

STAFF SUMMARY FOR FEBRUARY 8-9, 2017

23. NON-MARINE REGULATION PETITIONS AND NON-REGULATORY REQUESTS**Today's Item**Information Action

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

- (A) Action on petitions for regulation change received at the Dec 2016 meeting.
- (B) Action on non-regulatory requests received at the Dec 2016 meeting.
- (C) Update on pending regulation petitions and non-regulatory requests referred to staff or DFW for review.

Summary of Previous/Future Actions

(A-B)

- FGC receipt of new petitions and requests Dec 7-8, 2016; San Diego
- **Today's FGC action on petitions and requests** Feb 8-9, 2017; Rohnert Park

(C)

- **Today's update and possible action on referrals** Feb 8-9, 2017; Rohnert Park

Background

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

Petitions for regulation change or requests for non-regulatory action scheduled for consideration today were received or referred at the Dec 2016 meeting in 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 forum.

The public request logs provided in exhibits A1 and B1 capture the regulatory and non-regulatory requests received through the last meeting that are scheduled for FGC action today. The exhibits contain staff recommendations for each request.

- (A) Petitions for regulation change: As of Oct 1, 2015, 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" (Section 662, Title 14). Petitions received at the previous 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).

Today, two non-marine regulation petitions received in Dec 2016 are scheduled for FGC action (See summary table in Exhibit A1 and individual petitions in exhibits A2-A3).

- (B) Non-regulatory requests: Requests for non-regulatory action received at the previous meeting are scheduled for consideration today.

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No non-regulatory requests are scheduled for action today.

- (C) Pending regulation petitions and non-regulatory requests: This item is an opportunity for staff to provide an evaluation and recommendation on items previously referred by FGC to DFW or FGC staff for review. FGC may act on any staff recommendations made today.

No updates on pending items were received from FGC staff or DFW for this meeting.

Significant Public Comments

1. Email received by multiple organizations requesting FGC act on Petition 2015-010 by passing regulations to ban nighttime hunting and lethal trapping of coyotes and other species within the range of the gray wolf in California (Exhibit C1)
2. Email received from petitioners for Petition 2015-009 requesting FGC and DFW prioritize legal compliance with the mandate for 2017 and that FGC increase trapping license fees without undergoing the regulation process (Exhibit C2).
3. Received a petition with 951 signatures requesting FGC raise trapping license fees or eliminate the fur-trapping program entirely (Exhibit C3).
4. Two emails received requesting FGC raise trapping fees (exhibits C4 and C5)
5. Email received expressing concerns about potential impacts to wolves from night hunting and request to protect them (Exhibit C6).

Recommendation

- (A) Adopt staff recommendations for regulation petitions to (1) deny, (2) grant, or (3) refer to committee, DFW staff, or FGC staff for further evaluation or information gathering. See exhibit A1 for staff recommendations for each regulation petition.

Exhibits

- A1. [FGC table of non-marine petitions for regulation change received through Dec 8, 2016](#)
- A2. [Petition #2016-026 from Dustin Worrell concerning use of jacketed frangible bullets, received Nov 17, 2016](#)
- A3. [Petition #2016-028 from Sean Campbell \(Arcata Fire District\) concerning the validation of deer and elk tags, received Oct 26, 2016](#)
- C1. [Email from Center for Biological Diversity and others concerning Petition #2015-010, received Jan 26, 2017](#)
- C2. [Email from Center for Biological Diversity and Project Coyote concerning Petition #2015-009, received Jan 24, 2017](#)
- C3. [Results from Project Coyote petition concerning Petition #2015-009, received Jan 26, 2017](#)
- C4. [Email from Fauna Tomlinson concerning trapping fees, received Jan 26, 2017](#)
- C5. [Email from Keli Hendricks concerning trapping fees, received Jan 26, 2017](#)
- C6. [Email from Keli Hendricks concerning night hunting and wolves, received Jan 26, 2017](#)

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Motion/Direction

(A) Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on December 2016 regulation petitions.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on December 2016 regulation petitions except for item(s) _____ for which the action is _____.

