

WORKGROUP STAFF SUMMARY FOR MARCH 20, 2017

3. FGC PETITION #2015-008**Today's Item**Information ☐Decision ☒

Discuss and possibly develop a recommendation on FGC Petition #2105-008.

Summary of Previous/Future Actions

- | | |
|----------------------------------|---------------------------------------|
| • Previous PPWG discussion | Feb 21, 2017; PPWG, Sacramento |
| • Today's PPWG discussion | Mar 20, 2017; PPWG, Sacramento |

Background

In May 2016, FGC referred a petition for regulation change to the Predator Policy Workgroup (PPWG) for further evaluation. FGC Petition #2015-008 (Exhibit 1) requests a regulation change to repeal hunting of American badger and gray fox. The petition was provided to PPWG in Feb 2017 for consideration under its discussion of recreational take. Due to time constraints during the Feb meeting, the petitioner requested that PPWG add the petition to the agenda for the next meeting as a separate agenda item. PPWG added the item to the agenda for the next meeting.

Today, PPWG will discuss the petition and possibly develop a recommendation for FGC consideration.

When considering a petition, FGC evaluates whether the petition provides sufficient information to indicate that the petitioned change may be warranted. If sufficient information is not provided, FGC may deny the petition. If sufficient information is provided, FGC may grant the petition for further consideration through a rulemaking process. In some cases, FGC may need more information before deciding whether to grant or deny a petition and may refer it to DFW, a committee, or FGC staff.

Significant Public Comments

Supplemental information regarding gray fox was submitted by the petitioner (Exhibit 2).

Recommendation (N/A)**Exhibits**

1. [FGC Petition #2015-008](#)
2. [Letter from Susan Kirks, received Mar 9, 2017](#)

Workgroup Decision/Recommendation

PPWG recommends that FGC deny FGC Petition #2015-008 for the following reason(s):

_____.

OR

WORKGROUP STAFF SUMMARY FOR MARCH 20, 2017

PPWG recommends that FGC grant FGC Petition #2015-008 for further consideration.

OR

PPWG recommends that FGC refer FGC Petition #2015-008 to _____ for further evaluation and recommendation.



2015-008

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

1. Person or organization requesting the change (Required)

Name of primary contact person: Paula Lane Action Network (PLAN), Susan Kirks, Badger Ecologist

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Mammal Hunting 2015-2016 Regulations

3. Overview (Required) - Summarize the proposed changes to regulations: Repeal allowed hunting of American Badger and Gray Fox. American Badger is a Species of Concern in California since 1987 with diminishing populations and significant fragmentation of and loss of habitat.

4. Rationale (Required) - Describe the problem and the reason for the proposed change: Special Status Animals should not be allowed to be hunted in California. In particular, the American Badger is a CA Species of Concern. Population is diminishing and habitat areas have increasingly diminished and fragmentation prevents habitat access as well as movement for mating to sustain biodiversity. The American Badger also creates benefits for other wildlife in coastal and inland ecosystems. Hunting of this fur-bearing mammal (as well as Gray Fox) should be permanently repealed. Please see attached summary.

SECTION II: Optional Information

5. Date of Petition: November 28, 2015

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): [Click here to enter text.](#)
☐ Add New Title 14 Section(s): [Click here to enter text.](#)
☒ Repeal Title 14 Section(s): Mammal Hunting Regulations, Subdivision 2 Game, Furbearers, Nongame and Depredators (Detail Listing). Chapter 5 Furbearing Mammals. §461. Badger and Gray Fox. (a) Badger may be taken as follows: (1) Season and Area: November 16 through the last day of February, statewide. (2) Bag and Possession Limit: No limit. (b) Gray fox may be taken as follows: (1) Season and Area: November 24 through the last day of February, statewide. (2) Bag and Possession Limit: No limit. (3) Dogs may be permitted to pursue gray fox in the course of breaking, training, or practicing dogs in accordance with the provisions of Section 265 of these regulations. *Repealer and new section filed 5-13-81; designated effective 5-23-81.*
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: Request expedient review and implementation of repeal for hunting Badger and Gray Fox immediately.
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: See attached summary.
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:
[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: _____

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2015 DEC -2 AM 9:03



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 3 of 3

FGC action:

☐ Denied by FGC

☐ Denied - same as petition _____

Tracking Number

☐ Granted for consideration of regulation change

Request to Repeal Hunting of American Badger and Gray Fox

The American Badger (*Taxidea taxus*) has been a designated Special Status Animal, a CA Species of Concern, since 1987, for over 28 years. The CA Department of Fish and Wildlife defines Species of Concern as:

“A Species of Special Concern (SSC) is a species, subspecies, or distinct population of an animal* native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, in its primary seasonal or breeding role;
- is listed as Federally-, but not State-, threatened or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (nonscyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status;
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for State threatened or endangered status.”

