13. USE OF DOGS FOR PURSUIT/TAKE OF MAMMALS

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

Use of dogs for the pursuit/take of mammals or for dog training

(A) Adopt proposed changes to regulations concerning the use of dogs for the pursuit and take of mammals.

(B) Authorize publication of notice of intent to further amend regulations concerning the use of dogs for the pursuit and take of mammals.

Summary of Previous/Future Actions

(A)

- Notice hearing — Oct 19-20, 2016; Eureka
- Discussion hearing — Dec 7-8, 2016; San Diego
- Originally scheduled adoption hearing — Feb 8-9, 2017; Rohnert Park
- Further discussion — March 15, 2017; Teleconference
- Further discussion — April 13, 2017; Teleconference
- **Adoption hearing** — **April 26-27, 2017; Van Nuys**

(B)

- **Notice hearing** — **April 26-27, 2017; Van Nuys**
- Discussion hearing (proposed) — Oct 11-12, 2017; Atascadero
- Adoption hearing (proposed) — Dec 6-7, 2017; San Diego

Background

In Apr 2016, FGC adopted changes to Section 265, Title 14, California Code of Regulations, deleting language restricting the use of global positioning system (GPS) collars and treeing switches for dogs aiding a hunter; this amendment effectively authorized the use of those devices as an aid in hunting. Subsequently a lawsuit was filed challenging the adoption alleging California Environmental Quality Act (CEQA) process deficiencies; FGC has determined that further rulemaking may be necessary to resolve that lawsuit.

The current rulemaking (Exhibit 1) and related CEQA analysis will help to further inform FGC about the issues related to regulating the use of dogs as an aid to hunting and associated equipment for those dogs. The proposed regulation inserts a provision prohibiting the use of treeing switches on dog collars when dogs are used as an aid in hunting and inserts a provision prohibiting the use of GPS-equipped dog collars when dogs are used as an aid in hunting; both provisions existed in the regulation prior to the Apr 2016 changes.

In Dec 2016, FGC discussion included a vote that directed staff to prepare a notice for further rulemaking to be considered by FGC immediately after and at the same meeting as any adoption of the currently proposed regulation, to consider authorizing GPS collars and treeing switches. In Feb 2017, FGC voted to continue the current rulemaking to include an additional discussion hearing during the Mar 15, 2017 teleconference meeting and re-schedule the final

adoption until Apr 26-27, 2017. On Mar 15, FGC added a discussion hearing to the agenda for the Apr 13, 2017 teleconference meeting.

FGC requested that DFW staff develop an analysis of the impacts of both allowing GPS collars and treeing switches and prohibiting the use of that gear; DFW provided that analysis at the Apr 13 teleconference (Exhibit 2). The DFW document and the record as a whole do not include any evidence that the currently proposed rule has any possibility of a a significant effect on the environment.

Significant Public Comments

- Opposition to the proposed regulation from individuals (see Exhibit 2 for an example).
- Support for the proposed regulation from individuals and organizations (see exhibits 3-4 for examples).

Recommendation

FGC staff:

(A) Recommends adopting the proposed regulation.

(B) Recommends authorizing staff to publish notice in order to open public discussion.

Exhibits

1. ISOR, notice, and continuation notices
2. DFW memo with attachment
3. Email from Teri Faulkner, received Apr 12, 2017
4. Email from Public Interest Coalition, received Apr 7, 2017
5. Email from Public Interest Coalition, received Apr 13, 2017

Motion/Direction

A. Moved by _____ and seconded by _____ that the Commission has determined, based on the record, this project is exempt from the California Environmental Quality Act pursuant to the guidelines in Public Resources Code Section 15061(b)(3), and adopts changes to Section 265 related to the use of dogs for pursuit/take of mammals regulations with an effective date of April 26, 2018.

B. Moved by _____and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend Section 265 to delete the prohibitions related to GPS collars and treeing switches for dogs.

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-Publication of Notice Statement)

Amend Section 265
Title 14, California Code of Regulations (CCR)
Re: Use of Dogs for Pursuit/Take of Mammals or for Dog Training

Date of Initial Statement of Reasons: October 7, 2016

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: October 20, 2016
Location: Eureka, CA

(b) Discussion Hearing: Date: December 8, 2016
Location: San Diego, CA

(c) Adoption Hearing: Date: February 8, 2017
Location: Santa Rosa, 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:

Add a new subsection 265(d)(1):

Insert a provision prohibiting the use of treeing switches on dog collars when dogs are used as an aid in hunting. Treeing switches, sometimes called activity switches, are devices on the collar of a dog that incorporate a mercury or electronic switch. This equipment indicates the position of the dog's head with one signal provided remotely to a hunter if the dog's head is down and another signal provided to a hunter if the dog's head is up; this often helps the hunter know if the dog is tracking a scent (with the dog's head down) or looking up (such as when the dog is at the base of a tree with an animal in the tree).

Add a new subsection 265(d)(2):

Insert a provision prohibiting the use of global positioning system (GPS) equipped dog collars when dogs are used as an aid in hunting. Certain dog tracking systems rely on GPS equipped dog collars to transmit the location of the dog to a hunter to track and retrieve hunting dogs in the field while assisting a hunter.

In April 2016, the Fish and Game Commission (Commission) adopted changes to Section 265 authorizing the use of GPS collars and treeing switches for dogs aiding a hunter. The Public Interest Coalition filed a petition in Superior Court in Sacramento County (Case No. 34-2016-80002350) seeking a Writ of Mandate invalidating the Commission's action; the petition alleges that the Commission failed to comply with the procedural requirements of the California Environmental Quality Act (CEQA). The Commission has determined that further rulemaking may be necessary to resolve that litigation. The rulemaking and the related CEQA analysis will also help to further inform the Commission about issues related to regulating the use of dogs as an aid in hunting and associated equipment for those dogs. The proposed amended language would be necessary for such purposes.

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority cited: Sections 200, 202, 203, 3960, 3960.2 and 3960.4, Fish and Game Code.

Reference: Sections 3960, 3960.2 and 3960.4, 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: None.

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 satisfy the allegations of the petition made by the Public Interest Coalition.

(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 proposed regulations will affect a limited number of hunters who pursue mammals with dogs. These hunters may still use other, non-GPS radio collar technology to track and retrieve dogs during the hunt.

(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 action will not have significant impacts 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. Sales of GPS collars are not anticipated to decrease as a result of the proposed regulation because GPS collars can still be used by dog owners in a wide variety of applications other than hunting. The Commission does not anticipate benefits to the health and welfare of California Residents, benefits to worker safety, nor to the State's environment.

(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: None.

(e) Other 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 affects a relatively small number of individuals who hunt mammals with dogs. These hunters may still use radio collar technology to track and retrieve dogs during the hunt. There are no new costs necessarily incurred by a representative person or business to comply with this regulatory amendment, per APA (section 11342.535), wherein "cost impacts" are defined as those that a person "necessarily incurs in reasonable compliance with the proposed action."

(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 it is unlikely to cause an increase or decrease in hunting effort. Sales of GPS collars are not anticipated to decrease as a result of the proposed regulation because GPS collars can still be used by dog owners in a wide variety of applications other than hunting.

(b) Effects of the regulation on the creation of new businesses or the elimination of existing businesses within the State:

The regulation will not create new businesses or eliminate businesses within the State because it is unlikely to cause an increase or decrease in hunting effort or the manufacture and sale of GPS collars.

(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 it is unlikely to cause an increase or decrease in hunting effort or the manufacture and sale of GPS collars.

(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 will 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 of the State. The Commission anticipates benefits to the State’s environment in the sustainable management of natural resources.

INFORMATIVE DIGEST
(Policy Statement Overview)

In April 2016, the Fish and Game Commission adopted changes to Section 265, Title 14, California Code of Regulations authorizing the use of GPS collars and treeing switches for dogs aiding a hunter. The Public Interest Coalition filed a petition in Superior Court in Sacramento County (Case No. 34-2016-80002350) seeking a Writ of Mandate invalidating the Fish and Game Commission's action. That petition alleges that the Commission failed to comply with the procedural requirements of CEQA. The Commission has determined that further rulemaking may be necessary to resolve that litigation. The rulemaking and the related CEQA analysis will also help to further inform the Commission about the issues related to regulating the use of dogs as an aid in hunting and associated equipment for those dogs. The proposed amended language would be necessary for such purposes.

Amend Section 265, Title 14, CCR, by adding new subsections (d)(1) and (d)(2) to prohibit the use of treeing switches and GPS collar equipment for dogs used in the taking of mammals.

Benefits of the regulations

The regulation prohibits the use of treeing switches or GPS equipped collars on dogs used for the pursuit/take of mammals.

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.

Consistency and Compatibility with State Regulations

The Fish and Game Commission, pursuant to Fish and Game Code Sections 200, 202 and 203, has the sole authority to regulate hunting in California. Commission staff has searched the California Code of Regulations and has found no other agency with the authority to regulate the use of dogs for hunting mammals. Therefore the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

TITLE 14. Fish and Game Commission
Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections: 200, 202, 203, 3960, 3960.2 and 3960.4 of the Fish and Game Code and to implement, interpret or make specific Sections 3960, 3960.2 and 3960.4 of said Code, proposes to amend Section 265, Title 14, California Code of Regulations, relating to Use of Dogs for Pursuit/Take of Mammals or for Dog Training

Informative Digest/Policy Statement Overview – Inland Fisheries

In April 2016, the Fish and Game Commission adopted changes to Section 265, Title 14, California Code of Regulations authorizing the use of GPS collars and treeing switches for dogs aiding a hunter. The Public Interest Coalition filed a petition in Superior Court in Sacramento County (Case No. 34-2016-80002350) seeking a Writ of Mandate invalidating the Fish and Game Commission's action. That petition alleges that the Commission failed to comply with the procedural requirements of CEQA. The Commission has determined that further rulemaking may be necessary to resolve that litigation. The rulemaking and the related CEQA analysis will also help to further inform the Commission about the issues related to regulating the use of dogs as an aid in hunting and associated equipment for those dogs. The proposed amended language would be necessary for such purposes.

