President
Joint Committee on Fisheries and Aquaculture, Mike McGuire, Chair
Pacific States Marine Fisheries Commission, Randy Fisher, Executive Director

CC: California Ocean Protection Council, Jenn Eckerle, Deputy Director
California Department of Fish and Wildlife, Craig Shuman, Marine Region Manager
California Fish and Game Commission, Melissa Miller-Henson, Deputy Director
California Fish and Game Commission, Susan Ashcraft, Marine Advisor
National Marine Fisheries, Protected Resources Division, Penny Ruvelas, Long Beach Branch Chief
National Marine Sanctuaries, West Coast Regional Office, Lisa Wooninck, Policy Coordinator
Pacific States Marine Fisheries Commission, Dave Colpo, Senior Program Manager
California Dungeness Crab Task Force (DCTF), DCTF Administrative Team
Marine Mammal Commission, Dennis Heinemann, Senior Advisor, Fisheries and Ecosystems
Oregon Whale Entanglement Working Group, Amanda Gladics, Facilitator
Washington Whale Entanglement Working Group, Fran Recht, Facilitator

FROM: California Dungeness Crab Fishing Gear Working Group

DATE: October 15, 2018

RE: Updates and 2018-19 recommendations to advance the Risk Assessment and Mitigation Program (RAMP) and reduce whale entanglements

Since September 2015, the California Dungeness Crab Fishing Gear Working Group (Working Group), a diverse multi-stakeholder group, has been taking steps to identify and reduce risk of whale entanglements in Dungeness crab fishing gear. During the 2017-18 fishing season, the Working Group piloted a Risk Assessment and Mitigation Program (RAMP) to support the state in working with experts—agencies, fishermen, researchers, representatives from environmental organizations (NGOs), and others—to identify and assess elevated levels of entanglement risk, explore information needs, and determine the need for management options that could be recommended to CDFW.

Formalizing the RAMP: With the recent passage of [Senate Bill \(SB\) 1309](#), which will become effective on January 1, 2019, the Director will have authority to restrict the take of Dungeness crab in a timely manner—and lift any restrictions in a similar manner once significant risk has abated—in areas where the fishery is posing significant risk of marine life entanglement, as determined in consultation with the Working Group. SB 1309 also requires CDFW to adopt regulations to evaluate and respond to potential risk of marine life entanglement on or before November 1, 2020 in consultation with the Working Group and other stakeholders. The RAMP is intended to guide this effort, and during the August and September 2018 meetings, CDFW presented draft rulemaking language based on the RAMP's evolving structure and

function to the Working Group for review and feedback. CDFW will continue to develop the RAMP rulemaking package for public review in advance of November 1, 2020.

2017-2018 RAMP Pilot: Since the last recommendations memo in January 2018, the Working Group met on April 23-24, 2018, August 1-2, 2018, and September 25-26, 2018 to consider lessons learned from the 2017-18 RAMP pilot. Based on this learning, an updated 2018-19 RAMP has been developed to include:

- The Working Group evaluated and fine-tuned the risk factors (rate of entanglements, forage/ocean conditions, whale concentrations, and fishing dynamics) based on lessons learned. These updates include convening the Working Group more frequently to evaluate risk particularly in the spring months, including new guiding questions for most risk factors to more readily assess risk, and specific recommendations requesting funding to strengthen the RAMP data inputs (see recommendations below).
- In addition to humpback whales, the 2018-19 RAMP will be expanded to consider blue whales and has developed relevant draft criteria and guiding questions to pilot during the upcoming season. The Working Group requested to receive information about other marine species, including fin whales, gray whales, and leatherback sea turtles, starting in late 2018 to gain a better understanding of how these marine species will be considered within future iterations of the RAMP.
- The RAMP will utilize and consider both systematically and opportunistically collected data related to fishing dynamics and the distribution and concentrations of other humpback, blue whales, and other marine life to help inform the RAMP's development and implementation. These data may come from aerial surveys, vessel surveys, data loggers, crowd-sourced information, and other means.
- Recognizing the experience that the Working Group has gained on the issue of whale entanglements in California, the agencies (CDFW, National Marine Fisheries Service (NMFS), Ocean Protection Council (OPC) and the United States Coast Guard) may convene the Working Group to consider circumstances of increased rate of entanglements in California waters in fishing gear other than California Dungeness crab.

Surface Gear Rulemaking: During its April 2018 meeting, the Working Group provided input on CDFW's draft rulemaking package that would restrict the amount of surface gear used at different depths. This rulemaking is based on the voluntary Best Practices Guides that have been in place during the 2016-17 and 2017-18 fishing seasons. It is anticipated this rule will be in place for the 2018-19 fishing season. For additional information, visit <https://www.wildlife.ca.gov/Notices/Regulations/Crabbing-Gear>. The Working Group is currently updating the 2018-19 Best Practices Guide to reflect the new surface gear regulations, once approved.

RECOMMENDATIONS

The following recommendations were identified by the Working Group over the course of three meetings in 2018. This information is intended to help inform decision makers and those interested in this issue, including other fixed gear fisheries.

Recommendation #1. Request to the OPC to Direct General Funds for RAMP Operations and Support, Including Data Gathering, Gear Innovation, and Evaluation. The Working Group appreciates the dedicated efforts that the state, the Legislature, and its partners have taken to secure long-term funding to support the RAMP. With the recent designation of \$5.5M from the General Fund to reduce the risk of entanglement

of marine life in fixed fishing gear, the Working Group recommends the following be considered by the OPC as priorities for the allocation of this available funding:

- *RAMP Operating Funds* - The Working Group recommends the OPC allocates a portion of the General Fund allocation to fully support RAMP coordination and operations, including the consideration of stipends for Working Group participants.
- *Solar Logger Pilot Project* - A solar logger pilot project was implemented during the 2017-18 fishing season to test the tool's ability to inform the overlap of fishing gear and whale distribution. The Working Group recommends expanding the solar logger pilot beyond the existing 12 commercial vessels to include up to 40 commercial volunteers (3-4 per port/port complex) from Port San Luis/Avila to Crescent City. This could include boats that may be involved in pre-season domoic acid and quality testing, and dually permitted vessels in Oregon and Washington. The Working Group also supports the expansion of this pilot project to involve up to 20 whale watch boats and/or Commercial Fishing Passenger Vessels (CPFVs) from Port San Luis/Avila to Crescent City. This project is anticipated to provide valuable information for both the whale concentrations and fishing dynamics risk factors, including further learning about the relationship and overlap of whale distribution and fishing activities. Additionally, this project will help inform the best way forward to scale the use of data loggers for fishing and whale watch vessels to inform a comprehensive view of fishing and whale dynamics. The Working Group also recommends CDFW, Pacific States Marine Fisheries Commission (PSMFC), and other experts collaborate to evaluate solar logger data from commercial fishing vessels and whale watching operations and attempt to assess and map the overlap of fishing and whale distributions.
- *Synthesis of Available Whale Data* - The Working Group recommends the Whales Project Team and/or other experts synthesize available whale watch data (e.g., Monterey Bay Whale Watch) and compare this information with other whale sightings datasets (e.g., systematic vessel and aerial surveys) to evaluate the utility of whale watch data (local and regional) in informing the RAMP. This project will also assess the relationship between various whales, fishing, and forage data sets from recent years and improve integration and interpretation of whale watching observations and other sightings data in the RAMP and inform prioritizing these survey methods in the future, including resource allocation decisions. This project will inform the evaluation of the whale/forage model, which is currently in development.
- *Automation of Forage/Ocean Conditions Data* - The Working Group sees great value in Dr. Jarrod Santora's work tracking forage/ocean conditions to understand predicted and current whale distribution patterns. The Working Group recommends Dr. Jarrod Santora develop a process to automate the forage/ocean data analysis and sharing capabilities, in combination with integrating his expert opinion and interpretation of the analyses. The project will further define and quantify the objective criteria to guide the RAMP, expedite the process to analyze and share available data, and increase transparency within the fleet regarding how the evaluation of this risk factor is conducted.
- *Additional RAMP Information Gathering Efforts* - The Working Group recommends maintaining the flexibility to conduct both planned and responsive data gathering efforts, including, but not limited to, aerial and vessel surveys, to inform the RAMP factors in response to elevated entanglement risk.
- *Gear Innovations Research & Development Projects* - The Working Group recommends the OPC allocate a portion of the General Funds to support shovel-ready gear innovations projects to test during Spring 2019, based on established criteria that will be developed by the Working Group

and/or CDFW (see Recommendation #3). The Working Group also recommends the OPC consider funding the development of a process to assist the state in forwarding research and development projects in the longer term (see Recommendation #3).

The Working Group would like to be informed and, as appropriate, involved in the design of the above recommended projects.

Recommendation #2. Improve Risk Assessment Factor Criteria for Blue Whales and Take an Opportunistic Approach to Data Gathering for Other Marine Life: The Working Group recommends the Whales Project Team continue to refine and inform the draft objective criteria and guiding questions developed for blue whales for the Working Group's review and consideration throughout the 2018-19 season. The Working Group also recommends gathering relevant information about other marine life (e.g., gray whales, fin whales, leatherback turtles, etc.) for consideration in the RAMP. Where possible, the Working Group requests that agencies and other experts provide this additional information to help inform the RAMP's development. The Working Group will continue to consider and be responsive to other marine species during the 2018-19 RAMP.

Recommendation #3. Establish a Transparent and Clear Process to Assist the State in Prioritizing Research and Development Projects: The Working Group recommends establishing a transparent and clear process to assist the state in identifying, assessing, and prioritizing proposed research and development projects to help further inform the RAMP, and specifically gear innovations that could be included in the management measures toolbox (MMT) of the RAMP ([here](#)). As a first step, the Working Group recommends convening a workshop in 2019 to review, discuss, and evaluate the merits of new and existing proposals and develop a longer-term strategy for implementing a research and development program. Based on the success of PSMFC in convening past similar workshops, the Working Group recommends the OPC work with PSMFC to convene California, Oregon, Washington, East Coast, and international fishermen, innovators, and others to consider innovative ideas. While needing additional discussion, the Working Group recommends the OPC, PSMFC, and CDFW develop a request for proposals (RFP) process that would identify criteria to help with prioritizing projects (e.g., innovation must be economical, enforceable, safe, reliable, fishable, reduce entanglement frequency, functioning prototype, etc.).

Recommendation #4. CDFW to Prioritize Engaging with Other Fixed-Gear Fisheries: With the passage of SB 1309, the Working Group recommends CDFW work with other fixed gear fisheries (both commercial and recreational) to address the complex issue of wildlife entanglements. The Working Group recommends that CDFW, fishermen, and others consider the tools developed by the Working Group has developed to date, including best fishing practices concepts, surface gear rulemaking concepts, gear marking ideas (e.g., double-sided tags, rope markings, buoy markings, etc.), and RAMP concepts to help other fisheries develop tools that are specific to their fishing practices. The Working Group welcomes the opportunity to share its work on this issue with other fisheries per CDFW's needs as these communications take place. Additionally, the Working Group recommends the report from the August 29-30, 2018 Forensic Review Workshop, which included a robust discussion about gear marking, be made available to other fixed gear fisheries for consideration.

Recommendation #5. CDFW Presentation to the Fish and Game Commission (FGC) and/or Marine Resources Committee (MRC): The Working Group recommends that CDFW present information about the RAMP to the FGC and/or MRC during the 2018-19 season. The Working Group also recommends CDFW initiate discussions with the FGC and/or MRC about reducing entanglement risk in the recreational Dungeness crab fishery and other fixed gear fisheries.

Recommendation #6. Improved Inter-agency Coordination Between CDFW and the Coast Guard: The Working Group recommends that CDFW and the Coast Guard develop a Memorandum of Understanding (MOU), or update an existing MOU, to help with inter-agency RAMP coordination. This would include, but not be limited to, the Coast Guard appointing a representative to serve on the RAMP's agency body, to work together to coordinate aerial surveys using Coast Guard aircrafts/vessels and to explore available Coast Guard technologies that may help reduce entanglement risk, and establish a process to communicate RAMP management measures (voluntary/mandatory) via the Coast Guard's 'Broadcast Notice to Mariners' radio channel. Additionally, Working Group participants look forward to working with the Coast Guard to coordinate, design, and carry out pilot aerial surveys to test out protocols to collect data to use in the RAMP.

The Working Group looks forward to continuing to engage with the OPC, CDFW, FGC, Joint Committee on Fisheries and Aquaculture (the Legislature), DCTF, and others to inform Working Group discussions and share Working Group outputs. The Working Group welcomes the opportunity to have direct communications at any time about the RAMP and continues to be committed to providing recommendations to support thriving whale populations along the West Coast and a thriving and profitable Dungeness crab fishery.

Information about the Working Group and its activities, including summaries, memos, members list, background materials, and other resources are available at <http://www.opc.ca.gov/whale-entanglement-working-group>. Questions, ideas, and feedback about the RAMP can be directed to info@cawhalegroup.com or 707-832-4088.

The administration of the Working Group is supported by the California Ocean Protection Council and The Nature Conservancy, with in-kind contributions from the California Department of Fish and Wildlife and the National Marine Fisheries Service.



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Director's Office
P.O. Box 944209
Sacramento, CA 94244-2090
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



November 26, 2018

Chris Yates, Assistant Regional Administrator
NOAA Fisheries, West Coast Region
Protected Resource Division
501 West Ocean Boulevard, Suite 4200
Long Beach, CA 90802

Penny Ruvelas, Long Beach Branch Chief
NOAA Fisheries, West Coast Region
Protected Resource Division
501 West Ocean Boulevard, Suite 4200
Long Beach, CA 90802

Dear Mr. Yates and Ms. Ruvelas,

SUBJECT: NOTICE OF INTENT TO APPLY FOR SECTION 10 INCIDENTAL TAKE PERMIT

The California Department of Fish and Wildlife (Department) provides this correspondence to notify NOAA Fisheries West Coast Region, Protected Resources Division of our intent to apply for an incidental take permit under Section 10 of the federal Endangered Species Act to address protected species interactions in certain California state-managed fixed gear fisheries.

The Department looks forward to working with you on this process. If you have any questions or comments, please contact Dr. Craig Shuman, Marine Regional Manager, at (916) 445-6459 or by email at Craig.Shuman@wildlife.ca.gov.

Sincerely,

Charlton H. Bonham
Director

ec: Stafford Lehr, Deputy Director
Wildlife and Fisheries Branch
Stafford.Lehr@Wildlife.ca.gov

Craig Shuman, D. Env. Regional Manager
Marine Region
Craig.Shuman@Wildlife.ca.gov

Conserving California's Wildlife Since 1870

Mr. Yates and Ms. Ruvelas
NOAA Fisheries, West Coast Region
November 26, 2018
Page 2

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California Fish and Game Commission
Commission Mission and Vision Statements
From 1998 Strategic Plan

Mission Statement

The mission of the California Fish and Game Commission is, on behalf of California citizens, to ensure the long term sustainability of California's fish and wildlife resources by:

- Guiding the ongoing scientific evaluation and assessment of California's fish and wildlife resource
- Setting California's fish and wildlife resource management policies and ensuring these are implemented by DFW
- Establishing appropriate fish and wildlife resource management rules and regulations
- Building active fish and wildlife resource management partnerships with individual landowners, the public and interests groups, and federal, State and local resource management agencies

Vision Statement

The vision of the California Fish and Game Commission, in partnership with the Department of Fish and Game and the public, is to assure California has... "Sustainable Fish and Wildlife Resources. "

California Fish and Game Commission

Proposed Commission Mission and Vision Statements and Core Values

November 30, 2018

The California Fish and Game Commission (Commission) is considering potential changes to its mission and vision statements.¹ The Commission has embarked on this process in the context of thinking about and discussing what the Commission does, why it does what it does and for whom, how the work of the Commission is different from other organizations, and to what end does that work contribute. While the Commission's statutory authorities largely dictate the answers to the questions, those authorities do not provide a succinct and defining "story" that describes the work of the Commission and how it contributes to a vision.

Along with the mission and vision, core values are a governance tool that forms a framework for establishing policies, goals, objectives, strategies and procedures. As the foundation for all organizational activities, choices, decisions and actions, core values create a statement of priorities for how the Commission and its staff carry out their responsibilities, remaining fixed even as practices change in response to the changing world. Decision-making challenges are most significant at those times when the Commission and its staff must weigh one core value against another.

To support the Commission's strategic planning effort, discussions have been held within the context of asking what the Commission's core values are and whether the current mission and vision statements should change. This document identifies potential mission and vision statements and core values, all developed with commissioner and stakeholder input between June and November 2018.

Given the evolutionary nature of strategic planning processes, it is not uncommon for organizations to make modifications to their core values and mission and vision statements as the planning process proceeds; the Commission may want to re-evaluate its mission, vision and core values as the Commission reaches the third and final phase in developing a strategic plan for 2020.

Proposed Vision Statement

The vision of the California Fish and Game Commission is a healthy, biodiverse and natural California in which native fish and wildlife thrive within dynamic ecosystems and inspire human interaction and enjoyment.

Proposed Mission Statement

The mission of the California Fish and Game Commission, in partnership with the California Department of Fish and Wildlife, is to provide leadership for transparent and open dialogue where information, ideas and facts are easily available, understood and discussed to ensure that California will have abundant, healthy, and diverse fish and wildlife that thrive within

¹ The Commission's current mission and vision statements are listed at the end of this document.

dynamic ecosystems, managed with public confidence and participation, through actions that are thoughtful, bold, and visionary in an ever-changing environment.

We embrace our responsibility to hold California's fish and wildlife and their habitats in the public trust, as well as their cultural and intrinsic value, and therefore work collaboratively with other federal, tribal, state and local government agencies, non-governmental organizations and the people of California to establish scientifically-sound policies and regulations that protect, enhance and restore California's native fish and wildlife in their natural habitats, and to secure a rich and sustainable outdoor heritage for all generations to experience and enjoy through both consumptive and non-consumptive activities.

Proposed Core Values

Six values have been identified during this planning process as important for framing the Commission's and its staff's work: (1) integrity, (2) transparency, (3) innovation, (4) collaboration, (5) excellence and (6) stewardship.

Integrity

We hold ourselves to the highest ethical and professional standards, pledging to fulfill our duties and deliver on our commitments to protect and hold California's fish and wildlife and their ecosystems in the public trust, to ensure consistency of expectations and outcomes. We ensure that our choice or order of decision-making does not arbitrarily prioritize one interest group over others. We hold ourselves accountable to act in accordance with our values and code of ethics, even when it is difficult. Our actions reflect honesty, truthfulness, respect and accuracy.

Transparency

We recognize that decisions should be made based on a variety of inputs in an open, inclusive and public process that solicits a diverse set of perspectives. We strive to communicate with our partners, our stakeholders and the public responsively and openly about how and why decisions are made. We use adaptive processes and consistently gather as much information as possible to ensure the Commission is thoroughly informed for thoughtful decision-making, while acknowledging that decisions are most often made with incomplete information and uncertainties.

Innovation

We respond to the ever-changing natural and human environments by evaluating the efficiency and effectiveness of our decisions and processes, identifying new ideas that challenge conventional wisdom and historical biases, and seeking opportunities for innovation. We recognize that innovation always involves some element of risk, and that creative problem-solving and implementing forward-thinking solutions where value is added is key to meeting the constantly evolving needs of our stakeholders and California's fish and wildlife. We take time to frame challenges, adapt, and execute new and useful ideas, including applying advances in sound science, evolving concepts of wildlife management, and public values toward wildlife in new and bold ways. We encourage creativity and flexibility as we proactively meet challenges and problem-solve.

Collaboration

We value collaboration, including teamwork and partnerships, in problem-solving and in developing policies and regulations. Teamwork is actively fostered and is one of the main ways we function. Collaborative efforts extend beyond the Commission and its staff to empower a diversity of stakeholders, other federal, tribal, state and local agencies, non-governmental organizations, and the people of California to participate in our problem-solving and decision-making processes and, where appropriate, engage in working groups that are inclusive and transparent.

We pursue productive and considerate partnerships, rather than relationships solely based on a formal legal agreement, and celebrate one another's successes as we advance them together. A partnership is a mutually beneficial arrangement that leverages resources to achieve shared goals between and among the partners, based on mutual respect, open-mindedness, trust, and genuine appreciation of one another's contribution. Our primary partner is our sister agency, the California Department of Fish and Wildlife.

Excellence

We pursue quality, proactively assessing our performance and striving to continuously improve the delivery of fair and accessible services, work products and decisions, as well as the efficiency and cost-effectiveness with which they are delivered. We are committed to being and delivering the best, and are diligent about creating better ways of doing what we do. We take pride in our efforts and what we make possible. We approach every challenge with an expectation and determination to succeed.

Stewardship

We hold the state's wildlife and their habitats and ecosystems in trust for the public, respecting that they have intrinsic value and are essential to the well-being of all California residents. We give attention to the environmental and human stressors, including climate change, development and other threats, that affect the resilience and health of our wildlife and their habitats and ecosystems. We use credible science, evolving concepts of wildlife management, and public values toward wildlife to evaluate programs, policies and regulations that will help achieve our stewardship goals. We recognize the dynamic nature and stay abreast of changes in science, which should include the evaluation principles of relevance, inclusiveness, objectivity, transparency, timeliness, verification, validation and peer review of information as appropriate.

Current Mission and Vision Statements

The current mission and vision statements were adopted in 1998 and have not since been revised.

Mission

"On behalf of California citizens, to ensure the long term sustainability of California's fish and wildlife resources by:

- Guiding the ongoing scientific evaluation and assessment of California's fish and wildlife resources,

- Setting California's fish and wildlife resource management policies and insuring these are implemented by the Department of Fish and Wildlife,
- Establishing appropriate fish and wildlife resource management rules and regulations, and
- Building active fish and wildlife resource management partnerships with individual landowners, the public and interest groups, and federal, state and local resource management agencies."

Vision

The vision of the Fish and Game Commission, in partnership with the Department of Fish and Wildlife and the public, is to assure California has sustainable fish and wildlife resources.



INYO COUNTY FISH AND WILDLIFE COMMISSION

COMMISSION MEMBERS
DOUGLAS BROWN
JOE PECSI
LARRY MCINTOSH
GARRETT MCMURTRIE
STEVE IVEY

ALTERNATE
JOHN FREDERICKSON

REPLY TO:
Pat Gunsolley, Secretary
4801 Alison Lane
Bishop, CA 93514
pgunsolley@gmail.com

October 18, 2018

Commissioner Eric Sklar
President, California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95815

Dear Commissioner Sklar:

The Inyo County Fish and Wildlife Commission strongly supports the inclusions identified in the attached letter from a coalition of fishing and wildlife organizations and urges you to adopt those changes reflected in the attached marked version of the Commission's Recommended Commission Core Values statement, Recommended Commission Mission Statement, and Recommended Commission Vision Statement.

Inyo County is a county dependent in large part to our tourist-based economy. Fishing and hunting play a major role in bringing tourists to our area. We believe the Fish and Game Commission should always remember the importance of our sportsmen and women when policies are being developed.

The Commission's recognition of the importance of the sportsmen and women's contribution to the success of the Commission's values, mission and vision for California fish and wildlife resources should not be excluded or unrecognized by the Commission. Their contributions have played a crucial role in funding conservation efforts while acting as faithful stewards of our State's wildlife resources.

Your consideration of the proposed changes is gratefully appreciated.

Sincerely,

Doug Brown, Chairperson
Inyo County Fish and Wildlife Commission

cc: Board of Supervisors



October 4, 2018

Commissioner Eric Sklar
 President, California Fish and Game Commission
 1416 Ninth Street, Suite 1320
 Sacramento, CA 95814

Dear President Sklar and Commissioners:

California's sportsmen and women have been the Commission's primary supporters and constituents since the Commission's creation nearly 150 years ago. The Commission has been a faithful steward of our wildlife resources, and our organizations have been proud partners in that endeavor. It is for that reason that we were both surprised and disappointed to find that the core values and revised vision and mission statement currently being considered by the Commission contains no reference to the hunting or fishing traditions that have defined the Commission's mission for over a century.

For over 80 years, sportsmen and women have played a crucial role in funding conservation efforts throughout the United States through the American System of Conservation Funding (ASCF). The American System is a "user-pays, public-benefits" structure, unique to the rest of the world, in which those that consumptively use public resources pay for the privilege, and in some cases have the right, to do so. This funding system has allowed the North American Model of Wildlife Conservation to become recognized as the most successful conservation framework in history. As America's original conservationists, sportsmen and sportswomen have a long and proud tradition of serving as stewards of our wildlife and natural land.

Nowhere is this truer than California. No other constituency contributes more money to the Department of Fish and Wildlife – and by extension the Commission – than sportsmen and

women. In 2017 alone, hunting and fishing license sales, in addition to monies generated through the Pittman-Robertson and Dingell-Johnson Acts was responsible for over \$125 million dollars in revenue to the Department. Hunting and fishing are an important part of California's heritage – so much so that Californians have enshrined the right to fish in our Constitution.

Regarding the Commission's September 23, 2018 draft core values and vision and mission statement, we believe these documents should include explicit support of hunting and fishing activities, as these are the traditional uses of wildlife regulated by the Commission. Additionally, these activities provide significant financial support for wildlife conservation, provide an incentive for private landowners to maintain their property as wildlife habitat, and are an important wildlife management tool in many cases. While we recognize that the Commission has a large and growing number of mandates, we also recognize that fish and wildlife conservation as it exists in California today would quite simply not be possible without the cooperation, stewardship, and funding that comes from the hunting and fishing community, and it is our strong feeling that this should be reflected in the Commission's strategic plan. To that end, we have attached some suggested language that we would like to see included in your final strategic planning documents.

The hunting and fishing communities have long enjoyed a unique and productive relationship with the Fish and Game Commission. As the Commission looks forward to its next chapter, we are eager to maintain and build upon that relationship, and are grateful for your consideration of our concerns.

Sincerely,

American Sportfishing Association
Black Brant Group
CAL-ORE Wetlands and Waterfowl Association
California Bowmen Hunters
California Deer Association
California Houndsmen for Conservation
California Rifle and Pistol Association
California Sportfishing League
California Waterfowl Association
Coastside Fishing Club
Congressional Sportsmen's Foundation
The Grassland Fund
National Open Field Coursing Association
National Wildlife Turkey Federation - California Chapter
Northern California Guides & Sportsmen's Association
Rocky Mountain Elk Foundation
Safari Club International - San Francisco Bay Area Chapter
San Diego County Wildlife Federation
Suisun Resource Conservation District
Tulare Basin Wetlands Association
Wild Sheep Foundation - California Chapter

California Fish and Game Commission

Recommended Commission Core Values

October 4, 2018

The California Fish and Game Commission (Commission) is considering adopting core values through its strategic planning process. Along with the mission and vision, core values form the foundation for all organizational activities, choices, decisions and actions. Core values are a governance tool that forms a framework for establishing policies, goals, objectives, strategies and procedures. Core values create a statement of priorities for how the Commission and its staff carry out their responsibilities, remaining fixed even as practices change in response to the changing world. Decision-making challenges are most significant at those times when the Commission and its staff must weigh one core value against another.

This document identifies potential core values as discussed during the Commission's August 22 strategic planning agenda item. While there are dozens of core values that could apply to the work of the Commission, there were six distinct "categories" of values identified as important for framing Commission and its staff's work: (1) Integrity, (2) Transparency, (3) Innovation, (4) Collaboration, (5) Excellence and (6) Stewardship.

To help inform the Commission's anticipated decision-making in October 2018 regarding potential core values and the mission and vision statements, it has requested public feedback in advance. **Comments are requested no later than Thursday, October 4, 2018 at fgc@fgc.ca.gov.**

Integrity

We hold ourselves to the highest ethical and professional standards, pledging to transparently fulfill our duties and deliver on our commitments, to ensure holistic consistency of expectations and outcomes. We hold ourselves accountable to act in accordance with our values, even when it is difficult. Our actions reflect honesty, truthfulness and accuracy.

Transparency

We recognize the important and wide-ranging impacts the Commission's decisions have on California's wildlife, wildlife habitat and residents, and that these decisions should be made based on the best-available science, as well as a variety of other inputs in an open, inclusive and public process. We strive to communicate with our partners, our stakeholders and the public responsively and openly about how and why decisions are made. We use adaptive processes and consistently gather as much information as possible to ensure the Commission is best informed for thoughtful decision-making.

Innovation

We respond to the ever-changing natural and human environments by evaluating the efficiency and effectiveness of our decisions and processes, identifying new ideas that challenge conventional wisdom and opportunities for innovation. We recognize that innovation always involves some element of risk, and that creative problem-solving and implementing forward-thinking solutions where value is added is key to meeting the constantly evolving needs of our

stakeholders and California's fish and wildlife. We take time to frame challenges, adapt and execute new and useful ideas, including applying science in new ways.

Collaboration

We value collaboration, including teamwork and partnerships, in problem-solving and in developing policies and regulations. We understand the important heritage of hunting and angling in California and respect the significant contribution hunters and anglers make in terms of the revenues they contribute, including the on-the-ground partnership they provide to our conservation efforts. Teamwork with this stakeholder community and others is actively fostered and is one of the main ways we function. Collaborative efforts extend beyond the Commission and its staff to empower a diversity of stakeholders, other agencies, non-governmental organizations, and the people of California to participate in our problem-solving and decision-making processes.

We pursue productive and compassionate partnerships, rather than relationships solely based on a formal legal agreement and celebrate one another's successes as we take them to the next level together. A partnership is a mutually beneficial arrangement that leverages resources to achieve shared goals between the partners, based on mutual respect, open-mindedness, trust, and genuine appreciation of one others' contribution.

Excellence

We pursue quality, proactively assessing performance and striving to continuously improve the delivery of fair and accessible services, work products and decisions, as well as the efficiency and cost-effectiveness with which these are delivered. We encourage novelty, creativity and flexibility as we proactively meet challenges and problem-solve in a constantly-changing world.

Stewardship

We hold the state's wildlife and their habitats in trust for the public, respecting that they have intrinsic value and are essential to the well-being of all California residents. We give attention to the environmental and human stressors that affect the resilience of our wildlife and their habitats. We use credible science to evaluate programs, policies and regulations that will help achieve our stewardship goals. We recognize the dynamic nature of science, and that it should include the evaluation principles of relevance, inclusiveness, objectivity, transparency, timeliness, verification, validation and peer review of information as appropriate.

Customer Service

We recognize that in addition to the wildlife and habitats that depend upon our thoughtful management, many Californians rely upon the Commission to efficiently and effectively provide opportunities to pursue time-honored outdoor traditions such as hunting and angling. We are committed to enthusiastically supporting traditional hunting and angling activities, as well as the many Californians who enjoy them.

California Fish and Game Commission

Recommended Commission Vision Statement

October 4, 2018

The California Fish and Game Commission (Commission) is considering potential changes to its vision statement, which is intended to describe how the future would look if the Commission achieves its mission. As a future-oriented declaration of the Commission's purpose and aspirations, the vision statement complements the mission statement to guide the Commission's work and inform goals and objectives. In short, the vision statement is an effort to bridge the present with the future.

During the Commission's strategic planning effort, discussions have been held within the context of asking what are the Commission's core values, and should the current mission and vision statements change. This document identifies the Commission's current vision statement as well as a suggested vision statement based on comments received to date and commission direction during its August 22-23, 2018 meeting.

To help inform the Commission's anticipated decision-making in October 2018 regarding potential core values and the mission and vision statements, it has requested public feedback in advance. **Comments are requested no later than Thursday, October 4, 2018 at fgc@fgc.ca.gov.**

Current Vision Statement

The vision of the Fish and Game Commission, in partnership with the Department of Fish and Wildlife and the public, is to assure California has sustainable fish and wildlife resources.

Potential Vision Statement

The California Fish and Game Commission envisions creating a platform for transparency and open dialog where information, ideas and facts can be easily available, understood and discussed to support a biodiverse, natural California in which an array of native fish and wildlife thrives within dynamic ecosystems, supports diverse needs and uses, supports angling, hunting, consumptive as well as non-consumptive uses, and inspires human interaction and enjoyment.

Concepts Discussed for a Vision Statement

In considering how the current vision statement might be revised to better reflect a description of the world as it would exist if the Commission were to achieve its grandest aspirations, discussions evolved around six essential questions:

- What is the simple, powerful picture that the mission helps to create?
- What about the outcome is inspiring, engaging and memorable?
- What are the relatable, human, real-world aspects that help create inspiration and engagement?

- Is it possible to quantify the outcome with minimal interpretation?
- Can we think big and compelling without overselling?
- Does the vision align with our values?

Key concepts discussed over time that attempt to address the essential questions included:

- Ecological integrity and resiliency. Dynamic ecosystems that are adaptable to continuous change that is not yet fully understood.
- Endurance. To foster resilient ecosystems and populations. Because we are investing in the persistence of healthy populations, support restoration and enhancement of those populations.
- Abundance in a natural environment. Abundant terrestrial, aquatic and marine wildlife, and the habitats upon which they depend, in a natural state (in other words, not aquariums and zoos).
- Biodiversity. Protecting and conserving a diversity of aquatic and terrestrial wildlife, and their habitats, in California.
- People. Supporting diverse human uses and enjoyment, including hunting and angling. The Commission represents all Californians and can consider the needs of society and individuals within that broader context.
- Long-term sustainability. Ensuring that the people of California—all Californians—will be able to enjoy our fish and wildlife in perpetuity.
- Intrinsic value. To acknowledge the intrinsic value of wildlife and the habitat upon which it depends.
- Balance. Finding a middle-ground that supports both the living natural systems as well as human access to and use of the resources.
- Decision-making. As an independent decision-making body, to create a platform of transparency and open dialog where information, ideas and facts can be easily available, understood and discussed.
- Inspiration. An environment that inspires the human spirit, to be appreciated and revered.

California Fish and Game Commission

Recommended Commission Mission Statement

October 4, 2018

The California Fish and Game Commission (Commission) is considering potential changes to its mission statement in the context of thinking about and discussing what the Commission does, why it does what it does and for whom, and how the work of the Commission is different from other organizations. While the Commission's statutory authorities largely dictate the answers to the questions, those authorities do not provide a succinct and defining "story" that describes how the work of the Commission contributes to its vision.

To support the Commission's strategic planning effort, discussions have been held within the context of asking what are the Commission's core values and should the current mission and vision statements change.

This document identifies the Commission's current mission statement, a potential mission statement, and key concepts considered in developing the mission statement.

To help inform the Commission's anticipated decision-making in October 2018 regarding potential core values and the mission and vision statements, it has requested public feedback in advance. **Comments are requested no later than Thursday, October 4, 2018 at fgc@fgc.ca.gov.**

Current Mission Statement

"On behalf of California citizens, to ensure the long term sustainability of California's fish and wildlife resources by:

- Guiding the ongoing scientific evaluation and assessment of California's fish and wildlife resources,
- Setting California's fish and wildlife resource management policies and insuring these are implemented by the Department of Fish and Wildlife,
- Establishing appropriate fish and wildlife resource management rules and regulations, and
- Building active fish and wildlife resource management partnerships with individual landowners, the public and interest groups, and federal, state and local resource management agencies."

Proposed Mission Statement

The California Fish and Game Commission provides leadership to ensure that California will have abundant, healthy, and diverse fish and wildlife, managed with public confidence and participation, through actions founded on the best-available science that are thoughtful, bold, and visionary in an ever-changing environment.

We recognize our public trust responsibilities as well as the including cultural values of our fish and wildlife and, therefore, work collaboratively with other government

agencies, non-governmental organizations and the people of California to establish scientifically sound supported policies and regulations that support ~~the~~ restoration, conservation, utilization and sustainable life use of California's fish and wildlife in their natural habitats, securing a rich outdoor heritage of hunting, angling and other recreational consumptive and non-consumptive activities for all generations to experience and enjoy.

Concepts Considered in Developing the Mission Statement

In considering how the current mission statement might be revised to better inspire action, staff discussed key concepts that are important to capture in a revised statement. The key concepts are intended to answer four essential questions:

- What does the commission do and why?
- How does the Commission do its work?
- For whom does the Commission do the work?
- What value does the Commission add that makes it unique?

Key concepts that answer the four questions and were considered in developing a revised mission statement include:

- Distinguishing the Commission from other fish and wildlife organizations as a policy- and regulation-setting body that protects and builds upon our conservation heritage.
- Using the Commission's authorities to reach out to other agencies to coordinate approaches and influence long-term ecosystem health.
- As a statewide agency, valuing the relationships we continue to build with our neighbors, partners, stakeholders, other agencies and visitors, and actively engaging the people of California in the work we do every day. Being committed to developing and maintaining strong partnerships with researchers, industry, communities, and other organizations.
- Stewarding California's fish and wildlife resources, shepherding them into the future through today's actions by making decisions that foster resilient and adaptive natural ecosystems which support an abundant, persistent and diverse array of healthy wildlife and their habitats.
- Recognizing that the Commission is primarily responsible for regulating the take and possession of fish and wildlife in the state, and that California's sportsmen and women are our primary constituency and are vital to wildlife conservation in this state.
- Using a transparent, inclusive, adaptive and precautionary approach that relies upon best readily-available science and public input to support informed and thoughtful decision-making that is responsive but also proactive.
- Creating opportunities for public use and enjoyment now and in perpetuity, which means balancing human benefits and enjoyment with the needs of the natural

environment and facilitating public involvement in and appreciation for the natural environment.

- Doing its work for the people of California, the fish and wildlife resources themselves, and non-Californians who benefit from California's fish and wildlife resources.

DRAFT

From: kathy Lynch <lynch@lynchlobby.com>

Sent: Friday, November 9, 2018 7:59 AM

To: FGC <FGC@fgc.ca.gov>

Cc: kathy Lynch <lynch@lynchlobby.com>

Subject: Letters on FGC Strategic Planning Draft Document for the Commission Meeting, December 12-13

Attached please find three letters, one letter each from the SCI CA Coalition, Outdoor Sportsmen's Coalition of California and the California Sportsman's Lobby, on the Fish and Game Commission Strategic Planning Draft Document, to be discussed at the Fish and Game Commission Meeting, December 12-13, 2018.

Lynch & Associates
1127 11th Street, Suite 610
Sacramento, CA 95814
Tel: (916) 443-0202
Fax: (916) 443-7353
Cell: (916) 838-6600
E-Mail: lynch@lynchlobby.com

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Safari Club International

A NON-PROFIT ORGANIZATION • DEDICATED TO CONSERVING WILDLIFE AND PRESERVING HUNTING



SCI CA Coalition

November 9, 2019

VIA E-Mail

Ms. Melissa Miller-Henson, Acting Executive Director
Fish and Game Commissioners
California Fish and Game Commission
1416 Ninth Street, Room 1320
Sacramento, CA 95814
E-Mail: fgc@fgc.ca.gov

Re: Fish and Game Commission Strategic Planning Draft Document, Fish and Game Commission Meeting, December 12-13, 2018

Dear Ms. Miller-Henson and Commissioners:

Safari Club International and Safari Club International Foundation (SCI) is a worldwide Non-Profit organization with the mission to protect the freedom to hunt and to promote wildlife conservation. SCI recognizes hunting as a valuable management tool. SCI currently has over 45,000 members and approximately 4,000 members in California. SCI also has 30,000 California Affiliates, 950,000 U.S. Affiliates and over 7,000,000 International Affiliates. SCI spends millions annually for Wildlife Conservation, Research and Education.

The Strategic Planning draft document overall appears to SCI to be heavily weighted towards social and political policy values rather than on the credible principles of sound scientific wildlife management and conservation.

It emphasizes the “values” of the non-consumptive segment of California’s diverse population, and those located out of state, but it fails to focus adequately on those of consumptive users (hunters, anglers, commercial fishermen, etc.) of the state’s resources. It is thus viewed as showing a bias towards de-emphasizing consideration of the latter segment of California’s population.

Conversely, however, twenty-two states have now acted to constitutionally protect the right to hunt, fish and harvest wildlife. Others are considering it. California should take similar action and not act to de-emphasize the importance of consumptive user values.

In view of the growing differences between the goals and objectives of animal rights advocates and the consumptive users of the state’s resources, and the resulting ideological conflicts in both the legislative and the regulatory processes, it is imperative that the commission act in accordance with credible, rather than “best available,” wildlife management science in its decision-making process, and that it strive to achieve fair, non-emotional and non-political regulatory decisions.

The draft Strategic Planning document does not focus on this objective as being an important need. But, in fact, it is.

SCI considers it unnecessary to spend Fish and Game Preservation Fund money that has been allocated to the commission to hire an outside contractor with “strategic planning expertise.” It would likely be very difficult to find such a contractor who is knowledgeable of the subject matter that is addressed by the commission and which is the focus of the strategic planning process. There is also concern that it would be difficult to find a contractor who would not inadvertently introduce some level of bias towards one segment or another of stakeholders.

The current draft document, though viewed at this time as deficient due to its orientation away from consumptive users, is steadily progressing, and it should be possible to complete it to the satisfaction of all stakeholders without spending scarce budget funds on an outside contractor.

It is a positive step that the staff who is preparing the draft strategic planning document is seeking additional guidance from the commission to help fine tune the document going forward.

Additional public input is also clearly needed to assure development of a final document that will best serve the needs of the state’s wildlife resources and the diverse spectrum of stakeholders, both consumptive and non-consumptive.

The draft potential core values, vision statement, and mission statement, while in need of further work, appear to be moving towards an acceptable conclusion without the need for spending funds on an outside contractor.

The commission’s existing Mission statement from the [1998 Strategic Plan](#), although recognizing the importance of “. . . ongoing scientific evaluation and assessment of California’s fish and wildlife resource,” does not mandate that the commission actually utilize such information as the basis for its decision-making process. Instead, it allows the adoption of management policies that can be based on emotional or political considerations instead of wildlife management science.

It is considered imperative that the new mission statement include a mandate that the commission rely primarily on actual and credible, not just the best available, wildlife management science. If further scientific information is needed, the commission should seek it before taking action.

SCI has historically funded wildlife research and management programs in California, other states, and in numerous foreign countries. It will continue to do so and will be available to assist with such projects in California and other places where needed. SCI strives to achieve conclusive, credible wildlife management research, sound science-based wildlife management, and conservation of the habitat upon which wildlife is dependent.

Draft Potential Commission Core Values

The six Draft Potential Commission Core Values listed in the September 23, 2018 [document](#) appear to be largely socially oriented rather than addressing the scientifically based management needs of the wildlife resource.

It is requested, therefore, that a seventh draft core value be added as follows:

Scientific Objectivity

“We recognize the value of and will pursue informed decision-making based on the principles of sound scientific wildlife management and conservation. For purposes of this value, conservation means the wise use and management of the state’s wildlife and habitat resources.”

This, after all, should be the commission’s primary underlying value and it should be the basis for all of its actions.

Draft Potential Commission Vision Statement

The September 23, 2018, Draft Potential Commission Vision Statement is generally acceptable for purposes of a draft document.

However, its provision pertaining to an “. . . open dialog where information, ideas and facts can be easily available . . .” has no specification that such dialog must be based on credible scientific wildlife management principles and practices. It should, otherwise future readers may believe it applies to social, emotional and/or political considerations.

The draft section “Concepts Discussed for a Vision Statement” could also easily lead one to such a conclusion. Presumably, the reference to “. . . diverse needs and uses . . .” applies to both consumptive and non-consumptive users. It is requested that the meaning of this phrase be clarified in the statement so as to avoid any confusion on the part of future readers.

Draft Potential Commission Mission Statement

The September 23, 2018, Draft Potential Commission Mission Statement needs clarification that the phrase “. . . securing a rich outdoor heritage for all generations to experience and enjoy” applies to both consumptive and non-consumptive users.

Also, the term “bold” is used in the first paragraph without any definition as to what this term means within the context of the potential mission statement as currently drafted. What does it mean for purposes of the mission statement? If this term is to remain in the document, it needs clarification so as to avoid misunderstanding by future readers.

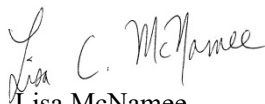
The inclusion of “. . . scientifically-sound policies and regulations. . .” in the draft is appreciated. However, it is requested that language be added to strengthen this provision by requiring the principles of sound scientific wildlife management to be the primary basis for the commission’s decision-making process.

In summary, the drafting of the updated “new” Strategic Plan for the State Fish and Game Commission is viewed as progressing well, but it is in need of further revisions as described above to make it fair and balanced for both consumptive and non-consumptive stakeholders, and to serve the best interests of effective and credible scientific wildlife and habitat management.

In the opinion of SCI, the draft strategic planning document is too heavily oriented towards social and political concerns that, while it would likely satisfy some human constituencies, would not properly serve the commission’s objective of credible, sound, and effective scientific wildlife management.

SCI looks forward to continuing to work with the commission and planning staff to develop a revised Strategic Plan that will effectively serve the best interests of scientific wildlife and habitat management as well as addressing, to the extent possible without conflicting with such scientific wildlife management, the concerns of the of the diverse spectrum of stakeholders.

Sincerely,



Lisa McNamee
Co-Legislative Coordinator
California Chapters



Don Giottonini
Co-Legislative Coordinator
California Chapters

cc: SCI CA Coalition



Dedicated to Preserving Your Rights To Hunt and Fish In the State of California

November 9, 2019

VIA E-Mail

Ms. Melissa Miller-Henson, Acting Executive Director
Fish and Game Commissioners
California Fish and Game Commission
1416 Ninth Street, Room 1320
Sacramento, CA 95814
E-Mail: fgc@fgc.ca.gov

**Re: Fish and Game Commission Strategic Planning Draft Document, Fish and Game
Commission Meeting, December 12-13, 2018**

Dear Ms. Miller-Henson and Commissioners:

The Outdoor Sportsmen's Coalition of California is a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in laws and regulations relating to these activities.

The Outdoor Sportsmen's Coalition of California (OSCC) promotes the conservation enhancement, scientific management, and wise use of all our natural resources; OSCC seeks to end activities needlessly destructive to natural resources; OSCC endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation and enhancement of our natural resources.

OSCC works to enhance outdoor opportunities for all citizens. With several thousand members located throughout California, we stay in contact with our membership via newsletters and the internet so they can be involved as they see fit.

OSCC believes the draft strategic planning document unduly favors social and political policy values over the more credible principles of sound scientific wildlife management and conservation.

It also appears to be drafted to favor the values of the non-consumptive segment of California's diverse population, and those outside of the state, over the values of consumptive users (hunters, anglers, commercial fishermen, etc.). It is thus viewed as showing a bias towards de-emphasizing consideration of the latter segment of the population.

Conversely, however, twenty-two states have now acted to constitutionally protect the right to hunt, fish and harvest wildlife. Others are contemplating it. California should take similar action and not act to de-emphasize the importance of consumptive user values.

In view of the increasing differences in both the legislative and the regulatory processes between the goals and objectives of animal rights advocates and the consumptive users of the state's resources, it is imperative that the commission act in accordance with credible, rather than just "best available," wildlife management science in its decision-making process.

It must strive to achieve fair, non-emotional, and non-political regulatory decisions.

The draft Strategic Planning document does not focus adequately on this important objective.

The current draft document, though in need of revision to give equal consideration to both consumptive and non-consumptive users, is steadily progressing and it should be possible to complete it to the satisfaction of all stakeholders.

The staff proposal to bring in an outside contractor is considered unnecessary.

It is a positive step that the staff who is preparing the draft strategic planning document is seeking additional guidance from the commission to help fine tune the document going forward.

Additional public input is also clearly needed to assure development of a final document that will best serve the needs of the state's wildlife resources and the diverse spectrum of stakeholders, both consumptive and non-consumptive.

Draft Potential Commission Core Values

The six Draft Potential Commission Core Values listed in the September 23, 2018 [document](#) appear to be largely socially oriented rather than addressing the scientifically based management needs of the wildlife resource.

It is requested that a seventh draft core value be added as follows:

Scientific Objectivity

"We recognize the value of and will pursue informed decision-making based on the principles of sound scientific wildlife management and conservation. For purposes of this value, conservation means the wise use and management of the state's wildlife and habitat resources."

This, after all, should be the commission's primary underlying value and it should be the basis for all of its actions.

Draft Potential Commission Vision Statement

The September 23, 2018, Draft Potential Commission Vision Statement is generally acceptable for purposes of a draft document.

However, its provision pertaining to an “. . . open dialog where information, ideas and facts can be easily available. . .” has no specification that such dialog must be based on credible scientific wildlife management principles and practices. It should, otherwise future readers may believe it applies to social, emotional, and/or political considerations.

The draft section “Concepts Discussed for a Vision Statement” could also easily lead one to such a conclusion. Presumably, the reference to “. . . diverse needs and uses. . .” applies to both consumptive and non-consumptive users. It is requested that the meaning of this phrase be clarified in the statement so as to avoid any confusion on the part of future readers.

Draft Potential Commission Mission Statement

The September 23, 2018, Draft Potential Commission Mission Statement needs clarification that the phrase “. . . securing a rich outdoor heritage for all generations to experience and enjoy” applies to both consumptive and non-consumptive users.

In summary, the drafting of the “new” Strategic Plan for the State Fish and Game Commission is viewed as progressing well, but it is in need of further revisions as described above to make it fair and balanced for both consumptive and non-consumptive stakeholders, and to serve the best interests of effective and credible scientific wildlife and habitat management.

OSCC looks forward to continuing to work with the commission and planning staff to develop a revised Strategic Plan that will effectively serve the best interests of scientific wildlife and habitat management.

Sincerely,

A handwritten signature in dark ink, appearing to read "Randall S. Walker". The signature is fluid and cursive, written over a light gray rectangular background.

Randall S. Walker, President
President, Outdoor Sportsmen's Coalition

cc: Outdoor Sportsmen’s Coalition of California



The California
Sportsman's Lobby, Inc.

November 9, 2019

VIA E-Mail

Ms. Melissa Miller-Henson, Acting Executive Director
Fish and Game Commissioners
California Fish and Game Commission
1416 Ninth Street, Room 1320
Sacramento, CA 95814
E-Mail: fgc@fgc.ca.gov

**Re: Fish and Game Commission Strategic Planning Draft Document, Fish and Game
Commission Meeting, December 12-13, 2018**

Dear Ms. Miller-Henson and Commissioners:

The California Sportsman's Lobby views the draft strategic planning document as unduly favoring social and political policy values over the more credible principles of sound scientific wildlife management and conservation.

It also appears to be drafted to favor the values of the non-consumptive segment of California's diverse population, and those outside of the state, over the values of California's consumptive users (hunters, anglers, commercial fishermen, etc.).

Conversely, however, twenty-two states have now acted to constitutionally protect the right to hunt, fish and harvest wildlife. California should take similar action and not act to de-emphasize the importance of consumptive user values.

The current draft document, though in need of revision to give equal consideration to both consumptive and non-consumptive users, is steadily progressing and it should be possible to complete it to the satisfaction of all stakeholders.

Additional input from both the commission and the public is clearly needed to assure development of a final document that will best serve the needs of the state's wildlife resources and the diverse spectrum of stakeholders, both consumptive and non-consumptive.

Draft Potential Commission Core Values

The Draft Potential Commission Core Values listed in the September 23, 2018 [document](#) appear to be largely socially oriented rather than addressing the scientifically based management needs of the wildlife resource.

It is requested that an additional draft core value be added as follows:

Scientific Objectivity

“We recognize the value of and will pursue informed objective decision-making based on the principles of sound scientific wildlife management and conservation. For purposes of this value, conservation means the wise use and management of the state’s wildlife and habitat resources.”

Draft Potential Commission Vision Statement

The September 23, 2018, Draft Potential Commission Vision Statement is in need of revision. Its provision pertaining to an “. . . open dialog where information, ideas and facts can be easily available. . .” has no specification that such dialog must be based on credible scientific wildlife management principles and practices. It should, otherwise future readers may believe it applies to social, emotional, and/or political considerations.

The draft section, “Concepts Discussed for a Vision Statement,” could also easily lead one to such a conclusion. Presumably, the reference to “. . . diverse needs and uses. . .” applies to both consumptive and non-consumptive users. It is requested that the meaning of this phrase be clarified in the statement so as to avoid any confusion on the part of future readers.

Draft Potential Commission Mission Statement

The September 23, 2018, Draft Potential Commission Mission Statement needs clarification that the phrase “. . . securing a rich outdoor heritage for all generations to experience and enjoy” applies to both consumptive and non-consumptive users.

In summary, the drafting of the “new” Strategic Plan for the State Fish and Game Commission is viewed as progressing well, but it is in need of further revisions as described above to make it fair and balanced for both consumptive and non-consumptive stakeholders, and to serve the best interests of effective and credible scientific wildlife and habitat management.

CSL looks forward to continuing to work with the commission and planning staff to develop a revised Strategic Plan that will effectively serve the best interests of scientific wildlife and habitat management.

Sincerely,



Randall S. Walker
President, California Sportsman's Lobby

cc: California Sportsman’s Lobby

From: Scott Greacen <scott@eelriver.org>
Sent: Friday, September 28, 2018 3:40 PM
To: FGC
Subject: Petition to list Northern California summer steelhead under CESA
Attachments: FOER NC summer steelhead CESA petition.pdf

Dear Ms Miller-Henson

I am submitting the enclosed petition by regular mail as well this afternoon.

Thank you for your work to protect California's natural heritage.

Scott Greacen
Conservation Director
Friends of the Eel River

scott@eelriver.org
707/502.4555 mobile

**A PETITION TO THE STATE OF CALIFORNIA FISH AND GAME
COMMISSION**

For action pursuant to Section 670.1, Title 14, California Code of Regulations (CCR) and Sections 2071 and 2073 of the Fish and Game Code relating to listing and delisting endangered and threatened species of animals and plants.

I. SPECIES BEING PETITIONED:

Common Name: Northern California Summer Steelhead

Scientific Name: *Oncorhynchus mykiss irideus*

II. RECOMMENDED ACTION:

(Check appropriate categories)

a. List ☒

b. Change Status

As endangered ☒

From _____

As threatened _____

To _____

c. Or Delist


III. AUTHOR OF PETITION

Name: Scott Greacen

Address: POB 4945
Arcata, CA 95518

Phone Number: (707) 798-6345

I hereby certify that, to the best of my knowledge, all statements made in this petition are true and complete.

Signature: 

Date: September 27, 2018



FRIENDS OF THE EEL RIVER

Working for the recovery of our Wild & Scenic River, its fisheries and communities.

Friday, September 28, 2018

California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

Dear Commissioners,

This is a petition to list Northern California summer steelhead under the California Endangered Species Act, (CESA, FGC § 2050 et seq.), as an endangered species.

Under CESA, “Endangered species” means a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease. (F&GC § 2062)

Northern California summer steelhead (NC summer steelhead) are a native subspecies of fish in serious danger of becoming extinct throughout all of its range due to causes including loss of habitat and change in habitat.

These extraordinary fish are superlative in many ways. They include the largest adult steelhead, as well as fish capable of handling the highest water velocities and of jumping the highest barriers of any salmonids. NC summer steelhead include the southernmost summer steelhead. They are able to tolerate water temperatures higher than any other anadromous salmonids.

In their recent comprehensive review of the status and threats to salmonids in California, Moyle et al assessed the status of NC summer steelhead as being of Critical Concern, with a Status Score of 1.9 out of 5.0:

Northern California (NC) summer steelhead are in long-term decline and this trend will continue without substantial human intervention on a broad scale. Due to their reliance on cold water to over summer during the warmest months in freshwater and critical susceptibility to climate change, NC summer steelhead are vulnerable to extinction by 2050. (p. 276.)

Recent genetic research has demonstrated that a specific mutation gave rise to early-migrating life histories in both steelhead and chinook. These extremely rare evolutionary events are conserved in populations of summer steelhead and spring-run Chinook salmon today. However, if those premature-migrating populations are lost, the genetic diversity that makes the life history possible will itself be lost.

In its capacity as steward of the public trust in California’s fish and wildlife heritage, the Fish and Game Commission should recognize and protect NC summer steelhead under CESA. We encourage the Commission to work with the Department of Fish and Wildlife to

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further focus future conservation actions on NC summer steelhead, and to secure the resources necessary to protect these fish while we still have them.

In the following, the bracketed letters refer to the list of scientific information required of a petition to the Commission under 14 CCR § 670.1(d)(1).

(A) population trend and (D) abundance;

As noted, Moyle et al assess NC summer steelhead populations as being in long-term decline. They note that “Little historical abundance information exists for naturally spawning populations of NC summer steelhead, but current abundance of this species is likely much less than historical estimates.” (p. 277)

The species persists in only a handful of watersheds. In only a few of those do we have evidence of even a hundred fish in a year. Moyle et al estimate that there are likely “fewer than 1,000 adults across the DPS in a given year.” (p. 287)

In its most recent status review for the NC steelhead DPS, NMFS concluded that while winter-run steelhead populations are relatively healthy, and the DPS as a whole does not appear, in the agency’s opinion, to face an increased risk of extinction, “(s)ummer-run populations continue to be of significant concern. While one run is near the viability target, others are very small or there is a lack of data.” (NMFS 2016 Five Year Status Review, p. 41)

The one population “near the viability target” is the Middle Fork of the Eel River. It is also in long-term decline.

The Middle Fork Eel also had summer steelhead arriving as early as April 20th in some years and supported good numbers of fish (DFG 1959). It was once home to what was considered the largest run of summer steelhead left in the basin (DFG 1999). CDFW has conducted snorkel and electrofishing surveys on the Middle Fork since 1966, with survey data showing a downward trend in abundance and relatively low fluctuating numbers of fish over the last five decades (Figure 4). (Moyle p. 279)

NMFS note that “...the Van Duzen River appears to be supporting a population numbering in the low hundreds. However, the Redwood Creek and Mattole River populations appear small, and little is known about other populations including the Mad River and other tributaries of the Eel River (i.e., Larabee Creek, North Fork Eel, and South Fork Eel). (NMFS 2016 Five Year Status Review p 41) Moyle et al present survey data from the Mad River that suggests that watershed could support several hundred fish. However, Moyle et al point out that “NOAA Fisheries forecast that NC summer steelhead populations in the Redwood Creek, Van Duzen River, North and South Fork Eel, and Mattole are all highly susceptible to climate change impacts in the near future.”

It may be possible to restore an additional population of NC summer steelhead to the Upper Mainstem Eel River, but only by restoring fish passage that has been blocked for a century by Scott Dam. NMFS’ MSRP states: “The Upper Mainstem Eel River steelhead population was once the longest-migrating population in the entire DPS. Restoring access to historical habitat above Scott Dam is essential to recovering this population.” (p. 466)

(B) range and (L) a detailed distribution map;

NOAA Fisheries (NMFS), in their 2016 Coastal Multispecies Recovery Plan (MSRP), outline the range of NC summer steelhead in Volume III. Figure 2 on p. 4 of that volume is reproduced below; it displays the NC summer steelhead range. It includes the larger coastal watersheds from Redwood Creek south to the Mattole River, including the Mad River and various tributaries of the Eel River. Please note that the MSRP includes highly detailed maps of all Northern California summer steelhead watersheds. We hereby incorporate those materials and the remainder of the MSRP by reference into this petition.

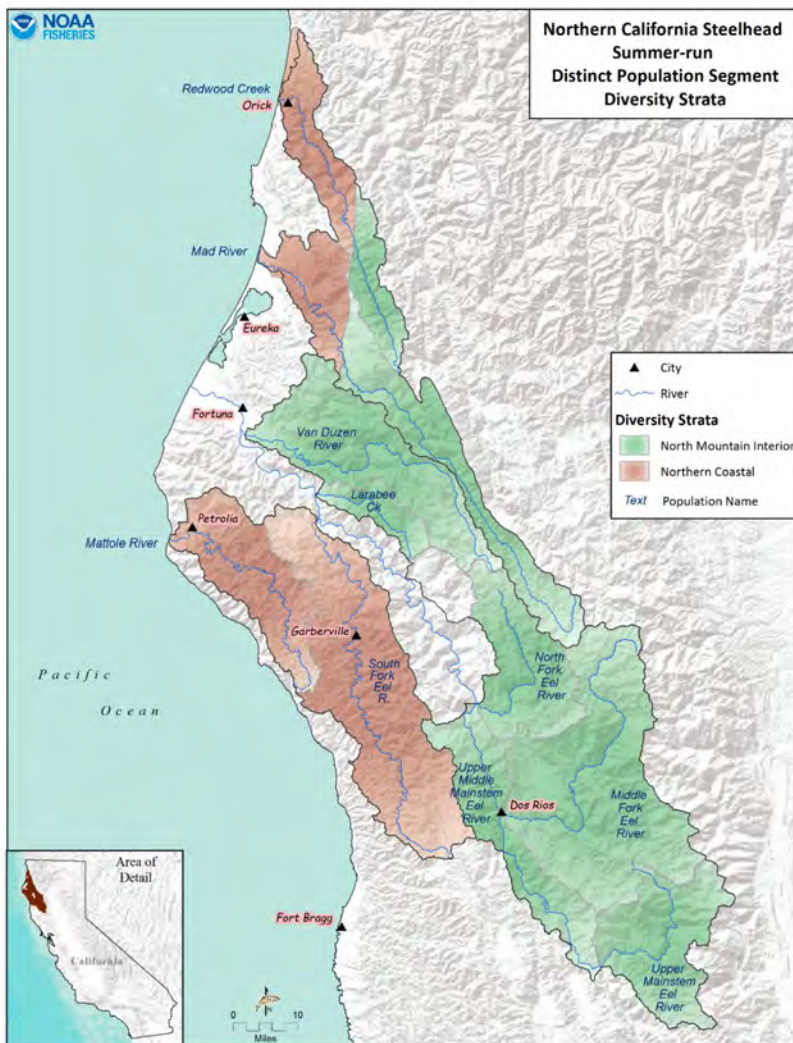


Figure 2: NC Steelhead Summer-Run Populations and Diversity Strata boundaries.

However, this classification leaves another group of native California summer steelhead, the Klamath Mountain Province summer steelhead, outside the boundaries of the populations proposed here for protection under CESA. While Klamath Mountain Province summer steelhead populations are not as low as Northern California summer steelhead

populations, Moyle et al assign the population precisely the same Status Score, 1.9 out of 5.0, as they do the Northern California summer steelhead. They note that “Klamath Mountain Province (KMP) summer steelhead are in a state of long-term decline in the basin. These stream-maturing fish face a high likelihood of extinction in California in the next fifty years.”

Thus, KMP summer steelhead, like Northern California summer steelhead, are “in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease,” and thus can and should be designated and protected as an endangered species under the California Endangered Species Act. (F&GC § 2062)

This presents the Commission and the Department with the question whether to protect only Northern California summer steelhead at this time, or to protect all summer steelhead in California together. We encourage the Department and the Commission to carefully consider all the relevant factors facing both KMP and Northern California summer steelhead in reaching a decision. It is clear that the scientific evidence would support a listing of “endangered” under CESA for either or both stocks.

(C) distribution;

NC summer steelhead are far from uniformly distributed even in their limited range.

NMFS’ 2016 MSRP lays out recovery objectives for the existing NC steelhead DPS:

Ten independent summer-run steelhead populations expected to meet effective population size criteria ... (i.e., Redwood Creek, Mad River, South Fork Eel River, Mattole River, Van Duzen River, Larabee Creek, North Fork Eel River, Upper Middle Mainstem Eel River, Middle Fork Eel River, and Upper Mainstem Eel River). (p. 2)

But only a few of watersheds have recent evidence of more than a dozen adult summer steelhead. The Middle Fork Eel, Van Duzen, and Mattole populations make this list; the Mad River probably does. The North Fork Eel and Upper Mainstem Eel almost certainly don’t have NC summer steelhead at all. The Upper Mainstem Eel might provide habitat for an additional vitally important population if access to the habitat above Scott Dam could be restored to Northern California summer steelhead. Of course, with very low numbers of fish in a given watershed, it becomes increasingly difficult for the remaining fish to spawn successfully.

(E) life history;

Moyle et al summarize the NC summer steelhead’s unique life history as follows:

Summer steelhead are stream-maturing ecotype fish that enter freshwater with undeveloped gonads, and then mature over several months in freshwater. This life history is uncommon compared to ocean-maturing or winter-run fish. These steelhead oversummer in typically deep, bedrock holding pools and remote canyon reaches of streams with some overhead cover and subsurface flow to keep cool until higher flows arrive in winter (Busby et al. 1996).

NC summer steelhead enter estuaries and rivers as immature fish between April and June in the northern portion of the DPS (Redwood National Park 2001). In the Mad River, summer steelhead enter the mouth in early April through July as flows allow (M. Sparkman, CDFW, pers. comm. 2016). Mattole summer steelhead enter the river between March and June (Mattole Salmon Group 2016), and further migrations upstream occur from June on, but timing depends upon rainfall and consequent suitable stream discharge for passage into upper sections of watersheds. Spawning happens primarily in the winter between December and early April in headwater reaches of streams not utilized by winter steelhead (Roelofs 1983, Busby et al. 1997), though favorably wet conditions may lengthen the spawning period into May. Infrequent observations of steelhead spawning in June have also been reported on the Mattole River (Mattole Salmon Group 2016).

The Northern California summer steelhead life history has important consequences for their conservation. As Moyle et al describe, NC summer steelhead are by definition unusual for the steelhead taxon. They occupy headwaters habitats right at the margin of salmonid tolerance in a range at the edge of salmonid tolerances. NC summer steelhead specialize in exploiting relatively limited dry-season holding habitats in order to make greater use of spawning and rearing habitats higher up in watersheds than winter-run steelhead. They play important ecological roles in areas no other anadromous salmonid reach. The summer steelhead life history makes these strategic choices to gain access to spawning habitats where it will not compete with winter run steelhead.

Northern California summer steelhead are inherently more subject to predation and disease in freshwater than their winter run counterparts. As adults and as juveniles, NC summer steelhead spend more time in freshwater. Both adults and juveniles face the poor water conditions, including low flow, high temperature, and high pollution levels, that summer and fall bring to the rivers they inhabit, limiting the mobility of over-summering fish within a watershed. Very low population numbers are especially vulnerable to predation impacts. Introduced pikeminnow are a major anthropogenic burden on juvenile steelhead, including summer steelhead, throughout much of the Eel River watershed. However, summer steelhead can easily pass barriers pikeminnow cannot, so they may be less subject to predation around spawning areas than winter run steelhead.

The NC summer steelhead life history also makes it more vulnerable to the impacts of climate change than winter run steelhead. NMFS acknowledges those stark differences in Appendix B of the MSRP, which analyzes the effects of climate change on Chinook salmon and steelhead recovery:

We did consider summer-run steelhead in the NC steelhead DPS somewhat separately. Because juvenile summer run steelhead emerge from redds in the winter, and then usually rear in streams for 1-3 years, they share similar vulnerabilities to climate change as juvenile winter-run steelhead (although in some cases they may be more susceptible to redd scour). However, because summer-run adults enter streams in late spring/early summer, and hold in mainstems until early fall to spawn, summer-run steelhead adults are likely more vulnerable to climate change impacts than winter-run adults in most (if not nearly all) cases. (NMFS 2016, Appendix B, pg. 19).

Finally, and critically, a recent paper has demonstrated that the premature migration observed in both summer steelhead and spring Chinook arises from a mutation at a specific area in the salmonid genome. (Prince et al 2017) The Prince et al analysis is critically relevant to the question of Northern California summer steelhead conservation policy for at least two reasons. It shows that summer steelhead are genetically distinct in profound ways from winter steelhead in the same watersheds.

As well, it shows that the assumption underlying the current combined listing of winter and summer steelhead as DPS under the federal Endangered Species Act – that if lost, summer steelhead can re-emerge from winter steelhead populations – is without foundation. Rather, the study shows that a unique evolutionary event was the cause for the spatial and temporal reproductive isolation that summer and winter-run steelhead exhibit in the coastal rivers of Northern California. Because summer steelhead arose from a unique evolutionary event, they are unlikely to re-evolve over ecological time scales. (Prince et al 2017).

This new genetic explanation adds to the existing evidence that NC summer steelhead are different from winter run steelhead in a number of ways that merit the close attention of the Commission in determining what level of protection Northern California summer steelhead should receive. Moyle et al explain that:

the two runs are distinctive in their genetic makeup, behavior, and reproductive biology... Genetic analyses support two discrete, separate monophyletic units of migrating populations based primarily on timing of freshwater entry and resulting maturation (Papa et al. 2007), correlating with run timing for the ocean-maturing (winter) and stream-maturing (summer, fall) ecotypes (Prince et al. 2015). (Moyle 2017, pp. 270-71)

(F) kind of habitat necessary for survival;

Moyle et al summarize NC summer steelhead habitat requirements by life stage, p. 273:

Steelhead require distinct habitats for each stage of life. The abundance of summer steelhead in a particular location is influenced by the quantity and quality of suitable coldwater habitat during low flow summer and fall months, food availability, and interactions with other species. Over-summering habitat for adult summer steelhead is critical for survival of this life history. In general, suitable habitats are often distributed farther inland than those for winter steelhead in the same watersheds (Moyle 2002).

Adult steelhead have a body form adapted for holding in faster water than most other salmonids with which they co-occur can tolerate. Within California, Bajjaliya et al. (2014) found important differences in steelhead morphology based on flow regimes and habitats occupied. Northern California steelhead had the largest individuals, on average, than populations of steelhead from elsewhere in the state. In general, coastal steelhead that occupied smaller, slower coastal rivers were deeper bodied, longer, and more robust than steelhead from larger inland rivers with higher velocities. Low flows associated with more inland rivers and tributaries do not facilitate passage of larger bodied adults, and therefore select for smaller, more streamlined fish. Adult summer

steelhead require water depths of at least 18 cm for passage (Bjorn and Reiser 1991), however, this may not take into account the deep-bodied, robust physiology of coastal steelhead in the NC steelhead DPS, which would require slightly more flow to allow passage (Bajjaliya et al. 2014). Reiser and Peacock (1985 in Spence et al. 1996) reported the maximum leaping ability of adult steelhead to be 3.4 m. Hawkins and Quinn (1996) found that the critical swimming velocity for juvenile steelhead was 7.7 body lengths/sec compared to juvenile cutthroat trout that moved between 5.6 and 6.7 body lengths/sec. Adult steelhead swimming ability is hindered at water velocities above 3 m/sec (Reiser and Bjornn 1979). Preferred holding velocities are much slower, and range from 0.19 m/sec for juveniles and 0.28 m/sec for adults (Moyle and Baltz 1985). Physical structures such as boulders, large woody debris, and undercut banks create hydraulic heterogeneity that increases availability of preferred habitat in the form of cover from predators, visual separation of juvenile territories, and refuge during high flows.

Steelhead require cool water and holding habitat to withstand the higher temperatures and lower flows of summer and fall while they mature. Important factors influencing summer steelhead habitat use are pool size, low substrate embeddedness (< 35%), presence of riparian habitat shading, and instream cover associated with increased velocity through the occupied pools (Nakamoto 1994, Baigun 2003). Temperatures of 23-24°C can be lethal for the adults (Moyle 2002), which can limit abundance and spatial distribution. Subsurface, or hyporheic, flows can be important to providing cool, flowing water in habitats separated by thermal or other barriers. In August 2015 on the upper Middle Fork Eel River, adult summer steelhead were observed in pools of varying depth, but only with maximum temperatures of less than 23°C.

For spawning, adult steelhead require loose gravels at pool tails for optimal conditions for redd construction. Redds are usually built in water depths of 0.1 to 1.5 m where velocities are between 0.2 and 1.6 m/sec. Steelhead use a smaller substrate size than most other coastal California salmonids (0.6 to 12.7 cm diameter). Spawning habitat for summer steelhead can be variable, but their temporal and spatial isolation from other steelhead runs maintain low levels of genetic differentiation from winter steelhead in the same watershed (Barnhart 1986, Papa 2007, Prince et al. 2015). Summer steelhead can spawn in intermittent streams, from which the juveniles emigrate into perennial streams soon after hatching (Everest 1973). Roelofs (1983) suggested that use of small streams for spawning may reduce egg and juvenile mortality because embryos may be less susceptible to scouring by high flows and predation on juveniles by adults.

After spawning, adult steelhead, called “kelts” at this life stage, are capable of rapidly making their way back out to sea; the entire migration and spawning cycle of an adult fish can be completed in less than ten days (J. Fuller, NMFS, pers. comm. 2016). In contrast, in Redwood Creek, relatively large numbers of kelts migrate downstream through the lower watershed in March (M. Sparkman, CDFW, pers. comm. 2016). Due to the relatively short distances these fish must travel in small coastal watersheds to

spawn, their survival rates and incidence of repeat spawning are higher than steelhead in the much larger Eel River, which reach dozens of kilometers inland.

Embryos incubate for 18 to 80 days, depending on water temperatures, which are optimal in the range of 5 to 13° C. Hatchery steelhead take 30 days to hatch at 11°C (Leitritz and Lewis, 1980 in McEwan and Jackson, 1996), and emergence from the gravel occurs after two to six weeks (Moyle 2002; McEwan and Jackson 1996). High levels of sedimentation (> 5% sand and silt) can reduce redd survival and emergence due to decreased permeability of the substrate and dissolved oxygen concentrations available for the incubating eggs (McEwan and Jackson 1996). When fine sediments (< 2.0 mm) compose > 26% of the total volume of substrate, poor embryo survival is observed (Barnhart 1986). Emerging fry can survive at a greater range of temperatures than embryos, but they have difficulty obtaining oxygen from the water at temperatures above 21.1°C (McEwan and Jackson 1996).

During the first couple years of freshwater residence, steelhead fry and parr require cool, clear, fast-flowing water (Moyle 2002). Exposure to higher temperatures increases the energetic costs of living for steelhead and can lead to reduced growth and increased mortality. As temperatures become stressful, juvenile steelhead will move into faster riffles to feed on more abundant prey (Moyle 2002 and bioenergetic box in SONCC coho account) and seek out cool- water refuges associated with cold-water tributary confluences and gravel seeps. In Redwood Creek, young-of-year (YOY) steelhead may travel 46 km downstream during summer months in search of rearing areas (M. Sparkman, CDFW, pers. comm. 2016). In the Mattole River, juvenile steelhead are found over-summering throughout the basin, although water temperatures often restrict their presence in the estuary. Cool water areas, including some restoration sites, provide refuge from temperatures that can rise above 19°C in the Mattole (Mattole Salmon Group 2005). However, juvenile steelhead can live in streams that regularly exceed 24°C for a few hours each day with high food availability and temperatures that drop to more favorable levels at night (Moyle 2002, M. Sparkman, CDFW, pers. comm. 2016).

Many of these habitats are vulnerable to a range of anthropogenic impacts. Such impacts have seriously degraded the capacity of the NC summer steelhead range to support the population over the last century and a half. This historic and continuing degradation of habitat is why many of the watersheds that did once support significant populations of Northern California summer steelhead now have only a few, or no, returning adults.

Moyle et al summarize 15 major anthropogenic factors limiting viability of Northern California summer steelhead populations, and rated them on their potential to impact the species. Three factors were ranked as “High,” meaning they could push a species to extinction in 10 generations or 50 years: Major dams, on the Eel and Mad Rivers¹; agriculture, including impacts from conventional agriculture in lower watersheds and diversions and pollution associated with unpermitted marijuana cultivation; and estuarine

¹ Note that NMFS disputes Moyle et al’s characterization of the impact of Ruth Dam on potential NC summer steelhead habitat in the Mad River.

alteration, again especially in the Eel and the Mad Rivers. (p. 285) An additional five factors were ranked as “Medium,” i.e., unlikely to drive a species to extinction by itself but contributing to increased extinction risk; they include grazing, rural/ residential development, transportation, logging, and hatcheries.

To these already severe threats, we now must add the very significant impacts of climate change on Northern California summer steelhead and the key habitats the species requires. Moyle et al emphasize the severity of these threats at pages 286-87:

Climate change is a major threat to the continued persistence of NC summer steelhead. In general, climate change will impact the freshwater habitat of steelhead in several important ways:

- 1. Increased runoff and flooding, scouring redds*
- 2. Higher stream temperatures reducing habitat quality and survival*
- 3. Lower stream flows reducing habitat quantity and accessibility*
- 4. Earlier spring snowmelt reducing juvenile outmigration success*
- 5. Altered ocean circulation and productivity reducing sub-adult growth and survival in the marine environment (decrease in smolt to adult survival)*
- 6. Higher stream temperatures and flows creating thermal and velocity migration barriers to juveniles and adults in both marine and freshwater*
- 7. Increased frequency and intensity of catastrophic wildfires, threatening salmonid survival with attendant erosion, mass wasting, etc.*
- 8. Altered woody debris availability and characteristics reducing holding areas for juvenile salmonids*
- 9. Higher temperatures shifting range of suitable habitat northward in ocean and freshwater habitats*
- 10. Increased eutrophication of estuaries that serve as important nurseries and foraging habitat for juvenile and sub-adult salmonids*

To summarize the recent NMFS findings on climate-related impacts to NC steelhead, the primary concerns focus on altered streamflows and warmer temperatures, which reduce survival and passage through reductions in suitable holding, spawning, and rearing habitat. These impacts can reduce life history diversity, further stressing low populations of summer steelhead (NMFS 2016). NMFS considered summer-run steelhead in the DPS separately from winter-run fish, due to their increased susceptibility to redd scour due to timing of spawning and necessary holding in mainstem rivers during the warmest months of the year (NMFS 2016). Summer steelhead were found to be more vulnerable to these impacts than winter fish in “most (if not nearly all) cases” (NMFS 2016, Appendix B, pg. 21). Using a threat vulnerability analysis, NOAA Fisheries forecast that NC summer steelhead populations in the Redwood Creek, Van Duzen River, North and South Fork Eel, and Mattole are all highly susceptible to climate change impacts in the near future (NMFS 2016). These impacts

are already being seen throughout the DPS range, and are limiting suitable upper watershed habitat for summer steelhead. Persistence of these populations is likely only with increased protection and restoration to improve stream flows, allow accessibility to prime holding and spawning habitat, and maintain cool temperatures in headwater tributaries for both spring Chinook salmon and summer steelhead.

Modeling of high greenhouse gas emissions scenarios have forecast increasing frequency and duration of critical drought, which exacerbates and compounds these impacts by reducing overall streamflow and increasing the variability in timing of precipitation events in California (NMFS 2016). As a result, Northern California summer steelhead may experience local extinctions and range contractions since higher gradient or elevation headwater streams are inaccessible behind falls, boulder fields, or dams in the DPS. Ongoing drought in California has likely contributed to a dip in populations of summer steelhead in the DPS, as lower flows and warmer summer water temperatures likely caused increased mortality before spawning. Persistent drought is likely to exacerbate already acute problems associated with depletion of summer baseflows, reduction of coldwater refugia, or even stream dewatering during the late summer and early fall months by reducing spawning, rearing, and migration habitat. More frequent and severe droughts are likely to contribute to higher occurrences of low summer baseflows that fuel toxic cyanobacteria blooms and degrade food webs that oversummering adult steelhead and juveniles depend on (Power et al. 2015). If summer temperatures increase during summer and early fall month and precipitation and prevalence of fog decrease, as has been observed in Northern California over the last fifty years, stream temperatures will rise and further stress summer-rearing salmonids and summer steelhead holding in pools (Madej 2011).

Drought and poor ocean conditions tied to climate change and El Nino conditions likely caused some decline in salmonid populations across the state by reducing coldwater upwelling and food availability (Daly et al. 2013, Williams et al. 2016). Changes in precipitation patterns could lead to flooding, contributing sediments from highly erodible terrain that smothers valuable gravel and fills in pool habitat. As populations continue to decline and become more fragmented, stochastic events such as increased catastrophic fire may change genetic structure, breeding, and population dynamics in ways that are unrecoverable.

Northern California summer steelhead are fantastically well-adapted to specific habitats that the coastal watersheds of Northern California have generally provided for millenia. Human activity has disrupted most of this habitat, even in the relatively undeveloped mountains of northwestern California. Anthropogenic climate change renders more habitat inhospitable. The combination of these impacts threatens Northern California summer steelhead with extinction in the near future.

(G) factors affecting the ability to survive and reproduce;

To a great extent, the critical factors affecting the ability of Northern California summer steelhead to survive and reproduce are the habitat issues discussed in section (F) immediately above. For adults, cool water and holding habitat; for reproduction, spawning

and rearing habitat are all essential to maintaining and recovering NC summer steelhead populations. Of course, as anadromous fish, the questions of ocean conditions present another complex of factors that will affect survival and successful reproduction.

(H) degree and immediacy of threat;

As noted, Moyle et al assess the status of Northern California summer steelhead as Critical, reflecting further decline from a 2008 review that found the species already at a High level of risk:

NC summer steelhead have a high risk of extinction in the next 50 years without significant restoration and intervention. ... This status could deteriorate rapidly if restoration and protection efforts are not put into effect. (Moyle 2017, pp. 287)

With only a relative few, relatively small populations remaining, NC summer steelhead are subject to rapid, likely irrecoverable loss from stochastic events or human action.

(I) impact of existing management efforts;

Despite the clear threats to NC summer steelhead, they are not listed under the California Endangered Species Act. Moyle et al explicitly argue that they should be so listed:

NC summer steelhead currently have no special conservation status within the state of California, but should be officially recognized as threatened under the California Endangered Species Act by the Fish and Game Commission or at least declared a state Species of Special Concern. (Moyle 2017, pp. 287)

The absence of state protections for NC summer steelhead reduces the ability of DFW to prioritize reducing impacts on key populations and promoting and coordinating actions necessary to recover the species.

Many state and federal agency efforts are devoted to protecting Northern California summer steelhead and NC steelhead generally. However, as Moyle et al summarize, existing state and federal programs have so far proved inadequate to protect Northern California summer steelhead and its habitat:

Northern California summer steelhead are trending downward over time, and require significant action to recover from legacy impacts of road building, logging, forest fires, poor water quality, and disjointed land use throughout their range. Increasing rural development and illegal diversions and withdrawals for illegal marijuana cultivation throughout the DPS range, coupled with five years of ongoing historic drought, have significantly stressed summer steelhead populations and have driven their decline. Other threats across diversity strata include dearth of large woody debris and cover for rearing fish, abundance of roads and railroads adjacent to sensitive watersheds and associated sedimentation/erosion, illegal diversion and degradation, presence of barriers to migration, and lack of sufficient high quality spawning and rearing habitat due to uncoordinated land use practices (NMFS 2016).

To ameliorate these threats, the NMFS Coastal Multispecies Recovery Plan for the NC steelhead DPS lays out a full suite of necessary recovery actions and essential partners (NMFS 2016). CDFW is currently revising a steelhead restoration and management

plan, which will help compile threats and identify specific actions to restore and manage steelhead in California (Nelson 2016). However, lack of coordination and prioritization of specific actions to protect summer-run life history steelhead in California represents a major challenge. Although designation of ESUs and DPSs are based upon distinctiveness of life-history traits and distinguishing genetic characteristics, such distinctions are not guiding conservation of steelhead life history diversity at the watershed scale, which is essential for maintaining populations of summer steelhead in the future.

As Moyle et al highlight in the above excerpt, the designation of Northern California summer steelhead as part of a NC steelhead DPS dominated by winter run steelhead has itself become an obstacle to effective conservation of Northern California summer steelhead. In view of the best available scientific information, this framework appears not only inadequate to insure the recovery of NC summer steelhead, but likely to lead to the extinction of summer steelhead in the region.

In its most recent status review for the NC steelhead DPS, NMFS concluded that while winter-run steelhead populations are relatively healthy, and the DPS as a whole does not appear, in the agency's opinion, to face an increased risk of extinction, "(s)ummer-run populations continue to be of significant concern. While one run is near the viability target, others are very small or there is a lack of data." (NMFS 2016 Five Year Status Review p. 41) Indeed, as Prince et al note, "despite the extirpation or substantial decline of premature migrating populations, the ESUs or DPSs to which they belong usually retain relatively healthy mature migrating populations and thus have low extinction risk overall." (p. 2)

As Prince et al imply, summer steelhead face extinction in part due to an error of classification that improved genetic analysis now allows us to correct. A conservation strategy that fails to effectively conserve summer steelhead – as the current strategy of considering them part of a larger DPS of *O. mykiss* dominated by winter-run steelhead in the same watersheds is failing – is likely actually to lead to the extinction of these unique forms of summer steelhead.

Northern California summer steelhead should be listed and protected under CESA separately from NC winter steelhead.

(J) suggestions for future management;

As Moyle et al note in the excerpt cited under (I) above, both NMFS and DFW have prepared or are in the process of preparing extensive and detailed prescriptions for management actions necessary to protect Northern California summer steelhead and its various habitats. Those menus of potential actions do little in the absence of the institutional resources and political will to actually undertake a comprehensive effort. As Moyle et al emphasize, "lack of coordination and prioritization of specific actions to protect summer-run life history steelhead in California represents a major challenge."

The most significant step the Commission can take to increase the prioritization and effective coordination of actions necessary to protect Northern California summer steelhead is to list the species as endangered under CESA.

(K) availability and sources of information

Of course, the California Department of Fish and Wildlife is the expert agency with responsibility for Northern California summer steelhead. DFW generated much of the information that is the subject of the studies and analyses discussed here.

The sources cited in this petition are likely to prove critical sources of information about Northern California summer steelhead, their habitat, threats to the species, and the best available science concerning the species and their conservation.

These include the comprehensive overview of salmonids in California, *State of the Salmonids: Status of California's Emblematic Fishes 2017*, which we have referred to as Moyle et al 2017. As well, NMFS has prepared status reviews for NC steelhead every five years since the DPS was listed as threatened. The MRPS noted above is essential. Finally, two papers, Prince et al 2017 and Thompson et al 2018, provide important perspective on the genetic basis of premature migration in salmonids and the need to protecting the genetic and behavioral diversity Northern California summer steelhead embody.

CESA Listing Factors

CESA commands that “(a) species shall be listed as endangered or threatened, as defined in sections 2062 and 2067 of the Fish and Game Code, if the Commission determines that its continued existence is in serious danger or is threatened by any one or any combination of the following factors.” CEQA specifically commands the Commission to consider five types of impacts on the species in deciding whether to list a species under CESA.

1. Present or threatened modification or destruction of its habitat

As noted above, habitat modification, destruction, and degradation from a range of human impacts is the key driver of Northern California summer steelhead decline across its range. Climate change is now amplifying the impacts of other anthropogenic factors, and threatens to render much of Northern California summer steelhead habitat unsuitable for the species in the relatively near future.

2. Overexploitation

Overfishing, both commercial and recreational, played important roles in the dramatic reduction of Northern California summer steelhead populations during the 20th Century, but there is little evidence that it is now a significant threat to Northern California summer steelhead. There are some continuing impacts associated with the recreational fishery, especially during the recent historic drought.

However, poaching remains a significant threat to Northern California summer steelhead today. The NMFS MSRP states:

The problem with poaching continues to plague summer steelhead due to the absence of adequate law enforcement (Moyle et al. 2008). Although fishing is prohibited in many areas and fines for violations are high, protection of summer steelhead populations requires special enforcement efforts (Moyle et al. 2008). p. 10

3. Predation

As noted above, the Northern California summer steelhead life history renders the species significantly more vulnerable to predation than winter run steelhead as both juveniles and as adults. With very small populations in some NC summer steelhead watersheds, there is an increased risk that predation could eliminate spawning opportunities.

The introduction of pikeminnow to Northern California summer steelhead habitat in the Eel River watershed has significantly increased the impact of predation on Northern California summer steelhead. While pikeminnow are native to California, and even to the Russian River immediately to the south, they are not native to the Eel River. NMFS acknowledge the threat in the most recent status review for Northern California summer steelhead: “Introduced Sacramento pikeminnow is a serious predator limiting salmonid recovery (Yoshiyama and Moyle, 2010). Their populations have flourished with warmer water conditions, and they consume juvenile salmonids throughout the Eel River Basin.” (NMFS 2016, p. 35.)

4. Competition

It is not clear that competition is a significant factor driving the decline of Northern California summer steelhead.

5. Disease

As noted above, both the Northern California summer steelhead life history and climate-change related impacts expose Northern California summer steelhead to additional disease threats beyond those faced by winter run steelhead. Disease threats can emerge very rapidly, confounding response efforts that have not been carefully pre-planned.

6. Other natural occurrences or human-related activities

As noted above, climate change presents an overarching and severe threat to Northern California summer steelhead across its remaining range.

As well, it is worth emphasizing that the construction of Scott Dam (1922) eliminated significant portions of historic spawning habitat for steelhead in the Upper Mainstem Eel River including “*some of the best spawning grounds in the entire watershed (Gravelly Valley)*” (Shapovalov 1939).” (MSRP p. 98) Cooper estimated more than two hundred miles of potential NC steelhead spawning and rearing habitat in the Upper Mainstem Eel River basin above the dam. (Cooper 2017) If passage past Scott Dam is not provided, it will not be even theoretically possible to achieve the recovery goals set by NMFS for Northern California summer steelhead recovery in its MSRP.

Conclusion

In summary, Northern California summer steelhead are a unique and extraordinary form of steelhead, whose exquisite adaptation to their extreme environmental niches is determined by a critical and highly specific genetic difference from winter run steelhead. Northern California summer steelhead are not being effectively conserved by being managed as part of a larger population of more numerous and less vulnerable winter run steelhead. In fact, Northern California summer steelhead face imminent extirpation in

many of the watersheds where they still survive. If NC summer steelhead are lost, the genetic basis of their remarkable life history is likely to be lost as well.

Given these facts, protection under CESA is both warranted and necessary to ensure that California's future citizens may continue to enjoy these irreplaceable fish and the contribution they make to our magnificent Northern California ecosystems.

Thank you for your kind attention to these important questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Scott Greacen', with a long horizontal flourish extending to the right.

Scott Greacen
Conservation Director
Friends of the Eel River

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2018 NOV -5 AM 10:31

Memorandum

Date: November 5, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: Request for 30-day extension, Northern California summer steelhead
(*Oncorhynchus mykiss irideus*)

The Department of Fish and Wildlife (Department) requests a 30-day extension of time pursuant to Fish and Game Code section 2073.5 to allow the Department additional time to analyze and evaluate the petition to list Northern California summer steelhead (*Oncorhynchus mykiss irideus*) under the California Endangered Species Act. This extension would change the due date for the Department's evaluation from 90 days due on Sunday January 6, 2019 to 120 days due on Tuesday February 5, 2019.

If you have any questions or need additional information, please contact Mr. Jonathan Nelson, Environmental Program Manager at Jonathan.Nelson@Wildlife.ca.gov or at (916) 445-4506. You can also contact Mr. Tony LaBanca, Environmental Program Manager at Tony.LaBanca@wildlife.ca.gov or at (707) 499-3155.

ec: Department of Fish and Wildlife

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Acting Executive Director
Fish and Game Commission
November 5, 2018
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RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION

2018 NOV 20 PM 12:30

Sheri Tiemann, Associate Program Analyst
Fish and Game Commission
1416 Ninth Street
Sacramento, CA 95814

Subject: Summer Steelhead Listing

Dear Ms. Tiemann :

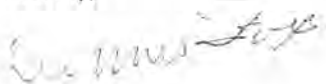
I once had occasion to pick up two hitchhikers, loaded with groceries, who had lost their vehicle at the parking lot of the store in Redway. Well, Beevis and Butthead gave me an intro to their poaching colony and the effects of this subculture on what is a veritable desert for fish and wildlife. Also note the lack of sanitation facilities, the poor disposal of illegal chemicals- let alone their illegal use.

Peter Moyle agrees that this is a major, major problem. However, this is not stressed for priority rehab focus.

This should come first when the species is listed with the increase in penalties. Squatters are not quaint and the diesel dopers are, if anything, worse, but the habitations of both the locals and the trimigrants should be demolished . then stream rehab and debris placement commenced. The State has ceded sovereignty and must take it back before active management, not an endless cycle of studies, occurs.

Saving of the species will be difficult enough with factors such as climate change and habitat loss; begin where there can ^{be} some positive results.

Sincerely,



Dennis Fox

**A PETITION TO THE STATE OF CALIFORNIA
FISH AND GAME COMMISSION**

For action pursuant to Section 670.1, Title 14, California Code of Regulations (CCR) and Sections 2072 and 2073 of the Fish and Game Code relating to listing and delisting endangered and threatened species of plants and animals.

I. SPECIES BEING PETITIONED:

1. Common Name: Crotch bumble bee
Scientific Name: *Bombus crotchii*
2. Common Name: Franklin's bumble bee
Scientific Name: *Bombus franklini*
3. Common Name: Suckley cuckoo bumble bee
Scientific Name: *Bombus suckleyi*
4. Common Name: Western bumble bee
Scientific Name: *Bombus occidentalis occidentalis*

II. RECOMMENDED ACTION:

1. Common Name: Crotch bumble bee As Endangered X
Scientific Name: *Bombus crotchii*
2. Common Name: Franklin's bumble bee As Endangered X
Scientific Name: *Bombus franklini*
3. Common Name: Suckley cuckoo bumble bee As Endangered X
Scientific Name: *Bombus suckleyi*
4. Common Name: Western bumble bee As Endangered X
Scientific Name: *Bombus occidentalis occidentalis*



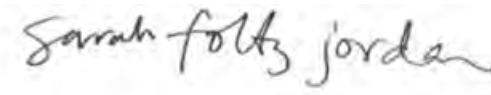


III. AUTHOR OF PETITION:

Name: The Xerces Society, including: Rich Hatfield, Sarina Jepsen, Sarah Foltz
Jordan, Michele Blackburn, Aimée Code

Address: 628 NE Broadway, Portland, OR 97232

Phone Number: 503-232-6639

I hereby certify that, to the best of my knowledge, all statements made in this petition are true and complete.

Signature:     

Date: 16 October 2018

FGC - 670.1 (3/94)

**A PETITION TO THE STATE OF CALIFORNIA
FISH AND GAME COMMISSION TO LIST**

**The Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*),
Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus
occidentalis occidentalis*) as Endangered under the California Endangered Species Act**



Bombus crotchii, by Stephanie McKnight, the Xerces Society (top left); *Bombus franklini*, by Pete Schroeder (top right); *Bombus occidentalis occidentalis*, by Rich Hatfield, the Xerces Society (bottom left); *Bombus suckleyi*, by Hadel Go/www.discoverlife.org (bottom right).

**Submitted by
The Xerces Society for Invertebrate Conservation, Defenders of Wildlife,
Center for Food Safety**

October 2018

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I. EXECUTIVE SUMMARY

The Crotch bumble bee (*Bombus crotchii*), Franklin’s bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) are endangered with extinction throughout their ranges, including in California.

Recent research has shown a significant reduction in both the range and relative abundance of these species, and where they still persist, they are far less common than they were historically.

The Crotch bumble bee (*Bombus crotchii*) was historically common in the southern two-thirds of California, but now appears to be absent from most of it, especially in the center of its historic range (Hatfield et al. 2014; Richardson et al. 2014); analyses suggests sharp declines in both relative abundance (98% decline) and persistence (80% decline) over the last ten

years. **Franklin’s bumble bee (*Bombus franklini*)** is in imminent danger of extinction and notably has the most limited geographic distribution of any bumble bee in North America and possibly the world (Williams 1998). Extensive surveys since 1998 have demonstrated that there has been a precipitous decline in the number of individuals and localities in the past several decades; this species has not been seen in California since 1998, and has not been seen anywhere since 2006. The **western bumble bee (*Bombus occidentalis occidentalis*)** has recently undergone a dramatic decline in abundance and distribution, and is no longer present across much of its historic range. Declines suggest it has been lost from 53% of its historic range and has experienced an 84% decline in relative abundance (Hatfield et al., unpublished data); in

California, *B. o. occidentalis* populations are currently largely restricted to high elevation sites in the Sierra Nevada (Xerces Society 2012). The **Suckley cuckoo bumble bee (*Bombus suckleyi*)**, relies upon western bumble bees to complete its life cycle, and thus is uniquely susceptible to extinction (Suhonen et al. 2015).

Bumble bees are among the most iconic and well understood group of native pollinators in North America. They are generalist pollinators that play a valuable role in the reproduction of a wide variety of plants, including California specialty crops such as tomato, squash, melon, and pepper, and numerous wildflowers. Pollinators are critical components of our environment and essential to our food security. Insects – and primarily bees – provide the indispensable service of pollination to more than 85% of flowering plants (Ollerton et al. 2011), contributing to 35% of global food production (Klein et al. 2007). Many vitamins and other nutrients essential to human nutrition are found primarily in plants that require insect pollination (Eilers et al. 2011); as such, the loss of pollinators may pose challenges to human nutrition.

Each of the following factors pose a substantial threat to the survival of the four species of bumble bees included in this petition: present or threatened modification or destruction of its habitat; overexploitation; competition; disease; and other natural events and human-related activities, including pesticide use, population dynamics and structure, global climate change, and for the Suckley cuckoo bumble bee, loss of its host species.

While each of these four bumble bee species have been placed on California Department of Fish and Wildlife’s Special Animal List, and their extinction risk has been recognized by the International Union for the Conservation of Nature (IUCN) and the global network of bumble bee researchers engaged in IUCN’s Bumblebee Specialist Group, these species receive no formal protection. This petition presents information that each of these four bumble bee species is experiencing dramatic declines and protections under the California Endangered Species Act are necessary to conserve their populations and protect and restore their habitat throughout their ranges in California.

II. POPULATION TRENDS, ABUNDANCE, RANGE, AND DISTRIBUTION

Current Conservation Status

The conservation status and extinction risk of the petitioned species has been evaluated by the International Union for the Conservation of Nature (IUCN) Bumblebee Specialist Group, a global network of bumble bee researchers dedicated to the conservation of bumble bees, and published on the IUCN’s Red List of Threatened Species (Hatfield et al. 2015a, 2015b, 2015c; Kevan 2008). The IUCN Bumblebee Specialist Group utilized methods published in the 2001 IUCN Red List Categories and Criteria version 3.1, a standard, global method to evaluate the conservation status of plant and animal species worldwide. Each species was assessed according

to the IUCN Red List criteria by multiple bumble bee experts, and the methods used in the assessments were peer-reviewed by additional bumble bee experts (see reviewers and assessors listed in Hatfield et al. 2015a, 2015b, 2015c), with the exception of the Red List profile for *B. franklini*, which was added to the Red List in 2008, before the IUCN Bumblebee Specialist Group existed.

The IUCN Bumble Bee Specialist Group (BBSG) measured changes in each species' range and relative abundance between historic (1805-2001) and recent (2002-2012) time periods for *B. crotchii*, *B. occidentalis*, and *B. suckleyi* (Hatfield et al. 2015a; 2015b; 2015c). *Bombus franklini* was listed on the IUCN Red List previously (Kevan 2008).

A database of more than 200,000 electronic specimen records of North American bumble bee species was assembled from academic, research and private collections (Richardson 2014) and analyzed to evaluate the change in each species' range between the recent and historic time periods. Once these analyses were completed, quantitative thresholds for extinction risk were used (IUCN 2012) to determine the extinction risk of each bumble bee species (IUCN Red List 2016).

The petitioned species are listed on the IUCN Red List as: Critically Endangered (*Bombus franklini* and *Bombus suckleyi*) and Endangered (*Bombus crotchii*) (Table 1) (Kevan 2008; Hatfield et al. 2015a; 2015c). An IUCN Red List category has not yet been formally assigned for the southern subspecies of the western bumble bee (*B. occidentalis occidentalis*), but the full species (*B. occidentalis*) is listed as Vulnerable to extinction on the IUCN Red List (Hatfield et al. 2015b), and a more recent analysis of changes in range and relative abundance of *B. o. occidentalis* suggests that this subspecies would meet the criteria of Endangered on the IUCN Red List (Hatfield et al. 2018a, unpublished data).

Table 1: Conservation status of each of the four petitioned bumble bee species. *The subspecies *Bombus occidentalis occidentalis* has not been evaluated by CNDDDB; the S1 rank is for the entire species *Bombus occidentalis*. **The subspecies *Bombus occidentalis occidentalis* is not on the IUCN Red List (since the taxonomic change came after the assessments were done), but the IUCN’s Bumblebee Specialist Group range and relative abundance decline estimates indicate that it would meet the IUCN Red List’s Endangered criteria. The species *Bombus occidentalis* has been listed as Vulnerable on the IUCN Red List.

Species	CNDDDB State Rank	NatureServe global (G) and national (T) ranks	ESA Status	IUCN Red List Status
Crotch bumble bee (<i>Bombus crotchii</i>)	S1S2	G3G4	None	Endangered
Franklin’s bumble bee (<i>Bombus franklini</i>)	S1	G1	None (SSA phase)	Critically Endangered
Western bumble bee, southern subspecies (<i>Bombus occidentalis occidentalis</i>)	S1*	G4T1T3	None (parent species SSA phase)	Subspecies not evaluated, but meets the criteria of Endangered**
Suckley cuckoo bumble bee (<i>Bombus suckleyi</i>)	S1	G1G3	None	Critically Endangered

Changes in Range, Distribution, and Relative Abundance

In Table 2, we summarize the changes in range (extent of occurrence, or EOO, and persistence) and relative abundance for each of the petitioned species (Kevan 2008; Hatfield et al. 2015a; 2015c; IUCN Red List 2016; Hatfield 2018a and 2018b, unpublished data).

Table 2: Summary of changes in species’ ranges, persistence, and relative abundance between recent (2002-2012) and historic (pre-2002) time periods.