The 3rd and 4th points of this description directly relate to American Badger (*Taxidea taxus*) in California.

A Special Status animal, a CA Species of Concern, should not be on the CA Department of Fish and Wildlife’s permitted Hunting list. We respectfully request the Department repeal this regulation at your earliest convenience.

Discussion

The conservation nonprofit organization, Paula Lane Action Network (PLAN) in Sonoma County, formed in 2000 and incorporated in 2004, has for 15 years dedicated resources and time to observe and document American Badger in the San Francisco Bay area, protect identified longstanding American Badger habitat, and establish outreach in California and outside California, to better understand this reclusive mammal. The conservation effort includes documenting all available habitat, species sightings, and relating seasonal behaviors to this work. By seasonal behaviors, we mean, for example, observing burrowing and foraging patterns June through August for evidence of increased activity related to dispersal of juvenile badgers. Or from February through Summer, observing Badger activity on properties to identify and confirm preferred territories of adult female Badgers. In fact, one of the most salient factors in the potential preservation of the species in California and possibly elsewhere, is identifying preferred adult female Badger territories and ensuring non-encroachment and protection of those areas. Coupled with this is the protection of wildlife movement areas to ensure the ability of traversal by male adult Badgers and movement of all Badgers through preferred wildlife corridors, to help sustain biodiversity. Added to this is the pressing need for prey and water availability during the current drought, which has been observed to negatively impact American Badger and other wildlife species, making competition for both resources heightened.

The nonprofit, Paula Lane Action Network, has a Naturalist and Badger ecologist who has visited every available identified property and habitat, with repeat visits over seasonal time periods, in the San Francisco Bay area during these 15 years, to receive reports, discuss sightings and any questions with property owners or residents, and verify reports received of habitat and/or species sightings. The naturalist and badger ecologist has also fielded questions and responded to inquiries in California and outside California. A significant field-study-based body of knowledge about American Badger has resulted from this level of attention to the species.

In the greater San Francisco Bay Area, there are estimated to be a population of 15 adult badgers and possibly 5 remaining living juvenile Badgers from the 2015 birthing season. In Sonoma and Marin Counties, in Summer 2015, two adult Badgers were documented as killed by motor vehicle strikes and 2 juvenile Badgers were also documented as killed by motor vehicle strikes. Death by vehicle strike, especially in Summer months, from 2011 to present, as reported to PLAN and confirmed, is consistent, 2-4 Badgers annually.

American Badger relies on grassland, including agricultural areas, for habitat and foraging. Badgers succumb to mortality from ranchers who believe a badger burrow or foraged out gopher mounds on a property will result in livestock stepping in holes and breaking legs, thus a loss of potential income source for the rancher. American Badger poses no threat to ranchers or farmers. Preferred prey of American Badger of gopher, vole, mouse, and ground squirrel follow a pattern of underground prey tunnels aerating soil in grassland areas, but also partaking of available grasses and vegetation. American Badger is a natural manager of gopher, vole, mouse and ground squirrel in grassland and adjacent areas. American Badger burrow creation occurs from foraged out prey holes. The burrow is usually in a hillside and the hole itself is created on a diagonal angle with a large area of displaced soil outside the burrow opening. Unless a herd of animals is panicked and fleeing a perceived threat, thus increasing the likelihood for an accident of any kind, the possibility of a domestic large animal stepping into and then down into a Badger Burrow opening is extremely low. Direct observation of horses galloping on a hillside among 15 active Badger burrows contributes to this clarification of what is a non-threat to livestock. Foraged out gopher mounds or vole holes are also similar in size to any general small or medium hole in a grassland area and livestock have not in 15 years of multiple observations been observed to inadvertently step into such a hole. In addition, a Marin County rancher who raises cattle and sheep on a 300+ acre ranch has over time observed his bull to intentionally step into a foraged out prey hole and kick up dirt from the loosened soil onto its body to alleviate itching, and then move along its way. Direct observation over an extended period of time allows this factual clarification to offset the cultural myth of rancher and farmer dislike of American Badger on a grassland property. While American Badger generally will remain within its home range, often from necessity due to obstructed movement areas and fragmented habitat, and return to preferred areas for prey foraging, the adult female Badger selects and remains in her territory, and male adult Badgers traverse through established female Badger territories. On farms and ranches comprised of grassland, a permanent Badger in residence is unusual and any concern about a Badger burrow created on a private property could be followed by filling in the hole with dirt after an adult Badger has foraged, obtained prey, also managing the gopher, vole, mouse or ground squirrel population, and has moved on to another area in the Badger's home range. The average length of time for an adult Badger to remain in an area, foraging, is generally a week to ten days, based on direct observation.