Amend Section 265, Title 14, CCR, by adding new subsections (d)(1) and (d)(2) to prohibit the use of treeing switches and GPS collar equipment for dogs used in the taking of mammals.

Benefits of the regulations

The regulation prohibits the use of treeing switches or GPS equipped collars on dogs used for the pursuit/take of mammals.

Consistency and Compatibility with State Regulations

The Fish and Game Commission, pursuant to Fish and Game Code Sections 200, 202 and 203, has the sole authority to regulate hunting in California. Commission staff has searched the California Code of Regulations and has found no other agency with the authority to regulate the use of dogs for hunting mammals. Therefore the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Hilton Garden Inn San Diego Mission Valley/Stadium, 3805 Murphy Canyon Road, San Diego, California, on Thursday, December 8, 2016 at 8:00 a.m.; or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Santa Rosa, California, on February 8, 2017, at 8:00 a.m., or as soon thereafter as the matter may be heard (a specific location will be determined and provided to interested and affected parties). It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on January 19, 2017 at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on February 3, 2017. All comments must be received no later than February 8,

2017, at the hearing in Santa Rosa, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

Availability of Documents

The Initial Statement of Reasons, text of the regulations, as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Jon Snellstrom at the preceding address or phone number. **Craig Stowers, Environmental Program Manager, Department of Fish and Wildlife, phone (916) 445-3553**, has been designated to respond to questions on the substance of the proposed Use of Dogs for Pursuit regulations. Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through our website at http://www.fgc.ca.gov.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Assessment

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 will affect a limited number of hunters who pursue mammals with dogs. These hunters may still use other, non-GPS radio collar technology to track and retrieve dogs during the hunt.

(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 action will not have significant impacts 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. Sales of GPS collars are not anticipated to decrease as a result of the proposed regulation because GPS collars can still be used by dog owners in a wide variety of applications other than hunting. The Commission does not anticipate benefits to the health and welfare of California Residents, benefits to worker safety, nor to the State's environment.

(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: None.

(e) Other 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.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Valerie Termini
Executive Director

Dated: November 1, 2016

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Fish and Game Commission

Valerie Termini, Executive Director
1416 Ninth Street, Room 1320
Sacramento, CA 95814
(916) 653-4899
www.fgc.ca.gov

Wildlife Heritage and Conservation
Since 1870

February 14, 2017

TO ALL AFFECTED AND INTERESTED PARTIES:

Re: Use of Dogs for Pursuit/Take of Mammals, Section 265, Title 14, California Code of Regulations; published in California Notice Register, November 18, 2016, Notice File No. Z2016-1108-06, Register 2016, No. 47-Z.

Notice was given that any person interested may present statements, orally or in writing, relevant to this rulemaking at an adoption hearing which was originally scheduled on February 8, 2017, at 8:00 a.m. At this meeting the Commission voted to agendize two additional public meetings.

NOTICE IS NOW GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be teleconference originating in the Fish and Game Commission conference room, 1416 Ninth Street, Suite 1320, Sacramento, California, on Wednesday, March 15, 2017, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Airtel Plaza Hotel, 7277 Valjean Ave., Van Nuys, California, on Wednesday, April 26, 2017, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on April 12, 2017 at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on April 21, 2017. All comments must be received no later than April 26, 2017, at the hearing in Van Nuys, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

Additional information and all associated documents may be found on the Fish and Game Commission website at http://www.fgc.ca.gov/regulations/2016/index.aspx#265_2 .

Sincerely,

Jon D. Snellstrom
Associate Governmental Program Analyst

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Fish and Game Commission

Wildlife Heritage and Conservation
Since 1870

Valerie Termini, Executive Director
1416 Ninth Street, Room 1320
Sacramento, CA 95814
(916) 653-4899
www.fgc.ca.gov

March 24, 2017

TO ALL AFFECTED AND INTERESTED PARTIES:

Re: Use of Dogs for Pursuit/Take of Mammals, Section 265, Title 14, California Code of Regulations; published in California Notice Register, November 18, 2016, Notice File No. Z2016-1108-06, Register 2016, No. 47-Z.

NOTICE IS NOW GIVEN that any person interested may present statements, orally or in writing, relevant to this action at an additional hearing to be teleconferenced, originating in the Fish and Game Commission conference room, 1416 Ninth Street, Suite 1320, Sacramento, California, on Thursday, April 13, 2017, at 8:30 a.m., or as soon thereafter as the matter may be heard.

As previously noticed, any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Airtel Plaza Hotel, 7277 Valjean Ave., Van Nuys, California, on Wednesday, April 26, 2017, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on April 12, 2017 at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on April 21, 2017. All comments must be received no later than April 26, 2017, at the hearing in Van Nuys, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

Additional information and all associated documents may be found on the Fish and Game Commission website at http://www.fgc.ca.gov/regulations/2016/index.aspx#265_2 .

Sincerely,

Jon D. Snellstrom
Associate Governmental Program Analyst

State of California
Department of Fish and Wildlife

Memorandum

Date: March 27, 2017

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for the April 15 Fish and Game Commission Teleconference Meeting Re: Proposed Changes to Regulations Concerning the Use of Dogs for the Pursuit and Take of Mammals (Section 265, Title 14, CCR)**

Attached is a briefing paper developed as an informational item for Fish and Game Commission (FGC) use during the public discussion regarding the use of GPS collars or dog collars equipped with "treeing switches" for the pursuit and take of mammals.

The FGC adopted a regulation change proposal eliminating the prohibition on the use of these types of dog collars for pursuing/taking mammals submitted by the Department at their April, 2016 meeting in Santa Rosa. CEQA issues raised following that decision led to the development of this briefing paper. It is intended to provide additional information to assist the FGC in making a decision to either reinstate the ban on this equipment or uphold the previous decision. This document is not intended to be a substitute for an environmental document; it is just additional information to inform the discussion on this topic.

If you have any questions or need additional information, please contact T.O. Smith at Timothy(TO).Smith@wildlife.ca.gov or (916) 445-3555. The Department's point of contact for this rulemaking is Craig Stowers, Environmental Program Manager at (916) 445-3553 or by email at Craig.Stowers@wildlife.ca.gov.

Attachment

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

Wendy Bogdan, Chief Counsel
Office of the General Counsel
Wendy.Bogdan@wildlife.ca.gov

T.O. Smith, Chief
Wildlife Branch
Timothy(TO).Smith@Wildlife.ca.gov

Craig Stowers,
Game Program Manager
Wildlife Branch
Craig.Stowers@wildlife.ca.gov

Craig Martz, Program Manager
Regulations Unit
Wildlife and Fisheries Division
Craig.Martz@wildlife.ca.gov

I. Introduction

A. Background on the regulation

The prohibition on the use of treeing (or activity) switches and Global Positioning System (GPS) collars on dogs for the pursuit of mammals was implemented in July, 1994. (§265(d), Title 14, California Code of Regulations).[1] Treeing switches and GPS collars had been primarily used by hunters pursuing species which typically "tree" such as bear, mountain lion, and bobcat. Proponents of the prohibition argued that the use of these collars on dogs pursuing mammals (primarily bears) violated the ethical concept of "fair-chase" by making it easier for hunters to find the animals they were pursuing.

As a result of discussions and recommendations made by the Fish and Game Commission's (Commission) Wildlife Resources Committee (WRC) in 2015, the Commission proposed to eliminate §265(d) to simplify and make more understandable the regulations in question. Regulatory changes since1994 – including the legislative ban on hunting mountain lions in the early 1990's (§4800, FGC) and the more recent prohibition regarding the use of dogs to take bear, bobcat, elk, bighorn sheep and antelope (§265 (a)(2), T14, CCR) – appeared to have rendered the prohibitions contained in §265(d) largely unnecessary, therefore §265(d) was proposed for deletion.

With this deletion, dogs could only be used to pursue deer (one dog per hunter during the general season only) and wild pigs (no more than three dogs per hunter). Treeing switches are not used in the pursuit of these species because they are not treed. The use of GPS collars on dogs pursuing deer and/or pigs would allow the hunter to find and locate crippled game more efficiently, would allow the hunter to locate lost dogs, and would allow enforcement to track hunter trespass in a manner not available to them now (by using data from the dog's GPS collar as evidence during hunter trespass investigations). These rationales were used to support the lifting of the ban.

The lifting of the ban has resulted in significant debate before the Commission. This briefing paper has been prepared to provide a brief general summary of the issues raised in that discussion about whether to allow or disallow the use of GPS collars for take of deer during the general deer season and wild pigs. The information contained herein may be supplemented or changed if additional information is developed or identified.

[1] Former section 265(d) stated: Prohibition on Treeing Switches and Use of Global Positioning System Equipment.
(1) Treeing Switches. Electronic dog retrieval collars containing functioning treeing switches (devices consisting of a switch mechanism that results in a change in the transmitted signals when the dog raises its head to a treed animal) are prohibited on dogs used for the pursuit/take of mammals.
(2) Global Positioning System Equipment. Electronic dog retrieval collars employing the use of global positioning system equipment (devices that utilize satellite transmissions) are prohibited on dogs used for the pursuit/take of mammals.

This paper is not intended to be a substitute for document prepared pursuant to the California Environmental Quality Act (CEQA); the Commission will fully comply with CEQA at the time it makes a final decision. Neither is it being used in support of a CEQA "approval". An "approval" is a "decision by a public agency which commits the agency to a definite course of action." CEQA Guideline section 15352. The Commission is not at that stage yet in its process to consider the regulation regarding GPS collars and treeing switches.

B. Procedural posture

On September 9, 2015, the WRC discussed eliminating the GPS collar and treeing switch prohibition. The WRC recommended this change to the full Commission. In November, 2015, CDFW prepared for the Commission's consideration, a regulatory repeal of sections 265(d) (1) relating to treeing switches and (d) (2) relating to GPS collars. After hearings in both December, 2015, and February, 2016, the Commission approved the proposed repeal at its April 14, 2016 meeting. The regulation was approved by the Office of Administrative Law and became effective on July 27, 2016.