Species	Historic Distribution	Range Decline: Extent of Occurrence	Range Decline: Persistence	Relative Abundance Decline	Average Decline	Reference
Crotch bumble bee (<i>Bombus crotchii</i>)	United States (CA) Mexico (B.C.)	25%	79%	98%	67%	Hatfield et al. 2015a
Franklin’s bumble bee (<i>Bombus franklini</i>)	United States (CA, OR)	44%	67%	85%	65%	Hatfield 2018b, unpublished data
Western bumble bee, southern subspecies (<i>Bombus occidentalis occidentalis</i>)	United States (AZ, CA, CO, ID, MT, NE, NV, NM, OR, SD, UT, WA, WY) Canada (AB, BC, SK)	53%	33%	84%	57%	Hatfield 2018a, unpublished data
Suckley cuckoo bumble bee (<i>Bombus suckleyi</i>)	United States (AK, CA, CO, ID, MT, NY, ND, OR, SD, UT, WA, WY) Canada (AB, BC, MB, NL, NT, NS, ON, QC, SK, YT)	57%	84%	90%	77%	Hatfield et al. 2015c

Each of the species included in this petition have experienced dramatic declines in their ranges, relative abundance, and persistence, and these sharp decreases have likely been driven by population declines. The life history of *Bombus suckleyi*, a cuckoo bumble bee, makes it uniquely susceptible to extinction (Suhonen et al. 2015). Below we provide more information on the distribution and population status of each species in this petition.

The Crotch bumble bee (*Bombus crotchii*)

Distribution

Bombus crotchii has a limited distribution in southwestern North America. This species occurs primarily in California, including the Mediterranean region, Pacific Coast, Western Desert, Great Valley, and adjacent foothills through most of southwestern California (Williams et al. 2014). It also occurs in Mexico (Baja California and Baja California Sur) (Williams et al. 2014) and has been documented in southwest Nevada, near the California border.

Population Status

This species was historically common throughout much of the southern two-thirds of California, but now appears to be absent from most of it, especially in the center of its historic range (Hatfield et al. 2014, Richardson et al. 2014). In the Central Valley there has been extensive agricultural intensification and the southern part of its range is experiencing rapid urbanization.

Average decline for this species was calculated by averaging the changes in relative abundance and two measures of range: persistence and Extent of Occurrence (EOO) between a recent time period (2002-2012) and a historic (1805-2001) time period (for an explanation of methods, see below). This analysis yielded the following results:

- Current range size relative to historic range (EOO): 74.67% (25.33% decline)
- Persistence in current range relative to historic occupancy: 20.48% (79.52% decline)
- Current relative abundance compared to historic relative abundance: 2.32% (97.68% decline)
- **Average decline: 67.51%**

This analysis suggests sharp declines in both relative abundance and persistence over the last ten years.

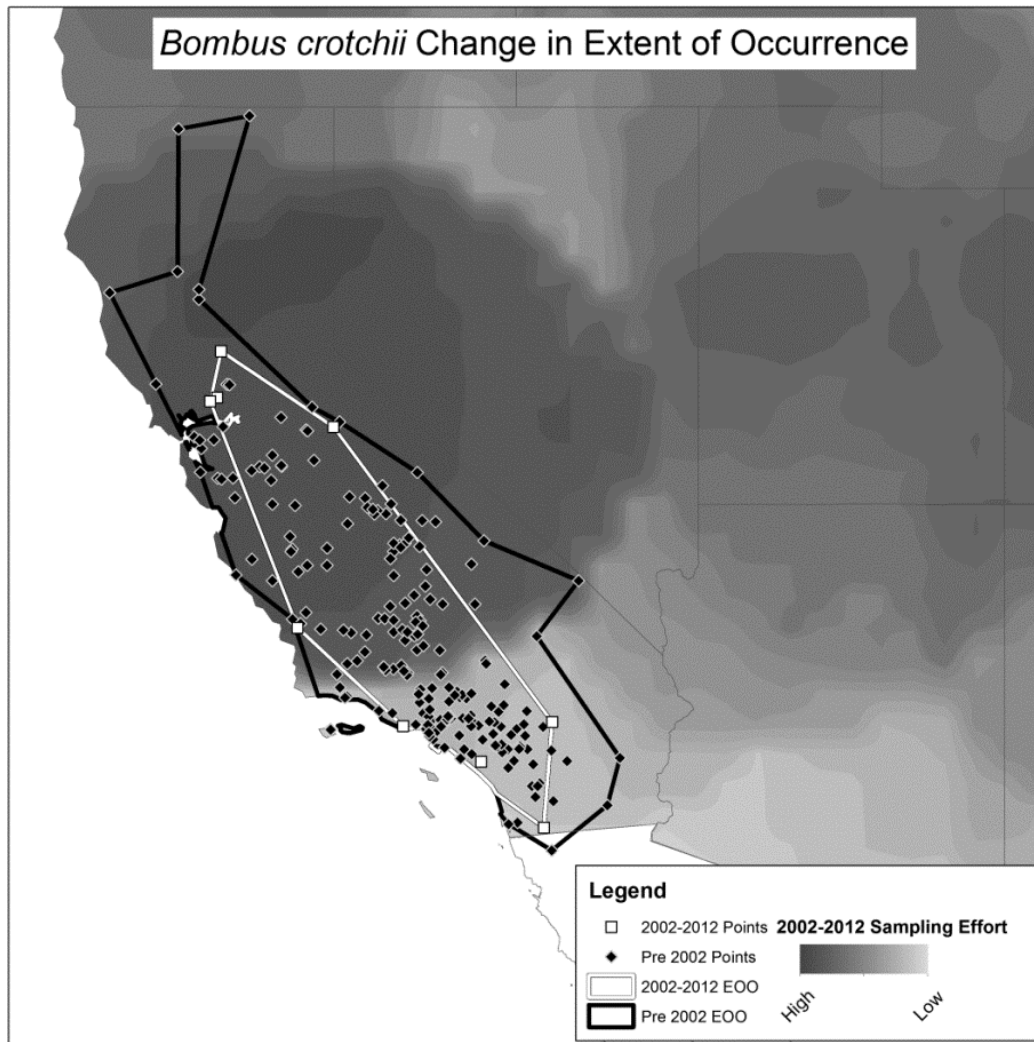


Figure 1: Recent and historical range map for *Bombus crotchii* displayed with a map of sampling effort across its range.

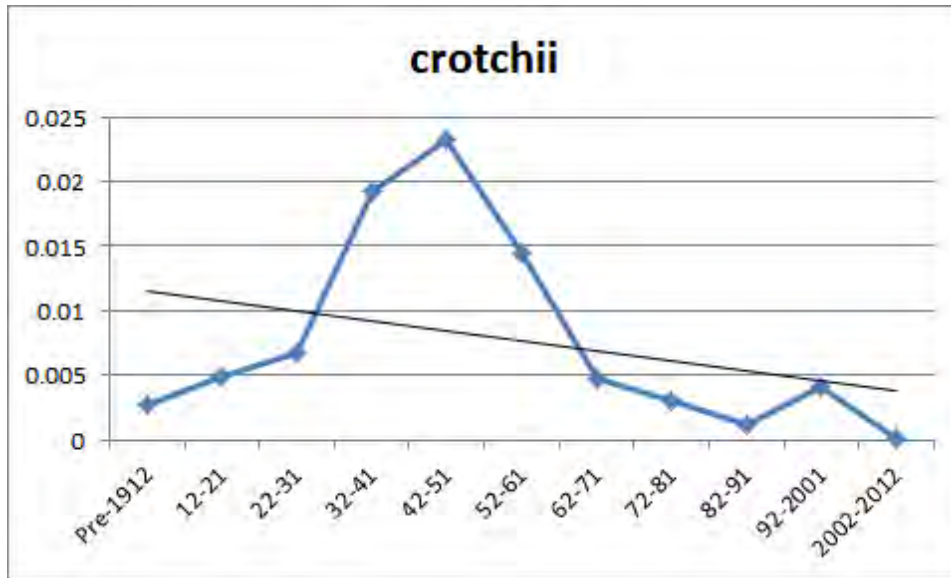


Figure 2: Relative abundance of *Bombus crotchii* by 10-year periods.

Franklin's bumble bee (Bombus franklini)

Distribution

Bombus franklini has the most limited geographic distribution of any bumble bee in North America and possibly the world (Williams 1998). *B. franklini* is known only from southern Oregon and northern California between the Coast and Sierra-Cascade Ranges. Stephen (1957) recorded it from the Umpqua and Rogue River Valleys of Oregon. Thorp et al. (1983) also recorded it from northern California and suggested its restriction to the Klamath Mountain region of southern Oregon and northern California. Its entire distribution, including recent range extensions (Thorp 1999; 2001; 2004) can be covered by an oval of about 190 miles north to south and 70 miles east to west between 122° to 124° west longitude and 40° 58' to 43° 30' north latitude. It is known from Siskiyou and Trinity counties in California. Elevations of localities where it has been found range from 540 feet (162 m) in the north to above 7,800 feet (2,340 m) in the south of its historic range. Although the number of populations that existed prior to 1998 is unknown, there are several historic records for this species, both published and in museums, including two in 1925 (Gold Hill and Roseburg, OR), one in 1930 (Roseburg, OR), two in 1950 (Gold Hill and Medford, OR), two in 1958 (Ashland, OR), two in 1968 (Mt. Ashland and near Copper, OR), one in 1980 (Ashland, OR), two in 1988 (Ashland and Merlin, OR), two in 1989 (Hilt and Yreka, CA), four in 1990 (Ashland, Ruch, Central Point, and Gold Hill, OR), one in 1992 (Ashland, OR), two in 1997 (Roxy Ann Peak near Medford and Ashland Pond in Ashland, OR), and four in 1998 (Roca Canyon in Ashland, Lost Creek Reservoir, and Grizzly Peak near Shale City, OR). Additional records with unknown dates and or localities are also available, including the 1917 type specimen whose locality (Nogales, AZ) has been determined to be erroneous.

Population Status

Evidence for the decline in this species is based on intensive and extensive surveys, primarily by R.W. Thorp (Thorp 1999, 2001, 2004, 2005a, b, 2008) from 1998 through 2017. Surveys for the Bureau of Land Management were also conducted in 2005 (Code and Haney 2006). R.W. Thorp surveyed from nine to seventeen historic sites (average 13.8 sites) per year from 1998 to 2009; reports of surveys completed since 2009 are not available, although it has been confirmed that no *B. franklini* have been found in surveys that have occurred since 2009 (Thorp 2010-2017, pers. comm. with S. Jepsen). Dr. Thorp also surveyed from six to nineteen additional sites (average 12.8 sites) each year, some of which were visited more than once per year and some of which were visited in multiple years (Table 3).

Bombus franklini has not been seen in California since surveys by R.W. Thorp for the species at Hilt in Siskiyou County in 1998 documented two individuals (Table 3). Between 1998 and 2005, the number of sightings of *B. franklini* throughout its range declined precipitously from ninety-four individuals in 1998 to twenty in 1999, nine in 2000 and one in 2001. In Oregon, twenty were found in 2002, although only three were sighted in 2003, all at a single locality at Mt. Ashland in southern Oregon. None were found in 2004 and 2005 in Oregon or California. A single worker of *B. franklini* was sighted in 2006 at Mt. Ashland in Oregon, which is the same locality where *B. franklini* were found in 2003 (Table 3). None have been found from 2007-2017. R.W. Thorp's unpublished surveys have revealed that, since 1998, the populations have decreased to the point of being not seen at all in 2004 or 2005, with only one individual found in 2006. Because extensive surveys of the area within which *B. franklini* exists have, as of 2006, uncovered only one individual, but similar surveys in the first three years (1998-2000) uncovered individuals at many historic and seven new sites, it can be concluded that the extent of population is decreasing severely. Though further investigation would be required to determine the exact number of extant *B. franklini*, based on their limited range, it can be assumed that their populations have decreased to dangerously low levels.

Table 3: Historic and new* localities surveyed for *Bombus franklini* and numbers of *B. franklini* observed from 1998 through 2007 (Thorp 2008). Bolded entries denote that *B. franklini* was observed. Surveys were conducted by Dr. Thorp during 2008 and 2009, but no *B. franklini* were encountered.

Site	ST		# times visited / # <i>Bombus franklini</i> found									
		Year	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
		CO										
Sutherlin, W of	OR	<u>Douglas</u>	1/1*	1/0	1/0	2/0	1/0		2/0	3/0		1/0
Ashland	OR	<u>Jackson</u>			1/0	2/0	3/1		4/0	7/0	5/0	2/0
Ashland, ENE (3)	OR	<u>Jackson</u>	1/0	1/0	1/0	2/0	5/0	1/0			1/0	1/0
Buncom, E of	OR	<u>Jackson</u>		1/1*	3/0	1/0	1/0					
Gold Hill, E of	OR	<u>Jackson</u>	4/44*	2/0	7/5	7/0	3/0	4/0	2/0	4/0	2/0	2/0
Grizzly Peak	OR	<u>Jackson</u>	2/0	2/0	1/0	2/0	2/0	2/0	2/0	3/0	1/0	2/0
Jackson Campground	OR	<u>Jackson</u>	2/2*	2/0	1/0		1/0			1/0		
Kenney Meadows	OR	<u>Jackson</u>	2/3*	2/0	2/0	2/0	1/0	1/0		1/0		
Lost Creek Reservoir	OR	<u>Jackson</u>		1/0		1/0			1/0	1/0		
Medford	OR	<u>Jackson</u>			3/0	3/0		1/0	1/0			
Mt. Ashland (2)	OR	<u>Jackson</u>	3/37	6/19	7/2	5/1	10/19	9/3	13/0	11/0	8/1	7/0
Phoenix, E of	OR	<u>Jackson</u>			1/0	2/0						
Ruch	OR	<u>Jackson</u>	3/3	2/0	2/1	1/0	2/0		2/0			
Ruch, S of (2)	OR	<u>Jackson</u>	1/0	2/0			1/0	2/0	2/0	1/0		
Ruch, SSE of	OR	<u>Jackson</u>		2/0	3/1*	2/0	1/0	2/0		1/0		
Union Creek	OR	<u>Jackson</u>		1/0								
Selma, S of	OR	<u>Josephine</u>	1/2*	1/0	1/0							
Wonder, W of	OR	<u>Josephine</u>			1/0							
Mt. Shasta	CA	<u>Siskiyou</u>	1/0	1/0	1/0		1/0			1/0	2/0	1/0
Hilt	CA	<u>Siskiyou</u>	2/2	3/0	3/0	1/0	2/0	1/0	1/0	2/0	2/0	1/0
Montague	CA	<u>Siskiyou</u>		1/0					1/0		1/0	
Total <i>B. franklini</i> seen			94	20	9	1	20	3	0	0	1	0
New sites for <i>franklini</i>			5	1	1	0	0	0	0	0	0	0
<i>B. franklini</i> site visits			22	32	41	33	36	20	31	36	22	17
Other sites visited			19	23	14	7	6	8	9	19	14	2

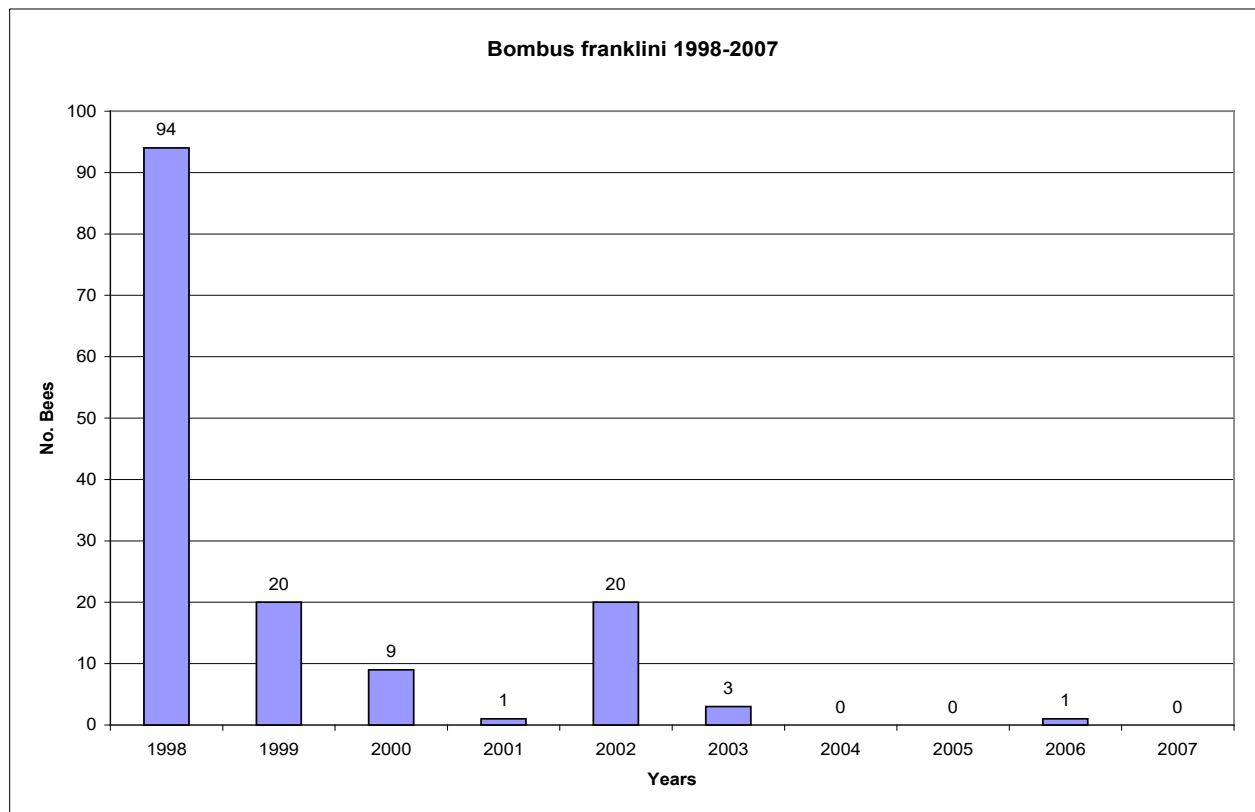


Figure 3: Number of *Bombus franklini* observed in surveys from 1998-2007 (Thorp 2008). Surveys were also conducted by Dr. Thorp from 2008-2017, but no *B. franklini* were found.

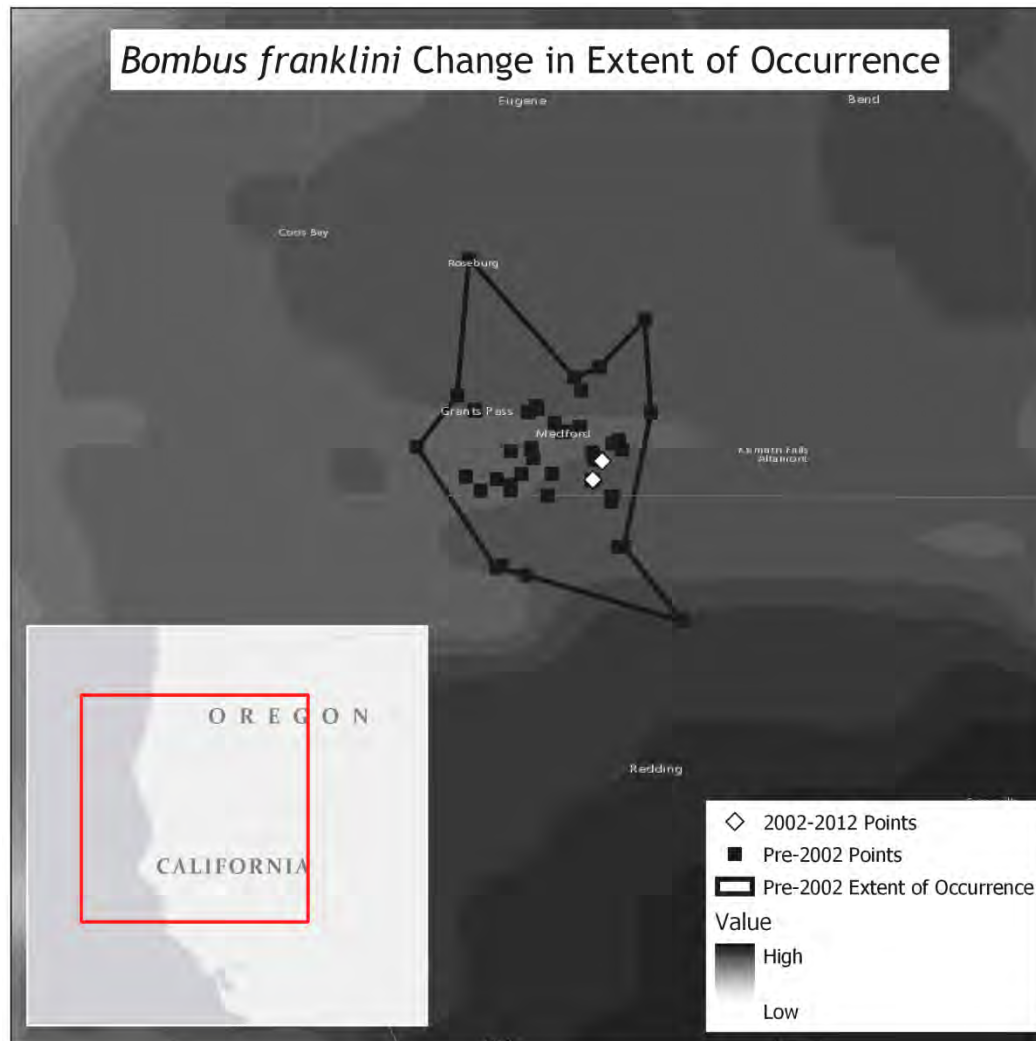


Figure 4: Current and historical range map for *Bombus franklini*.

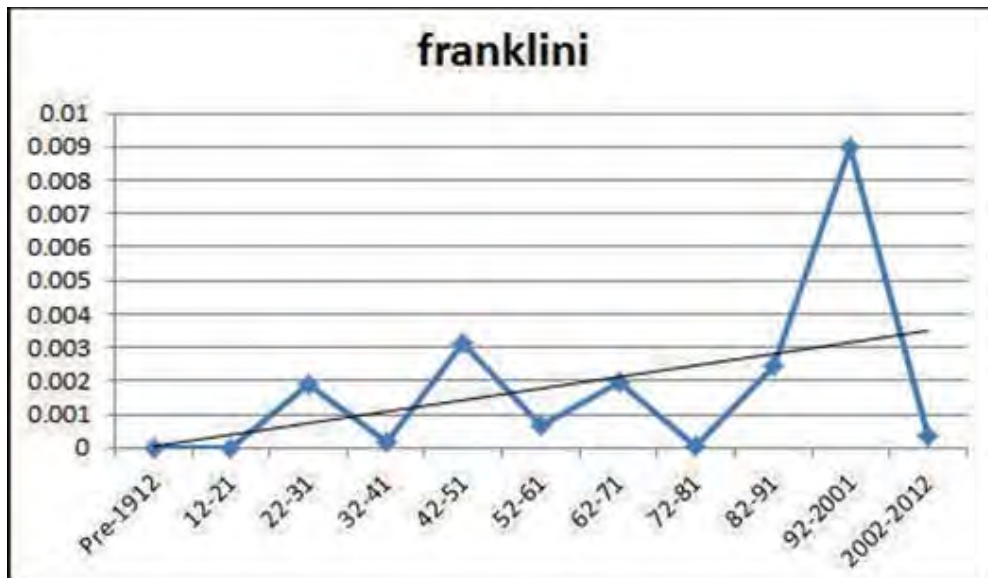


Figure 5: Relative abundance of *Bombus franklini* by 10-year periods. Note that a targeted survey effort for *B. franklini* began in 1998, probably explaining the spike in this species' relative abundance in the *Bombus* specimen database during the decade from 1992-2001.

The Western bumble bee (Bombus occidentalis occidentalis)

Bombus occidentalis consists of two subspecies: *B. occidentalis mckayi*, which occurs in Alaska, Yukon Territory, Northwest Territories, northern British Columbia, and northern Alberta, and *B. occidentalis occidentalis*, which occurs from southern British Columbia, southern Alberta, and southwestern Saskatchewan south to multiple western U.S. states (Sheffield et al. 2016). Existing evidence suggests that it is the southern subspecies, *B. occidentalis occidentalis*, which has undergone a dramatic range contraction and population decline, especially in the western part of its range. The authors of this petition are not aware of any evidence suggesting that *B. occidentalis mckayi* has undergone any range reduction or population decline. The IUCN Bumblebee Specialist Group recently completed analyses of changes in range, persistence, and relative abundance of both *B. occidentalis* (Hatfield et al. 2015b) and *B. occidentalis occidentalis* (Hatfield 2018 unpublished data) between recent and historic time periods.

Distribution

Bombus occidentalis occidentalis was historically broadly distributed across the west coast of North America from southern British Columbia to central California, east through Alberta and western South Dakota, and south to Arizona and New Mexico (Williams et al. 2014; Sheffield et al. 2016). In California, it has been documented in Alameda, Alpine, Butte, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Modoc, Monterey, Napa, Nevada, Placer, Plumas, San Benito, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Tehama, Trinity, Tulare, Yolo, and Yuba counties (Bumble Bee Watch 2017; Richardson 2017; Rickman 2017).

Population Status

Bombus occidentalis occidentalis was once very common in the western United States but has recently undergone a dramatic decline in abundance and distribution, and is no longer present across much of its historic range. A rangewide analysis including more than 73,000 records of eight bumble bee species suggests that the parent species, *B. occidentalis* has undergone a 28% range decline between recent (2007-2009) and historic (1900-1999) time periods (Cameron et al. 2011a). A separate analysis comparing the current (2002-2012) and historic (1805-2001) ranges of *B. occidentalis occidentalis* (using a database of more than 200,000 records of 43 species of North American bumble bees developed by Williams et al. 2014) suggests that the southern subspecies has been lost from 53% of its historic range, or EOO (Hatfield et al., unpublished data). The relative abundance of *B. o. occidentalis* has declined by 84% (Hatfield et al., unpublished data). Declines were found to be most significant at the edges of this species' range (Hatfield et al., unpublished data). In California, *B. o. occidentalis* populations are currently largely restricted to high elevation sites in the Sierra Nevada (Xerces Society 2012), though there have been a couple of observations of this species on the northern California coast (Xerces Society et al. 2017).

Average decline for this species was calculated by averaging the change in abundance, persistence, and EOO. This analysis yielded the following results (see also the graph of relative abundance and map of change in EOO over time below):

- Current EOO (range) relative to historic EOO: 47% (53% decline)
- Persistence in current range relative to historic occupancy: 57% (33% decline)
- Current relative abundance relative to historic values: 16% (84% decline)
- Average decline: 57%

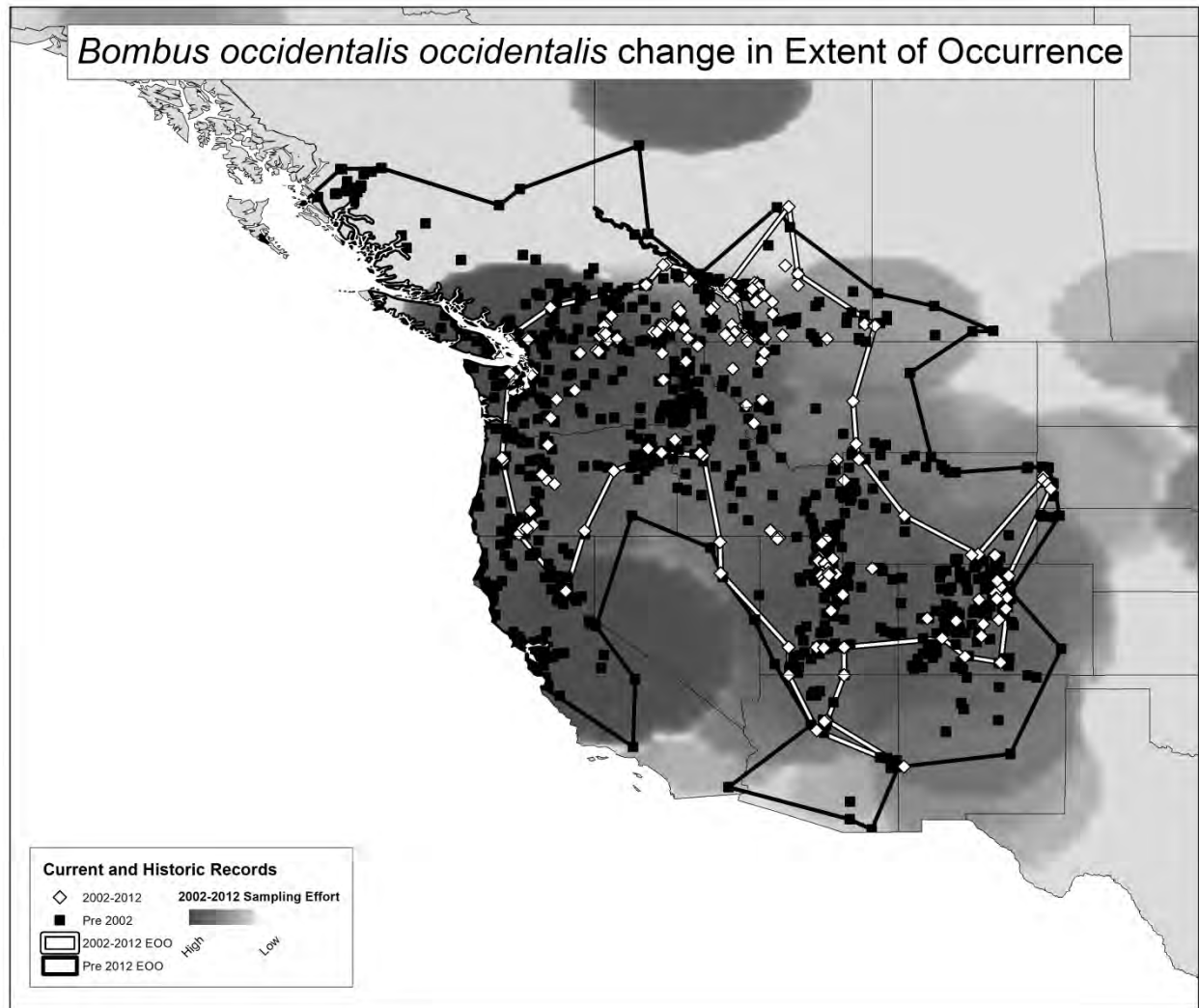


Figure 6: Current and historical range map for *Bombus occidentalis occidentalis*.

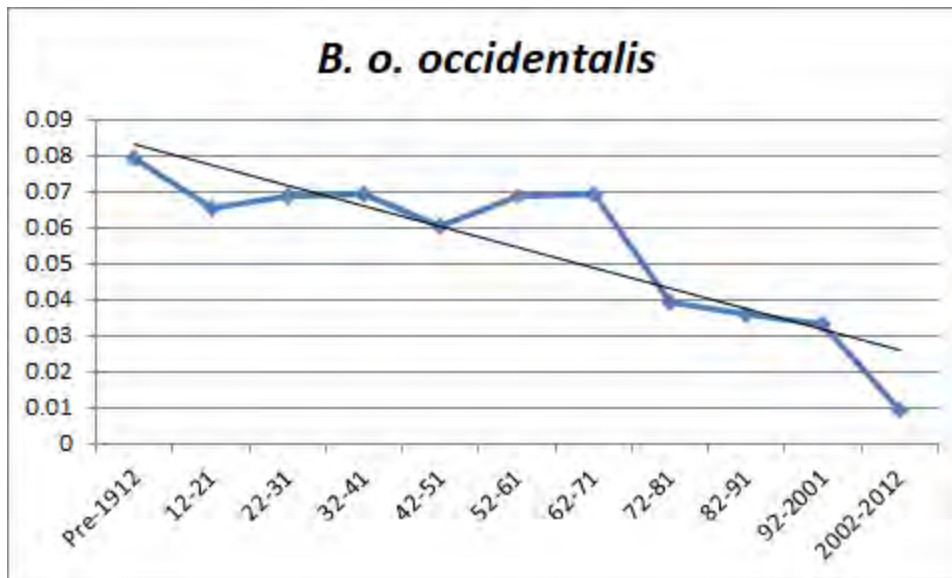


Figure 7: Relative abundance of *Bombus occidentalis occidentalis* by 10-year periods.

*The Suckley cuckoo bumble bee (*Bombus suckleyi*)*

Distribution

This species has a broad distribution centered in western North America and also including several scattered localities in the northeast. It occurs in the Mountain West from California and Colorado to Alaska, east to the Canadian Great Plains, with a disjunct subpopulation in Newfoundland (Williams et al. 2014). In California *Bombus suckleyi* has a very limited distribution, occurring only in the Klamath Mountain region in the northern part of the state.

Population Status

Bombus suckleyi has experienced dramatic population declines throughout its range and has declined by over 80%, according to criteria established by the IUCN (Hatfield et al. 2015c). The decade by decade relative abundance regression shows a gradual decline since the 1940s, and the relative abundance regression over just the past 50 years is highly significant (R-squared value of nearly 1; showing a continued steep decline). If we project the 50 year relative abundance regression into the future, it falls below the x-axis in the next 10 years. Notably, this species' declines are likely due – at least in part – to the rapid disappearance of its host, the **western bumble bee (*Bombus occidentalis occidentalis*)**, which has declined by 84% (Hatfield et al., unpublished data). Both the past decline in relative abundance (90.11% over the past 10 years) and predicted future decline in relative abundance (based on 50-year regression) indicate dramatic, rapid declines. Note that the range and persistence of this species have also declined, however, since some historic sites have not been re-sampled and since we only have records of this species in approximately six general localities for the current time period, we were not comfortable using those measures of decline.

Average decline for this species was calculated by averaging the change in abundance, persistence, and EOO. This analysis yielded the following results (see also the graph of relative abundance and map of change in EOO over time below):

- Current range size relative to historic range: 42.61% (57.39% decline)
- Persistence in current range relative to historic occupancy: 15.95% (84.05% decline)
- Current relative abundance relative to historic values: 9.89% (90.11% decline)
- Average decline: 77.18%

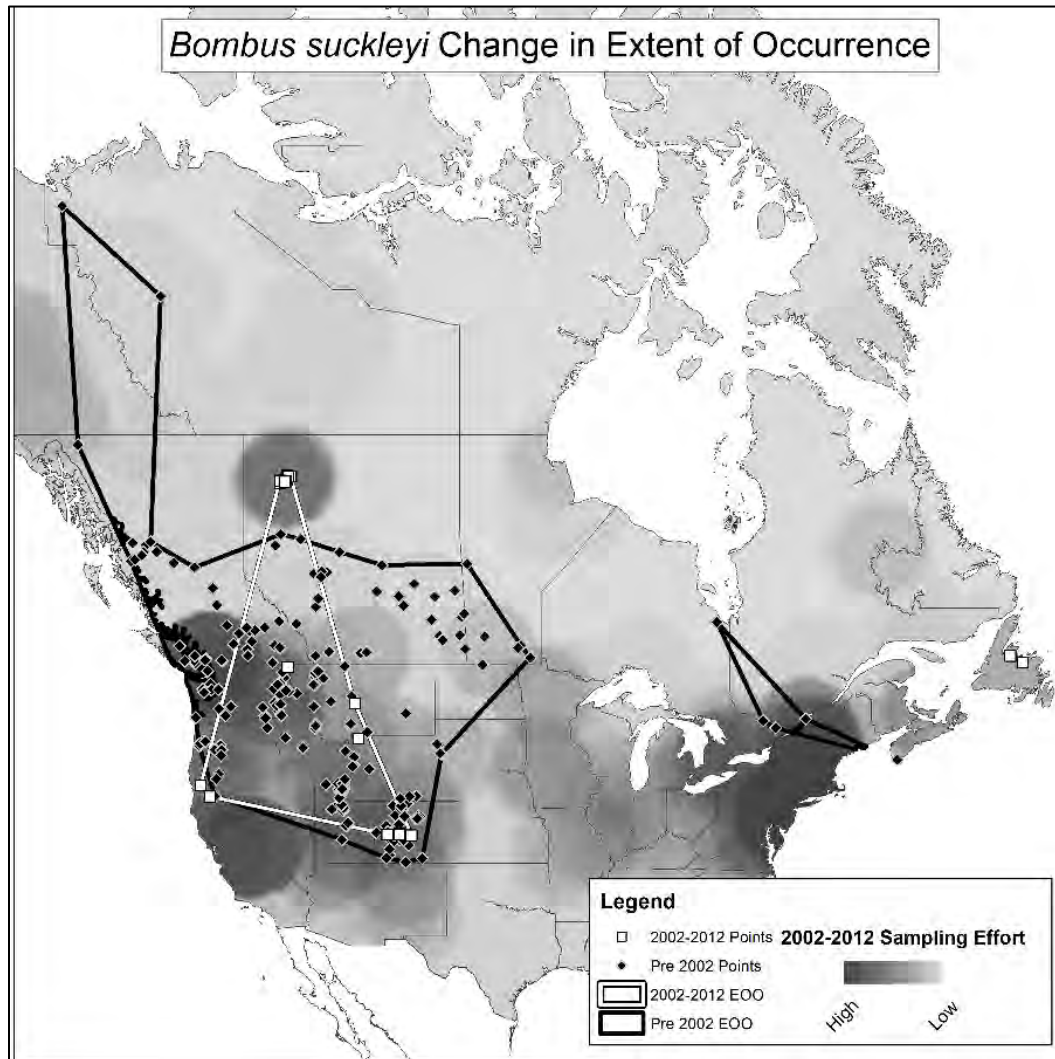


Figure 8: Current and historical range map for the Suckley cuckoo bumble bee (*Bombus suckleyi*).

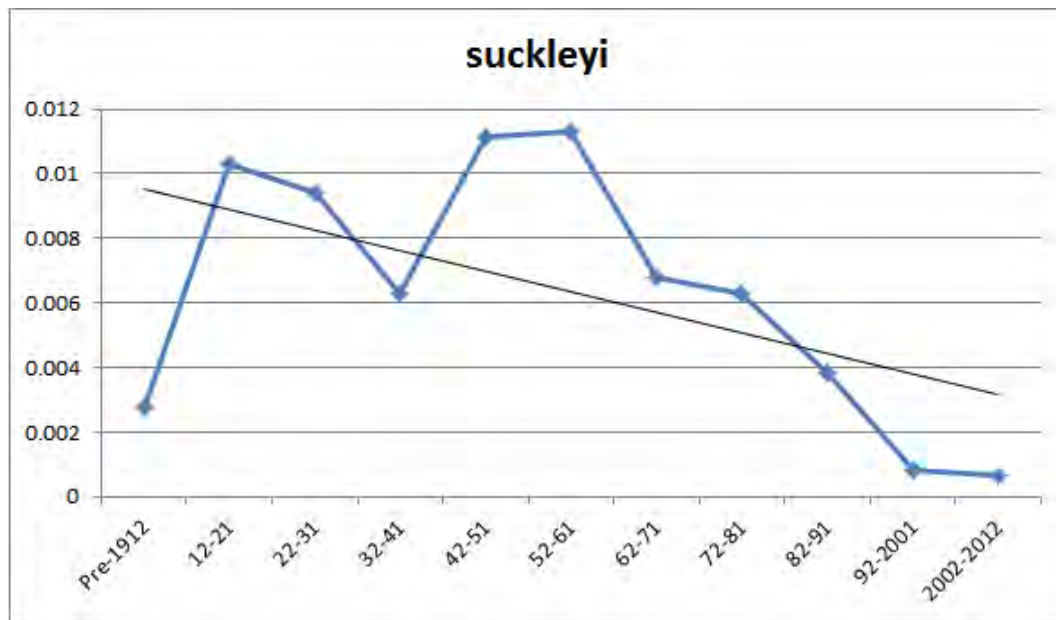


Figure 9: Relative abundance of the Suckley cuckoo bumble bee (*Bombus suckleyi*) by 10-year periods.

METHODS USED

Analyses

Hatfield et al. (2014) evaluated changes between recent and historic time periods in each species': overall Extent of Occurrence (EOO), persistence within 50km grid cells, and relative abundance. For both the EOO and persistence calculations, a database of >200,000 specimen records (Richardson et al. 2014) was divided into historical (1805 – 2001, N=128,572) and current (2002-2012, N=73,626) records (Hatfield et al. 2014, Hatfield et al 2018c).

Extent of Occurrence (EOO)

Since the historical database had significantly more records, and therefore could lead to an over estimate of range loss due to an increased chance of including more records near the edge of each species' range, Hatfield et al. (2014) rarefied the historic data set by randomly selecting 73,626 records from the historical time period to use in the EOO measurement. Using z-tests for differences in proportion, it was ensured that the relative abundance of each species in the subsampled historical data was not significantly different from the relative abundance of that species in the original database. To measure changes in each species' EOO, Hatfield et al. (2014) first used a k-nearest neighbors approach to create local convex hulls for each species in each time period (Getz et al. 2007). Generally, the "minimum spurious hole covering" rule proposed in Getz et al. (2007) was used. However, since the ranges of most North America bumble bees are large, "spurious holes" frequently included large expanses of inhospitable habitat for bumble bees (e.g., The Gulf of Alaska) (Hatfield et al. 2014). After the local convex hull polygons were created, the polygons were clipped to the North American continent to remove large patches of

unoccupied habitat (e.g., Great Lakes) (Hatfield et al. 2014). Using the areas calculated from these polygons, Hatfield et al. (2014) compared the current area to the historical area to determine change in home range size (see Figures 1, 4, 6, and 8).

Persistence

To determine species' persistence within their home range, Hatfield et al. (2014) divided the continent into 50 km x 50 km grid cells. Hatfield et al. (2014) used 50 km grid cells to be consistent with previous European and North American *Bombus* spp. analyses (Williams et al. 2007; Colla et al. 2012) and because the data in the historical database were georeferenced from specimen label locality descriptions, which are sometimes inaccurate at smaller spatial scales (Wieczorek et al. 2004). For each time period the number of grid cells occupied by each species was divided by the total number of grid cells occupied by all species (Hatfield et al. 2014). Then, the value from the current time period was divided by the value from the historic time period to detect changes in persistence over time. While the metric that Hatfield et al. (2014) report is not truly a measure of range size, it does provide a measure of each species' persistence within its home range.

Relative Abundance

To evaluate changes in the relative abundance (RA) of each species, Hatfield et al. (2014) divided the full database into historical (1805-2001) and current (2002-2012) time periods and calculated the RA of each species in each time period. Then, to estimate changes in RA, they divided the current RA by the historical RA. In addition to comparing the historical time period to the most recent decade, Hatfield et al. (2014) also broke the database up into ten ten-year periods, plus one time period covering all records prior to 1913 and calculated the RA of each species in each time period (e.g., pre-1913 = period 1, 1913-1922 = period 2). Then, using time as the explanatory variable and RA as the independent variable, a linear regression was conducted to assess longer-term trends in each species' RA (see Figures 2, 5, 7, and 9) (Hatfield et al. 2014). To evaluate extinction risk for several species Hatfield et al. (2014) used a linear trendline to project future declines and used the x-intercept as the theoretical point of extinction.

Sampling Effort

Specimen records were used for the analysis of change in range size, sampling effort likely played a significant role in determining species presence or absence (Hatfield et al. 2014). To account for varying sampling effort and avoid overestimating range loss, Hatfield et al. (2014) created sampling density rasters from the presence points, in both the current time period, and the random sample of the historical time period (using ArcGIS 10.2). For each species Hatfield et al. (2014) calculated the relative difference in sampling density in areas where the historical EOO did not overlap with the current period EOO. Using the area of this non-overlapping polygon, the average sampling density for both time periods was calculated (Hatfield et al. 2014). Species that experienced range loss in the current time period that had a lower sampling

density than historically had their range loss estimates adjusted by the relative difference in average sampling density to account for the change in effort. Hatfield et al. (2014) did not adjust the change in range estimates for species that had a higher sampling density in the current time period.

Since most records available for the bumble bee species included in this petition are from incidental observations or museum specimen records rather than from quantitative studies, population estimates at specific sites are unavailable. Furthermore, using field estimates of abundance to understand bumble bee population stability can be problematic because observations of multiple individuals may represent a single reproductive unit (because of the colonial life history of bumble bees).

III. LIFE HISTORY (SPECIES DESCRIPTION, BIOLOGY, AND ECOLOGY)

Bumble Bee Biology

Most bumble bees are primitively eusocial insects that live in colonies composed of a queen, workers, and, near the end of the season, reproductive members of the colony (new queens, or gynes, and males). There is a division of labor among these three types of bees. Queens are responsible for initiating colonies and laying eggs. Workers are responsible for most food collection, colony defense, and feeding of the young. Males' sole function is to mate with queens. Colonies are annual, starting from colony initiation by solitary queens in the spring, to production of workers, and finally to production of queens and males. Queens produced at the end of the colony cycle mate before entering diapause, which is a form of hibernation.

Bumble Bee Pollination Ecology

Bumble bee colonies depend on floral resources for their nutritional needs. Bumble bees collect both nectar and pollen of the plants that they pollinate. Nectar provides them with carbohydrates and pollen provides them with protein. Bumble bees are generalist foragers, meaning that they gather pollen and nectar from a wide variety of flowering plants; although individual species can vary greatly in their plant preferences, largely due to differences in tongue length.

During collection of pollen and nectar from flowers, bumble bees also transport pollen between flowers, facilitating seed and fruit production. Bumble bees have many qualities that contribute to their suitability as agricultural pollinators. They are able to fly in cooler temperatures and lower light levels than many other bees, which extends their work day and improves the pollination of crops during inclement weather (Corbet et al. 1993). Bumble bees are well-known to engage in "buzz pollination," a very effective foraging technique in which they sonicate the flowers to vibrate the pollen loose from the anthers. This activity causes the flower to vibrate, which in turn dislodges pollen that would have otherwise remained trapped in the flower's anthers (Buchmann 1983). Tomatoes (Solanaceae), blueberries (Ericaceae), and many other

important food plants are pollinated by bumble bees in this way. In addition to commercially important crops, bumble bees also play a vital role as generalist pollinators of native flowering plants, and their loss may have far ranging ecological impacts. Below we provide life history accounts, species identification, taxonomy, phenology, reproductive biology, habitat relationships, and vulnerability of populations to certain natural or human-caused adverse impacts for each of the petitioned species.

Crotch bumble bee (*Bombus crotchii*) Cresson 1878

Taxonomy

This species was described by Cresson (1878) and upheld as a distinct species in the subgenus *Cullamonobombus* by more recent analyses (Cameron et al. 2007; Williams et al. 2008a).

Identification

Bombus crotchii is most easily distinguished from other *Bombus* species based on hair coloration. Technical descriptions below are adapted from Williams et al. (2014):

Queens: The queen is 22 to 25 mm in length. Their hair of the face is black with a yellow vertex (top of the head). Their hair is yellow on the front part of the thorax (scutum), usually with black hairs between and below the wings as well as at the back of the thorax (scutellum). On the abdomen, the first tergal (T-dorsal plate) segment is black, at least medially. T2 is yellow, sometimes with black medially and anteriorly. T3 has black anteriorly, sometimes with red posteriorly. T4 and T5 are either entirely red or black.

Workers: The worker is 12 to 20 mm in length. Their color patterns are identical to the queens.

Males: The male is 14 to 19 mm in length. The hair of the head and face are yellow with a yellow scutum and scutellum and a black band between the wings. T1 and T2 are yellow sometimes with yellow laterally and posteriorly on T3. T4-T7 are either entirely black or entirely red. Males of this species are greatly enlarged and bulbous.

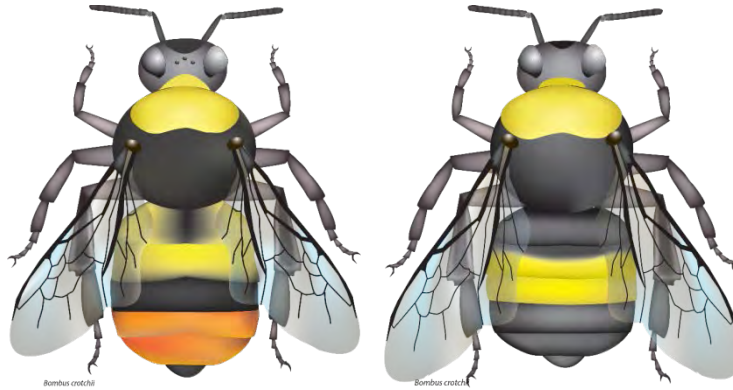


Figure 10: *Bombus crotchii* (female) queen/worker color forms. Although several color forms for females of this species have been described (Williams et al. 2014), the two color forms illustrated above are representative of female *B. crotchii* that occur in California. Illustrations by Elaine Evans and Rich Hatfield, the Xerces Society.

Franklin's bumble bee (*Bombus franklini*) (Frison, 1921)

Taxonomy

Bombus franklini is a valid species and its taxonomic status is uncontested. In 1971, Milliron questioned the taxonomic status of *Bombus franklini* as a valid species. Without presenting any evidence for his taxonomic decision, Milliron (1971) placed *B. franklini* in synonymy under *B. occidentalis* (Greene 1858) and then placed *B. occidentalis* in synonymy with *B. terricola*, which occurs in the eastern U.S. (Kirby 1837) on the basis of presumed overlapping color variation. This question has been addressed through studies of morphometrics by Plowright and Stephen (1980), the lack of intergradation (color/morphological) in areas of sympatry with *B. occidentalis* by Thorp et al. (1983), structure of the male genitalia by Williams (1991), and genetics (allozymes) by Scholl et al. (1992) and Cameron et al. (2007). All five studies between 1980 and 2007 concluded that *B. franklini* was indeed a valid species and distinct from *B. occidentalis*. *B. franklini* is currently recognized as a valid species by Williams et al (2014).

The original description by Frison (1921) was based on two queens sent to him by a commercial collector, E. J. Oslar and labeled by Oslar as having been collected at Nogales, Arizona in July 1917. Subsequently, Frison (1923) found additional specimens in the collections of the U.S. National Museum from "Oregon" (without more specific locality data) collected by C. F. Baker which he designated as a worker "Morphotype" and a male "Allotype." In 1926, Frison published additional records of one worker each from Roseburg and Gold Hill, Oregon, collected by H. A. Scullen. The same two records were published by Scullen (1927). Subsequently, evidence was marshaled by Thorp (1970) to dispute the putative Arizona records of *B. franklini* and to propose Gold Hill, Jackson County, Oregon the realistic type locality. Evidence included finding specimens of many other west coast bumble bee species labeled by Oslar as having been collected in southern Arizona about the same time, but representing a great disjunction for each of the species. Field studies by R. W. Thorp also failed to turn up *B. franklini* or any of the other

dozen species of bumble bees also labeled by Osler as having been collected in southern Arizona. This is supported by evidence presented on species of *Andrena* by LaBerge (1980; 1986) and the lack of specimens from the area in major bee collections (in Thorp et al. 2010).

Identification

Bombus franklini is readily distinguished from other bumble bees in its range by the extended yellow on the anterior thorax which extends well beyond the wing bases and forms an inverted U-shape around the central patch of black, lack of yellow on the abdomen, predominantly black face with yellow on top of the head, and white at the tip of the abdomen. Other bumble bees with similar color patterns in the range of *B. franklini* have the yellow extending back to the wing bases or only slightly beyond and usually have one or more bands of yellow on the middle or slightly behind the middle of the abdomen (most on T-4). Females of most species have yellow hair on the face, in contrast to black on *B. franklini*. Females of *B. occidentalis* and *B. fervidus* that have black hair on the face also have black hair on the vertex in contrast to the yellow hair on the vertex in *B. franklini*. Females of *B. fervidus* have a long face in contrast to the round face of *B. franklini* and *B. occidentalis*.

Queens & Workers

Face round with area between bottom of compound eye and base of mandible (= malar space) shorter than wide; hair predominantly black with some shorter light hairs intermixed above and below antennal bases. Hair on top of head (= vertex) yellow. Hair of thorax (= mesosoma) on anterior two-thirds above (= scutum) yellow extending rearward laterally inside and beyond the wing bases (= tegulae) to rear third (= scutellum), but interrupted medioposteriorly by inverted U-shaped patch of black; hair on posterior third above (= scutellum) black; hair of thorax laterally (= mesopleura) black, except for small patch of yellow in upper anterior corner in area of pronotal lobes. Hair of abdomen (= metasoma) black except for whitish or silvery hair at sides and apex of 5th plate above (= tergum 5, = T-5).

Males

As for female, except malar space as long as wide, face below antennae with predominantly yellow hair, and T-6 with some pale hair laterally.



Figure 11: Female *Bombus franklini*. Illustration by Elaine Evans, The Xerces Society.

Western bumble bee (*Bombus occidentalis occidentalis*) Greene, 1858

Taxonomy

Bombus occidentalis is considered a valid species (Franklin 1913; Thorp 2005c; Cameron et al. 2007; Bertsch et al. 2010; Williams et al. 2012). *Bombus occidentalis* consists of two valid subspecies: *Bombus occidentalis occidentalis* and *Bombus occidentalis mckayi* (Williams et al. 2012; Sheffield et al. 2016).

Identification

B. occidentalis occidentalis is most easily distinguished from other *Bombus* species based on hair coloration. Note, however, that coloration in this species can be highly variable, and eight female and seven male color forms have been described (Sheffield et al. 2016). There are two prominent color forms of *B. o. occidentalis* most likely to be encountered in California. Those found in the mountains (“*occidentalis*” form) are likely to have bright white coloration on the posterior end of the abdomen (Thorp 2013, pers. comm.); this character is unusual and obvious. The “*occidentalis*” form (without any yellow on T1-4) is found throughout in the eastern part of the state in the Sierra-Cascade Range from near Yosemite to Oregon and west along the northern tier of counties into Humboldt County (Thorp 2017, pers. comm.). Specimens found closer to the coast (“*nigroscutatus*” form) replace the bright white hairs with yellowish orange hairs (Williams et al. 2014). The “*nigroscutatus*” form includes all populations on the coast and Coast Ranges from Monterey County north into Humboldt County where the yellow banding becomes narrower (Thorp 2017, pers. comm.). However, some of these yellow-banded individuals have recently been located on the Eagle Lake Ranger District of the Lassen National Forest (Rickman 2017, pers. comm.). Technical descriptions below are adapted from Williams et al. (2014):

Queens: The queen is 20 to 21 mm in length. Their hair is entirely black on the head sometimes with a minority of yellow or gray hairs mixed in above the antennae. Their hair is yellow on the front part of the thorax (scutum), usually with black, or a minority of yellow hairs at the back of the thorax (scutellum). The majority of the hairs between and

below the wings are black. On the abdomen, the first two tergal (dorsal plate) segments (T1-T2) are black. If T3 is entirely yellow, then T4 is black, T5 white. If T3 is black, or with a minority of yellow, T4 and T5 are white.

Workers: The worker is 9 to 15 mm in length. Their hair is entirely black on the head sometimes with a minority of yellow or grayish hairs mixed in above the antennae. Their hair is yellow on the front part of the thorax (scutum), usually with black, or a minority of yellow hairs at the back of the thorax (scutellum). The majority of the hairs between and below the wings are black. On the abdomen, the first tergal (T1-dorsal plate) segment is black. T2 has at least some black on it centrally and anteriorly. If T3 is entirely yellow, the white hairs on T4 (if applicable) and T5 seen in queens will be replaced with yellowish orange hairs. If T3 with at most a minority of yellow hairs, T4 and T5 are white.

Males: The male is 13 to 17 mm in length. The hair on the head is pale yellowish on the front of the face. The top of the head has pale yellowish hairs medially, with some black hairs, especially laterally. The hair on the front of the thorax is pale yellowish. The hair on T1 is black with at least some black centrally and anteriorly on T2. If T3 is black the basal part of the fourth abdominal segment is black, with the remainder, as well as segments five to seven, whitish – although sometimes a yellowish orange. If T3 is entirely yellow, T5 is black basally, and the remainder, as well as T6-T7 are yellowish orange.

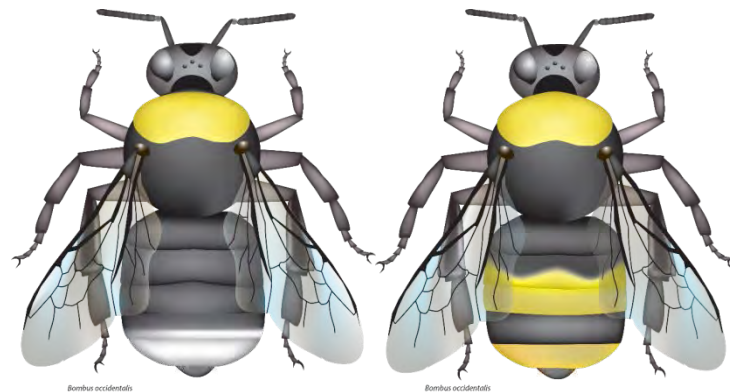


Figure 12: *Bombus. o. occidentalis* (female) worker, nominate color form ("*occidentalis*" - left), coastal color form ("*nigroscutatus*" - right). Although eight color forms for females of this species have been described (Sheffield et al. 2016), the two color forms illustrated above are representative of the two color forms of female *B. o. occidentalis* that occur in California. Illustrations by Elaine Evans and Rich Hatfield, the Xerces Society.

Suckley Cuckoo Bumble Bee (*Bombus suckleyi*) Greene, 1860

Taxonomy

This species was described by Greene (1860) and recent analyses have confirmed that it is a

valid species in the subgenus *Psithyrus* (Cameron et al. 2007; Williams et al. 2008a).

Identification

As a social parasite of other *Bombus* species, the females of this species do not collect pollen and do not have a corbicula (pollen carrying basket) on their hind leg tibia. There is also no worker caste in this species; all individuals are either male or reproductive females. *Bombus suckleyi* is most easily distinguished in the field from other *Bombus* species based on hair coloration and physical characteristics. The species that look similar to *B. suckleyi* with overlapping ranges in California are *B. insularis* and *B. flavidus*. The differences between these species and *B. suckleyi* are noted in the detailed description below (descriptions compiled in part from Williams *et al.* 2014).

Females: *Bombus suckleyi* females are 18 to 23 mm in length. Cuckoo bumble bees, members of the subgenus *Psithyrus* (including *B. suckleyi*), do not have a corbicula (pollen carrying basket on their hind leg), unlike the true bumble bees (pollen collecting, social species). Instead, their hind leg tibia is convex and densely covered in hairs. *B. suckleyi*'s hair is short and even. The hair of the head (including the vertex – top of the head) is black (contrast *B. insularis* – yellow face and vertex, and *B. flavidus* – yellow vertex). The hair of the thorax (including below the wings) is mostly yellow, with a black spot or band between the wings, sometimes with a black triangular notch behind, and between the wings. The first two tergal (T-dorsal plate) segments on the abdomen are black (contrast most *B. flavidus*), usually with at least some yellow (laterally and posteriorly) on T3 – no yellow centrally. T4 has predominantly yellow hairs, with a patch of black centrally and anteriorly (contrast *B. flavidus*). T5 is usually black, but can have yellow laterally; T6 is black.

Males: The male is 13 to 16 mm in length. The color patterns for males of this species are extremely variable. The only consistent features are yellow on all of T1 and T4 (contrast *B. insularis*), with some (or all) yellow on T2, T3, T5 and T6. T7 is black (contrast *B. flavidus*).

The illustration below represents the color patterns exhibited by females. Males tend to have more yellow on the abdomen, especially on the first (anterior) abdominal segment. The hair of the face on both males and females of this species is black (contrasted with *B. insularis* – a sympatric and common member of the *Psithyrus* subgenus and look-alike species).



Figure 13: Female *Bombus suckleyi*. Illustration © Paul Williams (identification and color patterns), Elaine Evans (bee body design), and Rich Hatfield.

IV. KIND OF HABITAT NECESSARY FOR SURVIVAL

Habitat Requirements

All bumble bees have three basic habitat requirements: suitable nesting sites for the colonies, availability of nectar and pollen from floral resources throughout the duration of the colony period (spring, summer, and fall), and suitable overwintering sites for the queens. In addition, their populations can be negatively affected by both pathogens and pesticides; thus, they may require habitat that is free from exposure to high levels of both native and exotic pathogens, and pesticides that cause harm to colonies. Bumble bees are found in a wide variety of natural, agricultural, urban, and rural habitats, although species richness tends to peak in flower-rich meadows of forests and subalpine zones (Goulson 2010).

Nest and Overwintering Sites

Bumble bee colony success is often limited by the availability of suitable nesting and overwintering sites. Diverse habitat features will increase the likelihood of nesting and overwintering success. Bumble bee queens emerge from hibernation in the early spring and immediately start foraging for pollen and nectar and begin to search for a nest site. Nesting preferences vary by species and local habitat conditions. Nests are often located underground in abandoned holes made by ground squirrels, mice, and rats, or occasionally abandoned bird nests (Osborne et al. 2008). Some species nest on the surface of the ground (in tufts of grass) or in empty cavities. Bumble bees that nest aboveground may require undisturbed areas with nesting resources such as grass and hay to protect nests (Williams et al. 2014). Furthermore, areas with woody cover, or other sheltered areas provide bumble bees sites to build their nest (e.g., downed wood, rock walls, brush piles, etc.).

Although little is known about the overwintering habits of most bumble bee species, some species are known to dig a few centimeters into soft, disturbed soil and form an oval shaped chamber in which the queen will spend the duration of the winter. Other species may overwinter

in small cavities just below or on the ground surface. Compost in gardens, leaf litter, or mole hills may provide suitable protection for queens to overwinter (Goulson 2010) before they emerge to begin a new colony (Williams et al. 2014). While there is still much to be learned about the nesting and overwintering biology of bumble bees, any near-surface or subsurface disturbance of the ground can be disastrous for bumble bee colonies or overwintering queens. This includes mowing, fire, tilling, grazing, and planting. Having large areas of land free from such practices is essential for sustaining bumble bee populations. Since bumble bees usually nest in abandoned rodent nests, nesting sites may be limited by the abundance of rodents; thus it is also important to retain landscape features that will support rodent populations. Furthermore, reducing ground disturbance can promote overwintering habitat for bumble bees (McFrederick and LeBuhn 2006).

Floral Resources

Bumble bees depend on the availability of habitats with a rich supply of floral resources that bloom continuously during the entirety of the colony's life. The queen collects nectar and pollen from flowers to support the production of her eggs, which are fertilized by sperm she has stored since mating the previous fall. In the early stages of colony development, the queen is responsible for all food collection and care of the young. As the colony grows, workers take over the duties of food collection, colony defense, and care of the young. The queen then remains within the nest and spends most of her time laying eggs. Colonies typically consist of between 50 and 500 workers at their peak (Plath 1927; Thorp et al. 1983; Macfarlane et al. 1994) along with the queen. Queen production is dependent on access to sufficient quantities of pollen. Thus, the amount of pollen available to bumble bee colonies directly affects the number of queens that can be produced (Burns 2004). Furthermore, since queens are the only bumble bees capable of forming new colonies, pollen availability directly impacts future bumble bee population levels. In fact, landscape level habitat quality has been shown to influence bumble bee species richness and abundance, indicating that isolated patches of habitat are not sufficient to fully support bumble bee populations (Hatfield and LeBuhn 2007; Öckinger and Smith 2007).

Bumble bees play the vital role of pollinators as they transfer pollen between native flowering plants when they are foraging. As generalist foragers, bumble bees do not depend on any one flower type. However, some plants do rely on bumble bees to achieve pollination. The loss of bumble bees can have far ranging ecological impacts due to their role as pollinators. An examination of the theoretical effect of removal of specialist and generalist pollinators on the extinction of plant species concluded that the loss of generalist pollinators poses the greatest threat to pollinator networks (Memmott et al. 2004). In Britain and the Netherlands, where multiple bumble bee species, as well as other bees, have gone extinct, there is evidence of decline in the abundance of insect pollinated plants (Biesmeijer et al. 2006).

Since bumble bee colonies obtain all of their nutrition from pollen and nectar, they need a

constant supply of flowers in bloom. Not all flowers are of equal value to bumble bees. Many varietal hybrids do not produce as much pollen and/or nectar as their wild counterparts (Frankie et al. 2005). Bumble bees do have preferences for certain species of plants. Generally, they prefer flowers that are purple, blue, or yellow; they are essentially blind to the color red and will not forage on red flowers (unless there are UV cues on the petals). Having plants with a diversity of corolla tube lengths will support bumble bees with varying tongue lengths. Bumble bees also show a strong preference to perennial plants as opposed to annuals; perennials tend to have higher quantities of nectar (Fussel and Corbet 1992). In addition to flowers, many bumble bee species may benefit from the presence of native bunch grasses. Bunch grasses will add multiple textures and heights to a garden or landscape and provide places for bumble bees to nest and overwinter.

Crotch Bumble Bee (*Bombus crotchii*) Habitat Requirements

In California, *B. crotchii* inhabits open grassland and scrub habitats. This species occurs primarily in California, including the Mediterranean region, Pacific Coast, Western Desert, Great Valley, and adjacent foothills through most of southwestern California (Williams et al. 2014). This species was historically common in the Central Valley of California, but now appears to be absent from most of it, especially in the center of its historic range (Hatfield et al. 2014; Richardson et al. 2014).

Nest Sites

The size of *Bombus crotchii* colonies has not been well documented. *B. crotchii*, like most other species of bumble bees, primarily nests underground (Williams et al. 2014).

Floral Resources

Bumble bees, including *Bombus crotchii*, are generalist foragers and have been reported visiting a wide variety of flowering plants. *B. crotchii* has a very short tongue, and thus is best suited to forage at open flowers with short corollas. The plant families most commonly associated with *B. crotchii* observations or collections from California include Fabaceae (66 observations), Apocynaceae (47), Asteraceae (28), Lamiaceae (27), Boraginaceae (12) (Richardson 2017). Similarly, in an analysis largely based on records from California, Thorp et al. (1983) reports that *B. crotchii* records are primarily associated with plants in the Leguminosae (=Fabaceae), Labiatae (=Lamiaceae), Hydrophyllaceae (=Hydrophylloideae), Asclepiadaceae (=Asclepiadoideae), and Compositae (=Asteraceae). Williams et al. (2014) report plants in the genera *Asclepias*, *Chaenactis*, *Lupinus*, *Medicago*, *Phacelia*, and *Salvia* as example food plants. Note that these floral associations do not necessarily represent *B. crotchii*'s preference for these plants over other flowering plants, but rather may represent the prevalence of these flowers in the landscape where this species occurs.

Overwintering Sites

Very little is known about the hibernacula, or overwintering sites utilized by *Bombus crotchii*. Generally, bumble bees overwinter in soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014).

Phenology

According to Thorp et al. (1983), the flight period for *Bombus crotchii* queens in California is from late February to late October, peaking in early April, with a second pulse in July. The flight period for workers and males in California is from late March through September; worker and male abundance peak in early July (Thorp et al. 1983).

Franklin's Bumble Bee (*Bombus franklini*) Habitat Requirements

Bombus franklini has the most limited geographic distribution of any bumble bee in North America and possibly the world (Williams 1998). It is known from Siskiyou and Trinity counties in California. *Bombus franklini* inhabits open grassy coastal prairies and Coast Range meadows from southern Oregon to northern California. Elevations of localities where it has been found range from 540 feet (162 m) in the north to above 7800 feet (2340 m) in the south of its historic range.

Nest Sites

The nesting biology of *B. franklini* is unknown, but it probably nests in abandoned rodent burrows as is typical for other members of the subgenus *Bombus sensu stricto* (Hobbs 1968).

Floral Resources

Like other bumble bees, *Bombus franklini* is a generalist forager and has been reported visiting a wide variety of flowering plants. *B. franklini* has been observed collecting pollen from lupine (*Lupinus* spp.) and California poppy (*Eschscholzia californica*), and collecting nectar from horsemint or nettle-leaf giant hyssop (*Agastache urticifolia*) and mountain monardella (*Monardella odoratissima*) (Thorp et al. 2010). This species may collect both pollen and nectar from vetch (*Vicia* spp.) as well as rob nectar from it (Thorp et al. 2010).

Overwintering Sites

Very little is known about the hibernacula, or overwintering sites, utilized by *B. franklini*, although generally bumble bee females are known to overwinter in soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014).

Phenology

The flight season of *B. franklini* is from mid-May to the end of September (Thorp et al. 1983).

Western Bumble Bee (*Bombus occidentalis occidentalis*) Habitat Requirements

Meadows and grasslands with abundant floral resources are the appropriate habitat for this

subspecies. While *Bombus occidentalis occidentalis* was historically known throughout the mountains and northern coast of California, it is now largely confined to high elevation sites and a small handful of records on the northern California coast (Cameron et al. 2011a; Xerces Society 2012; Williams et al. 2014; Xerces Society et al. 2017).

Nest Sites

Reports of *Bombus occidentalis occidentalis* nests are primarily in underground cavities such as old squirrel or other animal nests and in open west-southwest slopes bordered by trees, although a few nests have been reported from above-ground locations such as in logs among railroad ties (Plath 1922; Hobbs 1968; Thorp et al. 1983; Macfarlane et al. 1994). Thus, *B. o. occidentalis* nesting sites may be limited by rodent abundance (Evans et al. 2008). Nest tunnels have been reported to be up to 2.1 m long for this species and the nests may be lined with grass or bird feathers (MacFarlane et al. 1994). *Bombus o. occidentalis* colonies can contain as many as 1,685 workers and produce up to 360 new queens; this colony size is considered large relative to many other species of bumble bees (MacFarlane et al. 1994).

Floral Resources

Bumble bees, including *Bombus occidentalis occidentalis*, are generalist foragers and have been reported visiting a wide variety of flowering plants. *B. o. occidentalis* has a very short tongue, and thus is best suited to forage at open flowers with short corollas and has also been documented ‘nectar robbing’ – biting through the corolla tube and drinking nectar through the hole without contacting the anthers, or stigma of the plant – several species of flowers with longer corolla tubes. Bumble bees require plants that bloom and provide adequate nectar and pollen throughout the colony’s life cycle, which is from early February to late November for *B. o. occidentalis* (although the actual dates likely vary by elevation and local climatic conditions, including interannual variation). The plant genera most commonly associated with *B. o. occidentalis* observations or collections from California include *Cirsium* (36 observations), *Erigonum* (18), *Solidago* (16), “Aster” (14), *Ceanothus* (13), *Centaurea* (13), and *Penstemon* (13) (Richardson 2017). Similarly, in an analysis largely based on records from California, Thorp et al. (1983) reports that *B. o. occidentalis* records are primarily associated with plants in the Leguminosae (=Fabaceae), Compositae (=Asteraceae), Rhamnaceae, and Rosaceae families. Note that these floral associations do not necessarily represent *B. o. occidentalis*’ preference for these plants over other flowering plants, but rather may represent the abundance of these flowers in the landscape.

Overwintering Sites

Very little is known about the hibernacula, or overwintering sites utilized by most bumble bees, although Hobbs (1968) reported *B. occidentalis* hibernacula that were two inches deep in a “steep west slope of the mound of earth.” The closely related *B. terrestris* reportedly hibernates beneath trees (Sladen 1912; In Hobbs 1968).

Phenology

According to Thorp et al. (1983), the flight period for *Bombus occidentalis occidentalis* queens in California is from early February to late November, peaking in late June and late September. The flight period for workers and males in California is from early April to early November; worker abundance peaks in early August, and male abundance peaks in early September (Thorp et al. 1983). Rangewide, including the entire species complex (including *B. o. mckayi*), queens peak in late June, workers peak in early August, and males peak in late August (Williams et al. 2014).

Suckley Cuckoo Bumble Bee (*Bombus suckleyi*) Habitat Requirements

Bombus suckleyi habitat includes western meadows largely confined to mountainous regions. *B. suckleyi*, and other species of bumble bee in the subgenus *Psithyrus*, are unique in that they have an obligate dependency on social bumble bees (Goulson 2010) to collect pollen on which to rear their young. As such, *B. suckleyi* are a cuckoo species that are nest parasites of other species of bumble bees and are not primitively eusocial themselves – there is no division of labor within the species; all members of the species have equal status, and are reproductive. Cuckoo bumble bees typically emerge from their hibernacula later in the spring than other bumble bee species. Once the female cuckoo bumble bee does emerge, she forages for herself and begins searching for occupied nests. When she finds a suitable host (*B. suckleyi* utilizes *B. occidentalis* hosts [Thorp et al. 1983]) she enters the nest, kills or subdues the queen of that colony, and forcibly (using pheromones and/or physical attacks) "enslaves" the workers of that colony. Then she lays her own eggs and forces the workers of the native colony to feed her and her developing young. Since all of the resulting cuckoo bee offspring are reproductive (not workers), they leave the colony to mate, and the mated females seek out a place to overwinter, then repeat the cycle the following spring/early summer (Goulson 2010).

Cuckoo bumble bees often attack a broad range of host species, but some species specialize in attacking the members of just one species or subgenus. *B. suckleyi* has been recorded in nests of bumble bees in six different subgenera, but the most common association is with the subgenera *Pyrobombus* and *Bombus*, and the only nests in which *B. suckleyi* adults have been produced are those of *B. occidentalis* (reviewed in Thorp et al. 1983). As such, *B. suckleyi* has been documented breeding as a parasite of colonies of *Bombus occidentalis*, and has been recorded as present in the colonies of *B. terricola*, *B. rufocinctus*, *B. fervidus*, *B. nevadensis*, and *B. appositus* (Williams et al. 2014). Males of this species patrol circuits in search of mates (Thorp et al. 1983).

Nest Sites

Bombus suckleyi has been detected in the nests of several species of bumble bees, but it has only ever been observed reproducing in nests of *B. occidentalis* (Thorp et al. 1983). *B. occidentalis* nests are primarily in underground cavities such as old squirrel or other animal nests and in open

west-southwest slopes bordered by trees, although a few nests have been reported from above-ground locations such as in logs among railroad ties (Plath 1922; Hobbs 1968; Macfarlane et al. 1994; Thorp et al. 1983). Availability of nest sites for *B. occidentalis* may depend on rodent abundance (Evans et al. 2008). *B. occidentalis* nest tunnels have been reported to be up to 2.1 m long and the nests may be lined with grass or bird feathers (Macfarlane et al. 1994). *Bombus suckleyi* depends upon not only the presence of suitable nesting sites for *B. occidentalis*, but also upon extant populations of that species.

Floral Resources

Bumble bees require plants that bloom and provide adequate nectar and pollen throughout the colony's life cycle. In order for *B. suckleyi* to survive, there must also be early season resources for its host, *B. occidentalis*. There are records of *B. occidentalis* from early February to late November. The amount of pollen available in the landscape directly affects the number of new queens that a bumble bee colony can produce, and since queens are the reproductive members of the colony, pollen availability is directly related to future bumble bee population size (Burns 2004). Early spring and late fall are often periods with lower floral resources; the presence of flowering plants at these critical times is essential.

Bombus suckleyi is a generalist forager and has been reported to visit a wide variety of flowering plants. The known plant associations for this species in California are scarce, but generally this species is associated with plants in the following genera: "Aster", *Chrysothamnus*, *Cirsium*, *Solidago*, and *Centaurea* (Williams et al. 2014; Richardson 2017). Plant genera that are associated with *B. occidentalis occidentalis* – its known host, and a prerequisite for the survival of *B. suckleyi* include: *Cirsium* (36 observations), *Erigonum* (18), *Solidago* (16), "Aster" (14), *Ceanothus* (13), *Centaurea* (13), and *Penstemon* (13) (Richardson 2017). Note that these floral associations do not necessarily represent *B. occidentalis*' or *B. suckleyi*'s preference for these plants over other flowering plants, but rather may represent the abundance of these flowers in the landscape.

Overwintering Sites

Very little is known about the hibernacula, or overwintering sites, utilized by *Bombus suckleyi*, although generally bumble bee females are known to overwinter in soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014).

Phenology

According to Thorp et al. (1983), the flight period for *B. suckleyi* females in California is from late May to late October, peaking in June. The flight period for males in California is from early July to late September; peaking late July, with a second pulse late August and early September (Thorp et al. 1983).

V. FACTORS AFFECTING ABILITY TO SURVIVE AND REPRODUCE

Each of the following factors pose a substantial threat to the survival of the four species of bumble bees included in this petition: present or threatened modification or destruction of its habitat; overexploitation; competition; disease; and other natural events and human-related activities, including pesticide use, genetic factors, and climate change (reviewed in Williams and Osborne 2009; Williams et al. 2009; Goulson 2010; Cameron et al. 2011b; Hatfield et al. 2012; Fürst et al. 2014). In addition, the cuckoo bumble bee species (*Bombus suckleyi*) is threatened by loss of its primary host species, *B. occidentalis occidentalis*. Below we summarize the rationale and available evidence that each factor poses a threat to these four bumble bee species.

A. Present or Threatened Modification or Destruction of Habitat

1. The Loss of Habitat Due to Human Induced Landscape Scale Modifications

Many North American bumble bees face threats from habitat alterations that can interfere with primary habitat requirements, including access to: sufficient food (nectar and pollen from flowers), nesting sites (such as underground abandoned rodent cavities or above ground in clumps of grasses), and overwintering sites for hibernating queens (undisturbed soil and leaf litter).

Many bumble bees historically occupied the grasslands and prairies of the continent, including California, which have largely been lost or fragmented by agricultural conversion and urban development or transformed by fire suppression, invasive species, and livestock grazing. Noss et al. (1995) considers all native grasslands in California to be a critically endangered ecosystem, having declined by more than 98%. *Bombus crotchii* was historically known from throughout California's Central Valley, which once contained vast prairies rich with wildflowers. Indeed, historic accounts of the San Joaquin Valley describe abundant and widespread wildflowers; in 1868 John Muir wrote: "the valley of the San Joaquin is the floweriest piece of world I ever walked, one vast level, even flower-bed, a sheet of flowers...". The U.S. Geological Survey reports that more than 260,000 acres of grassland and shrubland habitat within California's Central Valley ecoregion were either developed for housing or converted to agriculture between 1980 and 2000 (Sleeter 2016) – accounting for nearly 4% of the 7 million acres that make up the Central Valley. A more recent study (Lark et al. 2015) highlights the rate of grassland conversion to agriculture across the U.S. from 2008-2012, and the rate of loss is more severe in California's Central Valley than any other ecoregion in the western US.

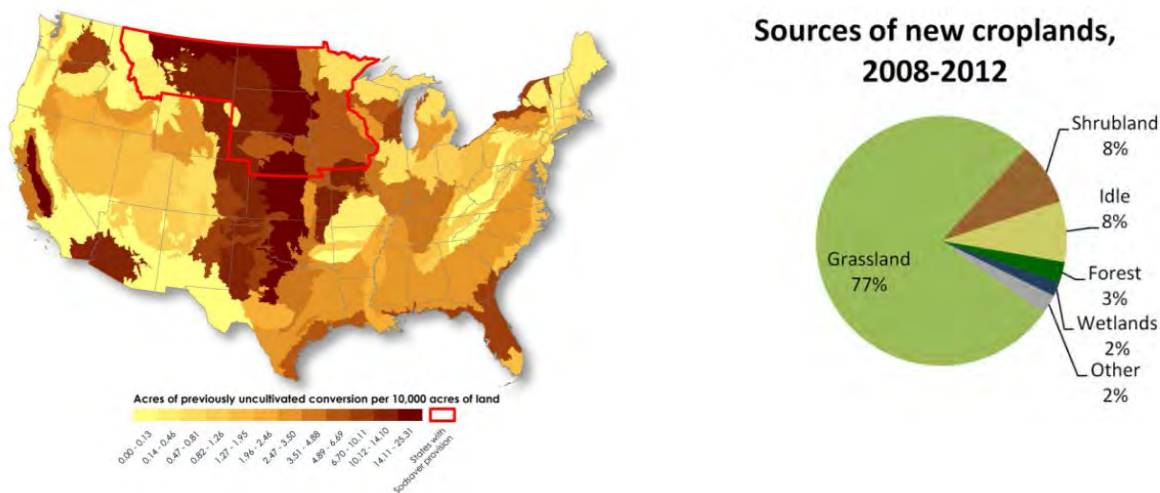


Figure 14: Left: 2008–2012 conversion of previously uncultivated land. The map identifies the amount of conversion to cropland from land that had not previously been used for agriculture (cropland or pasture), confirmed back to the early 1970s. Display units represent average number of previously uncultivated acres converted per 10 000 acres of total land within each EPA Level III Ecoregion. Red outline is of the six states covered under the 2014 US Farm Bill ‘Sodsaver’ provision, which aims to reduce conversion of previously uncultivated land. The observed patterns of elevated nationwide conversion suggest that the new policy’s limited geographic coverage will likely be insufficient to prevent the majority of new breakings. Right: Types of land converted to crop production. Grasslands were the most common land cover to be converted to cropland, followed by shrubland and long term (10+ year) idle land. Figures from Lark et al. (2015).

In addition to the endangerment of critical prairie ecosystems, mountain meadows throughout the western United States are also a highly imperiled ecosystem, and are experiencing continued threats from climate change (Field et al. 2007; Parry et al. 2007; Saunders et al. 2008), livestock grazing (Belsky et al. 1999; Hayes & Holl 2003; Stoner & Joern 2004; Hatfield & LeBuhn 2007), and forest encroachment (Skinner 1995; Coop & Givnish 2007; Zald et al. 2012; Highland & Jones 2014). Recent analyses of western meadows in Oregon and Washington, which provide important habitat for bumble bees (Goulson 2010; Williams et al. 2014), indicate that they have lost between 18% and 40% of their area due to encroaching conifers (Skinner 1995; Coop & Givnish 2007). Several of the bees in this petition are known from montane meadows (including: *Bombus occidentalis occidentalis*, *B. franklini*, and *B. suckleyi*). Montane meadows may become particularly important habitats for declining bumble bee species as the climate warms and habitat loss in valleys and low elevation prairies increases.

Bumble bee species richness, abundance, and genetic diversity are influenced by the quality of habitat on a landscape level. While bumble bees can forage and disperse over relatively long distances, isolated patches of habitat may not be sufficient to support bumble bee populations (Hatfield & LeBuhn 2007; Öckinger & Smith 2007). Because of their unique method of sex determination and their colonial life cycle, bumble bees are particularly sensitive to habitat fragmentation and populations of bumble bees existing in fragmented habitats can also face

problems with inbreeding depression (Darvill et al. 2006; 2012; Ellis et al. 2006). Specifically, Darvill et al. (2012) found that bumble bee populations limited to less than 15 km² of habitat were more likely to show signs of inbreeding. Goulson (2010) suggests that a viable population of bumble bees probably requires approximately 3.3-10 km² of suitable habitat. Habitat fragmentation has been shown to reduce bumble bee foraging rates and alter their foraging patterns (Rusterholz and Baur 2010). Fragmented habitats may not support healthy metapopulation structures and may eliminate or decrease source populations of bumble bees for recolonization (National Research Council 2007). A study in California found that inbreeding in one common species of bumble bee (*B. vosnesenskii*) was lower in landscapes with increasing natural woodland cover relative to other landscape types (Jha 2015). Thus, agricultural intensification, livestock grazing, urban development, as well as other habitat modifications, can jeopardize the habitat needs of bumble bees and lead to the fragmentation of habitat into pieces that are too small or too distant to support diverse bumble bee communities (Goulson et al. 2008). The major landscape-scale modifications and their threats to bumble bees are outlined below.

i. Agricultural Intensification

The biggest changes within the range of the species in this petition have come from modern farming techniques that have enabled more intensive use of agricultural lands, widespread grazing of grasslands and meadows, and increased use of insecticides (reviewed in Hatfield et al. 2012). Agricultural intensification has been shown to have a negative impact on species richness, abundance and diversity of wild bees (Le Féon et al. 2010). Agricultural intensification is primarily blamed for the decline of bumble bees in Europe (Williams 1986; Carvell et al. 2006; Diekötter et al. 2006; Fitzpatrick et al. 2007; Kosior et al. 2007; Goulson et al. 2008), and may also pose a significant threat to bumble bees in the US (Hines & Hendrix 2005; Grixti et al. 2009). In fact, agricultural intensification and rapid urbanization in California's Central Valley may have reduced populations of *B. crotchii*, since this species was historically common in the Central Valley but now appears to be absent from much of its historic range, especially in the central part (Thorp 2014, pers. comm.; Hatfield et al. 2015a). Furthermore, increases in farm size and changes in technology and operating efficiency have led to many practices that can be detrimental to bumble bees. This has led to the loss of pollinator friendly hedgerows, weed cover, and legume pastures through more modern practices including more effective land leveling, irrigation, tilling, and pesticide and fertilizer usage. Tilling may directly destroy bumble bee overwintering sites and bumble bee nests may be at risk of being destroyed by farm machinery (Goulson 2003). One site within *Bombus franklini*'s historic range near Gold Hill in Jackson County, OR had significant excavation and deposited soil that altered approximately 50% of the bumble bee foraging habitat. The widespread application of the herbicide glyphosate in conjunction with increased planting of genetically modified crops that are tolerant to glyphosate has reduced the availability of milkweeds in agricultural field margins (Pleasants & Oberhauser 2013), and has probably had a similar effect on other wildflower species, which

would have also provided important nectar resources for bumble bees. In northern Alberta, one study found that genetically modified herbicide tolerant canola fields had a lower abundance of wild bees than conventional or organic canola fields (Morandin and Winston 2005). The broad scale use of pesticides, including a novel class of systemic insecticides (neonicotinoids), poses a unique threat to bumble bees; this topic is discussed in detail below under Factor E *Other Natural Events or Human-related Activities*.

Both floral abundance and grasslands are frequently reduced in agriculturally intensive landscapes. Hines and Hendrix (2005) found that bumble bee diversity in Iowa prairies was linked to floral abundance and the presence of grasslands in the surrounding landscape, both of which have been reduced in modern agricultural landscapes. Although some flowering crops provide nectar and pollen resources for bumble bees, which can lead to increased densities of bumble bees and colony growth (Westphal et al. 2003; 2009), large monocultures do not necessarily improve the reproductive success of bumble bees (Westphal et al. 2009); likely because the resources they provide are typically only available for a short period of time. Monocultures may in fact serve as population sinks since bumble bee colonies need floral resources throughout their colony cycle from early spring to fall (Goulson et al. 2008).

ii. Livestock Grazing

Ungulate grazing can significantly alter the landscape. Studies have shown that grazing can have both indirect and direct effects on bumble bee populations. Indirect effects include removing floral resources (Morris 1967; Sugden 1985; Kruess and Tscharntke 2002a; 2002b; Vazquez and Simberloff 2003; Hatfield and LeBuhn 2007; Xie et al. 2008; Kimoto 2010; Scohier et al. 2012) and potentially reducing populations of nesting rodents (e.g., Bueno et al. 2011), which in turn may reduce the number of nest sites available to bumble bees (Johnson & Horn 2008; Schmidt et al. 2009). Ungulates can directly affect above ground bumble bee nests by trampling (Sugden 1985). The habitat, type of grazer, as well as the timing, intensity, and length of livestock grazing are all factors that can influence how the practice affects flora and fauna (Gibson et al. 1992; Carvell 2002; Sjodin 2007). Numerous studies have found intensive sheep grazing to be particularly detrimental to bumble bee populations (Carvell 2002; Hatfield and LeBuhn 2007; Scohier et al. 2012), an effect that is likely due to the selective removal of flowers by sheep. In California, BLM and Forest Service lands historically occupied by *Bombus franklini* are periodically subject to substantial livestock impact. Although livestock grazing has differing impacts on flora and fauna based on the type, habitat, intensity, timing and length of livestock grazing (Gibson et al. 1992), several studies of livestock grazing on bees suggest increased intensity of livestock grazing negatively affects the species richness of bees (Morris 1967; Sugden 1985; Carvell 2002; Vazquez & Simberloff 2003; Hatfield & LeBuhn 2007).

iii. Urban Development

The conversion of the landscape to urban and suburban uses continues to transform and fragment

habitat, which has likely had a negative effect on populations of many bumble bee species, including the species listed in this petition. Roads and railroads fragment plant populations and thus restrict the movement of bumble bees (Bhattacharya et al. 2003). Recent research in northern California found that the overall area of the landscape covered by pavement had a negative effect on the density of bumble bee nests. In addition, bumble bee colony density was greater in natural oak chaparral than other landscape types, including urban areas (Jha & Kremen 2012). The western bumble bee has been found in some natural areas within urban environments, such as parks, restored prairies, and other natural areas near urban centers (Williams et al. 2014). Some residential gardens and urban parks can provide valuable floral, and in some cases, nesting and overwintering resources, and may serve as important habitat refuges for bumble bees (Frankie et al. 2005; McFrederick & LeBuhn 2006; Goulson 2010), even though they may not support the species richness that was found historically (McFrederick & LeBuhn 2006).

iv. Fire and Fire Suppression

Fire is an important natural and managed disturbance throughout natural areas in the United States. Historically, fires maintained forbs and grasses within meadows and prairies, and prevented shrubs and trees from encroaching. Due to decades of fire suppression and the growing proximity of housing developments to wildlands, suppression of wildfire is seen as necessary to protect natural resources, homes, and businesses (Radeloff et al. 2018). Fire suppression can lead to extensive changes in vegetation structure, including degradation and loss of grasslands and herbaceous species as the shrub community matures (Schultz & Crone 1998; Panzer 2002). The practice of fire suppression has compromised grassland habitats that formerly supported diverse communities of bumble bees. In forests, these changes include an increase in combustible fuel loads, increase in tree density, increase in fire intolerant species, and loss of the herbaceous layer as the shrub community matures (Huntzinger 2003). In forested meadows fire suppression can lead to invasion and maturation of shrubs and trees and an increase in invasive plants species. Eventually continued succession results in the degradation and loss of the grasslands (Schultz & Crone 1998; Panzer 2002). Forest encroachment not only reduces available bumble bee habitat, but also closes off corridors between meadows, which reduces dispersal and foraging opportunities (Roland & Matter 2007). Continued fire suppression not only results in habitat alteration, but also renders the habitat susceptible to catastrophic, large scale, and high temperature fires due to increases in combustible fuel loads, tree density, and fire intolerant species (Huntzinger 2003). Catastrophic, large scale, and high intensity fires may be particularly harmful to already vulnerable populations of bumble bees listed in this petition. The threat is particularly acute for *B. franklini*, as a single fire event in an area where *B. franklini* are concentrated could extirpate an entire population. Prescribed fire can be a valuable tool in restoring native prairie and meadow plant fauna, which in turn has the potential to benefit bumble bees. However, natural or introduced fire can be detrimental to bumble bee populations if not planned and executed carefully with the life history needs of bumble bees considered.

2. The Loss of Habitat Due to Increased Use of Herbicides

Herbicides are often used within invasive weed management, and can be more cost effective than other management methods. However, the use of herbicides to control weeds can indirectly harm pollinators through removal of flowers that once provided them with pollen and nectar resources (Williams 1986; Shepherd et al. 2003, Pleasants & Oberhauser 2013). In addition to indirect effects, some herbicides can directly harm pollinators.

Just as pollinators can influence the plant community, changes in vegetation can have an impact on pollinators (Kearns & Inouye 1997). The broadcast application of a non-selective herbicide can indiscriminately reduce floral resources for all bumble bees and nesting habitat for species that nest above ground, such as the American bumble bee (Smallidge & Leopold 1997). Bumble bees require consistent sources of nectar, pollen, and nesting material during times adults are active, typically from mid-February to late September in temperate areas. The reduction in resources caused by non-selective herbicide use could cause a decline in bumble bee reproductive success and/or survival rates. Kevan (1999) found that herbicides reduced Asteraceae and Lamiaceae flowers in France, contributing to a decline in bumble bee populations. Kevan (1999) also found that herbicide applications have reduced the reproductive success of blueberry pollinators by limiting alternative food sources that can sustain the insects when the blueberries are not in bloom. Kearns et al. (1998) state “herbicide use affects pollinators by reducing the availability of nectar plants. In some circumstances, herbicides appear to have a greater effect than insecticides on wild bee populations... Some of these bee populations show massive declines due to the lack of suitable nesting sites and alternative food plants.”

The use of the herbicide glyphosate has dramatically increased with the widespread planting of genetically modified glyphosate-tolerant corn, soybean, and cotton, which were introduced in the late 1990s (Pleasants & Oberhauser 2013). With the introduction of genetically modified glyphosate tolerant (Roundup ReadyTM) soybeans in 1996 and corn in 1998, a 20-fold increase in the use of the herbicide glyphosate has occurred on these two crops from 1995-2013 (Center for Biological Diversity et al. 2014). Increased use of glyphosate in agricultural areas has likely led to the reduced availability of wildflowers in field margins – which otherwise would have been an important resource for bumble bees. Moreover, recent research showed that genetically modified glyphosate-tolerant soybean fields with standard and recommended application rates of glyphosate had lower diversity of flowering weeds than control fields (Scursoni et al. 2006). The loss of flowering weeds from agricultural areas that have become genetically modified during the period from 1996-present has likely deprived many of these species of bumble bees of significant amounts of nectar and pollen, and the continued loss of these critical resources presents a threat to the future survival of these species. Moreover, recent research within the Midwest has shown that simplification of landscapes through intensive agriculture leads to more pest pressure, and

thus increased application of insecticides (Meehan et al. 2011). Thus, the conversion of habitat to intensive agriculture throughout much of the United States, the increased use of glyphosate resistant crops, and the subsequent increase in insecticide use has likely had a compounding negative effect on bumble bees. Research has shown that genetically modified glyphosate-tolerant soybean fields with standard and recommended application rates of glyphosate had lower diversity of flowering weeds than control fields (Scursoni et al. 2006). Other studies have shown that agricultural lands without native habitat host a less diverse pollinator community (Kremen et al. 2002; Winfree et al. 2008; Morandin & Kremen 2013).

Recent studies (Dai et al. 2018; Motta et al. 2018) also raise the novel concern that glyphosate can negatively affect the beneficial bacterial colonies found in the honey bee gut thus indirectly affecting the health of bees. Motta et al. 2018 found that young worker bees exposed to field realistic levels of glyphosate experienced increase mortality with subsequent exposure to pathogens. The researchers' results indicate that the increased mortality was due to glyphosate reducing the protective effect of the gut microbiota.

Bumble bees could also be further threatened by the introduction of new herbicide-resistant crops that are genetically engineered to be resistant to multiple herbicides including 2,4-D and dicamba; many growers are switching to dicamba as weeds develop resistance to the herbicide glyphosate. The U.S. Department of Agriculture has recently approved a suite of 'next generation' genetically engineered (GE) herbicide resistant corn and soybeans developed by Dow Agrosiences and soy and cotton developed by Monsanto, which will be sold in conjunction with new combinations of herbicides. These GE crops are resistant to the herbicides 2,4-D, dicamba, and glyphosate (Roundup Ready Xtend™ by Monsanto). The use of herbicides is expected to increase with the adoption of these 'next generation' GE crops (Mortensen et al. 2012). Dicamba and 2,4-D are already among the leading herbicides that cause drift-related crop injury because of their volatility (Freese and Crouch 2015 and references therein). Because of the increased volatility of dicamba and 2,4-D over glyphosate (which is currently the most widely used herbicide in the U.S.), the loss of flowering weeds and wildflowers growing within and adjacent to agricultural land within the range of imperiled bumble bees is expected to be more significant than at present.

As recently as 2015, 2,4-D and dicamba were already used widely within California's Central Valley on multiple crops (USGS 2017a; 2017b), and expanded use of these herbicides is expected to have a major negative impact on populations of already vulnerable bumble bees collecting nectar and pollen from weeds and wildflowers growing near crops. It is likely that the non-target effects of the new uses of these weed control technologies may have a dramatic impact on populations of imperiled bumble bees, given the portion of their selected ranges that overlap with modified corn, soybean, and cotton production.

Beyond impacts to forage, paraquat, 2,4-D, and dicamba may also be directly toxic to bumble bees. Paraquat was found to negatively affect honey bee larvae (Cousin et al. 2013). While 2,4-D has been designated by the U.S. EPA as practically non-toxic to bees it is on the cusp of being ranked as moderately toxic. Dicamba's toxicity ranges from moderately toxic to practically non-toxic depending on the route of exposure (U.S. EPA 2000). The toxicity classification that U.S. EPA uses is driven by a pesticide's LD50 (the lethal dose that kills 50% of the test population). If the pesticide's LD50 is 2 µg/bee or less it is considered highly toxic to bees. If the LD50 is greater than 2 µg/bee but less than 11 µg/bee it is moderately toxic. It is considered practically non-toxic if the LD50 is 11 µg/bee or more. 2,4-D has a reported LD50 of 11.5 µg/bee. Dicamba has an oral LD50 of 3.6 µg/bee, but a contact LD50 of >100 µg/bee. This very blunt measure of risk may underestimate the direct impacts that 2,4-D and dicamba could have on bumble bees, especially since the test subject for these chemicals was the European honey bee, which has been shown to be a poor surrogate for non-*Apis* bees (Wisk et al. 2014). The increasing use of these herbicides should be considered a threat to the continued survival of these imperiled bumble bees due to both the anticipated indirect effects (through destruction of floral resources) and direct effects (through direct toxicity).

The range of two of the species listed in this petition (*Bombus crotchii* and *B. occidentalis occidentalis*) overlaps, at least in part, with the Central Valley of California, which has been subjected to high uses of glyphosate; which is the most commonly used pesticide within the state of California (CA DPR 2014). *B. crotchii* has experienced more significant declines in the Central Valley than it has at the edges of its range (Hatfield et al. 2015a; see Figure 1 in Section II); intensive agriculture and associated herbicide use may be responsible for this pattern. Moreover, glyphosate was used for agricultural purposes in 98% of counties in the lower 48 states. The widespread use of glyphosate is a threat to the continued existence of all four petitioned bumble bee species.

In summary, the evidence presented above shows clearly that 1) the use of herbicides has both direct (2,4-D, paraquat dichloride and dicamba are toxic to bees) and indirect (removal of floral resources) effects on bumble bee populations; and 2) the use of herbicides is widespread and pervasive throughout the range of all the bumble bees listed in this petition. As such, herbicides pose a direct threat to the continued existence of each species included in this petition.

B. Overexploitation

While specimens of female workers or males are occasionally collected for research purposes, scientific and/or recreational collection probably does not pose a threat to the overall survival of the species in this petition. In fact, collection of female workers of each of these species since the late 1800s has contributed essential information to understanding species' historic ranges and

conservation statuses. However, if bumble bee queens are collected, the entire colony will be effectively eliminated. Collection of queens or large numbers of workers or males from populations that are already small and isolated could threaten these species with extinction, although there is no evidence that this practice is occurring with these species.

To the best of the petitioners' knowledge, none of the petitioned species are currently being produced or sold commercially. However, in the early 1990s, *B. occidentalis* was produced commercially (Flanders et al. 2003) by both of the two primary commercial bumble bee producers operating in North America (Koppert Biological Systems and Biobest) and distributed for pollination use in the western U.S. In 1995, one company reported a mass outbreak of the fungal pathogen *Nosema bombi* in commercial colonies of *B. occidentalis* (Flanders et al. 2003). By 1997, commercial production of the western bumble bee stopped, as producers were no longer able to contend with the pathogen outbreaks (Velthuis & Van Doorn 2006). Currently in North America, the common eastern bumble bee (*Bombus impatiens*) is produced on a large scale; over a million commercially produced bumble bee colonies are imported annually across the globe to pollinate greenhouse crops (Velthuis and Van Doorn 2006). Commercial bumble bees are used in both greenhouse and open field pollination throughout the U.S. (except in Oregon, where use is prohibited, and California, where only greenhouse use is allowed), and two western species – Hunt's bumble bee (*Bombus huntii*) (APHIS 2014; Biobest Group 2018a [advertises *B. huntii* for use in indoor crops; though at the time of submission of this petition it is not currently available in the western U.S.]; 2018b) and the yellow faced bumble bee (*Bombus vosnesenskii*) (I. Noell, USFS, pers. comm. with R. Hatfield 2016) are being developed for larger scale commercial production. The commercial production and release into the wild of these three species of bumble bees poses a threat to the petitioned species because pathogens may be amplified in commercial rearing facilities and then spill over into wild populations, or novel pathogens may be introduced, since commercial bumble bees are currently reared in facilities outside of their native ranges or moved to areas beyond their native ranges (Meeus et al. 2011). The risk of disease transfer via commercial bumble bees is further discussed in Factor D: *Disease*.

Though overexploitation does not currently pose a substantial threat to the species included in this petition, there is strong evidence to suggest that historically the commercial production of one subspecies petitioned here – *Bombus occidentalis occidentalis* – and the associated amplification of fungal pathogens in commercial colonies led to the dramatic decline of populations of this subspecies from the wild (Cameron et al. 2016). Furthermore, the commercial propagation and release of other species of bumble bees (*Bombus impatiens*, *Bombus vosnesenskii*, and *Bombus huntii* in the U.S.) poses a significant threat to all of the species in this petition via amplification and spread of disease and competition, and thus this factor is considered in this petition.

C. Competition with Managed Honey Bees

A single honey bee colony requires substantial resources to survive. Estimates of single hive consumption vary from 20-130 lbs/year for pollen and 45-330 lbs/year of honey – representing 120-900 lbs/year of nectar (Goulson 2003, and references therein). Cane and Tepedino (2016) estimate that in three months a 40 hive apiary would remove enough pollen resources from the surrounding area that would have supported the development of 4,000,000 native bees.

