

STAFF SUMMARY FOR OCTOBER 9-10, 2019

EXECUTIVE SESSION

Today's Item	Information <input type="checkbox"/>	Action <input checked="" type="checkbox"/>
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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

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 four 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

During a special FGC meeting on Sep 3, FGC selected Melissa Miller-Henson, its acting executive director, to fill the position of executive director. Ms. Miller-Henson formally assumed the position on Sep 10. For other details about staffing, see the executive director's report under Agenda Item 4(A) for today's meeting.

(D) Deliberation and action on license and permit items

- I. Consider Agency Case No. 19ALJ11-FGC, the appeal filed by Darren Johnson regarding DFW's denial of a request to renew a salmon vessel permit. DFW provided Mr. Johnson notice that his permit could not be reinstated in response to an untimely request to renew the permit (Exhibit D1). Mr. Johnson appealed that notice to FGC (Exhibit D2). DFW has responded stating that DFW does not object to the requested renewal (Exhibit D3). Note that if the appeal is granted, payment of pending fees is statutorily mandated.

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

- (D) **FGC staff:** Grant the appeal filed by Mr. Johnson.

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Exhibits

- D1. [Letter from DFW to Darren Johnson, dated May 31, 2019](#)
- D2. [Letter from Darren Johnson to FGC, received Jul 23, 2019](#)
- D3. [Letter from David Kiene of DFW's Office of General Counsel to FGC, received Sep 10, 2019](#)

Motion/Direction

- (D) Moved by _____ and seconded by _____ that the Commission grants the appeal by Darren Johnson regarding the Department's denial of a request to renew a salmon vessel permit.



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
License and Revenue Branch
1740 N. Market Blvd.
Sacramento, CA 95834
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Certified Mail

May 31, 2019

Mr. Darren B. Johnson
[REDACTED]
Beaver, OR 97108

Subject: **NOTICE OF DENIAL FOR REINSTATEMENT OF SALMON VESSEL
PERMIT, PERMIT NUMBER SA0649**

Dear Mr. Johnson:

This letter is in response to your request to reinstate the Salmon Vessel Permit (SVP), Permit Number SA0649, for the F/V *Pacific Rim* (FG71989).

Authority-Salmon Vessel Permit

Fish and Game Code (FGC) Section 8235(a) states that the owner of a permitted vessel, or that owner's agent, may apply for renewal of the permit annually on or before April 30, upon payment of the fees without penalty. Upon receipt of the application and fees, the Department of Fish and Wildlife ("Department") shall issue the permit for use of the permitted vessel in the subsequent permit year only to the owner of the permitted vessel.

Authority-Late Renewal Applications

FGC Section 7852.2(a) establishes a graduated late fee for any renewal application that is received after the deadline.

FGC Section 7852.2(b) states the Department shall not waive the applicable late fee. Additionally, FGC Section 7852.2(c) requires the Department to deny any application for renewal received after March 31 of the permit year following the year in which the applicant last held a valid permit for that fishery.

Reason for Appeal to the Department

In your letter received on April 22, 2019, you are requesting reinstatement of the SVP for the F/V *Pacific Rim*. You explained that you are the new owner of the F/V *Pacific Rim* and were under the impression that the SVP was up to date when you purchased the vessel.

Department Findings

Department license records show that the F/V *Pacific Rim* last held a valid SVP in 2017-2018, which made you eligible to renew the permit for the 2018-2019 permit year.

Mr. Darren B. Johnson
May 7, 2019
Page 2

Department Determination

Based on the previously stated information, your request to reinstate the SVP for the *FN Pacific Rim* is denied, because the *FN Pacific Rim* last held a valid SVP in the 2017-2018 permit year. The Department received your request to renew the SVP on April 22, 2019. FGC Section 7852.2(c) requires the Department to deny any application for renewal received after March 31 of the permit year following the year in which the applicant last held a valid permit for that fishery.

Enclosed is voided check #1440 submitted for the license and permit fees.

Deadline to File an Appeal to the Fish and Game Commission

If you wish to appeal the Department's decision, you must submit a written appeal to the Fish and Game Commission (Commission) either by mail at P.O. Box 944209, Sacramento, CA 94244-2090, or by email at fgc@fgc.ca.gov. Pursuant to FGC Section 7852.2(d), your written appeal must be received within 60 days of the date of this letter. The Commission, upon consideration of the appeal, may grant the renewal of the SVP. If the Commission grants the renewal, it shall assess the applicable late fees, which amount to \$3,930.73. A fee schedule is enclosed.

If you have any questions or require further assistance, please contact Ms. Ruth Flores at (916) 928-7470 or Ruth.Flores@wildlife.ca.gov.