On May 16, 2016, however, the Public Interest Coalition (PIC) filed a petition in Superior Court in Sacramento County (Case No. 34-2016-80002350) seeking a Writ of Mandate invalidating FGC's action. That petition alleges that FGC failed to comply with the procedural requirements of CEQA at the time it lifted the ban. As part of that case, the Commission entered into a stipulation with PIC that states:

> (T)he Commission intends to notice consideration of further amendment to section 265 and to conduct further CEQA analysis; and…the Commission's decision following further CEQA analysis could have a substantial impact on this litigation….(The) Commission will make a final decision on any noticed amendment to Section 265 not later than its regularly scheduled meeting in June, 21-22, 2017. (Stipulation and Order to Stay Proceedings, p. 2)

To accomplish the elements of the stipulation, the Commission went to notice at its October, 2016, meeting to consider reinstituting the prohibition on GPS collars and treeing switches. Discussion on this topic has taken place at the Commission's December, 2016, and February, 2017, meetings. CDFW is asking for the Commission to provide some direction (not a decision) to it so it can assist the Commission with its compliance with the CEQA at the time it makes a final decision on possible new regulations.

II. Discussion

A. What are GPS collars?

GPS dog collars contain a transmitter that triangulates signals from a minimum of 3 satellites in order to provide an exact location to a receiver used by the hunter/dog handler. The receiver can identify individual way-points (individual locations the dog has been) as well as the track (a series of waypoints) of the dog through the environment in which it is hunting/tracking. GPS collars are usually more expensive than other types of collars. Collars typically used for hunting purposes range from $179 (Smart Waterproof GPS Collar Tracker for Pets) to $450 (Garmin Astro 320/T5 Bundle). Although more expensive, hunters purchase and use them as a "security system" to protect their dogs, both seen as valuable property and hunting companions.

Prior to GPS technology, many dog handlers used radio-telemetry collars to track their dogs. Radio-telemetry collars send a VHF signal to the dog handler's receiver unit. Using a directional antenna (Yagi), the operator can determine the direction of the collar based on the strength of the signal as the antenna is moved. Fast, loud beeps indicate the handler is getting close to the dog. Radio-telemetry collars are fairly inexpensive, ranging from $80 (Sportdog Beeper Dog Collar 400) to $169 (Sportdog Hound Tracking Collar). The use of radio-telemetry dog collars for the pursuit/take of deer and wild pigs is currently legal and will remain so under any scenario currently considered in connection with the proposed change.

B. What are treeing switches?

A "treeing" or "activity" switch[2] is a device on a dog collar which sends different strength signals to a receiver depending upon the position of the dog's head (a slow signal is sent when the dog's head is down, a faster signal is sent when the dog's head is raised indicating an animal has been "treed"). The hunter can use this signal to locate the dog, and presumably the treed animal, in much the same way as a GPS collar only without the precision a GPS collar provides. Without an electronic treeing switch, a hunter who is pursuing game must listen for hounds beginning to howl (referred to as baying) at a treed animal and follow the sound of the baying.

C. What is "fair-chase"?

"Fair Chase"[3] is the ethical, sportsmanlike, and lawful pursuit and taking of any free-ranging wild, native North American big game animal in a manner that does not give the hunter an improper advantage over such animals. Fundamental to all hunting is the concept of conservation of natural resources. Hunting in today's

[2] Definition located at wildlifematerials.com
[3] Boone and Crockett Club, boone-crockett.org

world involves the regulated harvest of individual animals in a manner that conserves, protects, and perpetuates the hunted population. The hunter engages in a one-to-one relationship with the quarry and his or her hunting should be guided by a hierarchy of ethics related to hunting, which includes the following tenets:

1. Obey all applicable laws and regulations.
2. Respect the customs of the locale where the hunting occurs.
3. Exercise a personal code of behavior that reflects favorably on your abilities and sensibilities as a hunter.
4. Attain and maintain the skills necessary to make the kill as certain and quick as possible.
5. Behave in a way that will bring no dishonor to the hunter, the hunted, or the environment.
6. Recognize that these tenets are intended to enhance the hunter's experience of the relationship between predator and prey, which is one of the most fundamental relationships of humans and their environment.

Therefore, if an aspect of hunting is perceived as giving a hunter an unfair advantage over the target species, then it is said to violate the ethical concept of "fair chase". Any hunter who wishes to enter an animal in the Boone & Crockett and/or Pope & Young (animals taken by archery equipment) record books much first certify in writing that the animal was taken under the principles of fair chase. These principles have been adopted by hunting and wildlife conservation organizations such as the Rocky Mountain Elk Foundation, Mule Deer Foundation, California Deer Association, and the Wild Sheep Foundation.

1. How do collars/switches promote "fair-chase"?

Since the Fish and Game Commission banned the use of dogs for pursuing big-game species except for deer (during the general season only) and wild pigs, dogs fitted with GPS collars would be used primarily to find wounded animals. In the event of hunter-injured wildlife, dogs help locate the injured deer or pig thereby preventing the animal from going to waste. Avoiding waste is a component of hunting ethics and is prohibited under California law (§4304 Fish and Game Code). All hunters are expected to go to the fullest extent reasonable to recover any wounded game animal and a dog can be effective in this effort. Proponents for the use of this equipment advocate that the humane treatment of hunting dogs is they are not left in the field in the event they become lost. Dogs that have become separated from the hunter would be more easily found. The treeing switch regulation was not proposed for change because it promoted fair chase, but because it has become obsolete since neither deer nor pigs can be treed and the pursuit of those species that do climb trees has been otherwise legislatively prohibited.

2. How do collars/switches hinder "fair-chase"?

These devices could make it easier for hunters to locate animals to kill. Since dogs can track wildlife faster than humans, opponents of the devices claim the hunter has an unfair advantage when using GPS-collared dogs because dogs can keep up with the animal being pursued, and the hunter can follow along using the GPS markers at a slower pace to catch up with the hunted animal. Opponents of the use of these collars have also asserted hunters could stay in their campgrounds and release their GPS-collared dogs, only to catch up with them later when the dogs have located a target species. Opponents argue the same could be true for treeing switches.

It is unlikely and highly unusual for hunters to use these collars in the manner suggested by the opponents of the change due to an increased probability of losing their dogs. Opponents argue it is possible some poachers may use these collars to take species for which the use of dogs is entirely prohibited by existing law or regulation.

D. Other effects on hunting

1. Number of hunters

Over the period 2012-2016, California issued an average of 183,294 first and second deer tag applications per year[4]. After deducting the number of second deer tags sold, the Department estimates that there were approximately 103,402 individual deer hunters during that same time period. Unfortunately, it is impossible at this time to provide information regarding the use of dogs to take deer as that question is not asked of hunters reporting take. Using dogs to hunt deer is primarily an eastern method of hunting white-tailed deer and is not a common practice in California[4]. However, as more people relocate to California they are bringing their traditions with them and some deer hunters are currently using dogs to hunt deer.

Because the Department does not track the number of hunters using dogs to hunt deer, it cannot conclude that there is any impact on the number of hunters from either permitting or prohibiting GPS collars or treeing switches.

An average of 54,775 pig tags were sold from 2012-2016[5]. Assuming approximately 17-20% of successful pig hunters used dogs[4], from 9,312 to 10,955 of these hunters used dogs to assist in the take of wild pigs. Private landowners are now able to kill depredating pigs under the "immediate

[4] California Department of Fish and Game. 2004. Final Environmental Document for Wild Pig Hunting. 133pp.

[5] California Department of Fish and Wildlife. 2017. License Sales Statistics. https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=59821&inline.

encounter" provision of the pig depredation regulation, and this has had a negative impact on the sales of pig tags. The trend is downward; in 2012 60,349 pig tags were sold but in 2016 only 40,361 pig tags were sold. This downward trend is expected to continue as more private landowners deal with the problem themselves and pig populations decline due to other population reduction efforts.

2. Hunter success

Estimated hunter success for deer hunters in 2014 was 21.6% (more accurate figures will be available for the 2016 season with the implementation of mandatory reporting for all deer hunters whether successful or not). Hunter success data for wild pig hunters is not tracked; mandatory reporting for wild pig hunters has not been implemented to date.

The use of dogs for deer hunting was evaluated in the 2004 Final Environmental Document Regarding Deer Hunting[6]. Studies conducted in 1986[7] on white-tailed deer suggest hunters with dogs have a higher success rate than hunters without dogs. This study also indicates that in areas where hunters use dogs, deer experience more stress, but that no significant effects on fertilization, reproductive, and survival rates were found. The study concluded the use of dogs for hunting deer does not impact the reproductive potential of deer populations.

The use of dogs for wild pig hunting was evaluated in the 2004 Final Environmental Document for Wild Pig Hunting. This document determined the regulated use of dogs to hunt wild pigs (approximately 17-20% of wild pig hunters reported using dogs to hunt wild pigs) has not resulted in significant negative impacts on wild pigs, other wildlife, or their habitats in the past. However, public comments generated by the Draft Environmental Document for Wild Pig Hunting indicated some individuals are philosophically opposed to hunting pigs with dogs. They claimed it caused needless pain and suffering because the dog pursued the animal until it was caught and killed. It is important to remember the dogs are used to find and hold the pigs until the hunters kill them, not the dogs. This same document concludes hunters using dogs to hunt pigs have a higher success rate and lower wounding losses than hunters not using dogs.

Both Final Environmental Documents indicate an increase in hunter success may be expected when using dogs to locate downed or crippled game. If GPS-collared dogs are used to find target species, then it will likely increase hunter success. This hunter success is likely to be marginal because most

[6] California Department of Fish and Game*. 2004. Final Environmental Document* Regarding Deer Hunting. 351 pp.
[7] Spencer, G. 1986. Hunting Deer with Dogs. Special Staff Report, Wildlife Division, Texas Parks and Wildlife Department. 71 pp.

hunters who would use GPS collars are likely now using radio-telemetry collars on their dogs.

Again, because wounded animals can be located more easily with collared dogs, there is likely to be less waste of hunter shot deer and wild pigs.

