COMMITTEE STAFF SUMMARY FOR MAY 24, 2017

4. 2018 SPORT FISH REGULATIONS

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

Discuss and approvel recommendations for 2018 sport fish regulations.

Summary of Previous/Future Actions

- Previous WRC discussion — Jan 18, 2017; WRC Redding
- **Today's discussion and recommendations** — May 24, 2017; WRC, Sacramento
- FGC notice hearing — Aug 16-17, 2017; Sacramento

Background

This item is to provide the public an opportunity to discuss proposed changes for the sport fish regulations for the 2018 season.

Today, DFW staff will summarize any proposed regulation changes for the 2018 season, including any recommendations on regulation petitions received by FGC and referred for consideration in the sport fish rulemaking. Four regulation petitions were referred for consideration in this rulemaking; the petitions are summarized in Exhibit 1 and the original petitions provided in exhibits 2-5.

This meeting is the last opportunity for WRC to make recommendations to FGC regarding potential changes to consider in the rulemaking, before the notice hearing in Aug.

Significant Public Comments

A letter with additional considerations for Petition #2016-003 regarding striped bass was received from the petitioner (Exhibit 6). Received a scientific review (Exhibit 7) of a 2013 National Marine Fisheries Service proposal for central coast streams and a 2012 Stillwater Sciences technical memorandum for consideration in the evaluation of Petition #2015-14.

Recommendation

FGC staff: Prior to developing a recommendation, consider recommendations provided by DFW during the meeting and public comments.

Exhibits

1. *Regulation Petitions Referred to Sport Fishing 2018 Rulemaking*, dated Apr 28, 2017
2. Petition #2015-014
3. Petition #2016-003
4. Petition #2016-006
5. Petition #2016-023
6. Letter from Dennis Fox concerning Petition #2016-003, received Apr 11, 2017
7. Email from David Misakian concerning Petition #2015-014, received Apr 20, 2017
8. DFW presentation

Committee Direction/Recommendation

WRC recommends that the Commission authorize publication of a notice of its intent to amend the 2018 sport fish regulations consistent with changes approved during today's meeting.

CALIFORNIA FISH AND GAME COMMISSION
REGULATION PETITIONS REFERRED TO SPORT FISHING 2018 RULEMAKING
4-28-2017

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

Tracking No.	Date Received	Response Due (10 work days)	Response letter to Petitioner	Accept or Reject	Name of Petitioner	Subject of Request	Code or Title 14 Section Number	Short Description	FGC Decision
2015-014	12/15/2015	12/29/15	12/15/2015	A	Patrick Kallerman	Waters with special fishing regulations and low-flow restrictions	7.50(b) and 8.00(b), T14	Multiple proposed amendments to alphabetical list of waters with special fishing regulations and to Section 8.00(b) waters with low-flow restrictions.	**Action Taken:** 4/14/2016; referred to 2017 sport fish rulemaking for 2018 season
2016-003	2/11/2016	2/25/2016	3/21/2016	A	Dennis Fox	Striped bass	5.75(d)(1)	Permit take of striped bass to 10 per day and no size limit in the San Joaquin River from Friant Dam to Hwy 170.	**Action Taken:** 4/14/2016; referred to 2017 sport fish rulemaking for 2018 season
2016-006	4/18/2016	5/1/2016	5/31/2016	A	Dennis Haussler	Fresh water spearfishing	200, 202, 205, 210	Amend fresh water spearfishing regulations to be same as fresh water bow and arrow regulations.	**Action Taken:** 8/25/2016; referred to 2017 sport fish rulemaking for 2018 season
2016-023	10/3/2016	10/17/2016	10/10/2016	A	Ted Souza	Use of roe; fishing season on Smith River		Ban the use of roe for fishing salmon and steelhead. Close Smith River to all fishing above middle and south forks November through December.	**Action Taken:** 12/8/2016; referred to 2017 sport fish rulemaking for 2018 season

Tracking Number: 2015-014

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

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

SECTION I: Required Information.

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

1. **Person or organization requesting the change (Required)**
   Name of primary contact person: Patrick Kallerman
   Address: [redacted]
   Telephone number: [redacted]
   Email address: [redacted]

2. **Rulemaking Authority (Required) -** Reference to the statutory or constitutional authority of the Commission to take the action requested:

   Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code

3. **Overview (Required) -** Summarize the proposed changes to regulations:

   This proposal would amend subsections of Chapter 3, Article 3, Section 7.50(b) – Alphabetical List of Waters with Special Fishing Regulations – and subsections of Chapter 3, Article 4, Section 8.00(b) – Low-Flow Restrictions Mendocino, Sonoma, and Marin County coastal streams: Stream Closures: Special Low Flow Conditions – Title 14, California Code of Regulations.

   Proposed **amendments to subsections of 7.50(b)** would apply to the following streams (north to south): Usal Creek, Cottaneva Creek, Ten Mile River, Noyo River, Big River, Albion River, Navarro River, Greenwood Creek, Elk Creek, Alder Creek, Brush Creek, Garcia River, Gualala River, Russian Gulch, Salmon Creek, Walker Creek, and Sonoma Creek.

   For Sonoma Creek (Sonoma County), and all streams tributary to the Pacific Ocean (and its bays) in Mendocino, Sonoma, and Marin counties, except for the Russian River:

   - Amend Section 7.50(b) to permit only artificial lures with barbless hooks to be used year-round.
   - Amend Section 7.50(b) to close streams to all angling from April 1st through October 31st.

Proposed **amendments to subsections of 8.00(b)** are:

- Amend Section 8.00(b) to leave the Navarro River open to angling on the main stem below the confluence of the North Fork Navarro when the applicable designated gauging station is less than the minimum flows set forth.
- Amend Section 8.00(b) to leave the Garcia River open to angling on the main stem below the Highway 1 bridge when the applicable designated gauging station is less than the minimum flows set forth.
- Amend Section 8.00(b) to leave the Gualala River open to angling on the main stem below the confluence of the North Fork Gualala when the applicable designated gauging station is less than the minimum flows set forth.