CALIFORNIA FISH AND GAME COMMISSION
DECISION LIST FOR REGULATORY ACTION THROUGH DEC 08, 2016
 Revised 01-26-2017

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

Grant: FGC is *willing to consider* the petition through a process **Deny:** FGC is *not willing to consider* the petition **Refer:** FGC *needs more information* before deciding whether to grant or deny the petition

Tracking No.	Date Received	Response Due (10 work days)	Response letter to Petitioner	Accept or Reject	Name of Petitioner	Subject of Request	Code or Title 14 Section Number	Short Description	Staff Recommendation	FGC Decision
2016-026	11/17/2016 (revised and resubmitted from original 10/17/2016 version)	10/31/2016	11/18/2016	A	Dustin Worrell	Jacketed frangible bullets	353, T14	Permit use of jacketed frangible bullets (DRT) as authorized ammunition for big game hunting.	<i>Refer to DFW for further evaluation and recommendation</i>	RECEIPT: 12/7-8/16 ACTION: Scheduled 2/8-9/16
2016-028	10/26/2016	11/9/2016	11/2/2016	A	Sean Campbell Arcata Fire District	Firefighters validate deer and elk tags	708.6, T14	Request to update regulations to clarify which members of the fire service are authorized to validate deer and elk tags.	<i>Refer to DFW for further evaluation and recommendation</i>	RECEIPT: 12/7-8/16 ACTION: Scheduled 2/8-9/17



2016-026
Tracking Number: ~~(Click here to enter text.)~~

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

Person or organization requesting the change (Required)

Name of primary contact person: Dustin Worrell

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: **We were on the approved list and then taken off, by the CA Fish and Game for the fact that we were labeled as "frangible". Our hunting rounds are just like a Berger bullet, except non lead. They do break into several pieces, but only after they have gone through bone and muscle. This a very effective big game hunting bullet.**
3. **Overview (Required)** - Summarize the proposed changes to regulations: I propose that you allow DRT bullets to be used for the hunting of Big Game in California. We make a Jacketed bullet, so I proposed that you allow jacketed Frangible bullets in California for hunting. Regular frangible rounds would not work on big game, and I believe that is what the law is referring to. Since our bullets are a new design, being a Jacketed Frangible, I think you find that they work much better than standard frangible as well as any lead bullet out there.
4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: The issue is that non lead bullets generally wound a lot of animals instead of effectively killing them. This is a big problem for the state to deal with as no one wants to wound game. Our bullet is a great non lead option that effectively takes down big game quickly and efficiently. Other bullets such as the Barnes Triple Shock will go through and through without causing big wound cavities. All of our Terminal Shock bullets will go through bone and muscle tissue without expanding and then will expand on the soft tissues (organs) and then become "frangible". These are jacketed rounds just like any other lead bullet.

SECTION II: Optional Information

Date of Petition: 10/17/2016

Category of Proposed Change

- Sport Fishing
- Commercial Fishing
- Hunting
- Other, please specify: Click here to enter text.

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):353.
- Add New Title 14 Section(s): Click here to enter text.
- Repeal Title 14 Section(s): Click here to enter text.

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: 11/1/16
- 10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: I have attached pics of big game shot with DRT projectiles
- 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: NA
- 12. **Forms:** If applicable, list any forms to be created, amended or repealed:
Title 14:353

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 Received
 11/17/2016
 2:55pm



FGC action:

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



Tracking Number: (Click here to enter text.) *2016-028*

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: Sean Campbell

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish and Game Code, Section 4341

3. **Overview (Required)** - Summarize the proposed changes to regulations: I believe the new wording could be as follows: ***On duty firefighter of any rank, working for a recognized fire agency within the State of California (Local government Firefighter, Special District Firefighter, County Firefighter, State Firefighter, and Federal Firefighter)***

4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: The code lists a *County fireman at or above the class of foreman* is an approved person to validate deer and elk. This language is outdated and no longer used in the California Fire Service. I believe the intent of this language is to allow on duty firefighters be allowed to validate deer and elk in their fire stations. Our department has been validating deer and elk for over 30 years but has recently discontinued this practice because we are not "County Fireman" and don't have "Foreman's" in our rank structure. We asked our local Wardens and received mixed answers on whether we were allowed to validate deer and elk. There is confusion amongst the response we received. Some believe the intent of the code allows us to validate, while others believe we would be violating the code if we are not County Fireman. If the language was updated, our department would likely continue with the service of deer/elk validation at our fire stations. This is a service that our community appreciated because our personnel were easy to contact and our facilities are centrally located within the community.