Sincerely,



Joshua Morgan, Chief
License and Revenue Branch

Enclosure

cc: Ms. Melissa Miller-Henson
Fish and Game Commission
Sacramento, CA

Ms. Ruth Flores
California Department of Fish and Wildlife
Sacramento, CA



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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Mr. Darren B. Johnson
Fees Required for Reinstatement for a
Salmon Vessel Permit (SVP)
Permit Number SA0649
F/V Pacific Rim (FG71989)

Prior Year Fees	Permit Fees
2018-2019 Non-resident Commercial Fishing License	\$ 417.75
Commercial Fishing Salmon Stamp	\$ 87.55
Non-resident Commercial Boat Registration	\$ 1,087.00
SVP	\$ 44.29
Late Fee (61 days to March 31, 2019)	\$ <u>607.75</u>

Prior Year Fees Due \$ **2,244.34**

Prior year permit fees must be paid before a 2019-2020 SVP can be issued

Current Year Fees	
2019-2020 Non-resident Commercial Fishing License	\$ 431.00
Commercial Fishing Salmon Stamp	\$ 87.55
Non-resident Commercial Boat Registration	\$ 1,122.00
SVP	\$ <u>45.84</u>

Total Current Fees Due \$ **1,686.39**
Total Fees Due \$ **3,930.73**

If the Fish and Game Commission should recommend approval, full payment of \$3,930.73 would be due.

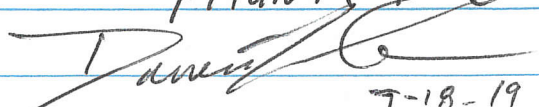
Fish and Game Commission
California Dept of Fish and Wildlife,

7-18-19

I Darren Johnson NEW OWNER
of the FV Pacific Rim AM writing
you Today 7-18-19 to Appeal the
Decision of denial of Reinstatement
of SVP SA0649, for the FV
Pacific Rim (FG71989).

Please consider the Reinstatement. This
misunderstanding has **cost** me to miss
out on the BEST SEASON in 50 years
I've heard, I put everything I owned
into to "Living the Dream". This was
an honest mistake due to misleading
INFO on my part. I'm sorry and hope
you can find a way to Reinstat the Permit.

Inclosed is a check for FULL PRIT
of \$3930.73 if Approval is Recommended.
THANKS for your time and sorry for the
confusion on my part.

THANK YOU

7-18-19



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CHARLTON H. BONHAM, Director



Mr. Darren B. Johnson
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DMT SENT
7-18-19

DARREN B JOHNSON

7-18-19

Date

Pay to the
Order of

Dept of Fish and Wildlife
Three thousand nine hundred and thirty - 73/100 dollars

\$ 3,930.73

Photo
Safe
Deposit
Details on back



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Office of the General Counsel
P.O. Box 944209
Sacramento, CA 94244-2090
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 10, 2019

California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

Re: *In the Matter of Darren Johnson*

Dear Commissioners:

This letter is in response to Darren Johnson's request to appeal the Department of Fish and Wildlife's ("Department") denial of his request to renew his Salmon Vessel Permit, #SA0649 ("SVP"). The SVP was last valid during the 2017-18 fishing year. Mr. Johnson submitted his appeal request to the Commission on July 18, 2019. The Department will not be participating in this appeal and accordingly, does not object to the renewal of the SVP for the 2019-2020 fishing year, provided that he pays all applicable fees.

The fees that Mr. Johnson must pay to renew the SVP are described in Fish and Game Code, section 7852.2 ("Section 7852.2"), subdivision (a). Section 7852.2, subdivision (a) states:

- (a) In addition to the base fee for the license, stamp, permit, or other entitlement, the department shall assess a late fee for any renewal the application for which is received after the deadline, according to the following schedule:
- (1) One to 30 days after the deadline, a fee of one hundred twenty-five dollars (\$125).
 - (2) Thirty-one to 60 days after the deadline, a fee of two hundred fifty dollars (\$250).
 - (3) Sixty-one days or more after the deadline, a fee of five hundred dollars (\$500).

To emphasize that these fees must be paid, Section 7852.2, subdivision (b) states that "The department shall not waive the applicable late fee," while subdivision (d) states "If the commission grants renewal, it shall assess the applicable late fee pursuant to subdivision (a)." The fees total **\$3,930.73** and are described in the attached fee statement.

If you have any questions please contact me at the address above or by telephone number (916) 651-7646, or e-mail at David.Kiene@wildlife.ca.gov.

Sincerely,

DAVID KIENE
Senior Staff Counsel

Cc: Darren Johnson



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Mr. Darren B. Johnson
Fees Required for Reinstatement for a
Salmon Vessel Permit (SVP)
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FN Pacific Rim (FG71989)

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