4. Rationale (Required) - Describe the problem and the reason for the proposed change:

The problem – Many of the Central Coast streams described in the Overview section are considered 'focus populations' for the recovery of ESA-listed salmonids and merit improved protection as habitat and from angling practices and equipment that are statistically more harmful to fish. These rivers are managed as steelhead and coho streams. There are no hatchery fish added to these streams to support a put-and-take fishery.

However, several of these streams – the Gualala, the Garcia, and the Navarro in particular -- are legendary steelhead fisheries that have played a prominent role in the evolution of the culture and techniques of modern steelhead angling. Because these three streams are so important to anglers, the angling regulations for them deserve more consideration in terms of alternative strategies and language that will better protect salmon and steelhead through all of their freshwater life history phases while enhancing angling opportunity.

Currently, these streams remain open to angling from mid-Spring to mid-Fall. The result is that current angling regulations allow catch of salmonid smolts, juveniles, and kelts when they are at their most vulnerable. In addition, the lack of a provision regarding use of barbless hooks on these streams probably elevates catch rates and likely increases stress on salmonid populations throughout the year. Lastly, the current flow triggers for angling closures on these streams, while well-intentioned, lack scientific justification, are needlessly over-restrictive, and dramatically reduce many of the lowest-impact angling opportunities. A simple adjustment in the stream reaches that are open to angling when streamflows drop below the current flow trigger would provide strong protection for fish, preserve a greater variety of angling opportunity, and help reduce poaching and other illegal activities all along these rivers.

The solution – (1) Transition to allowing only artificial lures with barbless hooks for all angling on these waters. This is a simple and pragmatic step to reduce angling impacts regardless of preferred tackle type and spread the use of a limited resource across a greater number of anglers.

(2) Limit angling only to periods when fully mature adult fish are in these streams. A strategically limited angling season will reduce angling pressure when salmon and steelhead are most vulnerable while preserving more angling opportunity in the traditional winter run steelhead season.

(3) Adjust the current regulations to allow angling for steelhead throughout the tidally influenced reaches of the Gualala, Garcia, and Navarro rivers when streamflows drop below the current trigger for

the designated gauging stations. The reaches proposed here to remain open are predominately tidally affected and therefore have adequate volume and flow for fish passage throughout the season. They are also well below the well documented spawning habitat in these rivers.

SECTION II: Optional Information

5. Date of Petition: Click here to enter text.

6. Category of Proposed Change

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

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

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

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition Click here to enter text.
Or ☐ Not applicable.

9. Effective date: If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: Click here to enter text.

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Click here to enter text.

11. Economic or Fiscal Impacts: Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Click here to enter text.

12. Forms: If applicable, list any forms to be created, amended or repealed:

Click here to enter text.

SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:

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

Tracking Number

Date petitioner was notified of receipt of petition and pending action: 12/15/15

Meeting date for FGC consideration: Feb 10-11, 2016

FGC action:

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

State of California – Fish and Game Commission
PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE
FGC 1 (NEW 10/23/14) Page 1 of 3

Tracking Number: 2016-003

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

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

SECTION I: Required Information.

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

1. **Person or organization requesting the change (Required)**
Name of primary contact person: Dennis Fox
Address:
Telephone number:
Email address: NA

2. **Rulemaking Authority (Required) -** Reference to the statutory or constitutional authority of the Commission to take the action requested: 200, 202, 205 Fish & Game Code.

3. **Overview (Required) -** Summarize the proposed changes to regulations: To that list of areas with a striper regulation of 10 per day and no size limit, 5.75 section D1 addend "the San Joaquin River from Friant Dam to Highway 140".

4. **Rationale (Required) -** Describe the problem and the reason for the proposed change: On a grant from the San Joaquin Salmon Restoration Project, Fresno State Biology Dept determined striped bass residing in river abutting quarry ponds are predating salmon smolts being introduced and propose filling in the quarries.
The proposed regulation change does the following:
- cost effectively decreases predation by stripers
- keeps the quarries as habitat
- Mitigates temperatures during the summer
- Reversible and appropriate to adaptive management

This reach does not currently meet the river's maintenance; staff can determine actual area to be affected and duration of the regulation.

SECTION II: Optional Information

5. **Date of Petition:** February 11, 2016

6. **Category of Proposed Change**
   - ☒ Sport Fishing
   - ☐ Commercial Fishing
   - ☐ Hunting
   - ☐ Other, please specify: _____

7. **The proposal is to:** (*To determine section number(s), see current year regulation booklet or https://govt.westlaw.com/calregs*)
   - ☒ Amend Title 14 Section(s): 5.75 (b)
   - ☐ Add New Title 14 Section(s): _____
   - ☐ Repeal Title 14 Section(s): _____

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** _____
   Or ☒ Not applicable.

9. **Effective date**: If applicable, identify the desired effective date of the regulation.
   If the proposed change requires immediate implementation, explain the nature of the emergency: While implementation ought to be determined by staff, rewalering should be remembered as a possible determining factor.

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: If any data is desired it is available from Fresno State's Biology Dept.

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing:
    As a side benefit the change would increase fishing opportunities with some proportionate increase in license, gear and bait sales.

12. **Forms:** If applicable, list any forms to be created, amended or repealed: Fishing regulations booklet would be amended for year adopted.

SECTION 3: FGC Staff Only

Date received: 2/11/16

FGC staff action:

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

Date petitioner was notified of receipt of petition and pending action: 3/21/16

Meeting date for FGC consideration: 2/11/16 & 4/13-14/16

FGC action:

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

RECEIVED AT
FEB 11 2016
COMMISSION MEETING
AGENDA ITEM 26
Dennis Fox.