Depending on the environment and the density of honey bee hives in an area and the time of year, this could represent a substantial percentage of the resources available and has the potential to affect native bee populations. Recent research has also documented that under controlled conditions honey bees displaced native bees from flowers, altered the suite of flowers that native bees were visiting, and had a negative impact on native bee reproduction (Hudewenz and Klein 2015). The proportion of resources used by honey bees, as well as the effects of this resource depletion on the native bee community are likely to vary by location, the time of year, the species involved, floral abundance and diversity, and climatic and other environmental conditions.

A recent comprehensive review of the effects of managed bees (including honey bees) on native bee populations found that the majority of studies conclude that managed bees have a negative effect on native bees via competition, change in plant community, and disease transmission (Mallinger et al. 2017). Mallinger et al. (2017) also acknowledge the need for additional research investigating the effects of managed bees on bee fitness, as well as population and community level effects. While there remains a need for additional research, there is evidence that honey bees can potentially impact the native bee community by removing the available supplies of pollen and nectar (Anderson & Anderson 1989; Paton 1990, 1996; Wills et al. 1990; Dafni & Shmida 1996; Horskins & Turner 1999; Cane & Tepedino 2016), or by competitively excluding native bees, thus forcing them to switch to other, less abundant, and less rewarding plant species (Wratt 1968; Eickwort & Ginsberg 1980; Pleasants 1981; Ginsberg 1983; Paton 1993; 1996; Buchmann 1996; Horskins & Turner 1999; Dupont et al. 2004; Thomson 2004; Walther-Hellwig et al. 2006; Tepedino et al. 2007; Roubik 2009; Shavit et al. 2009; Hudewenz & Klein 2013; Rogers et al. 2013; but see Butz-Huryn 1997; Steffan-Dewenter & Tschamtkke 2000; Minckley et al. 2003) – but none of these studies have addressed population level effects on native bees.

Additional research demonstrates that honey bees are regularly using, and depleting, the most abundant resources in the surrounding environment (Paton 1996; Mallick & Driessen 2009; Shavit et al. 2009), and that upon removal of honey bees, native bees exhibit signs of competitive release by returning to plants that were formerly used by honey bees (Pleasants 1981; Wenner & Thorp 1994; Thorp 1996; Thorp et al. 2000). The long-term implications of this shift in resource use are not entirely clear, although there is a growing body of research on bumble bees that

demonstrates negative competitive effects of honey bees on bumble bees, including lower reproductive success, smaller body size, and changes in bumble bee foraging behavior – notably a reduction in pollen gathering (Evans 2001; Goulson et al. 2002; Thomson 2004; 2006; Paini & Roberts 2005; Walther-Hellwig et al. 2006; Goulson & Sparrow 2009; Elbgami et al. 2014).

Because of the threats mentioned above, one recent review paper concludes that honey bees are inappropriate in protected areas where they pose the biggest threat to wild bee populations (Geldmann and González-Varo 2018); the same could be said for the placement of honey bees near species of conservation concern. In summary, competition with honey bees, along with the threat of disease transmission pose a significant threat to the four petitioned bumble bee species.

D. Disease

1. Pathogens and Parasites of Bumble Bees

The spillover, spillback, and facilitation of infectious diseases from domesticated livestock to wildlife populations is one of the main sources of emerging infectious disease, which pose a major threat to a wide variety of wildlife species (Daszak et al. 2000; Fürst et al. 2014; Graystock et al. 2015a; McMahon et al. 2015), including high profile declines of many bat and amphibian species caused by emerging infectious diseases. While this phenomenon has not been well studied in invertebrates, there is recent evidence of the transmission of pathogens from commercial bumble bees to wild bumble bees and pathogens have been implicated in the decline of both *B. franklini* and *B. occidentalis occidentalis* (Colla et al. 2006; Otterstatter & Thomson 2008; Murray et al. 2013; Graystock et al. 2015a; Cameron et al. 2016). Worldwide, reported pathogens and parasites of bumble bees include: viruses, bacteria, fungi, protozoa, nematodes, hymenopteran and dipteran parasitoids, one lepidopteran parasite, and mites (Acari) (Schmid-Hempel 2001). Pathogen prevalence and fitness effects in wild North American bumble bees are generally not well understood. However, the microparasites and macroparasites that have been identified as pathogens of concern to wild North American bumble bees (Cameron et al. 2011b) are discussed below. Pathogens and parasites pose a substantial threat to the continued survival of all of the species included in this petition.

i. Microparasites

Nosema bombi

Nosema bombi is a microsporidian parasite that infects bumble bees primarily in the malpighian tubules, but also in fat bodies, nerve cells, and sometimes the tracheae (Macfarlane et al. 1995). Colonies can appear to be healthy but still carry *N. bombi* (Larsson 2007) and transmit it to other colonies. *N. bombi* can reduce colony fitness, as well as reduce individual reproduction rate and life span in bumble bees (Schmid-Hempel & Loosli 1998; Schmid-Hempel 2001; Colla et al. 2006; Otti & Schmid-Hempel 2007; 2008; van der Steen 2008; Rutrecht & Brown 2009). This

parasite has been observed recently in wild bumble bees throughout North America (Colla et al. 2006; Gillespie 2010; Cameron et al. 2011a; Kissinger et al. 2011; Cordes et al. 2012).

Cameron et al. (2011a) found a significantly higher prevalence of *N. bombi* in declining North American bumble bee species (*Bombus occidentalis* and *B. pensylvanicus* [American bumble bee]). In the same study, *N. bombi* infection was significantly lower in species that have not exhibited recent declines in range and relative abundance (Cameron et al. 2011a). Blaker et al. (2014) also found an increased prevalence of *N. bombi* in *B. occidentalis* than sympatric species that have not exhibited population declines. These studies indicate that *N. bombi* is a threat to the continued existence of *B. occidentalis*. Since the western bumble bee is host to the Suckley cuckoo bumble bee (Williams et al. 2014) – *N. bombi* is a threat to the continued existence of this species as well.

Nosema ceranae

While the primary disease implicated in recent bumble bee declines is the microsporidian *Nosema bombi*, bumble bees have recently been seen to harbor *Nosema ceranae*, a common disease of honey bees that can be particularly virulent to honey bee colonies, and has been implicated as a factor in Colony Collapse Disorder (Paxton 2010; Fürst et al. 2014). *N. ceranae* has recently been detected in honey bees in Canada, and the United States (Williams et al. 2008b), and more recently been detected in bumble bees in South America (Plischuk et al. 2009) and Europe (Graystock et al. 2013a; Fürst et al. 2014). It is likely only a matter of time until this pathogen is detected in wild bumble bees in North America. Recent studies have shown that *N. ceranae* is easily transferred to bumble bees, and was found in all species of bumble bees tested in Europe (Graystock et al. 2013a). In laboratory experiments, virulence of *N. ceranae* in infected bumble bees was very high, reducing survival by 48% (Graystock et al. 2013a). Graystock et al. (2013a) conclude that *N. ceranae* represents a real and emerging threat to bumblebees, with the potential to have devastating consequences for their already vulnerable populations.

While to our knowledge *N. ceranae* has not been detected in any of the species in this petition, this microsporidian represents a current and potential threat to their populations. Recent studies have shown that pathogen transmission (including *N. ceranae*) between honey bees and bumble bees is readily occurring at flowers (Graystock et al. 2015b) and the range of all bumble bees in this petition overlaps with the range of both feral and managed honey bees. Furthermore, honey bees are both resident and regular migrants throughout the range of all of these bumble bees, thus, there is a clear vector for transmission of *N. ceranae* to all of the bumble bees in this petition. The uncertainty around the effects that this pathogen may have on wild bumble bees deserve further scrutiny and cautionary action; they should not be dismissed as a threat to the continued survival of the species in this petition.

Crithidia species

Crithidia bombi is a trypanosome protozoan that can dramatically reduce bumble bee longevity and colony fitness (Brown et al. 2003; Otterstatter & Whidden 2004), interfere with learning among bumble bee foragers (Otterstatter et al. 2005), increase ovary development in workers (Shykoff & Schmid-Hempel 1991), and decrease pollen loads carried by workers (Shykoff and Schmid-Hempel 1991). In the UK, researchers found a higher prevalence of the pathogen *C. bombi* in bumble bee populations with reduced genetic diversity, suggesting that as populations become smaller and lose heterozygosity, the impact of this parasite will increase (Whitehorn et al. 2011), pushing already at-risk populations closer to extinction. Moreover, there may be a synergistic effect between the effects of pesticides and disease. A recent laboratory study demonstrated that chronic exposure to low, realistic doses of two neonicotinoid insecticides, when combined with a sublethal infection of *C. bombi*, significantly reduced bumble bee queen survival (Fauser-Misslin et al. 2014).

Crithidia expoeki is a recently identified protozoan characterized from bumble bees collected in North America (Alaska) and Switzerland (Schmid-Hempel & Tognazzo 2010) that may also present a serious threat to wild populations of bumble bees. The increasing prevalence of these two species of *Crithidia* is an emerging and increasing threat to the bumble bees included in this petition.

B. occidentalis, the parent species to *B. occidentalis occidentalis* in this petition has been shown to be infected with *Crithidia bombi* (or *C. expoeki*) (Gillespie 2010; Cordes et al. 2012). One additional species in this petition was tested for infection by Cordes et al. (2012), however, because of their extreme rarity in the landscape, collection rates were very low for this species (*B. suckleyi*, N=4) and *C. bombi* was not detected (Cordes et al. 2012). Cordes et al. (2012) found *Crithidia sp.* in all regions of the United States in 15 different bumble bee host species.

Apicystis bombi

Apicystis bombi is a neogregarine protozoa that has been shown to infect 7.4% of American bumble bee queens in Ontario, Canada (Macfarlane et al. 1995). This parasite is associated with rapid death of infected bumble bee queens early in the season (Macfarlane et al. 1995; Rutrecht & Brown 2008). It has also been shown to inhibit ovary development and reduce queen longevity (Rutrecht & Brown 2008). More research is needed to understand causal effects that this parasite has on bumble bees and how this parasite is transmitted. This parasite has been found in commercial bumble bee colonies (Meeus et al. 2011), and researchers suggest that this pathogen may have been introduced from Europe to NW Patagonia, Argentina on commercial bumble bees, potentially causing an observed population collapse in a native bumble bee species (Arbetman et al. 2013; Maharramov et al. 2013). In a study in Mexico, *A. bombi* was the most frequently encountered pathogen in commercial bumble bee colonies (of *Bombus impatiens* - the

species of bumble bee most commercially available in the United States) that were tested for emerging infectious diseases (Sachman-Ruiz et al. 2015). As shown above, because of its virulence, its apparent widespread infection of wild bumble bees throughout North America, and its high prevalence in commercial bumble bees, *A. bombi* poses a serious potential threat to the continued survival of the bumble bees named in this petition.

Apicystis bombi has recently been detected in northern California and Oregon (Kissinger et al. 2011), which is within the current range of all of the species included in this petition, except *Bombus crotchii*. It is notable that in 2006-2007 all species included in this petition and within the range of the study were so rare (or absent) that they were not detected in the surveys by Kissinger et al. (2011). Since this pathogen has a detrimental effect on queens it can directly impact entire colonies of bumble bees. As such, it is a threat to the continued existence of all of the species in this petition.

RNA viruses

RNA viruses that have historically been considered to be specific to honey bees (*Apis mellifera*), including Israeli acute paralysis virus, black queen cell virus, sacbrood virus, Deformed Wing Virus (DWV), and Kashmir bee virus, have been recently detected in wild North American bumble bees foraging near apiaries (Singh et al. 2010). Recent research has emerged that documents the transmission of diseases from managed bees (both European honey bees and commercial bumble bees) to wild pollinators. These studies have demonstrated the threat that RNA viruses pose (Fürst et al. 2014; Manley et al. 2015; McMahon et al. 2015). DWV, which is associated with severe winter losses in honey bees (Highfield et al. 2009), was also detected in bumble bees in Germany, and the infected bumble bees displayed the same deformities that are typical of infected honey bees (Genersch et al. 2006). To understand the extent of the threat to wild bumble bees, the prevalence of these viruses in wild populations of bumble bees, as well as their effects on bumble bee fitness, are in urgent need of further study. While further study is needed, RNA viruses such as DWV have been shown to be virulent to bumble bees, resulting in malformed wings, non-viable offspring, and reduced longevity (Fürst et al. 2014). And, there is a growing body of evidence that RNA viruses can be transmitted between managed bees and wild bees on flowers (Manley et al. 2015).

While most of the recent research has been conducted in Europe, these same pathogens exist within the historic and current range of the bumble bees in this petition, and the pathogen spillover from honey bees and commercial bumble bees poses a significant threat to them. Since honey bees and commercial bumble bees (documented vectors for RNA viruses) are used throughout the United States, and within the range of all four species in this petition, RNA viruses are a clear threat to the continued existence of all of these animals.

ii. Macroparasites

Locustacarus buchneri

Bumble bees are often infected by mites. While many external mites can be relatively benign, many internal mites can be particularly virulent (Plischuk et al. 2013). This includes *Locustacarus buchneri*, a species that parasitizes the trachea of bumble bees (Husband & Shina 1970). *L. buchneri* is associated with reduced foraging and lethargic behavior (Husband & Shina 1970) and a significantly reduced lifespan in male bumble bees (Otterstatter & Whidden 2004). Otterstatter and Whidden (2004) reported that this mite was most prevalent in bumble bees of the subgenus *Bombus sensu stricto* (*B. occidentalis*, *B. moderatus*, *B. terricola*) in a study in southwestern Alberta. The internal mite was also reported in *B. bellicosus* and one of *B. atratus* (both in the subgenus *Thoracobombus*) from Argentina (Plischuk et al. 2013) and from the majority of populations of *B. jonellus* (subgenus *Pyrobombus*) and *B. muscorum* (subgenus *Thoracobombus*) in the United Kingdom (Whitehorn et al. 2014). Significantly, populations in this study that had high infection rates of *L. Buchneri* also had lower genetic diversity than populations that were not infected (Whitehorn et al. 2014). This suggests that small populations that may already be suffering from reduced genetic diversity may be particularly susceptible to this tracheal mite. Importantly *L. buchneri* was also detected in commercial *Bombus impatiens* colonies found in greenhouses in Mexico (Sachman-Ruiz et al. 2015) suggesting that commercial bumble bees may be a source of this tracheal mite for wild bumble bees. The presence of this mite in commercial bumble bee colonies in North America (Mexico), and the apparent susceptibility of populations with reduced genetic diversity to infection, suggest that this macroparasite is a threat to the continued existence of the four petitioned bumble bee species.

Sphaerularia bombi

Sphaerularia bombi is an entomopathogenic nematode that infects hibernating bumble bee queens and sterilizes them (Schmid-Hempel 2001). In a literature review, Macfarlane et al. (1995) notes that bumble bee queens infected with this parasite in New Zealand colonized new areas at a rate of less than 1% of that of healthy queens. Infected queens do not initiate a nest, but do continue to visit flowers (Kadoya & Ishii 2015). Because queens are foraging later in the summer there is evidence that through manipulation of behavior infected queens can negatively affect uninfected workers of conspecific and sympatric *Bombus* species through competition (Kadoya & Ishii 2015). This parasite has been detected in 16 species in North America (Macfarlane et al. 1995; Maxfield-Taylor et al. 2011), and may pose a threat to the long-term survival of the species in this petition.

2. Pathogen Spillover

The spread of pathogens to bumble bees from the domesticated common eastern bumble bee (*Bombus impatiens*) and other species of bumble bees that are currently being developed for commercial use threatens the species included in this petition with extinction. In addition, RNA

viruses from the domesticated honey bee (*Apis mellifera*) can be transmitted to bumble bees at shared flowers (Singh et al. 2010; Graystock et al. 2015a, 2015b; Manley et al. 2015; McMahon et al. 2015), and pose a novel threat to bumble bees.

i. Commercial Bumble Bees

The dramatic decline in numerous species of North American bumble bees, including *B. franklini* and *B. occidentalis* has been attributed to pathogen infection from managed bumble bees (Evans et al. 2008; Thorp 2005c). Robbin Thorp first developed the hypothesis that an exotic strain of the fungal pathogen *Nosema bombi* escaped from commercial bumble bee rearing operations in the late 1990s and subsequently spread to wild populations of bumble bees in the subgenus *Bombus* (including *B. occidentalis*, *B. franklini*, *B. affinis*, and *B. terricola*) (Thorp 2005c). This hypothesis was supported by the timing, speed and severity of declines observed in wild populations of *B. occidentalis* and *B. franklini*, coincident with reports by commercial producers of *N. bombi* outbreaks in their facilities (Flanders et al. 2003). Cameron et al. (2016) tested Thorp's hypothesis and found that although the prevalence of *Nosema bombi* increased in bumble bees during the 1990s - the same time period that researchers reported that *B. occidentalis* and *B. franklini* were disappearing in the wild – they did not find evidence that an exotic strain of this pathogen was introduced to the U.S.

Commercial bumble bees are used primarily to pollinate greenhouse tomatoes, and increasingly to pollinate a wide variety of other greenhouse and open field vegetable and fruit crops in the US and worldwide (Velthuis & Van Doorn 2006; Koppert Biological Systems 2018), though California only permits commercial bumble bees to be imported into the state for greenhouse use. The commercial bumble bee industry has grown dramatically in the past two decades (Velthuis & Van Doorn 2006), coincident with the growth of the greenhouse tomato industry. In 2004 55,000 colonies of the common eastern bumble bee (*Bombus impatiens*) were commercially reared in the United States, and nearly 1,000,000 colonies were produced worldwide (Velthuis & Van Doorn 2006) and demand is ever increasing (Sachman-Ruiz et al. 2015). Commercial bumble bees often escape greenhouses to forage on nearby plants (Whittington et al. 2004; Morandin et al. 2001), where they interact with wild bumble bees and have the opportunity to transmit pathogens at shared flowers. Commercially raised bumble bees frequently harbor high pathogen loads (Goka et al. 2000; Whittington & Winston 2003; Niwa et al. 2004; Colla et al. 2006; Graystock et al. 2013b) and the spillover of pathogens from commercial bumble bees in greenhouses to wild, native bumble bees foraging near greenhouses has been documented (Colla et al. 2006; Goka et al. 2006; Otterstatter & Thomson 2008; Graystock et al. 2014). Moreover, recent analysis has shown that many of the pathogens transmitted from commercial colonies are virulent to bumble bees (Graystock et al. 2013b).

Commercially reared bumble bees frequently harbor significantly more pathogens than their wild counterparts and their escape from greenhouses leads to infections in nearby wild native species

(Colla et al. 2006). In fact, Colla et al. (2006) found that bumble bees far away from greenhouses had zero *Crithidia bombi* infections, while their counterparts found close to greenhouses had infection rates of 5.3% – 75%. An additional study demonstrated that commercial bumble bees in greenhouses regularly escape greenhouses; 73% of the pollen found on bumble bees within a greenhouse originated from plants outside of the greenhouse (Whittington et al. 2004). A more recent study in the UK found that three bumble bee pathogens (*Nosema ceranae*, *Apicystis bombi*, and *Crithidia bombi*) were more prevalent around greenhouses using commercially produced bumble bees (Graystock et al. 2014). Notably this study also found that the species of bumble bee did not affect infection rates, indicating that these two pathogens infect all species equally, and that the presence of commercial bumble bees was the best measured predictor of infection rates (Graystock et al. 2014). Bumble bee diseases can be spread from bee to bee at shared flowers (Gorbunov 1987; Lipa & Triggiani 1988; Graystock et al. 2015a; 2015b).

Meeus et al. (2011) reviewed the effects of invasive parasites on bumble bee declines. They report that the commercial production of bumble bees has the potential to lead to bumble bee declines in three ways: commercial colonies may have high parasite loads, which could then infect wild bumble bee populations; commercial production may allow higher parasite virulence to evolve, leading to the introduction of parasites that are potentially more harmful to wild bumble bees than naturally occurring parasites; and the global transport of commercial bumble bees can introduce novel parasites to which resident, native bumble bees have not adapted. Pathogens reported from commercial bumble bee colonies worldwide include: *Apicystis bombi*, *Crithidia bombi*, *Locustacarus buchneri*, *Nosema bombi*, Black Queen Cell Virus (BQCV), Deformed Wing Virus (DWV), Israeli Acute Paralysis Virus (IAPV), and Kashmir Bee Virus (KBV) (Meeus et al. 2011). Commercial bumble bee colonies in North America have tested positive for *Crithidia bombi*, *Nosema bombi*, *Locustacarus buchneri*, DWV, BQCV, Sacbrood Virus (SBV) (Morkeski & Averill 2012; Averill unpublished data), and IAPV (Singh et al. 2010).

When tested, commercial bumble bee colonies in the U.S. have repeatedly been found to harbor parasites and pathogens harmful to wild bees (reviewed in Graystock et al. 2015a). In 2010, Morkeski and Averill reported results from testing bumble bees from the commercial vendors Koppert Biological Systems and BioBest. They found the commercially reared bumble bees were infected with *N. bombi*, *C. bombi*, *L. buchneri*, and viruses that also affect honey bees, including DWV and BQCV. Averill (unpublished data) also reported that commercial bumble bee colonies have tested positive for SBV. Singh et al. (2010) reported that commercial bumble bee colonies tested positive for IAPV. Furthermore, a recent study of commercially produced bumble bees (*Bombus impatiens*) in Mexico found that the colonies were infected with *L. buchneri*, *N. bombi*, Acute Bee Paralysis Virus (ABPV), Chronic Bee Paralysis Virus (CBPV), DWV, IAPV and KBV (Sachman-Ruiz et al. 2015). Since *B. impatiens* is native to the eastern

U.S. and Canada but not native to Mexico, and used in commercial bumble bee rearing facilities in both the U.S. and Canada, it is likely that these pathogens originated in rearing facilities in either the U.S. or Canada, and may also occur in managed bumble bee colonies in these two countries.

Examples from multiple continents exist demonstrating that pathogens from managed bumble bees can spread to wild bumble bees with catastrophic results (Graystock et al. 2015a). In South America, the commercial buff-tailed bumble bee (*Bombus terrestris*) was first introduced into Chile from Europe in 2006 and has since spread to Argentina (Morales et al. 2013; Schmid-Hempel et al. 2014). Researchers suggest that the highly pathogenic *Apicystis bombi* hitchhiked on the commercial bumble bees and spread to wild bumble bees, potentially causing the observed population collapse in the world's largest native bumble bee – *Bombus dahlbomii* (Arbetman et al. 2013; Schmid-Hempel et al. 2014). Indeed, scientists have found that wherever *B. terrestris* invades, the native bumble bee species disappears (Morales et al. 2013; Schmid-Hempel et al. 2014). In Japan, researchers found that commercially raised bumble bees had a higher infestation rate of the tracheal mite *L. buchneri* than wild bumble bees. Their findings also suggested that a European strain of this mite has likely invaded native Japanese bumble bee populations and may help explain its decline (Yoneda et al. 2008; Goka 2010; Graystock et al. 2015a). In Canada, higher levels of the protozoan parasite *Crithidia bombi* were detected in wild bumble bees foraging near greenhouses that used commercial bumble bees (Colla et al. 2006; Otterstatter & Thomson 2008), and it was suggested that this pathogen may be implicated in the sudden, widespread decline observed in North American bumble bees in the subgenus *Bombus sensu stricto* (Otterstatter & Thomson 2008). However, a more recent analysis of pathogen prevalence in wild bumble bees did not find evidence that *Crithidia* infections are involved in the decline of U.S. bumble bee species (Cordes et al. 2012).

In other regions of the world—where the two major North American bumble bee producers also operate—commercial bumble bee colonies have been more widely tested and have routinely been found to be infected with numerous parasites and pathogens, including: *Apicystis bombi*, *Crithidia bombi*, *Nosema bombi*, *N. ceranae*, DWV, and three honey bee specific parasites (Graystock et al. 2013b; Meeus et al. 2011; Murray et al. 2013; Sachman-Ruiz et al. 2015). In a 2013 European study, scientists tested commercially produced bees imported into the UK. Although the bees were sold as “disease-free,” the scientists found that 77 percent of the colonies tested were infected with at least five parasites and an additional three parasites were present in pollen that was supplied as food for the bumble bee colonies (Graystock et al. 2013b).

Should non-native *Bombus impatiens*, which California currently allows to be imported for greenhouse use only, escape greenhouses, the pathogens they harbor may pose a risk to wild bumble bees, including the four species included in this petition.

ii. Honey Bees

In addition to competitive effects listed above, honey bees may pose a risk to the four bumble bees listed in this petition by transmitting pathogens to them. Recent evidence has emerged demonstrating that honey bees can transmit diseases to many different species of native bees, including bumble bees, when they interact at shared flowers (Singh et al. 2010; Fürst et al. 2014). Bumble bees placed close to honey bee hives were found to have an 18% higher prevalence of *Crithidia bombi*, than bumble bees placed away from honey bees (Graystock et al. 2014). A number of RNA viruses that were formerly thought to be specific to honey bees have now been reported to infect bumble bees (Genersch et al. 2006; Morkeski & Averill 2010; Singh et al. 2010; Meeus et al. 2011; Evison et al. 2012; and see RNA Viruses in section D: Diseases above). In addition, while the primary disease implicated in recent bumble bee declines is the microsporidian *Nosema bombi*, bumble bees have recently been seen to harbor *Nosema ceranae*, a common disease of honey bees that can be particularly virulent to honey bee colonies, and has been implicated as a factor in Colony Collapse Disorder (Paxton 2010; Fürst et al. 2014; and see *Nosema ceranae* in section D: Diseases above.).

Two recent review papers that investigated disease transmission between managed (including honey bees and commercial bumble bees) and wild bees concluded that the commercial use of pollinators is a key driver of emerging disease in wild pollinators, and that avoiding anthropogenic induced pathogen spillover is crucial to preventing disease emergence in native pollinators (Graystock et al. 2015a; Manley et al. 2015). To help mediate this potential, the authors suggest that it is crucial to prevent wild bees from interacting with managed bees (Graystock et al. 2015a; Manley et al. 2015). Graystock et al. (2015b) also documented that pathogen transmission occurs between bumble bees and honey bees at shared flowers, showing a clear mechanism and vector for infection. Since small, fragmented, and declining populations are especially susceptible to infectious disease (Fürst et al. 2014), and disease is already implicated as a likely causal factor of some native bee declines in North America (Cameron et al. 2011b), this emerging body of research suggests that caution should be exercised when considering the placement of managed bees of any species in habitat that supports vulnerable or declining native bee populations or that strict regulations should be implemented that include regular screening and clear actions for diseased managed bees to prevent further infection (Graystock et al. 2015a).

The continental distribution, transport, and use of commercially reared honey bees throughout the United States presents a clear vector for disease transmission to the four species of bumble bees included in this petition. Several of the diseases harbored by honey bees have been shown to be pathogenic and virulent to bumble bees, posing a significant risk. Since the populations of the bumble bee species included in this petition are already small and fragmented, any further stressor threatens each species with local extirpation, and perhaps extinction. As such, continued unrestricted use of commercial honey bees poses a threat to the continued existence of each

species included in this petition.

E. Other Natural Events or Human-related Activities

1. Pesticides

Pesticides are used widely in agricultural, urban, and even natural areas and can exert both direct effects (lethal and sublethal) and indirect effects (harm via the effect on another species) on bumble bees. Foraging bumble bees can be poisoned by pesticides when they absorb toxic substances directly through their exoskeleton, drink contaminated nectar, gather contaminated pollen, or when larvae consume contaminated pollen. Because bumble bees nest in the ground, they may be uniquely susceptible to pesticides used on lawns or turf (National Research Council 2007). Pesticides applied in the spring, when bumble bee queens are foraging and colonies are small, are likely to be most detrimental to bumble bee populations (Goulson et al. 2008; Stoner 2016). Since males and queens are produced at the end of the colony cycle, sublethal doses of pesticides applied at any time during the bumble bee lifecycle can have substantial adverse effects on subsequent generations. Any application of pesticides can threaten bumble bees, but pesticide drift from aerial spraying can be particularly harmful. One study demonstrated that 80% of foraging bees close to the source of an insecticide application were killed, and drift can continue to be dangerous for well over a mile from the spray site (Johansen and Mayer 1990). In Europe, the recent declines in bumble bees have been partially attributed to the use of pesticides (Williams 1986; Thompson and Hunt 1999; Rasmont et al. 2006).

Bumble bees are threatened by the widespread use of pesticides across their range. Insecticides are designed to kill insects directly and herbicides can indirectly affect bumble bees by removing floral resources (see Section A.2: The Loss of Habitat Due to Increased Use of Herbicides). There is very little data available on the effect of fungicides on bumble bees, although a growing body of evidence suggests fungicides may be linked with sublethal concerns including weakening the immune system of bumble bees. Below, we outline the threats posed to bumble bee populations by insecticides and fungicides.

i. Insecticides

Of the various pesticide groups, insecticides are most likely to directly harm bees. Many commonly used insecticides are broad spectrum and thus could kill or otherwise harm exposed bumble bees. Systemic insecticides, such as neonicotinoids, have the added concern of causing exposure months to years after a treatment as they are taken up by the plant and expressed in the pollen, nectar and leaves. Extensive research into the effects of neonicotinoids has been performed. Below is a brief summary of a subset of this body of research.

Neonicotinoids

Neonicotinoids are a relatively new class of systemic insecticides that are used widely to combat

insect pests of agricultural crops, turfgrass, gardens, and pets (Cox 2001). Colla & Packer (2008) suggested that neonicotinoids may be one of the factors responsible for the decline of the rusty patched bumble bee (*Bombus affinis*; recently listed as an Endangered species under the U.S. Endangered Species Act), noting the use of this class of insecticides began in the U.S. in the early 1990s, shortly before the decline of the rusty patched bumble bee was first observed.

A recent study exposing bumble bees to field-realistic levels of the neonicotinoid imidacloprid found an 85% reduction in the production of new queens and significantly reduced colony growth rates compared to control colonies (Whitehorn et al. 2011). The authors suggest that neonicotinoids “may be having a considerable negative impact on wild bumble bee populations across the developed world” (Whitehorn et al. 2011). Another study of bumble bees exposed to varying levels of imidacloprid found a dose-dependent decline in fecundity and documented that field realistic levels of this pesticide were capable of reducing brood production by one-third (Laycock et al. 2012). The authors speculate that this decline in fecundity is a result of individual bumble bees failing to feed, which raises concerns about the impact of this pesticide on wild bumble bees (Laycock et al. 2012). In another study (Fauser et al. 2017) the researchers found that early lifestage exposure to low dose, field realistic levels of thiamethoxam and its metabolite clothianidin significantly reduced the survival of hibernating queens. Other toxicity studies have demonstrated that contact exposure of imidacloprid and clothianidin to bumble bees can be very harmful (Marletto et al. 2003; Gradish et al. 2009; Scott-Dupree et al. 2009), and an acute oral dose of imidacloprid is highly toxic to bumble bees (Marletto et al. 2003, *In* Hopwood et al. 2016). Mommaerts et al. (2010) found that chronic exposure of three neonicotinoids to bumble bees was dose dependent, and another study by Incerti et al. (2003) found that one third of bumble bees in a flight cage exposed to blooming cucumbers treated with a “field dose” of imidacloprid died within 48 hours (*In* Hopwood et al. 2016). A study by Gill et al. (2012) examining the effects of the combined exposure of bumble bees to field realistic levels of two pesticides – an imidacloprid and a pyrethroid – found that foraging behavior was impaired, worker mortality increased, and both brood development and colony success were significantly reduced.

Other studies have also documented sublethal effects of neonicotinoids on bumble bees, including: reduced foraging ability (Morandin & Winston 2003; Stanley et al. 2016); reduced drone production and longer foraging times (Mommaerts et al. 2010; Arce et al. 2016; Stanley et al. 2016); reduced foraging activity, reduced food storage and reduced adult survival (Al-Jabr 1999); and lower worker survival and reduced brood production (Tasei et al. 2000; Fauser-Misslin et al. 2014; *In* Hopwood et al. 2016). Studies have also shown that neonicotinoid exposures can lead to impaired learning and memory (Stanley et al 2015a) as well as impaired crop pollination services (Stanley et al. 2015b). Bumble bees appear to be affected by dietary concentrations of the systemic insecticide imidacloprid at levels lower than honey bees, perhaps

because, unlike honey bees, bumble bees do not metabolically degrade imidacloprid effectively while continuing to ingest it (Cresswell et al. 2014; *In* Hopwood et al. 2016).

Neonicotinoids are widely used on agricultural crops that are attractive to pollinators, as well as on horticultural plants and lawns in urban and suburban areas. Thus, this class of insecticide is likely to affect all bumble bees, which were historically found in all of these landscapes. Of particular concern is a finding in a recent review of the impact of neonicotinoid pesticides on pollinating insects which found that some products approved for home and garden use may be applied to ornamental and landscape plants at significantly higher concentrations (as much as 120 times higher) than the allowable concentration of the similar products applied on agricultural crops (Hopwood et al. 2016).

Nitroguanidine neonicotinoids (clothianidin, dinotefuran, imidacloprid and thiamethoxam) are highly toxic to bumble bees and their use has dramatically increased over the last 20 years (USGS 2017c), especially in California's Central Valley, where *B. crotchii* and *B. o. occidentalis* occur. In fact, imidacloprid is the fourth most commonly used insecticide in California, with reported uses on more than 140 crops and other non-crop locations. Its use has increased from 5,179 pounds (658 applications) in 1994 to 441,304 pounds (70,054 applications) in 2015. While not as commonly used as imidacloprid, the other neonicotinoids are also becoming more widely used. For example, thiamethoxam use has increased from 11,090 pounds (2,826 applications) in 2002 when it was first used in California, to 41,908 pounds (26,932 applications) of reported use in 2015 (CA DPR 2014). Throughout the U.S., nitroguanidine neonicotinoids were used to some degree for agricultural purposes in 94% (2,930 out of 3,109) of counties in the lower 48 states (the states for which this study collected data) in 2012 (Baker & Stone 2015). This level of use suggests that there are very few large refuges left in the country for bumble bees to access insecticide free forage – which is necessary to avoid the lethal, and sub-lethal effects of these toxic substances. As such neonicotinoid insecticides pose a direct threat to the continued existence of the bumble bee species included in this petition. Other insecticides, including new systemic insecticides, may also jeopardize these species. Standardized testing completed for registration demonstrates moderate to high toxicity for most insecticides to terrestrial insects. Still, significantly less data is available on sub-lethal effects and field realistic impacts.

ii. Fungicides

A growing body of research demonstrates how some fungicides, especially the multi-site contact activity fungicides like chlorothalonil and the ergosterol inhibiting fungicides (like tebuconazole) can harm bees, including bumble bees. McArt et al. (2017) found that fungicide usage was the strongest predictor of range contractions for four declining bumble bees and that one particular fungicide, chlorothalonil was more closely associated with prevalence of the pathogen *Nosema bombi*--an infection that was about twenty times higher in declining versus stable bumble bee species. Bernauer et al. (2015) found that bumble bees exposed to chlorothalonil produced fewer

workers, lower total bee biomass, and had lighter mother queens than control colonies. Sprayberry et al. (2013) determined that the presence of the fungicide product Manzate (active ingredient mancozeb) decreased bumble bees' ability to locate food within a maze. Bartlewicz et al. (2016) document negative impacts of fungicides on microflora, particularly yeasts, in nectar, that could affect pollinator gut microbiota. As in humans, gut microbial communities affect nutritional health, development, detoxification abilities, and parasite susceptibility (Kwong and Moran 2016; Schwarz et al. 2016). A review of research into the combined effects of pesticides on honey bees found ergosterol inhibiting fungicides significantly contribute to the spread and abundance of honey bee pathogens and parasites (Sánchez -Bayo et al. 2016). The authors also stated that these same concerns are likely to exist for bumble bees and many other wild insects. Contrary to the above mentioned studies, one literature review suggests that most active ingredients in fungicides are compatible with commercial bumble bees (Mommaerts & Smagghe 2011).

In summary, the evidence presented above shows clearly that 1) pesticides, particularly nitroguanidine neonicotinoid insecticides, are highly toxic to bumble bees and exhibit both lethal and sub-lethal effects on bumble bee populations; and 2) the use of pesticides is widespread and pervasive throughout the range of all of the species listed in this petition; As such, pesticides pose a direct threat to the continued existence of each species included in this petition.

2. Population Dynamics and Structure

Bumble bees may be more vulnerable to extinction than other species due to their unique system of reproduction (haplodiploidy with single locus complementary sex determination) (Zayed and Packer 2005; reviewed in Zayed 2009). Therefore, reduced genetic diversity resulting from any of the threats summarized in this petition can be particularly concerning for bumble bees since genetic diversity already tends to be low in this group due to the colonial life cycle (i.e., even large numbers of bumble bees may represent only one or a few queens) (Goulson 2010; Hatfield et al. 2012; but see Cameron et al. 2011a and Lozier et al. 2011). Since the bumble bees listed in this petition have undergone dramatic declines in range and relative abundance (Kevan 2008; Hatfield et al. 2015a; 2015c; unpublished data).), genetic factors (including reduced genetic diversity, inbreeding depression, and the method of sex determination utilized by bumble bees) are likely among the most significant threats to the long-term survival of these species (reviewed in Zayed 2009).

i. Impacts of Genetic Factors on Bumble Bees

Recent research indicates that populations of the declining western bumble bee (*Bombus occidentalis*) have lower genetic diversity compared to populations of co-occurring stable species (Cameron et al. 2011a; Lozier et al. 2011). It is reasonable to expect that the other three species of bumble bees in this petition may have suffered a similar loss of genetic diversity and increase in population structure, although this has not been examined directly.

Loss of genetic diversity, which is frequently the result of inbreeding or random drift, can pose significant threats to small, isolated populations of bumble bees (Whitehorn et al. 2009). A loss of genetic diversity limits the ability of a population to adapt and reproduce when the environment changes and can lead to an increased susceptibility to pathogens (Altizer et al. 2003).

Bumble bees have a single locus complementary sex determination system, meaning that the gender of an individual bee is determined by the number of unique alleles at the sex-determining locus (van Wilgenburg et al. 2006). Normally this gender determination comes through a haplodiploid genetic structure in which female bees are diploids and are produced from fertilized eggs with two different copies of an allele at the sex-determining locus. Most male bees are haploid, and they are produced from unfertilized eggs (with only a single copy of an allele at the sex-determining locus). However, when closely related bumble bees mate, the offspring can have two copies of the exact same allele (or be homozygous) at the sex-determining locus, which causes a diploid male to be produced instead of a diploid female. These diploid males may have reduced viability or may be sterile (van Wilgenburg et al. 2006). When diploid males are able to mate, they produce sterile triploid offspring, which has been found to be negatively correlated with surrogates of bumble bee population size (Darvill et al. 2012). Diploid males are produced at the expense of female workers and new queens, and the production of diploid males can reduce colony fitness (including slower growth rates, lower survival, and colonies that produce fewer offspring) in bumble bees (Whitehorn et al. 2009). Diploid male production in inbred populations can substantially increase the risk of extinction in bumble bee populations compared to other animal taxa (Zayed & Packer 2005).

Inbreeding and loss of genetic diversity can also increase parasite prevalence in populations and parasite susceptibility in individuals (Frankham et al. 2010 *in* Whitehorn et al. 2011). Populations of bumble bees with low genetic diversity have been found to have a higher prevalence of pathogens (Cameron et al. 2011a; Whitehorn et al. 2011; 2014), suggesting that as populations lose genetic diversity, the impact of parasitism will increase and threatened populations will become more prone to extinction.

In summary, the unique method of sex determination, along with the fact that small populations have lower genetic diversity make bumble bees highly susceptible to extinction and thus a rapid extinction vortex that is not experienced in other animals (Zayed & Packer 2005). As such, bumble bees are perhaps more at-risk of extinction than non-haplodiploid animals of similar population size and the threshold for action should necessarily be more conservative.

3. Global Climate Change

Climate change may pose a significant threat to the continued survival of the bumble bees listed

in this petition. Changes to the climate that are expected to have the most significant effects on bumble bee populations include: increased temperature and precipitation, increased drought, increased variability in temperature and precipitation extremes, early snow melt, and late frost events. These changes may lead to increased pathogen pressure, decreased resource availability (both floral resources and hibernacula), and a decrease in nesting habitat availability due to changes in rodent abundance or distribution (Cameron et al. 2011b).

Variability in climate can lead to phenological asynchrony between bumble bees and the plants they use (Memmott et al. 2007; Thomson 2010). There is evidence of mismatch between early blooming plants and their bumble bee pollinators (Kudo et al. 2004). Early spring is a critical time for bumble bees since that is the time when the foundresses emerge from hibernation and initiate nests. Since bumble bees are generalist foragers, they do not require synchrony with a specific plant, but asynchrony could lead to diminished resource availability at times that are critical to bumble bee colony success. For example, as the climate in the Rocky Mountains has become warmer and drier in the past 30 years, researchers have observed a mid-season period of low floral resources, a change which can negatively impact pollinators (Aldridge et al. 2011). Furthermore, changes in the distributions of plants visited by bumble bees have been correlated with a changing climate (Inouye 2008; Forrest et al. 2010). There is further evidence that this shift in climate has led to altered bumble bee morphology by reducing the tongue length of bumble bees in response to the changed availability of food plants (Miller-Struttmann et al. 2015). The effects of this shift on bumble bee populations, or native plant populations – which have not experienced a concordant shift in morphology (Miller-Struttmann et al. 2015) – needs further investigation. However, if long-tongued bumble bees like the American bumble bee (*Bombus pensylvanicus*, which occurs in California) are getting shorter tongues, this will lead to increased competition with shorter tongued bees (like *B. occidentalis occidentalis* and *B. crotchii*—included in this petition) for food plants as there will be greater niche overlap.

In modeling studies, Kirilenko and Hanley (2007a; 2007b) predict that the ranges of three bumble bee species will change in size and shift in response to predicted changes in the North American climate. In a more recent study Kerr et al. (2015) found that as the climate warms in North America that the southern range of bumble bees is contracting, while at the same time there is no evidence that populations are moving northward. The reason that bumble bees are not responding to this climactic cue by moving northward is unknown, but has dramatic implications for bumble bees; it suggests that range contraction from the south is a severe threat to the continued existence of North America's bumble bees. Other research in Europe has suggested that bumble bees are particularly susceptible to heat waves, and other effects of a changing climate (Rasmont & Iserbyt 2012). In California, increasing aridity may be particularly detrimental for *B. franklini* since this species has a very narrow climatic specialization compared to most bumble bees (NatureServe 2017a).

Climate change can also affect the quality of nectar produced by flowers. Pumpkin flowers grown under experimental conditions mimicking predicted climate futures were altered in attractiveness and nutritional quality (Hoover et al. 2012). Bumble bees foraging on these plants suffered a 22% reduction in survival. Although this study was based on predicted future conditions, similar effects may be occurring presently at levels that are undetected but may still affect bumble bee populations.

In summary, there is evidence that a shifting climate is 1) altering the timing of food plant availability for bumble bees; 2) changing the morphology of bumble bee mouth parts in response to food-plant availability; 3) reducing the habitable area of bumble bees in the southern portion of their ranges without a concordant range expansion to the north; and 4) altering the quality of food plants. Each of these landscape scale factors threaten the four bumble bee species included in this petition.

4. Loss of Host Species - Co-Extinction

One species included in this petition is in the subgenus *Psithyrus* (cuckoo bumble bees - Suckley cuckoo bumble bee [*Bombus suckleyi*]), which means that it is dependent on a bumble bee host species for its life-cycle; thus the disappearance, or increasing rarity of that host would represent a threat to species existence. This relationship was recently examined by Suhonen et al. (2015), who found that cuckoo bumble bees were more vulnerable to extinction than their host species. Unsurprisingly, the conclusions of this research were that the conservation of the host species for these animals was essential to the short and long-term persistence of cuckoo bumble bees (Suhonen et al. 2015).

The cuckoo bumble bee included in this petition is dependent on bumble bees that have recently documented range declines. *B. suckleyi* uses *B. occidentalis occidentalis* and the yellow banded bumble bee (*B. terricola*) as hosts (Williams et al. 2014) - both of which have been identified as in decline by recent research (Evans et al. 2008; Cameron et al. 2011b; Hatfield et al. unpublished data). The continued decline of the host species is a severe and permanent threat to the continued existence of this cuckoo bumble bee. The host species (*B. o. occidentalis*) mentioned above is included in this petition to be listed as an endangered species.

VI. DEGREE AND IMMEDIACY OF THREAT

Bumble bees, as a whole, are threatened by a number of factors discussed above in section V, including agricultural intensification, habitat loss and degradation, pesticide use, pathogens from managed pollinators, competition with non-native bees, climate change, genetic factors, and loss of host species (reviewed in Goulson 2010; Williams et al. 2009; Williams and Osborne 2009; Cameron et al. 2011b; Hatfield et al. 2012; Fürst et al. 2014). The magnitude of loss and rate of

decline that each of these species have experienced is outlined above in section II. Current regulations and regulatory mechanisms are inadequate to protect these species of bumble bees against the threats they face within California. Without protective measures, *Bombus crotchii*, *B. franklini*, *B. suckleyi*, and *B. occidentalis occidentalis* are likely to go extinct in California.

VII. IMPACT OF EXISTING MANAGEMENT EFFORTS

Currently none of the four species included in this petition receive substantive protection under federal law or California state law. None have legal protection under the U.S. Endangered Species Act. No known specific management actions, recovery plans, or research in the state of California have been implemented for any of these species. California Department of Fish and Wildlife lists all four bumble bees included in this petition on their “Special Animals List”. In addition, *Bombus occidentalis* is listed as a “Sensitive Species” by the US Forest Service in California (USFS 2013); thus the Forest Service will consider this species when implementing any management actions proposed in the forests where this species occurs.

Below, we list the known candidate status or special status, if any, for each species.

Crotch Bumble Bee (*Bombus crotchii*)

Bombus crotchii is on the “Special Animals List” of the California Department of Fish and Wildlife (CDFW 2017) and is listed as Endangered by the IUCN Red List of endangered species (Hatfield et al. 2015a). The species has a NatureServe Global Status rank of G3G4 (Vulnerable/Apparently Secure) and a state rank of S1S2 in California (NatureServe 2017a). Although *B. crotchii* is widely recognized as a vulnerable species, it receives no formal or informal protection.

Franklin’s bumble bee (*Bombus franklini*)

Until 1996, the U.S. Fish and Wildlife Service classed *Bombus franklini* as a “Category 2” Candidate Species which indicates that listing may be warranted, but not enough information was known to federally list the species. This status was based on the recognition of the narrow endemism of the species and the lack of knowledge on the specific biological characteristics, habitat requirements, potential threats to its existence, and other critical parameters that affect the persistence and viability of its populations. In 2010, this species was petitioned for endangered species status, has received a positive 90-day finding, and is currently the focus of a Species Status Assessment by USFWS to determine if the species warrants ESA listing (USFWS 2011).

B. franklini is included on the California Department of Fish and Wildlife “Special Animals List” (CDFW 2017). The species has a NatureServe Global Status rank of G1 (Critically Imperiled), and has a state rank of S1 (Critically Imperiled) in both Oregon and California (NatureServe 2017b). It is listed as Critically Endangered on the IUCN Red List (Kevan 2008)

and critically imperiled on the *Red List of Pollinator Insects of North America*, produced by the Xerces Society for Invertebrate Conservation (Thorp 2005c). Although *B. franklini* is widely recognized as a vulnerable species, it receives no formal or informal protection.

Western bumble bee (*Bombus occidentalis occidentalis*)

Bombus occidentalis occidentalis is on the “Special Animal List” of the California Department of Fish and Wildlife (CDFW 2017) and is listed as a “Sensitive Species” by the US Forest Service in California, where it has been documented on the following National Forests: Eldorado, Klamath, Lassen, Modoc, Plumas, Shasta-Trinity, Six Rivers, Tahoe, and Lake Tahoe (USFS 2013). The subspecies has a NatureServe Global Status rank of G4T1T3 (Apparently Secure/“T1T3 is assigned because the subspecies has almost certainly declined by more than 95% since 1998 and is not secure”) and SNR (Unranked) in California (NatureServe 2017c); the parent species *B. occidentalis* is ranked S1 (Critically Imperiled) in California (NatureServe 2017d). An IUCN Red List category has not yet been formally assigned for the southern subspecies of the western bumble bee (*B. occidentalis occidentalis*), but the full species (*B. occidentalis*) is listed as Vulnerable to extinction on the IUCN Red List (Hatfield et al. 2015b), and an analysis of changes in range and relative abundance of *B. o. occidentalis* suggest that the species would meet the criteria of Endangered on the IUCN Red List (Hatfield et al., unpublished data). The parent species *B. occidentalis* has been petitioned for endangered species status, has received a positive 90-day finding, and is currently the focus of a Species Status Assessment by the USFWS to determine if the species warrants ESA listing (USFWS 2016). Though this species receives no formal protection, any conservation or management actions implemented due to its “Sensitive Species” status on National Forests in California may provide some benefit to this species.

Suckley bumble bee (*Bombus suckleyi*)

Bombus suckleyi is on the “Special Animal List” of the California Department of Fish and Wildlife (CDFW 2017) and was listed as Critically Endangered by the IUCN Red List of endangered species (Hatfield et al. 2015c). The species has a NatureServe Global Status rank of G1G3 (Critically Imperiled/Vulnerable; the rank changed from GU to “G1G3?” to highlight the recognized major decline but uncertainty about its status in the most northern section of its range) and a state rank of S1 (Critically Imperiled) in California (NatureServe 2017e).

Restoration of Bee Habitat in California

Currently, extensive efforts exist to restore habitat for pollinators near insect-pollinated crops in California, especially in the agriculturally intensive Central Valley. These efforts have the potential to provide resources that will benefit the petitioned bumble bee species – especially *B. crotchii* and *B. occidentalis occidentalis*, which occur or historically occurred in parts of the Central Valley. The petitioners recommend that, should these bumble bees be protected under

California's Endangered Species Act, this listing should not hinder efforts to restore bee habitat. As such, a programmatic Safe Harbor agreement should be developed between CDFW and the NRCS, so that private landowners enrolled in Farm Bill incentive programs will not be discouraged from restoring pollinator habitat by fears that they may attract an endangered species to their property.

VIII. SUGGESTIONS FOR FUTURE MANAGEMENT

To prevent extinction in California of each of the four species of bumble bees listed in this petition, all extant populations of each species need to be identified and their habitat should be protected and managed to benefit the species. Surveys throughout the historic ranges of each species are recommended in order to accomplish this. To rebuild populations of *Bombus crotchii*, *B. franklini*, *B. suckleyi*, and *B. occidentalis occidentalis*, habitat should be restored within their historic ranges, prioritizing habitat closest to extant populations of each species. These efforts will be most effective if both public land managers and private landowners engage in habitat restoration and species recovery efforts.

The following general guidelines include management practices that will maintain and restore habitat for *B. crotchii*, *B. franklini*, *B. suckleyi*, and *B. o. occidentalis*:

General Guidelines for Bumble Bees

Due to the inherent vulnerability of many bumble bee species and importance of supporting wild bee populations for pollination services, the following general conservation practices are recommended:

1. Identify, protect, enhance, and restore natural high-quality habitats to include suitable forage, nesting and overwintering sites.
2. Promote farming practices that increase of nitrogen-fixing fallow (legumes) and other pollinator-friendly plants along field margins.
3. Restrict pesticide use on or near each species' habitat, particularly while treated plants are in flower.
4. Minimize exposure of wild bees to diseases transferred from managed bees.
5. Avoid honey bee introduction to high-quality native bee habitat.

Creating High-Quality Habitat

There are three things that bumble bees need in the landscape to thrive: flowers on which to forage, somewhere to nest, and a place to overwinter. Each of these habitat requirements is vital for different phases of the bees' annual life cycle.

Pollen and Nectar Sources

Bumble bees need a rich supply of flowers during the entirety of the colony's life. Bumble bees

are generalist foragers and will gather pollen and nectar from a variety of flowering plants. However, individual bumble bees do show high fidelity to particular flowers within a bloom period. The flight season of different species varies, but generally queens emerge in the late winter or early spring and the colony continues through to late summer or early fall. This requirement makes bumble bees sensitive to differing management practices throughout the course of the year. Monoculture crops, grazing, mowing, and weed control can interfere with the long-term health of bumble bee populations.

Careful selection of plants that are beneficial to bumble bees is essential to creating valuable habitat. Native plants are an excellent choice to provide nectar and pollen sources. They provide several benefits:

- Bumble bees coevolved with native plants and therefore know how to use them as a resource.
- Once established, native plants typically need less maintenance (less water, reduced use of fertilizers and pesticides).
- Native plants usually do not spread to become weedy species in natural areas.

Nesting and Overwintering Habitat

Most bumble bees nest underground, often in abandoned holes made by rodents, or occasionally abandoned bird nests (Osborne et al. 2008). Some species do nest on the surface of the ground (in grass tussocks) or in empty cavities (hollow logs, dead trees, under rocks, etc.). Queens most likely overwinter in small cavities just below or on the ground surface. While there is still much to be learned about the nesting and overwintering biology of bumble bees, it is clear that any near-surface or subsurface disturbance of the ground is likely disastrous for bumble bee colonies or overwintering queens. This includes mowing, fire, tilling, grazing, and planting. Protecting areas of land from such practices is essential for sustaining bumble bee populations. Since bumble bees usually nest in abandoned rodent nests, it is also important to retain landscape features that will support rodent populations (McFrederick and LeBuhn 2006).

Restoring and Managing Habitat

The following management recommendations are designed to be synchronous with the bumble bee life cycle and minimize risks to colonies, while maintaining flower-rich foraging areas and secure nest sites. Mowing, fire, and grazing are all widely used and valuable tools for maintaining the open, meadow-like conditions that bumble bees prefer. However, if done inappropriately (such as too frequently, or over too wide of an area), these activities can also remove too many floral resources and destroy nesting habitat for bumble bees, as well as harm butterflies, moths, and other invertebrates whose life cycles depend on the plants being disturbed (Mäder et al. 2011). Two key principals that apply irrespective of which management action is being employed include: do not treat the entire site at one time and when a treatment is being applied, do not treat more than one third of the site per year.

Mowing

Grassy areas such as meadows, forest edges, hedgerows, and lawns may all be subject to mowing. Research in Britain has shown that unmanaged meadows and garden areas with a high proportion of grass and different layers of habitat have the highest diversity of bumble bees (*in* Mäder et al. 2011), and that mowed sites have significantly fewer bumble bee nests (Potts et al. 2009). When mowing is a necessary management action, the following guidelines may be adopted:

- Leave one or more patches—as large as possible—of meadow, lawn, or edge habitat unmowed for the entire year.
- If you need to mow during the flight season (March-September), try to create a mosaic of patches with structurally different vegetation.
- Mow at the highest cutting height possible to prevent disturbance of established nests or overwintering queens. A minimum of 12-16 inches is ideal.

Fire is an important management tool for many meadows or open habitats, but requires care to avoid disturbance to plant and animal populations. The following recommendations will maximize the benefit to bumble bees.

- Only burn a specific area once every 3-6 years.
- Burn from October through February.
- Burn small sections at a time.
- No more than one third of the land area should be burned each year.
- If possible mow fire breaks that will result in patches of unburned or lightly burned areas to serve as refuge for animals within the burn area.
- Avoid high intensity fires.

Grazing

A common practice in natural areas and agricultural landscapes, grazing has been shown to have dramatic effects on the structure, diversity, and growth habits of plants. When carefully applied, grazing can be beneficial for limiting shrub and tree succession, encouraging the growth of nectar rich plants, and providing the structural diversity that creates nesting habitat. However, grazing animals have the potential to remove flowering resources, as well as trample nesting and overwintering sites—and in turn harm the animal communities that depend on them (Black et al. 2011).

Grazing is usually only beneficial to bumble bees at low to moderate levels and when the site is grazed for a short period followed by ample recovery time. We make the following general recommendations, but stress the importance of assessing local and historical conditions before implementing a plan.

- Grazing management strategies should be completed according to the characteristics of

the site and the animals being used.

- Grazing on a site should occur for a short period of time, giving an extended period for recovery.
- Grazing should only occur on approximately one third of the property each year.
- Establish exclosures and rotate grazing to allow recovery of the vegetation community.

Tillage

Any surface or subsurface disturbance can be harmful to bumble bee colonies. In order to ensure the long-term health of bumble bee populations at least some areas under management must remain permanently free of tillage. These areas could be fence margins, hedgerows, debris piles, ditches, compost heaps, etc. Nesting surveys in Britain showed that gardens and linear features like hedgerows (i.e., places free from tillage) provided important bumble bee nesting habitat (Osborne et al. 2008).

Using Pesticides

Decision-making systems such as Integrated Pest Management can be important for developing less toxic responses to pests, and ensure that actual pest damage is taking place before chemicals are used. It is important to note that it is not just cropland and rangeland that experience high use and concentrations of pesticides. Surveys of urban streams suggest heavy use of pesticides in urban and suburban areas (USGS 2014). Also, for some pesticides allowable application rates are higher for home use relative to their agricultural counterparts (Hopwood et al. 2016).

For situations when pesticides must be used (e.g. an economic or public health pest having reached an established threshold), the following recommendations will reduce harm to these bumble bee species:

- Follow the manufacturer's directions.
- Choose the least toxic option:
 - Avoid dusts and microencapsulated products
- Use the lowest effective application rate.
- Apply the pesticide as directly and locally as possible.
- Apply when bumble bees are not active (keeping in mind that bumble bees can fly at cold temperatures, and are often active in the early morning and early spring):
 - Late fall or winter.
 - At dusk or at night (if the pesticide is short lived).
- Do not spray or allow drift to move onto field margins or boundaries.
- Do not apply pesticides when plants are in bloom.
- Reduce spray drift:
 - Avoid aerial spraying and mist blowers.
 - Spray on calm days (winds between 2 and 9 mph) to minimize spray drift from

targeted applications.

- Avoid the use of systemic insecticides, such as neonicotinoids.

Commercial Use of Bumble Bees

Increasingly, as the cost of honey bee rental increases and the benefits of bumble bees as pollinators are realized, bumble bees are being shipped throughout the world for pollination of greenhouse and field crops. Pathogens harbored by commercially reared bumble bees have been implicated in the decline of multiple species of North American bumble bees, including two species included in this petition (*Bombus occidentalis occidentalis* and *B. franklini*). Currently, there is only one species of bumble bee being used for managed pollination, the common eastern bumble bee, which is native to the eastern U.S., but used in California for pollination of greenhouse crops. Should the common eastern bumble bee escape greenhouses and establish in the wild, as it has in southern B.C., it may spread pathogens to wild bumble bees, or outcompete native species for nest sites or floral resources (Whittington et al. 2004; Colla et al. 2006). In addition, commercial bumble bee producers are actively developing species that could be used for open-field pollination in California (Biobest 2018a; 2018b; APHIS 2014), and should that occur, these commercial bumble bees may pose a considerable risk to the four species of bumble bees listed in this petition.

Any use of commercially reared bumble bees for crop pollination should focus on minimizing the exposure of wild native species to managed species.

- Do not allow commercial bumble bees to be used outside of the native range of the species; if native bumble bees are allowed, ensure that they are produced within their native ranges.
- Only use commercial bumble bees in greenhouses; do not use them for open-field crops.
- Screens should be placed over window, vents, and other openings in greenhouses to prevent commercial bumble bees from escaping and interacting with wild bumble bees.
- Commercially acquired colonies should be killed (for example, by being placed in a freezer overnight) after their period of use and NOT released into the wild.

Honey Bees

Honey bees may pose a significant threat to at-risk bumble bees in this petition through competition for floral resources and spread of pathogens (Mallinger et al. 2017). Significantly, honey bees have been shown to extract vast quantities of pollen from the environment; an averaged sized apiary (40 hives) effectively removes nutritional resources that could have produced 4,000,000 wild bees over the course of three months (Cane & Tepedino 2016).

Recommendations for Land Managers

Where local and federal laws permit the placement of honey bees, and managers are deciding

whether to include hives on their land, we suggest that managers consider the following potential impacts of honey bees.

Are populations of endangered or threatened pollinators present on the land?

- If rare species of bees and butterflies, including threatened or endangered species, are known to exist within the flight area where the hives are to be placed, assessment of potential risks to these populations should be undertaken.
- If it is possible that rare or declining pollinator species can be found in the area, efforts should be made to determine if they are present. Consulting scientists with expertise in pollinator surveys and species identification is recommended. In cases where a particular pollinator species is critically imperiled, every remaining population and individual may be essential to the species' immediate and long-term survival. There is potential that honey bees may transmit diseases to native bees (e.g., spread of deformed wing virus from honey bees to bumble bees causing wing damage) and may compete for floral resources (e.g. decreased fecundity in bumble bees).
- We recommend that land managers discourage the placement of honey bee hives in natural areas, especially if populations of imperiled pollinators are present. Areas with diverse wildflowers are likely to also be hosts to diverse populations of native pollinators including imperiled bumble bees, and as such are not appropriate for honey bee apiaries; this is particularly true in protected areas (Geldmann & González-Varo 2018).
- If this recommendation cannot be followed, we recommend that honey bee hives be placed as far as practicable from areas receiving specialized management treatment for bumble bees.
 - Especially important will be to distance honey bee apiaries from potential bumble bee nesting sites, such as unmowed and untilled areas, old rock walls, fencerows or hedgerows, treed field margins, and hollow trees.
 - Where possible, distances greater than 2.4 miles (4 kilometers) will substantially reduce the competitive effects of managed hives on bumble bees (Cane & Tepedino 2016).

Are there invasive plant populations, or ongoing efforts to eradicate invasive plant species, that would be affected by the inclusion of honey bees?

- Honey bees may not be compatible with invasive plant species management. If honey bees pollinate and increase seed production of the invasive species in question (e.g., yellow star thistle), land managers may want to exclude honey bees during periods of bloom.

What are the potential impacts to other wildlife?

- Are there bears in the area that will be attracted to the apiary as a food source? Land managers need to work with beekeepers to determine if placement of an apiary will

increase the potential for human–bear conflicts. If this is a risk, then electric fencing and maintenance of that fencing to prevent intrusion from bear should be mandated on public lands to avoid bear damage to apiaries and to prevent habituation of bears to hives.

Is there sufficient infrastructure to support the drop-off and storing of the proposed operation?

- Commercial beekeepers may bring anywhere between 4 and 400 hives, depending upon the size of the operation. Hives are delivered using a range of vehicles from flatbed trucks to semi-tractor trailers. Access roads must be appropriate for the required transport, and should not result in excess erosion, road damage, or other infrastructure challenges.
- Apiary sites also must be of sufficient size, with level and firm ground to accommodate small forklifts or bobcats used to move pallets of bees. An apiary location will also need sufficient space for trucks to turn around.

Inventory, Research & Management Needs

Inventory, research, and management needs for each species listed in this petition are outlined below:

Crotch Bumble Bee (*Bombus crotchii*)

Inventory needs: Once very common in central and southern California, *B. crotchii* has recently undergone a dramatic decline, and is no longer present across much of its historic range. In order to better understand this species' distribution, in order to conserve existing populations, comprehensive surveys of this species at historic sites and other locations within its historic range are needed.

Research needs: Research needs for North American bumble bees (as a whole) are summarized in Cameron et al. (2011a), the final report for the 2010 North American Bumble Bee Species Conservation Planning Workshop. More research is needed to understand basic life history of *B. crotchii*, including nesting preferences, overwintering needs, and important host plants in California.

Management needs: Known and potential sites should be protected from threats. In the Central Valley, known populations should be protected from insecticide use. Practices such as livestock grazing and other factors that may interfere with the habitat requirements of this species (availability of nectar and pollen throughout the colony season and availability of underground nest sites and hibernacula) should be minimized where this species is extant. Carefully consider the placement of non-native European honey bees in areas that may be occupied by *B. crotchii* (see Hatfield et al. 2016 for more detail).

Franklin's bumble bee (*Bombus franklini*)

Inventory needs: Comprehensive surveys in *B. franklini*'s historic range should continue (Dr.

Robbin Thorp conducts annual bumble bee surveys within the range of this species).

Research needs: Research to address critical conservation questions for this species has been hindered by the fact that this bee may be extinct – it has not been observed since 2006 despite extensive annual surveys throughout its historic range. Should an extant population of *B. franklini* be discovered, more research would be recommended to gain a better understanding of the species' ecology, biology, and habitat requirements, especially any that might be limiting factors. Additionally, studying the pathology, control, and cross-infectivity of different suspected disease agents of *B. franklini*, including *Nosema bombi*, *Locustacarus buchneri*, and *Crithidia bombi* (Otterstatter et al. 2005; Colla et al. 2006) would allow for better understanding of the risks to the bumble bee populations and the preventative measures that should be taken.

Management needs: The habitat of *B. franklini* should be protected, including an abundance of suitable pollen and nectar sources such as, but not limited to: *Lupinus*, *Eschscholzia*, *Agastache*, *Monardella* as sources of pollen and nectar for the bees to feed on. Proximity to a natural source of fresh water would also be beneficial as it would increase the flowering season of the plants upon which the bees feed. Also, suitable nest sites are needed, such as abandoned rodent burrows.

Western bumble bee (Bombus occidentalis occidentalis)

Inventory needs: Once very common in the western United States and western Canada, *B. o. occidentalis* has recently undergone a dramatic decline in abundance and distribution, and is no longer present across the western portions of its historic range. In order to better understand the causes and extent of this species' decline, as well as the conservation needs of remaining populations, additional comprehensive surveys of this species at historic and potential sites are needed throughout California.

Research needs: Despite the widespread nature of this bumble bee, more research is needed to evaluate basic life history and ecological questions, including nesting preferences, overwintering needs, and important host plants in California.

Management needs: Protect known and potential sites from practices, such as livestock grazing, and threats such as conifer encroachment, that can interfere with the habitat requirements of this species (availability of nectar and pollen throughout the colony season and availability of underground nest sites and hibernacula). Carefully consider the placement of non-native European honey bees in areas that may be occupied by *B. o. occidentalis* (see Hatfield et al. 2016 for more detail).

Suckley bumble bee (Bombus suckleyi)

Research needs: *Bombus suckleyi* is a cuckoo bumble bee, dependent upon a bumble bee host

species to complete its life-cycle; thus the disappearance, or increasing rarity of that host would represent a threat to species existence. *B. suckleyi* is dependent on bumble bees that have recently documented range declines. The continued decline of these host species are a severe and permanent threat to continued existence of these cuckoo bumble bees. Efforts to conserve their hosts should be prioritized. While this species has only been documented as reproducing in nests of *B. o. occidentalis* it has been observed in the nests of several other species. More research is needed to determine if *B. suckleyi* could use other species as a successful host would help to better understand this species ecology. Additional life history information would also help to better understand this species' biological needs. This includes important host plants, location and details of overwintering sites, and specific habitat associations.

Inventory needs: Records of this species in California have been quite rare in recent collections. This species would benefit from targeted or more general bumble bee surveys to better understand its distribution throughout the state.

Management needs: Protect known and potential sites from practices, such as livestock grazing, and threats such as conifer encroachment, that can interfere with the habitat requirements of this species and its host (availability of nectar and pollen throughout the colony season and availability of underground nest sites and hibernacula). Efforts to conserve hosts species should be prioritized.

IX. INADEQUACY OF EXISTING REGULATORY MECHANISMS

Current regulations and regulatory mechanisms are wholly inadequate to protect these four species of bumble bees against the immediate threats that they face, including pathogen infection from commercial bees and the use of pesticides such as systemic insecticides. As emerging infectious disease has been implicated as one of the main threats to bumble bees (Evans et al. 2008; Hatfield et al. 2015a; 2015b; 2015c; Goulson & Hughes 2015), and pesticides including systemic insecticides have also been implicated in bumble bee declines (Whitehorn et al. 2012; Gill & Raine 2014; Pisa et al. 2014; Goulson 2015; Rundlöf et al. 2015), existing regulations need to be strengthened in order to adequately protect imperiled bumble bees from threats that, if unaddressed, have the potential to drive these bumble bees to extinction. Inadequacy of regulations to protect bumble bees from these immediate threats are summarized below.

Disease

Due to the immediate and potentially catastrophic effect that emerging infectious disease can have on bumble bee populations, more careful screening for diseases in commercial bees, as well as better management strategies and policy are needed to protect native bees from the threat of pathogen spillover (Graystock et al. 2013b; Sachman-Ruiz et al. 2015). Since small, fragmented, and declining populations are especially susceptible to infectious disease (Fürst et al. 2014), and

disease is already implicated as a likely causal factor of some native bee declines in North America (Cameron et al. 2011a), the emerging body of research summarized in Section V (Factors Affecting Ability to Survive and Reproduce) underscores the inadequacy of existing regulatory mechanisms to protect bumble bees from extinction.

The failing of current local and federal regulatory mechanisms is evidenced not just in their absence but in the continued decline of native bees across North America, including the western bumble bee, most likely caused by the spread of such pathogens that cause disease (Cameron et al. 2011a; Goulson & Hughes 2015). The emerging body of research linking decline of native bumble bees with the spread of pathogens underscores the inadequacy of existing regulatory mechanisms to protect bumble bees from extinction. Disease is a serious threat for bumble bees, as we explain above, because small, fragmented, and declining populations—which exist for all of the species included in this petition—are especially susceptible to infectious disease (Fürst et al. 2014).

Federal Regulations are Inadequate to Protect Wild California Bumble Bees

The Plant Protection Act

The Plant Protection Act (PPA) was passed in 2000 with the stated purpose of preventing the dissemination of plant pests. In order to control and prevent of the spread of plant pests for the protection of agriculture, the environment, and the U.S. economy, the PPA gives the Secretary of Agriculture the authority to facilitate “interstate commerce in agricultural products and other commodities that pose a risk of harboring plant pests or noxious weeds in ways that will reduce...the risk of dissemination of plant pests or noxious weeds. (7 USC § 7701(3))” The PPA authorizes the Secretary of Agriculture to promulgate regulations to prohibit or restrict the interstate movement of any plant pest if the Secretary determines the prohibition is necessary to prevent the dissemination of a plant pest within the U.S. The PPA broadly defines plant pests to include fungi, viruses, infectious agents and other pathogens, and any similar articles “that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product.” Articles such as pathogens and parasites that infect or attack bumble bees cause indirect injury to plants that rely on these bees for pollination.

Although the Act was intended to protect agricultural goods, it could potentially directly or indirectly help control the spread of bumble bee diseases and pathogens. However, it has not done so. Currently, the USDA does not regulate either the disease status or interstate movement of U.S. commercial bumble bees, despite repeated requests to use its authority under the PPA to do so (Xerces Society et al. 2010; Xerces Society et al. 2013, 2014a, 2014b). This lack of regulation is a fact reflected in the absence of bumble bees, or their pathogens, from the list of pests and diseases regulated by USDA APHIS (USDA 2018). There is no indication that this will change in the near future, and so the PPA, which provides for the facilitation of “interstate

commerce in agricultural products,” remains ineffective at slowing the spread of disease from commercial bumble bees to their native counterparts, including the bumble bees listed in this petition, and this inadequacy is reflected in the ongoing spread of disease from commercial to native bumble bees across the United States.

The USDA does regulate the international movement of Canadian bumble bees into the United States. Currently, the USDA allows the common eastern bumble bee (*Bombus impatiens*) and the western bumble bee (*Bombus occidentalis*) to be imported from Canada (7 CFR § 322.5). The USDA recently reviewed a request to allow Hunt's bumble bee (*B. huntii*) to also be imported into the U.S. from Canadian bumble bee production facilities (USDA 2014). The USDA regulations fail to protect the bumble bees included in this petition for two reasons: 1) Commercial colonies are not tested for pathogens upon importation (7 CFR § 322.5), and any pathogens present in commercial bumble bees could spread to bumble bees that visit the same flowers as commercial bumble bees (Graystock et al. 2015b); 2) Commercial bumble bees (*B. impatiens*) are produced both in Canada and the U.S., and colonies produced in the U.S. are also not required to be inspected for any pathogens.

The Honeybee Act

The Honeybee Act (7 USC 281) gives the Secretary of Agriculture the authority to regulate the interstate commerce of honey bees in order to control the spread of bee diseases: “The Secretary of Agriculture is authorized to prohibit or restrict the importation or entry of honeybees and honeybee semen into or through the United States in order to prevent the introduction and spread of diseases and parasites harmful to honeybees, the introduction of genetically undesirable germ plasm of honeybees, or the introduction and spread of undesirable species or subspecies of honeybees and the semen of honeybees.” For example, the USDA uses its authority under the Honeybee Act to prevent movement of honey bees into Hawaii in order to control the spread of honey bee pests like the Varroa mite (summarized in Xerxes Society et al. 2010). However, the Honey bee Act is specific to honey bees, and does not extend authority to the USDA to regulate diseases of managed bumble bees. Thus, the Honeybee Act fails to protect imperiled bumble bees from pathogens harbored by commercial bumble bees that are used throughout North America.

There is clear evidence that honey bees can transmit pathogens to bumble bees (Graystock et al. 2013a, 2013b; Graystock et al. 2015a, 2015b; Fürst et al. 2014; McMahon et al. 2015). However, any indirect protection of bumble bees flowing from regulation of honey bees under the Honeybee Act is limited in scope, and inadequate for protection. First, pathogens that impact the bumble bees may come from multiple sources beyond honey bees; second, the Honeybee Act does not apply to the movement of pollen for use by the commercial bumble bee trade (the risks of this practice are reviewed in Manley et al. 2015); and third, the laws seeking to prevent the spread of disease among honey bees suffer in their lack of uniformity and enforcement. State

laws regulating interstate movement of honey bees vary considerably from state to state (Gegner 2003). For example, Massachusetts requires bees imported into the state to be certified disease free within 60 days (State of Massachusetts 2018), while Minnesota does not have any similar requirements, and only offers fee for service apiary inspections (State of Minnesota 2017). In addition, responsibility for disease control remains with the beekeeper, who should routinely examine colonies for disease as a regular part of his or her management program and do what is necessary when disease is found. Yet there are not clear regulations that determine how often hives should be screened, or for which pathogens. Significantly, there are not consistent, effective mitigative actions for beekeepers to employ upon disease discovery (Graystock et al. 2015a).

California State Regulations Governing Commercial Bumble Bees

The California Department of Food and Agriculture currently allows multiple species of managed, commercial bumble bees to be imported for commercial use in the state – the nonnative common eastern bumble bee (*B. impatiens*) for greenhouse use, and the native Hunt’s bumble bee (*B. huntii*) and yellow faced bumble bee (*B. vosnesenskii*) for open field or greenhouse use. Although the Hunt’s and yellow faced bumble bees are native to California, they are currently produced outside of their native ranges, in facilities that also rear common eastern bumble bees, and thus could be exposed to nonnative pathogens, which they then could spread to wild bumble bees, including the four bumble bees included in this petition. Thus, CDFA’s regulations are currently inadequate to protect these for species of wild bumble bees from the threat they face from pathogen infection from managed bumble bees.

In addition, CDFA routinely allows honey bees to be imported into California for use in open field settings, where pathogens (in particular, RNA viruses) may spill over and infect wild bumble bees.

Although the state of California has passed regulations to protect bees (<https://www.cdfa.ca.gov/plant/pollinators/docs/Regulations-for-Protection-of-Bees.pdf>), these regulations only consider effects of pesticides on honey bees, and how to mitigate those effects, and thus are inadequate to protect these four species of wild bumble bees.

Pesticide Regulations

In June 2014, the US EPA published the *Guidance for Assessing Pesticide Risks to Bees* (U.S. EPA 2014). The guidelines provide recommendations to assist researchers in designing studies to evaluate the risks that pesticides pose to bees. Such studies are in turn used by the EPA to assess risk and determine appropriate regulation. This new guidance document could add new research to the current battery of tests required for pesticides. Still, it fails to address many concerns specific to bumble bees and other native bees. As such, pesticide risk assessments performed by the EPA could underestimate risk to bumble bees and other native bee species. For example, the

guidelines state: “This section summarizes the overall risk assessment process for characterizing the risks of pesticides to honey bees (*Apis mellifera*), which are used as a surrogate species for other *Apis* and non-*Apis* bees and other insect pollinators.” (USEPA 2014). However, the differential physiological, biological and behavioral differences of honey bees from other native bees (Osborne 2012; Vaughan et al. 2014) make honey bees poor surrogates for assessing toxicity of pesticides to bumble bees. In particular, the life-history of many non-*Apis* species (including bumble bees) including nest site location, foraging time and distance, food sources, life-cycle, and size may expose bumble bees and other non-*Apis* bee species to alternative exposure routes not considered when tests are only applied to honey bees (Wisk et al. 2014). Furthermore, unlike honey bees, bumble bees do not process pollen or nectar before feeding it to immature bees, which exposes developing bumble bees to a greater concentration of pesticides than honey bees—whose larvae are fed primarily royal jelly (processed secretions from nurse bees), and perhaps a small amount of pollen and nectar (Fischer & Moriarty 2011). For example, bumble bees appear to be affected by dietary concentrations of the systemic insecticide imidacloprid at levels lower than honey bees, perhaps because, unlike honey bees, bumble bees do not metabolically degrade imidacloprid effectively while continuing to ingest it (Cresswell et al. 2014). This range of exposure routes was not considered during the EPA’s registration process for neonicotinoids (USEPA 2012). Thus, the current mechanism that regulates the safety of pesticides to bees fails to take into account attributes specific to bumble bees and is therefore inadequate to protect bumble bees from the threat of pesticides.

Further demonstrating how current federal pesticide regulation fails to address risks to bumble bees is underscored by the fact that the EPA has not adequately responded to the numerous bumble bee kills caused by on-label, legal uses of neonicotinoid insecticides to *Tilia* trees. Specifically, in most of these cases, large numbers of bumble bees were killed by the legal applications of neonicotinoid insecticides; in one case more than 50,000 bumble bees were killed in a single incident (Hilburn 2013). Since June of 2013, there have been numerous completed investigations into bumble bee kills that occurred in Oregon. Responding to the risks associated with two of the incidents, U.S. EPA halted foliar use of nitroguanidine neonicotinoids on non-agricultural plants (including *Tilia* trees) while plants are flowering (US EPA 2013). However, because neonicotinoid insecticides can remain in plant tissue for weeks to months, and in some cases even years (Mach et al 2017), this change in regulation remains inadequate to protect bumble bees from nitroguanidine neonicotinoids applied to bumble bee-attractive plants prior to flowering. No federal action has been taken in response to the risks demonstrated by five other bee-kill incidents in Oregon caused by non-foliar, systemic applications weeks to months prior to flowering. Of these five incidents, only one was linked with an off-label use. The state of Oregon did respond to this risk by halting all uses of nitroguanidine neonicotinoids to *Tilia* trees within the state of Oregon (ODA 2015). However, not all imperiled bumble bees listed in this petition have a range that includes the state of Oregon, and therefore are not protected by this state’s

regulation. Even after the Oregon Department of Agriculture wrote to EPA to point out the inadequacy of the federal regulation, the EPA did not take action to protect bumble bees from long-term residues of systemic insecticides in woody plants such as *Tilia*.

An additional failure of the federal regulations to protect imperiled bumble bees from the threat of pesticides is that the U.S. EPA's Office of Pesticide Program conducts chemical-specific risk assessments for bees. Yet, research has begun to elucidate threats that pesticide mixtures pose to bees. While the majority of studies have been conducted on honey bees, these studies demonstrate an area of significant uncertainty that could lead to an underestimation of risk to other species of bees. For example, there can be different risks between active ingredients and full formulations (Mullin et al. 2015). There are also additive and synergistic effects between chemicals that might be found jointly in tank mixes or in the field. For example, research has raised concern for synergistic effects of the combination of ergosterol biosynthesis inhibiting fungicides and pyrethroids (Vandame and Belzunces 1998). Neonicotinoids are also known to be additively or synergistically toxic when they occur together (Andersch et al. 2010). The findings by Zhu et al. (2014) led the researchers to recommend that pesticide mixtures in pollen be evaluated by adding their toxicities together until complete data on interactions can be accumulated. Further, a recent study by Hladik et al. (2015) showed that within a single sample that non-*Apis* bees are exposed to mixtures of several pesticides, including neonicotinoids, pyrethroids, and fungicides. This provides clear evidence that native bees are exposed to multiple pesticides in their foraging bouts, yet, because of a lack of appropriate regulatory mechanisms and testing protocols, the EPA does not understand how exposure to multiple pesticides affects bumble bees – despite evidence that there are significant deleterious effects (See references above). Current EPA risk assessment regulations for pesticide effects on bees do not consider additive, or synergistic effects of pesticides, and are therefore inadequate to protect bumble bees from the threat of pesticides.

In summary, it is clear that 1) different species of bees have different responses to different insecticides; 2) current regulations for insecticide approval from the EPA only consider the effects of insecticides on honey bees – which are used as a surrogate for non-*Apis* bees; 3) the EPA has not adequately responded to a known and realized threat that nitroguanidine neonicotinoids applied to cosmetic plantings pose to bees; 4) EPA does not address the known synergistic and additive effect of multiple pesticides, despite evidence that bees are exposed to multiple chemicals in their foraging bouts. As such, current regulatory mechanisms and testing protocols for pesticides are inadequate to protect the four species of bumble bees in this petition from the widespread and prophylactic use of insecticides that are highly toxic to them.

X. AVAILABILITY AND SOURCES OF INFORMATION

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Personal Communications

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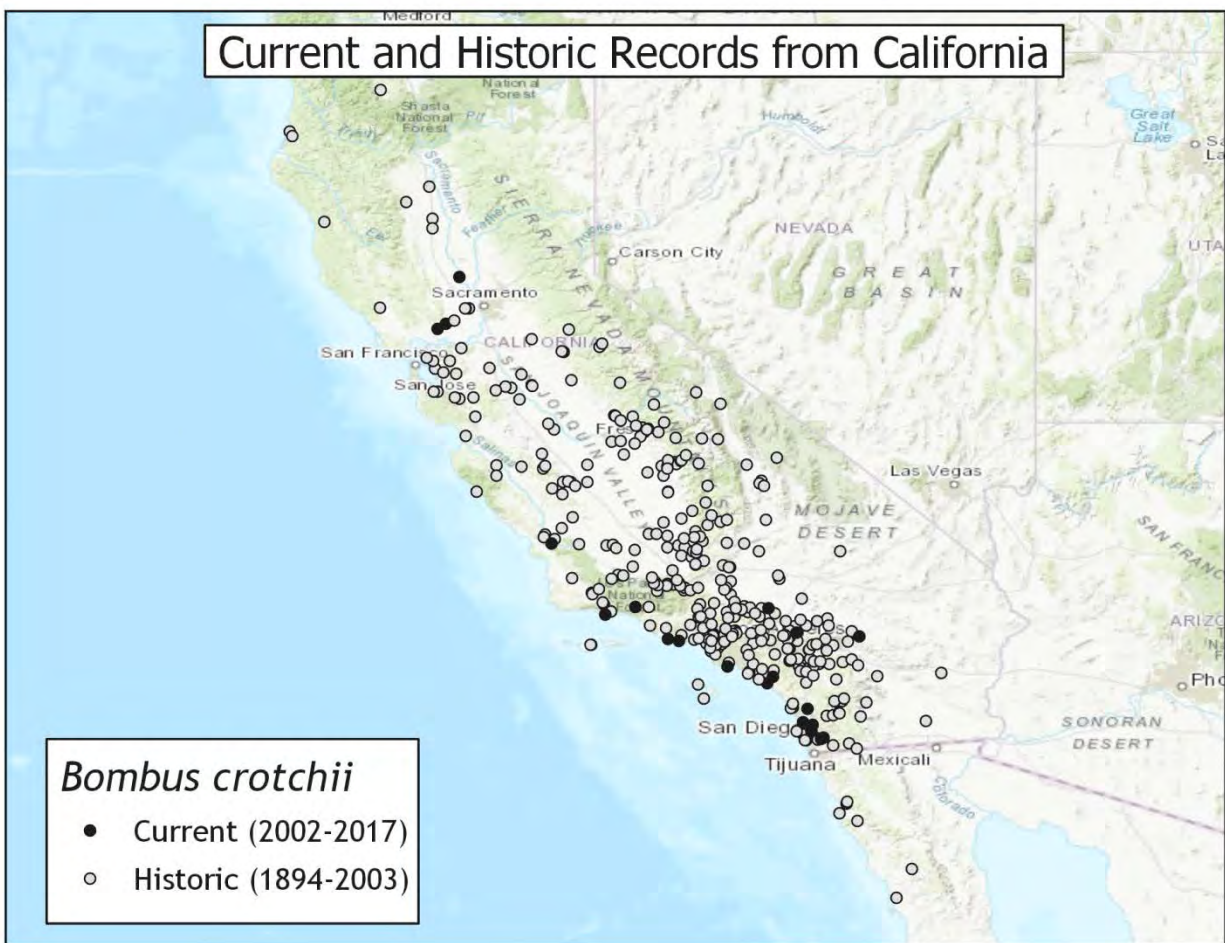
with Sarina Jepsen, Xerces Society.

Thorp, R. W. 2014. Professor emeritus, University of California, Davis. Personal communication with Sarah Foltz Jordon, Xerces Society.

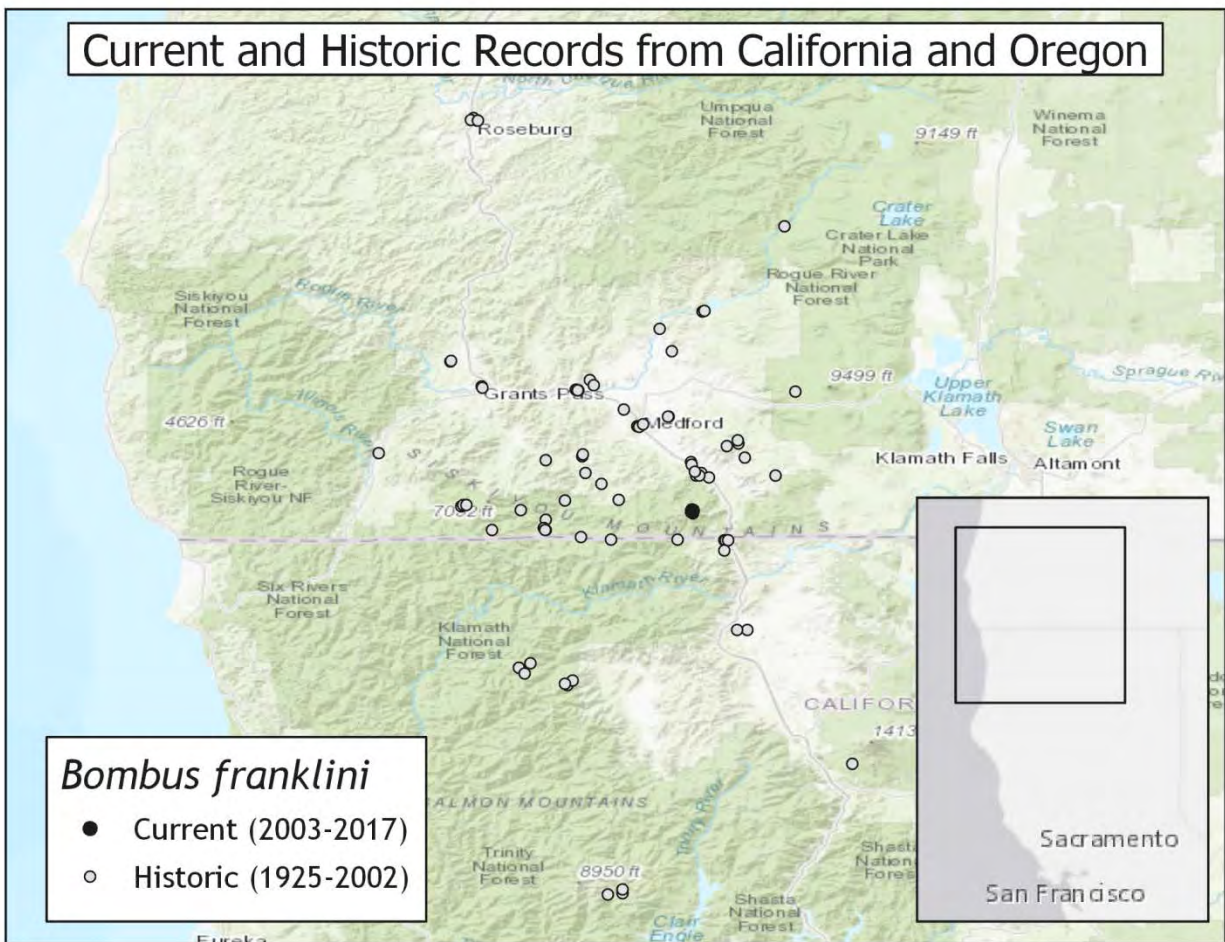
Thorp, R. W. 2017. Professor emeritus, University of California, Davis. Personal communication with Rich Hatfield, Xerces Society. 13 March 2017.

XI. DETAILED DISTRIBUTION MAPS

Crotch bumble bee (*Bombus crotchii*) Global Distribution



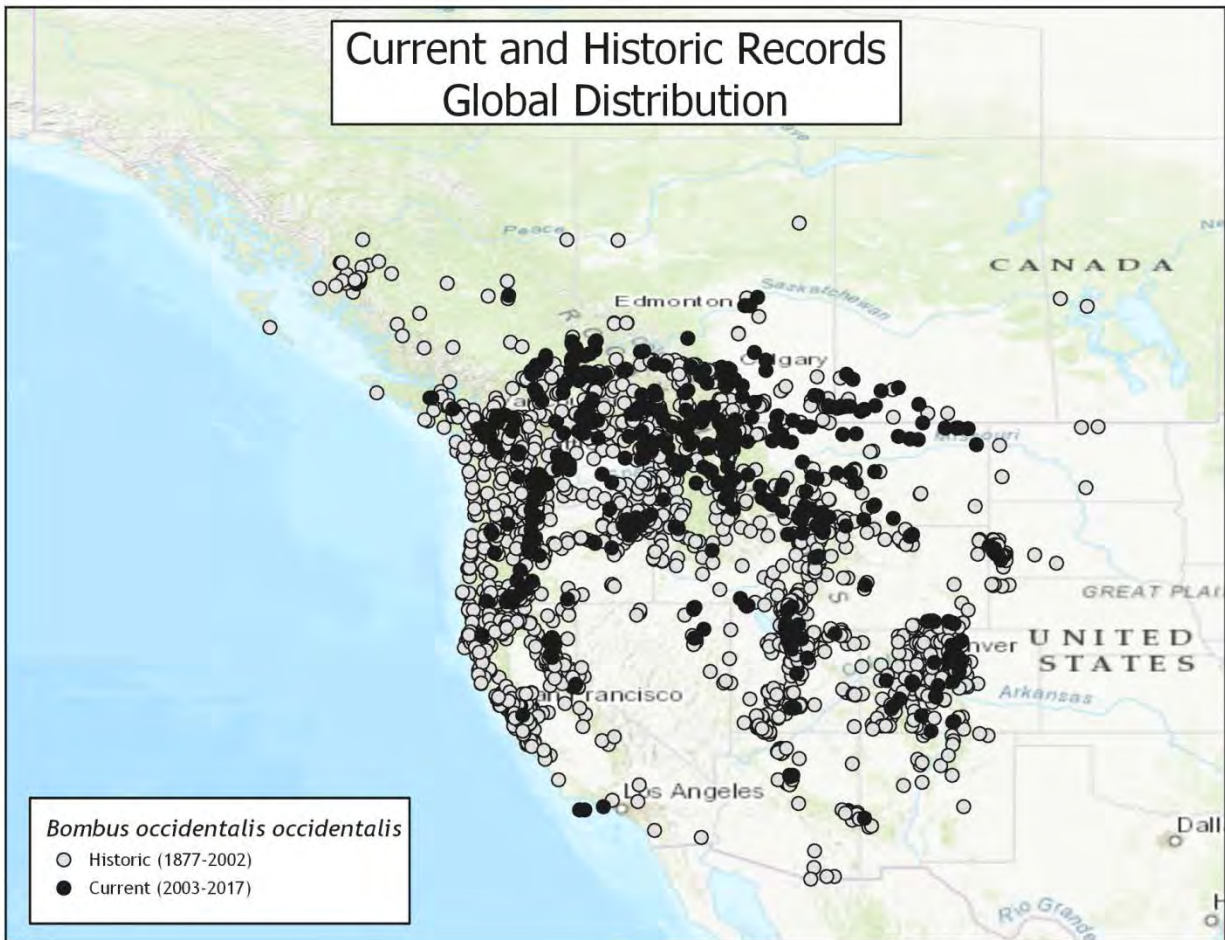
Franklin's bumble bee (*Bombus franklini*) Global Distribution



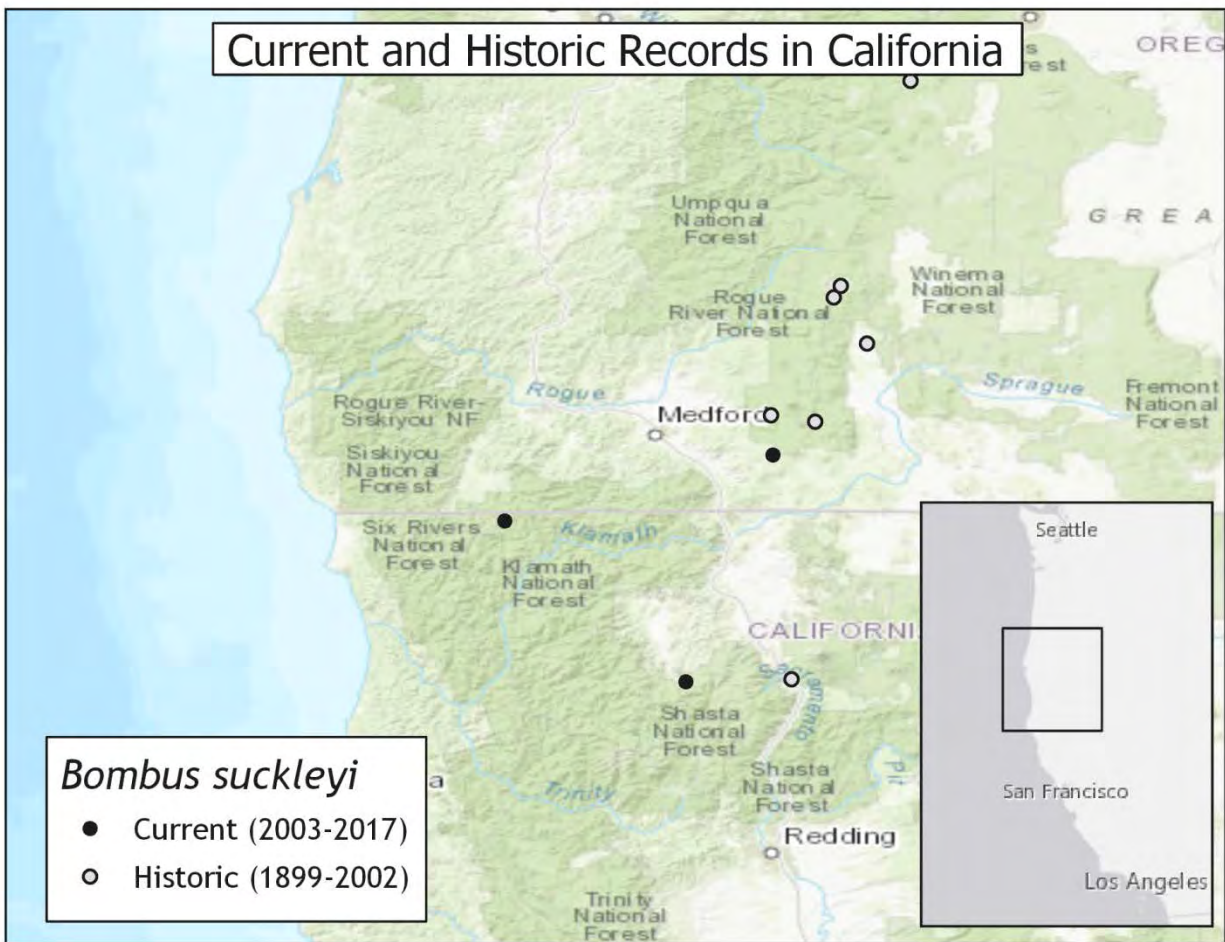
Western bumble bee (*Bombus occidentalis occidentalis*) California Distribution



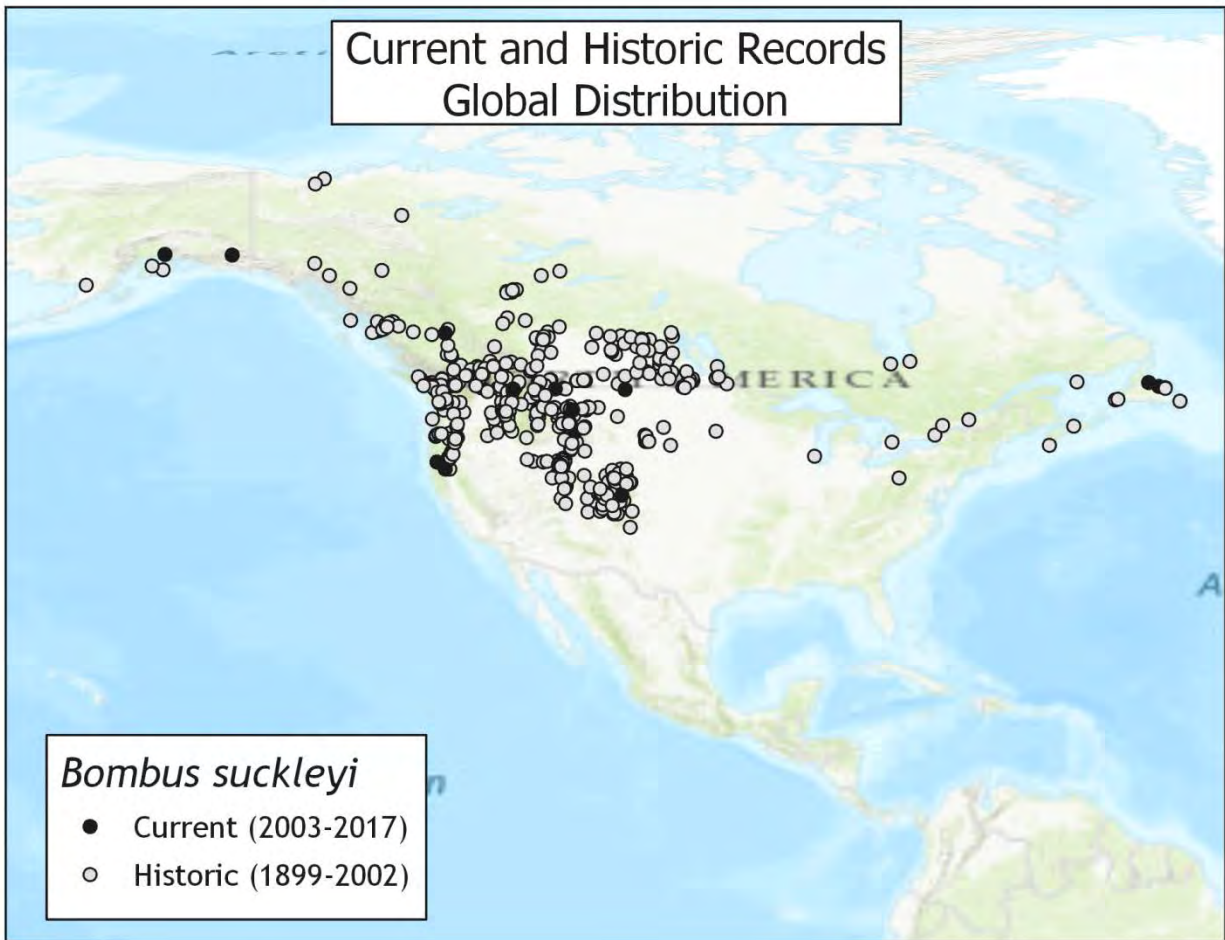
Western bumble bee (*Bombus occidentalis occidentalis*) Global Distribution



Suckley Cuckoo Bumble Bee (*Bombus suckleyi*) California Distribution



Suckley Cuckoo Bumble Bee (*Bombus suckleyi*) Global Distribution





ATTORNEYS AT LAW

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October 25, 2018

Melissa Miller-Henson
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090
fgc@fgc.ca.gov

Re: Petition to List Crotch bumble bee, Franklin's bumble bee, Suckley cuckoo
bumble bee, and Western bumble bee

Dear Acting Executive Director Miller-Henson:

I am writing on behalf of Wonderful Orchards with respect to the above-referenced petition filed with the Fish and Game Commission by The Xerces Society and others.

Under Fish and Game Code section 2073 and California Code of Regulations, title 14, section 670.1(b), the Commission has 10 days to determine if the petition is complete and refer it to the Department. The petition is incomplete on its face, and, therefore, the Commission should return it to the petitioners pursuant to California Code of Regulations, title 14, section 670.1(b).

The petition is deficient because the California Endangered Species Act (CESA) extends to "native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant." Cal. Fish & Game Code § 2062 (definition of endangered species); *see also* Cal. Fish & Game Code §§ 2067, 2068. It does not extend to insects. *See* Cal. Atty. Gen. Op. 98-105 ("Insects are ineligible for listing as a threatened or endangered species under the California Endangered Species Act").