3. Use of dogs generally

a. Hunting

In California dogs are now primarily used in hunting upland game and waterfowl species. Historically dogs were used to track and tree bears, bobcats, and mountain lions but other legislative and regulatory changes now prohibit the use of dogs for these species. Although dogs may still be used while hunting deer and pigs, the Department does not currently track that information. Deer hunters may use one dog while deer hunting during the general season; these dogs are most commonly used to work dense cover hunters can't access in order to flush deer and/or to trail wounded deer or find carcasses in heavily vegetated areas. Pig hunters are allowed to use up to three dogs; these dogs are used to locate pigs in dense cover and to hold them in the vicinity while a hunter approaches. While dog owners are expected to keep their dogs under control at all times the use of a leash for hunting purposes is not required in California.

b. Training

Dogs can roughly be categorized as follows: 1) retrievers are primarily used for waterfowl hunting; 2) flushing dogs which are primarily used on upland game species to find, flush, and retrieve game; 3) pointers which are almost exclusively used to find upland game species; 4) trackers/trailers which are primarily hounds which find, trail, and bring to bay the target animal.

With regard to the fourth category of dogs described above (trackers/trailers) California has identified four (4) "dog training zones" (§265(a) (4)(A-D)) and dog training seasons have been established in order to allow hunters to train their dogs without impacting other wildlife species during their normal reproductive/off-spring rearing seasons. These "no training" seasons typically run from April 1st to the opening day of general deer season in those areas.

GPS collars can assist during training periods when inexperienced dogs are more likely to get lost. If a dog is being trained, being able to locate it quickly is extremely important so the untrained dog doesn't harm the target individual. Its owner can track it down and call it off more quickly and more accurately with GPS.

c. Should the FGC consider welfare of dogs in hunting regulations?

Commenters in opposition to the lifting of the prohibition on GPS collars and treeing switches argue the welfare of hunting dogs is the responsibility of the dog owner/ handler, not the responsibility of the Commission. Presumably this suggests the welfare of lost dogs should not be a consideration in the Commission's regulation.

In this regard, the Commission's jurisdiction as to game mammals is contained in Fish and Game Code section 203. It provides any regulation of the Commission may do "any or all of the following as to any or all species or subspecies: …prescribe the manner and the means of taking." And "take" pursuant to Fish and Game Code section 86 means "…hunt, pursue, catch, capture or kill" or attempt to do any of these things. Further, section 203.1 specifies that when adopting regulations pursuant to section 203, the Commission "shall consider…the welfare of individual animals…." It is not specified if this reference to individual animals includes only the target species being regulated or other animals that are used as a manner and means of the taking like hunting dogs.

d. Use of leashes

While dogs are required to be under control at all times while in the field, California law does not currently require dogs to be leashed while actively hunting. As dogs are commonly used to access terrain and/or vegetation is challenging if not impossible for the hunter to access, the use of a leash under those circumstances would be difficult. That said, for example, the State of Montana only allows dogs to be used to track wounded big-game species and the dog must be on a leash no longer than 50 feet while doing so.

4. Non-target species impacts

As the use of radio-telemetry collars is currently authorized for training and hunting purposes, impacts to non-target species from authorizing the use of GPS collars will not increase. Neither of the two previously identified Environmental Documents identified any significant impacts to non-target species through the use of dogs.

Dogs are typically trained to locate specific species of animals in order to maximize the hunter's opportunity to be successful for whatever they are hunting. For example, pointing dogs for upland game birds receive training to prevent them from locating and chasing after non-target species such as deer. Since not all dogs are trained to the same standards, it is likely that minimal impacts to non-target species will occur (as may happen under the current regulation). However, ethical hunters spend countless hours and

significant sums of money to have their dogs trained to locate certain species of wildlife primarily to maximize their opportunity and to minimize impacts to non-target species.

5. Use of technology in hunting

There is no doubt advances in technology have made some hunters more efficient. Technological advances in firearms, optics, ammunition, protective clothing and other gear occur every year to the benefit of the hunter. Dogs have been used to find game since humans started hunting, but collars have not. The proposed regulation relates to one type of collar used in hunting (radio-telemetry) versus another (GPS). Each time new technology emerges, the Commission works with the Department to determine if its use is appropriate. GPS technology provides the hunter with additional options regarding hunting locations, and it has also served to bring many people home from areas they may not be familiar with. The use of these collars is not expected to result in more efficient hunters but rather more dogs that return home.

E. Other states' regulations

Twenty-four states (largely Eastern and Southern states) have enacted regulations requiring a hunter to be specifically licensed for tracking and for dogs to be leashed while doing so. Several Eastern states have implemented a certification program for using dogs to trail wounded game (dogs are not allowed to pursue big-game species only trail them in these states). In these states, hunters are required to contact "certified trackers" in the event they wound and can't locate an animal. A list of certified trackers by area is maintained by the state, and hunters are responsible for contacting and paying the tracker to find the hunter's wounded animal. Some states (Oregon for example) do not allow the use of dogs for hunting most game mammals.

F. Enforcement considerations

Use of GPS collars could benefit California's wildlife officers who are conducting poaching or hunter trespass-related investigations. Wildlife officers could potentially use GPS collar data to prove where a dog has been and to find poaching-related crime scenes whether in semi-urban private properties or extremely remote areas. GPS collar data has proven to be excellent evidence the court can evaluate during legal proceedings. Radio telemetry collars do not provide this type of evidence.

The adoption or denial of this regulation is not expected to have any measureable economic impact. GPS collars are already authorized for use while hunting for other species (for example upland game and waterfowl), and the number of hunters who would use them while hunting game mammals is expected to be minimal.

From: terifa [mailto[redacted]]
Sent: Wednesday, April 12, 2017 11:39 PM
To: FGC
Subject: PBH - Re: Use of Dogs for Mammal Hunting

Hi,

Attached is a missive regarding the use of dogs for mammal hunting.

All Good Things,

Teri Faulkner

Teri Faulkner
[redacted]
[redacted]
Magalia, CA 95954

10 April 2017

Email: FGC@fgc.ca.gov

California Fish & Game Commission

1416 Ninth Street, Suite 1320

Sacramento, CA. 95814

Re: Dog Mammal Hunting Regulations

Dear Commissioners:

We would like to comment on some of the factors surrounding the use of dogs for mammal hunting. We hope that we do not see the day where questioning the use of dogs for bird hunting ever arises.

We All Die

Our world exists as a closed environment where everything that is currently living must eat or use something else to survive. Carnivores eat prey. Herbivores eat plants. Plants deplete nutrients from the soil or other vegetation. And omnivores eat anything they can get their teeth into when they are hungry. This is a simplified illustration, but hopefully it works to show that nothing on this planet is guaranteed life without depleting other resources. In this case, resources are what an organism needs to consume to survive and flourish. This explanation definitely works better when discussing plants and animals. More esoteric life may use other methods, but they still need to consume to live.

Once it is acknowledged that nothing lives forever, quality of life versus quantity of life can be addressed. Each area of land, habitat, has a carrying capacity for the various species that inhabit that area. The carrying capacity tends to be fluid depending on environmental factors, land use designations and human population growth and expansion among other influences. What an area can support one day, may be unsupportable a month later. None of these forces are static.

When an animal lives within the carrying capacity of an area, the animal tends to be healthy with sufficient food, water and space to allow it to have enough energy to live naturally within its environment.

When the carrying capacity has been exceeded, it is likely that one or more of the animal's essential needs are deficient. Maybe the food sources have been exhausted so the animal is forced to try to survive on things that are nutritionally poor or suspect. Or maybe water has become hard to find. When space is limited, competition and aggression between critters tends to increase. An animal in this situation will not be as healthy as one who lives in an environment with plenty of resources. The likely result is that the animals will sicken and die, become easy prey for another critter or will move and try to follow the resources.

Hunting as a Wildlife Management Tool

We are very lucky to have dedicated CDFW professionals monitoring the various environments and trying to manage the wildlife that lives in each area so that they do not exceed the carrying capacity of the land and have the opportunity to thrive. Hunters are a part of the means of maintaining the balance between the carrying capacity of the area and its inhabitants.

As a wildlife resources management tool, hunting is one of the easiest ones to use. It is much easier to adjust hunting seasons and take than it is to modify their environment or human migration into less populated areas.

Hunters tend to use everything the carcass provides for them from the meat for food, to leather to whatever else the carcass can give. It is a hunter's way of honoring the animal. Hunting is much more than a recreational activity. It is a very real way of filling a freezer and providing sustenance for family and friends. Hunting allows people to eat while preventing wildlife from starving and having unintended encounters with people. This can be a win-win for both people and wildlife.

For hunting to be at its best as a wildlife management tool, CDFW should make it as easy for hunters to accomplish their mutual goals as possible. The goal in this case is to maintain the carrying capacity of an area by harvesting excess individual animals.

Hunting With Dogs & Without

Hunting with dogs has been a traditional means of hunting many mammals and birds. The purpose of the dogs is not to harm their prey, but to help locate potential prey so that the hunter can decide whether to take that particular animal. The dogs are also helpful in recovery game that has been shot so that it will be recovered, dressed and cooled as quickly as possible.

The use of dogs does not infringe on the amount of work that a hunter has to do to harvest game, but it may make being in the wildlands safer for the hunter and safer for nearby communities.

Dogs are part of our families. They have worked and played with humankind for millennia. Dogs have slept beside our beds and alerted us to the dangers in the night. They accompany us on treks and to find our next meals. Dogs are our partners not merely tools for the hunt. As a side benefit, when dogs are used for the hunt to find game, or are being trained to find game, they make our communities safer.

About a year ago I talked to our local CDFW game wardens after a Butte County Fish & Game commission meeting. I asked them what changes there had been in the number of bear killed since the 2012 decision to ban the hunting of bears with dogs. Their answer surprised me. They told me that the number of bears being killed remained about the same as it had been before the 2012 rule change. The difference was that fewer bears were being taken by hunting and more were being taken through depredation.