State of California – Fish and Game Commission
PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE
FGC 1 (NEW 10/23/14) Page 1 of 2

2016-006
Tracking Number: (Freshwater spearfishing change)

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

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SECTION I: Required Information.

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

1. **Person or organization requesting the change (Required)**
   Name of primary contact person: Dennis Haussler
   Address: [redacted]
   Telephon
   Email ad

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish and Game code, sections 200, 202, 205, 210.

3. **Overview (Required)** - Summarize the proposed changes to regulations: Make the freshwater spearfishing regs the same as freshwater bow and arrow regs.

4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: Bow and arrow is allowed all year, and any waters with the exception of designated salmon spawning areas. Freshwater spearfishing is allowed may 1 thru sept 15, valley district only, excepting designated salmon spawning areas. There are a lot of lakes and rivers where we could be hunting invasive species such as suckers, squawfish, carp, if we were allowed the same regs as bow and arrow. We have the ability to take some of the predacious fish out of the systems where they feed on trout, salmon and steelhead. Allowing this opportunity will also decrease the pressure on the saltwater fish, as divers from the valley will use this as an opportunity to hunt without having to travel 5 hrs or more to spear. We also have the opportunity to contribute the take to organic farms to use in composting.

SECTION II: Optional Information

5. **Date of Petition: 4/15/16**

6. **Category of Proposed Change**
   ☒ Sport Fishing

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

7. **The proposal is to:** (*To determine section number(s), see current year regulation booklet or https://govt.westlaw.com/calregs*)
☒ Amend Title 14 Section(s):2.30
☐ Add New Title 14 Section(s): Click here to enter text.
☐ Repeal Title 14 Section(s): Click here to enter text.

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.
Or ☒ Not applicable.

9. **Effective date**: If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: 2017

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Click here to enter text.

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: none

12. **Forms:** If applicable, list any forms to be created, amended or repealed:
Click here to enter text.

SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:
☒ Accept - complete
☐ Reject - incomplete
☐ Reject - outside scope of FGC authority
Tracking Number

Date petitioner was notified of receipt of petition and pending action: May 31, 2016

Meeting date for FGC consideration: June 22-23, 2016

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

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2016 MAY 31 AM 8:27

State of California – Fish and Game Commission
PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE
FGC 1 (NEW 10/23/14) Page 1 of 4

2016-023
Tracking Number: ~~(Not sure???)~~

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

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

SECTION I: Required Information.

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

1. **Person or organization requesting the change (Required)**
   Name of primary contact person: Ted Souza

   As per Title 14 CCR 7.5 sections 200 & 205

2. **Rulemaking Authority (Required) -** Reference to the statutory or constitutional authority of the Commission to take the action requested: ~~Unsure of what this means!~~

3. **Overview (Required) -** Summarize the proposed changes to regulations: 1) Ban the use of Roe for fishing salmon and steelhead 2) **Second, close the Smith to all fishing above the Middle and South Forks of the Smith starting in November and lasting to the end of December.** .

4. **Rationale (Required) -** Describe the problem and the reason for the proposed change: There's two problems we see with using roe. There is no doubt that the use of fresh roe reduces the effort hours per fish. As a result, fresh roe is the bait of choice for salmon fishermen. Consequently, many hens are killed solely for their roe. Using roe results in more deeply hooked fish than with an artificial lure. A 1997/98 Smith River Survey Summary, California Department of Fish and Game states, "…swallowed hook for bait was 26%, lures 12% and flies 0%." That means that even if the angler intends to release the salmon, the chance of fatally harming the fish in retrieving the hook is more than double than if caught on a lure. **November and December the two months that salmon are spawning above the forks. And there is no doubt about it, salmon are spawning in the main stems of the North, Middle and South forks during this time. Reports by Mike McCain of the USFS and Justin Garwood, a fisheries biologist for the Department of Fish & Game, both attest that salmon are spawning in the main stream. Also, since the guides rarely, if ever, fish above the forks, the financial impact on them would be negligible. This gives at least some**

protection to our spawning salmon without hurting the guides. After December, when salmon spawning is about over, the river could then be opened for steelhead fishing.

SECTION II: Optional Information

5. Date of Petition: April 13, 2016

6. Category of Proposed Change

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

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

☐ Amend Title 14 Section(s):Not sure how this works
☐ Add New Title 14 Section(s): Not sure what is meant
☐ Repeal Title 14 Section(s): This was a complete mystery to me.

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition Click here to enter text.
Or ☒ Not applicable.

9. Effective date: If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: This needs to be implemented as soon as possible.

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: In 1973 there were over 528 sport boats at dock in Crescent City. Now there are only 100 slots even available for boats. On July 4th in the 1970's the line to launch your boat at the Crescent City harbor for ocean salmon fishing went all the way to Hwy 101—over 300 yards. Now there is no line at all. Ship Ashore, at the mouth of the Smith, used to sell fishing supplies, rent boats and had a big sign saying "World Class Salmon Caught Here". Now the tackle shop is gone, no boats are rented and the sign is gone. As far back as 1997, the late Hank Westbrook, owner of Ship Ashore said, "It's been some years since we rented