Because petitioners seek to list a class of life that is not among those eligible for listing, the petition is deficient on its face and must be rejected.

Sincerely,

A handwritten signature in blue ink, appearing to read 'P. S. Weiland', is written over the typed name.

Paul S. Weiland
Nossaman LLP

cc: Chuck Bonham, Director of the Department of Fish and Wildlife
Mike Yaun, Counsel to the Fish and Game Commission

2018 DEC -5 AM 8:15

Memorandum

Date: December 5, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: Request for 30-day Extension, Bumble bee (*Bombus spp.*) Petition

The California Department of Fish and Wildlife (Department) requests a 30-day extension of time pursuant to Fish and Game Code Section 2073.5 to allow the Department additional time to analyze and evaluate the petition to list Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) under the California Endangered Species Act and to complete the evaluation report. This extension would change the due date of the Department's evaluation report from 90 days, due January 24, 2019, to 120 days, due on February 23, 2019.

If you have any questions or need additional information, please contact Kari Lewis, Wildlife Branch at (916) 445-3789.

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California Fish and Game Commission

NOTICE OF FINDINGS

Humboldt Marten
(*Martes caurina humboldtensis*)

NOTICE IS HEREBY GIVEN that the California Fish and Game Commission (Commission), at a meeting in Fortuna, California on August 23, 2018, found pursuant to Fish and Game Code Section 2075.5, that the information contained in the petition to list Humboldt marten (*Martes caurina humboldtensis*) and other information in the record before the Commission, warrants adding the Humboldt marten to the list of endangered species under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (see also Cal. Code Regs., tit. 14, § 670.1, subsec. (i).).

NOTICE IS ALSO GIVEN that, at its December 13, 2018 meeting in Oceanside, California, the Commission adopted the following findings outlining the reasons for its determination.

I. Background and Procedural History

Petition History

The Environmental Protection Information Center and the Center for Biological Diversity, as joint petitioners, submitted a “Petition to List Humboldt Marten (*Martes caurina humboldtensis*) as an Endangered Species under the California Endangered Species Act” (Petition) to the Commission on June 8, 2015. Commission staff transmitted the petition to the California Department of Fish and Wildlife (Department) pursuant to Fish and Game Code Section 2073 on June 18, 2015, and published a formal notice of receipt of the petition on July 24, 2015 (Cal. Reg. Notice Register 2015, No. 30-Z, p. 1237).

On November 11, 2015, the Department transmitted to the Commission its evaluation of the petition: “Evaluation of the Petition from the Environmental Protection Information Center and the Center for Biological Diversity to List the Humboldt Marten (*Martes caurina humboldtensis*) as Endangered Under the California Endangered Species Act” (petition evaluation). The Commission formally received the Department’s petition evaluation at a meeting on December 10, 2015 in San Diego, California (Fish & G. Code, §§ 2073.5 & 2074.2; Cal. Code Regs., tit. 14, § 670.1, subsec. (d) & (e)). At its public meeting on February 11, 2016, in Sacramento, California, the Commission considered the petition, the Department’s petition evaluation and recommendation, and comments received. The Commission determined that sufficient information existed to indicate the petitioned action may be warranted and accepted the petition for consideration. Upon publication of the Commission’s notice of its findings, the Humboldt marten was designated a candidate species on February 26, 2016 (Cal. Reg. Notice Register 2016, No. 9-Z, p. 290).

Status Review Overview

The Commission’s action designating the Humboldt marten as a candidate species triggered the Department’s process for conducting a status review to inform the Commission’s decision on whether to list the species. At its scheduled public meeting on February 8, 2017, in Rohnert Park, California, the Commission granted the Department a six-month extension to complete the status review and facilitate external peer review. The Department transmitted to the

Commission the Department's report to the Commission titled "A Status Review of Humboldt Marten (*Martes caurina humboldtensis*) in California" (Status Review) on June 20, 2018. And on June 21, 2018, the Commission formally received the Department's Status Review. On August 23, 2018, in Fortuna, California, the Commission found that the information contained in the petition to list the Humboldt marten and the other information in the record before the Commission warrants listing the Humboldt marten as an endangered species under the California Endangered Species Act.

Species Description

Martens have yellowish to dark brown fur with a contrasting lighter chest patch, the long, sleek body form typical of members of the mustelid (weasel) family, a relatively long bushy tail, and typically weigh 0.4-1.25 kilograms (0.88-2.76 pounds). Humboldt martens in California have subtle physiological differences from Sierra martens (*M. caurina sierra*) which also occur in California. Within California, Humboldt martens historically occupied near-coastal forests from Sonoma County north to the Oregon border; however, the current distribution within the state is limited to two small areas of Del Norte, northern Humboldt, and western Siskiyou counties, a small fraction of the historical range.

Humboldt martens breed once per year and females typically first give birth at two years of age and reach peak productivity from three to five years of age, although not all females attempt to breed each year. Kits are born in natal dens where they remain completely dependent on the mother for seven to eight weeks, after which the mother typically moves them to one or a series of maternal dens until the kits disperse, typically in late summer. Dispersal distances of Humboldt martens are largely unknown, but likely similar to distances of other North American martens, which typically average less than 15 kilometers (9.3 miles). Available information suggests that home ranges of Humboldt martens fall within the Sierra marten home range sizes in California of 70 – 733 hectares (173 – 1,811 acres).

In California, Humboldt martens subsist on a diet composed primarily of small mammals (squirrels, chipmunks, and voles) and birds, and to a lesser degree reptiles, fruits, and insects. Known predators of martens in North America include bobcats (*Lynx rufus*), coyotes (*Canis latrans*), foxes (*Vulpes vulpes*), fishers (*Pekania pennanti*), and great-horned owls (*Bubo virginianus*), with bobcats being the primary predator of Humboldt martens in California.

Humboldt martens in California are associated with two distinct habitat types: late-successional coastal redwood, Douglas-fir (*Pseudotsuga menziesii*), and mixed conifer forests with dense mature shrub layers; and serpentine habitats with variable tree cover, dense shrub cover, and rock piles and outcrops. Consistent among the two habitat types is the requirement for denning, resting, escape cover, and shelter structures. In late-successional forests, structures used include tree cavities, defects, snags, and logs; while in serpentine habitats rock piles and outcrops are commonly used in addition to tree structures. Humboldt martens also rely on extensive stands of dense shrub cover in both habitat types.

II. Statutory and Legal Framework

The Commission, as established by the California Constitution, has exclusive statutory authority under California law to designate endangered, threatened, and candidate species under CESA. (Cal. Const., art. IV, § 20, subd. (b); Fish & G. Code, § 2070.) The CESA listing process for the Humboldt marten began in the present case with the Petitioners' submittal of

the petition to the Commission on June 8, 2015. The regulatory and legal process that ensued is described in some detail in the preceding section above, along with related references to the Fish and Game Code and controlling regulation. The CESA listing process generally is also described in some detail in published appellate case law in California, including:

- *Mountain Lion Foundation v. California Fish and Game Commission* (1997) 16 Cal.4th 105, 114-116;
- *California Forestry Association v. California Fish and Game Commission* (2007) 156 Cal.App.4th 1535, 1541-1542;
- *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4th 597, 600;
- *Natural Resources Defense Council v. California Fish and Game Commission* (1994) 28 Cal.App.4th 1104, 1111-1116;
- *Central Coast Forest Association v. California Fish and Game Commission* (2017), 2 Cal. 5th 594, 597-598; and
- *Central Coast Forest Association v. California Fish and Game Commission* (2018) 18 Cal. App. 5th 1191, 1196-1197.

The “is warranted” determination at issue here for Humboldt marten stems from Commission obligations established by Fish and Game Code Section 2075.5. Under this provision, the Commission is required to make one of two findings for a candidate species at the end of the CESA listing process; namely, whether listing a species is warranted or is not warranted. Here, with respect to the Humboldt marten, the Commission made the finding under Section 2075.5(e)(2) that listing the species as endangered is warranted.

The Commission was guided in making these determinations by statutory provisions and other controlling law. The Fish and Game Code, for example, defines an endangered species under CESA as “a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease.” (Fish & G. Code, § 2062.) Similarly, the Fish and Game Code defines a threatened species under CESA as “a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter.” (*Id.*, § 2067.)

The Commission also considered Title 14, Section 670.1, subsection. (i)(1)(A), of the California Code of Regulations in making its determination regarding Humboldt marten. This provision provides, in pertinent part, that a species shall be listed as endangered or threatened under CESA if the Commission determines that the species’ continued existence is in serious danger or is threatened by any one or any combination of six factors:

1. Present or threatened modification or destruction of its habitat;
2. Overexploitation;
3. Predation;
4. Competition;

5. Disease; or
6. Other natural occurrences or human-related activities.

Fish and Game Code Section 2070 provides similar guidance. This section provides that the Commission shall add or remove species from the list of endangered and threatened species under CESA only upon receipt of sufficient scientific information that the action is warranted. Similarly, CESA provides policy direction not specific to the Commission per se, indicating that all state agencies, boards, and commissions shall seek to conserve endangered and threatened species and shall utilize their authority in furtherance of the purposes of CESA. (Fish & G. Code, § 2055.) This policy direction does not compel a particular determination by the Commission in the CESA listing context. Nevertheless, “[l]aws providing for the conservation of natural resources’ such as the CESA ‘are of great remedial and public importance and thus should be construed liberally.’” (*California Forestry Association v. California Fish and Game Commission*, supra, 156 Cal. App.4th at pp. 1545-1546, citing *San Bernardino Valley Audubon Society v. City of Moreno Valley* (1996) 44 Cal.App.4th 593, 601; Fish & G. Code, §§ 2051, 2052.)

Finally, in considering these factors, CESA and controlling regulations require the Commission to actively seek and consider related input from the public and any interested party. (See, e.g., Id., §§ 2071, 2074.4, 2078; Cal. Code Regs., tit. 14, § 670.1, subsec. (h).) The related notice obligations and public hearing opportunities before the Commission are also considerable. (Fish & G. Code, §§ 2073.3, 2074, 2074.2, 2075, 2075.5, 2078; Cal. Code Regs., tit. 14, § 670.1, subsec. (c), (e), (g), (i); see also Gov. Code, § 11120 et seq.) All of these obligations are in addition to the requirements prescribed for the Department in the CESA listing process, including an initial evaluation of the petition and a related recommendation regarding candidacy, and a review of the candidate species’ status culminating with a report and recommendation to the Commission as to whether listing is warranted based on the best available science. (Fish & G. Code, §§ 2073.4, 2073.5, 2074.4, 2074.6; Cal. Code Regs., tit. 14, § 670.1, subsec. (d), (f), (h).)

III. Factual and Scientific Bases for the Commission’s Final Determination

The factual and scientific bases for the Commission’s determination that designating the Humboldt marten as an endangered species under CESA is warranted are set forth in detail in the Commission’s record of proceedings including the Petition, the Department’s Petition Evaluation Report, the Department’s status review, written and oral comments received from members of the public, the regulated community, tribal entities, the scientific community and other evidence included in the Commission’s record of proceedings.

The Commission determines that the continued existence of the Humboldt marten in the State of California is in serious danger or threatened by one or a combination of six factors as required by the California Code of Regulations Title 14, Section 670.1, subsection (i)(1)(A):

1. Present or threatened modification or destruction of its habitat;
2. Overexploitation;
3. Predation;
4. Competition;

5. Disease; or
6. Other natural occurrences or human-related activities.

The Commission also determines that the information in the Commission's record constitutes the best scientific information available and establishes that designating the Humboldt marten as an endangered species under CESA is warranted. Similarly, the Commission determines that the Humboldt marten, is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease.

The items highlighted here and detailed in the following section represent only a portion of the complex issues aired and considered by the Commission during the CESA listing process for the Humboldt marten. Similarly, the issues addressed in these findings represent some, but not all of the evidence, issues, and considerations affecting the Commission's final determination. Other issues aired before and considered by the Commission are addressed in detail in the record before the Commission, which record is incorporated herein by reference.

Background

The Commission bases its "is warranted" finding for the Humboldt marten most fundamentally on the fact that that historic trapping and habitat loss has extirpated Humboldt martens from significant portions of the species' range. Additionally, historic and ongoing habitat loss, habitat fragmentation, and associated elevated predation rates, coupled with ongoing threats to the species from a small population size, disease, toxicants, wildfire, and climate change place the remaining California Humboldt marten population at risk of extinction.

Threats

Present or Threatened Modification or Destruction of Habitat

Modification to the structure and landscape configuration of Humboldt marten habitat can negatively impact survival, reproduction, and population connectivity of the species (CDFW Status Review 2018). Timber harvest and other silvicultural treatments of older forests; wildland fires, salvage logging, and fuel reduction projects; development of coastal forests for human settlement; and the clearing of forests for the cultivation of cannabis can all lead to loss, degradation, and fragmentation of Humboldt marten habitat (CDFW Status Review 2018). The USFWS (2015) Humboldt marten species report concluded habitat loss and degradation from historical and current logging is the most plausible reason the marten is absent from much of its historical range, noting most of the remaining suitable habitat is located on federally owned land (Zielinski et al. 2001).

Forest conditions in the range of the Humboldt marten today have largely been shaped by a legacy of over 100 years of logging and timber management (CDFW Status Review 2018). It is estimated that the area of old growth conifer forest in the Pacific Northwest has been reduced by 72 percent since European settlement (Strittholt et al. 2006), and only 10 percent of the historical range of redwood forests remains in old growth stands today (Fox 1996). While timber harvest continues in the area, the logging of old growth forest stands on private and public lands has dramatically slowed from peaks in the second half of the 20th Century. Today, 33 percent of remaining old forest on federal lands in the Northwest Forest Plan area is fully protected from harvest, and 80 percent is afforded some level of management protection

(Strittholt et al. 2006). The rate of timber harvest on private lands in the area has declined in recent decades due to more restrictive regulations and market conditions (CDFW Status Review 2018). Harvest on federal lands declined sharply following implementation of the Northwest Forest Plan in 1994 (Strittholt et al. 2006). The area of older forests (OGSI-200) on federal lands in the coastal and Klamath mountains of northwestern California declined 8.4 percent from 1993-2012, largely due to wildfires, while the area of older forests on non-federal lands increased 1.3 percent, despite losses to timber harvest (Davis et al. 2015). While recent losses of old forest stands in the Humboldt marten range have been relatively small, forest stands degraded and fragmented from historical logging will take decades to recover dense ericaceous shrub layers and centuries to recruit the large tree structures needed to restore high quality Humboldt marten habitat conditions (Slauson and Zielinski 2009).

Wildfires and associated salvage logging of damaged trees can threaten the already small Humboldt marten population by reducing and fragmenting the remaining habitat (Slauson and Zielinski 2004). On federal lands in north coastal California there was a net 5.6 percent loss of old forest habitat over the period of 1993-2012 despite gains from forest succession; this loss was primarily attributed to wildfires (Davis et al. 2015). Connectivity between old forest stands was found to have decreased over the same period, mainly due to fragmentation caused by wildfires (Davis et al. 2015). In southwest Oregon the 2002 Biscuit Complex Fire burned 229,388 hectares (566,829 acres) and the 2017 Chetco Bar Fire burned an additional contiguous 77,346 hectares (191,125 acres) between the southern Oregon Humboldt marten population and the California – Oregon border population, perhaps functionally isolating the two populations from one another (CDFW Status Review 2018).

Vegetation management activities designed to reduce the risk of wildland fire by removing shrubs, reducing canopy cover, and removing snags and logs impact martens by removing required habitat structures and shrub cover which can reduce prey abundance and improve access for competitors (USFWS 2015). On federal lands, salvage logging and fuels management activities can occur on all land allocation categories except for wilderness areas (Hamlin et al. 2010), and on private lands salvage logging plans are exempt from normal review procedures and are automatically approved by the California Department of Forestry and Fire Protection (CAL FIRE) through a ministerial process if all applicable Forest Practice Rules are abided (Title 14, CCR §1052).

Thinning and fuel reduction management can fragment and degrade Humboldt marten habitat; however, severe wildfires can also substantially fragment and degrade marten habitat (CDFW Status Review 2018). Implementing fuel reduction treatments (mechanical or prescribed fire) on as little as 10-20 percent of the landscape significantly reduced the probability of Pacific marten habitat loss from wildfires (Moriarty et al. 2017). Modelling has shown that prescribed fire and mechanical thinning fuel reduction treatments in and surrounding marten habitat would limit the spread of large wildfires; treating only the landscape outside of predicted marten habitat was shown to be equally as effective as conducting fuel reduction treatments in marten habitat, so long as at least 30 percent of the landscape is available for treatment (Credo 2017). However, modeling also showed that excluding fuel treatments from all predicted marten habitat in watersheds increased the risk of net loss of marten habitat from wildfires over time (CDFW Status Review 2018). Management for the creation and conservation of resilient Humboldt marten habitat will require land managers to carefully plan for both habitat patches and fuel reduction zones over the landscape over time.

Habitat loss and degradation from human settlement and residential development rapidly increased in the 1850s when pioneers of European descent began harvesting lumber, farming, mining, and fishing along California's north coast (Del Norte County Community Development Department 2003). Since that time minor portions of the historical range have been converted from forests to urban areas, primarily in and around Crescent City, Humboldt Bay, Fortuna, Fort Bragg, and Willits; and much of the historical range south of Del Norte County has been parceled and occupied by very low density housing (≤ 1 housing unit/16 hectares [40 acres])(Cal Fire 2010). However, the core population area currently occupied by Humboldt martens in California is almost entirely unoccupied by humans, with the exception of some areas adjacent to the Klamath River on Yurok Tribal lands (Cal Fire 2010). Low-density human occupancy does not necessarily result in the loss of mature forest habitat favored by martens, but human occupancy likely renders such areas unsuitable for martens (CDFW Status Review 2018). Impacts from the presence of humans, livestock, and pets, the construction and use of rural roads, and the use of household pesticides can frighten wildlife away, introduce novel predators, diseases, and toxicants, deplete prey populations, and degrade and fragment habitat (Merenlender et al. 2009). While further human development of the historical range will likely continue into the future, a modeled analysis of future land conversions under several human population growth scenarios found the probability of significant conversions to urban and agricultural uses in the northwest California coast region to be very low for the remainder of this century (Sleeter et al. 2017).

Large-scale marijuana cultivation in remote forests throughout California has increased since the mid-1990s, coinciding with the 1996 passage of Proposition 215, the Compassionate Use Act of 1996 (Health & Safety Code, § 11362.5), which allowed the legal use and growth of marijuana for certain medical purposes (Bauer et al. 2015). Humboldt and Del Norte counties are known centers of legal and illegal cannabis cultivation in California due to the remote and rugged nature of the land and abundant water sources (National Drug Intelligence Center 2007, Bauer et al. 2015). The recent passage of California Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, further decriminalized the adult use of cannabis for recreational use beginning in January 2018 (CDFW Status Review 2018). In 2017, the California Legislature approved the Medical and Adult Use of Cannabis Regulation and Safety Act which provides state and local governments the authority to regulate the production and processing of cannabis products, including regulation of the environmental impacts from growing cannabis (CDFW Status Review 2018). The impact these new laws will have on the conversion of forests for the production of cannabis is uncertain (CDFW Status Review 2018). A recent study found the majority of cannabis cultivation sites in Humboldt County were located >500 meters (1,640 feet) from the nearest road, indicating cultivation may contribute to landscape fragmentation, although the amount of land area under cannabis cultivation was found to be minor, at less than 1 percent of the land under organic crop cultivation (Bustic and Brenner 2016). The extent to which land clearing for legal and illegal cannabis cultivation contributes to Humboldt marten habitat loss and degradation is unknown.

Large Tree Structures and Tree and Shrub Canopy Cover

Both large tree structures and tree and shrub canopy cover are requisite Humboldt marten habitat features (CDFW Status Review 2018). These requisite features are likely particularly at risk from habitat loss and degradation resulting from the above activities (CDFW Status Review 2018).

The large tree structures used by Humboldt martens for resting, denning, and cover from predators were typically removed during timber harvests, both during initial harvests of original-growth forests as well as through harvest of “residual” old growth trees in subsequent entries in second-growth forests (Slauson et al. 2010, USFWS 2015). Delheimer (2015) compared the availability of potential Humboldt marten rest site structures (large trees, snags, logs, slash piles, platforms, and cavities) in occupied and unoccupied second-growth forest study sites in northern California and found there were significantly more structures available in the occupied sites. Large diameter trees, snags, and downed logs with cavities and platforms used as resting and denning structures by Humboldt martens are significantly reduced in second-growth forest stands compared to old growth stands (Slauson et al. 2003, Slauson et al. 2010). In Douglas-fir stands these structures begin to rapidly accumulate at 200-350 years of age (Franklin et al. 2002) and in second-growth stands it is estimated that it could take more than 200 years to recruit such structures (Slauson et al. 2010). The minimum age of live and dead tree structures used for resting by martens in north coastal California was 176 and 254 years, respectively (Slauson and Zielinski 2009).

Other silvicultural treatments also reduce marten habitat structures (CDFW Status Review 2018). For example, thinned stands (n=26) have been found to have significantly fewer potential resting and denning structures than Humboldt marten-occupied stands (n=7) (Slauson et al. 2010). Conversely, retention of woody structures during timber harvests (platforms in large trees, large diameter snags, slash piles, large diameter cull logs) appears to increase the probability of retaining marten populations in harvested forests (Slauson et al. 2010, Delheimer 2015).

Humboldt marten habitat suitability is reduced under most of the commonly used timber harvest methods, both through overstory canopy cover reduction and through loss of dense ericaceous shrub layers (Allgood 1996, USFWS 2015). Shrub layers can be destroyed or degraded through conifer stand management which favors trees over shrubs (such as mechanical brush clearing and application of herbicides that target shrub species), and through the competitive exclusion of densely planted conifers which shade out understory shrubs (Franklin et al. 2002, Slauson et al. 2010). Under the Z'berg-Nejedly Forest Practice Act, even-aged silvicultural methods on industrial north coast timberlands may completely eliminate post-harvest canopy cover in clear cuts over areas of up to 16 hectares (40 acres). In practice, openings in Green Diamond Resources Company even-aged harvest units average approximately 6 hectares (15 acres) (Green Diamond Resource Company 2017). Such conditions, which are typically avoided by Pacific marten (Slauson 2017), persist for years until the regenerated stand achieves suitable canopy closure (CDFW Status Review 2018).

Shrub cover has been found to be more patchily distributed in thinned stands than in old growth stands on federal forest lands (Slauson et al. 2010). Dense regenerating conifer stands that were thinned were found to regenerate moderately dense shade-tolerant native species shrub layers within 15-30 years following thinning; however, shrub cover remained significantly lower than levels found in the old growth redwood stands used by Humboldt martens (Slauson et al. 2010). Given relatively short harvest rotations, typically less than 60 years (USDA 1992, Green Diamond Resource Company 2012, Yurok Tribal Forestry 2012) in the coastal forests of northern California, overstory conditions suitable for martens are likely to exist on only a proportion of the intensively managed landscape at any given time (CDFW Status Review 2018).

Slauson et al. (2010) found that shrub flowering and fruiting are greatly reduced in stands thinned within the prior 30 years compared to stands occupied by martens. Only 38 percent of thinned stands were observed with a fruiting or flowering shrub component, compared to fruiting or flowering in 100 percent of old forest stands occupied by Humboldt martens. In addition to directly providing food for martens, fruiting shrubs support greater densities of marten prey animals such as small mammals, hornets and migratory birds (Slauson et al 2010).

Vegetation management activities designed to efficiently produce timber and reduce the risk of wildland fire by removing shrubs, reducing canopy cover, and removing snags and logs may negatively impact martens by removing required habitat structures and by removing shrub cover which can reduce prey abundance and improve access for competitors and larger-bodied predators such as bobcats.

Large-scale Habitat Fragmentation

Forest fragmentation also threatens Humboldt marten individuals and populations (CDFW Status Review 2018). Male and female Pacific martens in the Sierra Nevada avoided crossing open ski runs between forest patches wider than 18 meters (60 feet) and 13 meters (43 feet) respectively in the Sierra Nevada mountains (Slauson 2017). Individuals may be forced to move over greater distances to acquire food in fragmented landscapes, increasing their energy costs and exposing them to more predators. Populations may be impacted by reducing the likelihood of successful juvenile dispersal and the ability of breeding individuals to move safely between population areas (CDFW Status Review 2018). Fragmented habitat conditions exist throughout much of the Humboldt marten's historical and current range, and the four extant marten populations in coastal California and Oregon appear to be isolated from one another by unsuitable habitat degraded by logging, severe wildfire, and urbanization (Slauson et al. 2017). Fragmentation of habitat can also be detrimental at finer scales, where the fragments may not be large enough to support a single marten territory. For example, the Redwood National and State Parks complex contains only three patches of late-successional forest greater than 2,023 hectares (5,000 acres) in area, with most patches less than 40 hectares (100 acres) in area (USFWS 2015).

Slauson et al. (2017) concluded that early trapping combined with the extensive habitat loss and fragmentation from unregulated timber harvesting were the two factors most likely responsible for the decline in distribution and abundance of Humboldt martens. Moriarty et al. (2016) suggested habitat fragmentation (both natural and anthropogenic) is the most serious threat to martens in coastal Oregon. Similarly, Credo (2017) found that Pacific martens avoided forest stands following mechanical thinning and prescribed fire treatments on the Lassen National Forest.

Degraded landscapes may lack obvious barriers to marten movement while at the same time acting as functional barriers to movement by decreasing the likelihood of daily survival and successful dispersal (CDFW Status Review 2018). American marten dispersal distances were found to decrease by approximately 50 percent in intensively logged forests in Ontario compared to unlogged forests, and the percent of juveniles successfully dispersing and establishing new territories declined from 49 percent in unlogged forests to 25 percent in logged forests (Johnson et al. 2009). Thompson (1994) found daily survival rates in recently harvested (3- to 40-year-old) forest stands in Ontario were nearly five times lower than in uncut forests.

Because roads favor generalist predators that prey on martens, crossing roads to move between fragmented patches of habitat means martens are more likely to encounter a predator than if they were able to remain in dense shrub habitat (Slauson et al. 2010). Fragmentation of dense shrub stands by roads also appears to confer a competitive advantage to generalist carnivores like fishers, gray foxes (*Urocyon cinereoargenteus*), and bobcats, which compete with and prey upon martens. Slauson et al. (2010) found that 80 percent of camera detections of generalist carnivores such as gray fox and bobcats were on roads, while 80 percent of habitat specialist carnivore (e.g. fisher and Humboldt marten) detections came from areas away from roads. The majority of roads in the extant range of Humboldt martens in California are used periodically for the seasonal hauling of timber; however, U.S. Highway 101, which is a four-lane highway in some sections lies between the extant core population and late seral redwood habitat in state and federal redwood parks to the west and U.S. Highway 199 closely parallels the California-Oregon population area. These highways may constitute a significant barrier to marten movement (S. Prokop and B. Silver 6/29/2016 letter to CDFW).

The amount of Humboldt marten habitat in California has been substantially reduced since the species' range was first described by early naturalists, primarily as a result of past timber harvesting and timber production practices which removed the large tree structures and dense shrub layers martens require for denning and protection from predators. Although the rate of timber harvesting appears to have decreased in recent years, it will take centuries to recruit large tree structures to replace what has been lost. Wildfire and the conversion of land to urban and agricultural uses including cannabis cultivation have also contributed to habitat loss and degradation over the last century. Where habitat remains, degraded conditions and fragmentation caused by roads, timber harvesting, cannabis cultivation, and other land use practices can limit its usefulness to the marten population. Degraded and fragmented habitats may allow larger carnivores to colonize traditional Humboldt marten habitat potentially resulting in increased rates of predation on martens. Because historical habitat loss and degradation severely limits the spatial extent of suitable habitat available to the population, it continues to pose a potentially significant threat to Humboldt martens (CDFW Status Review 2018). However, increases in the extent of mature coastal forest and reductions in habitat fragmentation from recruitment of large tree and shrub structure over the coming decades on protected lands could significantly contribute to the recovery of Humboldt martens in California (CDFW Status Review 2018).

Some portions of the remaining occupied habitat are protected by wilderness and other land use designations, but large areas remain vulnerable to continued timber harvesting and other uses which can fail to retain required habitat elements on the landscape and virtually all existing habitat is vulnerable to degradation and loss from wildfires (CDFW Status Review 2018). Until additional areas of suitable forest habitat are allowed to develop with careful management and the passage of time, the limited extent of suitable habitat will continue to prevent recovery of the California Humboldt marten population for several decades at a minimum (CDFW Status Review 2018). Therefore, the continued existence of the Humboldt marten in California is threatened by present or threatened modification or destruction of its habitat.

Overexploitation

Early trapping of Humboldt marten was intensive, with accounts of individual trappers taking 35-50 martens in a single winter (Grinnell et al. 1937). By the early 1900s annual harvest of Humboldt martens was already declining, prompting Joseph Dixon to call for closing the

trapping season in California to prevent an extirpation; however, marten harvest continued until a partial closure was enacted in northwestern California in 1946, depleting populations and likely reducing genetic variation within the remaining population (Dixon 1925, Zielinski et al. 2001).

Today trapping of all martens is prohibited statewide (§ 460, Title 14, California Code of Regulations (CCR)), although it is possible that Humboldt martens could be inadvertently taken by trappers pursuing other fur bearers or nongame mammals that may be legally harvested for recreation, commerce in fur, or depredation (CDFW Status Review 2018). Trapping in California is highly regulated, and trappers must pass a Department examination demonstrating their skills and knowledge of laws and regulations prior to obtaining a license (Fish & G. Code § 4005). Additionally, only live-traps may be used to take furbearers or nongame mammals for recreation or commerce in fur, and trappers are required to check traps daily and release non-target animals (*Id.* §§ 3003.1, 4004, and, 4152 and § 465.5, Title 14, CCR). With the passage of Proposition 4 in 1998, body-gripping traps (including snares and leg-hold traps) were banned in California for commerce in fur and recreational trapping (*Id.* § 3003.1). Trapping records indicate that there were no licensed fur trappers operating in Del Norte County from 2010 to 2016, and less than two trappers operating annually in Humboldt County in the same period, suggesting a very low probability of Humboldt marten bycatch (California Automated License Data System 2018). However, some body-gripping traps may be used by licensed trappers for purposes unrelated to recreation or commerce in fur, including protection of property or by government employees, or their authorized agents, while acting in their official capacities (*Id.* Fish & G. Code § 3003.1 and § 465.5, Title 14, CCR).

Trapping of Humboldt martens remains legal in neighboring Oregon where trappers are required to obtain a trapping license and take an educational course (Hiller 2011). In recent years only four to eight trappers per year reported pursuing martens in Oregon (Hiller 2011). Oregon trapping records are organized by county making it difficult to determine if reported trapped martens were coastal Humboldt martens or interior (*Martes caurina caurina*). Review of trapping records from 2007 to 2016 indicates that as many as nine Humboldt martens may have been trapped in Oregon (CDFW Status Review 2018). Linnell et al. (2017) modeled Humboldt marten population viability in a coastal shore pine population and determined that the annual removal of two to three individuals from the population from human causes, such as trapping and road kills, would greatly increase the likelihood of extirpation within a 30-year period.

Trapping pressure on Humboldt martens was intense during the late 1800s and early 1900s, and very likely resulted in significant declines in population size as well as a dramatic reduction in range (CDFW Status Review 2018). There have been no studies on the population level effects of Humboldt marten trapping, but the loss of even a few adult martens, especially when combined with other mortality sources, could reduce the likelihood of long-term population viability (USFWS 2015). However, it is unlikely that trapping continues to threaten Humboldt martens in California due to the ban on trapping martens, the small number of active fur trappers, restrictions on the types of traps that may be used for other species, as well as requirements that licensed trappers check traps daily and release non-target animals (CDFW Status Review 2018). Despite the past impact that trapping had on the species, due to changes in trapping laws and practices, overexploitation no longer threatens the species in California (CDFW Status Review 2018).

Predation

Predation is a major cause of Humboldt marten mortality in California populations (CDFW Status Review 2018). Predation can significantly limit marten populations in the wild (Hodgman et al. 1997, Bull and Heater 2001, McCann et al. 2010, Slauson et al 2017). Known or expected predators of Humboldt martens include bobcats, gray foxes, coyotes, mountain lions (*Puma concolor*), great horned owls, goshawks (*Accipiter gentilis*), and Pacific fishers (Buskirk and Ruggiero 1994, Bull and Heater 2001, Slauson et al. 2009b, Woodford et al. 2013). Moriarty et al. (2016) detected the following potential predators at camera traps within 5 kilometers (3.1 miles) of known Humboldt marten detections: black bear (*Ursus americana*), bobcat, gray fox, domestic dog (*Canis familiaris*), domestic cat (*Felis catus*), coyote, and mountain lion. Gray foxes were the most frequently observed species with detections near 29 percent of the known marten stations (CDFW Status Review 2018). Bobcats, black bears, and domestic dogs were detected near 26 percent, 23 percent, and 11 percent of the known marten stations, respectively (CDFW Status Review 2018). Detections of coyotes, domestic cats, and mountain lion were less frequent, ranging from two to four percent (CDFW Status Review 2018).

Bull and Heater (2001) documented 22 Pacific marten mortalities in their northeastern Oregon radio telemetry study; of these, 18 were attributed to predation, by bobcats (44 percent), raptors (22 percent), coyotes (11 percent), and other martens¹ (22 percent). The martens killed by predators accounted for 51 percent of the collared population over their four-year study (Bull and Heater 2001). In Wilk and Raphael's (in press) study of Pacific martens in the Oregon Cascades, 35 of 47 marten mortalities were attributed to predation (74 percent, mostly from coyotes and bobcats). In a Humboldt marten dispersal study in California (Slauson et al. 2014), nine martens (39 percent of collared martens) were killed by predation over the course of less than one year, and all nine of the predation events were by bobcats. An inverse relationship between bobcat occupancy and marten occupancy almost certainly exists as well as a direct relationship between bobcat occupancy and marten predation rates (CDFW Status Review 2018).

Predator – Vegetative Community Interactions

Coastal forest ecosystems are complex, with tree, shrub, and herbaceous plant layers creating multiple structural layers. Historically, dense continuous shrub understories were common in mature forests in the redwood region (Morgan 1953, Allgood 1996, Slauson and Zielinski 2007). These shrub understories have been drastically reduced in many areas and modified through a century of logging and related forest management such as burning, mechanical clearing, road building, and planting dense stands of trees which compete for sunlight with shrubs and herbs (Slauson and Zielinski 2007). The time period over which shrub layer extent, density, and species composition drastically changed corresponded with observed reductions in Humboldt marten distribution and the observed expansion of generalist mesocarnivore (mid-sized carnivores) distributions in the redwood region (Slauson and Zielinski 2007).

Dense shrub layers may play an important role in excluding marten predators. Most North American martens occupy areas where deep snow accumulates which effectively excludes

¹ The four marten deaths attributed to other martens were all males, including two juveniles. The carcasses were not eaten, but showed trauma suggestive of fighting. The authors surmised resident male martens engaged in territorial defense were responsible for these mortalities.

larger carnivores with higher body mass to foot surface area ratios. It rarely snows in the coastal forests occupied by Humboldt martens, but it is thought that extensive, extremely dense shrub layers effectively exclude larger bodied carnivores and provide a niche for Humboldt martens to exploit (Slauson et al. 2010). Humboldt martens, with the smallest body size of North American marten subspecies (Hagmeier 1961), are adapted to the dense foliage and stems found near ground level in coastal forest ecosystems, allowing them to move quickly through the dense cover and successfully capture prey.

Humboldt martens appear to require dense shrub stand patches of >50-100 hectares (124-247 acres) (Slauson et al. 2007). Where shrub layers have been removed or reduced, fishers and gray foxes - both potential marten predators, have expanded their historic ranges into the previously unoccupied redwood region (Slauson and Zielinski 2007). Conversely, in the remaining old tree conifer stands with intact dense shrub layers that Humboldt martens select as preferred habitat, fishers and gray foxes are rarely detected (Slauson 2003, Slauson and Zielinski 2007). Humboldt martens in northwestern California showed the strongest preference for stands with ≥ 80 percent shrub cover, and avoided stands with < 60 percent shrub cover, while fishers and foxes avoided stands with ≥ 80 percent shrub cover and used stands with < 60 percent shrub cover in proportion to their availability (Slauson 2003); however, in the shore pine coastal dune habitat of central Oregon Eriksson et al. (in review) found Humboldt martens and gray foxes coexisting in the same habitat.

The high predation rates noted in the Pacific marten and Humboldt marten studies above occurred in areas that included intensively-managed forests. Raphael (2004 in Slauson et al. 2017) described his central Oregon Pacific marten study as a “high-harvest” area. Bull and Heater’s (2001) 400 kilometers squared (154 miles squared) northeastern Oregon Pacific marten study area included a relatively small area (53 kilometers squared) (20 miles squared) of uncut forest surrounded by an area “extensively harvested for timber (approximately 80 percent) and fragmented by partial cuts, regeneration cuts, and roads.” More than 90 percent of the Slauson et al. (2014) Humboldt marten dispersal study area had been previously harvested. Managed forests with open overstories, less dense shrub layers, and high road density appear to favor larger-bodied generalist predators such as bobcats, gray foxes, and fishers, which may prey on or kill Humboldt martens (Slauson and Zielinski 2007, Slauson et al. 2010). Fragmentation of dense shrub stands by roads also appears to confer a competitive advantage to generalist carnivores like fishers, bobcats, and gray foxes, which compete with and prey upon martens. Slauson et al. (2010) found that 80 percent of camera detections of generalist carnivores such as fisher, gray fox, and bobcats were on roads while 80 percent of marten detections came from off road areas. Because roads favor generalist predators, crossing roads to move between fragmented patches of habitat means martens are much more likely to encounter a predator than they would be if they were able to remain in dense shrub habitat (Slauson et al. 2010).

A landscape-scale habitat shift has occurred within the Humboldt marten’s geographic range since the advent of industrial logging in the 20th century; from large, contiguous old forest stands with extensive dense shrub layers to a more patchy landscape of younger stands with degraded shrub layers divided by road systems. It is thought that small-bodied martens have a competitive advantage over the larger bodied carnivores when foraging and moving through dense shrub stands (Slauson and Zielinski 2007), so this shift in habitat can disadvantage marten while simultaneously favoring larger-bodied generalist carnivores such as bobcats, fishers, and gray foxes. These changes, along with the increased density of roads in the area, appear to have allowed generalist predators to expand their distributions into areas they did

not traditionally occupy and prey upon martens at higher rates than historically occurred. Although it is unknown whether predation alone threatens the existence of Humboldt martens in California, adult survival rates are known to be the most influential parameters in marten population growth models (Slauson et al. 2017, Linnell et al. 2018). Predation rates therefore potentially have a substantial influence on Humboldt marten population trends.

While predation is natural in wildlife communities, predation rates by larger predators appear to be elevated in landscapes managed for timber production due to the removal of large tree and shrub layer cover and the association between the primary prey of larger predators and early seral forest habitat (CDFW Status Review 2018). The degree to which predation by larger predators limits Humboldt marten populations on or adjacent to managed landscapes and what management actions may effectively reduce this mortality factor in these areas warrants further research (CDFW Status Review 2018). In the interim, observations suggest that ongoing timber harvest and occasional wildland fires which create early seral forest conditions in or adjacent to extant populations or areas identified as important for population re-establishment and connectivity will continue to elevate predation risk, potentially lead to declining population trajectories, and prevent recovery of the California Humboldt marten population (CDFW Status Review 2018). Therefore, the continued existence of the Humboldt marten in the State of California is in serious danger or threatened by predation.

Competition

No data or studies were identified that assess the impacts of competition between Humboldt martens and other species and the USFWS Humboldt marten species report (2015) does not identify competition as a significant stressor on Humboldt martens. Additionally, species with very specific habitat associations, such as Humboldt marten would be expected have a competitive advantage within their preferred habitat over habitat generalist species in the same area (Ricklefs 1990, Zabala et al. 2009). Further, carnivore species typically select prey species of a certain size as a function of the predator's own mass, effectively limiting competition with smaller and larger carnivores in the same community (Sinclair et al. 2003, Owen-Smith and Mills 2008). However, Peterson et al. (in review) found that increased diversity in the predator community appears to restrict the breadth of diet diversity in Pacific martens, suggesting that competition for food resources does influence marten ecology. In coastal Oregon, Moriarty et al. (2016) detected the following potential competitor predators at camera traps within 5 kilometers (3.1 miles) of historical marten detections (reported as percent of camera trap sample units with detections): spotted skunk (*Spilogale gracilis*) at 41 percent of stations, opossum (*Didelphis virginiana*) at 25 percent of stations, and short-tailed weasel at 8 percent of stations. Of these, only the spotted skunk is similar in size to Humboldt martens (Maser et al. 1981) and it is a habitat generalist. Eriksson et al. (in review) theorized that gray foxes, raccoons, and western spotted skunks would be the most likely dietary competitors with Humboldt martens in Oregon shore pine habitats but found gray foxes and raccoons were common in stands occupied by martens which suggests competition for food resources in shore pine habitat does not limit the distribution of martens.

There is no indication in the available information to indicate that competition poses a substantial threat to Humboldt marten populations in California at this time. However, there is substantial overlap between the habitat preferences and prey species of Humboldt martens (Wiens et al. 2014).

There is significant overlap in the prey species of Humboldt martens and barred owls (*Strix varia*); including Douglas' squirrels, flying squirrels, voles, deer mice, and songbirds (Wiens et al. 2014). The dietary overlap and shared habitat affinities suggest the two species may be resource competitors (Holm et al. 2016). The range of barred owls in North America has radically expanded in the last several decades; the species first being detected in northwestern California coastal forests in the early 1980's (Dark et al. 1998). If barred owl populations continue to increase in northern California, prey species used by Humboldt martens may decline, potentially decreasing the marten carrying capacity (maximum marten population size the available habitat can sustain) of the available habitat and changing the food-web dynamics of the coastal forest ecosystem (Holm et al. 2016).

Disease

In its Humboldt marten species report (2015), the UFSWS noted: "The outbreak of a lethal pathogen within one of the three coastal marten populations could result in a rapid reduction in population size and distribution, likely resulting in a reduced probability of population persistence, given the small size of these populations." North American martens are known to be susceptible to a variety of diseases, including: rabies, plague, distemper, toxoplasmosis, leptospirosis, trichinosis, sarcoptic mange, canine adenovirus, parvovirus, herpes virus, West Nile virus, and Aleutian disease (Strickland et al. 1982, Zielinski 1984, Williams et al. 1988, Banci 1989, Brown et al. 2008, Green et al. 2008). Although Strickland et al. (1982) found that American martens in their central Ontario study tested positive for toxoplasmosis, Aleutian disease (a carnivore parvovirus), and leptospirosis; none of the diseases was considered to be a significant mortality factor for martens. Similarly, although Zielinski (1984) discovered antibodies to plague (*Yersinia pestis*) in four of 13 Sierra martens in the Sierra Nevada, he noted martens only appear to show transient clinical signs of the disease.

Gray foxes within the current range of Humboldt martens in California are known to have been exposed to canine distemper, parvovirus, toxoplasmosis, west Nile Virus, and rabies, all of which are transmittable to martens (Brown et al. 2008, Gabriel et al. 2012). In their Hoopa Valley Reservation Study, Brown et al. (2008) found that dead fishers within the range of Humboldt marten had been exposed to canine parvovirus and canine distemper which is known to cause high rates of mortality in mustelids (Deem et al. 2000). Wengert and Gabriel (2017 unpublished data) tested 19 whole blood samples from coastal Oregon Humboldt martens for the presence of antibodies to canine distemper virus, canine parvovirus, and *Toxoplasma gondii* protozoan parasites. Detection of antibodies to a specific pathogen in a blood sample indicates the animal was exposed to that pathogen at some time in the past. Antibodies to canine distemper virus were not detected in any sample, five samples (26 percent) had antibodies to parvovirus, and 14 (74 percent) had antibodies to toxoplasma. The absence of canine distemper virus could be explained by the small sample size examined; indicate infrequent interactions between martens and infected carnivores (e.g. gray foxes, skunks, raccoons) in the community; or suggest that infected martens generally do not survive canine distemper virus infection (CDFW Status Review 2018).

Because several potentially lethal diseases are known from the environment, a disease outbreak in one or both of the remaining Humboldt marten population areas in California should be considered a potential threat to the species (CDFW Status Review 2018). Although it is not known if this threat alone imperils the persistence of the species in California, when combined with the serious threats of small, isolated populations, habitat loss from wildland fire, cannabis cultivation and timber management, and other threats, the possibility of a

catastrophic disease outbreak further reduces the certainty that the Humboldt marten population will persist into the foreseeable future (CDFW Status Review 2018).

Other Natural Events or Human-Related Activities

Small Populations

Small, isolated populations are inherently vulnerable to extinction due to loss of genetic variability; inbreeding depression and genetic drift; reduced genetic capacity to respond to changes in the environment; as well as through demographic stochasticity (changes in age and sex ratios resulting in less than optimal breeding opportunities) due to random variation in birth and death rates (Primack 1993, Reed and Frankham 2003). In studied wildlife populations, genetic diversity is strongly correlated with population fitness (increased survival and reproduction rates) and decreased extinction risk (Hedrick and Kalinowski 2000, Reed and Frankham 2003). The smaller the population size, the more likely other threats will drive it to extinction (Primack 2010).

The only recent estimate of the Humboldt marten population was that less than 100 individuals exist in California (Slauson et al. 2009b). Since that time an additional small population has been discovered and the current estimate is that there are less than 80 breeding-age females in the state, far below the population size experts believe to be required to ensure long-term viability of a species (CDFW Status Review 2018; Traill et al. 2007, Traill et al. 2010, Flather et al. 2011). The loss of genetic diversity inherent to small, isolated populations can be expected to increase their risk of extinction because small and inbred populations have reduced ability to adapt with changing environments due to diminished pools of potentially adaptive heritable phenotypes (Frankham 2005). Populations of at least several hundred reproductive individuals are believed to be required to ensure the long-term viability of vertebrate species, with several thousand individuals being the goal (Primack 1993). However, observations of wild populations indicate that it is possible for small populations to persist, at least in the short term, in the face of genetic challenges, but these observations do not inform the probability or durability of recovery (Harding et al. 2016).

In wild populations, reproductive output and survival vary amongst individuals and from year to year. In large populations this variance averages out, but in small populations this variation, termed demographic stochasticity, can cause the population size to fluctuate randomly up or down (Primack 1993). The smaller the population size the more pronounced the effect. Once a population size drops, its next generation is even more susceptible to further stochasticity and random inequalities in the sex ratio resulting in fewer mating opportunities and a declining birth rate (Primack 1993). Due to their small population size, Humboldt martens may be vulnerable to these effects (CDFW Status Review 2018).

Linnell et al. (2018) modeled the probability that a small coastal Oregon Humboldt marten population would persist over a 30-year window under several different initial population sizes, population growth rates, and rates of human-caused mortality (trapping and vehicle strikes). When the population growth rate and the human-caused mortality rate was held constant and only the initial population size was changed the differences in modeled extinction probabilities was dramatic. Under one scenario the modeled extinction probability for an initial population of 40 animals was 0.03 (or a 97 percent probability of population persistence for 30 years) versus an extinction probability of 1.00 (or certain population extirpation within 30 years) for an initial population of 20 animals.

Unpredictable changes in the natural environment and biological communities can cause the size of small populations to vary dramatically where larger, more widely distributed populations would remain more stable because these changes normally occur in localized areas (Primack 1993). For example, unpredictable changes in a species' prey or predator populations, climate, vegetative community, or disease and parasite exposure can cause the size of a small, isolated population to fluctuate wildly, and possibly lead to extinction (Primack 1993). Additionally, natural disasters such as droughts, fires, earthquakes, and severe storms can lead to dramatic population changes if the population is small and localized such that the disaster impacts all or most of the individuals. Although the probability of such events is generally rare in any given year, over the course of generations the probability becomes much greater (Primack 1993). Ecological modeling studies have demonstrated that the influence of random environmental stochasticity has a greater influence on extinction probability than demographic stochasticity (Primack 1993). Environmental and genetic effects can work in concert with each other to seriously threaten small populations. As populations become smaller, they become more vulnerable to demographic variation, environmental variations, genetic drift, and inbreeding depression. Each of these effects can amplify the impact of the other effects, further reducing population size and accelerating the species towards extinction in what has been termed an extinction vortex (Primack 1993).

Small populations, and populations that have experienced periods of low population numbers in the past lose genetic diversity and may suffer the effects of inbreeding depression - the concentration of deleterious alleles (maladaptive genes) in the population from the mating of closely related individuals resulting in offspring with reduced fitness (Frankham 2005, Harding et al. 2016). Closely related to inbreeding depression is genetic drift, or the accumulation and fixation of detrimental alleles in the population due to a limited breeding pool (Hedrick and Kalinowski 2000). In large populations maladaptive genes do not accumulate in the population due to random mate pairings and the elimination of less fit offspring through natural selection. However, in small, isolated populations natural selection can have less of an effect on the population genotype than genetic drift. When this happens deleterious genes can become fixed in the population's genotype resulting in decreased reproductive fitness in all individuals, and potentially negative population growth (Hedrick and Kalinowski 2000, Frankham 2005).

The influence of inbreeding depression on fitness-related traits appears variable across populations, heritable traits, and environments (Hedrick and Kalinowski 2000). Inbreeding depression affects nearly every well studied wildlife species and contributes to extinction risk in most wild populations of naturally outbreeding species (Frankham 2005). It is uncertain whether inbreeding depression occurs within the California Humboldt marten population, but the small population size and apparent period of isolation from other populations make it likely that significant genetic diversity has been lost (Slauson et al. 2017).

The loss of genetic diversity and the accumulation of deleterious genes can largely be mitigated by the exchange of breeding individuals between population centers (Primack 1993). When individuals migrate from their natal population to new population areas, the novel genes they introduce can balance the effects of genetic drift and inbreeding depression (CDFW Status Review 2018). As few as one migrant per generation in a population of 120 individuals could negate the effects of genetic drift (Primack 2010). Consequently, habitat fragmentation can seriously increase the genetic risks to isolated subpopulations, and habitat connectivity between populations can substantially mitigate these risks (CDFW Status Review 2018).

While the genetic risks associated with small populations may significantly increase a population's risk of extinction, it is important to note that a small population size alone is not necessarily predictive of population viability over time (CDFW Status Review 2018). A well-planned conservation strategy can substantially mitigate risks associated with small populations (CDFW Status Review 2018). A comprehensive plan for long term viability should include the principles of representation, resiliency, and redundancy (Shaffer and Stein 2000, Wolf et al. 2015). These principles require recovered species be present in multiple large populations across the entire spectrum of habitats used by the species, and these populations must also be resilient to environmental changes, identified threats, and genetic threats (Wolf et al. 2015). The California Humboldt marten population, numbering less than 80 breeding females, is currently highly exposed to the environmental and genetic risks inherent to small populations; however, a carefully designed program of habitat protection, connection, as well as the possibility of facilitated translocations could connect isolated breeding populations, increase the number of populations, and partially mitigate these risks (CDFW Status Review 2018).

Wildland Fires

Slauson (2003) states that stochastic events such as wildfire present a major challenge to the persistence of Humboldt marten, and the *Conservation Assessment and Strategy for Humboldt Martens in California and Oregon* (Slauson et al. 2017) classified wildfires as a serious threat over a large area of the extant population areas in California and Oregon. In the near-coastal areas occupied by Humboldt martens, conditions that promote the ignition and spread of wildfire rarely exist due to the typically wet winters and foggy summers of the local climate (CDFW Status Review 2018). However, fires become more frequent in the extant Humboldt marten range with distance inland from the coast (Oneal et al. 2006). By examining the size of recent fires in the extant range, Slauson et al. (2017) concluded that a single large fire could affect 31 percent to 70 percent of the currently occupied suitable habitat in California. Others have concluded that a single wildfire could burn an entire core population area (USFWS 2015). The effects of fires vary with the intensity of the burn and the severity of the impact on the vegetative community; ranging from high severity burns which can kill and consume most vegetation, including large tree structures, to low severity burns which consume only the ground level vegetation, leaving shrub and tree layers largely unaffected (USFWS 2015). Slauson et al. (2017) state that even a low severity burn would be likely to reduce Humboldt marten habitat suitability by reducing shrub cover; however, when a portion of the 2008 Siskiyou Complex Fire burned through approximately 25 percent of a studied Humboldt marten population area in the interval between surveys in 2008 and 2012, no change in marten occupancy post-fire was detected, indicating that any fire-related impacts the population were slight and/or short lived (Slauson et al. 2017). More recently in the summer of 2015, the Nickowitz fire burned approximately 2,800 hectares (7,000 acres) in and adjacent to the current known range of Humboldt martens in Del Norte County, but the impact to Humboldt martens has not been assessed (InciWeb 2015).

Wildfires can impact Humboldt martens by destroying and degrading suitable habitat thereby reducing the carrying capacity or theoretical maximum population size the landscape can support. Large, high-severity burns can create open landscapes devoid of overhead cover and the dense shrub cover martens rely on for protection from predators. These areas are likely functional barriers to marten movements and dispersal as Pacific martens are known to avoid crossing openings in excess of 18 meters (60 feet) (Slauson 2017). The 2002 Biscuit Complex Fire and the 2017 Chetco Bar burned a combined 306,733 hectares (757,954 acres), with

some overlap, in the area between the southern Oregon Humboldt marten population and the California-Oregon border population, likely preventing the exchange of individuals and genes between the two populations (CDFW Status Review 2018).

Miller et al. (2012) reported that the annual number of fires, mean fire size, maximum fire size, and area burned all increased in northwestern California over the period of 1910-2008. Miller et al. (2012) also noted that high severity fires tended to be clustered in years when region-wide lightning strikes caused multiple ignitions, indicating that weather conditions in some years are conducive to widespread high severity fires in northwestern California. The effects of wildland fire on the landscape are difficult to predict due to variations in ignition frequency and burn severity based on vegetation type, geography, and weather patterns. However, it is clear that fires have the potential to degrade or destroy Humboldt marten habitat over entire population areas, further reducing the carrying capacity of the landscape and fragmenting populations (Davis et al. 2015). Although it is impossible to predict the timing and location of wildfires, it is likely that fires will impact Humboldt marten habitat and populations in northwestern California in the foreseeable future (CDFW Status Review 2018). Therefore, habitat loss from wildland fire is a threat to the persistence of the California Humboldt marten population.

Climate Change

The North American continent has already experienced the climatic effects of human-mediated increases in greenhouse gas emissions (USGCRP 2017). The annual average temperature in the contiguous United States has been 0.7 celsius (1.2 fahrenheit) warmer over the past 30 years compared to the period 1895-2016, and is projected to further increase to 1.4 celsius (2.5 fahrenheit) warmer over the period 2021-2050 (Vose et al. 2017). By the end of the century, annual average temperatures are projected to be 1.6 – 4.1 celsius (2.8 – 7.3 fahrenheit) warmer based on low emissions scenarios, to 3.2 – 6.6 celsius (5.8 – 11.9 fahrenheit) warmer under high emissions scenarios (Vose et al. 2017).

In northwestern California annual precipitation levels have been 10-15 percent lower in the last three decades compared to the period 1901-1960 (Easterling et al. 2017). While future precipitation levels in this region are not projected to change radically, the frequency of drought events is projected to increase due to increased evapotranspiration resulting from increasing temperatures (Easterling et al. 2017). Additionally, projected warming of ocean surface temperatures 2.7 celsius \pm 0.7 celsius (4.9 fahrenheit \pm 1.3 fahrenheit) (Jewett and Romanou 2017) will likely result in reduced daily coastal fog formation.

The Humboldt marten's coastal redwood and Douglas-fir forest ecosystem is characterized by moderate temperatures, high annual precipitation, and summer fog which supports dense conifer tree and shrub cover (Slauson et al. 2007, USFWS 2015). This ecosystem is currently limited in spatial extent to near coastal Oregon and northern California. Climate projections suggest that the coastal zone where precipitation is frequent will narrow in the future (PRBO 2011). The intrusion of coastal fog into inland forests has already been observed to be decreasing in frequency (Johnstone and Dawson 2010), though whether this pattern will continue into the future is unclear (PRBO 2011). Less extensive coastal precipitation, reduced fog intrusion, and globally increasing temperatures together could cause the southern extent of mesic coastal forest to retract northward, further reducing the amount of suitable habitat available to Humboldt martens (USFWS 2015, Slauson et al. 2017). These climatic changes could cause a shift from current conifer dominated vegetative communities to hardwood forests

unsuitable to martens, and the dense, shade-tolerant shrub layer required by marten may be lost (USFWS 2015). These vegetation transitions could create conditions more favorable to marten predators and could further fragment the remaining patches of suitable habitat (USFWS 2015). Under moderate emissions scenarios the bioclimatic conditions that support Humboldt marten habitat are projected to reliably occur only in Del Norte County and northern Humboldt County (DellaSalla 2013).

Projected climatic changes could further impact Humboldt martens by changing the fire regime in the range of the subspecies. Miller et al. (2012) reported the number of fires per year, mean fire size, maximum fire size, and area burned all increased in northwestern California over the period 1910-2008 and that observed changes in the local climate explained much of the fire trends. This research demonstrates that the effects of a changing climate may already be impacting Humboldt marten habitat and highlights the link between climate patterns and wildfire trends in northwestern California forests. In addition to wildfire-mediated habitat changes resulting from changes in climate, other studies have projected climate-related changes in forest disease, insect damage, and other disturbance events which could affect marten habitat quality or availability (USFWS 2015). Finally, Lawler et al. (2012) suggested that martens (all North American species) will be highly sensitive to climate change and will likely experience the greatest impacts at the southernmost latitudes and lowest elevations within their range.

In a recent modeling study, Stewart et al. (2016) assessed climate change vulnerability to 20 of California's terrestrial mammals, including the Humboldt marten. Their study included three components of climate change vulnerability for each taxon. The first component is the taxon's projected response to future climate change, which is the percent of climatically suitable potential habitat projected to be lost (or added) due to climate change. It is based on the climatic conditions within the historical range and projections of those conditions in future climate scenarios. The second vulnerability component is exposure/niche breadth. This component scores the projected amount of change in climate within the taxon's range and is expressed as percent change compared to current conditions within the historical range of the taxon. The final component is based on an assessment of the taxon's physical, behavioral, and physiological characteristics that affect its sensitivity and adaptive capacity to respond to climate change. Overall climate change vulnerability was assessed by combining the scores for the three components. Two emission scenarios (high, low) and two global climate models (hot/dry and warm/wet) were used to project four future climates. Overall vulnerability scores were partitioned into five categories, ranging from "may benefit" through "less", "moderately", "highly", and "extremely" vulnerable to future climate change impacts.

Depending on the scenario, the Humboldt marten's vulnerability was assessed to be either less vulnerable (low emission, warm/wet scenario), moderately vulnerable (low emission, hot/dry scenario and high emission, warm/wet scenarios), or highly vulnerable (high emission, hot/dry scenario). By the end of the century, projected habitat conditions at the locations Humboldt martens have been detected to date would remain largely suitable under the low emission, warm/wet scenario (only about 1 percent loss of suitable locations), but 77 percent of the locations would become unsuitable under the high emission, hot/dry scenario. The following excerpt from Stewart et al. (2016) summarizes the results from the models:

Distribution models suggest that the Humboldt marten would benefit (increase area of climatically suitable habitat) under wet climate scenarios, but would be adversely impacted (decrease area of climatically suitable habitat) under drier

future climate scenarios. Under the wet scenarios, suitable habitat is projected to increase in extent around the currently suitable areas in the southern portion of its coastal range. Under the hot dry scenarios, suitable habitat on the coast is projected to retract into the core area currently known to be occupied by the subspecies. Distribution models map large areas of suitable climate where the Humboldt marten is not currently known to occur. These include areas in the southern coastal part of the Humboldt marten's presumed historical range, as well as areas within the geographic range of the Sierran subspecies of the Pacific marten (*Martes caurina sierra*). Given the current understanding of Humboldt marten's requirements for forest structure (large decadent trees with cavities for denning, dense shrub layers) that do not occur in much of the coastal forests of northern California, it is not surprising that the species does not currently occur in a large proportion of the coastal area predicted as currently climatically suitable.

There is relatively high certainty that temperatures will continue to increase within the range of Humboldt martens, which is likely to increase the frequency of drought events due to increased evapotranspiration (CDFW Status Review 2018). Although there is less confidence in projected changes in total precipitation, fire regimes, and the distribution of vegetative communities, it is apparent that significant changes are possible within the century (CDFW Status Review 2018). Changes in the distribution and abundance of preferred Humboldt marten habitat could significantly impact the existing Humboldt marten population and limit opportunities for population expansion. Therefore, climate change is a threat to the long-term persistence of the Humboldt marten population in California.

Toxicants

The control of animals perceived as pests through poisoning was historically common in the western states (CDFW Status Review 2018). Two former methods had the potential to kill non-target predators such as the Humboldt marten: poisoning livestock carcasses and aerial broadcast of poisoned baits. In one report, dead fishers and martens were observed in the vicinity of poisoned ungulate carcasses in Washington State (Zielinski et al. 2001). While such practices had largely ceased by the 1970s, the historical impact on Humboldt marten population size and distribution is unknown but potentially significant. Recently the use of rodenticides and other toxicants at illegal cannabis plantations has been observed to be a widespread practice (Gabriel et al. 2018). Anticoagulant rodenticides detected near cannabis plantations in northwestern California include brodifacoum, bromodiolone, chlorophacinone, diphacinone, and warfarin. Brodifacoum and bromodiolone are considered second-generation anticoagulant rodenticides which were introduced when rodents developed resistance to first-generation compounds in the 1970s (Gabriel et al. 2012, 2013, Thompson et al. 2014). First-generation compounds generally require several doses to cause intoxication, while second-generation anticoagulant rodenticides, which are more acutely toxic, often require only a single dose to cause intoxication or death and persist in tissues and in the environment (Gabriel et al. 2012). Additionally, other highly toxic pesticides, some of which are banned in the United States, have been found at illegal cannabis grow sites (Thompson et al. 2014).

A recent study conducted on Green Diamond Resource Company and surrounding lands in Humboldt and Del Norte Counties detected anticoagulant rodenticide exposure in the tissues of 70 percent of northern spotted owls (n=10) and 40 percent of barred owls (n=84) examined, although none of 36 rodent livers examined had traces of rodenticides (Gabriel et al. 2018). The authors hypothesized a recent increase in cannabis cultivation sites in northwestern

California may have led to the increased use of anticoagulant rodenticides in the area. In an earlier study, Gabriel et al. (2015) detected the presence of anticoagulant rodenticides in the tissues of >85 percent of the dead fishers tested in California. Within their northern California study area (i.e., Hoopa Valley Indian Reservation) 52 fishers were tested for anticoagulant rodenticide exposure. Seven fishers were confirmed to have died from anticoagulant rodenticide poisoning, all of which had trespass marijuana grows within their home ranges (Gabriel et al. 2015). Because fisher and martens have similar foraging habits and diets, rodenticide exposure likely also poses a significant threat to the Humboldt marten population in California (Slauson et al. 2017). In recent necropsies of deceased Humboldt martens, one out of six carcasses examined showed traces of rodenticides in its tissues (Slauson et al. 2014). Although exposure to rodenticides was not necessarily the cause of death of the exposed animals, the acute toxicity of these compounds makes it likely that the salvaged animals were either directly killed by rodenticides or negatively affected to the extent that death from other causes such as exposure, predation, or starvation became more likely.

The documented continued use of highly toxic anticoagulant rodenticides and other pesticides within the California range coupled with the known impacts to the fisher demonstrates that toxicant exposure threatens the Humboldt marten in California.

IV. Final Determination by the Commission

The Commission has weighed and evaluated the information for and against designating the Humboldt marten as an endangered species under CESA. This information includes scientific and other general evidence in the Petition; the Department's Petition Evaluation Report; the Department's status review; the Department's related recommendations; written and oral comments received from members of the public, the regulated community, various public agencies, and the scientific community; and other evidence included in the Commission's record of proceedings.

Based upon the evidence in the record the Commission has determined that the best scientific information available indicates that the continued existence of the Humboldt marten is in serious danger or threatened by present or threatened modifications or destruction of the species' habitat, predation, competition, disease, or other natural occurrences or human-related activities, where such factors are considered individually or in combination. (See generally Cal. Code Regs., tit. 14, § 670.1, subsec. (i)(1)(A); Fish & G. Code, §§ 2062, 2067.) The Commission determines that there is sufficient scientific information to indicate that designating the Humboldt marten as an endangered species under CESA is warranted at this time and that with adoption and publication of these findings the Humboldt marten for purposes of its legal status under CESA and further proceedings under the California Administrative Procedure Act, shall be listed as endangered.

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Memorandum

2018 NOV 27 AM 8:15

Date: November 26, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Evaluation of the Petition to List Upper Klamath Trinity River Spring Chinook Salmon (*Oncorhynchus tshawytscha*) as Endangered or Threatened under the California Endangered Species Act**

The California Department of Fish and Wildlife (Department) has completed its evaluation of the Petition to list Upper Klamath Trinity River Spring Chinook Salmon as an endangered or threatened species (Petition) under the California Endangered Species Act, Fish and Game Code section 2050 et seq. The California Fish and Game Commission (Commission) received the Petition from the Karuk Tribe and Salmon River Restoration Council on July 23, 2018. Pursuant to Fish and Game Code section 2073, the Commission referred the Petition to the Department on August 2, 2018. On June 6, 2017, in accordance with Fish and Game Code section 2073.5, subdivision (b), the Department requested a 30-day extension to further analyze the Petition and complete its evaluation report. The Commission approved this request, and the due date for the petition is November 30, 2018.

The Department completed the attached Petition evaluation report pursuant to Fish and Game Code section 2073.5. (See also Cal. Code Regs., tit. 14, § 670.1, subd. (d)(1).). The Department's evaluation report delineates the categories of information required in a petition, evaluates the sufficiency of the available scientific information regarding each of the Petition components, and incorporates additional relevant information that the Department possessed or received during the review period. Based upon the information contained in the petition and other relevant information in the Department's possession, the Department has determined that there is sufficient scientific information available at this time to indicate that the petitioned action may be warranted. The Department recommends that the Petition be accepted and considered.

Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission
November 26, 2018
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If you have any questions or need additional information, please contact Mr. Daniel Kratville, Senior Environmental Scientist (Supervisor), Fisheries Branch, at (916) 324-3613 or by email at Daniel.Kratville@wildlife.ca.gov or Mr. Kevin Shaffer, Branch Chief, Fisheries Branch, at (916) 327-8841 or by email at Kevin.Shaffer@wildlife.ca.gov.

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REPORT TO THE FISH AND GAME COMMISSION

EVALUATION OF THE PETITION
FROM THE KARUK TRIBE AND THE SALMON RIVER RESTORATION COUNCIL
TO LIST UPPER KLAMATH TRINITY RIVER SPRING CHINOOK SALMON (*ONCORHYNCHUS*
TSHAWYTSCHA)
AS THREATENED OR ENDANGERED

Prepared by
California Department of Fish and Wildlife

NOVEMBER 2018



I. Executive Summary

The Karuk Tribe and the Salmon River Restoration Council (Petitioners) submitted a petition (Petition) to the Fish and Game Commission (Commission) to list the Upper Klamath Trinity River Spring Chinook Salmon (*Onchorhynchus tshawytscha*) (UKTR Spring Chinook Salmon) as endangered pursuant to the California Endangered Species Act (CESA), Fish and Game Code Section 2050 et seq.

The Commission referred the Petition to the Department of Fish and Wildlife (Department) in accordance with Fish and Game Code Section 2073. (Cal. Reg. Notice Register 2017, No. 13-Z, 479.) Pursuant to Fish and Game Code Section 2073.5 and Section 670.1 of Title 14 of the California Code of Regulations, the Department has prepared this evaluation report for the Petition (Petition Evaluation). The Petition Evaluation is an evaluation of the scientific information discussed and cited in the Petition in relation to other relevant and available scientific information possessed by the Department during the evaluation period. The Department's recommendation as to whether to make UKTR Spring Chinook Salmon a candidate for listing under CESA is based on an assessment of whether the scientific information in the Petition is sufficient under the criteria prescribed by CESA to consider listing UKTR Spring Chinook Salmon as endangered or threatened.

After reviewing the Petition and other relevant information, the Department makes the following findings:

- Population Trend. The Petition contains sufficient information to indicate the overall trend for California populations of UKTR Spring Chinook Salmon is declining, with the most precipitous declines occurring in the southern portion of the species' range
- Range. The Petition contains a sufficient description of the UKTR Spring Chinook Salmon range in California, including evidence suggesting range contractions in the Klamath and Trinity watersheds. As noted in the petition, the construction of impassable dams in the upper Klamath and Trinity watersheds has severely restricted the amount available UKTR Spring Chinook Salmon habitat. Several dams on the upper Klamath River are being considered for removal in 2021 which would re-open historical UKTR Spring Chinook Salmon habitat.
- Distribution. The Petition contains a sufficient description of the historical and recent distribution of UKTR Spring Chinook Salmon populations in California,

indicating a reduction in distribution across the species' range, with the most extensive reduction occurring in the Klamath River Watershed.

- Abundance. The Petition contains a sufficient description of what is known about historical and recent abundance of UKTR Spring Chinook Salmon populations, indicating declines in abundance across the species' range, and extensive reductions in population size occurring within the Klamath River Watershed. The department does not concur with the conclusion in the petition that upper main stem Trinity River Spring Chinook Salmon populations are of 100% hatchery origin.
- Life History. The Petition contains a sufficient description of the life history of UKTR Spring Chinook Salmon based on the scientific information available for the species, showing some aspects may render UKTR Spring Chinook Salmon particularly vulnerable to natural and anthropogenic impacts.
- Kind of Habitat Necessary for Survival. The Petition contains a sufficient description of the types and conditions of habitats required for UKTR Spring Chinook Salmon survival, including the fact that it possesses a unique life history.
- Factors Affecting the Ability to Survive and Reproduce. The Petition contains sufficient information to suggest UKTR Spring Chinook Salmon are adversely affected by historical habitat damage and a number of on-going and future threats, such as habitat loss, climate change, disease, and water extraction that act together in threatening the species' continued survival.
- Degree and Immediacy of Threat. The Petition contains sufficient information to indicate impacts from some of the primary threats to the long-term survival of UKTR Spring Chinook Salmon will continue or potentially worsen in the future. However, potential dam removals on the upper Klamath River may help ameliorate some of the threats.
- Impacts of Existing Management. The Petition contains sufficient information to suggest that existing regulatory mechanisms and management efforts do not adequately protect UKTR Spring Chinook Salmon from impacts that threaten their long-term survival. However, the petition states incorrectly that the Spring Chinook Salmon life history type is not managed differently from UKTR Fall Chinook Salmon. The petition also incorrectly states Spring Chinook Salmon escapement is additive to Fall Chinook Salmon escapement in determining annual overall Chinook Salmon population levels and subsequent management.

- Suggestions for Future Management. The Petition contains sufficient scientific information on additional management actions that may aid in maintaining and increasing self-sustaining populations of UKTR Spring Chinook Salmon in California.
- Availability and Sources of Information. The Petition contains a 11-page bibliography of literature cited, the majority of which were provided to the Department.
- A Detailed Distribution Map. The Petition contains a sufficiently detailed map of the historical and contemporary distribution of UKTR Spring Chinook Salmon in California.

The petitioners are soliciting review for an endangered species determination of UKTR Spring Chinook Salmon based on new scientific genetic evidence. A previous petition and review of Chinook Salmon populations by the National Marine Fisheries Service (NMFS) in 2012, found listing of Spring Chinook Salmon was not warranted at that time because they were not found to be genetically distinct, and the composite of Chinook Salmon populations in the upper Klamath and Trinity basins were considered relatively robust. The NMFS review regarded Klamath basin Spring Chinook Salmon as a life history variant that evolved from polyphyletic origins that can re-evolve over time.

New scientific information has become available on the genetic structure of Klamath basin Chinook Salmon that may inform a new species determination. The Department believes the petition has merit and may be warranted on the basis that the Spring Chinook Salmon life history variant is at low population abundance and has limited distribution.

The discussion below focuses on analyses of the scientific information provided in the petition, as well as from scientific information the Department possesses, or has knowledge of, in regards to UKTR Spring Chinook Salmon populations.

In completing its Petition Evaluation, the Department has determined the Petition provides sufficient scientific information to indicate that the petitioned action may be warranted. Therefore, the Department recommends the Commission accept the Petition for further consideration under CESA.

II. Introduction

A. Candidacy Evaluation

CESA sets forth a two-step process for listing a species as threatened or endangered. First, the Commission determines whether to designate a species as a candidate for listing by determining whether the petition provides "sufficient information to indicate that the petitioned action may be warranted." (Fish & G. Code, § 2074.2, subd. (e)(2).) If the petition is accepted for consideration, the second step requires the Department to produce within 12 months of the Commission's acceptance of the petition a peer reviewed report based upon the best scientific information available that indicates whether the petitioned action is warranted. (Fish & G. Code, § 2074.6.) The Commission, based on that report and other information in the administrative record, then determines whether the petitioned action to list the species as threatened or endangered is warranted. (Fish & G. Code, § 2075.5.)

A petition to list a species under CESA must include "information regarding the population trend, range, distribution, abundance, and life history of a species, the factors affecting the ability of the population to survive and reproduce the degree and immediacy of the threat, the impact of existing management efforts, suggestions for future management, and the availability and sources of information. The petition shall also include information regarding the kind of habitat necessary for species survival, a detailed distribution map, and other factors the petitioner deems relevant." (Fish & G. Code, § 2072.3; see also Cal. Code Regs., tit. 14, § 670.1, subd. (d)(1).) The range of a species for the Department's petition evaluation and recommendation is the species' California range. (*Cal. Forestry Assn. v. Cal. Fish and Game Com.* (2007) 156 Cal. App. 4th 1535, 1551.)

Within 10 days of receipt of a petition, the Commission must refer the petition to the Department for evaluation. (Fish & G. Code, § 2073.) The Commission must also publish notice of receipt of the petition in the California Regulatory Notice Register. (Fish & G. Code, § 2073.3.) Within 90 days of receipt of the petition, the Department must evaluate the petition on its face and in relation to other relevant information and submit to the Commission a written evaluation report with one of the following recommendations:

- Based upon the information contained in the petition, there is not sufficient information to indicate that the petitioned action may be warranted, and the petition should be rejected; or
- Based upon the information contained in the petition, there is sufficient information to indicate that the petitioned action may be warranted, and the petition should be accepted and considered.

(Fish & G. Code, § 2073.5, subds. (a)(1), (a)(2).) The Department's candidacy recommendation to the Commission is based on an evaluation of whether or not the petition provides sufficient scientific information relevant to the petition components set forth in Fish and Game Code Section 2072.3 and the California Code of Regulations, Title 14, Section 670.1, subdivision (d)(1).

In *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4th 597, the California Court of Appeals addressed the parameters of the Commission's determination of whether a petitioned action should be accepted for consideration pursuant to Fish and Game Code Section 2074.2, subdivision (e), resulting in the species being listed as a candidate species. The court began its discussion by describing the standard for accepting a petition for consideration previously set forth in *Natural Resources Defense Council v. California Fish and Game Commission* (1994) 28 Cal.App.4th 1104:

As we explained in *Natural Resources Defense Council* [citation], "the term 'sufficient information' in section 2074.2 means that amount of information, when considered with the Department's written report and the comments received, that would lead a reasonable person to conclude the petitioned action may be warranted." The phrase "may be warranted" "is appropriately characterized as a 'substantial possibility that listing could occur.'" [Citation] "Substantial possibility," in turn, means something more than the one-sided "reasonable possibility" test for an environmental impact report but does not require that listing be more likely than not.[Citation]

(*Center for Biological Diversity, supra*, 166 Cal.App.4th at pp. 609-10.) The court acknowledged that "the Commission is the finder of fact in the first instance in evaluating the information in the record." (*Id.* at p. 611.) However, the court clarified:

[T]he standard, at this threshold in the listing process, requires only that a substantial possibility of listing could be found by an objective, reasonable person. The Commission is not free to choose between conflicting inferences on subordinate issues and thereafter rely upon those choices in assessing how a reasonable person would view the listing decision. Its decision turns not on rationally based doubt about listing, but on the absence of any substantial possibility that the species could be listed after the requisite review of the status of the species by the Department under [Fish and Game Code] section 2074.6.

(*ibid.*)

B. Petition History

On July 22, 2018, the Karuk Tribe and Salmon River Restoration Council submitted the Petition to the Commission to list UKTR Spring Chinook Salmon as endangered or threatened under CESA. On July 23, 2018, the Commission referred the Petition to the Department for evaluation. This Petition Evaluation report was submitted to the Commission on July 22, 2018.

The Department evaluated the scientific information presented in the Petition as well as other relevant information the Department possessed at the time of review. The Department did not receive any information from the public during the Petition Evaluation period pursuant to Fish and Game Code Section 2073.4. Pursuant to Fish and Game Code Section 2072.3 and Section 670.1, subdivision (d)(1), of Title 14 of the California Code of Regulations, the Department evaluated whether the Petition includes sufficient scientific information regarding each of the following petition components to indicate that the petitioned action may be warranted:

- Population trend;
- Range;
- Distribution;
- Abundance;
- Life history;
- Kind of habitat necessary for survival;
- Factors affecting ability to survive and reproduce;
- Degree and immediacy of threat;
- Impacts of existing management;
- Suggestions for future management;
- Availability and sources of information; and
- A detailed distribution map.

C. Overview of UKTR Spring Chinook Salmon

Adult UKTR Spring Chinook Salmon enter fresh water before their gonads are fully developed and hold in cold water streams for 2-4 months before spawning. They enter the Klamath River estuary during spring and summer months, beginning in March and tapering off in July, with a peak between May and early June (Moffett and Smith 1950, Myers et al. 1998). A majority of late-entry fish are apparently of hatchery origin (Barnhardt 1994, NRC 2004). Leidy and Leidy (1984) noted adult Trinity River Spring Chinook Salmon migration continued until October. However, given this late-entry timing, it is unclear if these fish are sexually mature and capable of spawning with Spring Chinook Salmon adults already in the system. Because this late Spring type is limited to the Trinity River, it is possible these fish represent hybrid spring and Fall-run Chinook Salmon from hatchery stocks. Biologists at the Trinity River Hatchery (TRH) classified Chinook Salmon entering between September 3 and October 15, 2004, as UKTR Spring Chinook Salmon (CDFG 2006). However, entry timing into the hatchery was artificially delayed until early September, due to the fish ladder being closed. UKTR Spring Chinook Salmon have not been successfully held over for long periods of time in the hatchery due to space constraints and mortality (W. Sinnen, CDFW, pers. comm. 2013). Moffett and Smith (1950) noted that UKTR Spring Chinook Salmon migrated quickly through the watershed; more recent work (Strange 2005) has confirmed this rapid migration pattern in the Trinity River. While migration occurred throughout the day and night, there was a peak in movement during the two hours following sunset (Moffett and Smith 1950).

Spawning starts in mid-September in the Salmon River. UKTR Spring Chinook Salmon in the South Fork Trinity River begin spawning in late September, with a peak in mid-October (LaFaunce 1967). Trinity River spawning typically is 4-6 weeks earlier than that of Fall-run UKTR Spring Chinook Salmon in the same basin (Moffett and Smith 1950). Overlap between Fall and Spring Chinook Salmon spawning areas was historically minimal. In the South Fork Trinity River, the majority of UKTR Spring Chinook Salmon spawning occurred upstream of Hitchcock Creek, above Hyampom Valley, while Fall-run Chinook Salmon spawned below this point (LaFaunce 1967, Dean 1996). However, Moffett and Smith (1950) noted that spawning of the Fall and Spring fish overlapped in October on suitable spawning riffles between the East Fork and North Fork Trinity River, and that redd superimposition and hybridization may have occurred. In the Salmon River, overlap exists between spawning times of Fall and Spring Chinook Salmon, although redds constructed upstream of the confluence of Matthews Creek are predominantly those of UKTR Spring Chinook Salmon (Olson et al. 1992). Overall, spatial separation between the two runs in the Klamath-Trinity system occurs at approximately 518 m elevation.

UKTR Spring Chinook Salmon fry emerge from gravels from early winter (Leidy and Leidy 1984) until late-May (Olson 1996). With optimal conditions, embryos hatch after

40-60 days and remain in the gravel as alevins for another 4-6 weeks, usually until the yolk sac is fully absorbed. Before Lewiston Dam became the upper limit for migration on the Trinity River, emergence upstream of Lewiston began in early January. Moffett and Smith (1950) speculated these early fish were offspring of UKTR Spring Chinook Salmon. More recent reports (Leidy and Leidy 1984) suggest emergence begins as early as November in the Trinity River and December in the Klamath River, lasting until February.

Unlike most Spring Chinook Salmon populations north of the Klamath River (e.g., Columbia River), UKTR Spring Chinook Salmon do not consistently display "stream type" juvenile life histories, where juveniles spent at least one year in streams before migrating to the ocean (Olson 1996). Juvenile emigration occurs primarily from February through mid-June (Leidy and Leidy 1984). Natural-spawned juvenile UKTR Spring Chinook Salmon were not observed emigrating past Big Bar (river km 91) earlier than the beginning of June, with a peak in mid-July from 1997-2000 (USFWS 2001). In the Salmon River, two peaks of juvenile emigration have been observed: spring/early summer and fall. Snyder (1931) examined scales from 35 adult UKTR Spring Chinook Salmon and 83% displayed juvenile "ocean type" growth patterns, in which juveniles entered the ocean just a few months after emerging from the gravel. In the Salmon River, an otolith study (Sartori unpublished data) identified 31% of fall-emigrating juvenile Chinook Salmon as having similar growth patterns to Salmon River Spring Chinook Salmon, suggesting these were 'ocean-type' juveniles.

A central premise of the Petition is UKTR Spring Chinook Salmon are a distinct subspecies from UKTR Fall Chinook Salmon. Currently, the Department considers the NOAA Fisheries designation of Evolutionary Significant Unit (ESU) when evaluating petitions for listing under CESA, and the Commission has designated genetic groups of salmonids in California based on their status as ESUs. (*Cal. Forestry Assn. v. Cal. Fish and Game Com.* (2007) 156 Cal. App. 4th 1535.) NOAA Fisheries considers the UKTR Spring Chinook Salmon life history type as a part of the greater UKTR Fall Chinook Salmon ESU. However, the Petition presents new techniques in genetic analysis and subsequent findings that may indicate separation of the UKTR Spring Chinook Salmon from the UKTR Fall Chinook Salmon. The new methods, and conclusions derived from them, are currently being debated within the scientific community, and it is unclear if the central premise of the Petition is accurate.

III. Sufficiency of Scientific Information to Indicate the Petitioned Action May Be Warranted

a. Population Trend

i. Scientific information in the petition

The information regarding both population trends and abundance are contained in the "Population Trend" section of the Petition (pages 5- 11). The scientific literature regarding population trends and abundance in the Petition are dated, however they are applicable to the Petition assertions, particularly in regard to historical versus present abundance.

The information demonstrates there has been a decline in UKTR Spring Chinook Salmon abundance, and that the declining trend continues, particularly in several sub watersheds (i.e. South Fork Trinity River and Salmon River,) outside of hatchery influence/support.

ii. Other relevant scientific information

The Department maintains a table of Klamath basin Spring Chinook Salmon run-size (harvest and escapement) collated from basin partners and collaborators. The table, though not populated with all potential UKTR Spring Chinook Salmon data, indicates that contemporary abundance of UKTR Spring Chinook Salmon has fluctuated between 1980 and 2017. Run estimates have ranged between 1,945 and 69,007 fish, averaging 21,339 in this time series. The most recent ten-year average is 16,335 fish. The majority of UKTR Spring Chinook Salmon spawners are now located in the upper Trinity River and at Trinity River Hatchery.

The Department does not concur with the statement on page 7, "Trinity River Hatchery releases over one million juvenile spring-run Chinook Salmon every year and apparently all spawners in the main stem Trinity are of hatchery origin (NRC 2004)". The Department has been monitoring UKTR Spring Chinook Salmon runs in the upper Trinity River since 1977. Monitoring results indicate 19% to 60% of returning UKTR Spring Chinook Salmon are of natural origin (Kier et al, 2018). The average naturally produced component above Junction City Weir is approximately 40%.

The upper Trinity River Spring Chinook Salmon population is still relatively robust, although heavily supported by hatchery production. However, because there is a substantial number of individuals there is good potential that the population contains a reservoir of genetic diversity.

Emerging science, particularly in the field of genetics, may shed important light on whether UKTR Spring Chinook Salmon are life history variants of the larger Chinook Salmon complex or in fact a separate species.

iii. Conclusion

The UKTR Spring Chinook Salmon life history variant has declined in abundance from historical times (pre-anthropogenic influences). Contemporary population trends also

are on the decline, particularly in natural sub basins such as the South Fork Trinity and Salmon Rivers.

b. Range

i. Scientific information in the Petition

The information regarding range are described on pages 12-13 of the Petition. The scientific literature regarding range and distribution in the Petition is dated, however it is applicable to the Petition's assertions regarding historical versus present range.

The information in the Petition demonstrates there has been a decline in UKTR Spring Chinook Salmon geographic range in the Klamath Basin mostly associated with the construction of main stem and tributary dams that limit historical distribution.

One can infer the UKTR Spring Chinook Salmon life history type has a limited current range due to insufficient suitable habitat. However, the current upper Trinity River main stem population, though influenced by hatchery production, has maintained or possibly increased its range below Lewiston dam from historical times. This is in part due to augmented flow and temperature management designed to protect upper Trinity River Spring Chinook Salmon life history types. Additionally, recent snorkel surveys have identified increased numbers of UKTR Spring Chinook Salmon holding in the New River, North Fork Trinity River, and Canyon Creek (US Forest Service, unpublished data). It is unknown if these fish spawn in these tributaries at this time.

ii. Other relevant scientific information

The Department maintains a table of Klamath basin Spring Chinook Salmon run-size (harvest and escapement) collated from basin partners and collaborators. The table, though not populated with all potential UKTR Spring Chinook Salmon data, indicates the range of upper Trinity River Spring Chinook Salmon life history may be increasing, and the upper Trinity River Spring Chinook Salmon population may serve as a reservoir for expansion into suitable habitats that are in proximate areas, such as the New River, North Fork Trinity River, and Canyon Creek.

iii. Conclusion

The Spring Chinook Salmon life history variant has declined in distribution and range from historical times (pre-anthropogenic influences). Contemporary range trends are mixed. Some populations appear to be shrinking in range (South Fork Trinity River and the Salmon River), while others, particularly the New River may be experiencing expansion. However, in total the historical range of the Spring Chinook Salmon life history variant has been reduced due to several basin dams which block access to historical habitat.

c. Distribution - See "Range" section above

d. Abundance – See “Population Trend” section above

e. Life History

i. Scientific information in the petition

The information regarding life history is listed in pages 13 -19 of the Petition. The scientific literature regarding life history are adequate, however the petition contains some contradictory or un-substantiated literature/statements regarding age at emigration, adult return age, spawn timing, etc. The information demonstrates there is life history differentiation between Spring and Fall Chinook Salmon in the Klamath basin.

The UKTR Spring Chinook Salmon life history type has differences in river entry time, spawning location, and spawn timing as compared to the Fall Chinook Salmon life history type. There are also potential differences in juvenile life histories between the two, with UKTR Spring Chinook Salmon life history variants more prone to rear in freshwater for longer times prior to emigration.

ii. Other relevant scientific information

The most recent federal Endangered Species Act (ESA) listing review of Klamath basin Spring Chinook Salmon (NOAA, FR Doc. 2012-7879) found UKTR Spring Chinook Salmon were a life history variant and not a separate species defined by monophyletic origins. This review concluded the UKTR Spring Chinook Salmon life history variant could re-evolve over time. New genetic literature since this finding (Prince et al.) is the primary basis for petitioner’s re-submittal to NOAA, and first submittal to the Commission, of Petition to list UKTR Spring Chinook Salmon as threatened or endangered. The Prince et al. paper concludes UKTR Spring Chinook Salmon are a separate distinct species based on new genetic information. The authors of the paper assert their new genetic data is associated with monophyletic origins for the species based on their findings of genome structure and its association with the “pre-mature” migration phenotype. This new information is still being disseminated and reviewed, has not been universally accepted by the scientific community, and there is uncertainty in the scientific literature regarding the use of trait specific genomic data to define species (Waples 2018).

Emerging science, particularly in the field of genetics, may shed important light on whether UKTR Spring Chinook Salmon are life history variants of the larger Chinook Salmon complex, or a separate ESU.

iii. Conclusion

The UKTR Spring Chinook Salmon life history variant has declined in abundance from historical times (pre-anthropogenic influences). Contemporary population trends also are on the decline, particularly in natural sub basins such as the South Fork Trinity and Salmon Rivers.

f. Kind of Habitat Necessary for Survival

i. Scientific information in the petition

The information regarding necessary habitat is found in pages 16-19 of the Petition. The scientific literature regarding the habitat necessary for survival appear adequate.

The information demonstrates adequate cold or cool water habitat, along with adequate dissolved oxygen levels, deeper pools for holding adults, and appropriate spawning gravel are necessary life history habitat components.

One can infer that habitat for the UKTR Spring Chinook Salmon life history type has declined in the Klamath basin, particularly in several sub watersheds (South Fork Trinity River and Salmon River). The loss of habitat upstream of main stem dams on the Klamath and Trinity River is also a major factor in the decline of UKTR Spring Chinook Salmon habitat.

ii. Other relevant scientific information

The Department has documented UKTR Spring Chinook Salmon occupy non-traditional habitat in the Trinity River. Census data indicate UKTR Spring Chinook Salmon migrate, occupy, and spawn in the main stem Trinity River from the current uppermost limit of anadromy (Lewiston Dam) downstream to the North Fork Trinity River. Historically, this habitat was occupied primarily by Fall Chinook Salmon.

iii. Conclusion

UKTR Spring Chinook Salmon life history can be expressed in areas of the Klamath basin that have adequate migration, holding areas, spawning flows, and temperature regimes.

g. Factors Affecting the Ability to Survive and Reproduce

i. Scientific information in the petition

The information regarding this factor is presented in pages 19-34 of the Petition. This section thoroughly describes many historical and present threats affecting UKTR Spring Chinook Salmon ability to survive and reproduce. The threats listed include main stem dams, water withdrawals, disease, past logging, and suction dredging practices. This demonstrates there are historical and on-going factors that limit all anadromous salmonids ability to survive and reproduce and UKTR Spring Chinook Salmon may be the most vulnerable due to their early migration timing and need for adequate cool water for holding. It is reasonable to assume Spring Chinook Salmon are affected by the negative factors presented in the Petition.

The Department possesses information (Kier et al, 2018) that demonstrates UKTR Spring Chinook Salmon can successfully migrate, rear, and spawn in the main stem Trinity River, an area that was historically occupied by Fall Chinook Salmon.

The Department has found the Petition section labeled “Overexploitation” has factual errors. Page 32 of the Petition makes the statement:

“managing agencies do not treat UKTR Spring Chinook differently from UKTR Fall Chinook, UKTR Spring Chinook are taken legally in commercial and sport fisheries (Moyle) et al, 2008). Harvest rates are defined based on combined spring- and fall-run numbers of both hatchery and natural origins; therefore, the dwindling populations of Spring Chinook, especially wild-spawning populations are particularly vulnerable to being overfished under current management (Bilby et al 2005)”.

The last part of this section contends UKTR Spring Chinook Salmon are counted as part of annual Fall Chinook Salmon projections. This is incorrect, as UKTR Spring Chinook Salmon are not counted as part of Klamath Basin fall Chinook Salmon projections (Pacific Fishery Management Council 2018). In-river UKTR Spring Chinook Salmon are generally managed differently and with more conservation elements. Daily bag and possession limits are generally less than Fall Chinook Salmon, and two in-river harvest closures, the upper Klamath River above Wietchpec and the lower Trinity River below the South Fork Trinity River (2018-19 California Supplement Sport Fishing Regulations), afford greater protection to UKTR Spring Chinook Salmon. These closures were put in place to protect migrating UKTR Spring Chinook Salmon from in-river recreational harvest. The two closures are not in affect during the Fall Chinook Salmon migration window. Additionally, no harvest of Chinook Salmon is allowed in any tributary to the Klamath and Trinity Rivers.

The Department is currently managing UKTR Spring Chinook Salmon in a generally more conservative manner than the more abundant UKTR Fall Chinook Salmon.

ii. Conclusion

There are a number of factors affecting all anadromous life history types in the Klamath basin, some historical (loss of habitat above dams, dredging and mining,) and some contemporary (water management, disease, nutrient loading, water temperature). These factors will continue to be problematic for all anadromous salmonids, including UKTR Spring Chinook Salmon.

h. Degree and Immediacy of Threat

i. Scientific information in the petition

The Petitioner refers discussion to the population trend section, see the Department analysis in that section.

ii. Other relevant scientific information

The Petition refers discussion to the population trend section, see the Department analysis in that section.

iii. Conclusion

The Petition refers discussion to the population trend section, see the Department analysis in that section.

i. Impact of Existing Management Efforts

i. Scientific information in the petition

The Petition lists the impact of existing management efforts in pages 34-38. Several federal and state management entities and plans that concern habitat or fish management in the Klamath Basin are referenced. Cited plans and agency responsibilities include the U.S. Forest Service (NEPA, Northwest Forest Plan, National Forest Management Act); National Marine Fisheries Service (Environmental Species Act); Bureau of Land Management, Federal Energy Regulatory Commission, State Regulatory mechanisms (TMDL, mining, California Forest Practice Rules, harvest management).

From these plans the Petition makes the interpretation that individually, and as a whole, the existing regulatory framework is inadequate to protect UKTR Spring Chinook Salmon, and incorrectly states Spring and Fall Chinook Salmon are managed as one unit.

The information in the Petition demonstrates there are many management plans and agencies responsible for habitat protection or fishery management in the Klamath basin. Further analyses will be necessary to determine if current management plans or agency management is adequate for the protection of UKTR Spring Chinook Salmon. Due to the large number of management agencies and plans it is possible that not all agencies or plans have received due consideration/review.

ii. Other relevant scientific information

The planned removal of mainstem dams on the Klamath River in 2021 will facilitate recovery of UKTR Spring Chinook Salmon habitat, and possible reintroduction of UKTR Spring Chinook Salmon into areas where they have been previously extirpated from. The Oregon Department of Fish and Wildlife has developed a draft plan for reintroduction and monitoring of UKTR Spring Chinook Salmon, and the Department has had initial review of the plan. In addition, the Department has implemented regulations designed to protect UKTR Spring Chinook Salmon in the Klamath basin. This demonstrates there is on-going management designed to protect UKTR Spring Chinook Salmon separately from the more abundant UKTR Fall Chinook Salmon.

iii. Conclusion

There are a number of management agencies and management plans that should afford some level of protection to anadromous fishery resources in the Klamath basin. The Petition contends the management agencies and associated watershed, fishery, and environmental plans are inadequate to protect UKTR Spring Chinook Salmon.

j. Suggestions for Future Management

i. Scientific information in the petition

The Petition presents suggestions for future management on pages 38-40. A variety of alternatives are offered, including Klamath dam removal, special protection zones, limiting agricultural use of water supplies, habitat improvements, develop modeling and restoration plans, hatchery investigations, fishery management, implementing partnerships, and others.

The suggestions for future management are potential alternatives that could be considered, and in some cases have already been implemented (a suction dredge ban). Some of the suggested actions are currently in progress (habitat restoration, hatchery evaluations) and most of the actions will require agency/tribal/NGO coordination (restoration plans, harvest plans, refuge development, FERC relicensing). The Petition suggestions for future management are valid, and will require multiple state and federal agency, as well as tribal and other partner coordination.

ii. Other relevant scientific information

Any future management of anadromous fish stocks, particularly in regard to harvest management, will need to be fully vetted through the Pacific Fishery Management Council. This agency is responsible for managing interstate marine fisheries. Additionally, future management of in-river Klamath fisheries will require explicit involvement and participation by basin tribes to be effective. A variety of future management options may be more protective of anadromous fish stocks than is currently employed. If future management actions are pursued it will be incumbent on the Department and other management agencies to review the literature for prioritizing and implementing desired actions.

iii. Conclusion

The petition demonstrates there are known habitat restoration, water quality and distribution management, fishery regulation, and other protection mechanisms that may be beneficial to UKTR Spring Chinook Salmon life history requirements.

k. Detailed Distribution Map

A Spring Chinook Salmon distribution map is located on page 41 of the Petition. The map displays distribution of UKTR Spring Chinook Salmon in both the pre- and post-

dam eras. The legend for the map indicates historic presence, wild populations, wild in very low numbers and hatchery populations. One must infer from this map that UKTR Spring Chinook Salmon adult migration and spawning, and juvenile rearing/migration locations, are combined in the distribution detail related to the legend since UKTR Spring Chinook Salmon are not known to utilize lower Klamath and lower Trinity River habitat for spawning.

The Department does not concur with the map assessment that the mainstem Trinity River only contains hatchery produced UKTR Spring Chinook Salmon. As stated previously in this review the Department has documented natural production of UKTR Spring Chinook Salmon in the upper Trinity River.

IV. Recommendation to the Commission

Pursuant to section 2073.5 of the Fish and Game Code, the Department has evaluated the Petition on its face and in relation to other relevant information the Department possesses or received. In completing its petition evaluation, the Department finds there is sufficient scientific information to indicate that the petitioned action may be warranted, and recommends the Commission accept and consider the Petition.

References

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CDFW. 2017. Klamath Basin Spring Chinook Salmon Spawner Escapement, River Harvest, and Run-size Estimates 1980 – 2017. Table available from CDFW.

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State of California
Department of Fish and Wildlife

Date: November 15, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for the December 13, 2018 Fish and Game Commission Meeting:
*Recommendations for Designation of new Wild Trout Waters for 2018***

Fish and Game Code, Section 1727(b), requires the Department of Fish and Wildlife (Department) to annually prepare a list of no less than 25 miles of stream or stream segment and at least one lake deemed suitable for designation as Wild Trout Waters and to submit this list to the Fish and Game Commission (Commission). To comply with these requirements, the Department proposes the following waters:

South Fork Smith River, from the confluence with Craigs Creek upstream to Goose Creek, including Craigs Creek, Rock Creek and Coon Creek and excluding all other tributaries (Del Norte County). This proposed designation incorporates approximately 42 miles of perennial stream habitat, most of which are located on public lands administered by the U.S. Forest Service, Six Rivers National Forest. The upper portions of Rock Creek are within Redwood State Parks. The South Fork Smith River and its tributaries contain self-sustaining populations of both Coastal Cutthroat Trout and Coastal Rainbow Trout, within their historic range/native drainages, and is a fast-action fishery (> 2 fish per hour), with trophy trout (>18") potential. The Smith River watershed is of state and national importance, with National Recreational Area and Wild and Scenic River designations, prized salmonid fisheries, and the prestigious status of the longest free-flowing, undammed river system in the United States - making this fishery a unique resource in the state and a quintessential candidate for designation as a Heritage Trout Water. The Department has conducted annual direct observation (snorkel) and intermittent angling surveys of this portion of the Smith River drainage, both of which support designation as a high-quality stream fishery, with robust populations of both Coastal Cutthroat and Rainbow trout. This designation will expand upon, and be contiguous with, the 2016 and 2017 designations in the South Fork Smith River drainage, which included: South Fork Smith River, from the confluence with Blackhawk Creek upstream to the Island Lake Trail crossing, including the following tributaries: Buck Creek, Quartz Creek, Eightmile Creek,

Williams Creek, Harrington Creek and Prescott Fork and excluding all other tributaries (Del Norte County) (2016); and South Fork Smith River, from the confluence with Goose Creek upstream to the confluence with Blackhawk Creek, including Goose Creek and Hurdygurdy Creek and excluding all other tributaries (Del Norte County) (2017).

Hilton Lake # 4 (Mono County). Hilton Lake #4 is located at the latitude/longitude of 37°28'53.40"N, 118°45'52.88"W and elevation of 10,353 feet, in the Hilton Creek drainage, near Tom's Place. Hilton Lake #4 is part of an interconnected lake complex known as Hilton Creek Lakes and is a fast-action fishery (>2 fish per hour) for Brook Trout. There are 10 lakes within this basin, eight of which support self-sustaining trout fisheries with varying species composition. Anglers have the opportunity to achieve a so-called "Sierra Grand Slam" (catching four trout species within the same day, including Brown, Brook, Rainbow and Golden trout in the Hilton Creek Lakes basin). The basin is located in a remote and scenic wilderness setting. This designation expands upon the 2016 designation of Hilton Lake #1 (aka Davis Lake) and 2017 designation of Hilton Lake #2 and incorporates approximately 16 surface acres of aquatic habitat. The HWTP has conducted angling assessments and visual reconnaissance of spawning habitat, both of which support designation as a high quality, self-sustaining, lake fishery. Future proposed designation of other lakes in the drainage is planned, with the long-term intent of having all the lakes supporting self-sustaining trout fisheries within the basin designated as Wild Trout Waters. Further evaluation of the visitor use patterns, fishing pressure, and potential harvest in Hilton Lake #3 is required; thus, the skip in designation from Hilton Lake #2 to Hilton Lake #4. The Department has verified that no restoration of amphibians or other native aquatic species is planned within the drainage; thus, no conflict exists with managing this area for recreational angling into the future.