Since the 2012 anti-dog while bear hunting decision, our communities have become less safe because bears are no longer concerned about barking dogs. While dogs were being used to hunt bears, the

bears learned to run from barking dogs because barking dogs meant that they were going to have to work.

In a few short years, the bears have learned to ignore barking dogs, because it no longer meant that they had to work, and became much more of a presence in our communities. By that I mean that they are coming into yards, up to the front doors of houses, getting hit by vehicles and many more encounters that put both the people and the bears at risk.

For the safety of our communities, please re-instate the practice of using dogs to hunt bears. Your decisions have a greater impact than just ruling the lives of hunters and wildlife management practices.

Communities & Wildlife

Fish and wildlife do not exist in a vacuum. This is true of both the Department and the critters. The decisions you make have far-reaching ramifications on both human and wildlife populations. And the human world and its competing goals and regulations has an impact on both wildlife and where people can go to be in the wilderness.

Within the past few years most California counties have been having to create, revise and update their general plans. The general plans are guiding documents that governs change, development and growth for the next twenty or so years in each county. This is a state requirement. With much effort and hearings these plans can be modified. California has also insisted that these general plans identify areas for future growth, increasing populations and their attendant needs. These plans are the counties' and their citizens 'attempt to predict and shape the future based on their knowledge and needs known at the time.

The important part of this discussion is that the state is anticipating future growth in the more rural areas. When that happens there will be more people and more people who are not used to agriculture, wilderness, open spaces or freely wandering wildlife. There will be a likely reduction in open spaces and the wildlife will have to exist in smaller areas and tighter quarters. When this happens the carrying capacity of the area will be reduced and it will no longer be able to support the amount of wildlife that it had previously.

Wildlife will not have had the chance to adapt to the tighter quarters as fast as humans can develop the land. The reduction in territories will likely make encounters with people are much more frequent. It won't be anyone's fault, but it will be an element of the new world we will be living in.

We may be able to mitigate some of the potential effects of this if hunters are allowed to use dogs to hunt bears and re-train the bears to avoid barking dogs and human habitations. It took less than four years for bears to lose their fear of barking dogs. How long will it take for them to regain it? How many kids, pets, families or livestock will suffer from such possible encounters in the meantime? How many bear will lose their lives through depredation, being hit by cars or because they come too close to human habitation or facilities, such as schools or stores, and they are killed because of safety concerns?

Please consider the following suggestions:

- Encourage all hunters, both archery and gun users, to use and have dogs with them when they go into the wilderness – this is a safety issue.
- Allow the use of GPS on dogs whose owners hunt as well as others – this is a safety and responsibility issue.
- Re-instate the use of dogs for bear hunting – this is a bear and community welfare issue.
- Include community-wildlife encounters in any exploration/discussion about hunting, predators and wildlife health and sustainability – this is a safety and practical issue.

I understand that this may sound like a lot. But please remember that your decisions affect more than just the Fish & Wildlife Department or the State's wildlife, it affects communities. Let the best available science guide your decisions.

What can you do to make the future safer, better and more sustainable for people and wildlife?

Thank you for your consideration

Sincerely,

Teri Faulkner

CBH/SAA

SIERRA CLUB
FOUNDED 1892

PLACER GROUP
P.O. BOX 7167, AUBURN, CA 95604

PUBLIC INTEREST COALITION
P.O. Box 671, Loomis, CA 95650

[sent via email: fgc@fgc.ca.gov] March 29, 2017
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244
Ladies and Gentlemen:

RE: April 13, 2017 Agenda Item 7--Discussion Proposed Reg Changes-Sec 265: Implement GPS Ban as Originally Planned and Approved

We urge the California Fish and Game Commission (FGC) to vote YES on the current proposal to ban the use of GPS collars and treeing switches for mammal hunting and training activities. From that point, the FGC can decide if it should go to Notice to allow GPS collars, or not. If affirmative, then that would be the proper time to do an in-depth environmental analysis of the impacts of GPS collars for use in mammal hunting and training. The current proposal, to ban GPS collars for mammal hunting, does not meet CEQA thresholds with any impacts that would require additional analysis to approve.

With the allowance of GPS collars along with other new technologies, houndsmen/women (hounders) have obtained an unfair advantage in the pursuit of wildlife, which also portends a not-so-subtle improper erosion of ethical hunting standards. Fair Chase definitions include, "…the ethical, sportsmanlike, and law and lawful taking of free-ranging wildlife that does **not** give a hunter improper or unfair advantage over such wildlife." With treeing switches, even the CA FGC stated its objection to them—keeping them illegal—and recognizing their use meant the hunter had

> "…no need to follow the dogs on foot during the chase…. Without the use of a treeing switch device, the hunter is required to follow the dogs on foot and be with the dogs when an animal is treed or be close enough to hear the barking of the dogs to determine if an animal is treed. **The use of treeing switches on dog collars would limit the sporting aspect of fair chase**."[1] [bold added]

Hounders claim that hound hunting is tradition or heritage, and have erroneously wrapped GPS collars in the mix. Traditionally, hunters went into the brush with the hounds, followed and kept up with them—that was part of the ethical sport of the hunt. Using tethered or leashed dogs was commonplace on untrained or unreliable dogs. Today, keeping track of dogs' location via a GPS digital screen is a counterfeit claim of heritage, tradition, fair chase, or ethical sportsmanship. With GPS collars, any incentive to vigorously train and release only reliable, solid dogs, that can be controlled and recalled on command, is reduced or nonexistent. GPS collars for mammal hunting and training are unacceptable expansions of technology to take or harrass wildlife, and in the process increase unacceptable disruptions of wildlife activities, as well as risks of injury and/or death to both dogs and wildlife with altercations.

We and others have debunked the exaggerated claims by hounders that GPS collars will allow faster intervention (in altercations with protected or unlawful species resulting

[1] CA FGC ISOR, January 14, 2009, Amend Section 265,. "Re: Use of Dogs for Pursuit/Take of Mammals or for Dog Training, page 5.

in injury or death; wildlife disturbances that impact migration patterns, nesting habits, mating, abandonment of young, etc.). This has been documented enough in both oral and written comments to the FGC. The reality is that in rough, roadless, heavily brush/wooded areas, hounders cannot physically reach critical locations in a timely manner when every second counts. GPS collars will not in any way increase hounder intervention with those types of wildlife encounters (nor with most public roadway crossing of hounds on a chase), yet those negative encounters and resultant injuries, death, or devastating disruptions, are likely to increase because of the opportunistic incentive to release not only more hounds but also hounds that are not solidly trained.

Another area that has not been examined and supports approval of the current proposal to **ban** GPS collars is the economic burden GPS collars, if allowed, imposes on law enforcement—which will be reduced if the ban is approved. GPS collars will tempt poaching scofflaws to claim they're hound hunting a legal species (yet tree or hound-catch an illegal animal). It will also provide incentives and temptations to collaborate with hunters who hold proper tags for bears or bobcats that are illegal to hound hunt. We've already submitted comments as to how that works, as well as how GPS collars are disgustingly used in the only other U.S. mainland states (nine in the deep south) that allow deer-dog hunts. There, fair chase and ethics do not exist as hounders release dogs to chase deer and call or text where the exact direction the deer is headed so that the "stands" (hunters waiting at the end of the deer drive) can adjust their locations with new or changing GPS coordinates, and simply fire away as the completely exhausted deer (or other animal) emerges.

The Colorado Parks and Wildlife Commission's Fair Chase Policy subscribes to the North American Model of Wildlife Conservation, deals with evolving technologies, and commits to carefully weighing technological benefits in the interests of preserving Fair Chase.[2] Their articulations of technologies and practices that may provide hunters with an **improper or unfair advantage** include:

1. A technology or practice that allows a hunter or angler to locate or take wildlife without acquiring necessary hunting and angling skills or competency.
2. A technology or practice that allows a hunter or angler to pursue or take wildlife without being physically present and pursuing wildlife in the field.
3. A technology or practice that makes harvesting wildlife almost certain when the technology or practice prevents wildlife from eluding take.[3]

Those three improper advantages are exactly what GPS collars will create if the GPS **ban** is not approved.

We incorporate by reference all of our oral and written comments submitted on this proposal, as well as our comments submitted from December 31, 2015 through May, 2016, by us and others who opposed the previous regulatory proposal that resulted in the current approved amendment to Section 265.

Thank you for considering our views.

Marilyn Jasper, Chair
Public Interest Coalition
Conservation Comm, Sierra Club Placer Group

[2] Colorado Parks and Wildlife Commission, "Hunting and Fishing Fair Chase Policy," June 2016.
[3] Ibid.

SIERRA CLUB
FOUNDED 1892

PLACER GROUP
P.O. BOX 7167, AUBURN, CA 95604

PUBLIC INTEREST COALITION
P.O. Box 671, Loomis, CA 95650

[Sent via email] April 13, 2017

To: CA Fish and Game Commission (FGC)

Subj: Agenda Item 13, Section 265—GPS Ban

We appreciate the effort made to provide additional information to assist the FGC in their decision making via the "briefing paper." The briefing paper was expected to present unbiased information, but with all due respect, we are deeply disappointed and concerned. Many of the issues are fraught with errors, omissions, and misleading or incomplete statements and conclusions. If our concerns are confirmed, the lack of credibility of the briefing paper potentially skews the FGC's decision-making abilities.

Please accept the following comments and concerns as a good-faith effort to ensure transparency and accuracy. There may appear to be some duplication of specific topics, but our comments follow the same order as the briefing paper instead of prioritized according to importance. That said, of special concern are the misleading statements from apparent misinterpretations of FG Code Section 3008 (control of dogs) and Section 203 (game species welfare) below.

I. Introduction

A. Background on the regulation (page 1)

Erroneous statement (1): "As a result of discussions…Wildlife Resources Committee (WRC) in 2015…the Commission proposed to eliminate §265(d) to simplify and make more understandable the regulations in question."