boats." The above photo is what it used to look like at the mouth of the Smith! No one comes to fish for salmon any more at Salmon Harbor! The Wagon Wheel in Gasquet used to be a major sport fishing motel. Now it's closed. In years past, the beaches of the Smith were littered with the carcasses of spent salmon. Now it's rare to see more than a couple all season. Veterinarians have reported that salmon poisoning of dogs (common when there were numerous salmon) has dropped to almost zero. The deep pools below the confluence of the Middle and South Fork of the Smith were once loaded with rolling salmon during October and November. Now you can watch for over an hour without see a single salmon roll. The same is true at the confluence of the North and Middle Forks of the Smith. The fish used to stack up there and roll day and night during October and November. In the past four years maybe one would roll every 45 minutes or so—or not at all! Not even 6 years ago, it was common to see 50 or more drift boats go down the river a day. For the past two years it is rare to see more than dozen a day. Your own Fish & Game put out a report in 1970 called "*Environmental Tragedy*" warning then of a collapsing salmon fishery. In 1986 Fish & Game put out another advisory called, "*The Tragedy Continues*" as well as numerous other reports warning of an impending collapse of the fishery. In 1988 your own Fish & Game reported an 80% decline in salmon and steelhead since 1954. Rowdy Creek Fish Hatchery only reported 98 salmon returned last season. As little as 10 years ago it was common for over five times that amount of fish to return. **This is strong evidence that unless we do more than we're doing, the Smith River Salmon is heading for the Endangered List!**

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: There may be minimal impact on guides but if nothing is done, the guides will go out of business anyway.

12. **Forms:** If applicable, list any forms to be created, amended or repealed:

Not informed in this area

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2016 OCT -3 PM 1:46

SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:

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

Tracking Number 2016-023

Date petitioner was notified of receipt of petition and pending action: Oct 10, 2016

Meeting date for FGC consideration: Dec 7-8, 2016

FGC action:

- ☐ Denied by FGC
- ☐ Denied - same as petition _____ Tracking Number
- ☒ Granted for consideration of regulation change during 2017 sportfish rulemaking cycle for 2018 season

Wildlife Resources Committee
California Fish and Game Commission
1416 Ninth Street, Suite 2320
Sacramento, CA 95814

Subject: Striped Bass Regulation Change

Mister Chairman, Committee Member and Staff

Proposal is based on the assumption that the San Joaquin River from Friant Dam to Highway 45 is a de facto lake and striped bass regulations mirror that fact. Take would be raised from 2 to 10 per day with no size limit as applies to other lakes in the southern half of the State.

Background: It has been proposed by the San Joaquin Restoration Program to fill in the quarries adjacent to the river in this reach because they are a refuge for striped bass who lurk in them and emerge to pounce upon the salmon smolts trucked to the area and released.

Rationale: The proposed regulation change is an alternative to digging quarries to fill in the current ones, which is neither cost effective, or environmentally sound. I will refer to the 5 "H "s that impact salmon survival of Heat, Harvest, Habitat, Hydropower and Hatcheries. This restoration proposal would negatively affect 3 of these impacts:

- Heat; The salmon run to be restored would be in the river during the summer in a valley euphemistically termed toasty. Shading of the river by riparian revegetation is not on the Program's agenda, a major flaw
- Habitat; In addition to being a respite from heat, the quarries would provide salmon habitat as they already are for stripers.
- Harvest; A main focus of the new regulation is to reduce salmon harvest by striper predation. Secondarily there are the following benefits:
- Determining that stripers are a negative factor or not. Making sure they are not a benefit by reducing other exotic predators, such as bluegill.
- Allowing and increased sport fishing opportunity.
- Probable increase in license/stamp sales and local economic activity of sales of bait etc.

If concern is expressed over striped bass being overharvested, this would only be a viable concern when the lake is connected to the Northern California riverine systems. The commission may wish to consider a sunset clause that the proposal would be reconsidered a year following the permanent re-watering of the river based on the following three factors; 1) the stripers have returned to the reach of concern. 2) 2) striper take versus salmon impact. 3) the re-watering has become permanent and beneficial to the salmon, stripers and their ecosystem. This would promote oversight of the Restoration ?Program by the Commission , a definite benefit.

Sincerely,

Dennis Fox

From:	David Misakian
To:	FGC
Subject:	Petition 2015-014 Low-Flow Restrictions Mendocino, Sonoma and Marin County coastal streams.
Date:	Thursday, April 20, 2017 6:46:17 AM
Attachments:	Flow Closure Analysis Review_Final.pdf

To Whom It may Concern,

The attached scientific review was conducted by an independent Aquatic Ecologist and funded by a concerned local Gualala
merchant. It is requested that it be submitted in your review of petition number 2015-014 Low-Flow Restrictions Mendocino, Sonoma and Marin County coastal streams.

It is also felt that since a scientific approach was used in the flow closure analysis, that the information should be completely accurate.
This submitted information states that it is not completely accurate.

Please review and confirm that you have received the provided information.

Thank you,

David Misakian

Mike Podlech
Aquatic Ecologist

April 19, 2017

Subject: *2013 North Coast District Fishing Regulation Proposal: Central Coast Streams*

To Whom It May Concern:

At the request of a group of concerned fly fishermen, I have reviewed an August 7, 2013 National Marine Fisheries Service (NMFS) document entitled *North Coast District Fishing Regulation Proposal: Central Coast Streams*, as well as a technical memorandum prepared by Stillwater Sciences (2012) that formed the scientific basis and justification for the NMFS (2013) proposal. The purpose of this review was to provide my professional opinion as to the accuracy, scientific soundness, and applicability of the analysis supporting the fishing regulation proposal. The focus of my review was limited to the 2013 NMFS proposal and 2012 Stillwater Sciences report, and did not include an independent analysis of the data underlying the two documents.

Summary

While efforts to shift low-flow closure triggering away from the regulated hydrology of the Russian River appear appropriate, basing the proposal for a South Fork Gualala River or Navarro River flow trigger largely on professional judgment and selective application of the results presented in one gray literature report focusing on one 4,200-ft study reach on the North Fork Gualala River, and extending those results to other watershed by means of a simplistic (and at least partly erroneous) regression analysis of available daily mean flow data, is scientifically unsupportable. I would expect a more rigorous analysis, incorporating additional available data or data collected specifically for this analysis, to form the basis for such an important and far-reaching shift in fishing regulations. The following observations are based on my review and are discussed in more detail below.