The recommended streams and lakes meet existing criteria to satisfy the requirements for designation as Wild and/or Heritage Trout Waters and no changes in angling regulations are necessary at this time.

If you have any questions or need additional information, please contact Kevin Shaffer, Chief, Fisheries Branch at (916) 327-8841 or kevin.shaffer@wildlife.ca.gov.

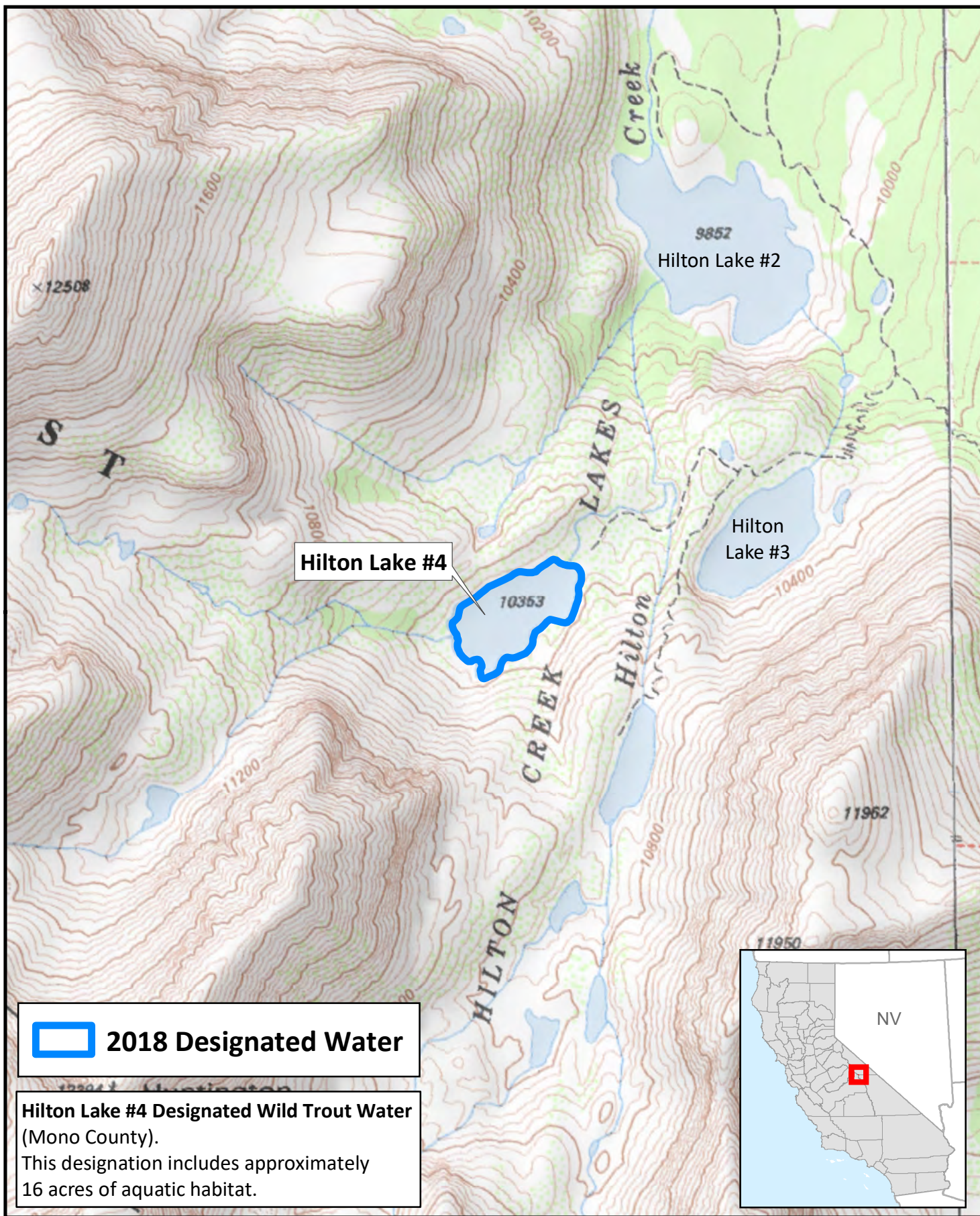
Attachments

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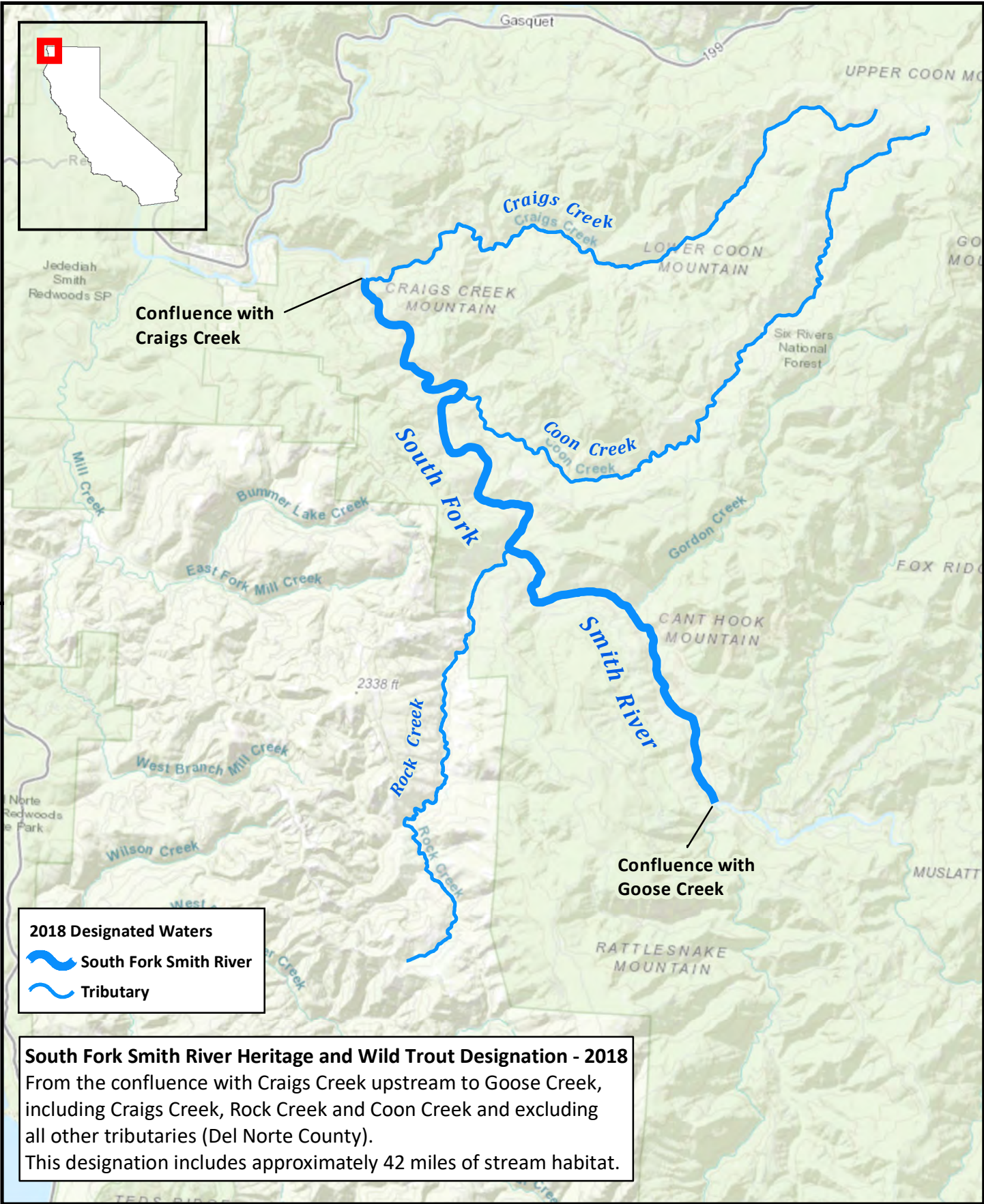
Melissa Miller-Henson, Acting Executive Director
Fish and Game Commission
November 15, 2018
Page 3

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Hilton Lake #4 Designated Wild Trout Water - 2018

South Fork Smith River Designated Heritage and Wild Trout Waters - 2018



0 1 2 4 Miles



COMMISSION DESIGNATED WILD TROUT WATERS

It is the policy of the Fish and Game Commission to:

I. Designate certain state waters to be managed exclusively for wild trout.

Commission designated wild trout waters should provide a quality experience by providing the angler with an opportunity to fish in aesthetically pleasing and environmentally productive waters with trout populations whose numbers or sizes are largely unaffected by the angling process.

Waters designated by the Commission for wild trout management shall meet the following criteria:

A. Angler Access:

1. Open for public angling with unrestricted access when of sufficient dimensions to accommodate anglers without overcrowding.

or

2. Open for public angling with controlled access under a plan approved by the Commission setting forth the number of anglers and the method of distribution.

B. Able to support, with appropriate angling regulations, wild trout populations of sufficient magnitude to provide satisfactory trout catches in terms of number or size of fish.

II. Wild trout waters shall be managed in accordance with the following stipulations:

A. Domestic strains of catchable-sized trout shall not be planted in designated wild trout waters.

B. Hatchery-produced trout of suitable wild and semi-wild strains may be planted in designated waters, but only if necessary to supplement natural trout reproduction.

C. Habitat protection is of utmost importance for maintenance of wild trout populations. All necessary actions, consistent with State law, shall be taken to prevent adverse impact by land or water development projects affecting designated wild trout waters.

III. The Department shall prepare and periodically update a management plan for each water designated as a wild trout water.

IV. Certain designated wild trout waters may be further designated by the Commission as "Heritage Trout Waters", to recognize the beauty, diversity, historical significance, and special values of California's native trout. Heritage Trout Waters shall meet the following additional criteria:

A. Only waters supporting populations that best exemplify indigenous strains of native trout within their historic drainages may qualify for designation.

B. Heritage Trout Waters shall be able to provide anglers with the opportunity to catch native trout consistent with the conservation of the native trout present.

V. Recognizing the importance of native trout to California's natural heritage, the Department shall emphasize education and outreach efforts to inform the public about our native trout, their habitats, and the activities for restoration of native trout when implementing the Heritage Trout Program.

A. Implement a Heritage Trout Angler Recognition Certificate through which anglers will have the opportunity to have their catches of California native trout recognized by the Commission. The criteria for receiving the formal recognition shall be maintained by the Department's Heritage and Wild Trout Program. To receive a certificate of recognition, anglers shall submit an application with supporting materials to the Department for review.

The following waters are designated by the Commission as "wild trout waters":

1. American River, North Fork, from Palisade Creek downstream to Iowa Hill Bridge (Placer County).
2. Carson River, East Fork, upstream from confluence with Wolf Creek excluding tributaries (Alpine County).
3. Clavey River, upstream from confluence with Tuolumne River excluding tributaries (Tuolumne County).
4. Fall River, from Pit No. 1 powerhouse intake upstream to origin at Thousand Springs including Spring Creek, but excluding all other tributaries (Shasta County).
5. Feather River, Middle Fork, from Oroville Reservoir upstream to Sloat vehicle bridge, excluding tributaries (Butte and Plumas counties).
6. Hat Creek, from Lake Britton upstream to Hat No. 2 powerhouse (Shasta County).
7. Hot Creek, from Hot Springs upstream to west property line of Hot Creek Ranch (Mono County).
8. Kings River, from Pine Flat Lake upstream to confluence with South and Middle forks excluding tributaries (Fresno County).
9. Kings River, South Fork, from confluence with Middle Fork upstream to western boundary of Kings Canyon National Park excluding tributaries (Fresno County).
10. Merced River, South Fork, from confluence with mainstem Merced River upstream to western boundary of Yosemite National Park excluding tributaries (Mariposa County).
11. Nelson Creek, upstream from confluence with Middle Fork Feather River excluding tributaries (Plumas County).
12. Owens River, from Five Bridges crossing upstream to Pleasant Valley Dam excluding tributaries (Inyo County).
13. Rubicon River, from confluence with Middle Fork American River upstream to Hell Hole Dam excluding tributaries (Placer County).
14. Yellow Creek, from Big Springs downstream to confluence with the North Fork of the Feather River (Plumas County).
15. Cottonwood Creek, upstream from confluence with Little Cottonwood Creek, including tributaries (Inyo County).
16. Klamath River, from Copco Lake to the Oregon border (Siskiyou County).
17. McCloud River, from Lake McCloud Dam downstream to the southern boundary of Section 36, T38N, R3W, M.D.B. & M. (Shasta County).
18. Deep Creek, from confluence with Green Valley Creek downstream to confluence with Willow Creek (San Bernardino County).
19. Middle Fork Stanislaus River, from Beardsley Afterbay Dam to Sand Bar Diversion Dam (Tuolumne County).
20. Truckee River, from confluence with Trout Creek downstream to the Nevada State line (excluding the property owned by the San Francisco Fly Casters Club) (Nevada and Sierra counties).
21. Sespe Creek, a 25-mile section between the Lion Campground and the boundary of the U.S. Forest Service, Los Padres National Forest (Ventura County).
22. East Fork Carson River, from Hangman's Bridge near Markleeville downstream to the Nevada state line (Alpine County).
23. Bear Creek, Bear Valley Dam (impounding Big Bear Lake) downstream to the confluence with the Santa Ana River (San Bernardino County).
24. Lavezolla Creek (Sierra County).
25. Laurel Lake #1 and Laurel Lake #2 (Mono County).

26. Middle Fork San Joaquin River - Northern boundary of the Devils Postpile National Monument downstream to the Lower Falls (3.6 miles); and footbridge just above the confluence with Shadow Creek downstream to the footbridge just above upper Soda Springs Campground (4 miles) (Madera County).
27. South Fork Kern River watershed from its headwaters downstream to the southern boundary of the South Sierra Wilderness (Tulare County).
28. Golden Trout Creek drainage, including tributaries, from confluence with the Kern River upstream to the headwaters (Tulare County).
29. Eagle Lake, north of Susanville (Lassen County).
30. Upper Kern River, from the Forks of the Kern, upstream to Tyndall Creek in Sequoia National Park (Tulare County).
31. Heenan Lake, near Markleeville and Monitor ~~Pass~~, Pass (Alpine County).
32. Upper Truckee River, including tributaries, upstream from the confluence with Showers Creek (El Dorado and Alpine counties).
33. Sacramento River, including tributaries, from Box Canyon Dam downstream to Scarlett Way in Dunsmuir (Siskiyou County) and from the county bridge at Sweetbriar downstream to Lake Shasta (Shasta County).
34. Long Lake (Plumas County).
35. Piru Creek, including tributaries, upstream of Pyramid Lake (Ventura and Los Angeles counties).
36. Upper Stony Creek including tributaries, upstream from Mine Camp Campground (Colusa, Glenn, and Lake counties).
37. Lower Honeymoon Lake (Fresno County).
38. Upper East Fork San Gabriel River, including tributaries, upstream from Heaton Flat (Los Angeles County).
39. Royce Lake # 2 (Fresno County).
40. Lower Yuba River, from Englebright Dam to the confluence with the Feather River (Yuba and Nevada counties).
41. Parker Lake (Mono County).
42. South Fork San Joaquin River and all tributaries from Florence Lake upstream to the boundary of Kings Canyon National Park including the Piute Creek drainage (Fresno County).
43. Sallie Keyes Lakes (Fresno County).
44. Sacramento River from Keswick Dam downstream to the Red Bluff Diversion Dam (Shasta and Tehama counties).
45. Pauley Creek from the confluence with the Downie River upstream to the headwaters (Sierra County).
46. Caples Creek from the confluence with the Silver Fork American River upstream to Caples Lake Dam (El Dorado and Alpine counties).
47. Putah Creek from Lake Solano upstream to Monticello Dam on Lake Berryessa (Solano and Yolo counties).
48. Lake Solano (Solano and Yolo counties).
49. Milton Reservoir (Nevada and Sierra counties).
50. Gerle Creek Divide Reservoir (El Dorado County).
51. Manzanita Lake (Shasta County).
52. Maggie Lake (Tulare County).
53. Little Kern River drainage, including tributaries, from the confluence with the Kern River upstream to the headwaters (Tulare County).
54. Hilton Lake #1 (Davis Lake) (Mono County).
55. South Fork Smith River, from the confluence with Blackhawk Creek upstream to the Island Lake Trail crossing, including the following tributaries: Buck Creek, Quartz

Creek, Eight Mile Creek, Williams Creek, Harrington Creek and Prescott Fork and excluding all other tributaries (Del Norte County).

56. South Fork Smith River, from the confluence with Goose Creek upstream to Blackhawk Creek, including Goose Creek and Hurdygurdy Creek and excluding all other tributaries (Del Norte County).

57. Hilton Lake # 2 (Mono County).

58. South Fork Smith River, from the confluence with Craigs Creek upstream to the confluence with Goose Creek, including Craigs Creek, Rock Creek, and Coon Creek and excluding all other tributaries (Del Norte County).

59. Hilton Lake # 4 (Mono County).

The following "wild trout waters" are further designated by the Commission as "heritage trout waters".

1. Clavey River, upstream from confluence with Tuolumne River, excluding tributaries (Tuolumne County).

2. Golden Trout Creek drainage, including tributaries, from confluence with the Kern River upstream to the headwaters (Tulare County).

3. Eagle Lake, north of Susanville, (Lassen County).

4. Upper Kern River, from the Forks of the Kern, upstream to Tyndall Creek in Sequoia National Park (Tulare County).

5. Heenan Lake, near Markleeville and Monitor Pass (Alpine County).

6. Upper Truckee River, including tributaries, upstream from the confluence with Showers Creek (El Dorado and Alpine counties).

7. Piru Creek, including tributaries, upstream of Pyramid Lake (Ventura and Los Angeles counties).

8. Upper Stony Creek including tributaries, upstream from Mine Camp Campground (Colusa, Glenn, and Lake counties).

9. Upper East Fork San Gabriel River, including tributaries, upstream from Heaton Flat (Los Angeles County).

10. Lower Yuba River, from Englebright Dam to the confluence with the Feather River (Yuba and Nevada counties).

11. Little Kern River drainage, including tributaries, from the confluence with the Kern River upstream to the headwaters (Tulare County).

12. South Fork Smith River, from the confluence with Blackhawk Creek upstream to the Island Lake Trail crossing, including the following tributaries: Buck Creek, Quartz Creek, Eight Mile Creek, Williams Creek, Harrington Creek and Prescott Fork and excluding all other tributaries (Del Norte County).

13. South Fork Smith River, from the confluence with Goose Creek upstream to Blackhawk Creek, including Goose Creek and Hurdygurdy Creek and excluding all other tributaries (Del Norte County).

14. South Fork Smith River, from the confluence with Craigs Creek upstream to the confluence with Goose Creek, including Craigs Creek, Rock Creek, and Coon Creek and excluding all other tributaries (Del Norte County).

(Amended: 01/04/94; 06/22/95; 03/06/97; 11/06/98; 04/02/99; 12/08/00; 04/03/03; 12/12/08; 11/04/09; 10/21/10; 11/17/11; 11/07/12; 11/06/13; 12/03/14; 12/10/15; 10/20/16; 10/3/2017; 9/21/2018)

Wildlife Resources Committee (WRC) 2018-19 Work Plan
Scheduled Topics and Timeline for
Items Referred to WRC by the California Fish and Game Commission
Updated December 3, 2018

Topic	Category	2018	2019		
		SEP	JAN	MAY	SEP
		Sacramento	Ontario	Sacramento	Santa Rosa
Annual Regulations					
Upland (Resident) Game Birds	Annual	X	X/R		
Sport Fishing	Annual	X/R			
Mammal Hunting	Annual	X/R			
Waterfowl	Annual	X/R			
Central Valley Salmon Sport Fishing	Annual	X/R			
Klamath River Basin Sport Fishing	Annual	X/R			
Regulations & Legislative Mandates					
Falconry	Referral for Review				
Statewide Sport Fishing Revisions and Simplification for 2020	Informational		X/R		
Special Projects					
Bullfrogs and Non-native Turtles	Informational	X			
Emerging Management Issues					
Gray Wolf	Informational			X	
Policies					
Delta Fisheries Forum Recommendations and Delta Fisheries Policy	Referral for Review	X	X		

KEY: X Discussion scheduled X/R Recommendation developed and moved to FGC

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Sections 1.53 and 5.00,
Title 14, California Code of Regulations
Re: Annual Sport Fishing Regulations - Freshwater Sport Fishing Amendments

- I. Date of Initial Statement of Reasons: March 16, 2018
- II. Dates and Locations of Scheduled Hearings:
- (a) Notice Hearing: Date: August 23, 2018
Location: Fortuna
- (b) Discussion Hearing: Date: October 18, 2018
Location: Fresno
- (c) Adoption Hearing: Date: December 13, 2018
Location: Oceanside
- III. Description of Regulatory Action:
- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

This California Department of Fish and Wildlife (Department) proposal requests changes to Title 14, California Code of Regulations (CCR), for the Annual Sport Fishing Regulations review cycle. This proposal will clarify that inland waters do not include bays, increase fishing opportunities for black bass in Perris Lake, and make needed corrections to existing regulations. The proposed regulatory changes are needed to reduce public confusion and improve regulatory enforcement.

The Department is proposing the following changes to current regulations:

INLAND WATERS DEFINITION

The current definition of inland waters can be confusing to anglers who want to fish two rods in a bay, but are not sure if a second rod validation is required. A second-rod validation is only required in inland waters. However, the current definition of Inland Waters (Title 14, Section 1.53) is not clear if inland waters include or exclude bays. The definition reads, "Inland waters exclude the waters of San Francisco Bay and the waters of Elkhorn Slough..." The definition only excludes San Francisco Bay. Title 14, Section 27.00, Definition of the Ocean

and San Francisco Bay District reads, “The ocean is...the waters of open or enclosed bays contiguous to the ocean.” This definition clearly states that all bays are considered waters of the ocean. To be consistent and clear, the definition of inland waters should state that all bays are excluded, not just San Francisco Bay. Amending the definition will clarify that inland waters do not include bays and, therefore, a second rod validation is not required in a bay.

Proposal: Amend Section 1.53, Inland Waters

Amend Section 1.53 to clarify that inland waters do not include bays.

LAKE PERRIS LARGEMOUTH BASS SIZE AND BAG LIMIT

The regulations were changed in 2009 to protect the fishery when the lake was drawn down by 43% to repair the dam. The dam repair is to be completed and the water was to be restored to nearly full pool in late 2017. CDFW placed 1,484 brush habitat structures into the remnant lake in 2008-2016 and built 109 rock reefs with approximately 109,000 sq/ft of gravel/cobble rock areas. In addition, once the water levels were restored, 12 years of terrestrial vegetation growth will be available in the littoral zone to help re-establish the bass population negating the need to protect the fishery beyond the statewide standard any further.

Proposal: Amend Section 5.00(B)(22), Perris Lake

Restore the black bass regulation at Lake Perris to the statewide standard 5 fish at 12 inches from 2 fish at 15 inches.

Updates to Authority and Reference Citations Based on Recent Legislation

Senate Bill 1473 (Stats. 2016, Ch. 546) made organizational changes to the Fish and Game Code that became effective January 1, 2017. The changes included moving the Commission’s exemptions from specified Administrative Procedure Act time frames from Section 202 to Section 265 of the Fish and Game Code, moving the Commission’s effective date procedures from Section 215 to Section 270 of the Fish and Game Code, moving the Commission’s effective period procedures from Section 220 to Section 275 of the Fish and Game Code, and moving the Commission’s authority to adopt emergency regulations from Section 240 to Section 399 of the Fish and Game Code. In accordance with these changes to the Fish and Game Code, sections 202, 215, and 220 are removed from, and sections 265, 270, and 275 are added to, the authority and reference citations for this rulemaking.

Minor Editorial Corrections for Clarity

In addition to the above proposals, minor editorial corrections are proposed to correct typographical errors and to improve regulation clarity.

Benefits of the Proposed Regulations

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the

jurisdiction and influence of the state for the benefit of all the citizens of the State. In addition, it is the policy of this state to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based trout and salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of trout and salmon to ensure their continued existence.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of California's trout and salmon resources, and promotion of businesses that rely on recreational sport fishing in California.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 205, 265, 270, 275, 1050, 1053.1, 1055.1, 7380 and 8491, Fish and Game Code.

Reference: Sections 110, 200, 205, 255, 265, 270, 275, 713, 1050, 1053.1, 1055.1, 7149.8, 7380, 7381, and 7382, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

None.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are scheduled prior to the notice publication. The 45-day public notice comment period provides adequate time for review of the proposed changes.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

Striped Bass Petition

Petition #2017-012; received by the Commission November 2, 2017; at its February 7-8, 2018 meeting the Commission granted for consideration in

the 2018 rulemaking package for the 2019-2020 angling season.

Petitioner requests a change to the striped bass fishing regulations to protect native fish species. The petitioner proposes to allow daily fishing south of the Golden Gate Bridge in all California South Coast Rivers and ocean waters, and suggests increasing the daily bag limit to 3 fish and decreasing the size limit to 12 inches.

Department Response

The Department does not support Mr. Lambert's petition to change the striped bass sport fishing regulations because: (1) striped bass are not present in many of the watersheds south of Golden Gate Bridge; (2) the fishing impacts due to bycatch of coho salmon and steelhead during targeting of striped bass outweighs the benefit of the off chance of taking striped bass; (3) invoking a size and bag limit is a management measure and contradictory to the intent of the proposal; (4) steelhead are not allowed to be fished daily during their open season and therefore daily fishing of striped bass would likely have an adverse impact on steelhead and Coho Salmon from increase fishing ; and (5) adoption of the regulation as proposed would create an enforceability issue related to two different standards in different areas of the state.

(b) No Change Alternative:

The no change alternative would leave existing regulations in place.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

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

- (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 is not anticipated to have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the expected impact of the proposed regulations on the amount of fishing activity is anticipated to be minimal relative to recreational angling effort statewide.

- (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 expected impact of the proposed regulations on the amount of fishing activity is anticipated to be minimal relative to recreational angling effort statewide. Therefore, the Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing business or the expansion of businesses in California.

The Commission anticipates benefits to the health and welfare of California residents. Sport fishing contributes to increased mental health of its practitioners as fishing is a hobby and form of relaxation for many. Sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by younger generations, the future stewards of California's natural resources.

The Commission does not anticipate any non-monetary benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California's sport fishing resources.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

to the State:

None.

(e) 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, Government Code:

None.

(h) Effect on Housing Costs:

None.

VII. Economic Impact Assessment:

The proposed regulations will revise and update inland sport fishing regulations starting in 2019. Currently, the seasons, size limits, and bag and possession limits for sport fishing are periodically reviewed by the California Department of Fish and Wildlife and the California Fish and Game Commission. This set of amendments will clarify that inland waters do not include bays; increase fishing opportunities for black bass in Lake Perris; and make needed editorial corrections.

Inland sport fishing regulations' affected parties include recreational anglers, commercial passenger fishing vessels and a variety of businesses that support anglers. The economic impact of regulatory changes for sport fisheries are estimated by tracking resulting changes in fishing effort, angler trips and length of stay in the fishery areas. Distance traveled affects gas and other travel expenditures. Day trips and overnight trips involve different levels of spending for gas, food and accommodations at area businesses as well as different levels of sales tax impacts. Direct expenditures ripple through the economy, as receiving businesses buy intermediate goods from suppliers that then spend that revenue again. Business spending on wages is received by workers who then spend that income, some of which goes to local businesses. Recreational fisheries spending thus multiplies throughout the economy with the indirect and induced effects of the initial direct expenditure.

This regulatory action may impact businesses that provide services to sport fishermen but these effects are anticipated to range from none to small positive impacts, depending on the regulations ultimately adopted by the Commission. Sport fishing business owners, boat owners, tackle store owners, boat manufacturers, vendors of food, bait, fuel and lodging, and others that provide goods or services to those that sport fish in California may be positively affected to some degree from increases to business that may result under the range of proposed regulations. These anticipated impacts may vary by geographic location. Additionally, economic impacts to these same businesses may result from a number of factors unrelated to the proposed changes to inland sport fishing regulations, including weather, fuel prices, and success rates in other recreational fisheries that compete for angler trips.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The cumulative effects of the changes statewide are estimated to be neutral to job elimination and potentially positive to job creation in California. No significant changes in fishing effort and sport fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The cumulative effects of the changes statewide are expected to be neutral to business elimination and have potentially positive impacts to the creation of businesses in California. No significant changes in fishing effort and sport fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The cumulative effects of the changes statewide are expected to be neutral to positive to the expansion of businesses currently doing business in California. No significant changes in fishing effort and inland sport fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission anticipates benefits to the health and welfare of California residents. Sport fishing contributes to increased mental health of its practitioners as fishing is a hobby and form of relaxation for many. Sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by younger generations, the future stewards of California's natural resources.

(e) Benefits of the Regulation to Worker Safety:

The proposed regulations are not anticipated to impact worker safety conditions.

(f) Benefits of the Regulation to the State's Environment:

It is the policy of the state to encourage the conservation, maintenance, and utilization of the living resources of the inland waters under the jurisdiction and influence of the state for the benefit of all its citizens and to promote the development of local California fisheries. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use, taking into consideration the necessity of regulating individual sport fishery bag limits in the quantity that is sufficient to provide a satisfying sport. Adoption of scientifically-based inland trout and salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of trout and salmon to ensure their continued existence.

Informative Digest/Policy Statement Overview

This California Department of Fish and Wildlife (Department) proposal combines Department and public requests for changes to Title 14, California Code of Regulations (CCR), for the Annual Sport Fishing Regulations review cycle. This proposal will clarify that inland waters do not include bays, increase fishing opportunities for black bass in Perris Lake, and make needed corrections to existing regulations. The proposed regulatory changes are needed to reduce public confusion and improve regulatory enforcement.

The Department is proposing the following changes to current regulations:

INLAND WATERS DEFINITION

The current definition of inland waters can be confusing to anglers who want to fish two rods in a bay, but are not sure if a second rod validation is required. A second-rod validation is only required in inland waters. However, the current definition of Inland Waters (Title 14, Section 1.53) is not clear if inland waters include or exclude bays. The definition reads, "Inland waters exclude the waters of San Francisco Bay and the waters of Elkhorn Slough..." The definition only excludes San Francisco Bay. Title 14, Section 27.00, Definition of the Ocean and San Francisco Bay District reads, "The ocean is...the waters of open or enclosed bays contiguous to the ocean." This definition clearly states that all bays are considered waters of the ocean. To be consistent and clear, the definition of inland waters should state that all bays are excluded, not just San Francisco Bay. Amending the definition will clarify that inland waters do not include bays and, therefore, a second rod validation is not required in a bay.

Proposal: Amend Section 1.53, Inland Waters

Amend Section 1.53 to clarify that inland waters do not include bays.

LAKE PERRIS LARGEMOUTH BASS SIZE AND BAG LIMIT

The regulations were changed in 2009 to protect the fishery when the lake was drawn down by 43% to repair the dam. The dam repair is to be completed and the water is to be restored to nearly full pool in late 2017. CDFW placed 1,484 brush habitat structures into the remnant lake in 2008-2016 and built 109 rock reefs with approximately 109,000 sq/ft of gravel/cobble rock areas. In addition, once the water levels are restored, 12 years of terrestrial vegetation growth will be available in the littoral zone to help re-establish the bass population negating the need to protect the fishery beyond the statewide standard any further.

Proposal: Amend Section 5.00(B)(22), Perris Lake

Restore the black bass regulation at Lake Perris to the statewide standard 5 fish at 12 inches from 2 fish at 15 inches.

Updates to Authority and Reference Citations Based on Recent Legislation

Senate Bill 1473 (Stats. 2016, Ch. 546) made organizational changes to the Fish and Game Code that became effective January 1, 2017. The changes included moving the Commission's exemptions from specified Administrative Procedure Act time frames from Section 202 to Section 265 of the Fish and Game Code, moving the Commission's effective date procedures from Section 215 to Section 270 of the Fish and Game Code, moving the Commission's effective period procedures from Section 220 to Section 275 of the Fish and Game Code, and moving the Commission's authority to adopt emergency regulations from Section 240 to Section 399 of the Fish and Game Code. In accordance with these changes to the Fish and Game Code, sections 202, 215, and 220 are removed from, and sections 265, 270, and 275 are added to, the authority and reference citations for this rulemaking.

Minor Editorial Corrections for Clarity

In addition to the above proposals, minor editorial corrections are proposed to correct typographical errors and to improve regulation clarity.

Benefits of the Proposed Regulations

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the state for the benefit of all the citizens of the State. In addition, it is the policy of this state to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based trout and salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of trout and salmon to ensure their continued existence.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of California's trout and salmon resources, and promotion of businesses that rely on recreational sport fishing in California.

Regulatory Language

Section 1.53, Title 14, CCR, is amended as follows:

§ 1.53. Inland Waters.

Inland waters are all the fresh, brackish and inland saline waters of the state, including lagoons and tidewaters upstream from the mouths of coastal rivers and streams. Inland waters exclude open or enclosed bays contiguous to the ocean including the waters of San Francisco Bay and the waters of Elkhorn Slough, west of Elkhorn Road between Castroville and Watsonville. See Section 27.00 for the description of San Francisco Bay.

Note: Authority cited: Sections 200, ~~202~~, 205, ~~215~~ and ~~220~~ 265 and 270, Fish and Game Code. Reference: Sections 200, ~~202~~, 205, ~~215~~ and ~~220~~ 265 and 270, Fish and Game Code.

Section 5.00, Title 14, CCR, is amended as follows:

§ 5.00. Black Bass.

It is unlawful to take or possess black bass except as provided below:

(Note: Some waters are closed to all fishing under Section 7.50.)

[No change to subsection (a)]

(b) Special Regulations: Counties and individual waters listed below are those having regulations different from the General Statewide Restrictions in subsection (a).

<i>Area or Body of Water</i>	<i>Open Season</i>	<i>Size (total length)</i>	<i>Bag Limit</i>
DISTRICTS AND COUNTIES WITH SPECIAL REGULATIONS			
<i>[No change to subsections (b)(1) through (b)(21)]</i>			
(22) Perris Lake (Riverside County).	All year.	15-inch minimum. <u>12 inch minimum.</u>	2 <u>5</u>
<i>[No change to subsections (b)(23) through (b)(30)]</i>			

Note: Authority cited: Sections 200, ~~202~~, 205, ~~215~~ and ~~220~~ 265, 270 and 275, Fish and Game Code. Reference: Sections 200, ~~and 205~~ and ~~206~~, Fish and Game Code.

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Sections 1.74
Title 14, California Code of Regulations
Re: Annual Sport Fishing Regulations - Sport Fishing Report Card Requirements

- I. Date of Initial Statement of Reasons: March 16, 2018
- II. Dates and Locations of Scheduled Hearings:
- (a) Notice Hearing: Date: August 23, 2018
Location: Fortuna
- (b) Discussion Hearing: Date: October 18, 2018
Location: Fresno
- (c) Adoption Hearing: Date: December 13, 2018
Location: Oceanside

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

This California Department of Fish and Wildlife (Department) proposal requests changes to Title 14, California Code of Regulations (CCR), for the Annual Sport Fishing Regulations review cycle. Existing regulations established guidelines for report card regulations including the need for reporting harvest authorized by a report card; however, this section does not include the same mechanism for confirmation that data from a report card has been reported. This proposal requires report card holders who submit data online to write the provided confirmation number on their report card and retain the report card until for 90 days after the reporting deadline, in the same way it is regulated with other types of report cards in Title 14. The proposed regulatory changes are needed to reduce public confusion, improve the accuracy of data collected, and improve regulatory enforcement.

The Department is proposing the following changes to current regulations:

SPORT FISHING REPORT CARD REQUIREMENTS

Section 1.74 establishes guidelines for report card regulations including reporting harvest authorized by a report card; however, this section does not include a mechanism for confirmation that data from a report card has been reported. This proposal requires report card holders who submit data online to write the

provided confirmation number on their report card and retain the report card until 90 days after the reporting deadline. The objectives of this proposed regulations are to:

- Ensure continued fishing opportunities for anglers in California by providing the Department with more timely, accurate and comprehensive data on success and take levels;
- Establish a retention period of 90 days, during which time the Department may request the angler surrender the report card to audit the reporting process;
- Establish consistency with other report card procedures that include a 90 day retention period.

When a report card is lost, a licensee may wish to obtain a replacement report card, or may simply need to fulfill the harvest reporting requirement before the reporting deadline. Section 1.74 does not currently provide guidelines for licensees who have lost their report card and need to report their harvest, but do not need to obtain a replacement report card. This proposal updates procedures regarding lost report cards to provide guidelines for obtaining a replacement report card, and also for reporting harvest from a lost report card without obtaining a replacement report card.

Proposal: Amend Section 1.74, Sport Fishing Report Card Requirements

Amend Section 1.74 to update procedures for reporting online and for lost report cards.

Minor Editorial Corrections for Clarity

In addition to the above proposals, minor editorial corrections are proposed to correct typographical errors and to improve regulation clarity.

Benefits of the Proposed Regulations

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the state for the benefit of all the citizens of the State. In addition, it is the policy of this state to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this policy is to ensure more accurate data reporting as well as a mechanism to audit the data reported. Adoption of scientifically-based trout and salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of trout and salmon to ensure their continued existence, and verifiable accuracy of the data will further help to improve the fisheries impacted by this action.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of California's trout and salmon resources, and promotion of businesses that rely on recreational sport fishing in California.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 205, 265, 270, 275, 1050, 1053.1, 1055.1, 7380 and 8491, Fish and Game Code.

Reference: Sections 110, 200, 205, 255, 265, 270, 275, 713, 1050, 1053.1, 1055.1, 7149.8, 7380, 7381, and 7382, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

None.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are scheduled prior to the notice publication. The 45-day public notice comment period provides adequate time for review of the proposed changes.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No alternative were identified.

- (b) No Change Alternative:

The no change alternative would leave existing regulations in place.

- (c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

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

- (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 is not anticipated to have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the proposed action is a procedural update to an existing report card process. No changes in fishing effort and sport fishing expenditures to businesses are expected as a result of the proposed regulation changes.

- (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 effects of the proposed action are anticipated to be neutral to the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses or the expansion of businesses in California. The proposed action is a procedural update to an existing report card process. No changes in fishing effort and sport fishing expenditures to businesses are expected as a result of the proposed regulation changes.

The Commission does not anticipate any impacts to the health and welfare of California residents from the proposed action.

The Commission does not anticipate any non-monetary benefits to worker safety.

The Commission does not anticipate any benefits to the environment from the proposed action.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

None.
- (e) 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, Government Code:

None.
- (h) Effect on Housing Costs:

None.

VII. Economic Impact Assessment:

The proposed regulations will provide an update for a confirmation procedure for the submission of sport fishing report cards and will correct some text errors.

- (a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The effects of the proposed action are anticipated to be neutral to the creation or elimination of jobs within the state. The proposed action is a procedural update to an existing report card process. No changes in fishing effort and sport fishing expenditures to businesses are expected as a result of the proposed regulation changes.
- (b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The effects of the proposed action are anticipated to be neutral to the creation or elimination of businesses within the state. The proposed action is a procedural update to an existing report card process. No changes in fishing effort and sport fishing expenditures to businesses are expected as a result of the proposed regulation changes.

- (c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The effects of the proposed action are anticipated to be neutral to the expansion of businesses currently doing business within the state. The proposed action is a procedural update to an existing report card process. No changes in fishing effort and sport fishing expenditures to businesses are expected as a result of the proposed regulation changes.

- (d) Benefits of the Regulation to the Health and Welfare of California Residents:

The proposed action is not anticipated to impact the health and welfare of California residents.

- (e) Benefits of the Regulation to Worker Safety:

The proposed action is not anticipated to impact worker safety conditions.

- (f) Benefits of the Regulation to the State's Environment:

The proposed action is not anticipated to provide any benefits to the state's environment.

Informative Digest/Policy Statement Overview

This California Department of Fish and Wildlife (Department) proposal requests changes to Title 14, California Code of Regulations (CCR), for the Annual Sport Fishing Regulations review cycle. This proposal will update the sport fishing report card requirements, and make needed corrections to existing regulations. The proposed regulatory changes are needed to reduce public confusion and improve regulatory enforcement.

The Department is proposing the following changes to current regulations:

SPORT FISHING REPORT CARD REQUIREMENTS

Section 1.74 establishes guidelines for report card regulations including reporting harvest authorized by a report card; however, this section does not include a mechanism for confirmation that data from a report card has been reported. This proposal requires report card holders who submit data online to write the provided confirmation number on their report card and retain the report card until 90 days after the reporting deadline.

When a report card is lost, a licensee may wish to obtain a replacement report card, or may simply need to fulfill the harvest reporting requirement before the reporting deadline. Section 1.74 does not currently provide guidelines for licensees who have lost their report card and need to report their harvest, but do not need to obtain a replacement report card. This proposal updates procedures regarding lost report cards to provide guidelines for obtaining a replacement report card, and also for reporting harvest from a lost report card without obtaining a replacement report card.

Proposal: Amend Section 1.74, Sport Fishing Report Card Requirements

Amend Section 1.74 to update procedures for reporting online and for lost report cards.

Benefits of the Proposed Regulations

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the state for the benefit of all the citizens of the State. In addition, it is the policy of this state to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based trout and salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of trout and salmon to ensure their continued existence.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of California's trout and salmon resources, and promotion of businesses that rely on recreational sport fishing in California.

Regulatory Language

Section 1.74, Title 14, CCR, is amended as follows:

§ 1.74. Sport Fishing Report Card Requirements.

(a) Purpose. These regulations are designed to improve recreational fishing effort and catch information in some or all areas where the fisheries operate. Many of these species are of high commercial value, and therefore, additional enforcement mechanisms are needed to improve compliance with existing bag limits and other regulations, and to reduce the potential for poaching.

(b) Report card requirements apply to any person fishing for or taking the following species regardless of whether a sport fishing license is required:

(1) Salmon, in the anadromous waters of the Klamath, Trinity, and Smith river basins. Anadromous waters are defined in Section 1.04 of these regulations.

(2) Steelhead trout.

(3) White sturgeon.

(4) Red abalone.

(5) California spiny lobster.

(c) General Report Card Requirements.

(1) Any person fishing for or taking any of the species identified in this Section shall have in his immediate possession a valid non-transferable report card issued by the department for the particular species. See special exemption regarding possession of report cards for lobster divers in Section 29.91 of these regulations.

(2) All entries made on any report card or tag shall be legible and in indelible ink.

(3) A report card holder fishing with a one, two, or ten-day sport fishing license, may replace the expired fishing license without purchasing a new report card so long as the report card is still valid.

(4) Report cards are not transferable and shall not be transferred to another person. No person shall possess any report card other than his own.

(5) A person may only obtain one abalone report card and one sturgeon report card per report card period.

(6) Any report card holder who fills in all available lines on his steelhead, salmon or lobster report card shall return or report the card to the department pursuant to subsection 1.74(e) prior to purchasing a second card.

(7) Data recording and tagging procedures vary between report cards and species. See specific regulations in sections 5.79, 5.87, 5.88, 27.92, 29.16, and 29.91 that apply in addition to the regulations of this Section.

(d) Report Card Return and Reporting Requirements

(1) Report card holders shall return or report their salmon, steelhead, sturgeon, or abalone report cards to the department pursuant to subsection 1.74(e) by January 31 of the following year.

(A) Any report card holder who fails to return or report his salmon, steelhead, sturgeon, or abalone report card to the department by the deadline may be restricted from obtaining the same card in a subsequent license year or may be subject to an additional fee for the issuance of the same card in a subsequent license year.

(2) Report card holders shall return or report their lobster report cards pursuant to subsection 1.74(e) by April 30 following the close of the lobster season for which the card was issued.

(A) Any report card holder who fails to return or report his or her lobster report card by April 30 following the close of the lobster season specified on the card shall be subject to a nonrefundable non-return fee specified in Section 701, in addition to the annual report card fee, for the issuance of a lobster report card in the subsequent fishing season.

(e) Report Card Return and Reporting Mechanisms:

(1) By mail or in person at the address specified on the card. A report card returned by mail shall be postmarked by the date applicable to that card as specified in subsection 1.74(d)(1) or 1.74(d)(2).

(2) Online through the department's license sales service website by the date applicable to that card as specified in subsection 1.74(d)(1) or 1.74(d)(2).

Report card holders reporting online will be provided a confirmation number upon successful submission. The report card holder must record the provided confirmation number in the space provided on the report card and retain the report card for 90 days after the reporting deadline. Report cards submitted online must be surrendered to the department upon demand.

(3) If a report card is submitted by mail and not received by the department, it is considered not returned unless the report card holder reports his or her report card as lost pursuant to subsection 1.74(f).

~~(f) Lost report cards.~~

~~(1) Any report card holder who loses his report card shall submit an affidavit, signed under penalty of perjury, in person to a department license sales office containing all of the following information:~~

~~(A) A statement containing the report card holder's full name confirming that the originally issued report card cannot be recovered.~~

~~(B) A statement containing the report card holder's best recollection of the prior catch records that were entered on the report card that was lost.~~

~~(C) A statement describing the factual circumstances surrounding the loss of the card.~~

~~(2) An affidavit for a lost report card shall be presented at a department license sales office, by the date applicable to that card specified in subsection 1.74(d)(1) or 1.74(d)(2) to be considered returned.~~

~~(3) Notwithstanding subsection 1.74(c)(5), any report card holder who loses his report card during the period for which it is valid may replace the lost report card by submitting an affidavit as described in subsection 1.74(f)(1) and payment of the report card fee and replacement processing fee specified in Section 701.~~

(A) Based on the information provided in the written affidavit for abalone and sturgeon report cards, the department shall issue only the number of tags that were reported unused on the previously issued report card.

(f) Lost report cards.

(1) Lobster, salmon, and steelhead. Notwithstanding subsection 1.74(c)(5), any report card holder who loses his report card during the report card period for which it is valid may purchase an additional report card by submitting payment to an authorized license agent or department license sales office. Catch information from the lost report card shall not be transferred to the new card. Information from lost lobster, salmon, and steelhead report cards shall be reported as specified in subsection 1.74(f)(3).

(2) Abalone and sturgeon. Notwithstanding subsection 1.74(c)(5), any report card holder who loses his or her report card during the period for which it is valid may purchase a replacement report card. The Department may issue a replacement report card for abalone and sturgeon upon completion of the following:

(A) Submitting an affidavit to any department license sales office containing all the information specified in subsection 1.74(f)(3)(B); and

(B) Submitting payment of the report card fee and the non-refundable replacement-processing fee specified in Section 701.

(C) Department staff shall enter the harvest information from the affidavit to the replacement report card.

(D) Based on the information provided on the affidavit, department staff shall remove tags reported as used and issue only the number of tags that were reported as unused on the lost original report card.

(E) Report card holders shall verify that the harvest information has been accurately transferred from the affidavit to his or her replacement report card.

(F) The replacement report card shall be reported pursuant to the requirement for the original report card as specified in subsection 1.74(d). Note: the original report card should not be reported.

(3) Reporting requirements. Except for lost abalone and sturgeon report cards for which a replacement card was purchased, all lost report cards shall be reported by the harvest report submission deadline date applicable to that card as specified in subsection 1.74(d)(1) or 1.74(d)(2) by one of the following methods:

(A) Online through the department's license sales service website; or

(B) Submitting an affidavit, signed under penalty of perjury, to a department license sales office containing the following information:

1. The report card holder's full name, GO ID#, and a statement confirming that the originally-issued report card is lost and cannot be recovered.

2. A statement containing the report card holder's best recollection of the prior catch records that were entered on the report card that was lost.

3. A statement describing the factual circumstances surrounding the loss of the report card.

Note: Authority cited: Sections 200, 205, 265, 275, 1050, 1053.1, 1055.1 and 7380, Fish and Game Code. Reference: Sections 110, 200, 205, 265, 275, 713, 1050, 1053.1, 1055.1, 7149.8, 7380, 7381 and 7382, Fish and Game Code.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

[SAM Section 6601-6616](#)**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON Margaret Duncan margaret.duncan	EMAIL ADDRESS @wildlife.ca.gov	TELEPHONE NUMBER 916-653-4676
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Sections 1.53, 1.74 and 5.00(b)(21) Re: Annual Sport Fishing Regulations, Title 14, CCR			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

Admin changes to Black Bass size & bag limits and clarifications to sport fish regs.*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total
businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide
☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with
other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

ECONOMIC AND FISCAL IMPACT STATEMENT**(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____
- a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ _____

4. Will this regulation directly impact housing costs? ☐ YES ☐ NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☐ NO

Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

Instructions and Code Citations:

SAM Section 6601-6616**ECONOMIC IMPACT STATEMENT (CONTINUED)**

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?
- ☐
- YES
- ☐
- NO

Explain: _____

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.**California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.*

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million?
- ☐
- YES
- ☐
- NO

*If YES, complete E2. and E3**If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☐ NO*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

Instructions and Code Citations:

SAM Section 6601-6616**FISCAL IMPACT STATEMENT (CONTINUED)****B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

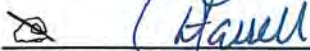
\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

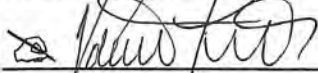


DATE

7/8/18

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

7/18/2018

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
 For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH #

Project Title: Proposed Amendments to Freshwater Sport Fishing RegulationsLead Agency: Fish and Game CommissionContact Person: Valerie TerminiMailing Address: P.O. Box 944209Phone: 916-653-4899City: SacramentoZip: 94244-2090County: Sacramento**Project Location:** County: State of California City/Nearest Community: _____

Cross Streets: _____ Zip Code: _____

Longitude/Latitude (degrees, minutes and seconds): _____° _____' _____" N / _____° _____' _____" W Total Acres: _____

Assessor's Parcel No.: _____ Section: _____ Twp.: _____ Range: _____ Base: _____

Within 2 Miles: State Hwy #: _____ Waterways: _____

Airports: _____ Railways: _____ Schools: _____

Document Type:

CEQA: ☐ NOP ☐ Draft EIR NEPA: ☐ NOI Other: ☐ Joint Document
☐ Early Cons ☐ Supplement/Subsequent EIR ☐ EA ☐ Final Document
☒ Neg Dec (Prior SCH No.) _____ ☐ Draft EIS ☐ Other: _____
☐ Mit Neg Dec Other: _____ ☐ FONSI

Local Action Type:

☐ General Plan Update ☐ Specific Plan ☐ Rezone ☐ Annexation
☐ General Plan Amendment ☐ Master Plan ☐ Prezone ☐ Redevelopment
☐ General Plan Element ☐ Planned Unit Development ☐ Use Permit ☐ Coastal Permit
☐ Community Plan ☐ Site Plan ☐ Land Division (Subdivision, etc.) ☐ Other: _____

Development Type:

☐ Residential: Units _____ Acres _____ ☐ Transportation: Type _____
☐ Office: Sq.ft. _____ Acres _____ Employees _____ ☐ Mining: Mineral _____
☐ Commercial: Sq.ft. _____ Acres _____ Employees _____ ☐ Power: Type _____ MW
☐ Industrial: Sq.ft. _____ Acres _____ Employees _____ ☐ Waste Treatment: Type _____ MGD
☐ Educational: _____ ☐ Hazardous Waste: Type _____
☐ Recreational: _____ ☒ Other: Sport Fishing Regulations
☐ Water Facilities: Type _____ MGD _____

Project Issues Discussed in Document:

☐ Aesthetic/Visual ☐ Fiscal ☐ Recreation/Parks ☐ Vegetation
☐ Agricultural Land ☐ Flood Plain/Flooding ☐ Schools/Universities ☐ Water Quality
☐ Air Quality ☐ Forest Land/Fire Hazard ☐ Septic Systems ☐ Water Supply/Groundwater
☐ Archeological/Historical ☐ Geologic/Seismic ☐ Sewer Capacity ☐ Wetland/Riparian
☐ Biological Resources ☐ Minerals ☐ Soil Erosion/Compaction/Grading ☐ Growth Inducement
☐ Coastal Zone ☐ Noise ☐ Solid Waste ☐ Land Use
☐ Drainage/Absorption ☐ Population/Housing Balance ☐ Toxic/Hazardous ☐ Cumulative Effects
☐ Economic/Jobs ☐ Public Services/Facilities ☐ Traffic/Circulation ☒ Other: Sport Fishing

Present Land Use/Zoning/General Plan Designation:**Project Description:** (please use a separate page if necessary)

California Fish and Game Commission adoption of Freshwater Sport Fishing Regulations for California.

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with and "X".
If you have already sent your document to the agency please denote that with an "S".

<input checked="" type="checkbox"/> Air Resources Board	<input type="checkbox"/> Office of Historic Preservation
<input type="checkbox"/> Boating & Waterways, Department of	<input type="checkbox"/> Office of Public School Construction
<input type="checkbox"/> California Emergency Management Agency	<input checked="" type="checkbox"/> Parks & Recreation, Department of
<input type="checkbox"/> California Highway Patrol	<input type="checkbox"/> Pesticide Regulation, Department of
<input checked="" type="checkbox"/> Caltrans District # _____	<input type="checkbox"/> Public Utilities Commission
<input type="checkbox"/> Caltrans Division of Aeronautics	<input checked="" type="checkbox"/> Regional WQCB # _____
<input checked="" type="checkbox"/> Caltrans Planning	<input type="checkbox"/> Resources Agency
<input type="checkbox"/> Central Valley Flood Protection Board	<input type="checkbox"/> Resources Recycling and Recovery, Department of
<input type="checkbox"/> Coachella Valley Mtns. Conservancy	<input checked="" type="checkbox"/> S.F. Bay Conservation & Development Comm.
<input checked="" type="checkbox"/> Coastal Commission	<input type="checkbox"/> San Gabriel & Lower L.A. Rivers & Mtns. Conservancy
<input checked="" type="checkbox"/> Colorado River Board	<input type="checkbox"/> San Joaquin River Conservancy
<input checked="" type="checkbox"/> Conservation, Department of	<input type="checkbox"/> Santa Monica Mtns. Conservancy
<input type="checkbox"/> Corrections, Department of	<input type="checkbox"/> State Lands Commission
<input checked="" type="checkbox"/> Delta Protection Commission	<input type="checkbox"/> SWRCB: Clean Water Grants
<input type="checkbox"/> Education, Department of	<input type="checkbox"/> SWRCB: Water Quality
<input type="checkbox"/> Energy Commission	<input type="checkbox"/> SWRCB: Water Rights
<input type="checkbox"/> Fish & Game Region # _____	<input checked="" type="checkbox"/> Tahoe Regional Planning Agency
<input type="checkbox"/> Food & Agriculture, Department of	<input type="checkbox"/> Toxic Substances Control, Department of
<input checked="" type="checkbox"/> Forestry and Fire Protection, Department of	<input checked="" type="checkbox"/> Water Resources, Department of
<input type="checkbox"/> General Services, Department of	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Health Services, Department of	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Housing & Community Development	
<input type="checkbox"/> Native American Heritage Commission	

Local Public Review Period (to be filled in by lead agency)

Starting Date _____ Ending Date _____

Lead Agency (Complete if applicable):

Consulting Firm: _____	Applicant: Fish and Game Commission
Address: _____	Address: 1416 Ninth Street, Suite 1320
City/State/Zip: _____	City/State/Zip: Sacramento, CA 95814
Contact: _____	Phone: (916) 653-4899
Phone: _____	

Signature of Lead Agency Representative:  Date: 9/10/08

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

STATE OF CALIFORNIA
NATURAL RESOURCES AGENCY
FISH AND GAME COMMISSION
NEGATIVE DECLARATION
FOR
PROPOSED AMENDMENTS
TO
FRESHWATER SPORT FISHING REGULATIONS
TITLE 14, CALIFORNIA CODE OF REGULATIONS

Prepared by:

California Department of Fish and Wildlife
Fisheries Branch

This Report Has Been Prepared Pursuant to the
California Environmental Quality Act of 1970
State of California
Natural Resources Agency
Fish and Game Commission

State Clearinghouse #

2018092058

**INITIAL STUDY AND NEGATIVE DECLARATION
FOR
PROPOSED AMENDMENTS
TO
FRESHWATER SPORT FISHING REGULATIONS
TITLE 14, CALIFORNIA CODE OF REGULATIONS**

The Project

The Fish and Game Commission (Commission) proposes to amend a variety of freshwater sport fishing regulations as set forth in Title 14 of the California Code of Regulations (CCR). As compared to existing regulations, this proposal will amend the definition of inland waters to clarify that inland waters do not include bays. It will also increase fishing opportunities for black bass in Lake Perris, and make needed corrections to existing regulations detailed further below. The proposed regulatory changes are needed to reduce public confusion and improve regulatory enforcement.

The Findings

The project will have a less than significant impact on greenhouse gases, recreation, and transportation/traffic. The project will have no impact to aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, tribal cultural resources, and utilities and service systems.

Basis of the Findings

Based on the initial study, the Commission finds that implementing the proposed project will have a less than significant to no impact on the environment. Therefore, a negative declaration is filed pursuant to the California Environmental Quality Act, Public Resource Code Section 21080 (c)(2).

This proposed negative declaration consists of the following:

- Introduction – Project Description and Background Information on the Proposed Amendments to Freshwater Sport Fishing Regulations
- Initial Study Environmental Checklist Form
- Explanation of the Response to the Initial Study Environmental Checklist Form

**PROJECT DESCRIPTION AND BACKGROUND INFORMATION
FOR
PROPOSED AMENDMENTS
TO
FRESHWATER SPORT FISHING REGULATIONS
TITLE 14, CALIFORNIA CODE OF REGULATIONS**

Introduction

Annually, the Department of Fish and Wildlife (Department) recommends sport fishing regulations to the Commission. The Commission then makes the final determination on what amendments to the regulations should be implemented, and is the lead agency for the purposes of CEQA. Under Fish and Game Code Section 200, the Commission has the authority to regulate the taking or possession of fish in the sport fishing context.

Project goals and objectives

The goal of this project is to amend selected sport fishing regulations in furtherance of the state's policy on conservation, maintenance, and utilization of California's aquatic resources. (Fish and Game Code, Section 1700). Fish and Game Code Section 1700 sets out this policy, which includes the following objectives:

1. Maintain sufficient populations of all aquatic species to ensure their continued existence.
2. Maintain sufficient resources to support a reasonable sport use.
3. Manage using best available science and public input.

Background

Annually, the Commission considers amendments to sport fishing regulations. Recommendations for changes come from Department staff, the public, Commission staff, Fish and Game Advisory Commissions, and local governments. Recommendations are evaluated within the appropriate Department Region and by the statewide Fisheries Management Committee. If the proposed regulation change passes evaluation, the Department prepares a regulation change recommendation for the Commission to consider. Through a series of Commission meetings, the public has the opportunity to comment on the proposed regulation change. At the end of this public process, the Commission may add, amend, or repeal regulations related to the proposed regulation change. The Commission most recently adopted amendments to the sport fishing regulations in December 2017.

Project Location

Freshwater sport fishing regulation changes proposed by this project and analyzed in this proposed negative declaration occur in the inland waters of California. The inland waters of California are divided into seven sport fishing districts, the North Coast, North Central, South Central, Southern, Valley, Sierra, and Colorado River districts. These districts are shown in the map below.

CALIFORNIA SPORT FISHING DISTRICTS



Schedule

If adopted by the Commission and approved by the Office of Administrative Law, the proposed regulatory amendments described below will go into effect March 1, 2019.

Project Description

The proposed project includes both Department and public recommendations for amendments to sport fishing regulations set forth in Title 14 of the CCR. The proposed amendments would modify existing sport fishing regulations as follows:

INLAND WATERS DEFINITION

The current definition of inland waters can be confusing to anglers who want to fish two rods in a bay, but are not sure if a second rod validation is required. A second-rod validation is only required in inland waters. However, the current definition of inland waters (Title 14, Section 1.53) is not clear regarding whether inland waters include or exclude bays. The definition reads, "Inland waters exclude the waters of San Francisco Bay and the waters of Elkhorn Slough..." The definition only excludes San Francisco Bay. Title 14, Section 27.00, Definition of the Ocean and San Francisco Bay District reads, "The ocean is...the waters of open or enclosed bays contiguous to the ocean." This definition clearly states that all bays are considered waters of the ocean. To be consistent and clear, the definition of inland waters should state that all bays are excluded, not just San Francisco Bay. Amending the definition will clarify that inland waters do not include bays and, therefore, a second rod validation is not required in a bay.

LAKE PERRIS LARGEMOUTH BASS SIZE AND BAG LIMIT

This proposal would restore the black bass regulation at Lake Perris from 2 fish at 15 inches to the statewide standard of 5 fish at 12 inches. The subject regulation was changed in 2009 to protect the fishery when the lake was drawn down by 43% to repair the dam. The dam repair was completed and the water restored to nearly full pool in late 2017. During the draw down period, CDFW placed 1,484 brush habitat structures into the remnant lake in 2008-2016 and built 109 rock reefs with approximately 109,000 sq/ft of gravel/cobble rock areas. Consequently, 12 years of terrestrial vegetation growth is now available in the littoral zone to help re-establish the bass population negating the need to protect the fishery beyond the statewide standard any further.

Updates to Authority and Reference Citations Based on Recent Legislation

Senate Bill 1473 (Stats. 2016, Ch. 546) made organizational changes to the Fish and Game Code that became effective January 1, 2017. The changes included moving the Commission's exemptions from specified Administrative Procedure Act time frames from Section 202 to Section 265 of the Fish and Game Code, moving the Commission's effective date procedures from Section 215 to Section 270 of the Fish and Game Code, moving the Commission's effective period procedures from Section 220 to Section 275 of the Fish and Game Code, and moving the Commission's authority to adopt emergency regulations from Section 240 to Section 399 of the Fish and Game Code. In accordance with these changes to the Fish and Game Code, sections 202, 215, and

220 are removed from, and sections 265, 270, and 275 are added to, the authority and reference citations for this rulemaking.

Minor Editorial Corrections for Clarity

In addition to the above proposals, minor editorial corrections are proposed to correct typographical errors and to improve regulation clarity.

ENVIRONMENTAL CHECKLIST FORM

1. Project Title:
Proposed Amendments to Sport Fishing Regulations, Title 14, California Code of Regulations
2. Lead Agency Name and Address:
California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814
3. Contact Person and Phone Number:
Valerie Termini, (916) 653-4899
4. Project Location:
Inland waters of the State of California
5. Project Sponsor's Name and Address:
California Department of Fish and Wildlife
Fisheries Branch
830 S Street
Sacramento, CA 95811
6. General Plan designation:
N/A (statewide)
7. Zoning:
N/A (statewide)
8. Description of Project:
Amend selected sport fishing regulations to maintain consistency with the state's policy to manage California's diverse fisheries resources for their ecological value, their use and for the public's enjoyment.
9. Surrounding land uses and setting:
N/A
10. Other Public Agencies Whose Approval Is Required:
None.
11. Have California Native American tribes traditionally and culturally affiliated with the project are requested consultation pursuant to Public Resources Code section 21080.31?
No.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

<input type="checkbox"/>	Aesthetics	<input type="checkbox"/>	Agriculture and Forestry Resources	<input type="checkbox"/>	Air Quality
<input type="checkbox"/>	Biological Resources	<input type="checkbox"/>	Cultural Resources	<input type="checkbox"/>	Geology/Soils
<input type="checkbox"/>	Greenhouse Gas Emissions	<input type="checkbox"/>	Hazards and Hazardous Materials	<input type="checkbox"/>	Hydrology/Water Quality
<input type="checkbox"/>	Land Use/Planning	<input type="checkbox"/>	Mineral Resources	<input type="checkbox"/>	Noise
<input type="checkbox"/>	Population/Housing	<input type="checkbox"/>	Public Services	<input type="checkbox"/>	Recreation
<input type="checkbox"/>	Transportation/Traffic	<input type="checkbox"/>	Utilities/Service Systems	<input type="checkbox"/>	Tribal Cultural Resources
<input type="checkbox"/>	Mandatory Findings of Significance				

This project will not have a "Potential Significant Impact" on any of the environmental factors listed above; therefore, no boxes are checked.

DETERMINATION:

On the basis of this initial evaluation:

<input checked="" type="checkbox"/>	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
<input type="checkbox"/>	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
<input type="checkbox"/>	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
<input type="checkbox"/>	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
<input type="checkbox"/>	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to

	applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.
--	--

Valerie Termini, Executive Director

Date

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS. Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
II. AGRICULTURE AND FOREST RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and the forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non- attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
IV. BIOLOGICAL RESOURCES. Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VI. GEOLOGY AND SOILS. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VII. GREENHOUSE GAS EMISSIONS.				
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VIII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
IX. HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
X. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XI. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XII. NOISE. Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XIII. POPULATION AND HOUSING.				
Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XIV. PUBLIC SERVICES.				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XV. RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XVI. TRANSPORTATION/TRAFFIC.				
Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XVII. TRIBAL CULTURAL RESOURCES. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) A resource determined by the lead agency, in its discretion and supported by	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.				
XVIII. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

EXPLANATION OF RESPONSES TO INITIAL STUDY ENVIRONMENTAL CHECKLIST

I. AESTHETICS

- a) The project will not have an adverse effect on a scenic vista. Such an impact will not occur because the project will not involve any construction, land alternation, or modification of any buildings or structures.
- b) The project will not damage scenic resources such as trees, rock outcroppings, and historic buildings. Such an impact will not occur because the project will not involve any construction, land alteration, or modification of any buildings or structures.
- c) The project will not substantially degrade the existing visual character or quality of the work sites and their surroundings. Such an impact will not occur because the project will not involve any construction, land alternation, or modification of any buildings or structures.
- d) The project will not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

II. AGRICULTURE RESOURCES

- a) The project will not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program (FMMP) of the California Resources Agency, to non-agricultural use. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.
- b) The project will not conflict with existing zoning for agricultural use or a Williamson Act contract. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.
- c) The project will not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timber zoned Timberland Production. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.
- d) There will be no loss of forest land and the project will not result in the conversion of forest land to non-forest use. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.
- e) The project will not involve other changes in the existing environment, which due to their location or nature, could result in conversion of Farmland to non-agricultural use. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.

III. AIR QUALITY

- a) The project will not conflict with or obstruct implementation of the applicable air quality plan. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.
- b) The project will not violate any air quality standard or contribute substantially to an existing or projected air quality violation. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.
- c) The project will not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable Federal or State ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors). Such an impact will not occur because the project involves no ongoing sources of air pollution.
- d) The project will not expose sensitive receptors to substantial pollutant concentrations. Such an impact will not occur because the project will not increase pollutant concentrations.
- e) The project will not create objectionable odors affecting a substantial number of people.

IV. BIOLOGICAL RESOURCES

- a) The project will not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by the CDFW, National Marine Fisheries Service (NMFS) or U. S. Fish and Wildlife Service (USFWS). Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.
- b) The project will not have an adverse effect on any riparian habitat or other sensitive natural communities identified in local or regional plans, policies and regulations, or by the CDFW or the USFWS. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.
- c) The project will not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. Such an impact will not occur because the project will not involve any construction, land alteration, or land use changes.
- d) The project will not substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. Such an impact

will not occur because the project will not involve any construction, land alteration, or land use changes.

- e) The project will not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. Such an impact will not occur because the project will not result in any construction, land alteration, or land use changes.
- f) The project will not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan. Such an impact will not occur because the project will not involve any construction, land alteration, or land use changes.

V. CULTURAL RESOURCES

- a) The project will not cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5. There is no ground disturbing work and thus no potential to affect historical resources.
- b) The project will not cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. There is no ground disturbing work and thus no potential to affect archaeological resources.
- c) The project will not directly or indirectly destroy any unique paleontological resources or sites, or unique geologic features. There is no ground disturbing work and thus no potential to affect paleontological resources.
- d) The project will not disturb any human remains, including those interred outside of formal cemeteries. There is no ground disturbing work and thus no potential to affect human remains.

VI. GEOLOGY AND SOILS

- a i) The project will not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area, or based on other substantial evidence of a known fault. Such an impact will not occur because the project will not involve ground disturbing work.
- a ii) The project will not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking. Such an impact will not occur because the project will not involve ground disturbing work.
- a iii) The project will not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground

failure, including liquefaction. Such an impact will not occur because the project will not involve ground disturbing work.

- a iv) The project will not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides. Such an impact will not occur because the project will not involve ground disturbing work.
- b) The project will not result in substantial soil erosion or the loss of topsoil. Such an impact will not occur because the project will not involve ground disturbing work.
- c) The project will not be located on a geologic unit or soil that unstable, or that would become unstable and potentially result in on- or off- site landslides, lateral spreading, subsidence, liquefaction, or collapse. Such an impact will not occur because the project will not involve ground disturbing work.
- d) The project will not be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property. Such an impact will not occur because the project will not involve ground disturbing work.
- e) The project will not create any sources of waste water requiring a septic system

VII. GREENHOUSE GAS EMISSIONS

- a) The project will not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment. The project will not involve any construction, land alternation, or land use changes.

The proposal to restore the black bass regulation at Lake Perris from 2 fish at 15 inches to the statewide standard of 5 fish at 12 inches will increase fishing opportunity at the lake, as anglers will be able to take more fish per day/visit. This proposal is not anticipated to result in an increase in new anglers. However, there is the potential for the redistribution of existing anglers to this lake. Vehicles that use fuel will be used to access the lake and their internal combustion engines will produce some emissions. Although the number of anglers that may take advantage of the increased recreational angling opportunity at Lake Perris is unknown, the number of additional angler trips will most likely be low. Thus, the impact of greenhouse gas (GHG) emissions produced by the use of vehicles will be negligible.

- b) The project will not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHG.

VIII. HAZARDS AND HAZARDOUS MATERIALS

- a) The project will not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. The project will not involve the transport, use, or disposal of hazardous materials.
- b) The project will not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. The project will not involve the transport, use, or disposal of hazardous materials.
- c) The project will not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. The project will not involve the transport, use, or disposal of hazardous materials.
- d) The project will not be located on any site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.
- e) The project will not be located within an airport land use plan area.
- f) The project will not be located within the vicinity of a private airstrip.
- g) The project will not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan. The project will not involve any construction, land alteration, or land use changes.
- h) The project will not expose people or structures to a significant risk of loss, injury, or death involving wild land fires. The project will not involve any construction, land alteration, or land use changes.

IX. HYDROLOGY AND WATER QUALITY

- a) The project will not violate any water quality standards or waste discharge requirements. The project will not involve any construction, land alteration, water use, or water discharge.
- b) The project will not substantially deplete groundwater supplies or interfere substantially with groundwater recharge. The project will not involve any construction, land alteration, or groundwater use.
- c) The project will not substantially alter the existing drainage pattern of the work sites in a manner that would result in substantial erosion or siltation on- or off-site because the project will not involve any construction or land alteration.

- d) The project will not substantially alter the existing drainage pattern of the work sites, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site because the project will not involve any construction or land alteration.
- e) The project will not create or contribute runoff water that would exceed the capacity of existing or planned storm-water drainage systems, or provide substantial additional sources of polluted runoff because the project will not involve any construction or land alteration.
- f) The project will not substantially degrade water quality. The project will not involve any construction or land alteration, and thus will not have any adverse impacts on water quality.
- g) The project will not place housing within a 100-year flood hazard area as mapped on any flood hazard delineation map. No housing will be created as part of this project.
- h) The project will not place within a 100-year flood hazard area structures which would significantly impede or redirect flood flows. No new structures will be associated with this project.
- i) The project will not expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam. The project will not involve any construction, land alteration, or land use changes.
- j) The project will not expose people or structures to a significant risk of inundation by seiche, tsunami, or mudflow. The project will not involve any construction, land alteration, or land use changes.

X. LAND USE AND PLANNING

- a) The project will not physically divide an established community. The project will not involve any construction, land alteration, or land use changes.
- b) The project does not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. The project will not involve any construction, land alteration, or land use changes.
- c) The project will not conflict with any Habitat Conservation or Natural Community Conservation plan. The project will not involve any construction, land alteration, or land use changes.

XI. MINERAL RESOURCES

- a) The project will not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state. Such an impact will not occur because the project will not involve any construction, land alteration, or land use changes.
- b) The project will not result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. Such an impact will not occur because the project will not involve any construction, land alteration, or land use changes.

XII. NOISE

- a) The project will not result in exposure of persons to, or generation of noise levels in excess of, standards established in the local general plan or noise ordinance, or applicable standards of other agencies. The project will not involve construction or physical alteration of land, and its implementation will not generate noise levels in excess of agency standards.
- b) The project will not result in exposure of persons to, or generation of, excessive ground-borne vibration or ground-borne noise levels. The project will not involve construction or physical alteration of land.
- c) The project will not result in a substantial permanent increase in ambient noise levels in the project vicinity. The project will not involve construction or physical alteration of land, or the creation of any permanent noise sources.
- d) The project will not result in a substantial temporary, or periodic, increase in ambient noise levels in the project vicinity above levels existing without the project. The project will not involve construction or physical alteration of land.
- e) The project will not be located within an airport use plan or within two miles of a public airport or public use airport.
- f) The project will not be located within the vicinity of a private airstrip.

XIII. POPULATION AND HOUSING

- a) The project will not induce substantial population growth in an area, either directly or indirectly. Such an impact will not occur because the project will not construct any new homes, businesses, roads, or other human infrastructure.
- b) The project will not displace any existing housing and will not necessitate the construction of replacement housing elsewhere.

- c) The project will not displace any people and will not necessitate the construction of replacement housing elsewhere.

XIV. PUBLIC SERVICES

- a) The project will not have any significant environmental impacts associated with new or physically altered governmental facilities. The project will not involve any construction, land alteration, or land use changes.

XV. RECREATION

- a) The increase of the use of existing neighborhood and regional parks, or other recreational facilities will be less than significant due to project implementation.

The proposal to restore the black bass regulation at Lake Perris from 2 fish at 15 inches to the statewide standard of 5 fish at 12 inches is not anticipated to result in an increase in new anglers. Although there is the potential for the redistribution of existing anglers to this lake, the number of additional angling trips would be minimal. Thus, the project is not expected to result in an overall increase in the use of existing neighborhood and regional parks, or other recreational facilities.

- b) The project will not involve any construction, land alternation, or land use changes. There will be no construction or expansion of recreational facilities.

XVI. TRANSPORTATION/TRAFFIC

- a) The project will not conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.

The proposal to restore the black bass regulation at Lake Perris from 2 fish at 15 inches to the statewide standard of 5 fish at 12 inches will increase fishing opportunity at the lake, as anglers will be able to take more fish per day/visit. This proposal is not expected to result in an increase in new anglers. However, there may be a redistribution of existing anglers to this lake. Although the number of anglers that may take advantage of the increased recreational angling opportunity at Lake Perris is unknown, the number of additional angler trips will most likely be low. Thus, the project will not produce a significant amount of traffic.

- b) The project will not conflict, either individually or cumulatively, with any applicable congestion program established by the county congestion management agency for designated roads or highways.

- c) The project will not result in any change in air traffic patterns.
- d) The project will not alter terrestrial features or is incompatible with uses of equipment.
- e) The project will not result in inadequate emergency access. The project does not involve construction.
- f) The project will not significantly affect parking capacity or demand for parking.

XVII. TRIBAL CULTURAL RESOURCES

- a) The project will not cause a substantial adverse change in the significance of a tribal cultural resource with cultural value to a California Native American tribe that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources. Such an impact will not occur because the project will not involve any construction, land alteration, or land use changes.
- b) The project will not cause a substantial adverse change in the significance of a tribal cultural resource determined by the lead agency to be significant to a California Native American tribe. Such an impact will not occur because the project will not involve any construction, land alteration, or land use changes.

XVIII. UTILITIES AND SERVICE SYSTEMS

- a) The project will not produce wastewater.
- b) The project will not require, or result in the construction of, new water or wastewater treatment facilities or expansion of existing facilities. Such an impact will not occur because the project will not produce wastewater.
- c) The project will not require or result in the construction of new storm water drainage facilities or expansion of existing facilities.
- d) The project will have sufficient water supplies available to serve the project from existing entitlements and resources.
- e) The project will not produce wastewater.
- f) The project will not generate solid waste requiring disposal in a landfill.
- g) The project will not create solid waste. Thus, the project will be in compliance with federal, state, and local statutes related to solid waste.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

- a) The project does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory. The project is consistent with the Department's mission to manage California's diverse fisheries resources for their ecological value, their use and for the public's enjoyment.
- b) The project does not have adverse impacts that are individually limited, but cumulatively considerable. Cumulative adverse impacts will not occur because there are no potential adverse impacts due to project implementation.
- c) The project does not have environmental effects that will cause substantial adverse effects on humans, either directly or indirectly. The project will not involve any construction, land alteration, or the creation of new infrastructure.

Memorandum

2018 DEC -3 AM 10:40

Date: November 29, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Initial Statement of Reasons to Amend Subsection (b)(91.1) of Section 7.50, Title 14, CCR, Klamath River Basin Sport Fishing Regulations**

Please find attached the Initial Statement of Reasons package for the 2019 Klamath River Basin sport fishing regulations. As in the past, the Department is proposing a range of bag and possession limits for adult Klamath River fall-run Chinook Salmon (KRFC) until after federal review of west coast salmon stocks and fishery allocations have been proposed. The 2019 Klamath River Basin allocation of adult KRFC will be recommended by the Pacific Fisheries Management Council in April 2019 and presented to the Commission for adoption at its May 16, 2019 teleconference.

If you have any questions or need additional information, please contact Kevin Shaffer, Chief, Fisheries Branch, at (916) 327-8841 or by e-mail at Kevin.Shaffer@wildlife.ca.gov. The public notice should identify Senior Environmental Scientist, Wade Sinnen, as the Department's point of contact for this rulemaking. Mr. Sinnen can be reached at (707) 822-5119, or by e-mail at Wade.Sinnen@wildlife.ca.gov.

Attachment

cc: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Kevin Shaffer, Chief
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STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Subsection (b)(91.1) of Section 7.50
Title 14, California Code of Regulations
Re: Klamath River Basin Sport Fishing Regulations

I. Date of Initial Statement of Reasons: November 20, 2018

II. Dates and Locations of Scheduled Hearings

- | | | |
|-------------------------|-----------|-------------------|
| (a) Notice Hearing: | Date: | December 13, 2018 |
| | Location: | Oceanside |
| (b) Discussion Hearing: | Date: | February 6, 2019 |
| | Location: | Sacramento |
| (c) Discussion Hearing | Date: | April 17, 2019 |
| | Location: | Los Angeles |
| (d) Adoption Hearing: | Date: | May 16, 2019 |
| | Location: | Teleconference |

III. Description of Regulatory Action

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

The Klamath River Basin, which consists of the Klamath River and Trinity River systems, is managed for fall-run Chinook Salmon (*Oncorhynchus tshawytscha*) through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean sport, ocean commercial, river sport, and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of sport and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon sport (inside three miles) and the Klamath River Basin (in-river) sport fisheries, which are consistent with federal fishery management goals.

Tribal entities within the Klamath River Basin maintain fishing rights for ceremonial, subsistence, and commercial fisheries that are managed consistent with federal fishery management goals. Tribal fishing regulations are promulgated by the tribes.

Klamath River Fall-Run Chinook Salmon

Adult Klamath River fall-run Chinook Salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches total length are defined as adult (ages 3-5) and salmon less than or equal to 22 inches total length are defined as grilse salmon (age 2).

PFMC Overfishing Review

KRFC stocks have been designated as “overfished” by the PFMC. This designation is the result of not meeting conservation objectives for this stock. Management objectives and criteria for KRFC are defined in the PFMC Salmon Fishery Management Plan (FMP). The threshold for overfished status of KRFC is a three-year geometric mean less than or equal to 30,525 natural area adult spawners. This threshold was not met for KRFC during the 2015-2017 period. The 30,525 KRFC natural area adult spawners is considered the minimum stock size threshold, per the FMP.

Accordingly, the FMP outlines a process for preparing a “rebuilding plan” that includes assessment of the factors that lead to the decline of the stock, including fishing, environmental factors, model errors, etc. The rebuilding plan includes recommendations to address conservation of KRFC, with the goal of achieving rebuilt status. Rebuilt status requires meeting a three-year geometric mean of 40,700 adult natural area KRFC spawner escapement. The plan is currently under development by representatives of NMFS, PFMC, U.S. Fish and Wildlife Service, California Department of Fish and Wildlife (Department), and Tribal entities, with a timeline for completion in spring of 2019. Forthcoming recommendations from the rebuilding plan may alter how KRFC are managed in the future, including changing the in-river allocation number, and/or allocating less than the normal target number.

Klamath River Spring-Run Chinook Salmon

The Klamath River Basin also supports Klamath River spring-run Chinook Salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. This in-river sport fishery is managed by general basin seasons, daily bag limit, and possession limit regulations. KRSC harvest will be monitored on the Klamath River below the Highway 96 bridge at Weitchpec to the mouth of the Klamath River in 2019 and ensuing years by creel

survey. The upper Trinity River, upstream of Junction City, will be monitored using tag returns from anglers in 2019 and future years.

KRFC Allocation Management

The PFMC 2018 allocation for the Klamath River Basin sport harvest was 3,490 adult KRFC. Preseason stock projections of 2019 adult KRFC abundance will not be available from the PFMC until March 2019. The 2019 basin allocation will be recommended by the PFMC in April 2019 and presented to the Commission for adoption as a quota for the in-river sport harvest at its May 2019 teleconference meeting.

The Commission may modify the KRFC in-river sport harvest quota, which is normally a minimum of 15 percent of the non-tribal PFMC harvest allocation. Commission modifications need to meet biological and fishery allocation goals specified in law or established in the FMP, otherwise harvest opportunities may be reduced in the California ocean or in-river fisheries.

The annual KRFC in-river sport harvest quota is specified in subsection 7.50(b)(91.1)(D)1. The quota is split between four geographic areas with a subquota for each area, expressed as a percentage of the total in-river quota, specified in subsection 7.50(b)(91.1)(D)2. For angler convenience, the subquotas, expressed as the number of fish, are listed for the affected river segments in subsection 7.50(b)(91.1)(E). The in-river sport subquota percentages are as follows:

1. for the main stem Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec -- 17 percent of the in-river sport quota;
2. for the main stem Klamath River from downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the in-river sport quota;
3. for the Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the in-river sport quota; and
4. for the Trinity River downstream from the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the in-river sport fishery quota.

The spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the total Klamath River Basin quota has been taken downstream of the Highway 101 bridge.

These geographic areas are based upon the historical distribution of angler effort to ensure equitable harvest of adult KRFC in the Klamath River and Trinity River. The subquota system requires the Department to monitor or assess angler harvest of adult KRFC in each geographic area. All areas will be monitored on a real time basis, except for the following:

Klamath River upstream of Weitchpec and the Trinity River: Due to funding and personnel reductions, the Department will be unable to deploy adequate personnel to conduct real time harvest monitoring in the Klamath River upstream of Weitchpec and in the Trinity River for the 2019 season. The Department has developed Harvest Predictor Models (HPM) which incorporate historic creel survey data from the Klamath River downstream of Iron

Gate Dam to the confluence with the Pacific Ocean, and the Trinity River downstream of Lewiston Dam to the confluence with the Klamath River. Each HPM is driven by the positive relationship between KRFC harvested in the respective lower and upper subquota areas of the Klamath River and the Trinity River. The HPMs will be used by the Department to implement fishing closures to ensure that anglers do not exceed established subquota targets. Using this method, the upper Klamath River subquota area generally closes between 28-30 days after the lower Klamath River subquota is reached. Similarly, the upper Trinity River subquota area generally closes 28-30 days after the lower Trinity River subquota has been met. The Department also takes into consideration several other factors when implementing closure dates for subquota areas, including angler effort, KRFC run timing, weir counts, and ongoing recreational creel surveys performed by the Hoopa Valley Tribe in the lower Trinity River below Willow Creek.

Sport Fishery Management

The KRFC in-river sport harvest quota is divided into geographic areas, and harvest is monitored under real time subquota management. On the other hand, KRSC in-river sport harvest is managed by general season, daily bag limit, and possession limit regulations.

The Department presently differentiates the two stocks by the following dates in each sub-area:

Klamath River

1. January 1 through August 14 - General Season KRSC.
For purposes of clarity, daily bag and possession limits apply to that section of the Klamath River downstream of the Highway 96 bridge at Weitchpec to the mouth.
2. August 15 to December 31 - KRFC quota management.

Trinity River

1. January 1 through August 31 – General Season KRSC.
For purposes of clarity, daily bag and possession limits apply to that section of the Trinity River downstream of the Old Lewiston Bridge to the confluence with the South Fork Trinity River.
2. September 1 through December 31 – KRFC quota management.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

Current regulations in subsections 7.50(b)(91.1)(E)2.a. and b. specify bag limits for KRFC stocks in the Klamath River. Current regulations in subsections 7.50(b)(91.1)(E)6.b., e., and f. specify bag limits for KRFC stocks in the Trinity River. Current regulations in subsection 7.50(b)(91.1)(C)2.b. specify KRFC possession limits.

Proposed Changes

Because PFMC recommendations are not known at this time, ranges (shown in brackets in the text below) of subquotas and bag and possession limits, which encompass historical

quotas, are being proposed for the 2019 KRFC fishery in the Klamath and Trinity rivers. The final KRFC bag and possession limits will align with the final federal regulations to meet biological and fishery allocation goals specified in law, or established in the FMP, otherwise harvest opportunities may be reduced in the California ocean fisheries.

KRFC SPORT FISHERY (QUOTA MANAGEMENT):

Quota: For public notice requirements, the Department recommends the Commission consider a quota range of 0 – 67,600 adult KRFC in the Klamath River Basin for the river sport fishery. This recommended range encompasses the historical range of the Klamath River Basin allocations and allows the PFMC and Commission to make adjustments during the 2019 regulatory cycle.

Subquotas: The proposed subquotas for KRFC stocks are as follows:

- Main stem Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec -- 17 percent of the total quota equates to [0-11,492];
- Main stem Klamath River from downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the total quota equates to [0-33,800];
- Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the total quota equates to [0-11,154]; and
- Trinity River downstream from the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the total quota equates to [0-11,154].

Seasons: No changes are proposed for the Klamath River and Trinity River KRFC seasons:

- Klamath River - August 15 to December 31
- Trinity River - September 1 to December 31

Bag and Possession Limits: As in previous years, no retention of adult KRFC is proposed for the following areas once the subquota has been met.

The range of proposed bag and possession limits for KRFC stocks are as follows:

- Bag Limit - [0-4] Chinook Salmon – of which no more than [0-4] fish over 22 inches total length may be retained until the subquota is met, then 0 fish over 22 inches total length.
- Possession limit - [0-12] Chinook Salmon of which no more than [0-4] fish over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

KRSC SPORT FISHERY:

No regulatory changes are proposed for the general (KRSC) opening and closing season dates, and bag, possession and size limits.

OTHER CHANGES

No other changes are proposed, except those described above, and to change the year 2018 to 2019 for the upcoming season.

(b) Goals and Benefits of the Regulation:

It is the policy of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State and to promote the development of local fisheries and distant water fisheries based in California in harmony with international law, respecting fishing and the conservation of the living resources of the ocean and other waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence, and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based Klamath River Basin salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

The benefits of the proposed regulations are consistency with federal fishery management goals, sustainable management of Klamath River Basin fish resources, health and welfare of California residents, and promotion of businesses that rely on salmon sport fishing in the Klamath River Basin.

(c) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 205, 265, 270, 315, 316.5, and 399, Fish and Game Code.

Reference: Sections 200, 205, 265, 270, and 316.5, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None.

(e) Identification of Reports or Documents Supporting Regulation Change:

In-River Sport Fishing Economics Technical Report, National Oceanographic and Atmospheric Administration, National Marine Fisheries Service, September 2011.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change:

KRFC Stocks

The use of more liberal regulations for KRFC bag limits, possession limits and fishing methods (Alternative 1 in the STD 399; Economic and Fiscal Impact Statement). More

liberal regulations would be less desirable than those proposed, because they could create risk of an intense fishery, reaching or exceeding the quota in a very short time. Reaching the quota in a very short time could be damaging to the local economy, and exceeding the allowable harvest could damage the KRFC stocks.

KRSC Stocks

Presently there are no alternatives for the Commission to consider with regard to KRSC stocks. KRSC stocks are not currently managed by the PFMC, therefore forecast of abundance, and ocean and in-river harvest allocations do not occur on an annual basis.

KRSC stocks are currently managed as a separate life history type by the Commission. In most years, regulatory controls are generally more restrictive for KRSC than KRFC, and include time and area closures and reduced bag and possession limits.

(b) **No Change Alternative:**

The No Change Alternative (Alternative 2 in the STD 399; Economic and Fiscal Impact Statement) would leave the current 2018 daily bag and possession limit regulations in place and would not allow flexibility to develop bag and possession limits based on 2019 PFMC allocations. The change for 2019 is necessary to continue appropriate harvest rates and an equitable distribution of the harvestable surplus.

V. **Mitigation Measures Required by Regulatory Action**

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. **Impact of Regulatory Action:**

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 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 will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are projected to range from minor to no impact on the net revenues to local businesses servicing sport fishermen. If the 2019 KRFC quota is reduced, visitor spending may correspondingly be reduced, and in the absence of the emergence of alternative visitor activities, the drop in spending could induce business contraction. If the quotas remain similar to previous quotas, then local economic impacts are expected to be unchanged. Neither scenario is expected to directly affect 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 regulations range from no fishing of KRFC, to normal Klamath River Basin salmon season, size, bag and possession limits.

The Commission anticipates some impact on the creation or elimination of jobs in California. The potential adverse employment impacts range from no impact to the loss of 22 jobs which are not expected to create, eliminate or expand businesses in the State.

An estimated 30-50 businesses that serve sport fishing activities are expected to be directly and/or indirectly affected depending on the final quota. The impacts range from no impact (Projection 1 under the Economic Impact Assessment (EIA), below) to unknown impacts on the creation of new business or the elimination of existing businesses (Projection 3, EIA, below).

The Commission does not anticipate any impacts on the expansion of businesses in California.

For all projections, the possibility of growth of businesses to serve substitute activities exists. Adverse impacts to jobs and/or businesses would be less if fishing of other species and grilse KRFC is permitted, than under a complete closure to all fishing. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, consequently, promoting the long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages a healthy outdoor activity and the consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California's salmonid resources.

The Commission does not anticipate any benefits to worker safety because the proposed action does not affect working conditions.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) 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, Government Code: None.
- (h) Effect on Housing Costs: None.

VII. Economic Impact Assessment:

The regulatory amendments of subsection 7.50(b)(91.1) under consideration will set the 2019 Klamath River Basin salmon sport fishing regulations to conform to the PFMC KRFC allocation. The Klamath River Basin is anticipated to be open for salmon sport fishing at levels similar to the 2018 levels; however, the possibility of marine fishery area closures still exists. Ocean closures may in turn result in PFMC recommendations for Klamath River Basin salmon sport fishery closures for the take of adult KRFC. Adverse or positive impacts to jobs and businesses will depend on the 2019 KRFC allocation ultimately adopted by the PFMC, and the specific regulations promulgated by the Commission.

The proposed quota range of 0 to 67,600 adult KRFC in 2019 represents a range from 0 percent or no salmon fishing on adult KRFC to greater than 100 percent of the 2018 Klamath River Basin KRFC quota. Under all scenarios, sport fishing may be allowed for other sportfish species and for grilse KRFC regardless of PFMC regulations, thus any adverse impacts to businesses could be less severe than under a complete closure of fishing.

The preservation of Klamath River salmon stocks is necessary for the success of Klamath River Basin businesses which provide goods and services related to fishing. Scientifically-based KRFC allocations are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

Based on a 2011 NMFS report on In-River Sport Fishing Economics of the Klamath River, and adding a 33 percent increase to account for the Trinity River^a, in a normal year, non-resident Klamath River salmon and steelhead sport anglers together contribute about \$3,442,750 in direct expenditures, resulting in about \$4,221,945 (2017\$) in total economic output to California businesses. The NMFS study found that non-resident (outside the immediate locale) salmon or steelhead angler average expenditures are estimated to be \$108.82 (2017\$) per angler day (for lodging, food, gasoline, fishing gear, boat fuel, and guide fees). The projections do not distinguish between spring and fall runs, however, the in-river harvest is almost exclusively fall-run.

Local resident average expenditures per angler day are estimated to be 60 percent less

^a The NMFS study excluded the Trinity River, the largest tributary to the Klamath. The Trinity River is allocated 33 percent of the KRFC total quota. Using the Trinity quota as a measure of salmon and steelhead angler effort, and thus impacts on associated businesses that support anglers, the Department added 33 percent to the total economic output listed in the NMFS report.

(markedly reduced lodging, gasoline and food expenditures), which yields an estimate of \$43.53 per angler-day. Local resident anglers comprise about 36 percent of Klamath River Basin anglers. Any decreases to expenditures by resident anglers associated with reduced fishing opportunities may be offset by increased expenditures on other locally purchased goods and services – with no net change in local economic activity. Thus, this economic impact assessment focuses on non-resident angler expenditures that represent new money whose injection serves to stimulate the local economy.

The total impact of non-resident angler direct expenditures support about 45 jobs for salmon alone or up to 70 jobs for all salmon and steelhead spending.

Table 1. Klamath Salmon and Steelhead Total Economic Output (Non-resident anglers)

Klamath Sport Fishing	Salmon	Steelhead	Total
Total Output	\$ 2,733,115	\$ 1,488,830	\$ 4,221,945
Labor Income	\$ 1,264,576	\$ 688,862	\$ 1,953,438
Jobs	45.7	24.9	70.6

To demonstrate the potential economic impacts that may result from a quota anywhere within the range of 0 - 67,600 KRFC, three adult salmon catch projections are as follows: 100 percent of the 2018 adult KRFC catch limit; 50 percent of the 2018 adult KRFC catch limit; and 0 percent of the 2018 adult KRFC catch limit.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

Projection 1. 100 percent of the 2018 adult KRFC catch limit: The Commission does not anticipate any adverse impacts on the creation or elimination of jobs, as the quotas would not decrease effort nor curtail the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50 percent of the 2018 adult KRFC catch limit: The Commission anticipates some impact on the creation or elimination of jobs, which may be partially offset by the potential for continued sport fishing allowed for other sportfish and grilse KRFC. A 50 percent salmon catch reduction will likely reduce visitor spending by slightly less than 50 percent, given price elasticities of demand for salmon fishing activity of less than one. As the “price” of fishing per unit catch increases, the demand for fishing trips declines by a lesser extent, particularly in the short-run. While difficult to predict, job losses associated with a 50 percent reduction in the adult KRFC catch limit are expected to be less than half of the 45 estimated total jobs supported by salmon angler visits (i.e. fewer than 22 jobs).

Projection 3. 0 percent of the 2018 adult KRFC catch limit: In the event of fisheries closures for adult KRFC in some or all Klamath River Basin areas, the Commission anticipates less than 50 percent reduction in fishery-related jobs. As mentioned earlier, sport fishing for other species and grilse KRFC may still be allowed, thus mitigating potential job losses.

A closure on the take of all KRFC was instituted in 2017, and only steelhead could be legally harvested during the fall season. The impact of the 2017 closure on angler days

and consumer demand is still being evaluated. However, job creation or elimination tends to lag in response to short-term changes in consumer demand. Thus, the potential impacts of a 2019 closure on the take of adult KRFC are estimated to result in the loss of less than 22 jobs due to adjustment lags and the continued sport fishing allowed for other species and potentially for grilse KRFC.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

Projection 1. 100 percent of the 2018 adult KRFC catch limit: The Commission does not anticipate any impacts on the creation of new business or the elimination of existing businesses, as the quotas would not decrease effort nor curtail the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50 percent of the 2018 adult KRFC catch limit: The Commission anticipates a decline in visits to the fishery areas of less than 50 percent due to the continued sport fishing allowed for other species and grilse KRFC. This may result in some decline in business activity, but the Commission does not anticipate any impacts on the creation of new business or the elimination of existing businesses directly related to fishing activities. However, with less effort being expended on salmon fishing, the possibility of substitute activities and the growth of businesses to serve those activities exists.

Projection 3. 0 percent of the 2018 adult KRFC catch limit: In the event of salmon fisheries closures for adult KRFC in some or all Klamath River Basin areas, the Commission anticipates a decline in regional spending and thus reduced revenues to the approximately 30 to 50 businesses that directly and indirectly serve sport fishing activities with unknown impacts on the creation of new business or the elimination of existing businesses. However, adverse impacts may be mitigated by the continued opportunity to harvest other sportfish and the potential for take of grilse KRFC. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, consequently, the long-term viability of these same small businesses.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

Projection 1. 100 percent of the 2018 adult KRFC catch limit: The Commission does not anticipate any impacts on the expansion of businesses in California as the quotas would not increase effort nor increase the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50 percent of the 2018 adult KRFC catch limit: The Commission does not anticipate any impacts on the expansion of businesses currently doing business within the State. Decreases in expenditures by resident anglers associated with reduced fishing opportunities may be offset by increased expenditures on other locally purchased goods and services – with no net change in local economic activity. For non-resident anglers, however, decreases in local expenditures associated with decreases

in local fishing opportunities may result in increases in other expenditures outside the Klamath River Basin area.

Projection 3. 0 percent of the 2018 adult KRFC catch limit: In the event of salmon fisheries closures for adult KRFC in some or all Klamath River Basin areas, the Commission does not anticipate any expansion of businesses in California. Decreases in expenditures by anglers associated with reduced fishing opportunities may be partially offset by increased expenditures on other locally purchased goods and services as visitors fish for other sportfish, potentially including grilse KRFC, or the substitution of salmon fishing with other recreational pursuits.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

Under all projections, the Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a Klamath River Basin salmon sport fishery and other sport fisheries encourages a healthy outdoor activity and the consumption of a nutritious food. Sport fishing also contributes to increased mental health of its practitioners, as fishing is a hobby and form of relaxation for many. Sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of California's natural resources.

(e) Benefits of the Regulation to Worker Safety:

Under all projections, the Commission does not anticipate benefits to worker safety because the proposed regulations will not impact working conditions.

(f) Benefits of the Regulation to the State's Environment:

Under all projections, the Commission anticipates benefits to the environment in the sustainable management of Klamath River Basin salmonid resources. It is the policy of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State and to promote the development of local fisheries and distant water fisheries based in California in harmony with international law, respecting fishing and the conservation of the living resources of the ocean and other waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence, and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based Klamath River Basin salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

(g) Other Benefits of the Regulation:

Consistency with Federal Fishery Management Goals: California's salmon sport fishing regulations need to align with the new Federal regulations to achieve optimum yield in

California. The PFMC annually reviews the status of west coast salmon populations. As part of that process, it recommends west coast adult salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the FMP. These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries off the coasts of Washington, Oregon, and California and state inland salmon sport fisheries. These recommendations are subsequently implemented as ocean fishing regulations by the NMFS, and as salmon sport regulations for California marine and inland waters by the Commission.

DRAFT

Informative Digest/Policy Statement Overview

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The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of sport and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon sport (inside three miles) and the Klamath River Basin (in-river) sport fisheries, which are consistent with federal fishery management goals.

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For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches total length are defined as adult (ages 3-5) and salmon less than or equal to 22 inches total length are defined as grilse salmon (age 2).

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The FMP outlines a process for preparing a “rebuilding plan” that includes assessment of the factors that lead to the decline of the stock, including fishing, environmental factors, model errors, etc. The rebuilding plan includes recommendations to address conservation of KRFC, with the goal of achieving rebuilt status. The plan is currently under development by representatives of NMFS, PFMC, U.S. Fish and Wildlife Service, California Department of Fish and Wildlife (Department), and Tribal entities, with a timeline for completion in spring of 2019. Forthcoming recommendations from the rebuilding plan may alter how KRFC are managed in

the future, including changing the in-river allocation number, and/or allocating less than the normal target number.

Klamath River Spring-Run Chinook Salmon

The Klamath River Basin also supports Klamath River spring-run Chinook Salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PPMC. This in-river sport fishery is managed by general basin seasons, daily bag limit, and possession limit regulations. KRSC harvest will be monitored on the Klamath River below the Highway 96 bridge at Weitchpec to the mouth of the Klamath River in 2019 and ensuing years by creel survey. The upper Trinity River, upstream of Junction City, will be monitored using tag returns from anglers in 2019 and future years.

KRFC Allocation Management

The PPMC 2018 allocation for Klamath River Basin sport harvest was 3,490 adult KRFC. Preseason stock projections of 2019 adult KRFC abundance will not be available from the PPMC until March 2019. The 2019 basin allocation will be recommended by the PPMC in April 2019 and presented to the Commission for adoption as a quota for the in-river sport harvest at its May 2019 teleconference meeting.

The Commission may modify the KRFC in-river sport harvest quota, which is normally a minimum of 15 percent of the non-tribal PPMC harvest allocation. Commission modifications need to meet biological and fishery allocation goals specified in law or established in the FMP, otherwise harvest opportunities may be reduced in the California ocean or in-river fisheries.