SECTION II: Optional Information

5. **Date of Petition: 10-26-16**
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):708.6 (c)(1.)(C)(1.)
 - 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: It would be a benefit to have this change occur before the 2017 Regulations guide is published.
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Not Applicable
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: None
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
 - Reject - outside scope of FGC authority
- Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

RECEIVED
 CALIFORNIA
 FISH AND GAME
 COMMISSION
 2016 OCT 26 PM 2:20
 AM 10/21 NRS



FGC action:

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



NRDC
NATURAL RESOURCES
DEFENSE COUNCIL



California Wolf Center



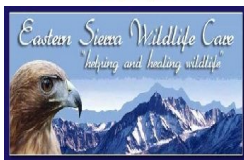
Conservation, Education, Research



WILDLIFE RESCUE
SONOMA COUNTY



SCIL
Social Compassion
in Legislation



LETTER IN SUPPORT FOR REGULATIONS TO BAN NIGHT-TIME HUNTING AND LETHAL TRAPPING IN
GRAY WOLF TERRITORY (PETITION #2015-010)
Public Forum, February 8, 2017 California Fish & Game Commission Meeting

Sent via electronic mail

January 26, 2017

California Fish and Game Commission (“the Commission”)
President Erick Sklar
Commissioner Jacque Hostler-Carmesin
Commissioner Burns
Commissioner Silva
Commissioner Anthony Williams
Executive Director Valerie Termini

California Fish & Wildlife Department (“the Department”)
Executive Director Charles Bonham
Deputy Director of Wildlife and Fisheries Stafford Lehr

Re: REQUEST FOR URGENT ACTION FOR COMMISSION ACT ON REGULATIONS BANNING NIGHT-TIME HUNTING AND LETHAL TRAPPING IN GRAY WOLF TERRITORY (PETITION #2015-010) (Public Forum, February 8, 2017 FGC Meeting)

Dear President Sklar, Executive Director Termini, Fish & Game Commissioners, Director Bonham, and Deputy Director Lehr,

We, non-profit wildlife conservation organizations (listed below) who collectively represent over 3,100,000 Californians, write to express our strong and urgent request for the Commission to act on passing regulations to ban night-time hunting and lethal trapping of coyotes and other species within the range of the gray wolf in California (Petition #2015-010), submitted on December 4, 2015.

It has been over fourteen months since the petition’s submission, yet it appears that both the Department and Commission have made little to no progress on this rulemaking.¹ This lack of action is unacceptable. The need to adopt regulations to protect California’s precarious wolf population is urgent, particularly in light of the confirmation of the presence of two gray wolves in Lassen County in November 2016 and the ongoing wildlife killing contests permitted in northern California. While we are appreciative of the Commission and Department’s efforts regarding California’s Conservation Plan for Gray Wolves, this petition calls for targeted regulations to protect wolves from mistaken killings in their occupied and potential territory. The Commission’s adoption of this regulation is highly prudent because it reduces the state’s risk of violating both state and federal law should any wolves be killed.

As the Commission is well aware, the recovery of California’s gray wolf population is precarious in light of the Shasta Pack and the two Lassen wolves currently known to be residing in the state. In recognition of this status, the gray wolf is listed as endangered under both the state and federal Endangered Species Acts (“CESA” and “ESA”). While these regulatory mechanisms render both the intentional and accidental taking of gray wolves in California illegal, specific regulations are necessary to protect wolves in the state from one of the greatest threats to their recovery: the accidental killing of gray wolves mistaken for other species, particularly coyotes, in night-time hunting and lethal trapping currently permitted in occupied and potential wolf territory. We urge the Commission to take swift action on the

¹ In a meeting between Department representatives and Center for Biological Diversity on December 5, 2016, the Department reported that the only progress that had been made on this rulemaking since the Commission’s April referral was stakeholder meetings with agriculture and livestock groups. It appears that no other action has been taken.

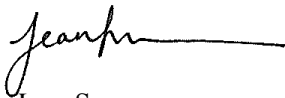
requested regulations in order to greatly reduce the risk of future takings of wolves in violation of the ESA and CESA.