- Stillwater Sciences (2012) applied the Thompson (1972) critical riffle methodology and estimated that a streamflow of 40 cfs would meet the 25% total width criterion, and a streamflow of 23 cfs would meet the 10% contiguous width criterion.

- Although not specifically called out by Stillwater Sciences (2012), strict application of the Thompson (1972) methodology would set the adult steelhead passage flow for the North Fork Gualala River study reach at 40 cfs.

- NMFS (2013) interpret the Stillwater Sciences (2012) report as indicating that 60 cfs are required on the North Fork Gualala River for adult steelhead passage.

- NMFS (2013) applied simple linear regression of available flow gaging data to estimate that 60 cfs on the North Fork Gualala River is equivalent to 150 cfs on the South Fork Gualala River, and that this flow is, in turn, equivalent to 200 cfs on the Navarro River.

- By applying only one linear regression across all observed flows in the available hydrologic record, the presented "best fit" lines and equations do not appear to provide an accurate or reliable tool to estimate equivalent stream flows across watersheds or subbasins.

- The cause of an apparent error in the linear regression comparison of South Fork Gualala River and Navarro River flows should be identified and rectified.

Qualifications

I have been an independent consulting aquatic ecologist/fisheries biologist based in Santa Cruz, California, since 2007. Prior to becoming an independent consultant, I was employed as senior technical associate at Environmental Science Associates, a leading environmental science and planning firm based in San Francisco, for over 10 years. I have over 20 years of experience in sensitive aquatic resource assessments, watershed management, stream and estuarine restoration, impact analyses, and compliance monitoring. In addition to conducting applied research projects related to anadromous fisheries, I have authored fisheries impact analyses for numerous large California Environmental Quality Act (CEQA) and National Environmental Protection Act (NEPA) review documents and regularly engages in formal and informal agency consultations under Sections 7 and 10 of the Endangered Species Act (ESA), including the preparation of Biological Assessments (BA) and Action Specific Implementation Plans (ASIP). Particularly pertinent to my review of the *North Coast District Fishing Regulation Proposal: Central Coast Streams* is my extensive experience in the development of instream flow recommendations for a wide variety of projects, including water rights applications, reservoir operations, and fish passage remediation.

Results of Review

North Gualala Water Company Site-Specific Studies Report (Stillwater Sciences, 2012)

In 2011, Stillwater Sciences conducted site-specific studies on the North Fork Gualala River in support of a water rights application submitted to the State Water Resource Control Board (SWRCB) by the North Gualala Water Company (NGWC). The study included, among other assessments, an evaluation of adult steelhead passage requirements upstream and downstream of NGWC's water supply facilities. The assessment was based on the widely applied "critical riffle" methodology developed by Thompson (1972) to estimate the minimum flow necessary for upstream adult steelhead and coho salmon migration passage. The methodology consists of identifying a transect along a riffle's shallowest course from bank to bank, and measuring water depths at multiple locations across the transect. Depth measurements are compared to species- and life-stage specific water depth criteria meeting specific percentages of critical riffle widths available for fish passage. In order for a riffle to be considered "passable" to an adult steelhead or coho salmon under the Thompson (1972) method, a minimum water depth of 0.6 ft must be present over at least 25% of the total riffle width, with at least 10% of the riffle width meeting

that depth criterion contiguously. Any riffle cross-section not meeting the depth criterion across both riffle width thresholds is considered to be "not passable."

Stillwater Sciences (2012) established transects at six shallow (critical) riffles within a 4,200 ft study reach and measured depths across the transects at streamflows of 10 cubic feet per second (cfs), 20 cfs, 40 cfs, and 60 cfs. Per the Thompson (19972) methodology, Stillwater Sciences (2012) plotted the measured percentages meeting the depth criterion against the streamflows under which they were measured to determine an average passage flow. This analysis indicates that a streamflow of 40 cfs would meet the 25% total width criterion, and a streamflow of 23 cfs would meet the 10% contiguous width criterion (Stillwater Sciences, 2012). Since both width criteria must be met per the Thompson (1972) methodology, the passage flow recommendation developed pursuant to the Stillwater Sciences (2012) assessment would be 40 cfs, although Stillwater Sciences (2012) never actually provide a final passage flow recommendation.

Overall, I conclude that the Stillwater Sciences (2012) assessment was conducted consistent with the Thompson (1972) methodology. Moreover, based on my own professional experience applying critical riffle assessment methodologies to passage flow determinations, I fully agree with the Stillwater Science (2012) discussion of the adequate passage opportunities afforded to adult steelhead at streamflows that only meet the 10% contiguous width criterion in situations where that contiguous width extends over several feet and thus provides a sufficiently wide passage lane (pp. 29-30).

It should be noted that the California Department of Fish and Wildlife (CDFW; formerly California Department of Fish and Game [CDFG]) published a Standard Operating Procedure (SOP) for Critical Riffle Analyses in October 2012 (i.e., after Stillwater Sciences conducted the 2011 field assessments). The current CDFW SOP (CDFG, 2012) is largely based on the Thompson (1972) methodology, but includes two significant modifications: (1) the minimum passage depth for adult steelhead and coho salmon is set at 0.7 ft; and (2) rather than using the average passage percentages from all measured transects to determine a suitable passage flow, the CDFG (2012) protocol stipulates that a passage flow must be calculated for each measured riffle, and the highest passage flow must be selected as the reach-wide passage flow. A discussion of the merits of these deviations from the Thompson (1972) methodology are beyond the scope of this review, but it is worth noting that these changes typically result in significantly more conservative passage flow estimates than the original Thompson (1972) methodology that the SOP is based on.