Fact: The September 8, 2015, WRC meeting, where the proposal to eliminate 265d was initiated, was briefly discussed. The stated purpose, "…to simplify and make more understandable the regulations" is (a) not an accurate account of that meeting's 265(d) discussion (per FGC audio), and it most assuredly, simplification and understandable was not the reason for the recommendations (dog retrieval was the focus); and (b) "easier for hunters to find the animals they were pursuing" is not the "fair chase" violation argument made by proponents of the ban. Rather the violation of the ethical concept of "fair chase" argument has included the facts (1) that hunters are not conducting the chase themselves if/when they are watching a digital screen from a vehicle, and (2) that using high tech GPS collar precision to conduct deer drives are the antithesis of fair chase ethics. ("Deer Drives" have been described in our previous comments.)

Erroneous conclusion: "Regulatory changes…appeared to have rendered the prohibition…largely unnecessary….proposed for deletion."

Fact: The regulatory changes were approved to protect bears, bobcats, and mountain lions **from** the ravages of hound hunting advantages, which GPS collars will simply exacerbate and provide a loophole to enforcement of those very regulations. Instead of "appeared to have rendered the prohibitions…largely unnecessary…," the GPS collar prohibition is even more necessary now to ensure compliance with the regulations. In none of the WRC discussion was an "unnecessary" argument ever suggested. To the contrary, early on our arguments pointed out that because hound hunting is banned for bears and bobcats that climb trees, that treeing switches must be banned both for enforcement purposes, misuse or abuse, and to deter the increase of treed bear/bobcat poaching opportunities. The briefing paper moves from the purpose of treeing switches

into GPS collar attributes (lost dogs, trespass enforcement), and does not present compelling arguments to support the allowance of treeing switches.

Misleading statement: "One dog per hunter during general season only" attempts to present a single hound image as an innocuous impact; but in a hound hunting group of licensed hunters, one dog is allowed for each licensed hunter. Thus, there may always be a "pack" of hounds released, depending upon the size of the participating hunters.

Rationales used to support lifting of GPS ban:

Misleading statements: "The use of GPS collars on dogs pursuing deer and/or pigs would allow the hunter to find and locate crippled game more efficiently, locate lost dogs, and…track hunter trespass…using GPS collar as evidence…."

Crippled game. If "crippled" game refers to animals crippled by an errant attempt to kill (wounding via firearm discharge), then the dog would not be released until AFTER the shot is taken. If "crippled" game means releasing dogs to find any game "crippled" by means other than the hunting party, then this is a disingenuous use of GPS and will create more mayhem and mauling of crippled animals when "found" by hounds. Unless the handler/hunter is closely following the dogs, which is less likely with GPS collars, then immediate intervention is impossible.

Lost Dogs. The current law requires dogs to be "under control." If that one regulation was followed, there would most likely be no lost dogs. Reliable alternatives to GPS exist to find lost dogs, including, but not limited to microchipping, recall/training certification before releasing, handler certification, and requiring tethers/leads/leashes for dogs that are not trained or certified.

GPS trespassing evidence. Unless a property owner observes and reports trespassing, it is unlikely that any action will be taken. If a trespassing complaint is made to CDFW, in addition to valuable game warden's time involved in searching GPS points on a track, wading through old track logs, and possibly requiring "probable cause," this often becomes a civil matter or a local law enforcement issue. If a Search Warrant is required, it is reasonable and foreseeable to conclude that the cost to CDFW will prohibit such an investigation, will result in an infraction, or, more likely, no charges will be filed (no prosecution will ensue).

A most misleading statement made to exalt the use of GPS collars on dogs is the claim of using GPS collar data as evidence. As stated in oral testimony at today's FGC Tele Conference meeting (April 18, Agenda item 7, public comment), it is a well-known fact that because GPS tracking device records can be deleted (units turned off, factory resets for permanent deletion, etc) if/when someone does not want tracking data saved, it renders the GPS dog tracking collar useless for trespassing, poaching, or any other type of investigation.

As a part of the CEQA functional equivalent analysis, a report of how many hound-hunting trespassing complaints have been received over the years and their final disposition might be germane to the trespassing evidence claim.

B. Procedural posture (page 2)

We understand the FGC's desire and requirement to adhere to CEQA. However, at the October, 2016 FGC meeting, the approved motion was to Notice the ban in October 2016; discuss in December; and vote in February 2017. Instead of voting in February, the FGC voted to continue the discussion for environmental analysis of the ban and, if approved, to delay the implementation for 12 months.

We submit that because no compelling evidence was submitted for the administrative record (assuming such important evidence would not have been excluded by

staff in the meeting documents), and the Initial Statement of Reason (ISOR) fully complied with the functional equivalent of a CEQA Negative Declaration, that therefore, the only correct action was to vote on the ban proposal at the February, 2017 meeting. The stated rationale for the continuance action was not required by CEQA. Once the ban is approved, it should be implemented. If/when another proposal goes to Notice to allow GPS collars, only then might a CEQA analysis be required. It is highly unusual for a proposal that does not require CEQA analysis to have continued the discussion (The ISOR makes that clear, and nothing in the administrative record contradicts or compels preparation of an analysis).

II. Discussion

C. What is "fair-chase"?

We submit that GPS collars and treeing switches violate and are contrary to "fair chase" ethics. The Boone and Crockett Club's (Club) "Fair Chase" definition cited in the briefing paper is accurate; however, the Club goes a step further in its "Position Statement" in disqualifying entries in its big game records section.[1] GPS collars certainly give hound hunters an improper advantage over animals; otherwise, they would use traditional hound-hunting practices of keeping up, on foot, with their dogs which would allow for greater compliance with the CDFW regulation (***Fish and Game Code Section 3008***) of always keeping their dogs under control.

In the briefing paper fair chase description, it states, "The hunter engages in a one-to-one relationship with the quarry…." It then lists a "hierarchy of ethical tenets related to hunting" with the last one being, "6. Recognize that these tenets are intended to enhance the hunter's experience of the relationship between predator and prey, which is one of the most fundamental relationships of humans and their environment." Other than drone hunting, we submit that using GPS collars on dogs so that dogs, not humans, can run down prey, creates no semblance of a "relationship between predator and prey." Thus, GPS dog collars not only take hunters completely away from basic fair chase, ethical pursuits, but also further distances them from any fundamental relationship with their environment (other than their vehicle). GPS collars simply facilitate dog-prey hunting.

1. How do collars/switches promote "fair chase"? (page 4)

Erroneous statement: "Since the Fish and Game Commission banned the use of dogs for pursuing big-game species except for deer (during the general season only) and wild pigs, dogs fitted with GPS collars would be used primarily to find wounded animals."

The use of dogs fitted with GPS collars would not and are not used **primarily** to "find wounded animals." GPS dog collars are used primarily to hunt and pursue deer or other game for the hunter to take (aka "kill"). If GPS collar-fitted dogs were primarily used to **find wounded animals**, then it follows that hunters would seldom release any dogs

[1] III. Use of electronic communication devices (2-way radios, cell phones, etc.) to guide hunters to game, artificial lighting, electronic light intensifying devices (night vision optics), sights with built-in electronic range-finding capabilities (including smart scopes), drones/unmanned aerial vehicles (UAVs), thermal imaging equipment, electronic game calls or cameras/timers/motion tracking devices that transmit images and other information to the hunter;
Technological advancement in hunting equipment is a natural progression of our desire to be successful and affective in ethically harvesting game. **At some point, these technologies can displace a hunter's skills to the point of taking unfair advantage of the game** [bold added]. www.boone-crockett.org, Big Game Records, Fair Chase Position Statement.

until they had discharged their firearms. Only then would they know if they had a clean kill or a wounded animal that needed to be blood-trail tracked.[2]

We urge clarification to the FGC before final votes are taken.

The ban on treeing switches must continue because they are no longer needed. If treeing switches are allowed, a huge loophole will be provided for "accidentally" treeing species that are prohibited. We have already explained how communications with those who are hunting species that cannot be hunted with hounds, separate and apart from the hound hunters, will be able to facilitate finding those treed animals via sharing of coordinates. If hounds are prohibited in hunts for species that were treed, then there is no need to allow treeing switches, especially due to the reasonably foreseeable poaching opportunities that will be created if treeing switches are allowed. Contrary to the briefing paper, we submit that the treeing switch ban promotes compliance with the ban on hound hunting of specific species that climb trees. Fair chase was an issue when the legislation was passed, and it remains as such.

2. How do collars/switches hinder "fair-chase"? (page 5)

Incomplete and Misleading statement: "It is unlikely and highly unusual for hunters to use these collars in the manner suggested by the opponents of the change due to an increased probability of losing their dogs." Contrary to what the briefing paper states (hunters staying in campgrounds), we have asserted in multiple comments that with GPS dog collars, many deer-dog hunters can and do stay in their vehicles and follow hounds via digital displays if/where there are roads to do so. We further assert that following GPS collared dogs from vehicles is a highly commonplace ("usual") hunting practice as evidenced by hours of online commentary and video postings.

Omitted information: One of the most obvious unethical and lack of fair chase elements of GPS collars occurs when dogs are chasing wildlife, specifically deer, to exhaustion. Via GPS coordinates, hunters can determine where the deer will emerge. As we've stated in previous comments, in the only nine states in the United States that allow deer-dog hunting, GPS collars are used in "deer drives." Deer hunters known as "stands" (aka "stills") wait at the end of an area and communicate (cell phone, radio) with the hounder when the dogs are chasing a deer. As the deer-chase direction changes, the stands shift their locations to be able to shoot when the deer emerges. Thus, GPS creates not only an "UN-fair chase, but rather a NO-chase-at-all scenario, with dogs doing the chasing and not the hunters.

Omitted from the briefing paper is any mention of the potential for GPS dog collars use to increase poaching opportunities. When banned, if wildlife officers observe GPS dog collars, it is an obvious violation. However, GPS collar use will facilitate creation of poaching situations that can and will be easily masked, especially with high tech speed of communication via cell phones, radio, and other means, to share coordinates of treed animals that are not allowed to be hound hunted.

D. Other effects on hunting

Sections 1 and 2 do not seem to have a nexus to GPS, but because any negative impacts from hound hunting will be exacerbated with GPS dog collars, we welcome the briefing paper discussion and all analysis of hound hunting impacts.