The annual KRFC in-river sport harvest quota is specified in subsection 7.50(b)(91.1)(D)1. The quota is split between four geographic areas with a subquota for each area, expressed as a percentage of the total in-river quota, specified in subsection 7.50(b)(91.1)(D)2. For angler convenience, the subquotas, expressed as the number of fish, are listed for the affected river segments in subsection 7.50(b)(91.1)(E). The in-river sport subquota percentages are as follows:

1. for the main stem Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec -- 17 percent of the in-river sport quota;
2. for the main stem Klamath River from downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the in-river sport quota;
3. for the Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the in-river sport quota; and
4. for the Trinity River downstream from the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the in-river sport quota.

The spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the total Klamath River Basin quota has been taken downstream of the Highway 101 bridge.

These geographic areas are based upon the historical distribution of angler effort to ensure

equitable harvest of adult KRFC in the Klamath River and Trinity River. The subquota system requires the Department to monitor or assess angler harvest of adult KRFC in each geographic area. All areas will be monitored on a real time basis, except for the following:

Klamath River upstream of Weitchpec and the Trinity River: The Department has developed Harvest Predictor Models which it will use to implement fishing closures to ensure that anglers do not exceed established subquota targets. Using this method, the upper Klamath River generally closes between 28-30 days after the lower Klamath River quota is reached. Similarly, the upper Trinity River subquota area generally closes 28-30 days after the lower Trinity River subquota has been met.

Sport Fishery Management

The KRFC in-river sport harvest quota is divided into geographic areas, and harvest is monitored under real time subquota management. On the other hand, KRSC in-river sport harvest is managed by general season, daily bag limit, and possession limit regulations.

The Department presently differentiates the two stocks by the following dates in each sub-area:

Klamath River

1. January 1 through August 14 - General Season KRSC.
For purposes of clarity, daily bag and possession limits apply to that section of the Klamath River downstream of the Highway 96 bridge at Weitchpec to the mouth.
2. August 15 to December 31 - KRFC quota management.

Trinity River

1. January 1 through August 31 – General Season KRSC.
For purposes of clarity, daily bag and possession limits apply to that section of the Trinity River downstream of the Old Lewiston Bridge to the confluence with the South Fork Trinity River.
2. September 1 through December 31 – KRFC quota management.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

Current regulations in subsections 7.50(b)(91.1)(E)2.a. and b. specify bag limits for KRFC stocks in the Klamath River. Current regulations in subsections 7.50(b)(91.1)(E)6.b., e., and f. specify bag limits for KRFC stocks in the Trinity River. Current regulations in subsection 7.50(b)(91.1)(C)2.b. specify KRFC possession limits.

Proposed Changes

Because PFMC recommendations are not known at this time, ranges (shown in brackets in the text below) of subquotas and bag and possession limits, which encompass historical quotas, are being proposed for the 2019 KRFC fishery in the Klamath and Trinity rivers. The final KRFC bag and possession limits will align with the final federal regulations to meet biological and fishery allocation goals specified in law, or established in the FMP, otherwise harvest opportunities may

be reduced in the California ocean fisheries.

KRFC SPORT FISHERY (QUOTA MANAGEMENT):

Quota: For public notice requirements, the Department recommends the Commission consider a quota range of 0 – 67,600 adult KRFC in the Klamath River Basin for the river sport fishery. This recommended range encompasses the historical range of the Klamath River Basin allocations and allows the PFMC and Commission to make adjustments during the 2019 regulatory cycle.

Subquotas: The proposed subquotas for KRFC stocks are as follows:

- Main stem Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec -- 17 percent of the total quota equates to [0-11,492];
- Main stem Klamath River from downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the total quota equates to [0-33,800];
- Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the total quota equates to [0-11,154]; and
- Trinity River downstream from the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the total quota equates to [0-11,154].

Seasons: No changes are proposed for the Klamath River and Trinity River KRFC seasons:

- Klamath River - August 15 to December 31
- Trinity River - September 1 to December 31

Bag and Possession Limits: As in previous years, no retention of adult KRFC is proposed for the following areas once the subquota has been met.

The range of proposed bag and possession limits for KRFC stocks are as follows:

- Bag Limit - [0-4] Chinook Salmon – of which no more than [0-4] fish over 22 inches total length may be retained until the subquota is met, then 0 fish over 22 inches total length.
- Possession limit - [0-12] Chinook Salmon of which no more than [0-4] fish over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

KRSC SPORT FISHERY:

No regulatory changes are proposed for the general (KRSC) opening and closing season dates, and bag, possession and size limits.

OTHER CHANGES

No other changes are proposed, except those described above, and to change the year 2018 to 2019 for the upcoming season.

Benefits of the Proposed Regulations

The Commission anticipates benefits to the environment in the sustainable management of Klamath River Basin salmonid resources.

Other benefits of the proposed regulations are conformance with federal fishery management goals, health and welfare of California residents and promotion of businesses that rely on salmon sport fishing in the Klamath River Basin.

Consistency and Compatibility with Existing Regulations

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (Sections 200, 205, 315, and 316.5, Fish and Game Code). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. Commission staff has searched the California Code of Regulations and has found no other State regulations related to sport fishing in the Klamath River Basin.

DRAFT

Proposed Regulatory Language

Subsection (b)(91.1) of Section 7.50, Title 14, CCR is amended to read as follows:

§ 7.50. Alphabetical List of Waters with Special Fishing Regulations.

. . . [No changes to subsections (a) through (b)(91)]

(91.1) Anadromous Waters of the Klamath River Basin Downstream of Iron Gate and Lewiston dams. The regulations in this subsection apply only to waters of the Klamath River Basin which are accessible to anadromous salmonids. They do not apply to waters of the Klamath River Basin which are inaccessible to anadromous salmon and trout, portions of the Klamath River system upstream of Iron Gate Dam, portions of the Trinity River system upstream of Lewiston Dam, and the Shasta River and tributaries upstream of Dwinnel Dam. Fishing in these waters is governed by the General Regulations for non-anadromous waters of the North Coast District (see Section 7.00, subsection (a)(4)).

(A) Hook and Weight Restrictions.

1. Only barbless hooks may be used. (For definitions regarding legal hook types, hook gaps and rigging see Chapter 2, Article 1, Section 2.10.)
2. During closures to the take of adult salmon, it shall be unlawful to remove any adult Chinook Salmon from the water by any means.

(B) General Area Closures.

1. No fishing is allowed within 750 feet of any Department of Fish and Wildlife fish-counting weir.
2. No fishing is allowed from the Ishi Pishi Road bridge upstream to and including Ishi Pishi Falls from August 15 through December 31. EXCEPTION: members of the Karuk Indian Tribe listed on the current Karuk Tribal Roll may fish at Ishi Pishi Falls using hand-held dip nets.
3. No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers and Blue Creek.
4. No fishing is allowed from June 15 through September 14 in the Klamath River from 500 feet above the mouth of Blue Creek to 500 feet downstream of the mouth of Blue Creek.

(C) Klamath River Basin Possession Limits.

1. Trout Possession Limits.
 - a. The Brown Trout possession limit is 10.
 - b. The hatchery trout or hatchery steelhead possession limits are as follows:
 - (i) Klamath River - 4 hatchery trout or hatchery steelhead.
 - (ii) Trinity River - 4 hatchery trout or hatchery steelhead.
2. Chinook Salmon Possession Limits.
 - a. Klamath River downstream of the Highway 96 bridge at Weitchpec from January 1 to August 14 and the Trinity River downstream of the Old Lewiston Bridge to the confluence of the South Fork Trinity River from January 1 to August 31: 2 Chinook Salmon.
 - b. Klamath River from August 15 to December 31 and Trinity River from September 1 to December 31: 6[0-12] Chinook Salmon. No more than 3[0-4] Chinook Salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

(D) Klamath River Basin Chinook Salmon Quotas.

The Klamath River fall-run Chinook Salmon take is regulated using quotas. Accounting of the tribal and non-tribal harvest is closely monitored from August 15 through December 31 each year. These quota areas are noted in subsection (b)(91.1)(E) with “Fall Run Quota” in the *Open Season and Special Regulations* column.

1. Quota for Entire Basin.

The ~~2018~~2019 Klamath River Basin quota is ~~3,490~~0 – 67,600 Klamath River fall-run Chinook Salmon over 22 inches total length. The department shall inform the Commission, and the public via the news media, prior to any implementation of restrictions triggered by the quotas. (NOTE: A department status report on progress toward the quotas for the various river sections is updated weekly, and available at 1-800-564-6479.)

2. Subquota Percentages.

a. The subquota for the Klamath River upstream of the Highway 96 bridge at Weitchpec and the Trinity River is 50% of the total Klamath River Basin quota.

(i) The subquota for the Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec is 17% of the total Klamath River Basin quota.

(ii) The subquota for the Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat is 16.5% of the total Klamath River Basin quota.

(iii) The subquota for the Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River is 16.5% of the total Klamath River Basin quota.

b. The subquota for the lower Klamath River downstream of the Highway 96 bridge at Weitchpec is 50% of the total Klamath River Basin quota.

(i) The Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) will close when 15% of the total Klamath River Basin quota is taken downstream of the Highway 101 bridge.

(E) Klamath River Basin Open Seasons and Bag Limits.

All anadromous waters of the Klamath River Basin are closed to all fishing for all year except those areas listed in the following table. Bag limits are for trout and Chinook Salmon in combination unless otherwise specified.

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag Limit</i>
1. Bogus Creek and tributaries.	Fourth Saturday in May through August 31. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
2. Klamath River main stem from 3,500 feet downstream of Iron Gate Dam to the mouth.		
a. Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec.	January 1 to August 14	0 Chinook Salmon 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 593 <u>0-11,492</u> Chinook Salmon	2 <u>[0-4]</u> Chinook Salmon – no more than 4 <u>[0-4]</u> fish over 22 inches total

	August 15 to December 31, 2018 <u>2019</u> .	length until subquota is met, then 0 fish over 22 inches total length. 2 hatchery trout or hatchery steelhead**
	Fall Run Quota Exception: Chinook Salmon over 22 inches total length may be retained from 3,500 feet downstream of Iron Gate Dam to the Interstate 5 bridge when the department determines that the adult fall-run Chinook Salmon spawning escapement at Iron Gate Hatchery exceeds 8,000 fish. Daily bag and possession limits specified for fall-run Chinook Salmon apply during this exception.	
b. Klamath River downstream of the Highway 96 bridge at Weitchpec.	January 1 to August 14.	2 Chinook Salmon 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 1,745 <u>[0-33,800]</u> Chinook Salmon August 15 to December 31, 2018 <u>2019</u> .	2 <u>[0-4]</u> Chinook Salmon – no more than 4 <u>[0-4]</u> fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 2 hatchery trout or hatchery steelhead**
	<p>Fall Run Quota Exception: Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth). This area will be closed to all fishing after 15% of the Total Klamath River Basin Quota has been taken.</p> <p>All legally caught Chinook Salmon must be retained. Once the adult (greater than 22 inches) component of the total daily bag limit has been retained anglers must cease fishing in the spit area.</p>	
3. Salmon River main stem, main stem of North Fork downstream of Sawyer's Bar bridge, and main stem of South Fork downstream of the confluence of the East Fork of the South Fork.	November 1 through February 28.	2 hatchery trout or hatchery steelhead**
4. Scott River main stem downstream of the Fort Jones-Greenville bridge to the confluence with the Klamath River.	Fourth Saturday in May through February 28.	2 hatchery trout or hatchery steelhead**

5. Shasta River main stem downstream of the Interstate 5 bridge north of Yreka to the confluence with the Klamath River.	Fourth Saturday in May through August 31 and November 16 through February 28.	2 hatchery trout or hatchery steelhead**
6. Trinity River and tributaries.		
a. Trinity River main stem from 250 feet downstream of Lewiston Dam to the Old Lewiston Bridge.	April 1 through September 15. Only artificial flies with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
b. Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat.	January 1 to August 31.	2 Chinook Salmon 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 576 <u>[0-11,154]</u> Chinook Salmon September 1 through December 31, 2018 <u>2019</u> .	2 <u>[0-4]</u> Chinook Salmon – no more than 4 <u>[0-4]</u> fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota Exception: Chinook Salmon over 22 inches total length may be retained downstream of the Old Lewiston Bridge to the mouth of Indian Creek when the department determines that the adult fall-run Chinook Salmon spawning escapement at Trinity River Hatchery exceeds 4,800 fish. Daily bag and possession limits specified for fall-run Chinook Salmon apply during this exception.	
c. Trinity River main stem downstream of the Highway 299 West bridge at Cedar Flat to the Denny Road bridge at Hawkins Bar.	January 1 through August 31.	2 Chinook Salmon 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	September 1 through December 31.	Closed to all fishing.
d. New River main stem downstream of the confluence of the East	September 15 through November 15. Only artificial	2 hatchery trout or hatchery steelhead**

Fork to the confluence with the Trinity River.	lures with barbless hooks may be used.	
e. Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to the mouth of the South Fork Trinity River.	January 1 to August 31.	2 Chinook Salmon 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 576 [0-11,154] Chinook Salmon September 1 through December 31, 2018 2019. This is the cumulative quota for subsections 6.e. and 6.f. of this table.	2[0-4] Chinook Salmon – no more than 4[0-4] fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 5 Brown Trout 2 hatchery trout or hatchery steelhead**
f. Trinity River main stem downstream of the mouth of the South Fork Trinity River to the confluence with the Klamath River.	January 1 to August 31.	0 Chinook Salmon 5 Brown Trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota 576 [0-11,154] Chinook Salmon September 1 through December 31, 2018 2019. This is the cumulative quota for subsections 6.e. and 6.f. of this table.	2[0-4] Chinook Salmon – no more than 4[0-4] fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 5 Brown Trout 2 hatchery trout or hatchery steelhead**
g. Hayfork Creek main stem downstream of the Highway 3 bridge in Hayfork to the confluence with the South Fork Trinity River.	November 1 through March 31. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
h. South Fork Trinity River downstream of the confluence with the East Fork of the South Fork Trinity River to the South Fork Trinity River bridge at Hyampom.	November 1 through March 31. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**

i. South Fork Trinity River downstream of the South Fork Trinity River bridge at Hyampom to the confluence with the Trinity River.	November 1 through March 31.	0 Chinook Salmon. 2 hatchery trout or hatchery steelhead**

. . . [No changes subsections 7.50(b)(92) through (b)(212)]

* Wild Chinook Salmon are those not showing a healed adipose fin clip and not showing a healed left ventral fin clip.

**Hatchery trout or steelhead in anadromous waters are those showing a healed adipose fin clip (adipose fin is absent). Unless otherwise provided, all other trout and steelhead must be immediately released. Wild trout or steelhead are those not showing a healed adipose fin clip (adipose fin is present).

Note: Authority cited: Sections 200, 205, 265, 270, 315, 316.5 and 399, Fish and Game Code.

Reference: Sections 200, 205, 265, 270 and 316.5, Fish and Game Code.

ECONOMIC AND FISCAL IMPACT STATEMENT**(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

SAM Section 6601-6616**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON Margaret Duncan margaret.duncan	EMAIL ADDRESS @wildlife.ca.gov	TELEPHONE NUMBER (916) 653-4676
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Subsection (b)(91.1) of Sec. 7.50, Title 14, CCR, re: Klamath River Basin Sport Fishing Regulations			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input checked="" type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input checked="" type="checkbox"/> c. Impacts jobs or occupations | <input checked="" type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below): |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*

2. The Fish and Game Commission estimates that the economic impact of this regulation (which includes the fiscal impact) is:

(Agency/Department)

- ☒ Below \$10 million
☐ Between \$10 and \$25 million
☐ Between \$25 and \$50 million
☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: 30 - 50Describe the types of businesses (Include nonprofits): Fishing boat owners, tackle stores, guides, food, fuel, lodging, camping vendorsEnter the number or percentage of total businesses impacted that are small businesses: 80%4. Enter the number of businesses that will be created: none eliminated: noneExplain: Anticipated changes in fishing activity are not expected to be large enough to induce business loss/creation.5. Indicate the geographic extent of impacts: ☐ Statewide☒ Local or regional (List areas): Siskiyou, Trinity, Del Norte and Humboldt Counties6. Enter the number of jobs created: 0 and eliminated: 0 - 22Describe the types of jobs or occupations impacted: Fishing guides, retail sales clerks in sport fish-serving businesses such as:
tackle stores, food, fuel, lodging, and camping vendors

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ YES☒ NO

If YES, explain briefly:

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 0
- a. Initial costs for a small business: \$ 0 Annual ongoing costs: \$ 0 Years: 1
- b. Initial costs for a typical business: \$ 0 Annual ongoing costs: \$ 0 Years: 1
- c. Initial costs for an individual: \$ 0 Annual ongoing costs: \$ 0 Years: 1
- d. Describe other economic costs that may occur: N/A, This action will set Klamath River Fall-Run Chinook (KRFC) bag and possession limits with no compliance costs. See addendum.

2. If multiple industries are impacted, enter the share of total costs for each industry: N/A

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ N/A

4. Will this regulation directly impact housing costs? ☐ YES ☒ NO
- If YES, enter the annual dollar cost per housing unit: \$ _____
- Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☒ NO
- Explain the need for State regulation given the existence or absence of Federal regulations: Fish and Game Code (FGC) sections 200 and 205
- Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: This action should result in the continued sustainability of the salmon fisheries that benefit sport anglers and the area businesses that support sport fishing activities.
2. Are the benefits the result of: ☐ specific statutory requirements, or ☒ goals developed by the agency based on broad statutory authority?
- Explain: Statute provides the Fish & Game Commission authority to establish sport fishing regulations (FGC sections 200 and 205)
3. What are the total statewide benefits from this regulation over its lifetime? \$ 2-2.7M see addendum
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: Any changes in fishing activity levels are not expected to be sufficient enough to induce the expansion of businesses currently doing business within the State.

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: see addendum
- Alternatives considered 1) More liberal bag/possession limits and fishing methods could induce a rush to fish that may damage salmon stocks.
- 2) No Change to the 2018 Klamath River Fall-Run Chinook (KRFC) limits may not be in accord with PFMC quota allocations.

ECONOMIC AND FISCAL IMPACT STATEMENTSAM Section 6601-6616**(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ 2 - 2.7 M Cost: \$ 0

Alternative 1: Benefit: \$ 2 - 2.7 M Cost: \$ - 3.7 M*

Alternative 2: Benefit: \$ 2 - 2.7 M Cost: \$ see addendum

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:

Benefits = estimated (salmon angler days x spending) xmultipliers for total economic impact. *Costs may include long-run over-fishing costs to fishery sustainability.

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?

☐ YES☒ NO

Explain: Fisheries management regulations traditionally involve setting harvest quotas, seasons, bag and possession limits.

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.*

California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million?
- ☐
- YES
- ☐
- NO

*If YES, complete E2. and E3**If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES☒ NO

If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____
Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____
Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DATE



The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

DATE



Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



STD. 399 Addendum

Amend Subsection (b)(91.1) of Section 7.50
Title 14, California Code of Regulations
Re: Klamath River Basin Sport Fishing Regulations

The regulatory amendments of subsection 7.50(b)(91.1) under consideration will set the 2019 Klamath River Basin salmon sport fishing regulations to conform to the Pacific Fishery Management Council (PFMC) Klamath River Fall-run Chinook Salmon (KRFC) allocation. The Klamath River Basin is anticipated to be open for salmon sport fishing at levels similar to the 2018 levels; however, the possibility of marine fishery area closures still exists. Ocean closures may in turn result in PFMC recommendations for Klamath River Basin salmon sport fishery closures for the take of adult KRFC. Adverse or positive impacts to jobs and businesses will depend on the 2019 KRFC allocation ultimately adopted by the PFMC, and the specific regulations promulgated by the Commission.

The proposed quota range of 0 to 67,600 adult KRFC in 2019 represents a range from 0 percent or no salmon fishing on adult KRFC to greater than 100 percent of the 2018 Klamath River Basin KRFC quota. Under all scenarios, sport fishing may be allowed for other sportfish species and for grilse KRFC regardless of PFMC regulations, thus any adverse impacts to businesses could be less severe than under a complete closure of fishing.

The preservation of Klamath River salmon stocks is necessary for the success of Klamath River Basin businesses which provide goods and services related to fishing. Scientifically-based KRFC allocations are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

Based on a 2011 NMFS report on In-River Sport Fishing Economics of the Klamath River, and adding a 33 percent increase to account for the Trinity River¹, in a normal year, non-resident Klamath River salmon and steelhead sport anglers together contribute about \$3,442,750 in direct expenditures, resulting in about \$4,221,945 (2017\$) in total economic output to California businesses. The NMFS study found that non-resident (outside the immediate locale) salmon or steelhead angler average expenditures are estimated to be \$108.82 (2017\$) per angler day (for lodging, food, gasoline, fishing gear, boat fuel, and guide fees). The projections do not distinguish between spring- and fall-runs, however, the in-river harvest is almost exclusively fall-run.

Local resident average expenditures per angler day are estimated to be 60 percent less (markedly reduced lodging, gasoline and food expenditures), which yields an estimate

¹ The NMFS study excluded the Trinity River, the largest tributary to the Klamath. The Trinity River is allocated 33 percent of the KRFC total quota. Using the Trinity quota as a measure of salmon and steelhead angler effort, and thus impacts on associated businesses that support anglers, the Department added 33 percent to the total economic output listed in the NMFS report.

of \$43.53 per angler-day. Local resident anglers comprise about 36 percent of Klamath River Basin anglers. Any decreases to expenditures by resident anglers associated with reduced fishing opportunities may be offset by increased expenditures on other locally purchased goods and services – with no net change in local economic activity. Thus, the economic impact assessment focuses on non-resident angler expenditures which represent new money whose injection serves to stimulate the local economy.

The total impact of non-resident angler direct expenditures support about 45 jobs for salmon alone or up to 70 jobs for all salmon and steelhead spending.

Table 1. Klamath Salmon and Steelhead Total Economic Output (Non-resident anglers)

Klamath Sport Fishing	Salmon	Steelhead	Total
Total Output	\$ 2,733,115	\$ 1,488,830	\$ 4,221,945
Labor Income	\$ 1,264,576	\$ 688,862	\$ 1,953,438
Jobs	45.7	24.9	70.6

To demonstrate the potential economic impacts that may result from a quota anywhere within the range of 0 - 67,600 KRFC, three adult salmon catch projections are as follows: 100 percent of the 2018 adult KRFC catch limit; 50 percent of the 2018 adult KRFC catch limit; and 0 percent of the 2018 adult KRFC catch limit.

Section A

Question 4. Number of businesses that will be created or eliminated.

Projection 1. 100 percent of the 2018 adult KRFC catch limit: The Commission does not anticipate any impacts on the creation of new business or the elimination of existing businesses, as the quotas would not decrease effort nor curtail the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50 percent of the 2018 adult KRFC catch limit: The Commission anticipates a decline in visits to the fishery areas of less than 50 percent due to the continued sport fishing allowed for other species and grilse KRFC. This may result in some decline in business activity, but the Commission does not anticipate any impacts on the creation of new business or the elimination of existing businesses directly related to fishing activities. However, with less effort being expended on salmon fishing, the possibility of substitute activities and the growth of businesses to serve those activities exists.

Projection 3. 0 percent of the 2018 adult KRFC catch limit: In the event of salmon fisheries closures for adult KRFC in some or all Klamath River Basin areas, the Commission anticipates a decline in regional spending and thus reduced revenues to the approximately 30 to 50 businesses that directly and indirectly serve sport fishing activities with unknown impacts on the creation of new business or the elimination of existing businesses. However, adverse impacts may be mitigated by the continued opportunity to harvest other sportfish and the potential for take of grilse KRFC. Additionally, the long-term intent of the proposed action is to increase sustainability in

fishable salmon stocks and, consequently, the long-term viability of these same small businesses.

Section A

Question 6. Number of jobs that will be created or eliminated.

Projection 1. 100 percent of the 2018 adult KRFC catch limit: The Commission does not anticipate any adverse impacts on the creation or elimination of jobs, as the quotas would not decrease effort nor curtail the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50 percent of the 2018 adult KRFC catch limit: The Commission anticipates some impact on the creation or elimination of jobs, which may be partially offset by the potential for continued sport fishing allowed for other sportfish and grilse KRFC. A 50 percent salmon catch reduction will likely reduce visitor spending by slightly less than 50 percent, given price elasticities of demand for salmon fishing activity of less than one. As the “price” of fishing per unit catch increases, the demand for fishing trips declines by a lesser extent, particularly in the short-run. While difficult to predict, job losses associated with a 50 percent reduction in the adult KRFC catch limit are expected to be less than half of the 45 estimated total jobs supported by salmon angler visits (i.e. fewer than 22 jobs).

Projection 3. 0 percent of the 2018 adult KRFC catch limit: In the event of fisheries closures for adult KRFC in some or all Klamath River Basin areas, the Commission anticipates less than 50 percent reduction in fishery-related jobs. As mentioned earlier, sport fishing for other species and grilse KRFC may still be allowed, thus mitigating potential job losses.

A closure on the take of all KRFC was instituted in 2017, and only steelhead could be legally harvested during the fall season. The impact of the 2017 closure on angler days and consumer demand is still being evaluated. However, job creation or elimination tends to lag in response to short-term changes in consumer demand. Thus, the potential impacts of a 2019 closure on the take of adult KRFC are estimated to result in the loss of less than 22 jobs due to adjustment lags and the continued sport fishing allowed for other species and potentially for grilse KRFC.

Section B

Question 1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$0

The regulations under consideration seek to maintain the Klamath River Basin fall-run Chinook Salmon fishing opportunities with no new compliance costs. The proposed bag and possession limits do not prescribe any particular equipment or methods.

Section C

Question 1. Briefly summarize the benefits of the regulation.

Under all projections, the Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a Klamath River Basin salmon sport fishery and other sport fisheries encourages a healthy outdoor activity and the consumption of a nutritious food. Sport fishing also contributes to increased mental health of its practitioners, as fishing is a hobby and form of relaxation for many. Sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of California's natural resources.

Under all projections, the Commission does not anticipate benefits to worker safety because the proposed regulations will not impact working conditions.

Under all projections, the Commission anticipates benefits to the environment in the sustainable management of Klamath River Basin salmonid resources. It is the policy of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State and to promote the development of local fisheries and distant water fisheries based in California in harmony with international law, respecting fishing and the conservation of the living resources of the ocean and other waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence, and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based Klamath River Basin salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

Under all projections, consistency with Federal Fishery Management Goals: California's salmon sport fishing regulations need to align with the new Federal regulations to achieve optimum yield in California. The PFMC annually reviews the status of west coast salmon populations. As part of that process, it recommends west coast adult salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the FMP. These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries off the coasts of Washington, Oregon, and California and state inland salmon sport fisheries. These recommendations are subsequently implemented as ocean fishing regulations by the NMFS, and as salmon sport regulations for California marine and inland waters by the Commission.

Section C

Question 3. What are the total statewide benefits from this regulation over its lifetime?
\$2.0 - 2.7 M annually.

A normal season for the Klamath River Basin (including the Trinity River) experiences an average of 21,000 nonresident sport salmon angler days in which anglers spend an average of \$109 per day contributing a total of \$2.0 M (2017\$) in

direct expenditures to California businesses. This expenditure is received by area businesses that spend a share on inputs and payroll. As employees receive income, their household spending again circulates in the local economy and statewide. These multiplier effects result in an estimated total economic impact of \$2.7 M (2017\$), and up to 45.7 jobs.

Section C

Question 4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation.

Projection 1. 100 percent of the 2018 adult KRFC catch limit: The Commission does not anticipate any impacts on the expansion of businesses in California as the quotas would not increase effort nor increase the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50 percent of the 2018 adult KRFC catch limit: The Commission does not anticipate any impacts on the expansion of businesses currently doing business within the State. Decreases in expenditures by resident anglers associated with reduced fishing opportunities may be offset by increased expenditures on other locally purchased goods and services – with no net change in local economic activity. For non-resident anglers, however, decreases in local expenditures associated with decreases in local fishing opportunities may result in increases in other expenditures outside the Klamath River Basin area.

Projection 3. 0 percent of the 2018 adult KRFC catch limit: In the event of salmon fisheries closures for adult KRFC in some or all Klamath River Basin areas, the Commission does not anticipate any expansion of businesses in California. Decreases in expenditures by anglers associated with reduced fishing opportunities may be partially offset by increased expenditures on other locally purchased goods and services as visitors fish for other sportfish, potentially including grilse KRFC, or the substitution of salmon fishing with other recreational pursuits.

Section D

Question 1. Alternatives to the Regulation

Alternative 1: More liberal bag limits, possession limits, and fishing methods that in sum, posed a greater risk of reducing salmon stocks below the number minimally necessary to sustain a viable ongoing population of salmon. Overfishing could diminish and/or eliminate future sport salmon fishing opportunities and likewise curtail the associated benefits to the state economy.

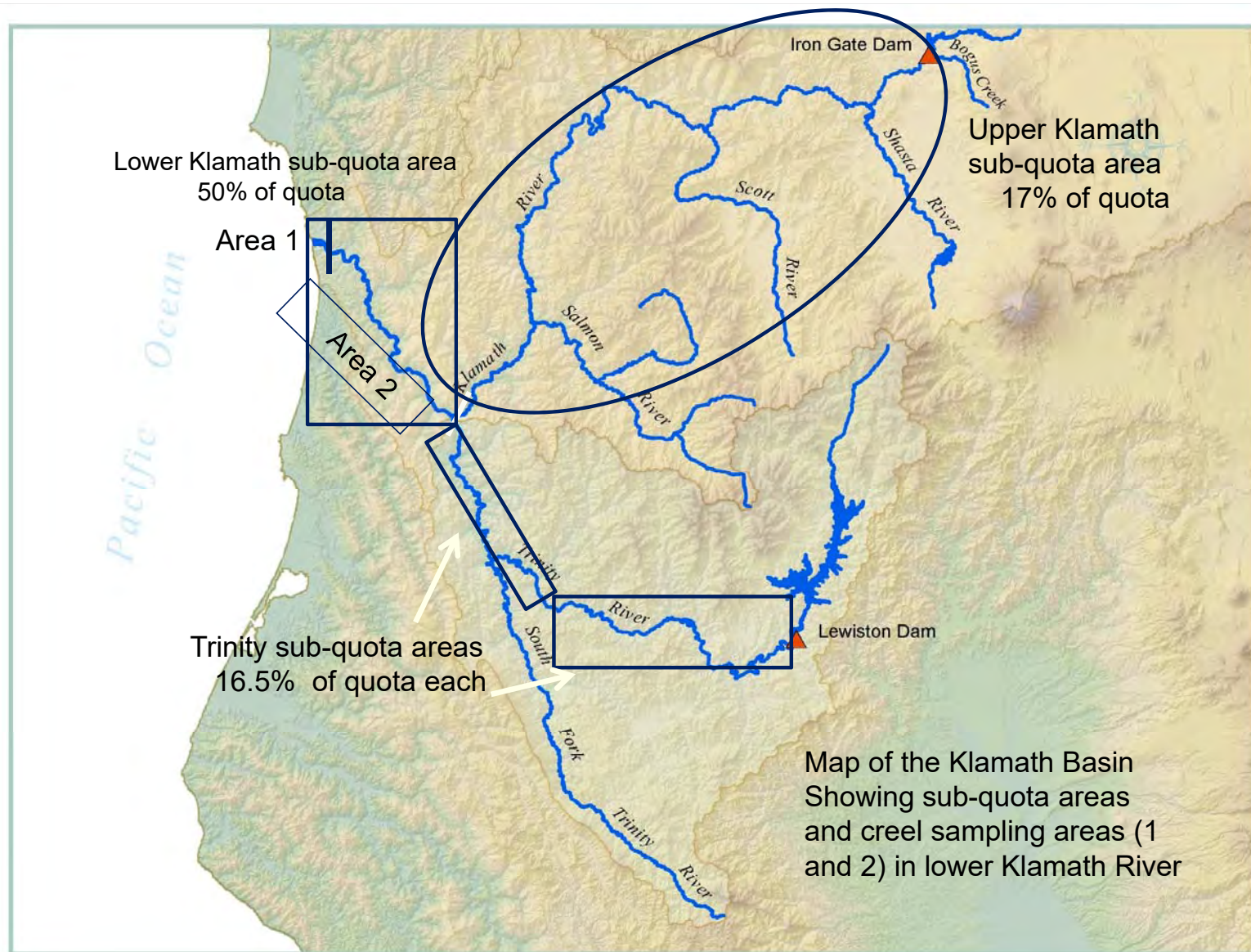
Alternative 2: The No Change Alternative would leave the current 2018 daily bag and possession limit regulations in place and would not allow flexibility to develop bag and possession limits based on 2019 PFMC allocations. The change for 2019 is necessary to continue appropriate harvest rates and an equitable distribution of the harvestable surplus.

2019 Klamath River Basin Sport Fishing Regulatory Options



**California Fish and Game Commission Meeting
December 13, 2018
Kevin Shaffer, Chief
Fisheries Branch**





Pacific Fishery Management Council (PFMC)

- The PFMC establishes harvest allocations and natural spawning escapement goals for Klamath fall-run Chinook Salmon
- The PFMC will recommend the 2019 Klamath River recreational fishery allocation in April 2019
- Klamath Basin quota allocation typically conforms to PFMC recommendations (minimum of 15% of non-tribal allocation)
- DFW determines bag and possession limits based on quota

2018 Klamath River Basin Sport Fishing Regulations

- Klamath River Basin quota: 3,490 fish > 22 inches
- Bag limit: 2 fish, no more than 1 adult > 22 inches
- Possession limit: 6 fish, no more than 3 adults > 22 inches
- Season: Aug. 15 – Dec. 31 (Klamath River)
- Season: Sept. 1 – Dec. 31 (Trinity River)

2019 Klamath River Basin Regulatory Options

- Klamath Basin quota range: 0-67,600 fish > 22 inches
- Bag limit range: 0-4 fish, of which no more than 0-4 > 22 inches
- Possession limit range: 0-12 fish, of which no more than 0-4 > 22 inches
- Season: Aug. 15 – Dec. 31 (Klamath River)
- Season: Sept. 1 – Dec. 31 (Trinity River)



Memorandum

2018 DEC -3 AM 10:45

Date: November 29, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: Submittal of Initial Statement of Reasons to Amend Central Valley Salmon Sport Fishing Regulations

Please find attached the Initial Statement of Reasons to amend subsections (b)(5), (b)(68), (b)(124), and (b)(156.5) of Section 7.50, Title 14, California Code of Regulations, for Chinook Salmon sport fishing regulations in the Central Valley.

For the 2019 Central Valley sport fishery, the California Department of Fish and Wildlife (Department) is presenting three regulatory options for the Commission's consideration to encompass possible Pacific Fishery Management Council (PFMC) 2019 recommendations for Sacramento River fall-run Chinook Salmon (SRFC) stocks. The purpose for providing options is to increase flexibility for development of the final Central Valley sport fishing regulations. The Department's preferred option, including specific bag and possession limits for SRFC, will be presented to the Commission after the PFMC adopts its final recommendations at its April 2019 meeting.

The draft negative declaration will be provided to the Commission prior to the discussion hearing.

If you have any questions or need additional information, please contact Kevin Shaffer, Chief, Fisheries Branch, by telephone at (916) 327-8841 or by e-mail at Kevin.Shaffer@wildlife.ca.gov. The public notice should identify Senior Environmental Scientist, Karen Mitchell, as the Department's point of contact for this rulemaking. Ms. Mitchell can be reached at (916) 445-0826 or by e-mail at Karen.Mitchell@wildlife.ca.gov.

Attachment

ec: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Melissa Miller-Henson, Acting Executive Director
Fish and Game Commission
November 29, 2018
Page 2

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STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Subsections (b)(5), (b)(68), (b)(124), and (b)(156.5) of Section 7.50,
Title 14, California Code of Regulations
Re: Central Valley Salmon Sport Fishing

I. Date of Initial Statement of Reasons: November 20, 2018

II. Dates and Locations of Scheduled Hearings

- | | | |
|-------------------------|-----------|-------------------|
| (a) Notice Hearing: | Date: | December 13, 2018 |
| | Location: | Oceanside, CA |
| (b) Discussion Hearing: | Date: | February 6, 2019 |
| | Location: | Sacramento, CA |
| (c) Discussion Hearing: | Date: | April 17, 2019 |
| | Location: | Los Angeles, CA |
| (d) Adoption Hearing: | Date: | May 16, 2019 |
| | Location: | Teleconference |

III. Description of Regulatory Action

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

Current regulations in subsections (b)(5), (b)(68), (b)(124) and (b)(156.5) of Section 7.50 prescribe the 2018 seasons and daily bag and possession limits for Sacramento River fall-run Chinook Salmon (*Oncorhynchus tshawytscha*; SRFC) sport fishing in the American, Feather, Mokelumne, and Sacramento rivers, respectively. Collectively, these four rivers constitute the "Central Valley fishery" for SRFC for purposes of this document. Each year, the Department of Fish and Wildlife (Department) recommends new Chinook Salmon bag and possession limits for consideration by the Fish and Game Commission (Commission) to align the fishing limits with up-to-date management goals, as set forth below.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The PFMC will develop the annual Pacific coast ocean salmon fisheries regulatory options for public review at its March 2019 meeting, and will adopt its final regulatory recommendations at its April 2019 meeting based on the PFMC salmon abundance estimates and recommendations for ocean harvest for the coming season. Based on the April 2019 recommendation by PFMC, the Department will recommend specific bag and possession limit regulations to the Commission at its April 17, 2019 meeting. The Commission will then consider adoption of the Central Valley salmon sport fishing regulations at its May 16, 2019 teleconference.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, adult salmon are generally those considered three to five years in age, and grilse salmon are those approximately two years of age. The age classes are distinguished by a cutoff of salmon total length measurement, depending on the inland (in-river) fishery. For purposes of the proposed regulation, this cutoff is presented as a range of 26 to 28 inches total length, as outlined under the options for the proposed regulations (below).

Current Regulations

In 2018, salmon sport fishing in the Central Valley was constrained for the first time since 2010 due to a low SRFC stock abundance forecast. At its March 2018 meeting, the PFMC determined it would be necessary to specify an ocean/inland sharing arrangement for the limited SRFC available for harvest (take) in 2018 for ocean sport and commercial fisheries, and in-river recreational fisheries in the Central Valley. As a result, the Department agreed to a one-time limit of the in-river harvest to 15 percent of the total available SRFC harvest.

In December 2017, the Commission provided notice of a range of alternatives for the 2018 Central Valley fishery, including a suite of bag and possession limit alternatives that were area-specific. However, because the Department did not anticipate the impending SRFC stock collapse, this range of alternatives did not include a number of other measures that might have been used to constrain inland SRFC catches to stay within the federal harvest projections. Consequently, the only management measure the Department could recommend to the Commission to target the federal in-river harvest projection was a reduction in the daily bag limit from two fish to one fish in all areas that would be open to retention during 2018.

Proposed Regulations

The Department recognizes the uncertainty of SRFC in-river harvest projections. Therefore, for the 2019 Central Valley fishery, the Department is presenting three regulatory options for the Commission's consideration to tailor 2019 Central Valley fishery management to target 2019 in-river fisheries harvest projections.

- Option 1 is the most liberal of the three options and allows take of any size Chinook Salmon up to the daily bag and possession limits.
- Option 2 allows for take of a limited number of adult Chinook Salmon, with grilse Chinook Salmon making up the remainder of the daily bag and possession limits.

- Option 3 is the most conservative option and allows for a grilse-only Chinook Salmon fishery.

All three options increase fishing opportunities on the Feather and Mokelumne rivers by: (1) extending the salmon fishing season by two weeks on the Feather River between the Thermalito Afterbay Outfall and the Live Oak boat ramp; and (2) by extending the salmon and hatchery steelhead fishing season on approximately 10 miles of the Mokelumne River between the Highway 99 Bridge and Elliott Road. The expansion of fishing opportunity on 10 miles on the Mokelumne River for hatchery steelhead is buffered by the overall large run of hatchery steelhead, and because spawning occurs outside this stretch of river.

Grilse Chinook Salmon Fishery Size Considerations

Grilse salmon are salmon that spend two years in the ocean before returning to their natal streams to spawn. These fish are generally smaller in size and contribute less to the overall salmon population than adult salmon, which typically spend three to five years in the ocean before returning to freshwater to spawn. Typically, age-two salmon (grilse) are mostly males (jacks) with relatively few female (jills). Should a reduction in the adult component of the stock be imposed by PFMC harvest projections, the Department is recommending specifying angling opportunities on the smaller, and possibly more numerous grilse salmon. Take of adult salmon would be limited (Option 2) or prohibited (Option 3) under regulation, and the subsequent juvenile production would help rebuild the depressed stock size.

When considering a grilse fishery, determining a size cutoff that balances angling harvest opportunity for jacks versus preserving the limited number of females available to spawn is important. If the total length size cutoff is too short (conservative), too few jacks will be caught by anglers, and they will be underutilized because jacks are infrequently used as hatchery broodstock, or because jacks are out-competed by larger males in-river. If the cutoff is too large (liberal), then angling catch of the smaller females will increase, reducing the hatchery and in-river spawners, since the limiting factor for spawning is egg availability from jills and adult females. Therefore, the Department is proposing a grilse salmon size limit range of less than or equal to 26 to 28 inches total length (TL) for discussion before the Department makes a final recommendation. Considered in this context, the cutoff size discussion is a trade-off between restricting take of the available adult female salmon versus increasing harvest of possibly abundant smaller, two-year old male salmon.

A review of brood year 2008-2015 Central Valley Angler Survey coded wire tag recovery data (2,329 age three and 789 age two Chinook Salmon) shows a grilse to adult cutoff at approximately 27-inch fork length (FL). Using the adult spawning Chinook Salmon fork length to total length conversion formula developed in Pahlke 1988^a, 27-inch FL converts to 28.3-inch TL. Below are the percentages of adult SRFC that would be prohibited from harvest at a 26, 27, and 28-inch TL cutoff for grilse salmon.

^a Pahlke, K, 1988. Length Conversion Equations for Sockeye, Chinook, and Coho salmon in southeast Alaska. Regional Information Report No. Ij88-03. Alaska Department of Fish and Game Division of Commercial Fisheries, Southeast Region.

- On average, a grilse fishery with a 26-inch TL cutoff (i.e., less than or equal to 26 inches TL) would allow harvest of 65 percent of age-two Chinook Salmon, while not allowing harvest on 98.9 percent of age-three Chinook Salmon. It would prevent harvest on 99 percent of adult males and 98.9 percent of adult females, where the majority of harvested fish would be grilse.
- On average, a grilse fishery with a 27-inch TL cutoff (i.e., less than or equal to 27 inches TL) would allow harvest of 81 percent of age-two Chinook Salmon, while not allowing harvest on 97.3 percent of age-three Chinook Salmon. It would prevent harvest on 97.3 percent of adult males and 97.9 percent of adult females, where the majority of harvested fish would be grilse.
- On average, a grilse fishery with a 28-inch TL cutoff (i.e., less than or equal to 28 inches TL) would allow harvest of 93.4 percent of age-two Chinook Salmon, while not allowing harvest on 94.5 percent of age-three Chinook Salmon. It would prevent harvest on 95 percent of adult males and 96 percent of adult females, where the majority of harvested fish would be grilse.

Predicting the abundance of grilse for any given year is currently not possible because they are not susceptible to angling harvest prior to becoming grilse, and ocean abundance of pre-grilse sized fish is not monitored. The first indication of a large Central Valley grilse population is usually from in-river recreational fishing beginning in mid-July. Grilse numbers compared to adult numbers for a given year are usually not fully known until the following January, when spawner survey results are completed. For this reason, using an average of previous grilse data is a reasonable method of setting regulatory limits for future years.

Key to Proposed Regulatory Changes:

Because the PFMC recommendations are not known at this time, a range shown in [brackets] in the text below of bag and possession limits is indicated where it is desirable to continue Chinook Salmon fishing in the American, Feather, Mokelumne, and Sacramento rivers.

Bold text indicates changes to the in-river season or boundary.

The following options are provided for Commission consideration:

Option 1 – Any Size Chinook Salmon Fishery

This option would allow anglers to take up to [0-4] Chinook Salmon of any size per day. This option is the Department's preferred option if the 2019 SRFC stock abundance forecast is sufficiently high to avoid the need to constrain in-river SRFC harvest.

In addition, this option would extend the salmon fishing season by two weeks (to October 31) on the Feather River between the Thermalito Afterbay Outfall and the Live Oak boat ramp to allow for additional fishing opportunity. This section of the Feather River used to

provide spawning habitat for SRFC, but adult spawning has not been observed in this section of the Feather River for approximately 10 years. Allowing the take of salmon in this section of the Feather River during this time period will provide additional sport fishing opportunity without adversely impacting SRFC populations. Lastly, this option would provide additional fishing opportunity by extending the salmon season by two and one-half months (to December 31) and allowing year-round fishing on hatchery steelhead on approximately 10 miles of the Mokelumne River between the Highway 99 Bridge and Elliott Road. This would allow anglers to continue to fish lower in the river where no spawning is occurring. In addition, the Mokelumne River supports a large run of hatchery origin steelhead. Allowing the take of salmon and hatchery steelhead in this section of the Mokelumne River during this time period will provide additional sport fishing opportunity without adversely impacting populations of SRFC or wild steelhead.

American River, subsection 7.50(b)(5):

- (B) From the USGS gauging station cable crossing near Nimbus Hatchery to the SMUD power line crossing the southwest boundary of Ancil Hoffman Park.

July 16 through October 31 with a bag limit of [0-4] Chinook Salmon.

Possession limit - [0-12] Chinook Salmon.

- (C) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the Jibboom Street bridge.

July 16 through December 31 with a bag limit of [0-4] Chinook Salmon.

Possession limit - [0-12] Chinook Salmon.

- (D) From the Jibboom Street bridge to the mouth.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon.

Possession limit - [0-12] Chinook Salmon.

Feather River, subsection 7.50(b)(68):

- (D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to 200 yards above the Live Oak boat ramp.

July 16 through **October 31** with a daily bag limit of [0-4] Chinook Salmon.

Possession limit - [0-12] Chinook Salmon.

- (E) From 200 yards above the Live Oak boat ramp to the mouth.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon.

Possession limit – [0-12] Chinook Salmon.

Mokelumne River, subsection 7.50(b)(124):

- (A) From Camanche Dam to **Elliott Road**.

July 16 through October 15 with a bag limit of [0-4] Chinook Salmon.

Possession limit – [0-12] Chinook Salmon.

- (B) From **Elliott Road** to the Woodbridge Irrigation District Dam and including Lodi Lake.

From July 16 through December 31 with a bag limit of [0-4] Chinook Salmon.

Possession limit – [0-12] Chinook Salmon.

- (D) From the Lower Sacramento Road bridge to the mouth.

From July 16 through December 16 with a bag limit of [0-4] Chinook Salmon.

Possession limit – [0-12] Chinook Salmon.

Sacramento River below Keswick Dam, subsection 7.50(b)(156.5):

- (C) From Deschutes Road bridge to the Red Bluff Diversion Dam.

August 1 through December 16 with a bag limit of [0-4] Chinook Salmon

Possession limit – [0-12] Chinook Salmon.

- (D) From the Red Bluff Diversion Dam to the Highway 113 bridge.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon.

Possession limit – [0-12] Chinook Salmon.

- (E) From the Highway 113 bridge to the Carquinez Bridge.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon.

Possession limit – [0-12] Chinook Salmon.

Option 2 – Limited Adult and Grilse Salmon Fishery

This option would allow the take of a limited number of adult Chinook Salmon, with grilse Chinook Salmon making up the remainder of the daily bag and possession limits. Should a reduction in the adult component of the stock be imposed by PFMC harvest projections, the Department is recommending specifying angling opportunities on the smaller, and possibly more numerous grilse salmon to increase angling harvest opportunities. Take of adult salmon would be limited under regulation, and the subsequent juvenile production would help rebuild the depressed stock size at a time when there is the need to restrict harvest of adult salmon.

As with Option 1, Option 2 would extend the salmon fishing season by two weeks (to October 31) on the Feather River between the Thermalito Afterbay Outfall and the Live Oak boat ramp to allow for additional fishing opportunity. This section of the Feather River used to provide spawning habitat for SRFC, but adult spawning has not been observed in this section of the Feather River for approximately 10 years. Allowing the take of salmon in this section of the Feather River during this time period will provide additional sport fishing opportunity without adversely impacting SRFC populations. Lastly, this option would provide additional fishing opportunity by extending the salmon season by two and one-half months (to December 31) and allowing year-round fishing on hatchery steelhead on approximately 10 miles of the Mokelumne River between the Highway 99 Bridge and Elliott Road. This would allow anglers to continue to fish lower in the river where no spawning is occurring. In addition, the Mokelumne River supports a large run of hatchery origin steelhead. Allowing the take of salmon and hatchery steelhead in this section of the Mokelumne River during this time period will provide additional sport fishing opportunity without adversely impacting populations of SRFC or wild steelhead.

American River, subsection 7.50(b)(5):

- (B) From the USGS gauging station cable crossing near Nimbus Hatchery to the SMUD power line crossing the southwest boundary of Ancil Hoffman Park.

July 16 through October 31 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over [26-28] inches total length may be retained.

Possession limit - [0-12] Chinook Salmon of which no more than [0-4] fish may be over [26-28] inches total length.

- (C) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the Jibboom Street bridge.

July 16 through December 31 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over [26-28] inches total length may be retained.

Possession limit - [0-12] Chinook Salmon of which no more than [0-4] fish may be over [26-28] inches total length.

- (D) From the Jibboom Street bridge to the mouth.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over [26-28] inches total length may be retained.

Possession limit - [0-12] Chinook Salmon of which no more than [0-4] fish may be over [26-28] inches total length.

Feather River, subsection 7.50(b)(68):

- (D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to 200 yards above the Live Oak boat ramp.

July 16 through **October 31** with a daily bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over [26-28] inches total length may be retained.

Possession limit - [0-12] Chinook Salmon of which no more than [0-4] fish may be over [26-28] inches total length.

- (E) From 200 yards above the Live Oak boat ramp to the mouth.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over [26-28] inches total length may be retained.

Possession limit – [0-12] Chinook Salmon of which no more than [0-4] fish may be over [26-28] inches total length.

Mokelumne River, subsection 7.50(b)(124)

- (A) From Camanche Dam **to Elliott Road**.

July 16 through October 15 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over [26-28] inches total length may be retained.

Possession limit – [0-12] Chinook Salmon of which no more than [0-4] fish may be over [26-28] inches total length.

- (B) From **Elliott Road** to the Woodbridge Irrigation District Dam and including Lodi Lake.

From July 16 through December 31 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over [26-28] inches total length may be retained.

Possession limit – [0-12] Chinook Salmon of which no more than [0-4] fish may be over [26-28] inches total length.

- (D) From the Lower Sacramento Road bridge to the mouth.

From July 16 through December 16 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over [26-28] inches total length may be retained.

Possession limit – [0-12] Chinook Salmon of which no more than [0-4] fish may be over [26-28] inches total length.

Sacramento River below Keswick Dam, subsection 7.50(b)(156.5):

(C) From Deschutes Road bridge to the Red Bluff Diversion Dam.

August 1 through December 16 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over [26-28] inches total length may be retained.

Possession limit – [0-12] Chinook Salmon of which no more than [0-4] fish may be over [26-28] inches total length.

(D) From the Red Bluff Diversion Dam to the Highway 113 bridge.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over [26-28] inches total length may be retained.

Possession limit – [0-12] Chinook Salmon of which no more than [0-4] fish may be over [26-28] inches total length.

(E) From the Highway 113 bridge to the Carquinez Bridge.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over [26-28] inches total length may be retained.

Possession limit – [0-12] Chinook Salmon of which no more than [0-4] fish may be over [26-28] inches total length.

Option 3 – Grilse-only Salmon Fishery

This option would allow for a grilse-only salmon fishery. Should a reduction in the adult component of the stock be imposed by PFMC harvest projections, the Department is recommending specifying angling opportunities on the smaller, and possibly more numerous grilse salmon to increase angling harvest opportunities. Take of adult salmon would be prohibited under regulation, and the subsequent juvenile production would help rebuild the depressed stock size at a time when there is the need to restrict harvest of adult salmon.

As with Options 1 and 2, Option 3 would extend the salmon fishing season by two weeks (to October 31) on the Feather River between the Thermalito Afterbay Outfall and the Live Oak boat ramp to allow for additional fishing opportunity. This section of the Feather River used to provide spawning habitat for SRFC, but adult spawning has not been observed in this section of the Feather River for approximately 10 years. Allowing the take of salmon in

this section of the Feather River during this time period will provide additional sport fishing opportunity without adversely impacting SRFC populations. Lastly, this option would provide additional fishing opportunity by extending the salmon season by two and one-half months (to December 31) and allowing year-round fishing on hatchery steelhead on approximately 10 miles of the Mokelumne River between the Highway 99 Bridge and Elliott Road. This would allow anglers to continue to fish lower in the river where no spawning is occurring. In addition, the Mokelumne River supports a large run of hatchery origin steelhead. Allowing the take of salmon and hatchery steelhead in this section of the Mokelumne River during this time period will provide additional sport fishing opportunity without adversely impacting populations of SRFC or wild steelhead.

American River, subsection 7.50(b)(5):

- (B) From the USGS gauging station cable crossing near Nimbus Hatchery to the SMUD power line crossing the southwest boundary of Ancil Hoffman Park.

July 16 through October 31 with a bag limit of [0-4] Chinook Salmon less than or equal to [26-28] inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to [26-28] inches total length.

- (C) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the Jibboom Street bridge.

July 16 through December 31 with a bag limit of [0-4] Chinook Salmon less than or equal to [26-28] inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to [26-28] inches total length.

- (D) From the Jibboom Street bridge to the mouth.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon less than or equal to [26-28] inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to [26-28] inches total length.

Feather River, subsection 7.50(b)(68):

- (D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to the Live Oak boat ramp.

July 16 through **October 31** with a daily bag limit of [0-4] Chinook Salmon less than or equal to [26-28] inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to [26-28] inches total length.

- (E) From 200 yards above the Live Oak boat ramp to the mouth.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon less than or equal to [26-28] inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to [26-28] inches total length.

Mokelumne River, subsection 7.50(b)(124):

- (A) From Camanche Dam to **Elliott Road**

July 16 through October 15 with a bag limit of [0-4] Chinook Salmon less than or equal to [26-28] inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to [26-28] inches total length.

- (B) From **Elliott Road** to the Woodbridge Irrigation District Dam and including lake Lodi.

From July 16 through December 31 with a bag limit of [0-4] Chinook Salmon less than or equal to [26-28] inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to [26-28] inches total length.

- (D) From the Lower Sacramento Road bridge to the mouth.

From July 16 through December 16 with a bag limit of [0-4] Chinook Salmon less than or equal to [26-28] inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to [26-28] inches total length.

Sacramento River below Keswick Dam, subsection 7.50(b)(156.5):

- (C) From Deschutes Road bridge to the Red Bluff Diversion Dam.

August 1 through December 16 with a bag limit of [0-4] Chinook Salmon less than or equal to [26-28] inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to [26-28] inches total length.

(D) From the Red Bluff Diversion Dam to the Highway 113 bridge.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon less than or equal to [26-28] inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to [26-28] inches total length.

(E) From the Highway 113 bridge to the Carquinez Bridge.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon less than or equal to [26-28] inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to [26-28] inches total length.

Necessity of the Proposed Regulation Changes

The proposed regulations are necessary to adjust Chinook Salmon bag and possession limits, size limits, and open seasons for the American, Feather, Mokelumne, and Sacramento rivers for consistency with PFMC salmon abundance estimates and recommendations for ocean harvest for the coming season. The proposed regulatory changes will maximize salmon and steelhead fishing opportunity where possible through the proposed extensions of season end dates for portions of the Feather and Mokelumne Rivers, without adversely affecting SRFC or wild steelhead.

OTHER CHANGES:

Under all options, changes are proposed to fix punctuation and to remove the extra word "in" in subsection 7.50(b)(124)(A).

(b) Goals and Benefits of the Regulation:

It is the policy of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State and to promote the development of local fisheries and distant water fisheries based in California in harmony with international law, respecting fishing and the conservation of the living resources of the ocean and other waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence, and the maintenance of a sufficient resource to support a reasonable sport use.

Adoption of scientifically-based SRFC bag and possession limits provides for the maintenance of sufficient populations of Chinook Salmon to ensure their continued existence.

The benefits of the proposed regulations are consistency with federal fishery management goals, sustainable management of Central Valley Chinook Salmon resources, general

health and welfare of California residents, and promotion of businesses that rely on Central Valley Chinook Salmon sport fishing.

(c) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 205, 265, 270, 315, 316.5, and 399 Fish and Game Code.

Reference: Sections 200, 205, 265, 270 and 316.5, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None.

(e) Identification of Reports or Documents Supporting Regulation Change:

Pahlke, K, 1988. Length Conversion Equations for Sockeye, Chinook, and Coho salmon in southeast Alaska. Regional Information Report No. Ij88-03. Alaska Department of Fish and Game Division of Commercial Fisheries, Southeast Region.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change:

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative:

The no change alternative would leave existing 2018 regulations in place. The no-change alternative would not allow for appropriate harvest rates, while the proposed regulations will allow the state to harmonize its bag and possession limits with NMFS' regulations.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action

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 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 will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource, while providing inland sport fishing opportunities and thus, the prevention of adverse economic impacts.

- (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 Commission does not anticipate adverse impacts, but acknowledges the potential for short-term negative impacts on the creation or elimination of jobs within the state. The Commission anticipates no adverse impacts on the creation of new business, the elimination of existing businesses or the expansion of businesses in California (see Table 1). Minor variations in the bag and possession limits and/or the implementation of a size limit are unlikely to significantly impact the volume of business activity. The loss of up to 20 jobs with Option 3 is not expected to eliminate businesses because reduced fishing days will be partially offset by the extension of the salmon fishing season on portions of the Feather and Mokelumne rivers and by opportunities to fish for grilse Chinook Salmon and other species.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a Chinook Salmon sport fishery encourages consumption of a nutritious food. The Commission anticipates benefits to the environment by the sustainable management of California's Chinook Salmon resources in the Central Valley.

The Commission does not anticipate any benefits to worker safety.

Other benefits of the proposed regulations are concurrence with federal fishery management goals and promotion of businesses that rely on Central Valley Chinook Salmon sport fishing.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) 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, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

The regulatory amendments of subsections (b)(5), (b)(68), (b)(124), and (b)(156.5) of Section 7.50 under consideration will set the 2019 sport fishing regulations for Chinook Salmon in the American, Feather, Mokelumne, and Sacramento rivers, respectively, for consistency with PFMC in-river harvest projections.

Option 1 would allow anglers to take any size Chinook Salmon up to the daily bag limit [0-4] and possession limit [0-12] (most liberal option).

Option 2 would allow for take of a limited number of adult Chinook Salmon, with grilse Chinook Salmon making up the remainder of the daily bag limit [0-4] and possession limit [0-12].

Option 3 is the most conservative option and allows for take of only grilse Chinook Salmon up to the daily bag limit [0-4] and possession limit [0-12]. Take of adult salmon would not be allowed.

All three options increase fishing opportunities on the Feather and Mokelumne rivers by: (1) extending the salmon fishing season by two weeks on the Feather River between the Thermalito Afterbay Outfall and the Live Oak boat ramp; and (2) by extending the salmon and hatchery steelhead fishing season on approximately 10 miles of the Mokelumne River between the Highway 99 Bridge and Elliott Road.

In a normal season, the Central Valley fall Chinook Salmon fishery generates \$18,536,979 in total economic output and supports 130 jobs. The regional and statewide economic impacts factor into the effort to balance the maintenance of the recreational fishery with resource preservation, while complying with PFMC recommendations. The potential economic impacts that may result from each in-river harvest projection as specified in Option 1, Option 2, and Option 3 are evaluated in terms of each scenario's probable impact on the number of angler days, and thus area spending.

Table 1. Central Valley Salmon Fishery Economic Impacts (2017\$)

Regulation	Angler Days	Angler Expenditures	Total Econ Impact	Jobs
Option 1	179,550	\$ 13,182,320	\$ 18,536,979	130
Option 2	161,595	\$ 11,864,088	\$ 16,682,731	120
Option 3	143,640	\$ 10,545,856	\$ 14,829,094	110
Difference	Angler Day Loss	Expenditure Loss	Total Impact Loss	Job Loss
Option 1	0	\$ -	\$ -	0
Option 2	17,955	\$ 1,318,232	\$ 1,854,248	10
Option 3	35,910	\$ 2,636,464	\$ 3,707,885	20

Sources: CDFW Fisheries Branch economic analysis; U.S. Fish and Wildlife Service, 2016 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation; dollar figures adjusted for inflation with Implicit Price Deflator for Personal Consumption Expenditures, Bureau of Economic Analysis.

Historical correlations between catch limits and fishery participation levels suggest that Option 1 could enable a historically average number of angler days for the 2019 Chinook Salmon season on the American, Feather, Mokelumne, and Sacramento rivers. Option 2 may result in declines in angler days of 17,955 below an average year. Option 3 may result in larger declines or about 35,910 fewer angler days.

For all options, the proposed extensions of season end dates for portions of the Feather and Mokelumne Rivers would extend the period of angler regional economic contributions. Additionally, anglers may pursue other in-river sport fish aside from Chinook salmon, such as steelhead (*Oncorhynchus mykiss*), striped bass (*Morone saxatilis*), largemouth bass (*Micropterus salmoides*), sturgeon (*Acipenser transmontanus*) and catfish (*Ictalurus spp.*), that may mitigate any adverse impacts from any reductions in salmon fishing. In sum, the options presented to the Commission were conceived with the goal of enabling levels of recreational SRFC fishing in the range of historical averages, and thus should not be a source of significant adverse economic impacts.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The Commission does not anticipate that any of the proposed options would induce substantial impacts on the creation or elimination of jobs. For Option 1, no change in job creation or elimination is anticipated. Option 2 and Option 3 have the potential to result in fewer angler visits, and absent substitution toward other sportfish and/or activities in the affected areas, the reduction in angler spending could reduce the support for 10 - 20 jobs statewide. These job impacts are statewide and may be moderated by the additional two and one-half months of fishing opportunity on approximately 10 miles of the Mokelumne River between the Highway 99 bridge and Elliott Road, and by the additional two weeks of fishing opportunity on the Feather River between the Thermalito Afterbay Outfall and the Live Oak boat ramp.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The Commission does not anticipate that any of the proposed options would induce substantial impacts on the creation of new business or the elimination of existing businesses, because the proposed changes to the regulations are unlikely to be substantial enough to stimulate the creation of new businesses or cause the elimination of existing businesses. The season extensions for portions of the Mokelumne and Feather rivers are expected to sustain the number of fishing trips and the level of economic stimulus within historical averages.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The Commission does not anticipate that any of the proposed options would induce substantial impacts on the expansion of businesses currently doing business within the state. The proposed regulations are not anticipated to increase demand for services or products from the existing businesses that serve inland sport fishermen. The number of

fishing trips and angler economic contributions are expected to remain within the range of historical averages.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

The Commission anticipates benefits to the health and welfare of California residents. Chinook Salmon is a nutritious food source and providing inland sport fishery opportunities encourages consumption of this nutritious food. Sport fishing also contributes to increased mental health of its practitioners, as fishing is a hobby and form of relaxation for many. Sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by younger generations, the future stewards of California's natural resources.

(e) Benefits of the Regulation to Worker Safety

The Commission does not anticipate any benefits to worker safety from the proposed regulations because inland sport fishing does not impact working conditions.

(f) Benefits of the Regulation to the State's Environment

Under all Options 1-3, the Commission anticipates benefits to the environment in the sustainable management of Central Valley Chinook Salmon. It is the policy of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State and to promote the development of local fisheries and distant water fisheries based in California in harmony with international law, respecting fishing and the conservation of the living resources of the ocean and other waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence, and the maintenance of a sufficient resource to support a reasonable sport use.

In accordance with this policy, adoption of scientifically-based inland Chinook Salmon bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence and thus continued economic stimulus.

(g) Other Benefits of the Regulation

Other benefits of the regulation include consistency with federal fishery management goals and the promotion of businesses that rely on Central Valley Salmon sport fishing.

Informative Digest/Policy Statement Overview

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

Current regulations in subsections (b)(5), (b)(68), (b)(124) and (b)(156.5) of Section 7.50 prescribe the 2018 seasons and daily bag and possession limits for Sacramento River fall-run Chinook Salmon (*Oncorhynchus tshawytscha*; SRFC) sport fishing in the American, Feather, Mokelumne, and Sacramento rivers, respectively. Collectively, these four rivers constitute the “Central Valley fishery” for SRFC. Each year, the Department of Fish and Wildlife (Department) recommends new Chinook Salmon bag and possession limits for consideration by the Fish and Game Commission (Commission) to align fishing limits with up-to-date management goals, as set forth below.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The PFMC will develop the annual Pacific coast ocean salmon fisheries regulatory options for public review at its March 2019 meeting and will adopt its final regulatory recommendations at its April 2019 meeting based on the PFMC salmon abundance estimates and recommendations for ocean harvest (take) for the coming season. Based on the April 2019 recommendations by PFMC, the Department will recommend specific bag and possession limit regulations to the Commission at its April 17, 2019 meeting. The Commission will then consider adoption of the regulations at its May 16, 2019 teleconference.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, adult salmon are generally those considered three to five years in age, and grilse salmon are those approximately two years of age. The age classes are distinguished by a cutoff of salmon total length measurement, depending on the in-river fishery. For purposes of the proposed regulation, this cutoff is presented as a range of 26 to 28 inches total length, as outlined under the options for the proposed regulations (below).

Proposed Regulations

The Department recognizes the uncertainty of Sacramento River fall-run Chinook Salmon (SRFC) inland (in-river) harvest projections. Therefore, the Department is presenting three regulatory options for the Commission’s consideration to tailor 2019 Central Valley fishery management to target 2019 in-river fisheries harvest projections.

- Option 1 is the most liberal of the three options and allows take of any size Chinook Salmon up to the daily bag and possession limits.

- Option 2 allows for take of a limited number of adult Chinook Salmon, with grilse Chinook Salmon making up the remainder of the daily bag and possession limits.
- Option 3 is the most conservative option and allows for a grilse-only Chinook Salmon fishery.

All three options increase fishing opportunities on the Feather and Mokelumne rivers by: (1) extending the salmon fishing season by two weeks on the Feather River between the Thermalito Afterbay Outfall and the Live Oak boat ramp; and (2) by extending the salmon and hatchery steelhead fishing season on approximately 10 miles of the Mokelumne River between the Highway 99 Bridge and Elliott Road.

All options would be applicable to the following river segments and time periods:

American River, subsection 7.50(b)(5):

- (B) From the USGS gauging station cable crossing near Nimbus Hatchery to the SMUD power line crossing the southwest boundary of Ancil Hoffman Park, July 16 through October 31
- (C) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the Jibboom Street bridge, July 16 through December 31
- (D) From the Jibboom Street bridge to the mouth, July 16 through December 16

Feather River, subsection 7.50(b)(68):

- (D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to 200 yards above the Live Oak boat ramp, July 16 through October 31
- (E) From 200 yards above the Live Oak boat ramp to the mouth, July 16 through December 16

Mokelumne River, subsection 7.50(b)(124):

- (A) From Comanche Dam to Elliott Road, July 16 through October 15
- (B) From Elliott Road to the Woodbridge Irrigation District Dam and including Lodi Lake, July 16 through December 31
- (D) From the Lower Sacramento Road bridge to the mouth, July 16 through December 16

Sacramento River below Keswick Dam, subsection 7.50(b)(156.5):

- (C) From Deschutes Road bridge to the Red Bluff Diversion Dam, August 1 through December 16
- (D) From the Red Bluff Diversion Dam to the Highway 113 bridge, July 16 through December 16.
- (E) From the Highway 113 bridge to the Carquinez Bridge, July 16 through December 16.

The following options are provided for Commission consideration:

Option 1 – Any Size Chinook Salmon Fishery

This option is the Department's preferred option if the 2019 SRFC stock abundance forecast is sufficiently high to avoid the need to constrain inland SRFC harvest.

Bag limit of [0-4] Chinook Salmon.

Possession limit - [0-12] Chinook Salmon.

Option 2 – Limited Adult and Grilse Salmon Fishery

Bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over [26-28] inches total length may be retained.

Possession limit - [0-12] Chinook Salmon of which no more than [0-4] fish may be over [26-28] inches total length.

Option 3 – Grilse Salmon Fishery Only

Bag limit of [0-4] Chinook Salmon less than or equal to [26-28] inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to [26-28] inches total length.

OTHER CHANGES:

Under all options, changes are proposed to fix punctuation and to remove the extra word “in” in subsection 7.50(b)(124(A)).

Benefits of the Proposed Regulations

The Commission anticipates benefits to the environment in the sustainable management of Central Valley Chinook Salmon resources. Other benefits of the proposed regulations are consistency with federal fishery management goals, health and welfare of California residents, and promotion of businesses that rely on Central Valley Chinook Salmon sport fishing.

Consistency and Compatibility with Existing Regulations

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate recreational fishing in waters of the state (Fish and Game Code sections 200, 205, 315 and 316.5). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining to Chinook Salmon recreational fishing seasons, bag and possession limits for Central Valley sport fishing.

Proposed Regulatory Language - Option 1 (Any-size Chinook Salmon fishery)

Section 7.50, Title 14, CCR is amended to read:

§ 7.50. Alphabetical List of Waters with Special Fishing Regulations.

. . . [No changes to subsections (a) through (b)(4)]

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag and Possession Limit</i>
(5) American River (Sacramento Co.) (Co.) .		
(A) From Nimbus Dam to the U.S. Geological Survey gauging station cable crossing about 300 yards downstream from the Nimbus Hatchery fish rack site.	Closed to all fishing all year.	
(B) From the U.S. Geological Survey gauging station cable crossing about 300 yards downstream from the Nimbus Hatchery fish rack site to the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park.	Jan. 1 through July 15. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead** <u>steelhead**</u> . 4 hatchery trout or <u>or</u> hatchery steelhead** in possession.
	July 16 through Oct. 31. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 4 <u>[0-4]</u> Chinook Salmon. 2 <u>[0-12]</u> Chinook Salmon in possession.

(C) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park downstream to the Jibboom Street bridge.	Jan. 1 through July 15.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
	July 16 through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 4 [0-4] Chinook Salmon. 2 [0-12] Chinook Salmon in possession.
(D) From the Jibboom Street bridge to the mouth.	Jan. 1 through July 15.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
	July 16 through Dec. 16.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 4 [0-4] Chinook Salmon.

		2[0-12] Chinook Salmon in possession.
	Dec. 17 through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.

. . . [No changes to subsections (b)(6) through (b)(67)]

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag and Possession Limit</i>
(68) Feather River below Fish Barrier Dam (Butte, Sutter and Yuba cos.).		
(A) From Fish Barrier Dam to Table Mountain bicycle bridge in Oroville.	Closed to all fishing all <u>year</u> <u>year</u> .	
(B) From Table Mountain bicycle bridge to Highway 70 bridge.	Jan. 1 through July 15. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
(C) From Highway 70 bridge to the unimproved boat ramp above the Thermalito Afterbay Outfall.	All year.	2 hatchery trout or hatchery

		steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
(D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to 200 yards above the Live Oak boat ramp.	Jan. 1 through July 15.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery <u>hatchery</u> steelhead** in possession.
	July 16 through Oct. <u>15</u> <u>31</u> .	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 4 <u>[0-4]</u> Chinook Salmon. 2 <u>[0-12]</u> Chinook Salmon in possession.
	Oct. 16 <u>Nov. 1</u> through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.

(E) From 200 yards above Live Oak boat ramp to the mouth. For purposes of this regulation, the lower boundary is defined as a straight line drawn from the peninsula point on the west bank to the Verona Marine boat ramp.	Jan. 1 through July 15.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
	July 16 through Dec. 16.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 4 <u>[0-4]</u> Chinook Salmon. 2 <u>[0-12]</u> Chinook Salmon in possession.
	Dec. 17 to Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.

. . . [No changes to subsections (b)(68.1) through (b)(122)]

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag and Possession Limit</i>
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(124) Mokelumne River (San Joaquin Co.).		
(A) From Camanche Dam to Highway 99 bridge Elliott Road.	Jan. 1 through Mar. 31.	1 hatchery trout or 1 hatchery steelhead**.
	Fourth Saturday in May through July 15.	1 hatchery trout or 1 hatchery steelhead**.
	July 16 through Oct. 15.	1 hatchery trout or hatchery steelhead**. 2 Chinook salmon. <u>[0-4] Chinook Salmon.</u> <u>[0-12] Chinook Salmon in possession.</u>
(B) From Highway 99 bridge Elliott Road to the Woodbridge Irrigation District Dam including Lodi Lake.	Jan. 1 through July 15.	1 hatchery trout or 1 hatchery steelhead**.
	July 16 through Dec. 31.	1 hatchery trout or hatchery steelhead**. 2 Chinook salmon. <u>[0-4] Chinook Salmon.</u> <u>[0-12] Chinook Salmon in possession.</u>
(C) Between the Woodbridge Irrigation District Dam and the Lower Sacramento Road bridge.	Closed to all fishing all year <u>year</u> .	
(D) From the Lower Sacramento Road bridge to the mouth. For purposes of this regulation, this river segment is defined as Mokelumne River and its tributary sloughs	Jan. 1 through July 15.	1 hatchery trout or 1 hatchery steelhead**.
	July 16 through Dec. 16.	1 hatchery trout or

downstream of the Lower Sacramento Road bridge and east of Highway 160 and north of Highway 12.		hatchery steelhead**. 2 Chinook salmon. <u>[0-4] Chinook Salmon.</u> <u>[0-12] Chinook Salmon in possession.</u>
	Dec. 17 through Dec. 31.	1 hatchery trout or 1 hatchery steelhead** steelhead**.

. . . [No changes to subsections (b)(125) through (b)(156)]

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag and Possession Limit</i>
(156.5) Sacramento River and tributaries below Keswick Dam (Butte, Colusa, Contra Costa, Glenn, Sacramento, Shasta, Solano, Sutter, Tehama and Yolo Cos.).	Also see Sierra District General Regulations (See Section 7.00(b)).	
(A) Sacramento River from Keswick Dam to 650 feet below Keswick Dam.	Closed to all fishing all year.	
(B) Sacramento River from 650 feet below Keswick Dam to the Deschutes Road bridge.		
1. Sacramento River from 650 feet below Keswick Dam to the Highway 44 bridge.	Jan. 1 to Mar. 31. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.

	Closed to all fishing from Apr. 1 through July 31.	
	Aug. 1 through Dec. 31. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
2. Sacramento River from the Highway 44 bridge to the Deschutes Road bridge.	All year. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
(C) Sacramento River from the Deschutes Road bridge to the Red Bluff Diversion Dam.	Jan. 1 through July 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
	Aug. 1 through Dec. 16.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 4[0-4] Chinook Salmon. 2[0-12] Chinook Salmon in possession.

	Dec. 17 through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
(D) Sacramento River from the Red Bluff Diversion Dam to the Hwy 113 bridge near Knights Landing. Note: It is unlawful to take fish 0-250 feet downstream from the overflow side of the Moulton, Colusa and Tisdale Weirs.	Jan. 1 through July 15.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
	July 16 through Dec. 16.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 4[0-4] Chinook Salmon. 2[0-12] Chinook Salmon in possession.
	Dec. 17 through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
(E) Sacramento River from the Hwy 113 bridge near Knights Landing to the Carquinez Bridge	Jan. 1 through July 15.	2 hatchery trout or hatchery

(includes Suisun Bay, Grizzly Bay and all tributary sloughs west of Highway 160). Note: It is unlawful to take fish 0-250 feet downstream from the overflow side of the Fremont and Sacramento Weirs.		steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
	July 16 through Dec. 16.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 4[0-4] Chinook Salmon. 2[0-12] Chinook Salmon in possession.
	Dec. 17 through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.

. . . [No changes subsections 7.50(b)(157) through (b)(212)]

* Wild Chinook Salmon are those not showing a healed adipose fin clip and not showing a healed left ventral fin clip.

**Hatchery trout or steelhead in anadromous waters are those showing a healed adipose fin clip (adipose fin is absent). Unless otherwise provided, all other trout and steelhead must be immediately released. Wild trout or steelhead are those not showing a healed adipose fin clip (adipose fin is present).

Note: Authority cited: Sections 200, 205, 265, 270, 315, 316.5 and 399, Fish and Game Code.
Reference: Sections 200, 205, 265, 270 and 316.5, Fish and Game Code.

Proposed Regulatory Language – Option 2 (Limited Adult, Grilse Chinook Salmon fishery)

Section 7.50, Title 14, CCR is amended to read:

§ 7.50. Alphabetical List of Waters with Special Fishing Regulations.

. . . [No changes to subsections (a) through (b)(4)]

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag and Possession Limit</i>
(5) American River (Sacramento Co.) Co.).		
(A) From Nimbus Dam to the U.S. Geological Survey gauging station cable crossing about 300 yards downstream from the Nimbus Hatchery fish rack site.	Closed to all fishing all year.	
(B) From the U.S. Geological Survey gauging station cable crossing about 300 yards downstream from the Nimbus Hatchery fish rack site to the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park.	Jan. 1 through July 15. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead** <u>steelhead**</u> . 4 hatchery trout or <u>or</u> hatchery steelhead** in possession.
	July 16 through Oct. 31. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 1 Chinook Salmon. 2 Chinook Salmon in possession.

		<p><u>[0-4] Chinook Salmon – no more than [0-4] salmon over [26-28] inches total length.</u></p> <p><u>[0-12] Chinook Salmon in possession of which no more than [0-4] salmon may be over [26-28] inches total length.</u></p>
(C) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park downstream to the Jibboom Street bridge.	Jan. 1 through July 15.	<p>2 hatchery trout or hatchery steelhead**.</p> <p>4 hatchery trout or hatchery steelhead** in possession.</p>
	July 16 through Dec. 31.	<p>2 hatchery trout or hatchery steelhead**.</p> <p>4 hatchery trout or hatchery steelhead** in possession.</p> <p>1 Chinook Salmon.</p> <p>2 Chinook Salmon in possession. <u>[0-4] Chinook Salmon – no more than [0-4] salmon over [26-28] inches total length.</u></p> <p><u>[0-12] Chinook Salmon in possession of which no more than [0-4] salmon may be over [26-28] inches total length.</u></p>

(D) From the Jibboom Street bridge to the mouth.	Jan. 1 through July 15.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
	July 16 through Dec. 16.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 1 Chinook Salmon. 2 Chinook Salmon in possession. [0-4] <u>Chinook Salmon – no more than [0-4] salmon over [26-28] inches total length.</u> <u>[0-12] Chinook Salmon in possession of which no more than [0-4] salmon may be over [26-28] inches total length.</u>
	Dec. 17 through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.

. . . [No changes to subsections (b)(6) through (b)(67)]

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag and Possession Limit</i>
(68) Feather River below Fish Barrier Dam (Butte, Sutter and Yuba cos.).		
(A) From Fish Barrier Dam to Table Mountain bicycle bridge in Oroville.	Closed to all fishing all year <u>year</u> .	
(B) From Table Mountain bicycle bridge to Highway 70 bridge.	Jan. 1 through July 15. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
(C) From Highway 70 bridge to the unimproved boat ramp above the Thermalito Afterbay Outfall.	All year.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
(D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to 200 yards above the Live Oak boat ramp.	Jan. 1 through July 15.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery <u>hatchery</u>

		steelhead** in possession.
	July 16 through Oct. 45 <u>Oct. 31.</u>	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 1 Chinook Salmon. 2 Chinook Salmon in possession. [0-4] <u>Chinook Salmon –</u> <u>no more than [0-4]</u> <u>salmon over [26-28]</u> <u>inches total length.</u> <u>[0-12] Chinook</u> <u>Salmon in</u> <u>possession of which</u> <u>no more than [0-4]</u> <u>salmon may be over</u> <u>[26-28] inches total</u> <u>length.</u>
	Oct. 16 <u>Nov. 1</u> through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
(E) From 200 yards above Live Oak boat ramp to the mouth. For purposes of this regulation, the lower boundary is defined as a	Jan. 1 through July 15.	2 hatchery trout or hatchery steelhead**.

straight line drawn from the peninsula point on the west bank to the Verona Marine boat ramp.		4 hatchery trout or hatchery steelhead** in possession.
	July 16 through Dec. 16.	<p>2 hatchery trout or hatchery steelhead**.</p> <p>4 hatchery trout or hatchery steelhead** in possession.</p> <p>1 Chinook Salmon.</p> <p>2 Chinook Salmon in possession. <u>[0-4]</u></p> <p><u>Chinook Salmon – no more than [0-4] salmon over [26-28] inches total length.</u></p> <p><u>[0-12] Chinook Salmon in possession of which no more than [0-4] salmon may be over [26-28] inches total length.</u></p>
	Dec. 17 to Dec. 31.	<p>2 hatchery trout or hatchery steelhead**.</p> <p>4 hatchery trout or hatchery steelhead** in possession.</p>

. . . [No changes to subsections (b)(68.1) through (b)(122)]

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag and Possession Limit</i>
(124) Mokelumne River (San Joaquin Co.).		
(A) From Camanche Dam to Highway 99 bridge <u>Elliott Road</u> .	Jan. 1 through Mar. 31.	1 hatchery trout or 1 hatchery steelhead**.
	Fourth Saturday in in May through July 15.	1 hatchery trout or 1 hatchery steelhead**.
	July 16 through Oct. 15.	1 hatchery trout or hatchery steelhead**. 2 Chinook salmon. <u>[0-4] Chinook Salmon – no more than [0-4] salmon over [26- 28] inches total length. [0-12] Chinook Salmon in possession of which no more than [0-4] salmon may be over [26-28] inches total length.</u>
(B) From Highway 99 bridge <u>Elliott Road</u> to the Woodbridge Irrigation District Dam including Lodi Lake.	Jan. 1 through July 15.	1 hatchery trout or 1 hatchery steelhead <u>steelhead**.</u>
	July 16 through Dec. 31.	1 hatchery trout or hatchery steelhead**. 2 Chinook salmon.

		<u>[0-4] Chinook Salmon –</u> <u>no more than [0-4]</u> <u>salmon over [26-28]</u> <u>inches total length.</u> <u>[[0-12] Chinook Salmon</u> <u>in possession of which</u> <u>no more than [0-4]</u> <u>salmon may be over</u> <u>[26-28] inches total</u> <u>length.</u>
(C) Between the Woodbridge Irrigation District Dam and the Lower Sacramento Road bridge.	Closed to all fishing all year <u>year</u> .	
(D) From the Lower Sacramento Road bridge to the mouth. For purposes of this regulation, this river segment is defined as Mokelumne River and its tributary sloughs downstream of the Lower Sacramento Road bridge and east of Highway 160 and north of Highway 12.	Jan. 1 through July 15.	1 hatchery trout or 1 hatchery steelhead**.
	July 16 through Dec. 16.	1 hatchery trout or hatchery steelhead**. 2 Chinook salmon. <u>[0-4] Chinook Salmon –</u> <u>no more than [0-4]</u> <u>salmon over [26-28]</u> <u>inches total length.</u> <u>[0-12] Chinook Salmon</u> <u>in possession of which</u> <u>no more than [0-4]</u> <u>salmon may be over</u> <u>[26-28] inches total</u> <u>length.</u>
	Dec. 17 through Dec. 31.	1 hatchery trout or 1 hatchery steelhead** <u>steelhead**.</u>

. . . [No changes to subsections (b)(125) through (b)(156)]

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag and Possession Limit</i>
(156.5) Sacramento River and tributaries below Keswick Dam (Butte, Colusa, Contra Costa, Glenn, Sacramento, Shasta, Solano, Sutter, Tehama and Yolo Cos. cos.).	Also see Sierra District General Regulations (See Section 7.00(b)).	
(A) Sacramento River from Keswick Dam to 650 feet below Keswick Dam.	Closed to all fishing all year.	
(B) Sacramento River from 650 feet below Keswick Dam to the Deschutes Road bridge.		
1. Sacramento River from 650 feet below Keswick Dam to the Highway 44 bridge.	Jan. 1 to Mar. 31. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
	Closed to all fishing from Apr. 1 through July 31.	
	Aug. 1 through Dec. 31. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
2. Sacramento River from the Highway 44 bridge to the Deschutes Road bridge.	All year. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery

		trout or hatchery steelhead** in possession.
(C) Sacramento River from the Deschutes Road bridge to the Red Bluff Diversion Dam.	Jan. 1 through July 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
	Aug. 1 through Dec. 16.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 1 Chinook Salmon. 2 Chinook Salmon in possession. <u>[0-4] Chinook Salmon – no more than [0-4] salmon over [26-28] inches total length. [0-12] Chinook Salmon in possession of which no more than [0-4] salmon may be over [26-28] inches total length.</u>
	Dec. 17 through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead**

		in possession.
(D) Sacramento River from the Red Bluff Diversion Dam to the Hwy 113 bridge near Knights Landing. Note: It is unlawful to take fish 0-250 feet downstream from the overflow side of the Moulton, Colusa and Tisdale Weirs.	Jan. 1 through July 15.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
	July 16 through Dec. 16.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 1 Chinook Salmon. 2 Chinook Salmon in possession. <u>[0-4] Chinook Salmon – no more than [0-4] salmon over [26-28] inches total length.</u> <u>[0-12] Chinook Salmon in possession of which no more than [0-4] salmon may be over [26-28] inches total length.</u>
	Dec. 17 through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
(E) Sacramento River from the Hwy 113 bridge near Knights Landing to	Jan. 1 through July 15.	2 hatchery trout or

the Carquinez Bridge (includes Suisun Bay, Grizzly Bay and all tributary sloughs west of Highway 160). Note: It is unlawful to take fish 0-250 feet downstream from the overflow side of the Fremont and Sacramento Weirs.		hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
	July 16 through Dec. 16.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 1 Chinook Salmon. 2 Chinook Salmon in possession. <u>[0-4] Chinook Salmon – no more than [0-4] salmon over [26-28] inches total length. [0-12] Chinook Salmon in possession of which no more than [0-4] salmon may be over [26-28] inches total length.</u>
	Dec. 17 through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.

. . . [No changes subsections 7.50(b)(157) through (b)(212)]

* Wild Chinook Salmon are those not showing a healed adipose fin clip and not showing a healed left ventral fin clip.

****Hatchery trout or steelhead in anadromous waters are those showing a healed adipose fin clip (adipose fin is absent). Unless otherwise provided, all other trout and steelhead must be immediately released. Wild trout or steelhead are those not showing a healed adipose fin clip (adipose fin is present).**

**Note: Authority cited: Sections 200, 205, 265, 270, 315, 316.5 and 399, Fish and Game Code.
Reference: Sections 200, 205, 265, 270 and 316.5, Fish and Game Code.**

DRAFT

Proposed Regulatory Language – Option 3 (Grilse Chinook Salmon fishery)

Section 7.50, Title 14, CCR is amended to read as follows:

§ 7.50. Alphabetical List of Waters with Special Fishing Regulations.

. . . [No changes to subsections (a) through (b)(4)]

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag and Possession Limit</i>
(5) American River (Sacramento Co.) Co.).		
(A) From Nimbus Dam to the U.S. Geological Survey gauging station cable crossing about 300 yards downstream from the Nimbus Hatchery fish rack site.	Closed to all fishing all year.	
(B) From the U.S. Geological Survey gauging station cable crossing about 300 yards downstream from the Nimbus Hatchery fish rack site to the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park.	Jan. 1 through July 15. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead** <u>steelhead**</u> . 4 hatchery trout or <u>or</u> hatchery steelhead** in possession.
	July 16 through Oct. 31. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 1 Chinook Salmon. 2 Chinook Salmon in possession. [0-4] <u>Chinook Salmon.</u> <u>Maximum size [26-28]</u> <u>inches total length.</u>

		<u>[0-12] Chinook Salmon in possession.</u> <u>Maximum size [26-28] inches total length.</u>
(C) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park downstream to the Jibboom Street bridge.	Jan. 1 through July 15.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
	July 16 through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 1 Chinook Salmon. 2 Chinook Salmon in possession. <u>[0-4] Chinook Salmon.</u> <u>Maximum size [26-28] inches total length.</u> <u>[0-12] Chinook Salmon in possession.</u> <u>Maximum size [26-28] inches total length.</u>
(D) From the Jibboom Street bridge to the mouth.	Jan. 1 through July 15.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery

		steelhead** in possession.
	July 16 through Dec. 16.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 1 Chinook Salmon. 2 Chinook Salmon in possession. [0-4] Chinook Salmon. <u>Maximum size [26-28]</u> <u>inches total length.</u> <u>[0-12] Chinook Salmon</u> <u>in possession.</u> <u>Maximum size [26-28]</u> <u>inches total length.</u>
	Dec. 17 through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.

. . . [No changes to subsections (b)(6) through (b)(67)]

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag and Possession Limit</i>
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(68) Feather River below Fish Barrier Dam (Butte, Sutter and Yuba cos.).		
(A) From Fish Barrier Dam to Table Mountain bicycle bridge in Oroville.	Closed to all fishing all year <u>year</u> .	
(B) From Table Mountain bicycle bridge to Highway 70 bridge.	Jan. 1 through July 15. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
(C) From Highway 70 bridge to the unimproved boat ramp above the Thermalito Afterbay Outfall.	All year.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
(D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to 200 yards above the Live Oak boat ramp.	Jan. 1 through July 15.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery <u>hatchery</u> steelhead** in possession.
	July 16 through Oct. 15 <u>Oct. 31</u> .	2 hatchery trout or hatchery steelhead**.

		<p>4 hatchery trout or hatchery steelhead** in possession.</p> <p>1 Chinook Salmon.</p> <p>2 Chinook Salmon in possession. [0-4] Chinook Salmon.</p> <p><u>Maximum size [26-28] inches total length.</u></p> <p><u>[0-12] Chinook Salmon in possession.</u></p> <p><u>Maximum size [26-28] inches total length.</u></p>
	<p>Oct. 16 <u>Nov. 1</u> through Dec. 31.</p>	<p>2 hatchery trout or hatchery steelhead**.</p> <p>4 hatchery trout or hatchery steelhead** in possession.</p>
<p>(E) From 200 yards above Live Oak boat ramp to the mouth. For purposes of this regulation, the lower boundary is defined as a straight line drawn from the peninsula point on the west bank to the Verona Marine boat ramp.</p>	<p>Jan. 1 through July 15.</p>	<p>2 hatchery trout or hatchery steelhead**.</p> <p>4 hatchery trout or hatchery steelhead** in possession.</p>

	July 16 through Dec. 16.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 1 Chinook Salmon. 2 Chinook Salmon in possession. <u>[0-4] Chinook Salmon.</u> <u>Maximum size [26-28] inches total length.</u> <u>[0-12] Chinook Salmon in possession.</u> <u>Maximum size [26-28] inches total length.</u>
	Dec. 17 to Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.

. . . [No changes to subsections (b)(68.1) through (b)(122)]

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag and Possession Limit</i>
(124) Mokelumne River (San Joaquin Co.).		

(A) From Camanche Dam to Highway 99 bridge Elliott Road.	Jan. 1 through Mar. 31.	1 hatchery trout or 1 hatchery steelhead**.
	Fourth Saturday in in May through July 15.	1 hatchery trout or 1 hatchery steelhead**.
	July 16 through Oct. 15.	1 hatchery trout or hatchery steelhead**. 2 Chinook salmon. <u>[0-4] Chinook Salmon.</u> <u>Maximum size [26-28] inches total length.</u> <u>[0-12] Chinook Salmon in possession.</u> <u>Maximum size [26-28] inches total length.</u>
(B) From Highway 99 bridge Elliott Road to the Woodbridge Irrigation District Dam including Lodi Lake.	Jan. 1 through July 15.	1 hatchery trout or 1 hatchery steelhead** <u>steelhead**</u> .
	July 16 through Dec. 31.	1 hatchery trout or hatchery steelhead**. 2 Chinook salmon. <u>[0-4] Chinook Salmon.</u> <u>Maximum size [26-28] inches total length.</u> <u>[0-12] Chinook Salmon in possession.</u> <u>Maximum size [26-28] inches total length.</u>
(C) Between the Woodbridge Irrigation District Dam and the Lower Sacramento Road bridge.	Closed to all fishing all year <u>year</u> .	

(D) From the Lower Sacramento Road bridge to the mouth. For purposes of this regulation, this river segment is defined as Mokelumne River and its tributary sloughs downstream of the Lower Sacramento Road bridge and east of Highway 160 and north of Highway 12.	Jan. 1 through July 15.	1 hatchery trout or 1 hatchery steelhead**.
	July 16 through Dec. 16.	1 hatchery trout or hatchery steelhead**. 2 Chinook salmon. <u>[0-4] Chinook Salmon.</u> <u>Maximum size [26-28]</u> <u>inches total length.</u> <u>[0-12] Chinook Salmon</u> <u>in possession.</u> <u>Maximum size [26-28]</u> <u>inches total length.</u>
	Dec. 17 through Dec. 31.	1 hatchery trout or 1 hatchery steelhead** <u>steelhead**.</u>

. . . [No changes to subsections (b)(125) through (b)(156)]

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag and Possession Limit</i>
(156.5) Sacramento River and tributaries below Keswick Dam (Butte, Colusa, Contra Costa, Glenn, Sacramento, Shasta, Solano, Sutter, Tehama and Yolo Cos. cos.).	Also see Sierra District General Regulations (See Section 7.00(b)).	
(A) Sacramento River from Keswick Dam to 650 feet below Keswick Dam.	Closed to all fishing all year.	
(B) Sacramento River from 650 feet below Keswick Dam to the Deschutes Road bridge.		

1. Sacramento River from 650 feet below Keswick Dam to the Highway 44 bridge.	Jan. 1 to Mar. 31. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
	Closed to all fishing from Apr. 1 through July 31.	
	Aug. 1 through Dec. 31. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
2. Sacramento River from the Highway 44 bridge to the Deschutes Road bridge.	All year. Only barbless hooks may be used.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
(C) Sacramento River from the Deschutes Road bridge to the Red Bluff Diversion Dam.	Jan. 1 through July 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
	Aug. 1 through Dec. 16.	2 hatchery trout or hatchery steelhead**. 4 hatchery

		trout or hatchery steelhead** in possession. 1 Chinook Salmon. 2 Chinook Salmon in possession. <u>[0-4] Chinook Salmon.</u> <u>Maximum size [26-28] inches total length.</u> <u>[0-12] Chinook Salmon in possession. Maximum size [26-28] inches total length.</u>
	Dec. 17 through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
(D) Sacramento River from the Red Bluff Diversion Dam to the Hwy 113 bridge near Knights Landing. Note: It is unlawful to take fish 0-250 feet downstream from the overflow side of the Moulton, Colusa and Tisdale Weirs.	Jan. 1 through July 15.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.

	July 16 through Dec. 16.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 1 Chinook Salmon. 2 Chinook Salmon in possession. <u>[0-4] Chinook Salmon.</u> <u>Maximum size [26-28] inches total length.</u> <u>[0-12] Chinook Salmon in possession</u> <u>[26-28] inches total length.</u>
	Dec. 17 through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.
(E) Sacramento River from the Hwy 113 bridge near Knights Landing to the Carquinez Bridge (includes Suisun Bay, Grizzly Bay and all tributary sloughs west of Highway 160). Note: It is unlawful to take fish 0-250 feet downstream from the overflow side of the Fremont and Sacramento Weirs.	Jan. 1 through July 15.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.

	July 16 through Dec. 16.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession. 1 Chinook Salmon. 2 Chinook Salmon in possession. <u>[0-4] Chinook Salmon.</u> <u>Maximum size [26-28] inches total length.</u> <u>[0-12] Chinook Salmon in possession. Maximum size [26-28] inches total length.</u>
	Dec. 17 through Dec. 31.	2 hatchery trout or hatchery steelhead**. 4 hatchery trout or hatchery steelhead** in possession.

. . . [No changes subsections 7.50(b)(157) through (b)(212)]

* Wild Chinook Salmon are those not showing a healed adipose fin clip and not showing a healed left ventral fin clip.

**Hatchery trout or steelhead in anadromous waters are those showing a healed adipose fin clip (adipose fin is absent). Unless otherwise provided, all other trout and steelhead must be immediately released. Wild trout or steelhead are those not showing a healed adipose fin clip (adipose fin is present).

Note: Authority cited: Sections 200, 205, 265, 270, 315, 316.5 and 399, Fish and Game Code.
 Reference: Sections 200, 205, 265, 270 and 316.5, Fish and Game Code.

ECONOMIC AND FISCAL IMPACT STATEMENTSAM Section 6601-6616**(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON Margaret Duncan Margaret.Duncan	EMAIL ADDRESS @wildlife.ca.gov	TELEPHONE NUMBER (916) 653-4676
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend subsections of 7.50(b) Title 14, CCR, Re: Central Valley Salmon Sport Fishing			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input checked="" type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input checked="" type="checkbox"/> c. Impacts jobs or occupations | <input checked="" type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below): |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*2. The Fish and Game Commission estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☒ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *(If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c))*

3. Enter the total number of businesses impacted: ~100 to 200Describe the types of businesses (Include nonprofits): Fishing, boat owners, tackle stores, guides, food, fuel, lodging, camping vendorsEnter the number or percentage of total businesses impacted that are small businesses: 80%4. Enter the number of businesses that will be created: none eliminated: noneExplain: The anticipated impact on fishing activity is not expected to be sufficient to induce business loss/creation.5. Indicate the geographic extent of impacts: ☐ Statewide☒ Local or regional (List areas): American, Feather, Mokelumne, & Sacramento rivers6. Enter the number of jobs created: none and eliminated: 0 - 20Describe the types of jobs or occupations impacted: Fishing guides, boat owners, and vendors for food, bait, tackle, fuel, lodging and campgrounds.

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ YES ☒ NO

If YES, explain briefly:

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 0
- a. Initial costs for a small business: \$ 0 Annual ongoing costs: \$ 0 Years: 1
- b. Initial costs for a typical business: \$ 0 Annual ongoing costs: \$ 0 Years: 1
- c. Initial costs for an individual: \$ 0 Annual ongoing costs: \$ 0 Years: 1
- d. Describe other economic costs that may occur: N/A, This action seeks to maintain Central Valley Salmon fishing opportunities with no new compliance costs.

2. If multiple industries are impacted, enter the share of total costs for each industry: N/A

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ N/A

4. Will this regulation directly impact housing costs? ☐ YES ☒ NO
- If YES, enter the annual dollar cost per housing unit: \$ _____
- Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☒ NO
- Explain the need for State regulation given the existence or absence of Federal regulations: Fish and Game Code (FGC) sections 200 and 205
- Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: This action should result in the continued sustainability of the salmon fisheries that benefit sport anglers and the area businesses that support sport fishing activities.
2. Are the benefits the result of: ☐ specific statutory requirements, or ☒ goals developed by the agency based on broad statutory authority?
- Explain: Statute provides the Fish & Game Commission authority to establish sport fishing regulations (FGC sections 200 and 205)
3. What are the total statewide benefits from this regulation over its lifetime? \$ 14.8 - 18.5 M annually
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: Proposed action is anticipated to maintain historically average levels of fishing activity that is not expected to induce the expansion of businesses currently doing business within the State.

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: See addendum for more detail.
- Alternatives considered: Option 1) Any size Salmon; Option 2) Lower numbers of Adult Salmon and Grisle take; Option 3) Grisle take only
- All options extend the salmon season on part of the Feather River and extend the salmon and hatchery steelhead seasons on part of the Mokelumne River.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: \$	<u>18.5 M</u>	Cost: \$	<u>0</u>
Alternative 1:	Benefit: \$	<u>16.7 M</u>	Cost: \$	<u>1.9 M</u>
Alternative 2:	Benefit: \$	<u>14.8 M</u>	Cost: \$	<u>3.7 M</u>

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:

"Regulation" above refers to Option 1 in the ISOR;"Alternative 1" is Option 2; "Alternative 2" is Option 3. See addendum.

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?

☐ YES☒ NOExplain: Fisheries management regulations traditionally involve setting harvest limits, seasons, and gear restrictions.**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.**California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.*1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ YES ☐ NO*If YES, complete E2. and E3**If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES☒ NO*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____
Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____
Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DATE



The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

DATE



Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



STD. 399 Addendum

Amend Subsections (b)(5), (b)(68), (b)(124), and (b)(156.5) of Section 7.50,
Title 14, California Code of Regulations
Re: Central Valley Salmon Sport Fishing

The regulatory amendments of subsections (b)(5), (b)(68), (b)(124), and (b)(156.5) of Section 7.50 under consideration will set the 2019 sport fishing regulations for Sacramento River Fall-run Chinook Salmon (SRFC) in the American, Feather, Mokelumne, and Sacramento rivers, respectively, for consistency with the Pacific Fishery Management Council (PFMC) in-river harvest projections. Collectively, these four rivers constitute the “Central Valley fishery” for SRFC for purposes of this document. Three regulatory options are provided for the Fish and Game Commission consideration.