Sonoma and Marin Counties are recorded to have a small sustaining Badger population in the coastal area and, to the degree badgers can move and range, further inland in the Occidental, Petaluma and Sonoma Valley areas in grassland with gopher/vole/mouse prey base. Petaluma in southern Sonoma County, comprised of fairly expansive grassland, has a documented American Badger presence of longstanding, over 100 years (Habitat Survey, 2003, Fitts). Nicasio in Marin County also has documented American Badger activity, with two additional reports of Badger activity in southern/mid Marin and one report in northern Marin County. In Napa County, where grassland habitat does exist, but the vineyard properties abound, there appears to be one adult female Badger and possibly one or two adult male Badgers. The East San Francisco Bay area included reports as of 2015 of one adult female Badger in the Dublin area in Summer with one to two juvenile Badgers dispersing and living, seeking water and prey, in Summer 2015. Thus, at least one adult male Badger has also been in residence in the East Bay Hills. The available land to sustain a Badger population in the East Bay is questionable.

South of the San Francisco Bay Area in Santa Clara County and Santa Cruz County are reports of one to three adult Badgers sustaining, with an unknown variant of the number of female adult Badgers in this population as of 2015.

The Central Valley area, particularly Sacramento agricultural land, has a reported small badger population via reports and questions posed to the nonprofit PLAN. The southern California area of Monterey has had documented a population of 7 adult Badgers in the mid-2000s. The current population in the Monterey area is unknown.

In Mendocino County's coastal area, reports of one juvenile badger and one adult Badger were been received in 2014 and 2015.

Negative impacts contributing to diminution in American Badger population and ability to survive include:

-First and foremost, habitat loss and habitat fragmentation. As a Species of Concern in California, habitat and assured movement areas for badger are not protected. Mitigations for development and other impacts relate to direct harm to the species and our past experience reflects the Department's lack of understanding of species needs and behaviors when regulators become involved in reviewing and approving mitigations related to loss of habitat from development or other causes requiring consideration for mitigation. Accrual of observations and data by PLAN over 15 years reflect significant loss of habitat and prey bases and a clear need to ensure habitat areas, preferred adult female Badger habitat, and the ability for American badger to range or move be identified and actively preserved.

-Additional significant negative impacts to the remaining American Badger in California include drought. Less prey available and dried-up Summer and Autumn water sources result in competition for both.

-Motor vehicle strikes killing adult and juvenile badgers especially during critical Summer months for dispersal of young.

Dr. Jessie Quinn's research and subsequent dissertation in the late 2000s documented a movement range in the Monterey area for a population of 10 badgers of approximately 10 miles. In the San Francisco Bay area, the movement range for American Badger is directly observed over 15 years for the documented small badger populations to be only 4 to 6 miles on the Sonoma Coast, 4 miles on the Marin Coast (with development in between coastal areas preventing contiguous corridor movement) and approximately 8 miles coast-inland-coast, but *only if* conditions allowing movement, not being killed by ranchers who own the agricultural lands, and sufficient prey and water are available. A more realistic inland movement area for American Badger in Sonoma County is 6 miles and in Marin County is 5 miles.

Because there do not appear to be other dedicated broad-scale efforts to discern factual information about this Species of Concern and the observation of diminished and fragmented habitat along with mortality rates, even if the American Badger were not listed as a Special Status animal, the species should be removed from the Department's Hunting list. As a Species of Concern, the American Badger should not have ever been on the Hunting list (this includes trapping as a method for killing). Of note, in addition, is the allowed Hunting season is during mating season and early birthing season for the American Badger.