These threats of mistaken killing are particularly acute during this time period, when California towns like Adin in the northeastern part of the state sponsor their annual February coyote killing contests. Well-documented cases across the United States show that wolves have frequently been killed by hunters targeting coyotes and other species.² California's current regulations which permit night-time hunting and lethal trapping of coyotes and other nongame and furbearer species within the range of the gray wolf will, absent amendment, almost certainly result in the illegal take of the endangered gray wolf. The Commission's adoption of a ban against such activities serves to greatly reduce the likelihood of ESA and CESA violations by hunters and trappers, as well as the Commission's and Department's own potential legal liability under these statutes.

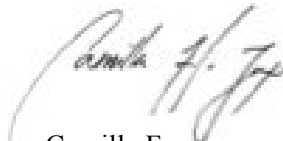
Finally, as the petition and advocates have repeatedly stated, the protections we seek for the gray wolf are neither new nor extraordinary; identical protections are already afforded to California's two other CESA-listed wild canids. Specifically, the Commission previously enacted prohibitions on night-time hunting and the use of lethal traps within the range of the endangered San Joaquin kit fox and Sierra Nevada red fox³—protections identical to those we now seek on behalf of the gray wolf. The Commission should afford equal protective treatment to the endangered gray wolf population.

We urge the Commission to expeditiously adopt the ban in order to protect the federally and state-listed gray wolf and aid this important apex predator on its critical road to recovery in California. Thank you for your consideration of these comments. We look forward to the Commission's swift action on this matter.

Sincerely,



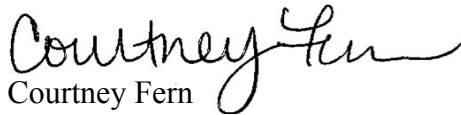
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² See Petition #2015-010 for further details.

³ See 14 CCR § 465.5(g)(5)(c), 466 and 474(a).



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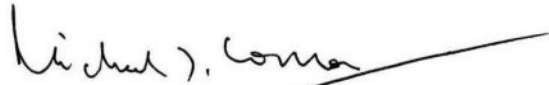


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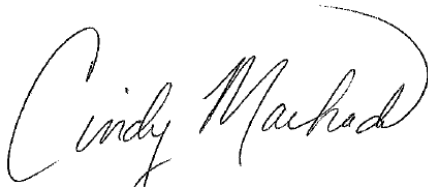
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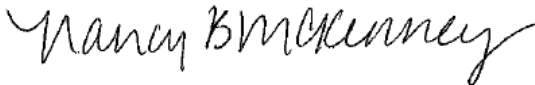


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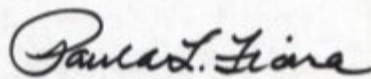
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Sent via electronic mail

January 23, 2017

California Fish and Game Commission (“the Commission”)
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Commissioner Jacque Hostler-Carmesin
Commissioner Burns
Commissioner Silva
Commissioner Anthony Williams
Executive Director Valerie Termini

California Fish & Wildlife Department (“the Department”)
Executive Director Charles Bonham
Deputy Director of Wildlife and Fisheries Stafford Lehr

Re: Fish & Game Commission’s Legal Authority to Modify Trapping License Fees without Commission Petition Process – Public Forum, February 8, 2017, FGC Meeting

Dear President Sklar, Executive Director Termini, Fish & Game Commissioners, Director Bonham, and Deputy Director Lehr,

On December 4, 2015, the Center for Biological Diversity (“the Center”) and Project Coyote submitted Petition No. 2015-009 regarding raising commercial trapping license fees to the levels necessary for the full recovery of the reasonable administrative and implementation costs of the trapping program incurred by the Commission and Department of Fish and Wildlife (“the Department”) in compliance with section 4006(c) of the California Fish and Game Code (“FGC”) and SB 1148 (Pavley). This statutory mandate became effective in January 2013, yet the Commission has failed to raise fees to comply with this law, resulting in four years of unlawful noncompliance with this unambiguous mandate. As explained in the petition and our subsequent comment letters and public testimony, expeditious action on the trapping fee petition is necessary if the Commission is to remedy its ongoing violation of law related to trapping fees. A continued illegal subsidy of commercial fur trapping will not be tolerated by the public, and certainly should not be tolerated by the Commission.