Option 1 would allow anglers to take any size Chinook Salmon up to the daily bag limit [0-4] and possession limit [0-12] (most liberal option).

Option 2 would allow for take of a limited number of adult Chinook Salmon, with grilse Chinook Salmon making up the remainder of the daily bag limit [0-4] and possession limit [0-12].

Option 3 is the most conservative option and allows for take of only grilse Chinook Salmon up to the daily bag limit [0-4] and possession limit [0-12]. Take of adult salmon would not be allowed.

All three options increase fishing opportunities on the Feather and Mokelumne rivers by: (1) extending the salmon fishing season by two weeks on the Feather River between the Thermalito Afterbay Outfall and the Live Oak boat ramp; and (2) by extending the salmon and hatchery steelhead fishing season on approximately 10 miles of the Mokelumne River between the Highway 99 Bridge and Elliott Road.

A normal season for the Central Valley fishery experiences an average of 179,550 sport salmon angler days in which anglers spend an average of \$75 -109 per day contributing a total of \$13.2M (2017\$) in direct expenditures to California businesses. This expenditure is received by area businesses that spend a share on inputs and payroll. As employees receive income, their household spending again circulates in the local economy and statewide. These multiplier effects result in an estimated total economic impact of \$18.5M (2017\$) and up to 130 jobs.

The regional and statewide economic impacts factor into the effort to balance the maintenance of the recreational fishery with resource preservation, while complying with PFMC recommendations. The potential economic impacts that may result from each in-river harvest projection as specified in Option 1, Option 2, and Option 3 are evaluated in terms of each scenario’s probable impact on the number of angler days, and thus area spending.

Table 1. Central Valley Salmon Fishery Economic Impacts (2017\$)

Regulation	Angler Days	Angler Expenditures	Total Econ Impact	Jobs
Option 1	179,550	\$ 13,182,320	\$ 18,536,979	130
Option 2	161,595	\$ 11,864,088	\$ 16,682,731	120
Option 3	143,640	\$ 10,545,856	\$ 14,829,094	110
Difference	Angler Day Loss	Expenditure Loss	Total Impact Loss	Job Loss
Option 1	0	\$ -	\$ -	0
Option 2	17,955	\$ 1,318,232	\$ 1,854,248	10
Option 3	35,910	\$ 2,636,464	\$ 3,707,885	20

Sources: CDFW Fisheries Branch economic analysis; U.S. Fish and Wildlife Service, 2016 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation; dollar figures adjusted for inflation with Implicit Price Deflator for Personal Consumption Expenditures, Bureau of Economic Analysis.

Historical correlations between catch limits and fishery participation levels suggest that Option 1 could enable a historically average number of angler days for the 2019 Chinook Salmon season on the American, Feather, Mokelumne, and Sacramento rivers. Option 2 may result in declines in angler days of 17,955 below an average year. Option 3 may result in larger declines or about 35,910 fewer angler days.

For all options, the proposed extensions of season end dates for portions of the Feather and Mokelumne Rivers would extend the period of angler regional economic contributions. Additionally, anglers may pursue other in-river sport fish aside from Chinook salmon, such as steelhead (*Oncorhynchus mykiss*), striped bass (*Morone saxatilis*), largemouth bass (*Micropterus salmoides*), sturgeon (*Acipenser transmontanus*) and catfish (*Ictalurus spp.*), that may mitigate any adverse impacts from any reductions in salmon fishing. In sum, the options were conceived with the goal of enabling levels of recreational SRFC fishing in the range of historical averages, and thus should not be a source of significant adverse economic impacts.

Section A

Question 4. Number of businesses that will be created or eliminated.

The Commission does not anticipate that any of the proposed options would induce substantial impacts on the creation of new business or the elimination of existing businesses, because the proposed changes to the regulations are unlikely to be substantial enough to stimulate the creation of new businesses or cause the elimination of existing businesses. The season extensions for portions of the Mokelumne and Feather rivers are expected to help sustain the number of fishing trips and the level of economic stimulus within historical averages.

Section A

Question 6. Number of jobs created or eliminated.

The Commission does not anticipate that any of the proposed options would induce substantial impacts on the creation or elimination of jobs. For the Option 1, no change in job creation or elimination is anticipated. Option 2 and Option 3 have the potential to result in fewer angler visits, and absent substitution toward other sportfish and/or activities in the affected areas, the reduction in angler spending could reduce the support for 10 - 20 jobs statewide. These job impacts are statewide and may be

moderated by the additional two and one-half months of fishing opportunity on approximately 10 miles of the Mokelumne River between the Highway 99 bridge and Elliott Road, and by the additional two weeks of fishing opportunity on the Feather River between the Thermalito Afterbay Outfall and the Live Oak boat ramp.

Section B

Question 1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$0

The regulations under consideration seek to maintain Central Valley fall-run Chinook Salmon fishing opportunities with no new compliance costs. The proposed bag and possession limits, river areas and season lengths do not prescribe any particular equipment or methods.

Section C

Question 1. Briefly summarize the benefits of the regulation.

Under all options, the Commission anticipates benefits to the health and welfare of California residents. Chinook Salmon is a nutritious food source and providing inland sport fishery opportunities encourages consumption of this nutritious food. Sport fishing also contributes to increased mental health of its practitioners, as fishing is a hobby and form of relaxation for many. Sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by younger generations, the future stewards of California's natural resources.

Under all options, the Commission does not anticipate any benefits to worker safety from the proposed regulations because inland sport fishing does not impact working conditions.

Under all options, the Commission anticipates benefits to the environment in the sustainable management of Central Valley Chinook Salmon. It is the policy of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State and to promote the development of local fisheries and distant water fisheries based in California in harmony with international law, respecting fishing and the conservation of the living resources of the ocean and other waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence, and the maintenance of a sufficient resource to support a reasonable sport use.

In accordance with this policy, adoption of scientifically-based inland Chinook Salmon regulations provides for the maintenance of sufficient populations of salmon to ensure their continued existence and thus continued economic stimulus.

Under all options, other benefits include consistency with federal fishery management goals and the promotion of businesses that rely on Central Valley sport fishing.

Section C

Question 3. What are the total statewide benefits from this regulation over its lifetime? \$14.8 - 18.5 M in total impact annually. This is the average historical range of total economic impact of the fishery with multipliers for indirect and induced impacts applied to the direct impact. This action is expected to sustain fishery activity within the range of historically normal seasons. Given that the 2018 regulations resulted in a typical season, the potential difference between 2018 conditions and the options under consideration range from \$1.8 - \$3.7 M as shown in Table 1, above.

Section C

Question 4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation.

The Commission does not anticipate that any of the proposed options would induce substantial impacts on the expansion of businesses currently doing business within the state. The proposed regulations are not anticipated to increase demand for services or products from the existing businesses that serve inland sport fishermen. The number of fishing trips and angler economic contributions are expected to remain within the range of historical averages.

Section D

Question 1. Alternatives to the Regulation

The "Regulation" is specified in the Initial Statement of Reasons (ISOR) as **Option 1** which would allow anglers to take any size Chinook Salmon up to the daily bag limit [0-4] and possession limit [0-12] (most liberal option).

Alternative 1 is specified in the ISOR as **Option 2** which would allow for take of a limited number of adult Chinook Salmon, with grilse Chinook Salmon making up the remainder of the daily bag limit [0-4] and possession limit [0-12].

Alternative 2 is specified in the ISOR as **Option 3** which is the most conservative option and allows for take of only grilse Chinook Salmon up to the daily bag limit [0-4] and possession limit [0-12]. Take of adult salmon would not be allowed.

All three options increase fishing opportunities on the Feather and Mokelumne rivers by: (1) extending the salmon fishing season by two weeks on the Feather River between the Thermalito Afterbay Outfall and the Live Oak boat ramp; and (2) by extending the salmon and hatchery steelhead fishing season on approximately 10 miles of the Mokelumne River between the Highway 99 Bridge and Elliott Road.

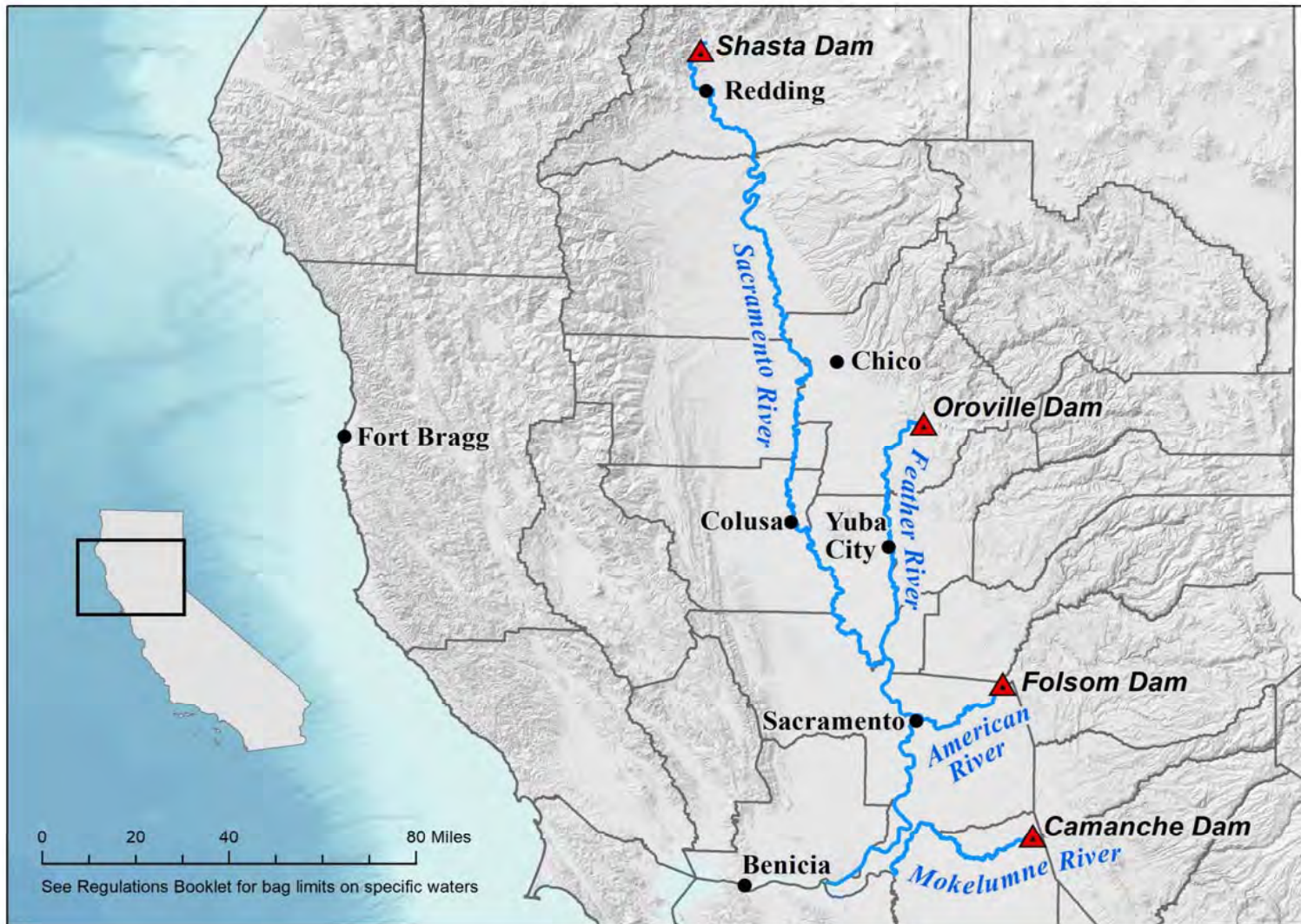
2019 Central Valley Salmon Sport Fishing Regulations

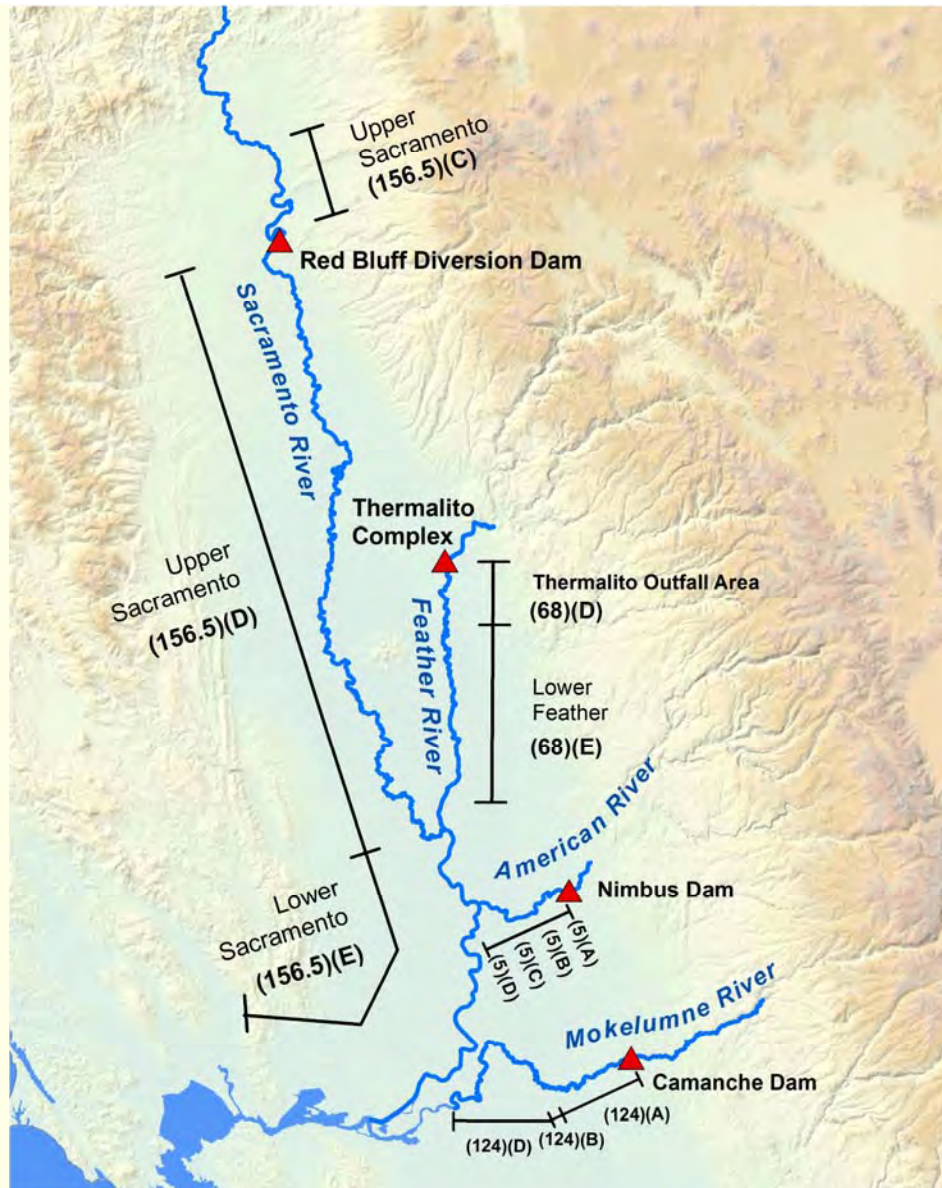


**California Fish and Game Commission Meeting
December 13, 2018
Kevin Shaffer, Chief
Fisheries Branch**



California Central Valley Waters Open to Chinook Salmon Angling, 2019





Special Regulation Waters

Major Central Valley Rivers, 2018



Fisheries Branch GIS,
April 10, 2018

Pacific Fishery Management Council (PFMC)

- The PFMC establishes escapement goals for Sacramento River fall-run Chinook Salmon (SRFS)
 - 122,000 minimum hatchery and natural area adult escapement
- The PFMC will release 2019 spawning escapement estimate in April 2019
- DFW recommends bag and possession limits to FGC based on escapement estimate

2018 Adopted SRFC Sport Fishing Regulations

- Lower American River
 - 1 fish daily bag / 2 fish possession limit
- Feather River
 - 1 fish daily bag / 2 fish possession limit
- Sacramento River
 - 1 fish daily bag / 2 fish possession limit

Changes from 2018 Proposed Regulations

- Including options for an adult/grilse or grilse-only salmon fishery
- Proposing to extend fishing seasons on the Feather and Mokelumne rivers to increase fishing opportunity
- Including changes to the SRFC regulations on the Mokelumne River

2019 SRFC Regulatory Options

- Option 1 – Any size Chinook Salmon fishery
 - allow harvest of up to [0-4] salmon any size per day
- Option 2 – Limited adult and grilse salmon fishery
 - allow harvest of a limited number of adult salmon, with grilse salmon making up the remainder of the daily bag and possession limits
- Option 3 - Grilse-only salmon fishery
 - allow for a grilse-only salmon fishery

Grilse Salmon Size

- DFW is proposing a grilse salmon maximum size range of less than or equal to 26 to 28 inches total length (TL)
- If the total length size cutoff is too short (conservative), too few jacks will be caught by anglers
- If the total length size cutoff is too large (liberal), then more smaller adult females will be caught

Grilse Salmon Size

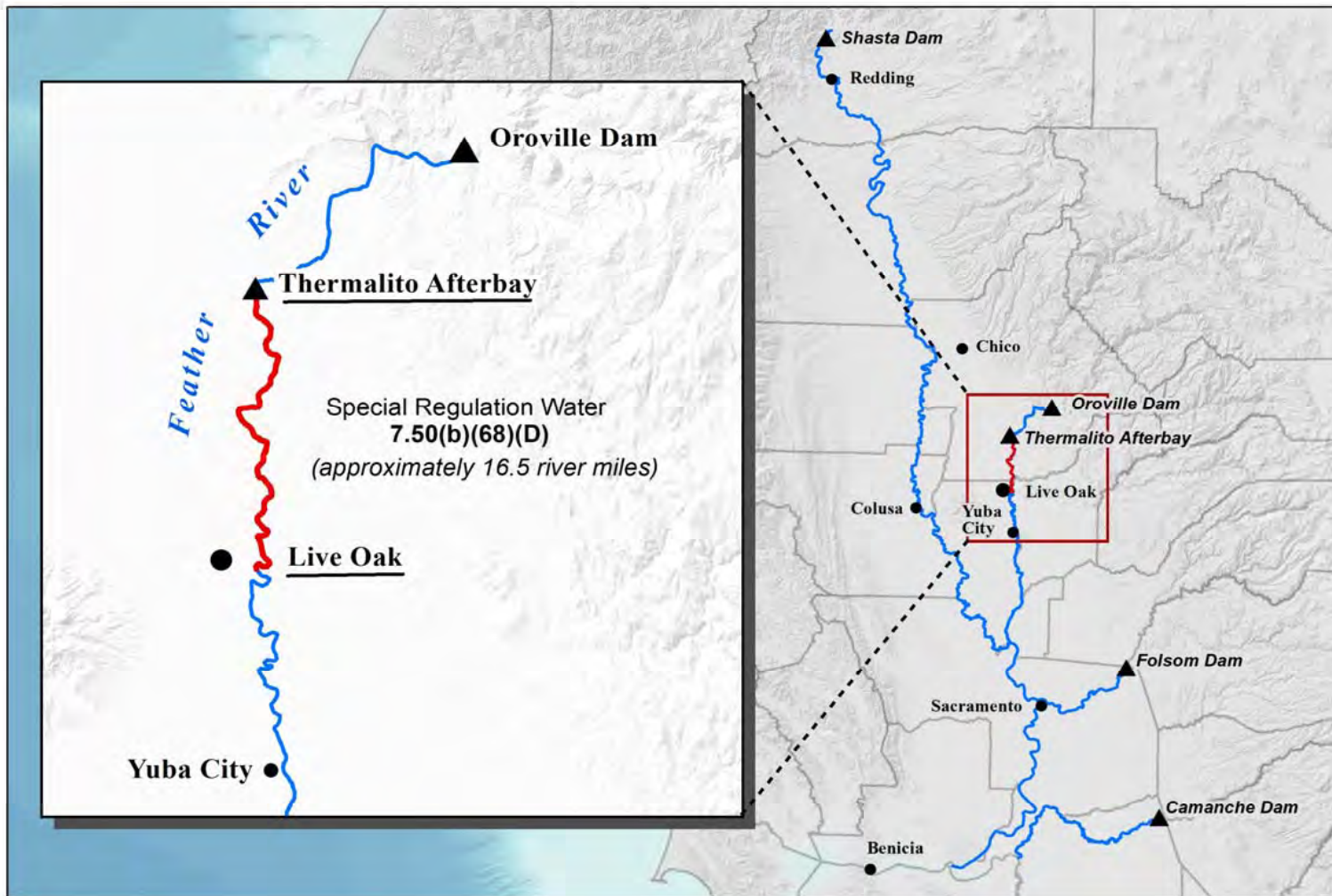
- 26-inch TL cutoff = harvest of 65 percent of age-two salmon
 - would prevent harvest on 98.9 percent of adult females
- 27-inch TL cutoff = harvest of 81 percent of age-two salmon
 - would prevent harvest on 97.9 percent of adult females
- 28-inch TL cutoff = harvest of 93.4 percent of age-two salmon
 - would prevent harvest on 96 percent of adult females

Increase Fishing Opportunities

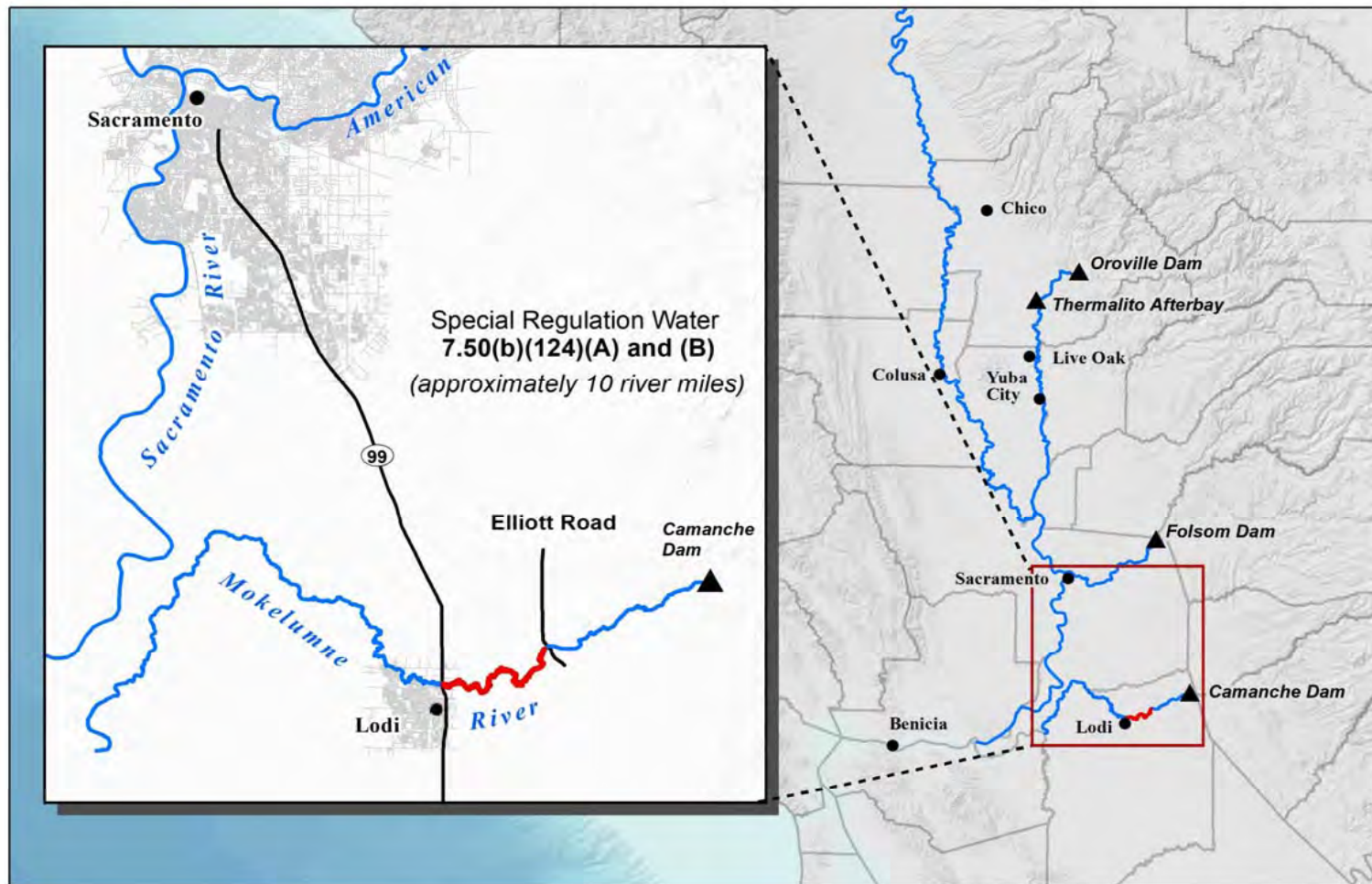
- Feather River
 - extend the salmon fishing season by two weeks between the Thermalito Afterbay Outfall and the Live Oak boat ramp
- Mokelumne River
 - extend the salmon and hatchery steelhead fishing season on approximately ten miles of river between the Highway 99 Bridge and Elliott Road

Feather River Proposal: Extend Salmon Fishing Season from Oct 15 to Oct 31

From Thermalito Afterbay South to the Live Oak Boat Ramp



**Mokelumne River Proposal: Extend Salmon and Hatchery Steelhead Fishing Seasons on
Approximately 10 Miles of River
Between the Highway 99 Bridge and Elliott Road**





Memorandum

2018 NOV 21 AM 9:00

Date: November 15, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Submittal of Initial Statement of Reasons to Amend Sections 362, 364, 364.1, and 708.6 ,Title 14, California Code of Regulations (CCR)**

The Department of Fish and Wildlife (Department) requests the Fish and Game Commission (Commission) to authorize publication of notice of its intent to amend Sections 362, 364, 364.1, and 708.6, Title 14, CCR. The Department is proposing the following changes to the existing mammal hunting regulations for the 2019-20 season:

1. Section 362 Bighorn Sheep:
 - a. Establish the Newberry, Rodman and Ord Hunt Zone in 362(a)
 - b. Reallocate the Kelso Peak/Old Dad Mountains to Cady Mountain Fund-Raising Tag in 362(b)
 - c. Modify the number of desert bighorn sheep tags in hunt zones in subsection by presenting a range which will be finalized prior to adoption of 362(d)
 - d. Make nonsubstantive editorial changes in 362(e)
2. Section 364 Elk:
 - a. Modify season dates for Fort Hunter Liggett Tule Elk Hunts in 364(e)(7)
 - b. Modify the number of elk tags in hunt zones in subsections 364(r) through (aa) by presenting a range which will be finalized prior to adoption
 - c. Make minor editorial changes for consistency and clarification in various subsections.
3. Section 364.1 SHARE Elk:
 - a. Modify the number of SHARE elk tags in hunt zones in subsections 364.1(i) through (l) by presenting a range which will be finalized prior to adoption
4. Section 708.6 Tag Countersigning and Transporting Requirements:
 - a. Add the term "full time firefighter" to the list of officials authorized to countersign deer and elk tags.

If you have any questions regarding this item, please contact Kari Lewis, Wildlife Branch Chief, at (916) 445-3789. The public notice for this rulemaking should identify Environmental Program Manager, Brad Burkholder as the Department's point of contact. He can be reached at (916) 445-1829 or via email at: Brad.Burkholder@wildlife.ca.gov.

Melissa Miller-Henson, Acting Executive Director
Fish and Game Commission
November 15, 2018
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Attachment

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STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 362
Title 14, California Code of Regulations
Re: Nelson Bighorn Sheep

I. Date of Initial Statement of Reasons: November 15, 2018

II. Dates and Locations of Scheduled Hearings

- (a) Notice Hearing: Date: December 13, 2018
 Location: Oceanside, CA
- (b) Discussion Hearing: Date: February 6, 2019
 Location: Sacramento
- (c) Adoption Hearing: Date: April 17, 2019
 Location: Los Angeles

III. Description of Regulatory Action

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

In accordance with management goals and objectives, and in order to maintain hunting quality, it is necessary to periodically consider tag quotas for hunting. Current regulations specify the number of bighorn sheep hunting tags for the 2018 season. This proposed regulatory action will amend subsection 362(d) providing the number of tags for bighorn sheep hunting in 2019.

Preliminarily, the tag numbers are presented as ranges (e.g., [0-3]) in the table in subsection 362(d) of the amended Regulatory Text. Final tag quotas recommendations for each zone will be identified and presented to the Fish and Game Commission and interested and affected parties prior to the adoption hearing, as soon as over-winter health of herds are assessed.

In order to maintain hunting quality, adjustments to the limited number of bighorn sheep tags, hunting zones, seasons, and conditions are necessary.

The specific recommended regulation changes are:

1) Number of Tags

Population estimates from recent surveys support an increase in tag quotas in several existing hunt zones. Final tag quotas for bighorn sheep cannot be determined until surveys are completed and all data are analyzed. Surveys

and analyses are scheduled for completion by Spring 2019. Final tag quotas will recommend a biologically appropriate harvest of bighorn sheep. Due to the timing of administrative procedures and requirements of the Fish and Game Code, the Department submits proposed regulatory changes to the Fish and Game Commission prior to completion of all surveys, necessitating a proposed range of tags. Monitoring continues and final tag quotas for each zone will be recommended in the Preadoption Statement of Reasons based upon findings from 2018-2019 fall/winter surveys.

2) Establishment of the Newberry, Rodman and Ord Hunt Zone

The proposed change adds this new bighorn sheep hunt zone in San Bernardino County. Bighorn sheep are widespread in San Bernardino County and the proposed change would increase the number of tags available and the geographic areas, or hunt zones, available for hunting.

Section 4902 of the Fish and Game Code authorizes the Commission to establish hunting regulations for mature Nelson bighorn rams in management units for which plans have been developed pursuant to Section 4901 of the Fish and Game Code. In an effort to expand biologically sound bighorn ram hunting opportunity consistent with the law, the proposed change creates one additional hunt zone consistent with Fish and Game Code Section 4902.

3) Reallocation of the Kelso Peak/Old Dad Mountains Fund-Raising Tag to the Cady Mountains Hunt Zone.

Existing regulations provide for allocation of a fund-raising tag in the Kelso Peak/Old Dad Mountains Hunt Zone. The Kelso Peak/Old Dad herd unit has experienced significant population decline following a recent outbreak of respiratory disease, and the Department continues to monitor the unit. The proposal would reallocate this tag to be valid in the Cady Mountains to maintain biologically sound hunting opportunities and continue to generate revenue.

This proposed regulatory action is consistent with providing fund-raising tags to generate revenue for bighorn sheep management projects. Fish and Game Code Section 4902 specifies that no more than 15 percent of the tags can be designated as fund-raising tags. In order to comply with Fish and Game Code Section 4902 and meet the objectives of the approved management plans for each unit, it is necessary to designate fund-raising tags for specific hunt zones.

4) Editorial Changes

Editorial changes are being made to update Department of Fish and Wildlife phone numbers.

(b) Goals and Benefits of the Regulation:

The goals and benefits of the regulations are to provide for the conservation and

maintenance of sufficient bighorn sheep populations to ensure their continued existence.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

(c) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 203, 265, 1050, and 4902, Fish and Game Code.

Reference: Sections 1050, 3950, and 4902, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None

(e) Identification of Reports or Documents Supporting Regulation Change:

Bighorn Sheep Management Plan: Newberry, Rodman, Ord Mountains Management Unit

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

This proposal was discussed at the Wildlife Resources Committee Meeting on September 20, 2018 and a public scoping session will be held in November 2018.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change:

No alternatives were considered.

(b) No Change Alternative:

1) Number or Tags

The no change alternative was considered and rejected because it would not attain project objectives of providing for hunting opportunities while maintaining bighorn sheep populations within desired population objectives. Retaining the current tag quota for each zone may not be responsive to biologically-based changes in the status of various herds. Management plans specify desired percentage harvest levels. The no-change alternative would not allow for adjustment of tag quotas in response to changing environmental/biological conditions.

2) Establishment of the Newberry, Rodman, Ord Hunt Zone

The no-change alternative was considered and found inadequate to attain the program objective. Fish and Game Code Section 4902 provides for addition of

areas for hunting Nelson bighorn sheep. Nelson bighorn sheep hunting demand is high (11,440 applicants for 19 tags in June 2018), and this alternative would not increase hunting opportunity and would decrease revenue dedicated to bighorn sheep management.

- 3) Reallocation of the Kelso Peak/Old Dad Fund-Raising Tag to the Cady Mountains Hunt Zone.

The no-change alternative was considered and found inadequate, because it would continue to allocate a fund-raising tag in the Kelso Peak/Old Dad Hunt Zone, where current monitoring suggests population decline, and hunting is currently not supported. The no-change alternative would unnecessarily restrict revenue dedicated to the management and enhancement of bighorn sheep and their habitats.

- 4) Editorial Changes

The no-change alternative for the proposed administrative changes was considered and rejected. This alternative would result in regulations which would not reflect the necessary changes.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment and therefore would not require mitigation measures.

VI. Impact of Regulatory Action

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 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 will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations adjust tag quotas for existing hunts and establish a new hunt zone to provide additional public recreational opportunity and could result in minor increases in hunting days and hunter spending on equipment, fuel, food, and accommodations. Given that the proposed regulation may introduce, at the most, a small increase in the overall number of tags available and the area over which they are distributed, the proposed regulations are anticipated to be economically neutral to slightly beneficial for business.

- (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 Commission anticipates no to minor positive impact on the creation or elimination of jobs within the state, and no impact on the creation of new business, the elimination of existing businesses or the expansion of businesses in California as minor variations in hunting regulations are, by themselves, unlikely to provide a substantial enough economic stimulus to the state. The Commission anticipates benefits to the health and welfare of California residents because hunting is an outdoor activity that can provide exercise, a greater awareness of the connections between wildlife and habitat, and fresh game to eat. The proposed regulation will not affect worker safety. The Commission anticipates benefits to the state's environment through the maintenance of sufficient populations of bighorn sheep to ensure their continued existence.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) 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, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

No impacts to minor positive impacts on the creation of jobs within businesses that provide services to bighorn sheep hunters may result from the adoption of the proposed bighorn sheep hunting regulations for the 2019-20 season.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The proposed regulation is not anticipated to prompt the creation of new businesses or the elimination of existing businesses within the state. Minor variations in

regulations pertaining to hunting are, by themselves, unlikely to stimulate the creation of new businesses or cause the elimination of existing businesses. The number of hunting trips and the economic contributions from the trips are not expected to change substantially.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The proposed variations in bighorn sheep tag quotas are, by themselves, unlikely to stimulate substantial expansion of businesses currently doing business in the state. The long-term intent of the proposed regulations is to sustainably manage bighorn sheep populations, and consequently, the long-term viability of various businesses that serve recreational bighorn sheep hunters.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

Hunting is an outdoor activity that can provide several health and welfare benefits to California residents. Hunters and their families benefit from fresh game to eat, and from the benefits of outdoor recreation, including exercise. People who hunt have a special connection with the outdoors and an awareness of the relationships between wildlife, habitat, and humans. With that awareness comes an understanding of the role humans play in being caretakers of the environment. Hunting is a tradition that is often passed from one generation to the next creating a special bond between family members and friends.

(e) Benefits of the Regulation to Worker Safety:

The proposed regulation will not affect worker safety.

(f) Benefits of the Regulation to the State's Environment:

As set forth in Fish and Game Code section 1700, it is the policy of the state to encourage the conservation, maintenance, and utilization of fish and wildlife resources for the benefit of all the citizens of the state. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of bighorn sheep to ensure their continued existence and the maintenance of a sufficient resource to support recreational opportunity. Adoption of scientifically-based bighorn sheep seasons and tag quotas provides for the maintenance of sufficient bighorn sheep populations to ensure those objectives are met. The fees that hunters pay for licenses and tags fund wildlife conservation.

(g) Other Benefits of the Regulation:

Hunting seasons provide incentives for private landowners to maintain habitat for desert bighorn sheep and other desert dependent species.

Informative Digest/Policy Statement Overview

The current regulation in Section 362, Title 14, CCR, provides for limited hunting of Nelson bighorn rams in specified areas of the State. The proposed change is intended to adjust the number of tags available for the 2019 season based on bighorn sheep spring population surveys[conducted by the Department.

Final tag quota determinations will be made pending completion of all surveys and data analyses.

HUNT ZONE	NUMBER OF TAGS [proposed range]
Zone 1 - Marble Mountains	[0-5]
Zone 2 - Kelso Peak/Old Dad Mountains	[0-4]
Zone 3 - Clark/Kingston Mountain Ranges	[0-4]
Zone 4 - Orocopia Mountains	[0-2]
Zone 5 - San Gorgonio Wilderness	[0-3]
Zone 6 - Sheep Hole Mountains	[0-2]
Zone 7 - White Mountains	[0-6]
Zone 8 - South Bristol Mountains	[0-3]
Zone 9 – Cady Mountains	[0-4]
Zone 10 – Newberry, Rodman, Ord Mountains (New)	[0-6]
Open Zone Fund-Raising Tag	[0-1]
Marble/Clipper/South Bristol Mountains Fund-Raising Tag	[0-1]
Cady Mountains Fund-Raising Tag (New)	[0-1]
TOTAL	[0-42]

Other Amendments:

- Establishment of the Newberry, Rodman and Ord Hunt Zone: The proposed change adds this new bighorn sheep hunt zone in San Bernardino County.
- Reallocation of the Kelso Peak/Old Dad Mountains Fund-Raising to the Cady Mountains: The Kelso Peak/Old Dad herd unit has experienced significant population decline following a recent

outbreak of respiratory disease. The proposal would reallocate this fund-raising tag to be valid in the Cady Mountains Hunt Zone.

- Amend the contact telephone number that is no longer in use for the program. The proposed Editorial Change provides a current contact phone number.

Benefits of the regulations

The benefits of the proposed regulations are consistency with statute and the sustainable management of the State's wildlife resources.

Non-monetary benefits to the public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government.

Evaluation of incompatibility with existing regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate wildlife hunting regulations.

Proposed Regulatory Language

Section 362, Title 14, CCR, is amended to read:

§362. Nelson Bighorn Sheep

(a) Areas:

. . . [No changes to subsections (a)(1) through (9)]

(10) Zone 10 – Newberry, Rodman and Ord Mountains: That portion of San Bernardino County beginning at the junction with Interstate Highway 40 and Fort Cady Road; West on Interstate Highway 40 to the junction with Barstow Road; South on Barstow Road to the junction with Northside Road; East on Northside Road to the intersection of Camp Rock Road; North on Camp Rock Road to the intersection with Powerline Road; East on Powerline Road and continue on Transmission Line Road to the intersection with Bessemer Mine Road/Canyon Route; North on Bessemer Mine Road/Canyon Route to the intersection with Troy Road; West on Troy Road to the intersection with Fort Cady Road; North on Fort Cady Road to the Junction with Interstate 40 to the point of the beginning.

(b) Seasons:

. . . [No changes to subsections (b)(1) through (2)]

~~(3) Kelso Peak and Old Dad Mountains~~ Cady Mountains Fund-raising Tag: The holder of the fund-raising license tag issued pursuant to subsection 4902(d) of the Fish and Game Code may hunt:

~~(A) Zone 2:~~ Zone 9: Beginning the first Saturday in November and extending through the first Sunday in February.

(4) Except as provided in subsection 362(b)(1), the Nelson bighorn sheep season in the areas described in subsection 362(a) shall be defined as follows:

~~(A) Zones 1 through 4, 6, 8 and 9:~~ Zones 1, 2, 3, 4, 6, 8, 9, and 10: The first Saturday in December and extend through the first Sunday in February.

(B) Zone 5: The third Saturday in December and extend through the third Sunday in February.

(C) Zone 7: Beginning the third Saturday in August and extending through the last Sunday in September.

(5) Except as specifically provided in section 362, the take of bighorn sheep is prohibited.

. . . [No changes to subsection (c)]

d) Number of License Tags:

	<i>Tag Allocation</i>
<i>Nelson Bighorn Sheep Hunt Zones</i>	
Zone 1 - Marble/Clipper Mountains	-4[<u>0-5</u>]
Zone 2 - Kelso Peak/Old Dad Mountains	0
Zone 3 - Clark/Kingston Mountain Ranges	-2[<u>0-4</u>]
Zone 4 - Orocopia Mountains	-1[<u>0-2</u>]
Zone 5 - San Gorgonio Wilderness	-2[<u>0-3</u>]
Zone 6 - Sheep Hole Mountains	-0[<u>0-2</u>]
Zone 7 - White Mountains	-3[<u>0-6</u>]
Zone 8 - South Bristol Mountains	-1[<u>0-3</u>]
Zone 9 - Cady Mountains	-4[<u>0-4</u>]
<u>Zone 10 – Newberry, Rodman, Ord Mountains</u>	[<u>0-6</u>]
Open Zone Fund-Raising Tag	1
Marble/Clipper/South Bristol Mountains Fund-Raising Tag	1
Kelso Peak/Old Dad Mountains <u>Cady Mountains</u> Fund-Raising Tag	-0 <u>1</u>
Total:	-19[<u>0-42</u>]

(e) Conditions:

. . . [*No changes to subsections (e)(1) through (3)]*

(4) Successful general tagholders shall present the head and edible portion of the carcass of a bighorn ram to the department's checking station within 48 hours after killing the animal. All successful tagholders shall notify the department's Bishop office by telephone at (760) 872-1171 or ~~(760) 413-9596~~ (760) 872-1346 within 24 hours of killing the animal and arrange for the head and carcass to be examined.

. . . [*No changes to subsections (e)(5) through (6)]*

Note: Authority cited: Sections 200, 203, 265, 1050 and 4902, Fish and Game Code.
Reference: Sections 1050, 3950 and 4902, Fish and Game Code.

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 364
Title 14, California Code of Regulations
Re: Elk

I. Date of Initial Statement of Reasons: November 15, 2018

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: December 13, 2018
 Location: Oceanside, CA

(b) Discussion Hearings: Date: February 6, 2019
 Location: Sacramento, CA

(c) Adoption Hearing: Date: April 17, 2019
 Location: Los Angeles, CA

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The Fish and Game Commission (Commission) periodically considers the recommendations of the Department of Fish and Wildlife (Department) in establishing elk regulations. Section 364 provides definitions, hunting zone descriptions, season opening and closing dates, and tag quotas for elk.

In order to maintain appropriate harvest levels and hunting quality it is necessary to periodically adjust tag quotas (total number of hunting tags to be made available) in response to dynamic environmental and biological conditions. Current regulations in Section 364 specify elk license tag quotas for each hunt zone in accordance with management goals and objectives.

The specific recommended regulation changes are:

1) Number of Tags:

Proposed amendments to Section 364 will establish new tag quotas to adjust for periodic fluctuations in elk population numbers. Proposed tag quotas are presented as ranges shown in brackets, e.g. [0-4], in the tables of the amended Regulatory Text (subsections 364 (r) through (aa)) attached to this Initial Statement of Reasons. The ranges allow the final number of tags to be determined based on analysis of survey and harvest data from the 2018-19 hunt season. These results are anticipated in the spring of 2019 and will support the Department's recommendation for the number of tags to be allocated to each hunt prior to the Commission's adoption hearing in April 2019, following the over-winter herd analysis.

The proposed ranges of elk tags for 2019 are presented in the Proposed Regulatory Text of Section 364.

- 2) Amend and correct the Special Condition in subsection (d)(13)(B)3. alerting hunters to the current Colusa County variance which permits the use of muzzleloaders.
- 3) Modify Season Dates on Fort Hunter Liggett

Due to military use constraints at Fort Hunter Liggett, hunt dates are annually subject to change, and may be adjusted or cancelled by the base commander. There are a number of changes to the hunt openers on the Fort Hunter Liggett Military Base. The changes to the 2019 season openers will be:

(v) Department Administered Apprentice Hunts

(7)(A)5. General Method Apprentice: Shall open on the third Saturday in December and continue for 12 consecutive days.

(w) Department Administered Archery Only Hunts

(6)(A)5. Archery Only Either Sex: Shall open on the last Saturday in July and continue for 9 consecutive days.

(6)(B)5. Archery Only Antlerless: Shall open on the second Saturday in November and continue for 9 consecutive days.

(x) Department Administered Muzzleloader Only Tule Elk Hunts

(4)(A)5. Muzzleloader Only: Shall open on the fourth Saturday in November and continue for 12 consecutive days.

(aa) Military Only Tule Elk Hunts

(2)(A)5. General Method Apprentice: Shall open on the third Saturday in December and continue for 12 consecutive days.

(3)(A)5 Archery Only Either Sex: Shall open on the last Saturday in July and continue for 9 consecutive days.

(3)(B)5. Archery Only Antlerless: Shall open on the third Saturday in November and continue for 9 consecutive days.

(4)(A)5. Muzzleloader Only: Shall open on the third Saturday in November and continue for 9 consecutive days.

- 4) A minor editorial change is necessary to correct the name of the Department of Fish and Wildlife.

b) Goals and Benefits of the Regulations:

The proposed regulations will contribute to the sustainable management of elk populations in California. Existing elk herd management goals specify objective levels for the proportion of bulls in the herds. These ratios are maintained and managed in part by periodically modifying the number of tags. The final number of tags will be based upon findings from annual harvest, herd composition counts, and population estimates where appropriate.

(c) Authority and Reference:

Note: Authority cited: Sections 200, 203, 203.1, 265, 332 and 1050, Fish and Game Code. Reference: Sections 332, 1050, 1570, 1571, 1572, 1573 and 1574, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None.

(e) Identification of Reports or Documents Supporting Regulation Change: None

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

This proposal was discussed at the Wildlife Resources Committee Meeting on September 20, 2018 and a public scoping session will be held in November 2018.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change:

No other alternatives were identified.

(b) No Change Alternative:

The no-change alternative was considered and rejected because it would not attain project objectives. Elk hunts and opportunity must be adjusted periodically in response to a variety of environmental and biological condition.

(c) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business: None.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action

This proposed action adjusts tag quotas and modifies season dates in an effort to meet management goals and provide hunting opportunities for the public. Given the number of tags available, and the area over which they are distributed, this proposal is economically neutral to business.

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

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

- (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 Commission anticipates no to minor positive impacts on the creation or elimination of jobs within the state, and no impact on the creation of new business, the elimination of existing businesses or the expansion of businesses in California as minor variations in hunting regulations are, by themselves, unlikely to provide a substantial enough economic stimulus to the state. The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources. The proposed action will not provide benefits to worker safety. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources.

- (c) Cost Impacts on Representative Private Persons or Business.

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) 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.

VII. Economic Impact Assessment

The proposed action will have no statewide economic or fiscal impact because the proposed action would not constitute a significant change from the 2018 elk season. The

number of tags to be set in regulation for 2019 is intended to achieve or maintain the levels set forth in the approved management plans and environmental documents to sustainably manage elk populations and maintain hunting opportunities in subsequent seasons.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

No impact to minor positive impacts on the creation of jobs within businesses that provide services to elk hunters may result from the adoption of the proposed elk hunting regulations for the 2019-20 season.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The proposed regulation is not anticipated to prompt the creation of new businesses or the elimination of existing businesses within the state. Minor variations in regulations pertaining to hunting are, by themselves, unlikely to stimulate the creation of new businesses or cause the elimination of existing businesses. The number of hunting trips and the economic contributions from the trips are not expected to change substantially.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The proposed minor variations in elk tag quotas are, by themselves, unlikely to stimulate substantial expansion of businesses currently doing business in the state. The long-term intent of the proposed regulations is to sustainably manage elk populations, and consequently, the long-term viability of various businesses that serve recreational elk hunters.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

Hunting is an outdoor activity that can provide several health and welfare benefits to California residents. Hunters and their families benefit from fresh game to eat, and from the benefits of outdoor recreation, including exercise. People who hunt have a special connection with the outdoors and an awareness of the relationships between wildlife, habitat, and humans. With that awareness comes an understanding of the role humans play in being caretakers of the environment. Hunting is a tradition that is often passed from one generation to the next creating a special bond between family members and friends.

(e) Benefits of the Regulation to Worker Safety:

The proposed regulation will not affect worker safety.

(f) Benefits of the Regulation to the State's Environment:

As set forth in Fish and Game Code section 1700, it is the policy of the state to encourage the conservation, maintenance, and utilization of fish and wildlife resources for the benefit of all the citizens of the state. The objectives of this policy

include, but are not limited to, the maintenance of sufficient populations of elk to ensure their continued existence and the maintenance of a sufficient resource to support recreational opportunity. Adoption of scientifically-based elk seasons and tag quotas provides for the maintenance of sufficient elk populations to ensure those objectives are met. The fees that hunters pay for licenses and tags fund wildlife conservation.

(g) Other Benefits of the Regulations:

Hunting seasons provide incentives for private landowners to maintain habitats that benefit elk and other forest and upland dependent species.

DRAFT

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations in Section 364, Title 14, CCR, provide definitions, hunting zone descriptions, season dates, and elk license tag quotas. In order to achieve elk herd management goals and objectives and maintain hunting quality, it is periodically necessary to adjust quotas, seasons, hunt areas and other criteria in response to dynamic environmental and biological conditions. The proposed amendments to Section 364 will establish the 2019 tag quotas, season dates, and tag distribution within each hunt adjusting for annual fluctuations in populations.

Proposed Amendments: The proposed ranges of elk tags for 2019 are presented in the Proposed Regulatory Text of Section 364.

1. Subsections 364(r) through (aa) specify elk license tag quotas for each hunt in accordance with management goals and objectives.
2. Amend and correct the Special Condition in subsection (d)(13)(B)3. East Park Reservoir General Methods Tule Elk Hunt, alerting hunters to the current Colusa County variance which permits the use of muzzleloaders.
3. Modify Season Dates. Due to military use constraints at Fort Hunter Liggett, hunt dates are annually subject to change and may be adjusted or cancelled by the base commander.

Benefits of the regulations

The proposed regulations will contribute to the sustainable management of elk populations in California. Existing elk herd management goals specify objective levels for the proportion of bulls in the herds. These ratios are maintained and managed in part by periodically modifying the number of tags. The final number of tags will be based upon findings from annual harvest, herd composition counts, and population estimates where appropriate.

Non-monetary benefits to the public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

Evaluation of incompatibility with existing regulations

The Fish and Game Commission, pursuant to Fish and Game Code Sections 200 and 203, has the sole authority to regulate elk hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to elk tag allocations are consistent with Title 14. Therefore, the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

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REGULATORY TEXT

Section 364 is amended to read as follows:

§364. Elk Hunts, Seasons, and Number of Tags.

. . . [No changes subsections (a) through (d)(10)]

(11) Grizzly Island General Methods Tule Elk Hunt:

(A) Area: Those lands owned and managed by the Department of Fish and ~~Game~~ Wildlife as the Grizzly Island Wildlife Area.

(B) Special Conditions: All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting after receipt of their elk license tags.

. . . [No changes subsection (d)(12)]

(13) East Park Reservoir General Methods Tule Elk Hunt:

(A) Area: In those portions of Glenn and Colusa counties within a line beginning in Glenn County at the junction of Interstate Highway 5 and Highway 162 at Willows; west along Highway 162 (Highway 162 becomes Alder Springs Road) to the Glenn-Mendocino County line; south along the Glenn-Mendocino County line to the Glenn-Lake County line; east and then south along the Glenn-Lake County line to the Colusa-Lake County line; west, and then southeast along the Colusa-Lake County line to Goat Mountain Road; north and east along Goat Mountain Road to the Lodoga-Stonyford Road; east along the Lodoga-Stonyford Road to the Sites-Lodoga Road at Lodoga; east along the Sites-Lodoga Road to the Maxwell-Sites Road at Sites; east along the Maxwell-Sites Road to Interstate Highway 5 at Maxwell; north along Interstate Highway 5 to the point of beginning.

(B) Special Conditions:

1. All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting after receipt of their elk license tags.

2. Access to private land may be restricted or require payment of an access fee.

3. A Colusa County ordinance prohibits firearms on land administered by the USDI Bureau of Reclamation in the vicinity of East Park Reservoir. ~~A variance has been requested to allow~~ A county variance currently allows for the use of muzzleloaders (as defined in Section 353) on Bureau of Reclamation land within the hunt zone, hunters are responsible for checking with county authorities for any change in the variance.

. . . [No changes subsections (d)(14) through (q)]

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags
		5. Season			
(r) Department Administered General Methods Roosevelt Elk Hunts					
(1)(A)	Siskiyou	20 [0-38]	20 [0-42]		
		Shall open on the Wednesday preceding the second Saturday in September and continue for 12 consecutive days.			
(2)(A)	Northwestern	45 [0-28]	0 [0-34]	3 [0-3]	
		Shall open on the first Wednesday in September and continue for 23 consecutive days.			
(3)(A)	Marble Mountains	35 [0-70]	40 [0-30]		
		Shall open on the Wednesday preceding the second Saturday in September and continue for 12 consecutive days.			
(s) Department Administered General Methods Rocky Mountain Elk Hunts					
(1)(A)	Northeastern California Bull	45 [0-30]			
		The bull season shall open on the Wednesday preceding the third Saturday in September and continue for 12 consecutive days			
(B)	Northeastern California Antlerless		40 [0-10]		
		The antlerless season shall open on the second Wednesday in November and continue for 12 consecutive days.			
(t) Department Administered General Methods Roosevelt/Tule Elk Hunts					
(1)(A)	Mendocino	2 [0-4]	0 [0-4]		
		The season shall open on the Wednesday preceding the fourth Saturday in September and continue for 12 consecutive days.			
(u) Department Administered General Methods Tule Elk Hunts					
(1)(A)	Cache Creek Bull	2 [0-4]			
		The Bull season shall open on the second Saturday in October and continue for 16 consecutive days.			

(B)	Antlerless		2 [0-4]		
		The Antlerless season shall open on the third Saturday in October and continue for 16 consecutive days.			
(2)(A)	La Panza Period 1	6 [0-12]	5 [0-10]		
		Shall open on the second Saturday in October and extend for 23 consecutive days			
(B)	Period 2	6 [0-12]	6 [0-12]		
		Shall open on the second Saturday in November and extend for 23 consecutive days.			
(3)(A)	Bishop Period 3	0 [0-10]	0 [0-30]		
		Shall open on the third Saturday in October and extend for 9 consecutive days.			
(B)	Period 4	0 [0-10]	0 [0-30]		
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(C)	Period 5	0 [0-10]	0 [0-30]		
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(4)(A)	Independence Period 2	4 [0-10]	4 [0-30]		
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(B)	Period 3	4 [0-10]	4 [0-30]		
		Shall open on the third Saturday in October and extend for 9 consecutive days.			
(C)	Period 4	0 [0-10]	4 [0-30]		
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(D)	Period 5	0 [0-10]	0 [0-30]		
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(5)(A)	Lone Pine Period 2	4 [0-10]	4 [0-30]		
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(B)	Period 3	4 [0-10]	4 [0-30]		
		Shall open on the third Saturday in October and extend for 9 consecutive days.			

(C)	Period 4	<u>[0-10]</u>	4 <u>[0-30]</u>		
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(D)	Period 5	\emptyset <u>[0-10]</u>	\emptyset <u>[0-30]</u>		
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(6)(A)	Tinemaha Period 2	\emptyset <u>[0-10]</u>	\emptyset <u>[0-30]</u>		
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(B)	Period 3	\emptyset <u>[0-10]</u>	\emptyset <u>[0-30]</u>		
		Shall open on the third Saturday in October and extend for 9 consecutive days.			
(C)	Period 4	\emptyset <u>[0-10]</u>	\emptyset <u>[0-30]</u>		
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(D)	Period 5	\emptyset <u>[0-10]</u>	\emptyset <u>[0-30]</u>		
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(7)(A)	West Tinemaha Period 1	\emptyset <u>[0-10]</u>	\emptyset <u>[0-30]</u>		
		Shall open on the second Saturday in September and extend for 16 consecutive days.			
(B)	Period 2	\emptyset <u>[0-10]</u>	\emptyset <u>[0-30]</u>		
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(C)	Period 3	\emptyset <u>[0-10]</u>	\emptyset <u>[0-30]</u>		
		Shall open on the third Saturday in October and extend for 9 consecutive days.			
(D)	Period 4	\emptyset <u>[0-10]</u>	\emptyset <u>[0-30]</u>		
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(E)	Period 5	\emptyset <u>[0-10]</u>	\emptyset <u>[0-30]</u>		
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(8)(A)	Tinemaha Mountain Period 1	\emptyset <u>[0-8]</u>			
		Shall open on the second Saturday in September and extend for 16 consecutive days.			

(B)	Period 2	θ [0-8]			
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(C)	Period 3	θ [0-8]			
		Shall open on the third Saturday in October and extend for 9 consecutive days			
(D)	Period 4	θ [0-8]			
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(E)	Period 5	θ [0-8]			
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(9)(A)	Whitney Period 2	θ [0-4]	4 [0-10]		
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(B)	Period 3	θ [0-4]	θ [0-10]		
		Shall open on the third Saturday in October and extend for 9 consecutive days			
(C)	Period 4	θ [0-4]	θ [0-10]		
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(D)	Period 5	θ [0-4]	θ [0-10]		
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(10)(A)	Goodale Period 1	θ [0-10]	θ [0-30]		
		Shall open on the second Saturday in September and extend for 16 consecutive days.			
(B)	Period 2	θ [0-10]	4 [0-30]		
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(C)	Period 3	θ [0-10]	4 [0-30]		
		Shall open on the third Saturday in October and extend for 9 consecutive days			
(D)	Period 4	θ [0-10]	θ [0-30]		
		Shall open on the first Saturday in November and extend for 9 consecutive days.			

(E)	Period 5	\emptyset [0-10]	\emptyset [0-30]		
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(11)(A)	Grizzly Island Period 1	\emptyset [0-3]	6 [0-12]		\emptyset [0-6]
		Shall open on the second Tuesday after the first Saturday in August and continue for 4 consecutive days.			
(B)	Period 2	\emptyset [0-3]	2 [0-12]		4 [0-6]
		Shall open on the first Thursday following the opening of period one and continue for 4 consecutive days.			
(C)	Period 3	\emptyset [0-3]	6 [0-12]		\emptyset [0-6]
		Shall open on the first Tuesday following the opening of period two and continue for 4 consecutive days			
(D)	Period 4	\emptyset [0-3]	4 [0-12]		2 [0-6]
		Shall open on the first Thursday following the opening of period three and continue for 4 consecutive days.			
(E)	Period 5	\emptyset [0-3]	8 [0-12]		\emptyset [0-6]
		Shall open on the first Tuesday following the opening of period four and continue for 4 consecutive days			
(F)	Period 6	\emptyset [0-3]	\emptyset [0-12]		\emptyset [0-6]
		Shall open on the first Thursday following the opening of period five and continue for 4 consecutive days.			
(G)	Period 7	\emptyset [0-3]	8 [0-12]		\emptyset [0-6]
		Shall open on the first Tuesday following the opening of period six and continue for 4 consecutive days			
(H)	Period 8	\emptyset [0-3]	\emptyset [0-12]		6 [0-6]
		Shall open on the first Thursday following the opening of period seven and continue for 4 consecutive days.			
(I)	Period 9	\emptyset [0-3]	8 [0-12]		\emptyset [0-6]
		Shall open on the first Tuesday following the opening of period eight and continue for 4 consecutive days.			
(J)	Period 10	3 [0-3]	\emptyset [0-12]		\emptyset [0-6]
		Shall open on the first Thursday following the opening of period nine and continue for 4 consecutive days.			
(K)	Period 11	\emptyset [0-3]	8 [0-12]		\emptyset [0-6]
		Shall open on the first Tuesday following the opening of period ten and continue for 4 consecutive days.			

(L)	Period 12	3 [0-3]	[0-12]		0 [0-6]
		Shall open on the first Thursday following the opening of period eleven and continue for 4 consecutive days.			
(M)	Period 13	0 [0-3]	8 [0-12]		0 [0-6]
		Shall open on the first Tuesday following the opening of period twelve and continue for 4 consecutive days.			
(12)(A)	Fort Hunter Liggett General Public Period 1	0	0 [0-16]		
		Shall open on the first Thursday in November and continue for 9 consecutive days.			
(B)	Period 2	0	0 [0-16]		
		Shall open November 22 and continue for 9 consecutive days.			
(C)	Period 3	0 [0-14]	0		
		Shall open on the third Saturday in December and continue for 46 12 consecutive days.			
(13)(A)	East Park Reservoir	2 [0-4]	2 [0-8]		
		Shall open the first Saturday in September and continue for 27 consecutive days.			
(14)(A)	San Luis Reservoir	0 [0-10]	0 [0-10]	5 [0-10]	
		Shall open on the first Saturday in October and continue for 23 consecutive days.			
(15)(A)	Bear Valley	2 [0-4]	4 [0-2]		
		Shall open on the second Saturday in October and continue for 9 consecutive days.			
(16)(A)	Lake Pillsbury Period 1		4 [0-4]		
		Shall open on the Wednesday preceding the second Saturday in September and continue for 10 consecutive days.			
(B)	Period 2	2 [0-4]			
		Shall open Monday following the fourth Saturday in September and continue for 10 consecutive days.			
(16)(A) (17)(A)	Santa Clara	0 [0-4]	0		
		Shall open on the second Saturday in October and continue for 16 consecutive days.			
(17)(A) (18)(A)	Alameda	0 [0-4]	0		
		Shall open on the second Saturday in October and continue for 16 consecutive days.			

(v) Department Administered Apprentice Hunts					
(1)(A)	Marble Mountain General Methods Roosevelt Elk Apprentice			2 [0-4]	
		Shall open on the Wednesday preceding the second Saturday in September and continue for 12 consecutive days.			
(2)(A)	Northeast California General Methods Rocky Mountain Elk Apprentice			2 [0-4]	
		Shall open on the Wednesday preceding the third Saturday in September and continue for 12 consecutive days			
(3)(A)	Cache Creek General Methods Tule Elk Apprentice	4 [0-2]	0 [0-2]		
		Shall open on the second Saturday in October and continue for 16 consecutive days.			
(4)(A)	La Panza General Methods Tule Elk Apprentice	0 [0-2]	4 [0-2]		
		Shall open on the second Saturday in October and extend for 23 consecutive days.			
(5)(A)	Bishop General Methods Tule Elk Apprentice Period 2	0 [0-10]	0 [0-30]		
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(6)(A)	Grizzly Island General Methods Tule Elk Apprentice Period 1		3 [0-4]		0 [0-4]
		Shall open on the second Tuesday after the first Saturday in August and continue for 4 consecutive days			
(B)	Period 2		0 [0-4]		2 [0-4]
		Shall open on the first Thursday following the opening of period one and continue for 4 consecutive days.			
(C)	Period 3		3 [0-4]		0 [0-4]
		Shall open on the first Tuesday following the opening of period two and continue for 4 consecutive days.			
(D)	Period 4		0 [0-4]		2 [0-4]
		Shall open on the first Thursday following the opening of period three and continue for 4 consecutive days.			
(7)(A)	Fort Hunter Liggett General Public General Methods Apprentice	0 [0-2]	0 [0-8]		
		Shall open on the third Saturday in December and continue for 46 <u>12</u> consecutive days.			

(w) Department Administered Archery Only Hunts					
(1)(A)	Northeast California Archery Only	0	0	40 [0-20]	
		Shall open on the Wednesday preceding the first Saturday in September and continue for 12 consecutive days.			
(2)(A)	Owens Valley Multiple Zone Archery Only	3 [0-10]	0 [0-5]		
		Shall open on the second Saturday in August and extend for 9 consecutive days.			
(3)(A)	Lone Pine Archery Only Period 1	0 [0-10]	4 [0-30]		
		Shall open on the second Saturday in September and extend for 16 consecutive days.			
(4)(A)	Tinemaha Archery Only Period 1	0 [0-10]	0 [0-30]		
		Shall open on the second Saturday in September and extend for 16 consecutive days.			
(5)(A)	Whitney Archery Only Period 1	0 [0-10]	0 [0-30]		
		Shall open on the second Saturday in September and extend for 16 consecutive days.			
(6)(A)	Fort Hunter Liggett General Public Archery Only Either Sex			3 [0-10]	
		Shall open on the last Wednesday <u>Saturday</u> in July and continue for 9 consecutive days.			
(B)	Fort Hunter Liggett General Public Archery Only Antlerless		-4[0-10]		
		Shall open on the Tuesday preceding the fourth Thursday <u>Second Saturday</u> in November and continue for 9 consecutive days.			
(x) Department Administered Muzzleloader Only Tule Elk Hunts					
(1)(A)	Bishop Muzzleloader Only Period 1	0 [0-10]	0 [0-30]		
		Shall open on the second Saturday in September and extend for 16 consecutive days.			
(2)(A)	Independence Muzzleloader Only Period 1	4 [0-10]	0 [0-10]		
		Shall open on the second Saturday in September and extend for 16 consecutive days.			
(3)(A)	Goodale Muzzleloader Only Period 1	0 [0-10]	4 [0-10]		
		Shall open on the second Saturday in September and extend for 16 consecutive days.			

(4)(A)	Fort Hunter Liggett General Public Muzzleloader Only	4 [0-10]	0 [0-10]		
		Shall open on the third <u>fourth</u> Saturday in December <u>November</u> and continue for 17 <u>9</u> consecutive days.			
(y) Department Administered Muzzleloader/Archery Only Hunts					
(1)(A)	Marble Mountain Muzzleloader/Archery Roosevelt Elk			5 [0-20]	
		Shall open on the last Saturday in October and extend or 9 consecutive days.			
(z) Fund Raising Elk Tags					
(1)(A)	Multi-zone Fund Raising Tags	1			
		Siskiyou and Marble Mountains Roosevelt Elk Season shall open on the Wednesday preceding the first Saturday in September and continue for 19 consecutive days. Northwestern Roosevelt Elk Season shall open on the last Wednesday in August and continue for 30 consecutive days. Northeastern Rocky Mountain Elk Season shall open on the Wednesday preceding the last Saturday in August and continue for 33 consecutive days. La Panza Tule Elk Season shall open on the first Saturday in October and extend for 65 consecutive days.			
(2)(A)	Grizzly Island Fund Raising Tags	1			
		Shall open on the first Saturday in August and continue for 30 consecutive days.			
(3)(A)	Owens Valley Fund Raising Tags	1			
		Shall open on the last Saturday in July and extend for 30 consecutive days.			
(aa) Military Only Tule Elk Hunts					
(1)(A)	Fort Hunter Liggett Military Only General Methods Early Season	0 [0-2]	0 [0-2]		
		The early season shall open on the second Monday in August and continue for 5 consecutive days and reopen on the fourth Monday in August and continue for 5 consecutive days.			

(B)	Period 1		0 [0-16]		
		Shall open on the first Thursday in November and continue for 9 consecutive days.			
(C)	Period 2		0 [0-14]		
		Shall open November 22 and continue for 9 consecutive days.			
(D)	Period 3	0 [0-14]			
		Shall open on the third Saturday in December and continue for 16 <u>12</u> consecutive days			
(2)(A)	Fort Hunter Liggett Military Only General Methods Apprentice	0 [0-2]	0 [0-8]		
		Shall open on the third Saturday in December and continue for 16 <u>12</u> consecutive days.			
(3)(A)	Fort Hunter Liggett Military Only Archery Only Either sex			3 [0-6]	
		Shall open on the last Wednesday <u>Saturday</u> in July and continue for 9 consecutive days.			
(B)	Antlerless		4 [0-10]		
		Shall open on the last Wednesday in September and continue for 9 consecutive days. <u>Shall open on the Second Saturday in November and continue for 9 consecutive days.</u>			
(4)(A)	Fort Hunter Liggett Military Only Muzzleloader Only	4 [0-6]			
		Shall open on the third Saturday in December <u>November</u> and continue for 17 <u>9</u> consecutive days.			

Note: Authority cited: Sections 200, 203, 203.1, 265, 332 and 1050, Fish and Game Code. Reference: Sections 332, 1050, 1570, 1571, 1572, 1573 and 1574, Fish and Game Code.

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 364.1
Title 14, California Code of Regulations
Re: SHARE Elk Hunts

I. Date of Initial Statement of Reasons: November 15, 2018

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing:	Date:	December 13, 2018
	Location:	Oceanside, CA
(b) Discussion Hearing:	Date:	February 6, 2019
	Location:	Sacramento, CA
(c) Adoption Hearing:	Date:	April 17, 2019
	Location:	Los Angeles, CA

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The Fish and Game Commission (Commission) periodically considers the recommendations of the Department of Fish and Wildlife (Department) in establishing elk regulations. Section 364.1 identifies hunting zones, season opening and closing dates, and tag quotas for SHARE Elk Hunts.

In order to maintain appropriate harvest levels and hunting quality it is necessary to periodically adjust tag quotas (total number of hunting tags to be made available) in response to dynamic environmental and biological conditions. Current regulations in Section 364.1 specify elk license tag quotas for each hunt zone in accordance with management goals and objectives.

1. Number of Tags

Proposed amendments to Section 364.1 will establish new tag quotas to adjust for periodic fluctuations in elk populations. The proposed tag quotas are presented within ranges shown in brackets, e.g. [0-4], in the tables of the amended Regulatory Text (subsections 364.1(i) through (l)) attached to this Initial Statement of Reasons. The ranges allow the final number of tags to be determined based on the analysis of survey and harvest data from the 2018-19 hunt season. These results are anticipated in the spring of 2019 and a final analysis will support the Department's recommendation for the number of tags to

be allocated to each hunt prior to the Commission's adoption hearing in April 2019.

The Shared Habitat Alliance for Recreational Enhancement (SHARE) Program private property elk hunts correspond with elk hunt zones identified in Section 364. These regulations authorize SHARE elk hunts with separate seasons and tag quotas. The SHARE program will issue tags under the Department's existing tag distribution procedures.

The proposed ranges for elk tags for 2019 are presented in the proposed Regulatory Text of Section 364.1.

(b) Goals and Benefits of the Regulations:

The proposed regulations will contribute to the sustainable management of elk populations and relieve depredation damage to land owners in California. The final values for the license tag numbers will be based upon findings from annual harvest and herd composition counts where appropriate.

(c) Authority and Reference:

Authority: Sections 332 and 1050, Fish and Game Code.

Reference: Sections 332, 1050 and 1574, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None.

(e) Identification of Reports or Documents Supporting Regulation Change: None

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

This proposal was discussed at the Wildlife Resources Committee Meeting on September 20, 2018 and a public scoping session will be held in November 2018.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

The no-change alternative was considered and rejected because it would not attain project objectives. Elk hunts and opportunity must be adjusted periodically in response to a variety of environmental and biological conditions including forage availability, population structure, and over-winter survival rates. Elk populations have increased and landowner conflicts have also escalated in

several areas. Adjusting tag quotas provides for appropriate harvest levels within the hunt zones.

- (c) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business: None.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action

This proposed action adjusts tag quotas in an effort to meet management goals and provide hunting opportunities for the public. Given the number of tags available, and the area over which they are distributed, this proposal is economically neutral to business.

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, 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 Commission anticipates no to minor positive impacts on the creation or elimination of jobs within the state, and no impact on the creation of new business, the elimination of existing businesses or the expansion of businesses in California as minor variations in hunting regulations are, by themselves, unlikely to provide a substantial enough economic stimulus to the state. The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources. The proposed action will not provide benefits to worker safety. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources.

- (c) Cost Impacts on Representative Private Persons or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) 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.

VII. Economic Impact Assessment

The proposed action will have no statewide economic or fiscal impact because the proposed action would not constitute a significant change from the 2018 elk season. The number of tags to be set in regulation for 2019 is intended to achieve or maintain the levels set forth in the approved management plans and environmental documents to sustainably manage elk populations and maintain hunting opportunities in subsequent seasons.

- (a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

Little to minor positive impacts on the creation of jobs within businesses that provide services to elk hunters may result from the adoption of the proposed SHARE elk hunting regulations for the 2019-20 season.

- (b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The proposed regulation is not anticipated to prompt the creation of new businesses or the elimination of existing businesses within the state. Minor variations in regulations pertaining to hunting are, by themselves, unlikely to stimulate the creation of new businesses or cause the elimination of existing businesses. The number of hunting trips and the economic contributions from the trips are not expected to change substantially.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The proposed SHARE elk tag quotas are, by themselves, unlikely to stimulate substantial expansion of businesses currently doing business in the state. The long-term intent of the proposed regulations is to sustainably manage elk populations, and consequently, the long-term viability of various businesses that serve recreational elk hunters.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

Hunting is an outdoor activity that can provide several health and welfare benefits to California residents. Hunters and their families benefit from fresh game to eat, and from the benefits of outdoor recreation, including exercise. People who hunt have a special connection with the outdoors and an awareness of the relationships between wildlife, habitat, and humans. With that awareness comes an understanding of the role humans play in being caretakers of the environment. Hunting is a tradition that is often passed from one generation to the next creating a special bond between family members and friends.

(e) Benefits of the Regulation to Worker Safety:

The proposed regulation will not affect worker safety.

(f) Benefits of the Regulation to the State's Environment:

As set forth in Fish and Game Code section 1700, it is the policy of the state to encourage the conservation, maintenance, and utilization of fish and wildlife resources for the benefit of all the citizens of the state. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of elk to ensure their continued existence and the maintenance of a sufficient resource to support recreational opportunity. Adoption of scientifically-based elk seasons and tag quotas provides for the maintenance of sufficient elk populations to ensure those objectives are met. The fees that hunters pay for licenses and tags fund wildlife conservation.

(g) Other Benefits of the Regulations:

The SHARE Program provides incentives to private land owners to allow public access.

DRAFT

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations in Section 364.1, SHARE Elk Hunts, T14, CCR, specify elk tag quotas for each hunt area. In order to achieve elk herd management goals and objectives and maintain hunting quality, it is periodically necessary to adjust quotas in response to dynamic environmental and biological conditions.

Preliminary tag quota ranges are indicated pending final 2019 tag allocations in accordance with elk management goals and objectives. Survey data collected between August 2018 and March 2019 will be the basis for the number of tags recommended to the Commission at the April 2019 adoption hearing.

The preliminary tag quota ranges for 2019 are found in the proposed Regulatory Text of Section 364.1.

Benefits of the regulations:

The proposed regulations will contribute to the sustainable management of elk populations and relieve depredation damage to landowners in California. The final number of tags will be based upon findings from annual harvest and herd composition counts where appropriate

Non-monetary benefits to the public:

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

Evaluation of Incompatibility with existing regulations:

The Fish and Game Commission, pursuant to Fish and Game Code Sections 200 and 203, has the sole authority to regulate elk hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to elk tag allocations are consistent with Title 14. Therefore, the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

DRAFT

REGULATORY TEXT

Section 364.1 is amended to read:

§ 364.1. Department Administered Shared Habitat Alliance for Recreational Enhancement (SHARE) Elk Hunts

. . . [No changes subsections (a) through (h)]

§	(A) Hunts	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags
		(B) Area			
(i) Department Administered SHARE Roosevelt Elk Hunts					
(1)	Siskiyou	2 [0-10]	2 [0-10]		
		(B) Area: The tag shall be valid in the area described in subsection 364(a)(1)(A).			
(2)	Northwestern	7 [0-18]	13 [0-32]	0 [0-5]	
		(B) Area: The tag shall be valid in the area described in subsection 364(a)(2)(A).			
(3)	Marble Mountain	0 [0-10]	0 [0-15]		
		(B) Area: The tag shall be valid in the area described in subsection 364(a)(3)(A).			
(j) Department Administered General Methods SHARE Rocky Mountain Elk Hunts					
(1)	Northeast California	0 [0-10]	0 [0-10]		
		(B) Area: The tag shall be valid in the area described in subsection 364(b)(1)(A).			
(k) Department Administered SHARE Roosevelt/Tule Elk Hunts					
(1)	Mendocino	2 [0-4]	4 [0-4]		
		(B) Area: The tag shall be valid in the area described in subsection 364(c)(1)(A).			
(l) Department Administered SHARE Tule Elk Hunts					
(1)	Cache Creek	4 [0-2]	4 [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(1)(A).			

(2)	La Panza	5 [0-10]	40 [0-10]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(2)(A).			
(3)	Bishop	0 [0-2]	0 [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(3)(A).			
(4)	Independence	0 [0-2]	0 [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(4)(A).			
(5)	Lone Pine Period 2	0 [0-2]	0 [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(5)(A).			
(6)	Tinemaha	0 [0-2]	0 [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(6)(A).			
(7)	West Tinemaha	0 [0-2]	0 [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(7)(A).			
(8)	Tinemaha Mountain	0 [0-2]			
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(8)(A).			
(9)	Whitney	0 [0-2]	0 [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(9)(A).			
(10)	Goodale	0 [0-2]	0 [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(10)(A).			
(11)	Grizzly Island	0 [0-2]	0 [0-10]		0 [0-10]
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(11)(A).			
(12)	Fort Hunter Liggett	0 [0-4]	0 [0-4]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(12)(A).			
(13)	East Park Reservoir	4 [0-6]	4 [0-6]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(13)(A).			

(14)	San Luis Reservoir	2 [0-5]	3 [0-5]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(14)(A).			
(15)	Bear Valley	4 [0-2]	4 [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(15)(A).			
(16)	Lake Pillsbury	0 [0-4]	0 [0-4]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(16)(A).			
(17)	Santa Clara	0 [0-2]			
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(17)(A).			
(18)	Alameda	0 [0-2]			
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(18)(A).			

Note: Authority cited: Sections 332 and 1050, Fish and Game Code.

Reference: Sections 332, 1050 and 1574, Fish and Game Code.

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 708.6
Title 14, California Code of Regulations
Re: Tag Countersigning and Transporting Requirements

I. Date of Initial Statement of Reasons: November 15, 2018

II. Dates and Locations of Scheduled Hearings

- | | | |
|-------------------------|-----------|-------------------|
| (a) Notice Hearing: | Date: | December 13, 2018 |
| | Location: | Oceanside |
| (b) Discussion Hearing: | Date: | February 6, 2019 |
| | Location: | Sacramento |
| (c) Adoption Hearing: | Date: | April 17, 2019 |
| | Location: | Los Angeles |

III. Description of Regulatory Action

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Critical to the management of California's game populations is the countersigning of deer and elk tags indicating that the animal has been legally taken and transported from the hunting area. Countersigning is done by an authorized person who physically signs their name to the tag attached to the deer or elk carcass. In subsection 708.6(c) it is necessary to clarify for the public and law enforcement that "firefighters employed on a full-time basis" are authorized to countersign, in addition to the other authorized persons listed in 708.6. Part time, volunteer, or other fire station personnel are not included and cannot countersign the tag.

The terms "validate" and "countersign" are currently used interchangeably throughout this section. Countersigning deer and elk tags involves having a designated person physically sign their name to the actual tag attached to the deer or elk carcass. The statute in 4341 FGC specifies that:

"Any person legally killing a deer in this state shall have the tag countersigned by ... a person designated for this purpose".

Section 708.11, Title 14, CCR, specifies that

"... Elk tags shall be countersigned before transporting such elk, except for the purpose of taking it to the nearest person authorized to countersign the license tag...."

Deer and Elk License Tags also specify, respectively, that

“Hunter must have tag countersigned” and “Elk tags must be countersigned”

For this reason, the proposed amendments clarify that “countersign (-ed, -ing, etc.)” is the required action, and removes text references to “validate (-ed, -tion, etc.)”. Other minor edits and renumbering are also proposed.

Deer and elk hunting is a highly regulated activity by both statute and regulation. It serves the public to have control over the number of game tags authorized for hunters in certain zones and, once game are taken by hunters, to have them properly accounted for. The first tool wildlife managers use to account for game harvest is the countersign requirement per subsection 708.6(b). Wildlife officers who frequently conduct poaching investigations and need to differentiate between a poached and legally taken deer or elk will check for the proper use of tags. Poached game is rarely properly tagged and countersigned, so it can be an excellent piece of evidence during a poaching investigation. If the tag is countersigned by an authorized person, it can also be a vital piece of evidence in an investigation because there is a named potential witness to the poaching event.

The data collected by hunters and submitted via mandatory reporting, including having those tags, is critical to managing deer and elk populations year-to-year and contributes to the continued availability of deer and elk hunting opportunities.

The Department recognizes the challenge for a person who returns from a successful hunting trip and needs the tag countersigned and must take the game to the nearest person authorized to countersign the license tag on the route followed from the point where the game was taken. Section 708.6 provides a list of persons authorized to validate deer and elk tags. Those classifications of employees of various governmental and non-governmental employers presumes some form of accountability since the authorization is granted as a condition of their employment. There is a presumption that the employees will exercise that authority in accordance with regulation.

Under existing regulation, a certain classification of firefighter is authorized to countersign tags. Section 708.6(c)(1)(C)1. describes them as “County Firemen at and above the class of foreman”. Outside of Department of Fish and Wildlife employees and offices, fire stations are the most commonly known places for hunters to have game tags countersigned. For that reason, all California Department of Forestry and Fire Protection (CALFIRE) employees, regardless of rank or job duties, are authorized to validate tags.

Since this regulation was adopted (2011) there has been a long standing assumption by the public that all firefighters can countersign game tags regardless of rank, or whether they work for a county, city, or district. Unfortunately, current regulation does not authorize non-county firefighters to validate tags.

Proposed Amendments to Regulation

- Subsections (a), and (c). The proposed amendments clarify that the authorized persons “countersign” as the required action. Reference to “validation” of the tags is removed. While the terms have been used interchangeably, the Fish and Game Code 4341 (deer) and Section 708.11, Title 14, CCR, (elk) and the license tags themselves all require that the tag be “countersigned”.
- Subsection (b) is deleted and rewritten as (d).
- Subsection (c) is deleted since it is repetitive of the next subsection (c)(1).
- Subsection (c)(1) is renumbered (c).
- Subsections (c)(1)(A), (B), and (C) are renumbered (c)(1), (2), and (3), with minor editorial changes. In (c)(3) the department acronym CALFIRE is added for clarity.
- Subsections (c)(1)(a)4. and 5. the outdated state job titles of Plant Quarantine Inspectors are deleted and replaced with (c)(1)(D) and the current job titles.
- Subsection (c)(1)(C)1. is deleted and changed to (c)(3)(A) adding “Firefighters employed on a full-time basis, only when the deer or elk carcass is brought to their fire station.”
- Subsection (d) is added.
- Authority and Reference. Deletes repealed or unnecessary sections, the remaining sections are more closely related to FGC authority; and making specific those provisions related to the subject of regulating deer and elk tags.

Department Recommendation

The Department believes it is reasonable to expand the category of firefighter that can countersign game tags by amending the subsection to describe them as “firefighters employed on a full-time basis”. Describing them as firefighters updates the outdated use of the term “firemen” and expands the classification of ranks to include all firefighters employed on a full-time basis. It continues to exclude volunteer firefighters who may not have the same level of accountability as full-time firefighters which is consistent with current regulation. It maintains existing regulatory requirements that the authority be granted only to deer and elk brought to a fire station.

Wildlife managers and law enforcement officers from the Department believe expanding the authority to countersign tags to include all firefighters will make it easier for the public to follow the law and increase the number of reliable witnesses in the event of an investigation of poaching.

(b) Goals and Benefits of the Regulation:

Wildlife managers and law enforcement officers from the Department believe expanding the authority to countersign tags to include all firefighters will make it easier for the public to follow the law and increase the number of reliable witnesses in the event of an investigation of poaching.

(c) Authority and Reference Sections from Fish and Game Code for Regulation:

Note: Authority cited: Sections 200, 203, 332, and 4331, Fish and Game Code.

Reference: Sections 332, 4302, 4330, 4333, 4336, 4340, and 4341, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None.

(e) Identification of Reports or Documents Supporting Regulation Change:

A regulation change petition was submitted to the California Fish and Game Commission in October of 2016 – labeled 2016-028. The author of the petition, Sean Campbell, a firefighter who had been countersigning tags for 30 years, stopped providing this public service because there was confusion over the term “foreman”. Members of his fire department wanted to stay in strict compliance with the regulation and the petition was submitted to the Commission requesting clarification.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

The regulation change proposal was reviewed by the Wildlife Resources Committee on September 20, 2018 and garnered no public opposition.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change: None.

(b) No Change Alternative:

The regulation would remain the same authorizing county firemen to countersign but excluding other firefighters, which has caused problems with the public who assume their local fire department can perform this task.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no adverse impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

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 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 will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action expands the list of authorized firefighters able to perform a service for the public.

- (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 regulation will not result in the creation or elimination of jobs within the state, cause the creation of new businesses or the elimination of existing businesses or result in the expansion of businesses in California, because it only expands the list of authorized firefighters able to perform a service for the public.

The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources, these provisions provide other opportunities for the public to comply with the regulation of hunting.

- (c) Cost Impacts on Representative Private Persons/Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

The proposed action will have no statewide economic or fiscal impact because the proposed action would implement a Departmental administrative process to increase efficiency that will only affect the work tasks of Department and Commission staff.

- (e) Other Nondiscretionary Costs/Savings to Local Agencies: No nondiscretionary costs are passed on to local agencies (city, district, or county fire departments) since the authorized action of countersigning the deer or elk tag is entirely discretionary to the local firefighter and department. No costs have been associated with the occasional public request to have a tag countersigned by the listed public officials.
- (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.

VII. Economic Impact Assessment:

The proposed action will have no statewide economic or fiscal impact because the proposed action would implement a Departmental administrative process to increase efficiency that will only affect the work tasks of Department and Commission staff. The proposed alternative process to set big game tag quotas would reduce the annual regulatory workload, and permit both the Commission and the Department to devote staff resources to achieve other core missions.

- (a) Effects of the regulation on the creation or elimination of jobs within the State:

The regulation will not affect the creation or elimination of jobs because the proposed action does not change the level of hunting activity in California.

- (b) Effects of the regulation on the creation of new businesses or the elimination of existing businesses within the State:

The regulation will not promote the creation of new businesses or the elimination of businesses within the State because the proposed action does not change the level of hunting activity in California.

- (c) Effects of the regulation on the expansion of businesses currently doing business within the State:

The regulation will not affect the expansion of businesses currently doing business in the State because the proposed action does not change the level of hunting activity in California.

- (d) Benefits of the regulation to the health and welfare of California residents:

The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources.

- (e) Benefits of the regulation to worker safety:

The proposed regulation would not affect worker safety.

- (f) Benefits of the regulation to the State's environment:

It is the policy of the State to encourage the conservation, maintenance, and utilization of the living resources. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources, these provisions provide other opportunities for the public to comply with the regulation of hunting.

DRAFT

Informative Digest/Policy Statement Overview

Critical to the management of California's game populations is the countersigning requirement of deer and elk tags by an authorized person who physically signs their name to the tag attached to the deer or elk carcass. In subsection 708.6(c), Title 14, CCR, Deer and Elk Tags, Persons Authorized to Validate, it is necessary to clarify for the public and law enforcement that "firefighters employed on a full-time basis" are authorized to countersign, an addition to the other authorized persons found in 708.6(c). Part time, volunteer, or other fire station personnel are not included and cannot sign the tag. The added text maintains the existing regulatory requirement that the countersigning may be done only for deer and elk brought to a fire station.

Wildlife managers and law enforcement officers from the Department believe expanding the authority to countersign tags to include all firefighters will make it easier for the public to follow the law and increase the number of reliable witnesses in the event of an investigation of poaching.

The amendment also clarifies that the authorized persons "countersign" as the required action; corrects outdated state job titles of Plant Quarantine Inspector; clarifies that the provisions apply both to deer and elk tags; and other minor editorial changes.

Non-monetary Benefits to the Public

The Commission anticipates benefits to the health and welfare of California residents through the sustainable management of mammal populations. The Commission does not anticipate non-monetary benefits to worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources, these provisions provide other opportunities for the public to comply with the regulation of hunting.

Consistency and Compatibility with Existing Regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to Section 708.6 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate hunting regulations.

Proposed Regulatory Language

Section 708.6 is amended to read:

§ 708.6. Tag Validation, Countersigning and Transporting Requirements.

(a) Any person legally killing a deer in this state shall have the deer license tag ~~validated and countersigned~~ by a person authorized by the commission as described ~~below in subsection (c)~~ before transporting such deer, except for the purpose of taking the deer to the nearest person authorized to countersign the license tag, on the route being followed from the point where the deer was taken (refer to Fish and Game Code, Section 4341).

~~(b) No person may validate or countersign his/her own deer tag or tag.~~

(b) Any person legally killing an elk in this state shall have the elk license tag countersigned by a person authorized by the commission as described in subsection (c) before transporting such elk, except for the purpose of taking the elk to the nearest person authorized to countersign the license tag, on the route being followed from the point where the elk was taken.

~~(c) Deer and Elk Tags, Persons Authorized to Validate Countersign.~~

~~(1)(c)~~ The following persons are authorized to ~~validate or countersign~~ deer and elk tags:

~~(A)(1)~~ State:

~~1.(A)~~ Fish and Game Commissioners

~~2.(B)~~ Employees of the Department of Fish and Game Wildlife, including Certified Hunter Education Instructors

~~3.(C)~~ Employees of the California Department of Forestry and Fire Protection (CAL FIRE)

~~4. Supervising Plant Quarantine Inspectors~~

~~5. Junior, Intermediate and Senior Plant Quarantine Inspectors~~

(D) Plant Quarantine Inspector, Supervisor I, and Supervisor II

~~(B)(2)~~ Federal:

~~1.(A)~~ Employees of the Bureau of Land Management

~~2.(B)~~ Employees of the United States Fish & Wildlife Service

~~3.(C)~~ All Uniformed Personnel of the National Park Service

~~4.(D)~~ Commanding Officers of any United States military installation or their designated personnel for deer or elk taken on their reservation.

~~5. (E)~~ Postmasters & Post Office Station or Branch Manager for deer or elk brought to their post office.

~~(C)~~ (3) Miscellaneous:

~~1. County firemen at and above the class of foreman for deer brought into their station.~~

(A) Firefighters employed on a full-time basis, only when the deer or elk carcass is brought to their fire station.

~~2. (B)~~ Judges or Justices of all state and United States courts.

~~3. (C)~~ Notaries Public

~~4. (D)~~ Peace Officers (salaried & non-salaried)

~~5. (E)~~ Officers authorized to administer oaths

~~6. (F)~~ Owners, corporate officers, managers or operators of lockers or cold storage plants for deer or elk brought to their place of business.

(d) No person may countersign his/her own deer tag or elk tag.

Note: Authority cited: Sections 200, 202, 203, 215, 219, 220, 332, 1050, 1572, 4302, and 4331, 4336, 4340, 4341 and 10502, Fish and Game Code. Reference: Sections 200, 201, 202, 203, 203.1, 207, 210, 215, 219, 220, 332, 1050, 1570, 1571, 1572, 3950, 4302, 4330, 4331, 4332, 4333, 4336, 4340, and 4341, 10500 and 10502, Fish and Game Code.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON Margaret.Duncan	EMAIL ADDRESS @wildlife.ca.gov	TELEPHONE NUMBER 916-653-4676
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Mammal Regulations for 2019-2020			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

Minor amendments to hunting regulations with no private sector costs.***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.******If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total
businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with
other states by making it more costly to produce goods or services here?☐ YES☐ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____
- a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- d. Describe other economic costs that may occur: _____
2. If multiple industries are impacted, enter the share of total costs for each industry: _____
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ _____
4. Will this regulation directly impact housing costs? ☐ YES ☐ NO
If YES, enter the annual dollar cost per housing unit: \$ _____
Number of units: _____
5. Are there comparable Federal regulations? ☐ YES ☐ NO
Explain the need for State regulation given the existence or absence of Federal regulations: _____
Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____
2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?
Explain: _____
3. What are the total statewide benefits from this regulation over its lifetime? \$ _____
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**SAM Section 6601-6616

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NO

Explain: _____

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.**California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.*1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO*If YES, complete E2. and E3**If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☒ NO*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____
Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____
Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each; _____

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

Instructions and Code Citations:

SAM Section 6601-6616**FISCAL IMPACT STATEMENT (CONTINUED)****B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE



DATE

11/5/18

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

11/29/18

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

DRAFT

2018 NOV 21 AM 8:00

Memorandum

Date: November 15, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Submittal of Initial Statement of Reasons to Amend Section 354, Title 14, California Code of Regulations (CCR), Archery Equipment and Crossbow Regulations**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publishing notice of its intent to amend Section 354, Title 14, CCR. The Department is proposing two changes:

1. Requiring a bow draw weight of at least 40 pounds and crossbow draw weight of at least 125 pounds.
2. Expansion of the authorization to possess a concealable firearm to anyone during an archery only season or under an archery only tag, while hunting any big game except deer, who is otherwise not legally prohibited from possessing a firearm. The change would continue to prohibit possession of non-concealable firearms and use of the firearm for purposes of take.

If you have any questions regarding this item, please contact Patrick Foy, Captain, Law Enforcement Division. The public notice for this rulemaking should identify Captain Foy as the Department's point of contact and can be reached at (916) 651-6692 or via email at Patrick.Foy@wildlife.ca.gov.

Attachment

cc: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

David Bess, Chief
Law Enforcement Division
David.Bess@wildlife.ca.gov

Patrick Foy, Captain
Law Enforcement Division
Patrick.Foy@wildlife.ca.gov

Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission
November 15, 2018
Page 2

Kari Lewis, Branch Chief
Wildlife Branch
Kari.Lewis@wildlife.ca.gov

Brad Burkholder, Program Manager
Wildlife Branch
Brad.Burkholder@wildlife.ca.gov

Michelle Selmon, Program Manager
Regulations Unit
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Regulations Unit
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STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 354
Title 14, California Code of Regulations
Re: Archery Equipment and Crossbow Regulations

I. Date of Initial Statement of Reasons: November 15, 2018

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing: Date: December 12-13, 2018
 Location: Oceanside

(b) Discussion Hearing: Date: February 6-7, 2019
 Location: Sacramento

(c) Adoption Hearing: Date: April 17-18, 2019
 Location: Los Angeles

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The California Department of Fish and Wildlife (Department) proposes two amendments to Section 354, which are related to law enforcement:

First, the provision in subsection 354(f) requires that a bow “cast a legal hunting arrow ... 130 yards”, however the Department has experienced difficulties enforcing this performance standard. There is a need for clarification of the regulation to require that archery equipment be strong enough to project an arrow at a rate that it will be lethal to the game mammal and also be enforceable. For clarity, the Department proposes requiring a bow draw weight of at least 40 pounds and crossbow draw weight of at least 125 pounds to make it practical to demonstrate in the field and in a courtroom. Draw weight as used in archery sports is the measure of force required to draw the bow to a ready-to-fire position.

Second, the provision in subsection 354(h) states that “archers may not possess a firearm while hunting in the field during any archery season, or while hunting during a general season under the provisions of an archery only tag.” The subsection also provides an exception, by reference to Fish and Game Code (FGC) 4370, which permits peace officers to carry a concealed firearm. The Department proposes an amendment allowing possession of a concealable firearm while hunting big game other than deer under the authority of an archery only tag, provided the hunter does not use that firearm in any way

to take the game animal. Regarding deer hunting, Fish and Game Code section 4370(a) provides that, except for peace officers identified in Fish and Game Code section 4370(b), “a person taking or attempting to take deer during such archery season shall neither carry, nor have under his or her immediate control, any firearm of any kind.” Thus, to comply with Fish and Game Code section 4370, the proposed regulation change to allow possession of a concealed firearm while archery hunting extends to hunting big game other than deer.

Bow Draw Weight

Ethical bow hunting requires that a bow to be strong enough to project an arrow at a rate that it will inflict the maximum damage to the game mammal in the interest of killing it quickly to minimize suffering of that animal. As currently provided in subsection 354(f), a bow that can cast an arrow at least 130 yards is an example of a bow that is ethical to use because it generates enough force to quickly kill the game animal. However, demonstrating that a bow hunter may be using a bow suspected of being less than capable of casting an arrow 130 yards is impractical for both the archer and law enforcement. Testing in the field is difficult, and demonstrating the bow’s strength in a courtroom is impractical.

The regulation change would serve to clarify the regulation for hunters and to simplify law enforcement efforts by Wildlife Officers. Research has been done by other state wildlife management agencies to determine a draw weight that generates enough force to quickly kill the game animal. The proposed amendment identifies a minimum draw weight, similar to what regulations in other western states require (see table, below).

Table: Minimum Draw Weight (lbs.)

<u>State</u>	<u>Bow</u>	<u>Crossbow</u>
Washington	40	125
Idaho	40	150
Nevada	40	125
Arizona	30	125

The recommended minimum draw weight of 40 pounds for bows and 125 pounds for crossbows is sufficient to meet the ethical standard.

The widely accepted method of measuring a bow’s draw weight has been to use a device called a bowscale. A bowscale is very similar to a simple scale commonly used to measure the weight of suitcases. They are inexpensive and widely available for the hunter to use to assure the bow is in compliance with regulation. A wildlife officer can easily use a bowscale in the field for a compliance check or to demonstrate draw weight in a courtroom. In practical application, archers can have their equipment checked in a retail hunting store (usually without cost); bow hunters can acquire equipment that is

preset at a certain bow weight (included in the purchase); or the hunter can acquire a bow scale at a cost of \$10-20.

Concealable Firearms

Subsection 354(h), prohibits archers (bowhunters) from possession of a firearm while hunting under the authority of an archery only tag. An exception is made in Section 4370, Fish and Game Code, which authorizes possession of a concealable firearm by active or honorably retired peace officers. The proposed amendment would expand authorization to possess a concealable firearm to anyone, not just peace officers, and to comply with FGC Section 4370, would apply while hunting big game other than deer. The change would continue to prohibit possession of non-concealable firearms and use of the firearm for purposes of take.

Archery hunters are granted authority to hunt with an archery only tag prior to the general season in most places where hunting is authorized. The early season generally provides them an advantage over firearm hunters with respect to the fact there are fewer hunters, less firearms reports (noise) from areas where hunting is common, and less pressure on the game animal - deer in particular. Because of this advantage, the legislature passed FGC 4370 to authorize archery hunting while preventing illegal take of a deer via a firearm by providing an explicit prohibition for possession of a firearm while engaged in hunting with an archery only tag. Section 354(h) contains similar language prohibiting possession of a firearm with an archery only tag.

Since the original authorization of archery only hunting and the subsequent prohibition on possession of a firearm, the primary argument against the prohibition of possession of a firearm while archery hunting was for personal safety from potentially dangerous animals. The two primary animals described as possibly posing a threat are bears and mountain lions. Going back decades, there are very few examples of incidents where bowhunters have needed to protect themselves from dangerous animals in California's wild. But recently two examples exemplified a change in that pattern.

In the summer of 2018, there were two incidents involving archery hunters who were threatened by dangerous animals. One man shot a bear with an arrow and went to retrieve it. When he found the injured bear it attacked and severely mauled him. Wildlife officers discovered evidence to suggest he managed to get a shot off with another arrow at the attacking bear and it glanced off the bear's face. The bear ultimately died from its injuries and the man spent several days in the hospital recovering from the mauling. Another archery hunter was approached by a mountain lion coming directly at him. The man reported shouting at the mountain lion as scare tactic to no avail. The bowhunter exercised extraordinary poise considering the threat coming at him and managed draw an arrow and shoot it through the lion's eye socket – killing the mountain lion. He appropriately reported the incident to the Department. That extraordinarily accurate shot is not normal. The average bowhunter may have been off by a fraction of an inch and caused a glancing blow, and an unpredictable reaction from the lion.

An additional threat to bowhunters, and all hunters, has emerged over the last twenty years. The Department has seen a significant increase in the presence of members of international drug trafficking organizations who illegally cultivate marijuana on rural public and private lands. Thousands of such sites exist on the landscape. These illicit growers are usually well armed and are treated as potentially violent by law enforcement. Wildlife officers and members of allied agencies who work in the area of illegal marijuana cultivation enforcement have been forced into officer involved shootings at least once every year for many years while conducting illicit marijuana cultivation enforcement activities. Most illicit marijuana cultivation occurs off the trails and is on locations very difficult to reach by normal hikers and outdoor enthusiasts. However, hunters go places where many others do not venture and have an increased probability of contacting these potentially dangerous people.

The Department recommends an amendment to authorize archery hunters who wish to carry a concealable firearm, except while deer hunting.

(b) Goals and Benefits of the Regulation:

Section 354(f), Title 14, CCR is unenforceable and there is no way to apply the section in a courtroom to demonstrate a violation. As a result, the Department has no record of the citation ever being written in a database search of tens of thousands of citations written since September 2013. Amendments to require a minimum draw weight will make the regulation enforceable. It will benefit the hunting public and wildlife officers alike who would have an inexpensive, readily available means to measure draw weights of bows and crossbows to stay in compliance with the regulation. It would continue to ensure bowhunters and crossbow hunters are using equipment to maximize the chance of a humane kill.

Section 354(h), Title 14, CCR prohibits possession of a firearm while hunting with an archery only tag. With recent examples of a wildlife attack on an archery hunter and one narrowly avoided presumed attack, in addition to the ongoing threat posed by members of drug trafficking organizations, it is reasonable to amend the prohibition so that archery hunters may possess a concealable firearm while hunting big game other than deer (consistent with Fish and Game Code section 4370) so long as they do not use that firearm to take their game.