It is likely the level of knowledge about American Badger is in-depth in the San Francisco Bay Area because of the nonprofit organization's (PLAN) dedicated observation and research over 15 years. This observation and research continue. While educational outreach also continues, including dispelling cultural myths and understanding the significant benefit of the remaining Badger population to coastal and inland ecosystems, serious concerns exist related to continued fragmented and diminishing habitat and negative impacts to the species described above. Without a Threatened status designation, unquestionably, the habitat areas for American Badger will continue to be negatively impacted and diminish. This, coupled with drought and intentional killing, are of severe concern.

Gray Fox

Gray Fox is also listed in the described regulation under question. Grey Fox is a native mammal to California and, while data collection and observations of the conservation nonprofit, PLAN, relate specifically to American Badger, Gray Fox is requested to also be removed from the Hunting list of the CA Department of Fish and Wildlife as a native mammal who relies on similar movement areas, similar prey, similar habitat areas as American Badger, with negative impacts from diminishing habitat and drought-related challenges.

How many Badgers remain in California? The exact quantity is unknown. In the entire San Francisco Bay Area grassland habitat areas, we estimate under 30 Badgers. Sustaining biodiversity is challenging because of fragmented habitat areas and obstructed movement corridors. The mortality rate for vehicle strike deaths annually appears to average between 2 and 4 badgers, adult and juvenile. This has been consistently observed over 12 years. Identifying preferred female adult Badger territory areas is critical to support sustenance of Badgers that remain. However, without open movement areas, sufficient prey and water, male adult Badgers are challenged to enter a female adult Badger's territory and successfully mate. Although some publicly protected lands such as a national park (Pt. Reyes National Seashore) or public open space grassland area are preserved with no possibility for development, the necessity of connection to agricultural lands and open grassland to these areas, and prevention of obstruction of wildlife corridors as well as further loss of prey base areas, make the critical nature of preserving wildlife corridors and habitat for American Badger more urgent.

It is imperative to take every action in an attempt to allow the small American Badger population of adults and juveniles in California to sustain. Unquestionably, the American Badger's official status should be Threatened.

The purpose of this request is to repeal the allowed hunting of American Badger and also of Grey Fox in California as soon as possible.

Benefits to other species from American Badger presence in grassland habitat include for Burrowing Owl (also a CA Species of Concern), California Tiger Salamander, California Red-Legged Frog, and other unlisted species such as Striped Skunk and Gray Fox. The American Badger provides immense benefits to coastal and inland ecosystems.

Submitted for Paula Lane Action Network (P.L.A.N.),

Tax ID#:

Susan Kirks, Naturalist and Badger Ecologist

PETITION 2015-008

Supplement

Submitted by Paula Lane Action Network

Contact: Susan Kirks,

Communication with Naturalist Bill Leikam of the Urban Wildlife Research Project.

On review of Petition 2015-008, Leikam commented:

The biggest problem for the Gray Foxes is, as stated, regarding the badgers "... habitat areas have increasingly diminished and fragmentation prevents habitat access as well as movement for mating to sustain biodiversity. The American Badger also creates benefits for other wildlife in coastal and inland ecosystems. Hunting of this fur-bearing mammal (as well as Gray Fox) should be permanently repealed."

The same circumstances described for American Badger apply to Gray Fox. In addition, habitat fragmentation also comes genetic stagnation due to inbreeding which, in the end, depresses the Gray Fox's immune system, which in turn makes the animals much more susceptible to disease such as canine distemper. (In region monitored by Leikam and associates, there has been a direct observation and experience of ravages of canine distemper: 25 Gray Foxes impacted in a range of about 1.5 miles ... With the die-off, there was a sudden noticeable explosion of especially field mice, but also woodrats, gophers and somewhat with ground and tree squirrels. Leikam and his colleagues are presently documenting this phenomenon.

Since Gray Foxes are the keystone species in most areas that they inhabit, they are the species to help maintain the balance in the ecosystem. The result of killing off Gray Foxes in a region may well create a trophic cascade that, in the end, turns the whole ecology of the environment upside down to where all wildlife in the region suffers. This is probably the most important reason why the Gray Fox should not be hunted, as it brings stability to the environment.

Additional Supplement:

Gray Fox Reports Prepared by Urban Wildlife Research Project

Link: <https://urbanwildliferesearchproject.com/category/fox-report/>

Respectfully submitted,

Susan Kirks

Susan Kirks, Naturalist

Chair, Board of Directors, Paula Lane Action Network

03/09/2017