I. The Commission and Department have taken scant action on the one-year old petition

More than one year after the submission of the petition, it appears that the Commission and Department have made little to no progress on the petition process. The Commission accepted the petition at the February 2016 Commission meeting and subsequently referred the Petition to the Department for further analysis at the April 2016 Commission meeting.

On May 18, 2016, the Center’s Brendan Cummings and Jean Su met with Director Bonham, Deputy Director Lehr, Mr. Craig Martz, and Ms. Karen Miner to discuss the petition. There, Deputy Director Lehr stated that the estimated schedule of the petition process would be as follows: the rulemaking

package would be introduced to the Commission in spring 2017, and a desired effective date of the rule would be July 2017, prior to the start of the 2017 trapping season. According to one of the documents received in the Public Records Act request, the Department aimed to begin work in August or September of 2016 on the rulemaking package.

On December 5, 2016, the Center's Brendan Cummings and Jean Su again met with Deputy Director Lehr, Deputy Chief David Bess, and Wildlife Branch Chief T.O. Smith to discuss the petition. Deputy Director Lehr informed the Center that no progress had been made on this petition since it was referred to the Department in April 2016. Both the Department and Commission's lack of action on the petition is further evidenced by their responses to Public Records Act requests that the Center submitted to both bodies seeking documents related both to the petition and FGC 4006(c) since its 2013 effective date. The Department returned a handful of records, two of which were the same notes from the May 18, 2016 meeting and notes from a prior meeting in preparation for that meeting. The Commission also did not provide any further documents in response to a PRA request.

Further, at the December 5, 2016 meeting, Deputy Director Lehr stated that the schedule of introducing a rulemaking package in the spring of 2017 with the idea of formalizing a rule by summer 2017 would not be possible, and it was not clear if the rulemaking could be completed in 2017 at all. He also stated the Department's overwhelming workload given its resources. While we understand and certainly empathize with the Department's hardworking staff, we emphasize that the trapping fees issue is a statutorily mandated duty that the Commission has failed to comply with for a total of four years to date. As we believe we have exercised patience and exhausted efforts to communicate with and support Department and Commission staff, we ask the Commission and Department to prioritize legal compliance with this mandate for 2017.

II. The Commission possesses the legal authority to adjust license fees without undergoing a formal rulemaking process

To avoid any further delay perpetuating unlawful inactivity and to conserve Department and Commission resources, we urge the Commission to exercise its legal authority and set the trapping license fees without engaging in the regulation rulemaking process. The setting of trapping license fees pursuant to FGC § 4006(c) does not require engaging in a regulatory adoption process under the Fish & Game Code. First, to be clear, the Center and Project Coyote submitted the petition in December 2015 under the advice of outgoing Commission President Jack Bayliss as a way to put the item on the Commission's agenda of activity, but we do not agree that setting license fees under FGC § 4006(c) requires a regulatory adoption process.

Second, FGC § 4006(c) gives the Commission the independent legal authority to raise trapping fees without engaging in any regulatory rulemaking process. In enacting SB 1148 effective January 1, 2013, as codified in FGC § 4006, the California Legislature *directed* the Commission to raise trapping license fees as follows (emphasis added):

“The commission *shall adjust* the amount of the fees specified in subdivision (a), as necessary, to fully recover, but not exceed all reasonable administrative and implementation costs of the department and the commission relating to those licenses.”

This statutory authority is the same authority the Commission exercises to raise license fees for inflation purposes. The Commission already exercises such authority to adjust for inflation without undergoing a rulemaking process or requiring submission of a petition. As trapping license fees are governed by FGC § 4006, FGC § 4006(a) sets a base level fee for trapping licenses and requires the Department to increase that fee based on federal inflation statistics pursuant to FGC § 713. Under this regime, trapping license fees have increased from \$45 several decades ago to \$117.16 for the 2015-2016 license year. In addition

to the inflation-related increases contemplated by FGC §§ 4006(a) and 713, FGC § 4006(c) requires that fees also be adjusted to recover the costs of the Department and Commission in managing the trapping program. Read together, these provisions show that a similar process of setting fees applies to both statutory provisions, giving the Commission legal authority to set fees without undergoing a process of regulation adoption.