North Coast District Fishing Regulation Proposal: Central Coast Streams (NMFS, 2013)

This NMFS (2013) document proposes potential revisions to existing low-flow fishing restrictions on central coast streams tributary to the Pacific Ocean in Mendocino, Sonoma, and Marin counties (expect Russian River). Currently, low-flow closures of central coast streams are triggered by a 500 cfs threshold measured at the Russian River Hacienda/Guerneville gauge. However, the author of the NMFS (2013) proposal correctly notes that the highly regulated flows in the Russian River (due to the presence and operation of large reservoirs in the watershed) do not accurately represent natural variations in central coast stream flows accurately. In other words, reservoir management in the Russian River regularly results in artificial stream flows of 500 cfs or greater at the Hacienda/Guerneville gauge during the wet season at times when

streamflows in central coast streams have already declined significantly (e.g., after the end of precipitation events).

NMFS (2013) proposes to improve the low-flow closure determinations for central coast streams by setting a new streamflow trigger of either (a) 200 cfs at a streamflow gage on the Navarro River (USGS 11468000) or (b)150 cfs at a South Fork Gualala River (USGS 11467510) gage. NMFS (2013) notes that these alternative trigger flows are substantiated by available data, and summarizes the basis for the recommendations as follows: "1) the experience of NMFS fisheries biologists, 2) their extensive local angling experience, 3) North Fork Gualala adult steelhead passage studies, and 4) collaboration with local angling groups." I do not question the professional and angling experience of NMFS fisheries biologists or local angling groups, but note that the only data-based source of information used in the development of the revised low-flow trigger proposals for all central coast streams is the Stillwater Sciences (2012) passage assessment conducted on a 4,200 ft (0.8 mile) reach of the North Fork Gualala River. Although NMFS (2013) does not provide a description of the methodologies used to extrapolate Navarro River and South Fork Gualala River flow triggers from the Stillwater Sciences (2012) adult passage data, a series of graphs presented in the report suggest that this was accomplished largely through the use of regression analysis of the available streamflow records for the Navarro, South Fork Gualala, and North Fork Gualala River. The following discussion summarizes my professional opinion regarding (a) the author's use of the Stillwater (2012) data to suggest an adult passage flow for the North Fork Gualala River; and (b) the analysis used to extend that adult passage flow to the Navarro River and South Fork Gualala River stream gages for use as low-flow triggers.

(a) Application of Stillwater Sciences (2012) data

NMFS (2013) states that the Stillwater Sciences (2012) report "indicates at 60 cfs the lower reaches of NF Gualala become passable based on the Thompson (1972) criteria (p. 18)." While not entirely incorrect, there are a couple of subtle problems with this interpretation of the Stillwater Sciences (2012) data. First, the term "became passable" at 60 cfs suggests that the study reach would not be passable at flows lower than 60 cfs. However, nothing in the Stillwater Sciences report indicates that the reach would not be passable at flows less than 60 cfs. The table on page 18 of the Stillwater Sciences report being referenced in the above statement summarizes which riffles within the study reach met both Thompson (1972) criteria (25% total width and 10% continuous width) at flows of 60 cfs, 40 cfs, 20 cfs, and 10 cfs. Based on this table, all but one of the riffles met both criteria at 60 cfs, and only one riffle met both criteria at 40 cfs. No transect depth measurements were collected at the riffles at intermediary flows between 40 cfs and 60 cfs. As such, it is unknown, based on the data presented in Stillwater Sciences (2012) at what streamflow individual riffles "became passable". It is possible that both criteria would have been met at 59 cfs, or at 41 cfs, or at any flow in between.

The second issue with the above statement is that that while all but one riffle met the Thompson (1972) criteria at 60 cfs, interpreting the 60 cfs streamflow as the adult steelhead passage flow in the study reach is not consistent with the Thompson (1972) methodology, which calls for averaging the total and continuous widths recorded at each riffle. This integral step in the

methodology is depicted in Figure 5 of the Thompson (1972) publication, and applied in Figures 3-2 and 3-3 of the Stillwater Sciences (2012) report. As indicated above, the (Stillwater Sciences, 2012) analysis indicates that a streamflow of 40 cfs would meet the 25% total width criterion, and a streamflow of 23 cfs would meet the 10% contiguous width criterion. Since both width criteria must be met, the adult steelhead (and coho salmon) passage flow for the Stillwater Sciences (2012) study reach would be 40 cfs under strict adherence to the Thompson (1972) methodology. As noted above, the CDFG (2012) critical riffle analysis protocol differs from Thompson (1972) in that it requires the streamflow level that allows all assessed riffles to meet both width criteria to be used as the passage flow, similar to the approach taken by NMFS (2013) in selecting 60 cfs as the passage flow. While this approach can be supported as the most protective, NMFS (2013) does not disclose this deviation from the Thompson (1972) methodology that formed the basis of the data collection being used to justify (through hydrologic extrapolation) the proposed low-flow closure levels.

(b) Hydrologic analysis used to extrapolate South Fork Gualala River and Navarro River streamflow triggers from interpreted North Fork Gualala River passage flow

As noted above, the methodology used to determine South Fork Gualala River and Navarro River streamflows equivalent to a 60 cfs North Fork Gualala River flow is not described in NMFS (2013). However, based on a review of Figures 5 and 6, a simple linear regression analysis of available gaging data from the three drainages was used. Figure 6(b) plots available (October 2009 – March 2013) average daily flow data for the North Fork Gualala River (x-axis) and South Fork Gualala River (y-axis), applies a linear regression ("best fit") line to the data, and provides the regression equation. Based on this equation ($y=3.0229x - 24.114$), a 60 cfs flow on the North Fork was determined to be equivalent to a South Fork flow of about 157 cfs, rounded down to 150 cfs for purposes of the proposed recommendation. Conducting my own analysis of the available flow data was beyond the scope of this review, but a visual analysis of Figure 6(b) reveals that of all the data points representing North Fork flows of 60 cfs or above (shown in blue on the graph), 22% fall above the regression line and 78% fall below the line. In other words, for 78% of the data points for which North Fork flows exceeded 60 cfs, South Fork flows measured on the same days were lower than the presented statistical analysis would indicate. As such, the regression line overestimates South Fork flows on more than 3 out of 4 days when North Fork flows are at or above the 60 cfs North Fork flows chosen by NMFS (2013) as representative of passage.