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[2] As an aside, hunting deer with dogs is illegal in Texas, but the number of handlers with trained small dogs to track wounded deer is increasing and legal in most Texas counties for blood–trail tracking purposes only. They are often "hired" and kept on leash. "Trained dogs lead hunters to wounded deer," http://tpwmagazine.com/archive/2014/nov/ed_2_traineddogs/index.phtml

1. Number of hunters (page 5) The take away message from the briefing paper here is that CDFW and the FGC need to implement a tracking system to ascertain the number of hound hunters using dogs, which species they are pursuing (pigs, deer, or other mammals), types of tracking equipment used, training completed and certification obtained for both dogs and handler, registration/accountability of hounds via a required "lost dog" reporting, and due diligence steps taken to retrieve any lost dogs.

2. Hunter success (page 6):

Outdated and misleading information: From the cited 1986 Texas study, "…where hunters use dogs, deer experience more stress, but that no significant effects on fertilization, reproductive, and survival rates were found. The study concluded the use of dogs for hunting deer does not impact the reproductive potential of deer populations." This is contradicted in many other studies--most notably in a 2010 study published in "Biological Conservation," and cited in our comments submitted on January 26, 2017, Attachment A, for the February 8, 2017, FGC meeting.[3] When deer are chased or dogs or other carnivores that are perceived as predators are present, those conditions do impact all aspects of deer behaviors, including reproduction and cumulatively.

The briefing paper states that the use of dogs for deer hunting was evaluated in the CA Dept of Fish and Game, "2004 Final Environmental Document Regarding Deer Hunting" (FED); however, instead of citing those studies, it jumps to the 1986 outdated study (see above) and references its conclusions only. The first referenced 2004 FED Regarding Deer Hunting could not be found on either the CDFW or FGC websites, but the "Draft Environmental Document Regarding Deer Hunting," dated June 18, 2004, was available. It presents a different conclusion:

> A pursued animal could experience some degree of distress. The distress could become more acute if the animal were cornered or otherwise became unable to successfully flee. If the stress-inducing stimuli are short-term, the animal's responses should not result in long-term harmful effects. Prolonged or excessive stress may result in harmful responses, such as abnormal feeding and social interaction behavior and lowered reproductive success. It has been reported that long-term distress in animals can result in pathologic conditions, such as gastric and intestinal lesions, hypertension, and immunosuppression (JAVMA 1987, p. 1,188).[4]

That DFG FED also states that of the types of stress imposed upon animals that are chased, the adverse impacts may not be long lasting because each chase presumably terminates with the animal's escape or death. Although the distress could produce long-

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[3] From "Effects of hunting with hounds on a non-target species living on the edge of a protected area," Stephano Grignolio, et al, Italy March 2010: "…. On the contrary, hunting drives with hounds could last for a whole day. While ungulates may suffer no substantial fitness costs when disturbance rates are either low or moderate, several empirical studies suggested that high disturbance rates could reduce their reproductive success and possibly impact on population dynamics (Harrington and Veitch, 1992; Phillips and Alldredge, 2002; Yarmoloy et al., 1988). Bateson and Bradshaw (1997) showed that, by virtue of their evolutionary or individual history, red deer are not well adapted to cope with the level of activity imposed on them when hunted with dogs. Long hunts, with their physiological effects on deer (disruption of muscle tissue, depletion of carbohydrate resources, high levels of b-endorphin and cortisol) can also indirectly modify their survival rates and life history (Bateson and Bradshaw (1997).

[4] "CHASE-RELATED EFFECTS," FGC Draft Environmental Document, Sections 265, 460-467, and 472-480. Title 14 CA CR, "Furbearing and Nongame Mammal Hunting and Trapping," June 18, 2004, pg 89. www.fgc.ca.gov/regulations/2015/478_EnvDoc.pdf

term adverse effects, it is not expected because hunting season is of limited duration making distress-inducing condition temporary.

However, most importantly, we submit that if GPS collars are allowed, it is reasonable and foreseeable to predict that dog training will increase also, and therefore the adverse impact of induced stress due to being chased in a terrorized "fight or flight" mode will no longer be "short-term". Instead, it will occur almost year-round, with more dogs; therefore, being "long-term," it will produce all the harmful responses listed in the FED. As stated in the briefing paper, "training" seasons typically run from April 1 to the opening day of general deer season in specific zones, which would qualify as "long-term."

The briefing paper discusses dog-pig hunting, with claims that the dogs are used to find and hold pigs until hunters kill them. This an incomplete description of what may occur when hound hunting. Not all dogs will "hold the pigs" until the hunters arrive to kill—again, a problem of releasing insufficiently trained hounds. If smaller pigs or piglets are found, dogs may indeed attack, but they may be no match for enraged sows who will take on and attack dogs when their or other sows' piglets are threatened and/or screaming. Dogs that face larger boars with tusks are at risk for severe bite and trampling injuries. Such risks to dogs with pig hunting are well established. Because one reason dog owners claim GPS collars should be allowed is for the dogs' "welfare," it is illogical for anyone who cares about their dogs to use them for wild pig hunting.[5] GPS collars will not protect dogs from pig or any other species' attacks, and intervention when handlers are miles away cannot be immediate, which is required to protect the dogs.

The cited FGC FED from 2004 indicates increased hunter success may be expected when GPS-collared dogs are used to locate downed or crippled game. This is a specious argument because whether dogs are GPS or radio telemetry collared, or not, one can assume that most crippled or wounded animals are not going to travel far or fast. More obviously, a wounded animal should have the hunter who made the errant shot relatively close or nearby. Radio telemetry should continue to suffice for recovering both dogs and wounded or crippled wildlife with less likelihood of waste.

3. Use of dogs generally (page 7)

a. Hunting One statement in this section of the briefing paper that is often used as a smokescreen to minimize potential dog-deer hound hunting adverse impacts and deflect concerns of "dog pack" attacks on vulnerable wildlife (fawns, nesting animals, etc.) is, "Deer hunters may use one dog while deer hunting during the general season;…." Why this is so disingenuous is the omission of the fact that in a hunting party, each hunter may have one dog. That is why so many videos, photos, observations, and reports include more than one dog (a "pack") involved in the attack or treeing of the bear or bobcat, etc.

The last sentence in this section appears to be an attempt to deflect attention from rampant violations in hound hunting. Dog owners are not "expected" to keep their dogs under control at all times, but rather, CA FG Code section 3008 is quite clear: "The physical control of a dog by its owner while the dog is engaged in hunting in an area where the owner is otherwise authorized to hunt, **shall** be as required by this code or regulations made pursuant thereto."[6] [bold added] There is no "may" or "should"; "**shall**" is the legal, operative word. Attempts to continuously detract and deflate the unlawful seriousness of

[5] "Hog hunting is dangerous business and injuries are not uncommon. It is therefore the responsibility of the hunter to make sure that their dogs are protected. Aside from giving proper training, the use of protective equipment is highly advised." This would include neck guards and vests. http://dogsaholic.com/lifestyle/hog-hunting-with-dogs.html

[6] FGC § 3008-- http://codes.findlaw.com/ca/fish-and-game-code/fgc-sect-3008.html

this noncompliance are merely reinforced with such statements as this in the briefing report. Lack of control appears to be the foundation of almost all the complaints and unacceptable adverse impacts of hound hunting that will be exacerbated with GPS collars.

To make matters even worse, the added phrase, that "the use of a leash…is not required…." is irrelevant and seemingly tossed in the mix to further ignore the law, suggesting a bias instead of an impartial briefing paper that the FGC is to use in their decision making. The point of bringing up leashing or tethering in our comments is to provide tools—alternatives—for hound hunters to comply with the law, especially if their hounds are not solid on commands. We repeat: It is reasonable and foreseeable that if GPS dog collars are allowed to hunt mammals, the incentive to release untrained dogs will be increased. Such untrained hounds will then wreak havoc on both targeted and non-targeted wildlife. To think that they won't is to deny reality when there is plenty of evidence to prove dogs do disturb wildlife and responsible training before being released may be reduced or completely lacking.

b. Training. The briefing paper states that training seasons and zones have been established to not impact "other wildlife species during their normal reproductive/off-spring rearing seasons—typically from April 1st to opening day of deer season in those areas. The "dog training zones" and dog training seasons ignore the cumulative adverse impacts that either deer or "other wildlife species" experience with many months of dog training, followed by actual hunting.

As with all wildlife, reproductive dates cannot be firmly set due to the myriad of variable influences—especially with climate change, migration pattern alterations due to forage availability, changing apex predator behaviors, and many more factors. Thus training alone is very likely to adversely impact wildlife. We are not debunking the value of GPS collars to locate an untrained dog, but no dog should be released without first being solid on commands. That is a legitimate concern: GPS collars may contribute to careless or negligent releasing of untrained hounds. Solid recall training and dog control must be the first requirement.

The briefing paper appears to acknowledge that inexperienced dogs are more likely to get lost. However, a more truthful statement would be that dogs not solidly trained to obey the type of commands used for recall/retrieval, ignoring non-targeted animals, and not attacking, will be much more beneficial—for dogs and wildlife.

The briefing document re-states one of the points that we have been trying to make for over a year: Being able to locate a dog "quickly is extremely important"—especially when it is, will, or may harm targeted (or non-targeted) animals. If the hounder/handler/trainer is a mile or more away, there can be no immediate intervention. With GPS collars, untrained dogs can roam many miles, according to collar manufacturers. Timely intervention simply is impossible, and GPS collars cannot remedy that fact.

c. Should the FGC consider welfare of dogs in hunting regulations? (page 8)

Inaccurate regulation interpretation. We appreciate any agency's commitment and dedication to animal welfare, especially dogs. However, we submit that the reference to FG Code 203 is incorrect. The primary or over-arching section 203 reads:

> "Any regulation of the commission pursuant to this article **relating to resident game birds, game mammals and furbearing mammals** [bold added] may apply to all or any areas, districts, or portions thereof, at the discretion of the commission, and may do any or all of the following as to any or all species or subspecies: (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."