Second, the law is clear that fee setting is not a regulation that requires adoption through a regulatory process. According to FGC § 207, only those regulations made pursuant to sections 203 and 205 of the Fish & Game Code are required to undergo the regulatory adoption process, which includes, among other things, that any regulation undergo a series of no fewer than three meetings for the commission’s consideration, review, and adoption. Trapping license fees are squarely outside of the scope of FGC § 205, which are regulations as to fish, amphibian and reptiles, as well as FGC § 203, which are regulations as to birds and mammals that relate to any of the following:

- “(a) Establish, extend, shorten, or abolish open seasons and closed seasons.
- (b) Establish, change, or abolish bag limits and possession limits.
- (c) Establish and change areas or territorial limits for their taking.
- (d) Prescribe the manner and the means of taking.
- (e) Establish, change, or abolish restrictions based upon sex, maturity, or other physical distinctions.”

Setting trapping license fees does not fall into any of these categories, and is thereby exempt from undergoing a formal regulation adoption process.¹

Even more, FGC § 1050 also supports that raising fees as mandated under FGC § 4006(c) does not require a regulatory petition process. According to FGC § 1050(d), “[w]henver this code *does not* . . . *specify* the amount of a fee to be collected . . . the commission *may* establish a fee or amount thereof by regulation” (emphasis added). The provision then goes on to define that any fees “established by the commission shall be in an amount sufficient to recover all reasonable administrative and implementation costs of the department and commission relating to the program within regard to which the fee is paid.” In contrast to those unknown, un-established fees described in FGC § 1050(d), FGC § 4006(c) defines exactly what the amount of the trapping license fee should be—the amount that can “fully recover” “all reasonable administrative and implementation costs of the department and the commission relating to those licenses”—thereby excluding the trapping license fee from undergoing any discretionary regulatory process as provided in FGC § 1050. Under FGC § 1050(d), it is discretionary as to whether the Commission uses the regulatory process to establish fees generally, but such process does not apply to fees that are already established (in this case, mandated by the Legislature in FGC § 4006(c)).

III. The Legislature intended for the Commission to efficiently raise fees to allow the Department to carry out its public trust responsibilities

The intent of the Legislature also supports the Commission’s expeditious action to raise license fees without undergoing a laborious regulation process. FGC § 710.5 explicitly states that “[i]t is the intent of the Legislature that, to the extent feasible, the department should continue to be funded by user fees,” but that the “department’s revenues have been limited due to a failure to maximize user fees” The

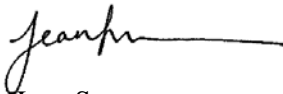
¹ Of course, if the Commission determines that even with a fee increase the program will not likely be self-funding and therefore not compliant with the cost-recovery mandate of § 4006(c), the Commission must expeditiously move forward with regulations that would terminate the commercial trapping program itself. However, the fact that complete closure of the trapping program would require changes in regulations does not absolve the Commission from complying with the non-regulatory mandate of § 4006(c) to increase trapping fees absent such regulations.

“principal causes” of the department’s inadequate funding “have been the fixed nature of the [D]epartment’s revenues in contrast with the rising costs resulting from inflation” and “the increased burden on the department to carry out its public trust responsibilities,” which taken together has “prevented proper planning and manpower allocation” and has resulted in “inadequate wildlife and habitat conservation and wildlife protection programs.” FGC § 710. These statements by the Legislature, memorialized in the Fish & Game Code, articulate the policy rationale for passing these fee adjustment regulations. Given the Legislature’s stated intent to resolve the inadequacy of funding in order to empower the Department to protect our public trust resources, it is imperative that the Commission and Department act expeditiously to adjust license fees. Where statute does not require raising fees to undergo regulatory processes, the intent of the Legislature serves as a further mandate to drive Commission and Department action forward to raise trapping license fees.

Overall, we look forward to the Commission’s swift action to remedy an ongoing legal violation by increasing trapping license fees without undergoing the regulation process.

Thank you for your consideration. If you have any questions, please feel free to contact us directly.