Figure 6(a) reverses the axes on the graph and provides the regression equation ($y = 0.2671x + 20.076$) for determining North Fork flows from observed South Fork flows. Presumably, this was done to check the validity of the regression presented in Figure 6(b) (i.e., to verify that a South Fork flow of about 150 cfs is equivalent to a North Fork flow of about 60 cfs. The most interesting aspect of Figure 6(a), however, is that the vast majority of lower flows (South Fork flow < 150 cfs) data points fall below the regression line, while most of the higher flows (South Fork flow > 150 cfs) fall above the line. Typically, one would expect the above-line and below-line data points to be distributed more evenly across the range of data. The most likely explanation for the grouped data distribution observed in Figures 6(a) and 6(b) is that the relationship between low flows and high flows across two watersheds is not linear. While low

flows in the summer/fall would be expected to change more or less relative to each across two similar watersheds (assuming no significant differences in surface water diversion practices), higher winter/spring flow are largely dependent on local rainfall totals that can vary significantly across watersheds, or even across subbasins of the same watershed. Attempting to represent high and low flow seasons within the same linear regression can lead to the results depicted in Figure 6, and some hydrologists will typically conduct separate regression analyses, with separate regression line and equations, for the two hydrologic seasons.

Figure 5 depicts the analysis used to extend the 150 cfs South Fork flow to the Navarro River. Figure 5(b) highlights the same problem with analyzing all observed flows with one regression. While the data are fairly well distributed above and below the best fit line for South Fork Flows above 150 cfs, the vast majority (visually approx. 95%) of South Fork flows below 150 cfs have equivalent Navarro River flows well below the level that would be suggested by the regression line and equation ($y = 0.9449x + 68.211$).

Furthermore, there appears to be an error in the regressions presented in Figure 5. Applying a South Fork low of 150 cfs (equivalent to 60 cfs on the North Fork per Figure 6 analysis) to the regression equation of $y = 0.9449x + 68.211$ yields an estimated equivalent Navarro River flow of about 200 cfs, as summarized in the results bullet list on p. 3 of NMFS (2013). Similar to the process used in Figure 6, Figure 5(a) reverses the axes used in Figure 5(b) and provides the regression the respective regression equation of $y = 0.8167x + 50.894$. If correct, applying a Navarro River flow of 200 cfs to this equation should yield a South Fork flow of about 150 cfs. However, applying the 200 cfs Navarro River flow to the presented equation yields a South Fork flow of almost 215 cfs (i.e., based on these two equations, 150 cfs South Fork = 200 cfs Navarro = 215 cfs South Fork). While the cause of this error could not be determined without re-analysis of the data, a visual analysis of Figure 5(a) shows that the regression line does not correlate well with the available data, with the vast majority of data points (for low and high flows) falling below the "best fit" line.

References

California Department of Fish and Game (CDFG). 2012 (Updated February 2015). Critical Riffle Analysis for Fish Passage in California. California Department of Fish and Game Instream Flow Program Standard Operating Procedure DFG-IFP-001, 24 p.

Stillwater Sciences. 2012. North Gualala Water Company Site-Specific Studies Report. Prepared for North Gualala Water Company, Gualala, CA.

Thompson, K., 1972. Determining Stream Flows for Fish Life in Pacific Northwest River Basins Commission Instream Flow Requirement Workshop, March 15-16.

Proposed Changes to the Freshwater Sport Fishing Regulations

Wildlife Resources Committee Meeting
May 24, 2017
Karen Mitchell, Regulations Specialist
Fisheries Branch

Overview

- Close Rock Creek to fishing to protect Shasta crayfish
- Prohibit take of Shasta crayfish in Rock Creek
- Revise artificial lure definition and add bait definition
- Allow bow and arrow fishing for catfish in certain waters
- Revise low-flow closure time period
- Clarify no take of salmon in upper Sacramento and McCloud rivers
- Close Nimbus Basin to fishing
- Restrict leader length to reduce foul-hooking
- Public Petitions

Close Rock Creek to Fishing

- Shasta crayfish is a federal and state listed endangered species
- Prohibit fishing all year to protect Shasta crayfish
- From Rock Creek Spring downstream to Baum Lake
- Area recently restored to provide a refuge and aid in survival of the species

Prohibit Take of Shasta Crayfish in Rock Creek

- Prohibit take of crayfish in Rock Creek to protect state and federally endangered Shasta crayfish
- Add Rock Creek to current list of waters closed to fishing for crayfish (Title 14, Section 5.35)

Clarify No Take of Salmon

- Upper Sacramento and McCloud rivers
- Reintroduction of winter-run and spring-run Chinook Salmon into the upper Sacramento River
- Experimental releases in the McCloud River in 2018
- Imperative that anglers are unable to take any salmon from the Sacramento River and its tributaries above Lake Shasta