As a subsection of 203, 203.1, reads:

> "When adopting regulations **pursuant to Section 203**, [bold added] the commission shall consider populations, habitat, food supplies, the welfare of individual animals, and other pertinent facts and testimony."

Beyond any doubt, 203.1 only pertains to what is listed in 203, which clearly spells out "resident game birds, game mammals and furbearing mammals" and refers to hunting regulations in that context. Section 203.1 is incorporated within the limits of 203 which does not include domestic dogs as resident "game." Thus, 201.3's reference to the "welfare of individual animals" is solely within the parameters of Section 203 and does not include hunting dogs. Because the briefing paper attempts to include dogs in this spurious manner, it simply further erodes the briefing paper's credibility and raises distrust levels of all citizens who care about wildlife welfare. It may mislead the FGC in decision making.

d. Use of leashes. (Page 8)

Erroneous interpretation. GPS collars have absolutely no relationship to dogs being under control. "Under control" requires, and is dependent upon, adequate training, and leashing or tethering is one element of "control." If reliably trained, dog control can be via voice, whistle, other sounds or alarms, arm motions. Within relatively short ranges, some dog owners or handler may resort to "buzz collars, electronic shock collars, and other such attention-getting devices.[7]

The law or regulation clearly specifies "while the dog is engaged in hunting," yet the briefing paper implies there is an exemption to the "shall" for the hunter who cannot access the terrain, or the vegetation is challenging. The law allows no such exemption from compliance. Because hound hunters may not take the time to adequately train their dogs, or care for the dogs enough to make certain they are solid before releasing, the attempts is to link GPS collars to dog control. When they release a dog that they know they cannot control (violation in progress), they are ignoring their own responsibilities when choosing to hound hunt. GPS collars will not increase control, but they will allow more untrained dogs to be released and run amuck. With this and other misinformation, the briefing paper may wrongly influence the FGC in their decision making.

Non-target species impacts (page 8)

We disagree with the conclusion in the briefing paper that impacts to non-target species will not increase with the use of GPS collars. It is well established that hound hunting has adverse impacts to both targeted and non-targeted species. (See Attachment A for some studies and excerpts—there are too many to list.) Allowing GPS collars with no proficiency certification requirements will permit more untrained dogs to be released, and thus increase the many existing known adverse impacts of loose dogs on wildlife. We have already cited studies and the FGC Draft Environmental Document ("Furbearing and Nongame Mammal Hunting and Trapping," June 18, 2004) that contradicts the briefing paper's references (neither agency reference—CDFW or FGC—could be found online).

The briefing paper recognizes that not all dogs are trained to the same standards, and then states the likelihood of "minimal impacts to non-target species." Again, we

[7] Many highly respected dog trainers condemn electronic shock collars as being cruel and having unintended consequences—some of which deal with well-adjusted dogs losing trust and confidence, creating "neurotic" behaviors, and taking on other associated negative imprinted responses to their normal surroundings.

submit that allowing GPS collars will increase not only the sheer number of dogs released, but also the number of untrained dogs and cumulatively create significant impacts to non-targeted species. If everyone could be trusted to be an ethical hunter, California probably would not need regulations or wildlife officers. The reality is that regulations are meant for scofflaws, to curtail activities that are known to be harmful or create health and safety risks, etc. Hounders who release only well-trained hounds, keep up with their dogs for maximum control, are appreciated; but even they create impacts to non-target species.

Use of Technology in hunting

The briefing statement states that GPS technology has served to bring many people home from areas they may not be familiar with. This is reasonable and desired, but dogs will not be lost in the first place if these same responsible hounders keep up with their dogs, microchip, train, etc. The fact is that GPS collars will encourage irresponsibility and recklessness by those who know their dogs are not solidly trained—either in tracking or obedience. There are too many instances that are readily viewed online that illustrate the disastrous impacts to wildlife. Surely, for the sake of wildlife welfare, hound hunters can use radio telemetry, release only well-trained dogs, and work harder and ethically to keep up with their dogs, in which case, the risk of losing a dog is minimized or eliminated.

E. Other states' regulations

California would do well to not only follow the regulations of other states described in the briefing paper, but also join the 39 other states that prohibit deer-hound hunting, and make that number an even 40.

F. Enforcement considerations

As discussed earlier in this comment letter, GPS collar data can easily either be turned off or erased and would not provide compelling evidence. We believe poaching is a much bigger issue than wildlife agencies estimate. This was recently proven via a Wisconsin study of Gray Wolf Mortality Patterns.[8] Thus, we submit that if GPS collars are allowed, they will facilitate poaching activities and that they will not play a major role in law enforcement apprehension of poachers if they are minimally technologically savvy.

We urge a yes vote to ban GPS collars and treeing switches, immediate implementation, and reconsideration of any re-noticing to allow GPS collars.

Thank you for considering our views.

Marilyn Jasper, Chair
Public Interest Coalition
Conservation Comm, Sierra Club Placer Group

cc Various FGC and CDFW staff

[8] Treves, A., Langenberg, J. A., López-Bao, J. V. & Rabenhorst, M. F. (2017). **Gray Wolf Mortality Patterns in Wisconsin from 1979 To 2012**. *Journal of Mammalogy,* (February 6th embargo data). When the government did recover wolf carcasses, the agencies systematically under-estimated poaching by more than 5% and possibly more than 11%. Two forms of scientific bias explain the under-estimation. The first – sampling error – occurred when the government radio-collared wolves in core areas of the wolf range where wolves experience less mortality overall and especially less human-caused mortality. We also found measurement error when poaching was missed by the agency and assigned to another cause of death. For example, a subsample of radiographed wolf carcasses revealed that 37% of vehicular collisions also included metal consistent with gunshot wounds.

Attachment A—Studies of Dog Disturbance of Wildlife

There are hundreds if not thousands of studies related to the adverse disturbance impacts that dogs impose on wildlife. Below are just a few.

"In all known studies, the presence of dogs produced adverse responses in wildlife…. Any notion that hunting with dogs has no effect on non-target species is naïve and incorrect. Dogs can have a rather pronounced affect [sic] on numerous species including killing of young of black bears, bobcats and other species including cougar kittens. Off-leash and off-trail hounds are unpredictable and cause stress and flushing behavior in many wildlife species including deer, birds, and small mammals." Live Oak Associates, Inc., an Ecological Consulting Firm, in letter to Governor Edmund G. Brown, re SB 1221, September 7, 2012, page 2. Included in HSUS letter to FGC dated 3/2/16

Corbett, R. L., L. Marchinto, and C. E. Hill. 1971. Preliminary study of the effects of dogs on radio-equipped deer in mountainous habitat. Proceedings of the Southeastern Association of Game and Fish Commissioners 25:69---77.

Grignolio, S., E. Merli, P. Bongi, S. Ciuti, M. Apollonio. 2010. Effects of hunting with hounds on a non-target species living on the edge of a protected area. Biological Conservation, 144(2011):641-649.

Koster, J. 2008. The impact of hunting with dogs on wildlife harvests in the Bosawas Reserve, Nicaragua. Environmental Conservation, 35(3):211:220.

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https://www.nps.gov/goga/learn/management/upload/-1680-Sime-1999.pdf

Chpt 8, DOMESTIC DOGS IN WILDLIFE HABITATS – EFFECTS OF RECREATION ON ROCKY MOUNTAIN WILDLIFE, September 1999.

Corbett et al. (1971) conducted a similar study using hunting hounds in the mountainous terrain of western North Carolina. They recorded an average chase time of 54 minutes (range 4-165 minutes) and similar chase distances as Sweeney et al. (1971). In 70% of the cases, deer left their home ranges, resulting in longer chases than those in which the animal did not leave its home range. In about 50% of the cases in which deer left their home range, deer took longer than one day to return and, in some cases, considerably longer than that for white-tailed deer in coastal plain habitats. The authors noted that deer seemed to suffer physical injury more frequently while being chased in mountainous terrain because of the complex physiography. Dog-related mortality was documented. For one mortality incident, the deer appeared to suffer from parasitic damage to its lungs, rendering it "incapable of sustained running whereby it could have eluded dogs." Corbett et al. (1971) speculated that in mountainous habitats, deer could have been under greater physical stress, on a poorer nutritional plane, or otherwise weakened and more susceptible to dog predation. They concluded that dogs "may have a significant impact on populations."

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http://www.dfw.state.or.us/wildlife/dog_training/docs/Wildlife_Disturbance.pdf

OREGON DEPARTMENT OF FISH AND WILDLIFE
Date: March 2, 2011
TO: Dog and Raptor Training Rules Revision ADVISORY GROUP
SUBJ: Literature on Wildlife Disturbance from Humans/Pets

"Dogs can be damaging to ground nesting birds, young ungulates, and ungulates on winter range (Neil et al. 1975). To prevent wildlife harassment, dogs must be under control at all times.

Neil, P. H., R. W. Hoffman, and R. B. Gill. 1975. Effects of harassment on wild animals—an annotated bibliography of selected references. Colo. Div. Wildl. Spec. Rep. 37, 21 p.

Lenth, Benjamin, Mark Brennan, and Richard L. Knight. 2006. The Effects of Dogs on Wildlife Communities. Final research report submitted to: City of Boulder Open Space and Mountain Parks. "We studied the effects of dogs on wildlife by comparing the activity levels of wildlife in areas that prohibit dogs, with areas that allow dogs off leash under "voice and sight" control…. The presence of dogs along recreational trails correlated with altered patterns of habitat utilization by several wildlife species. Mule deer (Odocoileus hemionus) activity was significantly lower in proximity to trails in areas that allow dogs, and this effect extended at least 100 m off-trail. Small mammals, including squirrels (Sciurus spp.), rabbits (Sylviagus spp), chipmunks (Eutamias spp.), and mice (Peromyscus spp., Reithrodontomys spp., Onychomys spp., Zapus spp.), also exhibited reduced levels of activity in proximity to trails in areas with dogs, and this effect extended at least 50 m offtrail.