Sincerely,



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Letter to

California Fish & Game Commission

Re: Fish & Game Commission's Legal Authority to Modify Trapping License Fees without Commission Petition Process

I am writing to compel the California Fish and Game Commission to come into compliance with state law requiring that the Commission raise trapping license fees to cover program and implementation costs. The Commission has failed to comply with this straightforward requirement for four years now. We cannot stand for a fifth year of non-compliance.

If the Commission cannot ensure that trapping license fees are raised to a level that would realistically cover the state's trapping program implementation costs, the Commission should eliminate the fur-trapping program altogether.

Fewer than 100 Californians engage in commercial trapping for the fur trade. As public trustees of California's wildlife, the Commission should require licensing fees that are in line with the true costs incurred by this tiny minority of people who enjoy trapping animals for fun and profit.

OK

From: [fauna !](#)
To: [FGC](#); [Project Coyote](#)
Subject: Raise the fees!!!!!! Implementation ASAP of SB 1148 4006 (c)
Date: Thursday, January 26, 2017 3:26:23 PM

Dear Commissioners and Department Staff,
Since the Fur Trapping petition is missing from the agenda, this is about the public comment agenda item.

In 2012 the CA government passed Fran Pavely's bill SB1148. In that bill was a provision that said CA taxpayers should not subsidize Ca fur trapping program any more. 4006(c)

We've waited over 4 years. We submitted a petition last year and have been waiting patiently. Please raise the fees.

CA Taxpayers don't want to pay for CA trapping program. Once the word gets out, it will upset the masses and it will make the dept look bad. Please raise the fees asap.

Jean Su took all the line items and put them in a power point showing the reason for the increase. You accepted her numbers for bobcats. She sent you the numbers for fur trapping.

Please increase fees before the 2017-2018 licenses go on sale in April. It is the right and just thing to do. Bottom line fur trappers can't afford their program & CA taxpayers can't either.

We had to fight tooth and nail to get the fees raised for bobcats. Please don't make us fight to force you to raise the fees.

Please raise the fees asap.

Fauna Tomlinson

CA Taxpayer

From: [Keli Hendricks](#)
To: [FGC](#)
Cc: info@projectcoyote.org
Subject: Raise CA trapping Fees/
Date: Thursday, January 26, 2017 4:14:55 PM

Dear Commissioners,

My husband and I are cattle ranchers who peacefully raise livestock alongside CA's wildlife. We value the wildlife that we share the land with and we understand the jobs they perform that help keep our pasturelands healthier.

We certainly do not want our tax dollars helping to subsidize the trapping of animals that are beneficial to our ranching and vital to the health of our ecosystem.

The archaic notion that wild animals are nothing more than pests to be exterminated or resources to be 'harvested' for their pelts, no longer reflects the values of most Californians.

We have paid the price for this trapping program long enough, and our wildlife has paid the price even longer.

Why does the desire of 100 people to participate in an outdated and cruel sport outweigh the wishes of millions of Californians? And more importantly, why does it outweigh our moral responsibility to do what is right?

Please raise the trapping program in CA so that they are in compliance with the law and taxpayers are not forced to subsidize this program another year.

Respectfully,

Keli Hendricks

KELI HENDRICKS - PROJECT COYOTE

Ranching with Wildlife Coordinator

www.ProjectCoyote.org - 415 945-3232
HQ Office: P.O. Box 5007 Larkspur, CA 94977
FB: ProjectCoyote - Twitter: @ProjectCoyote

From: [Keli Hendricks](#)
To: [FGC](#)
Cc: [Project Coyote](#)
Subject: Night hunting/snares danger to CA wolves.
Date: Thursday, January 26, 2017 4:32:31 PM

Dear Commissioners,

I am writing to express my concern for our endangered wolves in CA. Every year many wolves across the county are killed by hunters mistaking them for coyotes. Many have been shot during daylight hours. How can we realistically expect hunters to tell a coyote from a wolf when shooting at night?

In the last few years alone, coyote hunters across the country have accidentally shot and killed people, dogs wearing reflective vests, horses, cows, and wolves to name just a few.

Just a few years ago in CA, a warden was shot at night by coyote hunters, so there is little doubt that many wolves will suffer the same fate as they come back into CA.

Please do the right thing and help protect our endangered wildlife for our future generations.

Respectfully,
Keli Hendricks

KELI HENDRICKS - PROJECT COYOTE
Ranching with Wildlife Coordinator

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