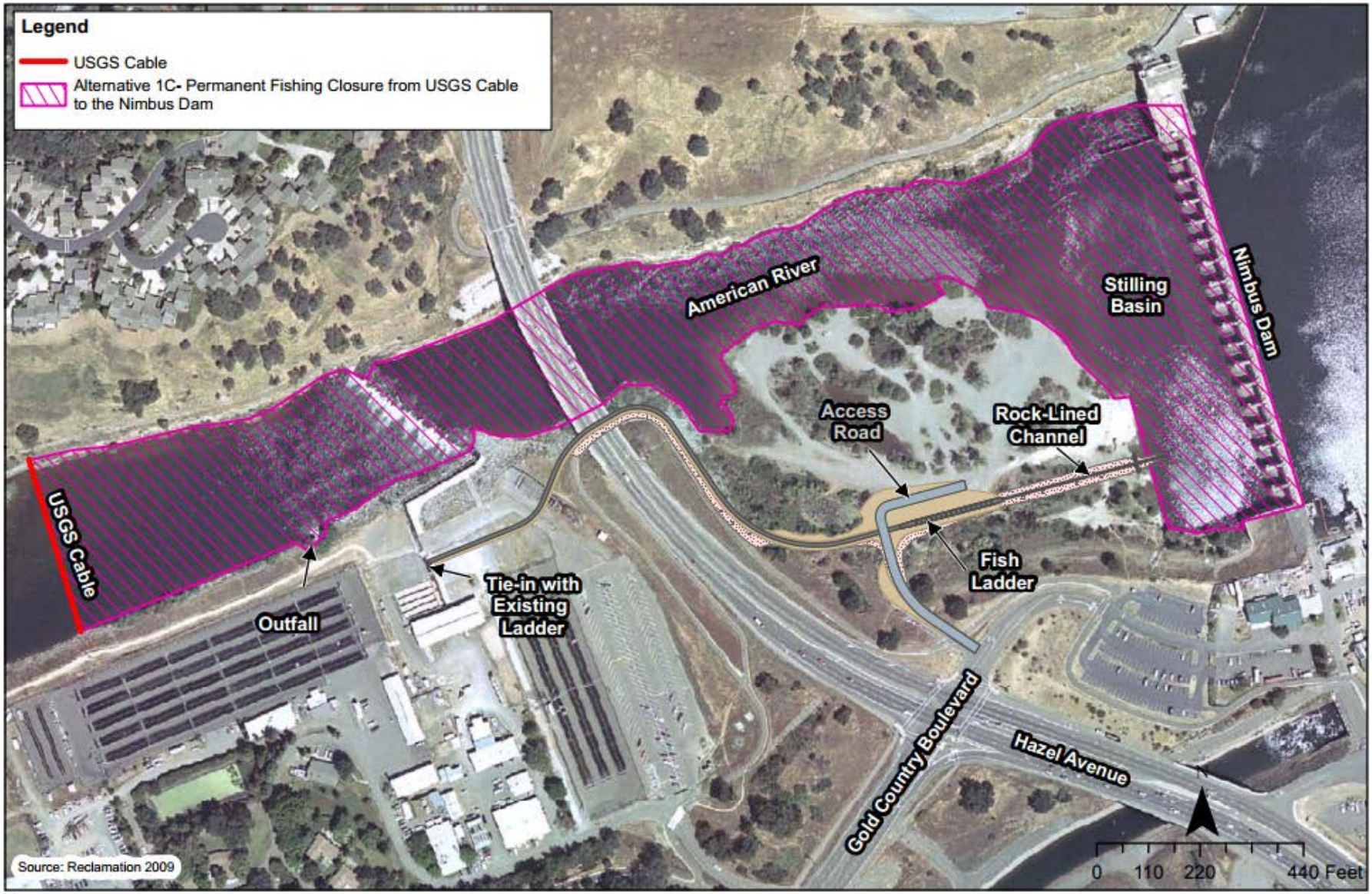
Close Nimbus Basin to Fishing

- U.S. Bureau of Reclamation and DFW have completed a joint EIS/EIR for the Nimbus Hatchery Fish Passage Project
- Project will extend fish ladder into Nimbus Basin and remove existing fish weir
- Spawning and rearing salmon/steelhead will now be concentrated in the Nimbus Basin
- Propose to close Lower American River From Nimbus Dam to the U.S. Geological Survey gauging station
- Need to protect Chinook Salmon and steelhead trout that hold in the area prior to spawning

Existing Fishing Closures

Nimbus Hatchery Fish Passage Project

Figure 2-4



Alternative 1C: Modified Fish Passageway and Fishing Closures

Nimbus Hatchery Fish Passage Project

Figure 2-8

Amend Artificial Lure and Bait Definitions

- To clarify that no scents shall be used on lures on waters where only artificial lures with barbless hooks may be used
- Definition of lure would be removed and only “artificial lure” would be used
- Currently no definition of “bait” in Title 14
- Definition of bait is needed to clarify when scents and flavors can be used

Allow Bow and Arrow Fishing for Catfish

- Amend Section 2.25 to include take of catfish in the following waters:
  - Delta
  - Lake Isabella
  - Clear Lake
  - Big Bear

Revise Low-Flow Closure Timeline

- Mendocino, Sonoma, and Marin County coastal streams
- Current end date extends past the adult steelhead fishing season on most coastal streams (except Russian River)
- Propose to change the low-flow closure season end date from April 30 to March 31
- Most coastal streams are closed to fishing from April 1 though the fourth Saturday in May

Leader Length Restriction

- DFW study showed elevated (>80%) foul-hooking across all leader lengths
- Shorter leader length reduces number of foul-hooked salmon (CPUE)
- Intent is to reduce snagging/foul-hooking
- Restrict leader length to less than six feet
- Anadromous waters only

Public Petitions

- DFW does not support the following proposed regulation changes:
  - Increase bag limit/no size limit for striped bass on San Joaquin River
  - Allow sprearfishing year-round in inland waters
  - Coastal streams: gear change, seasonal closure, removal of low-flow restriction on Navarro, Gualala, and Garcia rivers
  - Ban use of roe on Smith River and close river above middle and south forks

Questions / Thank You