(c) Authority and Reference

Authority: Sections 200, 203, 240, and 265, Fish and Game Code.

Reference: Sections 200, 203, 203.1, 265, 2005, and 4370, Fish and Game Code, Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and Section 25455, Penal Code.

(d) Specific Technology or Equipment Required by Regulatory Change:

The proposed amendment to subsection 354(f) does not impose any requirement to purchase any specific equipment. For law enforcement purposes, the regulation

change would require the use of an inexpensive weight measuring device called a bowscale. The cost of this handheld device ranges between \$10 and \$20 based upon a survey of costs of spring or electronic scale devices commonly used for measuring suitcase weight and others marketed especially for bowhunters. Archery hunters usually set their bows at well above the minimum of what would be required by the proposed regulation. Usually, when a bowhunter purchases a bow for the first time, he or she has it strung with a bowstring, purchases arrows that are cut and matched with the bow and has the draw weight set. Archery hunters can have the draw weight checked for free at most stores that carry archery equipment or they can share a device.

(e) Identification of Reports or Documents Supporting Regulation Change:

The California Bowmen Hunters provided a report of all current archery hunting regulations from nine western states for comparison and as a basis for California to adopt similar regulations.

A formal regulation change petition was submitted to the Fish and Game Commission which was accepted and assigned the Tracking number 2017-001. The petition was submitted by Sean Brady as a representative of the National Rifle Association and the California Rifle and Pistol Association.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

Public discussion at the September 20, 2018, Wildlife Resources Committee of the Fish and Game Commission for the archery draw weight proposal generated no opposition to change the way bow draw weight is measured. Possession of a concealable firearm while archery hunting was not vetted at a public meeting.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change: None considered.

(b) No Change Alternative:

If the amendments are not adopted the regulations will remain the same.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action

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 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 will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed amendment would not directly or indirectly impose any regulation on businesses.

- (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 Commission anticipates no impacts on the creation or elimination of jobs within the state and no impact on the creation of new businesses or the elimination of existing businesses because the proposed amendment would not directly or indirectly impose any regulation on businesses. The Commission anticipates benefits to the health and welfare of California residents because the proposed amendment would enable the carrying of a firearm, while hunting big game other than deer (consistent with Fish and Game Code section 4370), in the event a person is threatened by a dangerous animal or person while archery hunting. The Commission does not anticipate impacts on worker safety. The Commission anticipates benefits to the State's environment by reducing non-lethal injuries to wildlife.

- (c) Cost Impacts on a Representative Private Person or Business:

The vast majority of hunters use bows that are set to a much higher draw weight than the proposed minimum set by the proposed regulation, so it would not affect them. A small percentage of hunters would choose to purchase a scale to measure their bow's draw weight to be sure they are in compliance with the law at a cost of about \$10 - \$20 each.

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

The proposed regulation would save many hours of investigative costs associated with a wildlife officer's attempt to prove a seized bow had insufficient strength to cast an arrow at least 130 yards. Time would be spent seizing the bow as evidence and documenting its seizure, finding a safe place to test the bow's ability to cast an arrow 130 yards, finding the arrow and measuring its flight distance once it is tested, then possibly returning the bow to the hunter at the direction of the court. Minimal hard costs to the Department would be associated with the proposed regulation change. California's wildlife officers who regularly work archery seasons may have

to purchase bow measuring devices. It is estimated that approximately a quarter of the state's wildlife officers, or about 100 would have to purchase them at a total one-time cost to the state of \$1,000 - \$2,000.

- (e) 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, Government Code: None.
- (h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

- (a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Commission anticipates no negative impacts on the creation or elimination of jobs within the state because the proposed action would not directly affect businesses or the demand for labor.

- (b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The Commission does not anticipate any effects of the proposed regulation on the creation of new businesses or the elimination of existing businesses within the state because it would not affect the demand for business products or services.

- (c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Commission does not anticipate any effects of the proposed regulation on the expansion of businesses currently doing business within the state because the proposed action would not affect the demand for business products or services.

- (d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission anticipates benefits of the regulation to the health and welfare of California residents because the proposed amendment would enable the carrying of a firearm for personal protection while archery hunting while hunting big game other than deer (consistent with Fish and Game Code section 4370).

- (e) Benefits of the Regulation to Worker Safety:

The Commission does not anticipate benefits to worker safety because the proposed amendment would not impact working conditions.

(f) Benefits of the Regulation to the State's Environment:

The Commission anticipates benefits to the State's environment by reducing non-lethal injuries to wildlife.

(g) Other Benefits of the Regulation: None.

DRAFT

Informative Digest/Policy Statement Overview

The California Department of Fish and Wildlife (Department) proposes two amendments to Section 354, Title 14, California Code of Regulations, which are related to law enforcement.

First, the provision in subsection 354(f) requires that a bow “cast a legal hunting arrow ... 130 yards”, however the Department has experienced difficulties enforcing this performance standard. There is a need for clarification of the regulation to require that archery equipment be strong enough to project an arrow at a rate that it will be lethal to the game mammal and also be enforceable. For clarity, the Department proposes requiring a draw weight of at least 40 pounds for a bow and 125 pounds for a crossbow to make it practical to demonstrate in the field and in a courtroom. Draw weight as used in archery sports is the measure of force required to draw the bow to a ready to fire position.

Second, the provision in subsection 354(h) states that “archers may not possess a firearm while hunting in the field during any archery season, or while hunting during a general season under the provisions of an archery only tag.” The subsection also provides an exception, by reference to Fish and Game Code 4370, which permits peace officers to carry a concealed firearm. The Department proposes an amendment allowing possession of a concealable firearm while hunting big game other than deer (consistent with Fish and Game Code section 4370) under the authority of an archery only tag, provided the hunter does not use that firearm in any way to take the game animal.

Non-monetary Benefits to the Public

The Commission anticipates benefits to the health and welfare of California residents through the sustainable management of mammal populations. The Commission does not anticipate non-monetary benefits to worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

Consistency and Compatibility with Existing Regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to Section 354 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate hunting regulations.

Proposed Regulatory Language

Section 354, Title 14, California Code of Regulations, is amended to read as follows:

§ 354. Archery Equipment and Crossbow Regulations.

. . . *[No changes to subsections (a) through (e)]*

(f) ~~No bow or crossbow may be used which will not cast a legal hunting arrow, except flu-flu arrows, a horizontal distance of 130 yards. It shall be unlawful to use any bow or crossbow without a draw weight of at least 40 pounds for a bow or 125 pounds for a cross bow.~~

(g) Except as described in subsection 354(j), crossbows may not be used to take game birds and game mammals during archery seasons.

(h) ~~Except as provided in subsection 353(g) of these regulations and in Section 4370 of the Fish and Game Code, archers may not possess a firearm while hunting in the field during any archery season, or while hunting during a general season under the provisions of an archery only tag. Archers may not use or possess a firearm while in the field engaged in archery hunting during an archery season or while hunting during a general season under the provisions of an archery only tag except as provided in subsections (h)(1) or (h)(2).~~

(1) An archer may carry a firearm capable of being concealed on his or her person while engaged in the taking of big game other than deer with a bow and arrow in accordance with subdivision (h), but shall not take or attempt to take big game with the firearm.

(2) Nothing in this section shall prohibit the lawful possession of a firearm capable of being concealed on his or her person by an active peace officer listed in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code or a retired peace officer in lawful possession of an identification certificate issued pursuant to Penal Code Section 25455 authorizing the retired officer to carry a concealed firearm.

. . . *[No changes to subsections (i) through (k)]*

Note: Authority cited: Sections 200, ~~202, 203, and 240~~, and 265, Fish and Game Code.
Reference: Sections 200, ~~202, 203, 203.1, 265, and 2005~~, and 4370, Fish and Game Code, Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and Section 25455, Penal Code.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

Instructions and Code Citations:

SAM Section 6601-6616**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON Margaret Duncan margaret.duncan	EMAIL ADDRESS @wildlife.ca.gov	TELEPHONE NUMBER 916-653-4676
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Archery Equipment and Crossbow Regulations			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input checked="" type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below): |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*2. The Fish and Game Commission estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☒ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: 0Describe the types of businesses (Include nonprofits): N/AEnter the number or percentage of total businesses impacted that are small businesses: N/A4. Enter the number of businesses that will be created: 0 eliminated: 0Explain: The proposed regulation will not impact businesses directly nor indirectly by any change in hunter expenditures.5. Indicate the geographic extent of impacts: ☒ Statewide☐ Local or regional (List areas): _____6. Enter the number of jobs created: 0 and eliminated: 0Describe the types of jobs or occupations impacted: N/A

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ YES☒ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 0 to (\$20xArchers)a. Initial costs for a small business: \$ 0 Annual ongoing costs: \$ 0 Years: 1b. Initial costs for a typical business: \$ 0 Annual ongoing costs: \$ 0 Years: 1c. Initial costs for an individual: \$ 0 or 10-\$20/scale* Annual ongoing costs: \$ 0 Years: 1d. Describe other economic costs that may occur: *While it is not necessary to comply with the proposed regulation, some individual archery hunters may choose to make a one-time purchase of a bowscale, that costs from \$10 to \$20 dollars.2. If multiple industries are impacted, enter the share of total costs for each industry: N/A3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements.
Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ N/A4. Will this regulation directly impact housing costs? ☐ YES ☒ NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☒ NOExplain the need for State regulation given the existence or absence of Federal regulations: FGC regulates the take of wildlife within the state.Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ no necessary new costs**C. ESTIMATED BENEFITS** *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: Increased enforceability of bow strength regulation.More humane archery hunting practice resulting in less suffering by game species.2. Are the benefits the result of: ☐ specific statutory requirements, or ☒ goals developed by the agency based on broad statutory authority?Explain: FGC code section 200 provides the Commission's Power to Regulate Taking of Fish and Game.3. What are the total statewide benefits from this regulation over its lifetime? \$ more humane hunting4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: N/A**D. ALTERNATIVES TO THE REGULATION** *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: No alternatives were considered.No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ unknown* Cost: \$ 1,000 - \$2,000Alternative 1: Benefit: \$ N/A Cost: \$ N/AAlternative 2: Benefit: \$ N/A Cost: \$ N/A

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:

*Specific draw weights for bow and cross bows will enable

increased enforceability of bow strength regulation. Benefits of which are difficult to quantify.

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?

☒ YES☐ NOExplain: The proposed regulation is a performance standard because archery hunters have the discretion to achieve the specified bow or cross-bow draw weight by a variety of chosen means.**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.**California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.*1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ YES ☐ NO*If YES, complete E2. and E3**If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☒ NO*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____

- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____

vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☒ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ 1,000 to \$2,000

It is anticipated that State agencies will:☒ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☒ 4. Other. Explain Up to 100 California Fish and Wildlife officers may choose to purchase portable draw weight bowscales that range in cost from

\$10 to \$20 each which would total to approximately \$1,000 to \$2,000 in the first fiscal year 2019/20.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE



DATE

11/27/18

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

11/29/18

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

DRAFT

STD399 CALCULATIONS WORKSHEET

Amend Section 354
Title 14, California Code of Regulations
Re: Archery Equipment and Crossbow Regulations

Fiscal Impact Statement

Section B. Fiscal Effect on State Government

Question 1. Additional expenditures in the next State Fiscal Year. (Approximate)
(FY 2019-20) \$1,000 - \$2,000

- a. Absorb these additional costs within their existing budgets and resources.

Question 4. Other. Explain

About one hundred CDFW officers may purchase and request reimbursement for bowscales to aid in the enforcement of the proposed regulation. Bowscales range in cost from \$10 to \$20 each which may result in an estimated \$1,000 - \$2,000 additional expenditure in the first fiscal year and approximately \$0 in the two subsequent fiscal years, as shown in Table 1. CDFW Annual Expenditures on Archery Bowscales.

Table 1. CDFW Annual Expenditures on Archery Bowscales.

CDFW Officers	Bowscale cost	BY 2019/20	BY 2020/21	BY 2021/22
100	\$10 - \$20	\$1,000 - \$2,000	\$0	\$0

DRAFT

2018 NOV -6 11:50

Memorandum

Date: November 15, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Submittal of Initial Statement of Reasons to Amend Section 502, Title 14, California Code of Regulations (CCR), Waterfowl, Migratory, American Coot and Common Moorhen; and Section 509, Title 14, CCR, Concurrence with Federal Regulations**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publication of notice of its intent to amend Sections 502 and 509, Title 14, CCR. The Department is proposing to amend Section 502 for the 2019-20 waterfowl season; and, amend Section 509 to include the Federal Electronic Duck Stamp as a valid means of compliance with regulations requiring possession of a Federal migratory-bird hunting and conservation stamp.

The Department is proposing three changes to the existing waterfowl regulations for the 2019-20 season:

1. Add Small Canada Geese to the Regular Season in subsection 502(d)(1)B for the Northeastern Zone;
2. Add Small Canada Geese to Season in subsection 502(d)(6) for the Klamath Basin Special Management Area;
3. Open the Late Season for white geese two weeks after the close of the Regular Season in subsection 502(d)(9) for the Imperial County Special Management Area.

The 2019 draft Environmental Document for Migratory Game Bird Hunting is under development and will be provided to the Commission prior to the discussion hearing.

If you have any questions regarding this item, please contact Kari Lewis, Wildlife Branch Chief, at (916) 445-3789. The public notice for this rulemaking should identify Senior Environmental Scientist, Melanie Weaver as the Department's point of contact. She can be reached at (916) 445-3717 or via email: Melanie.Weaver@wildlife.ca.gov.

Attachment

Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission
November 15, 2018
Page 2

ec: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

David Bess, Chief
Law Enforcement Division
David.Bess@wildlife.ca.gov

Kari Lewis, Chief
Wildlife Branch
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Melanie Weaver, Waterfowl Program Leader
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STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR PROPOSED REGULATORY ACTION

Amend Section 502
Title 14, California Code of Regulations
Re: Waterfowl, Migratory; American Coot and
Common Moorhen (Common Gallinule)

I. Date of Initial Statement of Reasons: November 5, 2018

II. Dates and Locations of Scheduled Hearings

- | | | |
|-------------------------|-----------|---------------------------|
| (a) Notice Hearing: | Date: | December 13, 2018 |
| | Location: | Oceanside, CA |
| (b) Discussion Hearing: | Date: | February 6, 2019 |
| | Location: | Sacramento, CA |
| (c) Adoption Hearing: | Date: | April 17, 2019 |
| | Location: | Los Angeles/Oceanside, CA |

III. Description of Regulatory Action

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The U.S. Fish and Wildlife Service (Service) annually establishes federal regulation frameworks (Frameworks) for migratory bird hunting. California must set its waterfowl hunting regulations within the Frameworks. These Frameworks describe the earliest dates that waterfowl hunting seasons may open, the maximum number of days hunting can occur, the latest dates that hunting seasons must close, and the maximum daily bag limit. The proposed hunting season Frameworks for a given year are developed in the fall of the prior year, for a majority of species and populations. For example, the breeding populations (including the California Breeding Population Survey) and habitat conditions observed in 2018 and the regulatory alternatives selected for the 2018 hunting season will be used to develop the Frameworks for the 2019-20 season.

States may make recommendations to change the Frameworks. These recommendations are made to Flyway Councils during August or September. The Councils may elect to forward recommendations to the Service. The Service may elect to incorporate proposed changes in the Frameworks. The Service considers these and other recommendations at the Service's Regulation Committee public meeting held in late October. Proposed season Frameworks are typically published by mid-December and final Frameworks published by late February.

Section 355 of the Fish and Game Code authorizes the Fish and Game Commission (Commission) to adopt annual regulations pertaining to the hunting of migratory birds that conform with, or further restrict, the regulations prescribed by the Service pursuant to its authority under the Migratory Bird Treaty Act. The Commission selects and establishes in State regulations the specific hunting season dates and daily bag limits within the Frameworks.

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and daily bag and possession limits. The proposed Frameworks for the 2019-20 season were approved by the Flyway Councils and will be considered for adoption at the Service's Regulations Committee meeting October 16-17, 2018. The proposed Frameworks allow for a liberal duck season which includes a 107 day season, 7 daily duck limit including 7 mallards but only 2 hen mallards, 1 pintail, 2 canvasback, 2 redheads, and 3 scaup (during an 86 day season). Duck daily bag limit ranges and duck season length ranges are provided to allow the Commission flexibility.

A range of season length and bag limit (zero bag limit represents a closed season) is also provided for black brant. The range is necessary, as the black brant Framework cannot be determined until the Pacific Flyway Winter Brant Survey is conducted in January 2019. The regulatory package is determined by the most current Winter Brant Survey, rather than the prior year survey. The regulatory package will be prescribed per the Black Brant Harvest Strategy pending results of the January survey, well before the adoption meeting. See tables in the Informative Digest for season and bag limits.

Lastly, Federal regulations require that California's hunting regulations conform to those of Arizona in the Colorado River Zone and those of Oregon in the North Coast Special Management Area.

The specific recommended regulation changes are:

- 1) Add Small Canada geese to the Regular Season in subsection 502(d)(1)(B) for the Northeastern California Zone.

The existing regulation only identifies Large Canada geese during the Regular Season. Small Canada geese were inadvertently omitted from the Regular Season when white-fronted goose seasons were modified in prior year rulemakings. Dark geese include both Small and Large Canada geese, and white-fronted geese. Dark geese remained listed under Daily Bag and Possession Limits but were removed from the Regular Season to accommodate the modified white-fronted goose seasons. This recommendation is to clarify the intent of the regulation and to maintain the hunting season for Small Canada geese in the zone.

- 2) Add Small Canada geese to Season in subsection 502(d)(6)(A)3 for the Klamath Basin Special Management Area.

See item 1 above for justification. This recommendation is to clarify the intent of the regulation and to maintain the hunting season for Small Canada geese in the special management area.

- 3) Open the Late Season for white geese two weeks after the close of the Regular Season in subsection 502(d)(6)(A)9 for the Imperial County Special Management Area.

The existing regulation opens the Late Season one week after the close of the Regular Season. The proposed change is intended to allow private landowners to use hunting as a tool to disperse geese and minimize depredation when the greatest concentration of white geese are present.

- (b) Goals and Benefits of the Regulation:

The goals and benefits of the regulations are to provide for the conservation and maintenance of sufficient waterfowl populations to ensure their continued existence.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

- (c) Authority and Reference Sections from Fish and Game Code for Regulation

Authority: Sections 202 and 355, Fish and Game Code.

Reference: Sections 202, 355, and 356, Fish and Game Code.

- (d) Specific Technology or Equipment Required by Regulatory Change: None.
- (e) Identification of Reports or Documents Supporting Regulation Change: None.
- (f) Public Discussions of Proposed Regulations Prior to Notice Publication:

This proposal was discussed at the Wildlife Resources Committee meeting held on September 20, 2018 and a public scoping session will be held on October 18, 2018.

IV. Description of Reasonable Alternatives to Regulatory Action

- (a) Alternatives to Regulation Change:

No other alternatives were identified.

- (b) No Change Alternative:

The No Change Alternative would not identify a season, or bag and possession limits for Small Canada geese in the Northeastern Zone.

The No Change Alternative would not identify a season, or bag and possession limits for Small Canada geese in the Klamath Basin Special Management Area.

The No Change Alternative would not open the late white goose season in the Imperial County Special Management Area two weeks after the close of the general season.

- (c) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business: None.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action

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 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 will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulations would provide additional recreational opportunity to the public and could result in minor increases in hunting days and hunter spending on equipment, fuel, food and accommodations.

- (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 Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses, or the expansion of businesses in California. The proposed waterfowl regulations will set the 2019-20 waterfowl hunting season dates and bag limits within the federal Frameworks. Little to minor positive impacts to jobs and/or businesses that provide services to waterfowl hunters may result from the proposed regulations for the 2019-20 waterfowl hunting season.

The most recent U.S. Fish and Wildlife national survey of fishing, hunting, and wildlife associated recreation for California, estimated that migratory bird hunters contributed about \$169,115,000 to businesses in California during the 2011 migratory bird hunting season. The impacted businesses are generally small businesses employing a few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the

long-term viability of these same small businesses.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) 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, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment:

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

Little to minor positive impacts on the creation of jobs within businesses that provide services to waterfowl hunters may result from the adoption of the proposed waterfowl hunting regulations for the 2019-20 season. The most recent U.S. Fish and Wildlife national survey of fishing, hunting, and wildlife-associated recreation for California, estimated that waterfowl hunters contributed about \$169,115,000 to small businesses in California during the 2011 waterfowl hunting season. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the long-term viability of these same small businesses. The 2011 report is posted on the U.S. Department of Commerce website https://wsfrprograms.fws.gov/Subpages/NationalSurvey/2011_Survey.htm.

(a) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The proposed regulation is not anticipated to prompt the creation of new businesses or the elimination of existing businesses within the state. Minor variations in regulations pertaining to hunting are, by themselves, unlikely to stimulate the creation of new businesses or cause the elimination of existing businesses. The number of hunting trips and the economic contributions from the trips are not expected to change substantially.

(b) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The proposed minor variations in waterfowl bag limits are, by themselves, unlikely to stimulate substantial expansion of businesses currently doing business in the state. The long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the long-term viability of various businesses that serve recreational waterfowl hunters.

(c) Benefits of the Regulation to the Health and Welfare of California Residents:

Hunting is an outdoor activity that can provide several health and welfare benefits to California residents. Hunters and their families benefit from fresh game to eat, and from the benefits of outdoor recreation, including exercise. People who hunt have a special connection with the outdoors and an awareness of the relationships between wildlife, habitat, and humans. With that awareness comes an understanding of the role humans play in being caretakers of the environment. Hunting is a tradition that is often passed from one generation to the next creating a special bond between family members and friends.

(d) Benefits of the Regulation to Worker Safety:

The regulations will not affect worker safety because they do not address working conditions.

(e) Benefits of the Regulation to the State's Environment:

As set forth in Fish and Game Code section 1700, it is the policy of the state to encourage the conservation, maintenance, and utilization of waterfowl resources for the benefit of all the citizens of the state. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of waterfowl to ensure their continued existence and the maintenance of a sufficient resource to support recreational opportunity. Adoption of scientifically-based waterfowl seasons, bag and possession limits provides for the maintenance of sufficient waterfowl populations to ensure those objectives are met. The fees that hunters pay for licenses and stamps fund wildlife conservation.

(e) Other Benefits of the Regulation:

Hunting seasons provide an incentive for private land owners to maintain waterfowl habitat, mainly wetlands, that benefit waterfowl and other wetland dependent wildlife.

Informative Digest/Policy Statement Overview

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and daily bag and possession limits. The proposed Frameworks for the 2019-20 season were approved by the Flyway Councils and will be considered for adoption at the Service's Regulations Committee meeting October 16-17, 2018. The proposed Frameworks allow for a liberal duck season which includes a 107 day season, 7 daily duck limit including 7 mallards but only 2 hen mallards, 1 pintail, 2 canvasback, 2 redheads, and 3 scaup (during an 86 day season). Duck daily bag limit ranges and duck season length ranges are provided to allow the Commission flexibility.

A range of season length and bag limit (zero bag limit represents a closed season) is also provided for black brant. The ranges are necessary, as the black brant Frameworks cannot be determined until the Pacific Flyway Winter Brant Survey is conducted in January 2019. The regulatory package is to be determined by the most current Winter Brant Survey, rather than the prior year survey. The regulatory package will be prescribed per the Black Brant Harvest Strategy pending results of the January survey, well before the adoption meeting. (See tables in the Informative Digest for season and bag limits.) Lastly, Federal regulations require that California's hunting regulations conform to those of Arizona in the Colorado River Zone and those of Oregon in the North Coast Special Management Area.

The Department's recommendations are as follows:

1. Add Small Canada geese to the Regular Season in subsection 502(d)(1)(B) for the Northeastern California Zone.
2. Add Small Canada geese to Season in subsection 502(d)(6)(A)3 for the Klamath Basin Special Management Area.
3. Open the Late Season for white geese two weeks after the close of the Regular Season in subsection 502(d)(6)(A)9 for the Imperial County Special Management Area.

Minor editorial changes are also proposed to clarify and simplify the regulations and to comply with existing federal Frameworks.

Benefits of the regulations

The benefits of the proposed regulations are consistency with federal law and the sustainable management of the State's waterfowl resources. Positive impacts to jobs and/or businesses that provide services to waterfowl hunters will be realized with the continued adoption of waterfowl hunting seasons in 2019-20.

Non-monetary benefits to the public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government.

Evaluation of incompatibility with existing regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to Section

502 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate waterfowl hunting regulations.

DRAFT

Summary of Proposed Waterfowl Hunting Regulations for 2019-20			
AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Statewide	Coots & Moorhens	Concurrent w/duck season	25/day. 75 in possession
Northeastern Zone <i>Season may be split for Ducks, Pintail, Canvasback, Scaup, Dark Geese and White Geese. White geese and dark geese may be split 3-ways.</i>	Ducks	Between 38 & 105 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	No longer than 105 days	30/day, which may include: 20 white geese, 10 dark geese, no more than 2 Large Canada geese. Possession limit triple the daily bag.
Southern San Joaquin Valley Zone <i>Season may be split for Ducks, Pintail, Canvasback and scaup</i>	Ducks	Between 38 & 105 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	Between 38 & 105 days	30/day, which may include: 20 white geese, 10 dark geese. Possession limit triple the daily bag.
Southern California Zone <i>Season may be split for Ducks, Pintail, Canvasback and Scaup</i>	Ducks	Between 38 & 100 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	No longer than 100 days	23/day, which may include: 20 white geese, 3 dark geese. Possession limit triple the daily bag.
Colorado River Zone <i>Season may be split for Ducks, Pintail, Canvasback and Scaup</i>	Ducks	101 days	7/day, which may include: 7 mallards no more than 2 females or Mexican-like ducks. 1 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	101 days	24/day, up to 20 white geese, up to 4 dark geese. Possession limit triple the daily bag.
Balance of State Zone <i>Season may be split for Ducks, Pintail, Canvasback, Scaup and Dark and White Geese.</i>	Ducks	Between 38 & 100 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	Early Season: 5 days (Canada goose only) Regular Season: no longer than 100 days Late Season: 5 days (whitefronts and white geese)	30/day, which may include: 20 white geese, 10 dark geese. Possession limit triple the daily bag.
SPECIAL MANAGEMENT AREAS	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
North Coast <i>Season may be split</i>	All Canada Geese	105 days except for Large Canada geese which cannot exceed 100 days or extend beyond the last Sunday in January.	10/day, only 1 may be a Large Canada goose. Possession limit triple the daily bag. Large Canada geese are closed during the Late Season.
Humboldt Bay South Spit (West Side)	All species	Closed during brant season	

Summary of Proposed Waterfowl Hunting Regulations, Continued			
Klamath Basin	Dark and white geese	105 days except for Canada geese which cannot exceed 100 days or extend beyond the last Sunday in January.	30/day, which may include: 20 white geese, 10 dark geese only 2 may be a Large Canada goose. Possession limit triple the daily bag.
Sacramento Valley	White-fronted geese	Open concurrently with general goose season through Dec 21	3/day. Possession limit triple the daily bag.
Morro Bay	All species	Open in designated areas only	Waterfowl season opens concurrently with brant season.
Martis Creek Lake	All species	Closed until Nov 16	
Northern Brant	Black Brant	No longer than 37 days and closing no later than Dec 14.	[0-2]/day. Possession limit triple the daily bag.
Balance of State Brant	Black Brant	No longer than 37 days and closing no later than Dec 15.	[0-2]/day. Possession limit triple the daily bag.
Imperial County <i>Season may be split</i>	White Geese	Up to 102 days	20/day. Possession limit triple the daily bag.
YOUTH WATERFOWL HUNTING DAYS	(NOTE: To participate in these Youth Waterfowl Hunts, federal regulations require that hunters must be 17 years of age or younger and must be accompanied by a non-hunting adult 18 years of age or older.)		
	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	The Saturday fourteen days before the opening of waterfowl season extending for 2 days.	Same as regular season
Southern San Joaquin Valley Zone	Same as regular season	The Saturday following the closing of waterfowl season extending for 2 days.	Same as regular season
Southern California Zone	Same as regular season	The Saturday following the closing of waterfowl season extending for 2 days.	Same as regular season
Colorado River Zone	Same as regular season	The Saturday following the closing of waterfowl season extending for 2 days.	Same as regular season
Balance of State Zone	Same as regular season	The Saturday following the closing of waterfowl season extending for 2 days.	Same as regular season
FALCONRY OF DUCKS	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	Between 38 and 105 days	3/day. Possession limit 9
Balance of State Zone	Same as regular season	Between 38 and 107 days	3/day. Possession limit 9
Southern San Joaquin Valley Zone	Same as regular season	Between 38 and 107 days	3/day. Possession limit 9
Southern California Zone	Same as regular season	Between 38 and 107 days	3/day. Possession limit 9
Colorado River Zone	Same as regular season	105 days	3/day. Possession limit 9

REGULATORY TEXT

Section 502, Title 14, CCR, is amended as follows:

§ 502. Waterfowl, Migratory; American Coot and Common Moorhen (Common Gallinule).

... [No changes to subsections (a) through (b)(6)]

(c) Seasons and Bag and Possession Limits for American Coots, and Common Moorhens.		
(1) Statewide Provisions.		
<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
American Coot and Common Moorhen	Concurrent with duck season(s)	Daily bag limit: 25, either all of one species or a mixture of these species. Possession limit: triple the daily bag limit.
(d) Seasons and Bag and Possession Limits for Ducks and Geese by Zone.		
(1) Northeastern California Zone (NOTE: SEE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)		
<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
Ducks (including Mergansers)	From the first Saturday in October extending for 105 days. Scaup: from the first Saturday in October extending for a period of 58 days and from the fourth Saturday in December extending for a period of 28 days. <u>[Opening no earlier than the Saturday closest to October 1 and closing no later than the last Sunday in January. Season may be split into two segments and will be between 38 and 105 days except for some species that may have a shorter season than the general duck season.]</u>	Daily bag limit: 7 <u>[4-7]</u> Daily bag limit may include: • 7 <u>[3-7]</u> mallards, but not more than 2 <u>[1-2]</u> females. • 2 <u>2</u> pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3 scaup (either sex). Possession limit: triple the daily bag limit.
Geese	Regular Season: <u>Small and Large Canada Geese:</u> from the first Saturday in October	Daily bag limit: 30 Daily bag limit may include: • 20 white geese.

	<p><u>extending for 100 days. [Opening no earlier than the Saturday closest to October 1 and closing no later than the last Sunday in January. Season will be no longer than 100 days.</u></p> <p>White-fronted geese and white geese from the first Saturday in October extending for a period of 58 days and from the first Saturday in January extending for a period of 14 days. <u>[opening no earlier than the Saturday closest to October 1 and closing no later than the last Sunday in January. Season may be split into two segments and no longer than 100 days.]</u></p> <p>Late Season: White-fronted and white geese from February 6 <u>extending for 33 days. [Season will be no longer than 33 days and closing no later than March 10.]</u></p> <p>During the Late Season, hunting is only permitted on Type C wildlife areas listed in Section 550-552, navigable waters, and private lands with the permission of the land owner under provisions of Section 2016, Fish and Game Code. Hunting is prohibited on Type A and Type B wildlife areas, the Klamath Basin National Wildlife Refuge Complex, the Modoc National Wildlife Refuge, and any waters which are on, encompassed by, bounded over, flow over, flow through, or are adjacent to any Type A and Type B wildlife areas, the Klamath Basin National Wildlife Refuge Complex, or the Modoc National Wildlife Refuge.</p>	<ul style="list-style-type: none"> • 10 dark geese but not more than 2 Large Canada geese (see definitions: 502(a)). <p>Possession limit: triple the daily bag limit.</p>
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(2) Southern San Joaquin Valley Zone (NOTE: SEE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)		
(A) Species	(B) Season	(C) Daily Bag and Possession Limits
Ducks (including Mergansers)	From the third Saturday in October extending for 100 days. Scaup: from the first Saturday in November extending for 86 days. <u>[Opening no earlier than the Saturday closest to October 1 and closing no later than the last Sunday in January. Season may be split into two segments and will be between 38 and 105 days except for some species that may have a shorter season than the general duck season.]</u>	Daily bag limit: 7- 4-7 Daily bag limit may include: <ul style="list-style-type: none"> • 7-3-7 mallards, but not more than 2-1-2 females. • 2-1 pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3 scaup (either sex). Possession limit: triple the daily bag limit.
Geese	From the third Saturday in October extending for 100 days.	Daily bag limit: 30 Daily bag limit may include: <ul style="list-style-type: none"> • 20 white geese. • 10 dark geese (see definitions: 502(a)). Possession limit: triple the daily bag limit.
(3) Southern California Zone (NOTE: SE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)		
(A) Species	(B) Season	(C) Daily Bag and Possession Limits
Ducks (including Mergansers)	From the third Saturday in October extending for 100 days. Scaup: from the first Saturday in November extending for 86 days. <u>[Opening no earlier than the Saturday closest to October 1 and closing no later than the last Sunday in January. Season may be split into two segments and will be between 38 and 105 days except for some species that may have a shorter season than the general duck season.]</u>	Daily bag limit: 7- 4-7 Daily bag limit may include: <ul style="list-style-type: none"> • 7-3-7 mallards, but not more than 2-1-2 females. • 2-1 pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3 scaup (either sex). Possession limit: triple the daily bag limit.

Geese	From the third Saturday in October extending for 100 days.	Daily bag limit: 23 Daily bag limit may include: • 20 white geese. • 3 dark geese (see definitions: 502(a)). Possession limit: triple the daily bag limit.
(4) Colorado River Zone (NOTE: SEE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)		
<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
Ducks (including Mergansers).	From the third Friday in October extending for 101 days. Scaup: from the first Saturday in November extending for 86 days. <u>[Opening no earlier than the Saturday closest to October 1 and closing no later than the last Sunday in January. Season will be 101 days except for some species that may have a shorter season than the general duck season.]</u>	Daily bag limit: 7 Daily bag limit may include: • 7 mallards, but not more than 2 females or Mexican-like ducks. • 2 <u>1</u> pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3 scaup (either sex). Possession limit: triple the daily bag limit.
Geese	From the third Friday in October extending for 101 days. <u>[Opening no earlier than the Saturday closest to October 1 and closing no later than the last Sunday in January. Season will be 101 days.]</u>	Daily bag limit: 24 Daily bag limit may include: • 20 white geese. • 4 dark geese (see definitions: 502(a)). Possession limit: triple the daily bag limit.

(5) Balance of State Zone (NOTE: SEE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)		
(A) Species	(B) Season	(C) Daily Bag and Possession Limits
Ducks (including Mergansers).	<p>From the third Saturday in October extending for 100 days.</p> <p><u>Scaup: from the first Saturday in November extending for 86 days. [Opening no earlier than the Saturday closest to October 1 and closing no later than the last Sunday in January. Season may be split into two segments and will be between 38 and 100 days except for some species that may have a shorter season than the general duck season.]</u></p>	<p>Daily bag limit: 7<u>[4-7]</u></p> <p>Daily bag limit may include:</p> <ul style="list-style-type: none"> • 7<u>[3-7]</u> mallards, but not more than 2 <u>[1-2]</u> females. • 2 <u>1</u> pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3 scaup (either sex). <p>Possession limit: triple the daily bag limit.</p>
Geese	<p>Early Season: Large Canada geese only from the Saturday closest to October 1 for a period of 5 days EXCEPT in the North Coast Special Management Area where Large Canada geese are closed during the early season.</p> <p>Regular Season: Dark and white geese from the third Saturday in October extending for 100 days EXCEPT in the Sacramento Valley Special Management Area where the white-fronted goose season will close after December 21.</p> <p>Late Season: White-fronted geese and white geese from the second Saturday in February extending for a period of 5 days EXCEPT in the Sacramento Valley Special Management Area where the white-fronted goose season is closed. During the Late Season, hunting is not permitted on wildlife areas listed</p>	<p>Daily bag limit: 30</p> <p>Daily bag limit may include:</p> <ul style="list-style-type: none"> • 20 white geese. • 10 dark geese <p>EXCEPT in the Sacramento Valley Special Management Area where only 3 may be white-fronted geese (see definitions: 502(a)).</p> <p>Possession limit: triple the daily bag limit.</p>

	in Sections 550-552 EXCEPT on Type C wildlife areas in the North Central and Central regions.		
(6) Special Management Areas (see descriptions in 502(b)(6))			
	(A) Species	(B) Season	(C) Daily Bag and Possession Limits
1. North Coast	All Canada Geese	From October 31 <u>November 1</u> extending for a period of 89 <u>87</u> days (Regular Season) and from February 23 <u>22</u> extending for a period of 46 <u>18</u> days (Late Season). During the Late Season, hunting is only permitted on private lands with the permission of the land-owner under provisions Section 2016, Fish and Game Code.	Daily bag limit: 10 Canada Geese of which only 1 may be a Large Canada goose (see definitions: 502(a)), EXCEPT during the Late Season the bag limit on Large Canada geese is zero. Possession limit: triple the daily bag limit.
2. Humboldt Bay South Spit (West Side)	All Species	Closed during brant season	
3. Klamath Basin	Geese	<u>Small and Large</u> Canada Geese from the first Saturday in October extending for 100 days. White-fronted and white geese from the first Saturday in October extending for 105 days.	Daily bag limit: 30 Daily bag limit may include: <ul style="list-style-type: none">• 20 white geese.• 10 dark geese but not more than 2 Large Canada geese (see definitions: 502(a)). Possession limit: triple the daily bag limit.
4. Sacramento Valley	White-Fronted Geese	Open concurrently with the goose season through December 21, and during Youth Waterfowl Hunting Days.	Daily bag limit: 3 white-fronted geese. Possession limit: triple the daily bag limit.

5. Morro Bay	All species	Open in designated area only from the opening day of brant season through the remainder of waterfowl season.	
6. Martis Creek Lake	All species	Closed until November 16.	
7. Northern Brant	Black Brant	From November 8 extending for 37 days. <u>Season will be between 0 and 37 days, closing no later than December 14.]</u>	Daily bag limit: 2 [0-2] Possession limit: triple the daily bag limit.
8. Balance of State Brant	Black Brant	From November 9 extending for 37 days. <u>Season will be between 0 and 37 days, closing no later than December 15.]</u>	Daily bag limit: <u>[0-2]</u> Possession limit: triple the daily bag limit.
9. Imperial County	White Geese	From the first Saturday in November extending for a period of 86 days (Regular Season) and from the first <u>second</u> Saturday in February extending for a period of 47 <u>16</u> days (Late Season). During the Late Season, hunting is only permitted on private lands with the permission of the land owner under provisions of Section 2016, Fish and Game Code.	Daily bag limit: 20 Possession limit: triple the daily bag limit.

(e) Youth Waterfowl Hunting Days Regulations (NOTE: To participate in these Youth Waterfowl Hunts, federal regulations require that hunters must be 17 years of age or younger and must be accompanied by a non-hunting adult 18 years of age or older.)		
(1) Statewide Provisions.		
<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag Limit</i>
Ducks (including Mergansers), American Coot, Common Moorhen, Black Brant, Geese	<p>1. Northeastern California Zone: The Saturday fourteen days before the opening of waterfowl season extending for 2 days.</p> <p>2. Southern San Joaquin Valley Zone: The Saturday following the closing of waterfowl season extending for 2 days.</p> <p>3. Southern California Zone: The Saturday following the closing of waterfowl season extending for 2 days.</p> <p>4. Colorado River Zone: The Saturday following the closing of waterfowl season extending for 2 days.</p> <p>5. Balance of State Zone: The Saturday following the closing of waterfowl season extending for 2 days.</p>	Same as regular season.
(f) Falconry Take of Ducks (including Mergansers), Geese, American Coots, and Common Moorhens.		
(1) Statewide Provisions		
<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
Ducks (including Mergansers), Geese, American Coot and	<p>1. Northeastern California Zone. Open concurrently with duck season through January 13, 2019. <u>[No longer than 105 days.]</u></p>	<p>Daily bag limit: 3 Daily bag limit makeup: • Either all of 1 species or a mixture of species allowed for take.</p>

Common Moorhen	<p>2. Balance of State Zone. Open concurrently with duck season and February 2-3, 2019 <u>[No longer than 107 days]</u> EXCEPT in the North Coast Special Management Area where the falconry season for geese runs concurrently with the season for Small Canada geese (see 502(d)(6))</p> <p>3. Southern San Joaquin Valley Zone. Open concurrently with duck season and January 28-30, 2019. <u>[No longer than 107 days.]</u> Goose hunting in this zone by means of falconry is not permitted.</p> <p>4. Southern California Zone. Open concurrently with duck season and January 28-February 1, 2019. <u>[No longer than 107 days]</u> EXCEPT in the Imperial County Special Management Area where the falconry season for geese runs concurrently with the season for white geese.</p> <p>5. Colorado River Zone. Open concurrently with duck season and January 28-31, 2019. <u>[No longer than 105 days.]</u> Goose hunting in this zone by means of falconry is not permitted. Federal regulations require that California's hunting regulations conform to those of Arizona, where goose hunting by means of falconry is not permitted.</p>	Possession limit: 9
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Note: Authority cited: Sections 265 and 355, Fish and Game Code. Reference: Sections 265, 355 and 356, Fish and Game Code.

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR PROPOSED REGULATORY ACTION

Amend Section 509
Title 14, California Code of Regulations
Re: Concurrence with Federal Regulations

I. Date of Initial Statement of Reasons: October 30, 2018

II. Dates and Locations of Scheduled Hearings

- | | | |
|-------------------------|-----------|---------------------------|
| (a) Notice Hearing: | Date: | December 13, 2018 |
| | Location: | Oceanside, CA |
| (b) Discussion Hearing: | Date: | February 6, 2019 |
| (If necessary) | Location: | Sacramento, CA |
| (c) Adoption Hearing: | Date: | April 17, 2019 |
| | Location: | Los Angeles/Oceanside, CA |

III. Description of Regulatory Action

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Current regulations in Section 509, Title 14, California Code of Regulations (CCR), incorporate requirements found in Federal regulations, including requirement that hunters must possess a Federal migratory-bird hunting and conservation stamp for the taking of migratory birds. The U.S. Fish and Wildlife Service (Service) has begun issuing an electronic stamp, or E-stamp. To be consistent with Federal regulations and allow the Department to issue electronic Federal migratory-bird hunting and conservation stamps in the future, amendments to the text of Section 509 are necessary.

The proposed change is:

Amend the language in Section 509(c) to include "...or an unexpired Federal migratory-bird hunting and conservation electronic stamp issued in his or her name...".

- (b) Goals and Benefits of the Regulation:

The benefits of the proposed administrative change are concurrence with Federal

law. The regulations provide for the conservation and maintenance of sufficient waterfowl populations to ensure their continued existence.

(c) Authority and Reference Sections from Fish and Game Code for Regulation

Authority: Section 355, Fish and Game Code.

Reference: Sections 355 and 356, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None.

(e) Identification of Reports or Documents Supporting Regulation Change: None.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication: No public meetings are being held prior to the notice publication.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change:

No other alternatives were identified.

(b) No Change Alternative:

The No Change Alternative would maintain the existing language that refers only to possession of a physical Federal migratory-bird hunting and conservation stamp and not of the E-stamp which is equally sufficient for proof of possession.

(c) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business: None.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action

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 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 will not have a significant statewide adverse economic impact directly affecting business, 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, the Competitive Advantages or Disadvantages for Businesses Currently Doing Business Within the State; the Increase or Decrease of Investment in the State; the Incentives for Innovation in Products, Materials, or Processes; Benefits of the Regulation to the Health, Safety and Welfare of California Residents, Worker Safety, and the State's Environment and Quality of Life:

The Commission does not anticipate any impacts on: the creation or elimination of jobs, the creation of new business or the elimination of existing businesses or the expansion of businesses in California, a decrease or increase in investment in California, incentives for innovation, benefits related to the regulation of health, safety and welfare of California residents, worker safety, and the State's environment because the proposed action is an administrative action to facilitate the recognition of the electronic Federal migratory-bird hunting and conservation stamp issued for hunting migratory game birds in California. If this administrative action increases transaction costs for hunters, minor negative impacts to jobs and/or businesses that provide services to waterfowl hunters may result from the proposed regulations.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (e) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) 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, Government Code: None.
- (h) Effect on Housing Costs: None.

VII. Economic Impact Assessment:

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

Little to minor positive impacts on the creation of jobs within businesses that provide services to waterfowl hunters may result from amending state regulations to concur with Federal regulations for the 2019-20 season. The most recent U.S. Fish and Wildlife national survey of fishing, hunting, and wildlife associated recreation for California (revised 2011), estimated that waterfowl hunters contributed about \$169,115,000 to small businesses in California during the 2011 waterfowl hunting season. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. The 2011 report is posted on the U.S. Department of Commerce website at https://wsfrprograms.fws.gov/Subpages/NationalSurvey/2011_Survey.htm. A 2016 report is available, however data was not collected at the state level. The long-term intent of the proposed regulation is to allow hunters to obtain an electronic Federal migratory-bird hunting and conservation stamp in place of a physical federal stamp, which minimizes confusion with the hunting public and ensures compliance with state and federal regulations.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The proposed regulation is not anticipated to prompt the creation of new businesses or the elimination of existing businesses within the state. Minor variations in regulations pertaining to hunting are, by themselves, unlikely to stimulate the creation of new businesses or cause the elimination of existing businesses. The number of hunting trips and the economic contributions from the trips are not expected to change substantially.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The proposed regulation is unlikely to stimulate substantial expansion of businesses currently doing business in the state. The long-term intent of the proposed regulation is to allow hunters to obtain an electronic Federal migratory-bird hunting and conservation stamp in place of a physical stamp, which minimizes confusion with the hunting public and ensures compliance with state and Federal regulations.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The regulation itself does not have direct benefits as it is an administrative change. However, hunting is an outdoor activity that can provide several health and welfare benefits to California residents. Hunters and their families benefit from fresh game to eat, and from the benefits of outdoor recreation including exercise. People who hunt

have a special connection with the outdoors and an awareness of the relationships between wildlife, habitat, and humans. With that awareness comes an understanding of the role humans play in being caretakers of the environment. Hunting is a tradition that is often passed from one generation to the next creating a special bond between family members and friends.

(e) Benefits of the Regulation to Worker Safety:

The regulations will not affect worker safety because they do not address working conditions.

(f) Benefits of the Regulation to the State's Environment:

As set forth in Fish and Game Code section 1700, it is the policy of the state to encourage the conservation, maintenance, and utilization of waterfowl resources for the benefit of all the citizens of the state. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of waterfowl to ensure their continued existence and the maintenance of a sufficient resource to support recreational opportunity. Modifying state regulations to comply with federal regulations minimizes confusion and ensures compliance. Additionally, the fees that hunters pay for licenses and stamps fund wildlife conservation.

Informative Digest/Policy Statement Overview

Current regulations in Section 509, Title 14, California Code of Regulations (CCR), incorporate requirements found in Federal regulations, including a requirement that hunters must possess a Federal migratory-bird hunting and conservation stamp for the taking of migratory birds. The U.S. Fish and Wildlife Service (Service) has begun issuing an electronic stamp, or E-stamp. To be consistent with Federal regulations and allow the Department to issue electronic Federal migratory-bird hunting and conservation stamps in the future, amendments to the text of Section 509 are necessary.

The proposed change is:

Amend the language in Section 509(c) to include "...or an unexpired Federal migratory-bird hunting and conservation electronic stamp issued in his or her name...".

Benefits of the regulations

The benefits of the proposed regulations are consistency with federal law and the sustainable management of the State's waterfowl resources.

Non-monetary benefits to the public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government.

Evaluation of incompatibility with existing regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to Section 509 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate waterfowl hunting regulations.

Proposed Regulatory Text

Section 509, Title 14, California Code of Regulations, is amended to read:

§ 509. Concurrence with Federal Regulations.

(a) The regulations adopted by the United States through its Secretary of Interior under the Migratory Bird Treaty Act, as amended annually in Part 10, subparts A and B, and Part 20, Title 50, Code of Federal Regulations, are hereby adopted and made a part of this Title 14 except where said federal regulations are less restrictive than the provisions of Chapter 7 of this Title 14 (sections 500-509), the provisions of Chapter 7 prevail.

(b) Any violations of the regulations adopted pursuant to subsection (a) are violations of this section.

(c) It shall be unlawful for any person aged sixteen years or older to take any migratory waterfowl unless at the time of such taking the person carries in his or her immediate possession an unexpired Federal migratory-bird hunting and conservation stamp validated by his or her signature written by him or herself in ink across the face of the stamp or an unexpired Federal migratory-bird hunting and conservation electronic stamp, issued in his or her name prior to any taking of such birds.

Note: Authority cited: Section 355, Fish and Game Code. Reference: Part 10, subparts A and B, and Part 20, Title 50, CFR, amended Sept. 18, 1987, 52 Fed. Reg. 35248; 16 USC 718a; and Sections 355 and 356, Fish and Game Code.

ECONOMIC AND FISCAL IMPACT STATEMENT**(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Wildlife Commission	CONTACT PERSON Margaret.Duncan	EMAIL ADDRESS @wildlife.ca.gov	TELEPHONE NUMBER 916-653-4676
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Sections 502 & 509, T14, CCR, waterfowl 2019-20 season, Federal E Duck Stamp			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

The amendments to waterfowl regs do not impact private sector cost*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*

2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:

(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *(If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c))*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ YES☐ NO

If YES, explain briefly: _____

ECONOMIC AND FISCAL IMPACT STATEMENT**(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____

a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____

d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ _____4. Will this regulation directly impact housing costs? ☐ YES ☐ NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☐ NO

Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NO

Explain: _____

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ YES ☐ NO*If YES, complete E2. and E3**If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES☒ NO*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____
Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____
Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE



DATE

11/5/18

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

11/7/18

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE



Tracking Number: 2018-014

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Northern California Guides and Sportsmen's Association, James Stone, President

Address:

Telephone number:

Email address: jstone@ncgasa.org

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Authority Cited: Sections 200, ~~202~~265, and 7071 and ~~8587.1~~, Fish and Game Code. Reference: Sections ~~205~~, ~~210~~255, 7071 and 7120, Fish and Game Code.

3. Overview (Required) - Summarize the proposed changes to regulations: The Northern California Guides and Sportsmen's Association (NCGASA) is asking for an amendment to 27.60(c) relative to boat limits. 27.60 (c) currently allows, when two or more persons that are licensed or otherwise authorized to sport fish in ocean waters off California or in the San Francisco Bay District, defined in Section 27.00, are angling for finfish aboard a vessel in these waters, fishing by all authorized persons aboard may continue until boat limits of finfish are taken and possessed aboard the vessel as authorized under this section or Section 195, Title 14, CCR. The authorization for boat limits aboard a vessel does not apply to fishing trips originating in California's Sacramento Valley and Delta, creating a parity issue between bay and ocean fishing parties, and those who choose to fish inland, in the Delta, or other locations.

4. Rationale (Required) - Describe the problem and the reason for the proposed change: There is a parity issue between guided fishing trips in the bay and the ocean and those occurring inland (Delta and Sacramento Valley) when it comes to boat limits with two or more anglers on board. In the bay and ocean, ALL anglers may continue to fish, with their rods in the water, until boat limits of finfish are taken aboard. On guided trips inland, in the Delta and Sacramento Valley, once an angler has taken his/her limit of fish, that angler must REMOVE their rod from the river and sit in the boat until the other anglers have caught their limit. This can result in some anglers sitting idly in guides boats for hours on



end, reducing enthusiasm and willingness to participate in such activities in the future. NGCASA believes that our clients, who are abiding by all the same rules and regulations, and subject to the annual bag limits imposed by the Commission, should qualify for the same boat limits flexibility as bay and ocean fishing trips, allowing all anglers to continue pursuit until boat limits of finfish are taken. This issue was exacerbated in 2018 when the inland fishery bag limit for fall run salmon was reduced to 1 per person. This change, prompted by significant declines of returning adults, has led to a reduced interest in booking inland river guided trips. We are further exacerbating the situation by imposing the “you can only fish for your own fish” standard when the same does not apply to bay and ocean fishing. Many of our clients, who also fish those waters, are not familiar with the restriction, and don’t find out about it until they are sitting in our boats and we have to take their rods and tell them they are done for the day. Several have told us point blank that with a 1 per person limit, coupled with this restriction, that they would rather take their money and business to guided trips on the bay and ocean (please see the economic section below for further justification of this exact problem). Establishing boat limit parity for inland fisheries would create a more enjoyable experience for all parties involved, the anglers, sportsmen and women, fishing guides, and the communities that benefit from fishing tourism. It would also provide incentive for anglers to book fishing trips in the Sacramento Valley, especially with the restrictions of the 1 fish bag limit. (As an illustrative example, this regulation change would allow a father to hook a fish for his daughter, and hand it off to her to achieve her limit, while educating and teaching her the values of conservation and the pursuit of angling harvest).

SECTION II: Optional Information

5. Date of Petition: 10/3/18

6. Category of Proposed Change

- ☒ Sport Fishing
- ☐ Commercial Fishing
- ☐ Hunting
- ☐ Other, please specify: [Click here to enter text.](#)

7. The proposal is to: *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

- ☒ Amend Title 14 Section(s):27.60 (c)
- ☐ Add New Title 14 Section(s): [Click here to enter text.](#)
- ☐ Repeal Title 14 Section(s): [Click here to enter text.](#)

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition [Click here to enter text.](#)

Or ☒ Not applicable.

9. Effective date: If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: [Effective for the start of the 2019 recreational fishing season.](#)

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: None



11. Economic or Fiscal Impacts: Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: The following is an economic analysis on the impacts of a declining fishery on professional guides and the communities in which they do their business. NOTE: These numbers are just for the FALL RUN salmon season. It does not include stripers, late fall run, shad, sturgeon, steelhead, and rainbow trout. At the peak of the fishery in the early 2000's, it is estimated that guiding and associated industries brought in roughly \$55M for the counties of Sacramento, Shasta, Butte, Sutter, Yuba, Tehama, Glenn, and Colusa. Roughly \$30M of that was direct revenue for guide services. As the health of the fishery has declined, so to have the economics of the industry. By 2017 the industry had collapsed to a fraction of its former self, roughly \$14.5M in total and \$10.5M in direct guide revenue. How do we calculate these numbers? For direct guide revenue: There are currently 100 full time guides that guide 350 clients per year. There are 350 part time guides who guide 50 clients per year. This is a total of 52,500 clients. The average charge, per person, in 2017 was \$200/head. This is \$10.5M in revenue. For community revenue: Roughly 65% of clientele come from out of the area. At two beds per room per night (conservative assuming people share rooms), that's 34,125 clients in 17,062 hotel room nights. At \$100 per night, that's \$1.7M. For just those from out of town, calculate lunch and dinner at \$20 per meal for a total \$1,365M. Add breakfast at \$10 for a total of \$341,250. Assume 3 people travel per car and need one tank of gas, so that's 34,125 / 3 per car = 11,375 cars x \$60 fill up for a total of \$682,500 for fuel. That is the additional \$4M in community benefit. None of this accounts for revenue from fishing licenses to CDFW (either 1 day, 2 day, or annual licenses), bait, tackle, gear, tips, alcohol, additional entertainment (movies, shopping, etc). It also doesn't include guides expenditures in the community: buying fuel, gear, boat repairs, etc. Given how shocking the economic decline is between 2000 and 2017, it's even worse in 2018 with the newly imposed 1 fish bag limit. In 2018, everyone has dropped rates \$25 to \$50 to encourage bookings. Full timers did not drop prices as much, part-timers did more, but everyone is taking a haircut. In addition, bookings with guides, based on conservative estimates, are off at least 50%. Out of town visitors are simply not coming, considering 1 fish limit not worth the time and expense to book a fishing trip. Calculating the 2018 economic impact: Use an average rate of \$175 (\$200/head minus \$25 reduction) 100 full time and 350 part time guides, with a 50% decrease in bookings, direct guide revenue alone is down to \$4,593,750. Cut in half the number of hotel rooms, meals, gas and other incidentals and you start to see the impacts on the broader community. The total economic benefit estimate for 2018 is \$7,294,375, a 86% reduction from the early 2000's. Guides are losing homes, leaving their families behind (if they can) and guiding and fishing in OR, WA, AK, and ID to make money (roughly 15% of the guiding community have left). This data is compiled from NCGASA members (500+ guides) and their clients. Information was collected via direct guide surveys over phone, email, and Facebook polls.

12. Forms: If applicable, list any forms to be created, amended or repealed:

None

SECTION 3: FGC Staff Only

Date received: [Click here to enter text.](#)

FGC staff action:

- ☒ Accept - complete
☐ Reject - incomplete

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION

2018 OCT -4 AM 9:00



☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: October 17, 2018

Meeting date for FGC consideration: December 12-13, 2018

FGC action:

☐ Denied by FGC

☐ Denied - same as petition _____

Tracking Number

☐ Granted for consideration of regulation change

CALIFORNIA FISH AND GAME COMMISSION
REQUESTS FOR NON-REGULATORY ACTION 2018 - Current and Pending
Revised 11-30-18

FGC - California Fish and Game Commission **DFW** - California Department of Fish and Wildlife **WRC** - Wildlife Resources Committee **MRC** - Marine Resources Committee

Date Received	Name of Petitioner	Request category (Marine or Wildlife)	Subject of Request	Short Description	FGC Decision	Staff / DFW Recommendations
8/16/2017	James Stone NorCal Guides and Sportmen's Association	Wildlife	Sacramento pikeminnow	Requests FGC add to a future agenda a discussion of a possible bounty program for Sacramento pikeminnow, to reduce predation on juvenile Chinook salmon.	Grant on 8/16/2017; FGC requested Director Bonham, under the Director's Report at the 10/11-12/2017 FGC meeting, provide a report on the State of Washington's bounty program	Update 10/12/18: DFW has provided a memo opposing bounties for Sacramento pikeminnow. No further action needed.
8/17/2018	Brigitte Robertson Kathleen Finley	Wildlife	Hunting in areas affected by wildfires	Request that FGC cancel or delay hunting seasons in areas affected by recent wildfires.	Receipt: 10/17/2018 Action scheduled: 12/12-13/2018	FGC: Supports DFW addressing concerns over wildlife arising from recent fires through a DFW update. No additional action recommended. DFW: While generally California is fire-adaptive, given the scope of recent fire events, DFW is reevaluating wildlife needs to take recent fires into consideration. DFW will provide an update at the Dec 2018 FGC meeting.
9/5/2018	Steffanie Byrnes	Wildlife	Coyote	Request FGC to take action to reduce the coyote population in urban areas.	Receipt: 10/17/2018 Action scheduled: 12/12-13/2018	FGC: Staff recommends no action. See DFW recommendation. DFW: DFW works with local communities to address human-wildlife conflict issues, including through programs such as California Wildlife Watch that works with local Neighborhood Watch programs and local volunteers to provide guidance to local government entities on actions that may be taken to prevent and address conflicts with wildlife. In addition, DFW provides information about coexisting with wildlife and living in coyote country through it's Keep Me Wild campaign, at www.wildlife.ca.gov/Keep-Me-Wild/Coyote .
10/17/2018	Dennis Fox	Wildlife	Decoys/Bait	Requests clarification on whether plastic corn cob is considered to be a decoy or bait when hunting.	Receipt: 10/17/2018 Action scheduled: 12/12-13/2018	No action required. DFW enforcement has provided response to requester.

From: Brigitte
Sent: Friday, August 17, 2018 12:20 PM
To: FGC <FGC@fgc.ca.gov>
Subject: Please cancel hunting season

To whom it may concern:

I am writing to ask you to please cancel hunting season in the areas affected by the wildfires this year. They have suffered enough! Please don't forget that these animals are sentient beings.

This e-mail message is intended only for the named recipient(s) above. This e-mail is confidential and may contain information that is privileged or exempt from disclosure under applicable law. If you have received this message in error, please immediately notify the sender by return e-mail and delete this e-mail message from your computer.

From:

Sent: Wednesday, September 5, 2018 11:34 AM

To: FGC <FGC@fgc.ca.gov>

Subject: Coyotes

I would like to share a very upsetting experience with a coyote. Sadly, my bengal managed to escape from my home in Orange, California. She was killed by a coyote soon after. There are missing posters are over Orange of missing pets. It is usually small dogs and cats. We have a out of control population in this area. Stray cats, as well as ferals, do not last long in this area. On social media in thos area, people complain about this issue constantly.

I have a friend that has the same issue in Long Beach, California. The coyotes are not even afraid of people anymore. This issue has gotten so bad that pets have been taken from backyards, as well as on the leash during daytime hours while their guardians walk them.

My friend was walking her small sized dog and a pack of young coyotes tried to attack her dog. Luckily, she spotted the coyotes in back of her and scared them off.

I am beyond tired of the California Fish and Wildlife ignoring this issue because of animal right activists. The population in some areas are out of control. It is jeopardizing the well being of innocent pets as well as other wildlife. Coyotes have no known predator, and thrive in urban environments. It is time to cull the population to a manageable size! We cannot live in harmony with coyotes being able to kill indiscriminately. You have a obligation to the people of California, as well as other wildlife being killed daily. It is also dangerous that these animals have lost their fear of people. Ignoring this problem is wrong and is negligence! People should be able to enjoy walking in their neighborhoods without worrying about their pets being constantly killed. You should be able to enjoy your backyard without a coyote jumping over the fence and killing pets!

Dogs should be able to use the restroom without their owner constantly watching them with pepper spray at hand in their own backyards. Why should we have to live like this?! Just because some organizations which ignore reality is against this?! Is California going to pay me the 800 dollars for the loss of my bengal?! Please do something about this issue. Please stop ignoring this problem. Sometimes hard choices need to be made for the betterment of California!

Thank you so much for not banning hybrid cats in 2014. I will always be grateful for that. As I love mine to death. Please stop ignoring this issue and do something!

Thank You,

Steffanie Byrnes



PUBLIC INTEREST COALITION

Placer Group
P.O. BOX 7167, AUBURN, CA 95604

P.O. Box 713
LOOMIS, CA 95650

Sent via email: fgc@fgc.ca.gov
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090
Ladies and Gentlemen:

November 29, 2018

Re: Dec 13, 2018 **Agenda #35(A)I—Cancel hunting in wildfire areas**

Keeping one of the Fish and Game Commission's (FGC) goals in mind—conserving the state's natural resources through informed decision-making—the following information is submitted. As ever-increasing severe wildfires destroy wildlife habitat which impacts wildlife species, we urge that wildlife population health issues be given urgent, primary consideration. Instead of adding stressors to wildlife populations, in burned areas, hunting and its associated activities must be banned in fire areas—for one, two, or more years—whatever it takes for restoration and recovery. The prohibition must remain in place until studies confirm that wildlife populations have fully recovered and habitat is restored.

It is a myth, perpetrated to some extent by regulatory agency staff statements, that wildlife can outrun, fly, or otherwise escape from wildfires, as if there are no impacts. After the Carr fire was contained, reputable sources reported that first responders and other governmental agency staff, who were familiar with California's fire areas, reported observing large numbers of wildlife carcasses—much more than they had ever seen in their many years of experience. Not only were the numbers greater, but also the variety of species killed was “astonishing” as one put it. The Camp fire may have been even more merciless.

The manner of wildlife death by fire has been well documented visually (example, Exhibit A-1). In the Carr Fire, an eye-witness account told of seeing a bear running with its hide on fire. In addition to death by flames, wildlife carcasses with no burns or other visible injuries were noted. When confronted with no way to escape, wildlife succumbed to either intense smoke inhalation or severe heat. People who survived the fire reported that the heat made their breathing painful. A few humans who could not escape were able to submerge their bodies in pools, ponds, or lakes. To breathe, they reportedly quickly put only their mouths out of the water, took small breaths, and re-submerged. Wildlife did not have such options at their disposal to stay alive.

With destruction from many recent multiple mega fires (referred to as fire storms or tornadoes with embers flying horizontally) well ahead of and/or after normal fire seasons, and more predicted in years to come, it behooves the FGC to keep its goals in mind, and consider a hiatus on all wildlife killing (“hunting” or “take” or “harvest”) in any fire areas for at least two years or until proper scientific studies can be conducted to confirm plant or forage regeneration and healthy wildlife rebound. One population

count/survey is inadequate, in part because some wildlife species will live until succumbing later to infections. Without thorough, preferably long-term surveys, to assess wildlife population viability, as well as complete appraisals of available (and future) food (plant and prey), non-polluted water sources (devoid of dangerous runoff), shelter/cover capacities (prey, food caches) and habitat loss (forage), the only responsible annual hunting regulations must prioritize caution, restraint, and (1) cancel all hunting in burned areas with additional adjacent buffers; and (2) greatly reduced tag/take limits in areas outside but adjacent to the buffered areas. The prohibitions must include wildlife harassment by dogs, whether hunting, training, hiking or other recreational activities, and should incorporate vehicle scoping in burned areas and buffers (Off Road Vehicles which would be handled by another department). If ever the Precautionary Principle was called for, it is now for the 2019-2020 seasons and possibly well into the future.

- I. Wildfires and Wildlife. Contrary to regulatory agency public statements, it is simply not true that wildlife can “adapt and survive” or escape in or after CA’s recent record-setting devastating fires. A few wildlife species may not be impacted as much as others, but many, if not most, species cannot outrun a firestorm or “fire tornado,” let alone find escape routes—as was the tragic situation even with humans who had more available resources.¹

Heat alone generated by fires is fatal to many bird species, as well as mammals. Fires in riparian areas reduce and pollute water sources.² What little water is left may be used by more animals—resulting in disease, injurious confrontations, or dispersals to new, unknown areas with associated problems, vulnerability risks, and impacts (including but not limited to domestic pets, auto-wildlife collisions, and/or humans who may not welcome newcomers and put out poisons, traps, etc.).

With little-to-no-remaining cover for wildlife (See Exhibit A, #2, #3), along with gathering at water sources, what should be an ethical and fair chase hunt in a burned area may more closely resemble an illegal “canned hunt.” If “temporary” troughs or other large containers with water are needed for wildlife survival in fire-burned wildland areas, it is even more incumbent upon the FGC and/or the CA Dept of Fish and Wildlife to keep those areas off limits (“closed” to all) and especially to prevent hunting in those areas. Photos of deer gathered around a water source create a perception of “baiting” in areas where, or if, hunting has not been prohibited.

- II. Wildlife No Match. With flames reported as high as 300’ or more, this year’s Delta Fire (I-5 closure) is simply another example. “It’s the number of total acres burned in California overall that has increased dramatically, indicating

¹ “That prairie blaze [South Dakota’s Custer State Park’ – which blew up from 4,000 to 35,000 acres on a single night due to winds exceeding 40mph – caused burns severe enough that a number of bison (as well as elk, deer and a feral burro) had to be put down. It goes to show that a swift wildfire can sometimes outpace or outflank even the large and the mobile: whether it’s [mustangs in the American West](#) or [elephants in South Africa](#), big mammals *do* sometimes fall victim to flame and smoke.... ‘Large mammal mortality is most likely when fire fronts are wide and fast-moving, fires are actively crowning, and thick ground smoke occurs,’ the US Forest Service report explained.” Wildfire and Wild Things, [https://www\(dot\)earthtouchnews.com/natural-world/how-it-works/wildfire-and-wild-things/](https://www(dot)earthtouchnews.com/natural-world/how-it-works/wildfire-and-wild-things/).

²“Wildfire,” [http://www\(dot\)calforestfoundation.org/wildfire/](http://www(dot)calforestfoundation.org/wildfire/)

the fires are simply faster and more intense.”³ Such intensities, especially with the earlier fires, can easily destroy eggs, kill all nesting birds, and possibly adults as well—whether ground, shrub, or tree nesters. Even if the flames and heat are avoided, smoke inhalation can and does result in wildlife death. After one fire, researchers determined that the death of one of their radio-collared, adult female pumas, found in a mountain draw with burned paws and singed whiskers, but “otherwise minimal external injuries, had asphyxiated, probably on a day when strong south winds had driven the fire front forward at some 15 mph—fast enough, they reasoned, to trap the animal in the draw.” For smaller mammals, suffocation may occur when vital ventilation is via a single underground entrance.⁴

III. Winners and Losers. Depending upon terrain and fire severity, some species may benefit, but most will be negatively impacted.⁵ Predators may benefit by preying on fleeing animals. So-called “moderate” fires may create more beneficial, diverse micro-habitats, but California’s recent mega fires can hardly be classified as “moderate.”⁶ Wildlife’s normal “escape” instincts (climbing trees, burrowing, etc.) can be deadly.⁷ Excessive soil heat destroys buried food stores, leaving smaller animals without reserves which in turn disrupts ecosystem food chains. With changes in watersheds after fires (flows, run off, turbidity, sediment loads, etc.), fish and aquatic invertebrates are negatively impacted also.⁸

IV. Factoring Climate Change into the Mix. “Climate change is such a planetary-scale, whole-earth-system phenomenon that it’s an epic challenge to predict how specifically it’ll influence local fire regimes, though more and longer-lasting droughts, higher annual temperatures, receding permafrost, and diminished and faster-melting snowpacks certainly seem to set the stage for more burning. Assessing how wildlife can adapt to an evolving new pattern of wildfire is just one part of the high-stakes puzzle climate change presents....

³ Eric Knapp, fire ecologist, Redding. [http://www\(dot\)latimes.com/local/lanow/la-me-delta-fire-update-20180907-story.html](http://www(dot)latimes.com/local/lanow/la-me-delta-fire-update-20180907-story.html)

⁴ Wildfire and wild things, by Ethan Shaw, February 20, 2018, [https://www\(dot\)earthtouchnews.com/natural-world/how-it-works/wildfire-and-wild-things/](https://www(dot)earthtouchnews.com/natural-world/how-it-works/wildfire-and-wild-things/)

⁵ “All fires are not equal when it comes to how they impact wildlife.... What’s good for one species may be a problem for another.” Dave Koehler, Idaho Fish and Game biologist. [https://www\(dot\)scientificamerican.com/article/massive-wildfires-in-u-s-northwest-destroyed-habitats-threaten-wildlife/](https://www(dot)scientificamerican.com/article/massive-wildfires-in-u-s-northwest-destroyed-habitats-threaten-wildlife/)

⁶ “How Animals are Coping with California’s Wildfires,” National Geographic, [https://news\(dot\)nationalgeographic.com/2015/09/150914-animals-wildlife-wildfires-nation-california-science/](https://news(dot)nationalgeographic.com/2015/09/150914-animals-wildlife-wildfires-nation-california-science/)

⁷ Ibid., [Jane Smith](#), a mycologist with the U.S. Forest Service in Corvallis, Oregon, has measured temperatures as high as 1,292 degrees Fahrenheit beneath logs burning in a wildfire, and 212 degrees Fahrenheit a full two inches below the surface.

⁸ “High severity fires, which we are experiencing today, burn so hot they crystalize the soil. In these areas, the soil chemistry is changed and can no longer absorb rainfall. Without trees or roots to hold the soil in place, these areas see severe soil erosion and landslides which threaten drinking water supplies, public health and safety, and fisheries.” “Wildfire,” [http://www\(dot\)calforestfoundation.org/wildfire/](http://www(dot)calforestfoundation.org/wildfire/)

“California condors, for example, have dealt with wildfire in western North America for many millennia; countless nests must have gone up in flames. That's less of an issue when you've got lots of condors, but today, the potential loss of just one nestling – like the chick caught in the Thomas Fire – is a major cause for concern.”⁹

"If you have a species tied to a particular place, isolated in a refugia, it may suffer from a big burn that blasts over the site," Pyne said. "Apart from any immediate fatalities, the species won't have any place else to flee to until the original site recovers."


“Hemming wildlife into small, isolated patches of habitat surrounded by human development or otherwise unfavorable landscapes makes animal populations more vulnerable to fires, as they may have less ability to seek refuge and food, and fewer source populations for recolonisation.”¹⁰

Hunting of one species has been banned in Canada (B.C. area) due to fire impacts. Two First Nations governments have banned moose hunting in their respective territories. Record-breaking wildfires “have reduced high-value habitat for the animals, while creating thousands of access routes for hunters and predators,” thus making already struggling moose populations even more vulnerable.¹¹ **The same can be said for California’s record-breaking wildfires.**

In summary, every fire regime may be different, but most agree the fuels and climate issues suggest more mega fires will burn, which will create the first impact to wildlife and habitat. Then, with the arrival of hunters, the second impact occurs on already severely impacted species. Thus, wildlife regulatory agencies must take extra precautions and consider a broad, long-range approach to conserve wildlife in burned areas—for predatory hierarchies, ecosystem balances, human non-consumptives and consumptives. The last group must not be granted killing privileges that will exacerbate impacts to fully stressed, fire-devastated wildlife populations.

We strongly urge the FGC/WRC to forgo “business as usual,” accurately assess all resources, and recommend adoption of the most conservative approach possible to the 2019-2000 regulations and recommendations, including hunting bans in specific burn areas with a reasonable buffer added (“safety zone”—outside but adjacent) to ensure healthy future wildlife populations—game and non-game.

Thank you for considering our views,



Marilyn Jasper, Chair
Public Interest Coalition
Sierra Club Placer Group, Conservation Comm

⁹ Wildfire and wild things, by Ethan Shaw

¹⁰ Stephen Pyne, wildlife scholar and former firefighter. [http://www\(dot\)stephenpyne.com/](http://www(dot)stephenpyne.com/)

¹¹ “B.C. First Nations ban moose hunt after wildfires destroy habitats,”
[https://www\(dot\)cbc.ca/news/canada/british-columbia/moose-hunt-bc-1.4812605](https://www(dot)cbc.ca/news/canada/british-columbia/moose-hunt-bc-1.4812605)

Exhibit A -- FGC-12/13/18—Cancel Burn Area Hunts

1:



A burned deer lies on the side of the road as the Camp Fire moves through the area on November 8, 2018, in Paradise, California.

[https://www\(dot\)theatlantic.com/photo/2018/11/the-animals-of-californias-devastating-camp-fire/576337/?utm_source=newsletter&utm_medium=email&utm_campaign=atlantic-daily-newsletter&utm_content=20181120&silverid-ref=MzkzMzA2NzAwNjc4S0](https://www(dot)theatlantic.com/photo/2018/11/the-animals-of-californias-devastating-camp-fire/576337/?utm_source=newsletter&utm_medium=email&utm_campaign=atlantic-daily-newsletter&utm_content=20181120&silverid-ref=MzkzMzA2NzAwNjc4S0)

#2 Little-to-no cover:



Elk in woods burned by the 1988 Yellowstone wildfires. Image: US National

Park Service. [https://www\(dot\)earthtouchnews.com/https://naturalworldhow-incidents6250-fire-and-wild-things/](https://www(dot)earthtouchnews.com/https://naturalworldhow-incidents6250-fire-and-wild-things/)

#3 Little-to-no cover:



Buck in fire area with little-to-no forage or cover. Source: Link on CA DFW website, Hunting/Area-Alerts”

[https://inciweb\(dot\)nwcg.gov/incident/6250/](https://inciweb(dot)nwcg.gov/incident/6250/)

Memorandum

2018 OCT 12 AM 8:30

Date: October 10, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Request for Bounty on Sacramento Pikeminnow**

At the August 16, 2017 Fish and Game Commission (Commission) meeting in Sacramento, James Stone spoke during public forum and stated that salmon populations are declining in the northern rivers and that one cause is predation by Sacramento pikeminnow. Mr. Stone requested that the Commission work with other states, such as Washington, to consider management measures, such as a bounty program, to control populations of Sacramento pikeminnow. In Washington and Oregon there has been a Sport Reward Fishery Program for Northern Pikeminnow (Program) since 1990. The Program operates in the central Columbia River Basin, in the Columbia and Snake rivers. The Program is funded by the Bonneville Power Administration and administered by the Pacific States Marine Fisheries Commission.

Sacramento pikeminnow are native to much of northern and central California. There have been efforts over the years to remove Sacramento pikeminnow from the Eel River system following their introduction to the system in approximately 1979. Following that Eel River introduction, the Department of Fish and Wildlife (Department) conducted various experimental capture and removal efforts in the Eel, and a few private groups sponsored derbies and sometimes offered bounties, but these efforts proved ineffective at reducing the pikeminnow population. The Department has not conducted any such efforts on Sacramento pikeminnow in waters where they are native.

It is true that changes in environmental conditions caused by water diversion and land use practices have greatly reduced anadromous salmonid spawning range, and some of these changes (i.e., reduced stream flows, altered runoff timing and turbidity and increased water temperatures) have created conditions favorable to piscivorous (fish-eating) fishes such as black bass and pikeminnow, but there are many other factors other than fish predation affecting salmon populations. The Department is not convinced the proposed bounty program would produce measurable benefits to salmonid populations.

Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission
October 10, 2018
Page 2

Title 14 section 5.95 authorizes take of Sacramento pikeminnow in any number and at any time of year by angling. There are no size limits, and they may also be taken by bow and arrow or by spearfishing in many parts of the state. Title 14 section 1.87 prohibits the deterioration or waste of any fish taken in the state. Therefore, any fishing practice, derby, or bounty program resulting in waste of Sacramento pikeminnow would not be legal.

In conclusion, the Department doesn't support the use of bounties to control the Sacramento pikeminnow population. It is the policy of the state to encourage the preservation, conservation, and maintenance of wildlife resources, and the intent of the state to use ecosystem-based management to promote value of native predator species while minimizing adverse impacts and reducing conflicts with other values. Therefore, the Department recommends that the Commission deny Mr. Stone's request for a bounty on Sacramento pikeminnow.

If you have any questions or concerns regarding this matter, please contact Kevin Shaffer, Chief, Fisheries Branch at (916) 327-8840 or Kevin.Shaffer@wildlife.ca.gov.

cc: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
stafford.lehr@wildlife.ca.gov

Kevin Shaffer, Chief
Fisheries Branch
kevin.shaffer@wildlife.ca.gov

Roger Bloom, Program Manager
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Karen Mitchell
Fisheries Branch
Senior Environmental Scientist (Specialist)
karen.mitchell@wildlife.ca.gov

California Department of Fish and Wildlife Law Enforcement Division Quarterly Report: 2nd Quarter 2018

The majority of California's outdoors, hunting, and fishing communities are law-abiding citizens. A small percentage are not. From poaching and pollution investigations, to handling calls about problem wildlife, responding to assist allied law enforcement agencies, other general law enforcement and more, here is a snapshot of Wildlife Officers and their stories from April through June, 2018.

HIGHLIGHT STORY: K-9 Losses, Rango and Zoe

It was with great sadness that CDFW said goodbye to two immeasurable assets to the Department during the month of May 2018. The unforeseen and unexpected deaths of K-9's Rango and Zoe shook the K-9 program and the Law Enforcement Division.



K-9 Rango:

Served the Law Enforcement Division as a dual purpose police canine since 2016. Rango suffered an acute medical emergency while off duty and at home with his partner, Wildlife Officer Aaron Galwey.

Galwey's gentle demeanor melded with his partner and formed Rango's reputation as the K-9 programs gentle giant. Galwey often said he never hesitated to turn Rango loose into a crowd of kids as Rango had learned to love the attention from his younger fans.

Rango served as an ambassador for the Department at events and was also featured on the Department's 2018 Warden Stamp advertisement posters. He made a lasting impact on the resources that he protected.



K-9 Zoe:

Succumbed to Leukemia. Zoe served the Law Enforcement Division as a dual purpose police canine since 2017. She spent her last days surrounded by her handler, Wildlife Officer Nick Buckler, his family, and several other DFW K-9 handlers. Although she was only with the Department for a short duration of time, she gained the support and respect of all those who came to know and love her.

Despite Zoe's small stature, her speed and agility made her a force to be reckoned with. She exemplified "It is not the size of the dog in the fight, but the size of the fight in the dog".

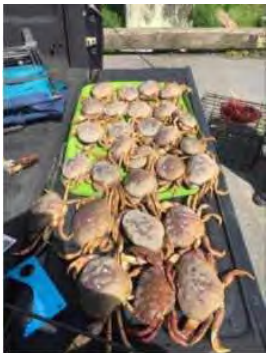
Zoe shined when she served as an ambassador for the Department making contacts with thousands of Californians at various events. Like Wildlife Officer Buckler, she demonstrated a strong desire to work.

FISHERIES ENFORCEMENT: Marine



Wildlife officers on vessel patrol contacted four anglers who were in possession of a mass over limit of fish. In all, the officers discovered 139 rockfish and one calico bass. The officers seized the fishing gear aboard the vessel and issued citations for fillet violations, over limits of rockfish, and general over limits. Officers plan to seek a commercialization enhancement for possessing over three times the daily bag limit as well.

Wildlife officers on vessel patrol were monitoring two divers. As the officers approached, the divers saw the officers and attempted to stash their game bag beneath a 7 ft deep underwater ledge. An officer jumped from the boat into the water and retrieved the bag, which contained one fully protected green abalone and four out of season lobsters. The suspects admitted to their crimes and received citations. To solidify the case, officers submitted the diver's gloves to the wildlife forensic lab to scan for traces of abalone DNA. All four gloves returned positive for traces of green abalone blood.



Wildlife officers conducting several vessel patrols focused on reports of individuals keeping mass amounts of undersized sport Dungeness crab. The multiple patrols resulted in officers issuing 18 citations for undersized Dungeness crab, over limit of Dungeness crab, or a combination of both. In one instance, an officer contacted an individual in possession of 21 undersized crabs.

Wildlife officers on vessel patrol observed a large sport fishing vessel drifting far offshore well outside the legal rockfish fishing areas (less than 120 ft. depth) in the Cowcod Conservation Area. The officers used radar overlay on the GPS plotter and estimated the boat was in 300 ft of water. As the officers approached and attempted contact, they noticed the suspect boat began to travel. The officers GPS flagged the point where the vessel was fishing and confirmed the water depth was approximately 290 ft.



The officers successfully stopped the vessel and contacted the 11 anglers aboard. Officers confirmed the boat contained massive amounts rockfish and lingcod, specifically a boat over limit of 134 rockfish. The officers seized all the fish, issued citations for over boat limit of rockfish and fishing deeper than 120 feet in the Cowcod Conservation Area.

FISHERIES ENFORCEMENT: Freshwater



A **wildlife officer** conducting a nighttime lake patrol observed three anglers coming in off the water. As they were loading their boat onto a trailer, the officer contacted the group. The anglers were avoidant and unclear with answers to basic questions, such as how many fish they caught. After multiple attempts to get clear answers, the officer decided to conduct an inspection of the boat. The officer located 67 crappie in the live well and an additional 110 crappie and two undersize in length black bass stashed in a bag under the dashboard of the boat. All three anglers admitted to catching the hidden over limit and short bass. All three anglers

were cited accordingly.

A **wildlife officer** contacted two subjects at a campground who were putting fishing gear into their car and asked the men if they had caught any fish. The men told him that they had caught some trout and hesitantly retrieved a plastic bag from a cooler that contained 19 trout, before quickly closing the cooler's lid. Based on the behavior of the men, the officer conducted an inspection of the cooler. The officer located an additional plastic bag full of fish for a total of 44 trout in the men's possession. Each man was cited for possessing 12 trout over the legal limit.



WILDLIFE ENFORCEMENT:

Wildlife officers were conducting patrol along a creek when they observed two subjects walking along the water edge carrying pellet rifles. The officers watched the subjects and saw them use the rifles to take a Red-Headed Merganser duck. As the officers were approaching to contact the subjects, they observed them chop the head off with a machete. Both subjects were cited for take of duck out of season.

A **wildlife officer** conducting nighttime patrol for spotlight activity observed a vehicle traveling through an orchard casting directional lights in search of wildlife. The officer covertly got behind the vehicle without detection before activating his emergency lights and making contact. Upon inspection, the officer found three subjects, with three long guns and ammunition in firearms, along with two spotlights.

A **wildlife officer** was conducting nighttime patrol when he saw a vehicle stopped diagonally across the road using the headlights to illuminate the grass along the side of the road. The officer saw a subject on foot using a hand-held light to illuminate the same area, while also carrying a rifle. The subject walked across the road and illuminated the pasture with his hand-held light, then took aim and fired from the road. The officer contacted the subject and determined he was spotlighting rabbits. The subject was cited for shooting from the road, spotlighting, and taking rabbits out of season.

OUTREACH:

Wildlife officer teams participated in two exciting annual events to raise funds for charities.

The annual Battle of the Badges softball tournament in Visalia.



The 4th annual Fallen Officer's Foundation Never Forget Relay, to provide support funds for first responders and their families in Santa Cruz County.

Wildlife officers and multiple CDFW staff competed in the first annual "Claws vs. Paws" fundraising event, pitting local law enforcement and government agencies against the Lassen Grizzly Claw-breakers Jr. trap-shooting club in a shooting competition. The event had a great turnout and raised a lot of money.



A **wildlife officer**, with assistance and support from the Natural Resource Volunteers, participated in a two-day Special Olympics event held at Cal State Long Beach. The team staffed a CDFW outreach booth, complete with a carnival style game for giveaway prizes and an array of various taxidermy mounts. CDFW was well-received by the Olympians and their families.

A **wildlife officer** attended a Kid Safety Day event. The event comprised of various first responders and EMS personnel from local agencies provides opportunity to engage with the public, answer question and distribute relevant outreach materials.



RESCUE EFFORTS:

A **wildlife officer** received a call on a very windy night, reporting an elderly man and his 12-year-old grandson were stranded on a lake on float tubes, unable to get to shore. The officer responded with his patrol boat and was able to locate the pair. The wildlife officer, with support from the Sheriff's Office, was able to return the subjects to the launch ramp around 3 a.m.

Wildlife officers were on vessel patrol when a stranded swimmer in distress flagged them down. The 47-year-old man was several hundred yards from shore and fully dressed, complete with shoes and socks. The man showed signs of hypothermia before being pulled from the water onto the Department patrol skiff. The man had no ID and stated his friends pushed him into the water. He would not provide any additional details. Wildlife officers transported the man to the San Diego City Lifeguard dock for a medical evaluation. After medical assessment and stabilization, the San Diego Police Department (SDPD) arrived to document the incident. When questioned by SDPD, the man refused to provide them with his name or any other related information. SDPD was able to identify the man using facial recognition software and discovered the man was currently on a terrorist threat watch list. He was taken into custody by SDPD for a mental evaluation.

A **wildlife officer** responded to an emergency call from a man who reported breaking his leg while fishing. The officer and the local Fire Department located and transported the man from the river to a nearby ambulance.

A **wildlife officer** was driving home when a vehicle passed him over double yellow lines at approximately 90 MPH in a 55 MPH section of roadway. The vehicle was immediately in a near head-on situation with an oncoming vehicle and made an evasive return to the correct lane. The erratic move caused the driver to lose control, sending the vehicle off the roadway, tumbling multiple times into an open field. The officer radioed for additional emergency response and began to search the field through a large cloud of thick dust. The officer located the wrecked remains of the vehicle and to his surprise, four subjects were located near the vehicle showing no signs of significant bodily injury despite all being ejected from the vehicle. All four subjects, including the driver, showed signs of alcohol intoxication. Responding EMS and CHP processed the occupants and the scene.

A **wildlife officer** was first on scene of multi-vehicle accident along a country road. The officer exited his vehicle and began to assess victims. As he looked into one of the mangled vehicles, he noticed the driver pinned in and slumped over, with a major compound fracture to his left knee and leg. The driver appeared deceased, leading the officer to move on to the passenger. He located a trapped, but conscious female passenger. The officer conducted basic first aid triage and provided calm reassurance while EMS arrived. Once relieved by medical staff the officer conducted traffic controls until relieved by responding CHP. The accident resulted in the loss of three lives, with the female passenger being the only survivor.

GENERAL:

A **wildlife officer** was conducting patrols for unlawful night hunting when he observed a small car drive down a private dirt road and park under a tree. The officer, suspicious of the activity, contacted the male and female occupants of the vehicle. The officer determined both had multiple warrants. The male subject had a criminal history ranging from petty theft to attempted murder. Both subjects were arrested and booked at the county jail without incident.

WILDLIFE CONFLICT:



Wildlife officers responded to a report of a mountain lion under a mobile home. Arriving officers confirmed a large, healthy mountain lion was under the occupied mobile home. After several hazing techniques were unsuccessful, the lion was darted and removed from under the mobile home. Officers successfully transported and released the lion onto more suitable department wildland.

A **wildlife officer** on lake patrol was advised by several anglers that a young bear stole a stringer full of fish from two anglers just moments before the officer arrived. Curious of the tale, the officer contacted the two anglers from whom the fish were stolen. The two stated the bear took their stringer, but it only had one fish. The officer, recalling all the witnesses describing the stringer as “full” and noticing the two appeared very nervous, asked if they had any fish now. Upon further investigation, the officer determined the two subjects possessed a total of 19 fish, well over the limit, despite how many the bear took.



Wildlife officers responded to a report of a bear in a populated city, only about fifty yards from a major highway. Numerous allied agencies were on scene hoping the bear did not enter the highway but preparing for the chance it may. Responding wildlife officers arrived and reacted quickly. They successfully tranquilized, transported, and released the bear to more suitable habitat.

WILDLIFE DISTRESS:

A **wildlife officer** responded to a report that employees from Sierra Pacific Lumber Mill found a lost and lonely baby fox amongst the facility in a very dangerous location. After assessment of the area, it was determined there was no suitable safer adjacent location for the fox to remain. The decision was made to collect and deliver the fox to a wildlife rehabilitation facility.



UNLAWFUL POSSESSION:



A wildlife officer received a call from a local police department regarding an alligator they had found during the execution of a search warrant. The resident alleged he did not know who the alligator belonged to because so many people have come and gone from his house in the past few months. The officer seized the alligator and delivered it a permitted care facility.

A wildlife officer received a CalTIP reporting a fawn kept as a pet at a residential residence within a major urban city. The responding officer contacted the resident and was given consent to look in the backyard. Upon inspection the officer found a fawn deer running around the yard appearing very habituated to people. The residents said they had the fawn for two months and planned to keep it. The officer explained the safety and health risks associated with harboring wildlife. The officer seized and delivered the fawn to a licensed rehabilitation facility.



A wildlife officer received a report of Red Tail Hawks being taken from the nest. The reporting party (RP) stated he had been observing the nest with a telescope watching the young birds grow, when one day he noticed the birds were gone. The RP noticed a ladder at the base of the tree. The RP went to the property, spoke with one of the tenants, and discovered there were four hawks in two different cages. Wildlife officers responded to the CalTIP and located the four hawks in cages. After interviewing the suspect, he admitted he had taken all of the hawks from the same nest, two from this year and two from a previous year. The suspect did not have the required permits for the hawks. Officers seized and delivered the hawks to a permitted facility.

Wildlife officers responded to a report that employee of a feed store found five baby barn owls in hay bales and decided to take them home. Officers contacted the subject at his residence and he admitted to possessing the barn owls, which he was keeping in his vehicle. The subject stated he planned to turn the owls over to a rehabilitation facility once he got their weight stabilized. Officers seized and delivered the owls to a permitted rehabilitation facility.



A wildlife officer received a report of a coyote “attack”. The officer learned the report involved a six-week-old coyote pup that bit the finger of a woman trying to feed it. The woman had the pup in captivity and intended to keep it as a pet. Further investigation revealed the pup was one of five coyote pups previously taken from the wild, after the mother was killed in farming operations. Wildlife Officers tracked down, seized, and delivered four of the pups to a permitted wildlife rehabilitation facility.

DISPOSITIONS:

A **wildlife officer** received disposition of a commercial Dungeness crab case, involving the suspect's retention of more than 1% undersized. The subject received a fine of \$5,000 and 3-years' probation.

Wildlife officers appeared in court for a case involving possession of 142 undersized Pismo Clams and 109 Bean Clams and take without a license. The subject received a fine of \$5,000.

A **wildlife officer** received disposition for a case involving a suspect using multiple lines for rockfish. The subject received a fine of \$150.

A **wildlife officer** appeared in court for a case involving of unlawful possession of 21 Pismo clams. The subject received a fine of \$2,500.

A **wildlife officer** received disposition for a case with multiple subjects involving take of turkeys and quails out of season, trespass to hunt, take of a non-game species, and failure to show. The two main subjects received a fine of \$3,325 each. The remaining subjects received fines ranging from \$655 to \$1,295.

A **wildlife officer** received disposition for a case involving a diver stealing lobsters from a commercial angler's traps. The subject was ordered to serve 10 days in county jail, received a fine of \$1,000, and ordered forfeiture of all seized dive gear.

A **wildlife officer** received disposition for a case involving unlawful possession of a hawk, failure to adhere to care, failure to renew an annual falconry license (while engaged in falconry), and failure to adhere to annual reporting. The subjects were ordered to pay \$250 to the Fish and Game Preservation Fund and restitution of \$1,091.38 to the South Bay Wildlife Rehabilitation Center for care of the hawk. Both subjects received 24 months summary probation.

The hawk is scheduled to be released to the wild once formal court documents have been received on case disposition.

California Fish and Game Commission

Potential Agenda Items for February 2019 Commission Meeting

The next Commission meeting is scheduled for February 6, 2019 in Sacramento. This document identifies potential agenda items for the meeting, including items to be received from Commission staff and the California Department of Fish and Wildlife (DFW).

Note that for 2019 Commission meetings, wildlife and inland fisheries items will be heard on the first day and marine items will be heard on the second day.

Wednesday, February 6: ALL items (single-day meeting)

1. Election of Commission president and vice president
2. Committee assignments (Marine Resources Committee, Wildlife Resources Committee, Tribal Committee)
3. General public comment for items not on the agenda
4. Executive director's report (staff report, legislative update)
5. Tribal Committee
6. Wildlife Resources Committee
7. Notice: upland game bird (annual)
8. Discuss: mammal hunting, including deer/elk tag validation
9. Discuss: archery equipment and crossbow
10. Discuss: waterfowl (annual)
11. Discuss: Klamath River Basin sport fishing (annual)
12. Discuss: Central Valley salmon sport fishing (annual)
13. Candidacy decision: Upper Klamath-Trinity River spring Chinook salmon, pursuant to Section 2074.2, Fish and Game Code
14. Receive DFW 90-day evaluation report on the petition to list northern California steelhead as an endangered species under the California Endangered Species Act (CESA)
15. Receive DFW 90-day evaluation report on the petition to list four bumble bee species as endangered species under CESA
16. Receive DFW 1-year status review report on the petition to list foothill-yellow frog as an endangered or threatened species under CESA
17. Act on petitions for regulation change
18. Act on non-regulatory requests from previous meetings
19. Receive DFW informational items (including Department's annual report regarding necropsies on mountain lions taken under depredation permits)
20. Marine Resources Committee
21. Adopt: purple sea urchin (regular rulemaking)
22. Adopt: California sheephead fillet

23. Request to renew Charles Friend Oyster Company State Water Bottom Lease No. M-430-04
24. Discuss Pacific Herring Fishery Management Plan (per staff recommendation at this meeting, this item may be removed)
25. Update: annual recreational ocean salmon and Pacific halibut regulations, Pacific Fishery Management Council process and timeline, and automatic conformance to federal regulations
26. Update: strategic planning
27. Administrative items (next meeting agenda, rulemaking timetable, new business)

California Fish and Game Commission – Perpetual Timetable for Anticipated Regulatory Actions

(dates shown reflect the date intended for the subject regulatory action)

Updated: 12/06/18

ITEMS PROPOSED FOR CHANGE ARE SHOWN IN BLUE FONT

Updated: 12/06/18					ITEMS PROPOSED FOR CHANGE ARE SHOWN IN BLUE FONT																						
For FGC Staff Use					REGULATORY CHANGE CATEGORY	ACTION DATE, TYPE AND LOCATION	2018 DEC		JAN	FEB	FEB	MAR	APR	MAY	MAY	2019 JUN	JUN	JUL	AUG	SEP	OCT	OCT	NOV				
QUARTERLY EFFECTIVE	DW/RU ANALYST	FGC ANALYST	LEAD	12			13	10	5	6	7	19	17	18	16	16	11	12	13	11	7	8	5	8	9	10	5
				FGC OCEANSIDE			WRC RIVERSIDE	TC SACRAMENTO	FGC SACRAMENTO	MRC MONTEREY/ MARINA	FGC LOS ANGELES	WRC SACRAMENTO	TELECONFERENCE SACRAMENTO	TC REDDING	FGC REDDING	MRC SAN CLEMENTE	FGC SACRAMENTO	WRC SANTA ROSA	TC SAN DIEGO	FGC SAN DIEGO	MRC SACRAMENTO						
File Notice w/OAL by Notice Published						10/16/18																					
Title 14 Section(s)						10/26/18																					
*	OA	SF	FB	Commercial Use and Possession of Rattlesnakes - Resubmittal	42, 43, 651, 703			E 1/1																			
*		SF	FGC	Tribal Take in Marine Protected Areas	632			E 1/1																			
*		SF	FGC	Rockport Rocks Special Closure	632(b)(17)			E 1/1																			
	MR	JS	WLB	Sage Grouse Preferential Points and Draw	716			E 1/1																			
*	OA	JS	MR	Incidental Take Allowances for Crabs, other than Genus <i>Cancer</i> , in Trap Fisheries	125.1(c)(3), 126, 126.1			E 1/1																			
*	MR	ST	HCB	Coast Yellow Leptosiphon and Lassics Lupine	670.2								E 4/1														
	OA	ST	MR	Groundfish	27.30, 27.35, 27.40, 27.45, 27.50, 28.27, 28.55, 52.10, 150.16	A		E 1/1																			
	MS	ST	MR	Recreational Take of Red Abalone	29.15	A							E 4/1														
*	MR	ST	MR	Commercial Logbooks	107, 174 and 176	D/A							E 4/1														
	OA	JS	FB	Sport Fishing (Annual)	1.53, 1.74, 5.00		A	V				E 3/1															
	OA	JS	FB	Statewide Sport Fishing Revisions and Simplification for 2020	TBD			V	V						R				N					D			
	MR	DT	MR	Recreational Purple Sea Urchin (Emergency) (1st 90-day extension)	29.11						EE 2/5																
	MR	DT	MR	Recreational Purple Sea Urchin (Regular Rulemaking)	29.06	D				A	A			E 5/1													
*	OA	SF/CC	MR	Sheephead Fillet	27.65(b)	D				A	A							E 7/1									
	MR	JS	WLB	Mammal Hunting, including deer/elk tag validation	362, 364, 364.1, 708.6		N			D			A		V			E 7/1			R						
	MR	JS	LED	Archery Equipment and Crossbow	354(f)		N			D			A					E 7/1									
	MR	JS	WLB	Waterfowl (Annual)	502, 509		N			D			A		V			E 7/1			R						
	MR	JS	WLB	Deer/Elk Tag Validation	708.6, 708.11		N			D			A					E 7/1									
	OA	SF/CC	FB	Klamath-Trinity-Salmon River Basin Sport Fishing (Annual)	7.50(b)(91.1)		N			D			D		V	A		E 7/1			R						
	OA	SF/CC	FB	Central Valley Salmon Sport Fishing (Annual)	7.50(b)(5), (68), (156.5)		N			D			D		V	A		E 7/1			R						
	MR	JS/CC	WLB	Upland (Resident) Game Bird (Annual)	300					N			D					A			E 9/1						
*	MR	ST	MR	Recreational and Commercial Pacific Herring (fishery management plan implementation)	27.60, 28.60, 28.62, 163, 163.1, 163.5, 164					N	V							D		A							

RULEMAKING SCHEDULE TO BE DETERMINED																									
*			MR	Commercial Kelp and Algae Harvest Management	165, 165.5, 704							V													
*				Possess Game / Process Into Food	TBD																				
*			OGC	American Zoological Association / Zoo and Aquarium Association	671.1																				
				Night Hunting in Gray Wolf Range	474																				
				Shellfish Aquaculture Best Management Practices	TBD																				
*		ST		Fisher	670.5				V				R					R							R
*		ST		Humboldt Marten	670.5																				
*		ST		Northern Spotted Owl	670.5																				
*		ST		Tricolored Blackbird	670.5																				
*				Ban of Neonicotinoid Pesticides on Department Lands	TBD																				
*			MR	Commercial Pink Shrimp Trawl	120, 120.1, 120.2																				
*			MR	Ridgeback Prawn Incidental Take Allowance	120(e)																				

RULEMAKING SCHEDULE TO BE DETERMINED

*			MR	Commercial Kelp and Algae Harvest Management	165, 165.5, 704							V															
*				Possess Game / Process Into Food	TBD																						
*			OGC	American Zoological Association / Zoo and Aquarium Association	671.1																						
				Night Hunting in Gray Wolf Range	474																						
				Shellfish Aquaculture Best Management Practices	TBD				V			R						R									R
*		ST		Fisher	670.5																						
*		ST		Humboldt Marten	670.5																						
*		ST		Northern Spotted Owl	670.5																						
*		ST		Tricolored Blackbird	670.5																						
*				Ban of Neonicotinoid Pesticides on Department Lands	TBD																						
*			MR	Commercial Pink Shrimp Trawl	120, 120.1, 120.2																						
*			MR	Ridgeback Prawn Incidental Take Allowance	120(e)																						

EM = Emergency, EE = Emergency Expires, E = Anticipated Effective Date (RED "X" = expedited OAL review), N = Notice Hearing, D = Discussion Hearing, A = Adoption Hearing, V = Vetting, R = Committee Recommendation, WRC = Wildlife Resources Committee, MRC = Marine Resources Committee, TC = Tribal Committee